TITLE 49—TRANSPORTATION

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

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

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title XI, §1101(a), May 16, 2024, 138 Stat. 1413, substituted "MULTIMODAL FREIGHT TRANSPORTATION" for "Multimodal Freight Transportation" in item for subtitle IX.

2015—Pub. L. 114–94, div. A, title VIII, §8001(b), Dec. 4, 2015, 129 Stat. 1612, substituted "Multimodal Freight Transportation . . .70101" for "[TRANSFERRED]" in item for subtitle IX.

2010—Pub. L. 111–314, §4(d)(1)(A), Dec. 18, 2010, 124 Stat. 3440, substituted "[TRANSFERRED]" for "COMMERCIAL SPACE TRANSPORTATION . . .70101" in item for subtitle IX.

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

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

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

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STATUTORY NOTES AND RELATED SUBSIDIARIES

ENACTING CLAUSES

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

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

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

CLARIFICATION OF CONGRESSIONAL INTENT

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

LEGISLATIVE PURPOSE AND CONSTRUCTION

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

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

"(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

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

"(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

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

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

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

"(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

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

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

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

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

"(a) NO SUBSTANTIVE CHANGE.—This Act restates, without substantive change, laws enacted before

September 26, 1994, that were replaced by this Act. This Act may not be construed as making a substantive change in the laws replaced. Laws enacted after September 25, 1994, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

"(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

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

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

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

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

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

"(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

"(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

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

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

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

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

"(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

"(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

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

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

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

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

"(b) A reference to a law replaced by sections 1–5 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) An order, rule, or regulation in effect under a law replaced by sections 1–5 of this Act continues in

effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

"(d) An action taken or an offense committed under a law replaced by sections 1–5 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REPEALS AND SAVINGS PROVISIONS

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

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

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

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

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

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

Pub. L. 103–272, §7(a), July 5, 1994, 108 Stat. 1379, provided that: "The repeal of a law by this Act may

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF CERTAIN REPEALS

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

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

Chapter		Sec.
1.	**Organization**	**101**
3.	**General Duties and Powers**	**301**
5.	**Special Authority**	**501**

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title XI, §1101(b), May 16, 2024, 138 Stat. 1413, struck out item for chapter 7 "Surface Transportation Board".

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

CHAPTER 1—ORGANIZATION

Sec.
101. Purpose.

102. Department of Transportation.
103. Federal Railroad Administration.
104. Federal Highway Administration.
105. National Highway Traffic Safety Administration.
106. Federal Aviation Administration.
107. Federal Transit Administration.
108. Pipeline and Hazardous Materials Safety Administration.
109. Maritime Administration.
110. Great Lakes St. Lawrence Seaway Development Corporation.
[111, 112. Repealed.]
113. Federal Motor Carrier Safety Administration.
114. Transportation Security Administration.
115. Transportation Security Oversight Board.
116. National Surface Transportation and Innovative Finance Bureau.
117. Council on Credit and Finance.
118. Office of Multimodal Freight Infrastructure and Policy.
119. Advanced Research Projects Agency–Infrastructure.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title I, §21101(c), title V, §25012(b), Nov. 15, 2021, 135 Stat. 656, 867, added items 118 and 119.

2020—Pub. L. 116–260, div. AA, title V, §512(c)(7)(B), Dec. 27, 2020, 134 Stat. 2757, substituted "Great Lakes St. Lawrence Seaway Development Corporation" for "Saint Lawrence Seaway Development Corporation" in item 110.

2015—Pub. L. 114–94, div. A, title VI, §6012(b), title IX, §§9001(b), 9002(b), Dec. 4, 2015, 129 Stat. 1570, 1618, 1619, added items 116 and 117 and struck out item 112 which had read "Research and Innovative Technology Administration" and was subsequently changed to "Office of the Assistant Secretary for Research and Technology of the Department of Transportation" on authority of title I of div. L of Pub. L. 113–76, set out in part as a note under former section 112 of this title.

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

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

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

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

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

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

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

§101. Purpose

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

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

(1) ensure the coordinated and effective administration of the transportation programs of the

United States Government;

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

EDITORIAL NOTES

AMENDMENTS

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 117–58, div. B, §20001, Nov. 15, 2021, 135 Stat. 652, provided that: "This division [see Tables for classification] may be cited as the 'Surface Transportation Investment Act of 2021'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–420, §1, Jan. 3, 2019, 132 Stat. 5444, provided that: "This Act [amending sections 310, 22901, 22902, 22904, 22905, 22907, 22908, 24102, 24103, 24319, 24711, 24905, 24910, 24911, and 26106 of this title, section 402 of Title 23, Highways, and section 51314 of Title 46, Shipping, renumbering sections 24401 to 24408 of this title as sections 22901 to 22908 of this title, enacting provisions set out as a note under section 24319 of this title, and amending provisions set out as notes under sections 22905, 22907, and 26106 of this title] may be cited as the 'Department of Transportation Reports Harmonization Act'."

Pub. L. 115–282, title V, §514(a), Dec. 4, 2018, 132 Stat. 4276, provided that: "This section [enacting section 312 of this title] may be cited as the 'National Timing Resilience and Security Act of 2018'."

Pub. L. 115–271, title VIII, §8101, Oct. 24, 2018, 132 Stat. 4103, provided that: "This subtitle [subtitle I

(§§8101–8109) of title VIII of Pub. L. 115–271, enacting provisions set out as notes under sections 322, 329, 20140, and 31306 of this title and section 7301 of Title 5, Government Organization and Employees] may be cited as the 'Fighting Opioid Abuse in Transportation Act'."

Pub. L. 115–254, div. K, title I, §1901(a), Oct. 5, 2018, 132 Stat. 3542, provided that: "This title [see Tables for classification] may be cited as the 'TSA Modernization Act'."

SHORT TITLE OF 2004 AMENDMENT

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

SHORT TITLE OF 1999 AMENDMENT

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

SHORT TITLE OF 1995 AMENDMENT

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

SHORT TITLE OF 1994 AMENDMENT

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

SHORT TITLE OF 1991 AMENDMENT

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

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

CONGRESSIONAL DECLARATION OF POLICY REGARDING NATIONAL INTERMODAL TRANSPORTATION SYSTEM

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

DEFINITIONS OF TERMS IN DIV. B OF PUB. L. 117–58

Pub. L. 117–58, div. B, §20002, Nov. 15, 2021, 135 Stat. 652, provided that: "In this division [see Short Title of 2021 Amendment note set out above]:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

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

DEFINITIONS OF TERMS IN TITLE I OF DIV. K OF PUB. L. 115–254

Pub. L. 115–254, div. K, title I, §1902, Oct. 5, 2018, 132 Stat. 3542, provided that: "In this title [see Short Title of 2018 Amendment note set out above]:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the TSA.

"(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(C) the Committee on Homeland Security of the House of Representatives.

"(3) ASAC.—The term 'ASAC' means the Aviation Security Advisory Committee established under section 44946 of title 49, United States Code.

"(4) DEPARTMENT.—The term 'Department' means the Department of Homeland Security.

"(5) EXPLOSIVE[S] DETECTION CANINE TEAM.—The term 'explosives detection canine team' means a canine and a canine handler that are trained to detect explosives and other threats as defined by the Secretary.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(7) TSA.—The term 'TSA' means the Transportation Security Administration."

"SECRETARY" DEFINED

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

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

EXECUTIVE DOCUMENTS

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

Ex. Ord. No. 13330, Feb. 24, 2004, 69 F.R. 9185, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to enhance access to transportation to improve mobility, employment opportunities, and access to community services for persons who are transportation-disadvantaged, it is hereby ordered as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(b) The Secretary of Transportation, or the Secretary's designee, shall serve as the Chairperson of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GEORGE W. BUSH.

§102. Department of Transportation

(a) The Department of Transportation (referred to in this section as the "Department") is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation (referred to in this section as the "Secretary"). The Secretary is appointed by the President, by and with the advice and consent of the Senate.

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

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

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

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

(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

(1) APPOINTMENT.—The Department has 8 Assistant Secretaries and a General Counsel, including—

(A) an Assistant Secretary for Aviation and International Affairs, an Assistant Secretary for Governmental Affairs, an Assistant Secretary for Research and Technology, an Assistant Secretary for Transportation Policy, and an Assistant Secretary for Aviation Consumer Protection, who shall each be appointed by the President, with the advice and consent of the Senate;

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

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

(D) an Assistant Secretary for Tribal Government Affairs, who shall be appointed by the President; and

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

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

(f) OFFICE OF TRIBAL GOVERNMENT AFFAIRS.—

(1) ESTABLISHMENT.—There is established in the Department an Office of Tribal Government Affairs, under the Assistant Secretary for Tribal Government Affairs—

(A) to oversee the tribal self-governance program under section 207 of title 23;

(B) to plan, coordinate, and implement policies and programs serving Indian Tribes and Tribal organizations;

(C) to coordinate Tribal transportation programs and activities in all offices and administrations of the Department; and

(D) to be a participant in any negotiated rulemakings relating to, or having an impact on, projects, programs, or funding associated with the Tribal transportation program under section 202 of title 23.

(2) RESERVATION OF TRUST OBLIGATIONS.—

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

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

(g) OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.—

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

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

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

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

(h) INTERAGENCY INFRASTRUCTURE PERMITTING IMPROVEMENT CENTER.—

(1) DEFINITIONS.—In this subsection:

(A) CENTER.—The term "Center" means the Interagency Infrastructure Permitting Improvement Center established by paragraph (2).

(B) PROJECT.—The term "project" means a project authorized or funded under—

(i) this title; or

(ii) title 14, 23, 46, or 51.

(2) ESTABLISHMENT.—There is established within the Office of the Secretary a center, to be known as the "Interagency Infrastructure Permitting Improvement Center".

(3) PURPOSES.—The purposes of the Center shall be—

(A) to implement reforms to improve interagency coordination and expedite projects relating to the permitting and environmental review of major transportation infrastructure projects, including—

(i) developing and deploying information technology tools to track project schedules and metrics; and

(ii) improving the transparency and accountability of the permitting process;

(B)(i) to identify appropriate methods to assess environmental impacts; and

(ii) to develop innovative methods for reasonable mitigation;

(C) to reduce uncertainty and delays with respect to environmental reviews and permitting; and

(D) to reduce costs and risks to taxpayers in project delivery.

(4) EXECUTIVE DIRECTOR.—The Center shall be headed by an Executive Director, who shall—

(A) report to the Under Secretary of Transportation for Policy;

(B) be responsible for the management and oversight of the daily activities, decisions, operations, and personnel of the Center; and

(C) carry out such additional duties as the Secretary may prescribe.

(5) DUTIES.—The Center shall carry out the following duties:

(A) Coordinate and support implementation of priority reform actions for Federal agency permitting and reviews.

(B) Support modernization efforts at the operating administrations within the Department and interagency pilot programs relating to innovative approaches to the permitting and review of transportation infrastructure projects.

(C) Provide technical assistance and training to Department staff on policy changes, innovative approaches to project delivery, and other topics, as appropriate.

(D) Identify, develop, and track metrics for timeliness of permit reviews, permit decisions, and project outcomes.

(E) Administer and expand the use of online transparency tools providing for—

(i) tracking and reporting of metrics;

(ii) development and posting of schedules for permit reviews and permit decisions;
(iii) the sharing of best practices relating to efficient project permitting and reviews; and
(iv) the visual display of relevant geospatial data to support the permitting process.

(F) Submit to the Secretary reports describing progress made toward achieving—
(i) greater efficiency in permitting decisions and review of infrastructure projects; and
(ii) better outcomes for communities and the environment.

(6) INNOVATIVE BEST PRACTICES.—
(A) IN GENERAL.—The Center shall work with the operating administrations within the Department, eligible entities, and other public and private interests to develop and promote best practices for innovative project delivery.
(B) ACTIVITIES.—The Center shall support the Department and operating administrations in conducting environmental reviews and permitting, together with project sponsor technical assistance activities, by—
(i) carrying out activities that are appropriate and consistent with the goals and policies of the Department to improve the delivery timelines for projects;
(ii) serving as the Department liaison to—
(I) the Council on Environmental Quality; and
(II) the Federal Permitting Improvement Steering Council established by section 41002(a) of the Fixing America's Surface Transportation Act (42 U.S.C. 4370m–1(a));

(iii) supporting the National Surface Transportation and Innovative Finance Bureau (referred to in this paragraph as the "Bureau") in implementing activities to improve delivery timelines, as described in section 116(f), for projects carried out under the programs described in section 116(d)(1) for which the Bureau administers the application process;
(iv) leading activities to improve delivery timelines for projects carried out under programs not administered by the Bureau by—
(I) coordinating efforts to improve the efficiency and effectiveness of the environmental review and permitting process;
(II) providing technical assistance and training to field and headquarters staff of Federal agencies with respect to policy changes and innovative approaches to the delivery of projects; and
(III) identifying, developing, and tracking metrics for permit reviews and decisions by Federal agencies for projects under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) NEPA COMPLIANCE ASSISTANCE.—
(i) IN GENERAL.—Subject to clause (ii), at the request of an entity that is carrying out a project, the Center, in coordination with the appropriate operating administrations within the Department, shall provide technical assistance relating to compliance with the applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and applicable Federal authorizations.
(ii) ASSISTANCE FROM THE BUREAU.—For projects carried out under the programs described in section 116(d)(1) for which the Bureau administers the application process, the Bureau, on request of the entity carrying out the project, shall provide the technical assistance described in clause (i).

(i) CHIEF TRAVEL AND TOURISM OFFICER.—
(1) ESTABLISHMENT.—There is established in the Office of the Secretary of Transportation a position, to be known as the "Chief Travel and Tourism Officer".
(2) DUTIES.—The Chief Travel and Tourism Officer shall collaborate with the Assistant Secretary for Aviation and International Affairs to carry out—

(A) the National Travel and Tourism Infrastructure Strategic Plan under section 1431(e) of Public Law 114–94 (49 U.S.C. 301 note); and

(B) other travel- and tourism-related matters involving the Department of Transportation.

(j) OFFICE OF AVIATION CONSUMER PROTECTION.—

(1) ESTABLISHMENT.—There is established in the Department an Office of Aviation Consumer Protection (in this subsection referred to as the "Office") to administer and enforce the aviation consumer protection and civil rights authorities provided to the Department by statute, including the authorities under section 41712—

(A) to assist, educate, and protect passengers; and

(B) to monitor compliance with, conduct investigations relating to, and enforce, with support of attorneys in the Office of the General Counsel, including by taking appropriate action to address violations of aviation consumer protection and civil rights.

(2) LEADERSHIP.—The Office shall be headed by the Assistant Secretary for Aviation Consumer Protection (in this subsection referred to as the "Assistant Secretary").

(3) TRANSITION.—Not later than 180 days after funding is appropriated for an Office of Aviation Consumer Protection headed by an Assistant Secretary, the Office of Aviation Consumer Protection that is a unit within the Office of the General Counsel of the Department which is headed by the Assistant General Counsel for Aviation Consumer Protection shall cease to exist. The Secretary shall determine which employees are necessary to fulfill the responsibilities of the new Office of Aviation Consumer Protection and such employees shall be transferred from the Office of the General Counsel, as appropriate, to the newly established Office of Aviation Consumer Protection.

(4) COORDINATION.—The Assistant Secretary shall coordinate with the General Counsel appointed under subsection (e)(1)(E), in accordance with section 1.26 of title 49, Code of Federal Regulations (or a successor regulation), on all legal matters relating to—

(A) aviation consumer protection; and

(B) the duties and activities of the Office described in subparagraphs (A) through (C) [1] of paragraph (1).

(5) ANNUAL REPORT.—The Assistant Secretary shall submit to the Secretary, who shall submit to Congress and make publicly available on the website of the Department, an annual report that, with respect to matters under the jurisdiction of the Department, or otherwise within the statutory authority of the Department—

(A) analyzes trends in aviation consumer protection, civil rights, and licensing;

(B) identifies major challenges facing passengers; and

(C) addresses any other relevant issues, as the Assistant Secretary determines to be appropriate.

(6) FUNDING.—There is authorized to be appropriated $12,000,000 for fiscal year 2024, $13,000,000 for fiscal year 2025, $14,000,000 for fiscal year 2026, $15,000,000 for fiscal year 2027, and $16,000,000 for fiscal year 2028 to carry out this subsection.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98–557, §26(a), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 103–272, §4(j)(1), July 5, 1994, 108 Stat. 1365; Pub. L. 107–295, title II, §215(a), (c), Nov. 25, 2002, 116 Stat. 2101, 2102; Pub. L. 109–59, title I, §1119(l), Aug. 10, 2005, 119 Stat. 1189; Pub. L. 110–140, title XI, §1101(a), Dec. 19, 2007, 121 Stat. 1756; Pub. L. 112–166, §2(k)(1), Aug. 10, 2012, 126 Stat. 1286; Pub. L. 114–94, div. A, title VI, §6011(a), Dec. 4, 2015, 129 Stat. 1568; Pub. L. 117–58, div. A, title IV, §14009, div. B, title V, §§25009(a), 25018(b), Nov. 15, 2021, 135 Stat. 651, 852, 875; Pub. L. 118–63, title V, §501, May 16, 2024, 138 Stat. 1186.)

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (h)(6)(B)(iii)(III), (C)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2024—Subsec. (e)(1). Pub. L. 118–63, §501(1)(A), substituted "8" for "7" in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 118–63, §501(1)(B), substituted "an Assistant Secretary for Transportation Policy, and an Assistant Secretary for Aviation Consumer Protection" for "and an Assistant Secretary for Transportation Policy".

Subsec. (j). Pub. L. 118–63, §501(2), added subsec. (j).

2021—Subsec. (a). Pub. L. 117–58, §25009(a)(1), inserted "(referred to in this section as the 'Department')" after "Transportation".

Subsec. (b). Pub. L. 117–58, §25009(a)(2), inserted "(referred to in this section as the 'Secretary')" after "Transportation" in first sentence.

Subsec. (e)(1). Pub. L. 117–58, §14009(1)(A), substituted "7 Assistant" for "6 Assistant" in introductory provisions.

Subsec. (e)(1)(D), (E). Pub. L. 117–58, §14009(1)(B)–(D), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (f). Pub. L. 117–58, §14009(2), substituted "Office of Tribal Government Affairs" for "Deputy Assistant Secretary for Tribal Government Affairs" in heading.

Subsec. (f)(1). Pub. L. 117–58, §14009(2), added par. (1) and struck out former par. (1) which provided for a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President.

Subsec. (h). Pub. L. 117–58, §25009(a)(4), added subsec. (h). Former subsec. (h) redesignated (i) and subsequently struck out.

Subsec. (i). Pub. L. 117–58, §25018(b), added subsec. (i) and struck out former subsec. (i). Prior to amendment, text read as follows: "The Department shall have a seal that shall be judicially recognized."

Pub. L. 117–58, §25009(a)(3), redesignated subsec. (h) as (i).

2015—Subsec. (e)(1). Pub. L. 114–94, §6011(a)(1), substituted "6" for "5" in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 114–94, §6011(a)(2), inserted "an Assistant Secretary for Research and Technology," after "Governmental Affairs,".

2012—Subsec. (e). Pub. L. 112–166 inserted subsec. (e) heading, struck out "The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary" before "or the General Counsel,", added par. (1), inserted par. (2) designation and heading, and, in par. (2), inserted "The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary".

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

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

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

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 14009 of Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

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

EFFECTIVE DATE OF 2007 AMENDMENT

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

EFFECTIVE DATE OF 2002 AMENDMENT

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

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

RURAL OPPORTUNITIES TO USE TRANSPORTATION FOR ECONOMIC SUCCESS INITIATIVE

Pub. L. 117–58, div. B, title V, §25010, Nov. 15, 2021, 135 Stat. 854, provided that:

"(a) DEFINITIONS.—In this section:

"(1) BUILD AMERICA BUREAU.—The term 'Build America Bureau' means the National Surface Transportation and Innovative Finance Bureau established under section 116 of title 49, United States Code.

"(2) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(3) ROUTES COUNCIL.—The term 'ROUTES Council' means the Rural Opportunities to Use Transportation for Economic Success Council established by subsection (c)(1).

"(4) ROUTES OFFICE.—The term 'ROUTES Office' means the Rural Opportunities to Use Transportation for Economic Success Office established by subsection (b)(1).

"(b) ROUTES OFFICE.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish within the Department [of Transportation] the Rural Opportunities to Use Transportation for Economic Success Office—

"(A) to improve analysis of projects from rural areas, Indian Tribes, and historically disadvantaged communities in rural areas applying for Department discretionary grants, including ensuring that project costs, local resources, and the larger benefits to the people and the economy of the United States are appropriately considered; and

"(B) to provide rural communities, Indian Tribes, and historically disadvantaged communities in rural areas with technical assistance for meeting the transportation infrastructure investment needs of the United States in a financially sustainable manner.

"(2) OBJECTIVES.—The ROUTES Office shall—

"(A) collect input from knowledgeable entities and the public on—

"(i) the benefits of rural and Tribal transportation projects;

"(ii) the technical and financial assistance required for constructing and operating transportation infrastructure and services within rural areas and on the land of Indian Tribes;

"(iii) barriers and opportunities to funding transportation projects in rural areas and on the land of Indian Tribes; and

"(iv) unique transportation barriers and challenges faced by Indian Tribes and historically disadvantaged communities in rural areas;

"(B) evaluate data on transportation challenges faced by rural communities and Indian Tribes and determine methods to align the discretionary funding and financing opportunities of the Department with the needs of those communities for meeting national transportation goals;

"(C) provide education and technical assistance to rural communities and Indian Tribes about applicable Department discretionary grants, develop effective methods to evaluate projects in those communities in discretionary grant programs, and communicate those methods through program guidance;

"(D) carry out research and utilize innovative approaches to resolve the transportation challenges faced by rural areas and Indian Tribes; and

"(E) perform such other duties as determined by the Secretary.

"(c) ROUTES COUNCIL.—

"(1) IN GENERAL.—The Secretary shall establish a Rural Opportunities to Use Transportation for Economic Success Council—

"(A) to organize, guide, and lead the ROUTES Office; and

"(B) to coordinate rural-related and Tribal-related funding programs and assistance among the modal administrations of the Department, the offices of the Department, and other Federal agencies, as

appropriate—

"(i) to ensure that the unique transportation needs and attributes of rural areas and Indian Tribes are fully addressed during the development and implementation of programs, policies, and activities of the Department;

"(ii) to increase coordination of programs, policies, and activities of the Department in a manner that improves and expands transportation infrastructure in order to further economic development in, and the quality of life of, rural areas and Indian Tribes; and

"(iii) to provide rural areas and Indian Tribes with proactive outreach—

"(I) to improve access to discretionary funding and financing programs; and

"(II) to facilitate timely resolution of environmental reviews for complex or high-priority projects.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The ROUTES Council shall be composed of the following officers of the Department, or their designees:

"(i) The Deputy Secretary of Transportation.

"(ii) The Under Secretary of Transportation for Policy.

"(iii) The General Counsel.

"(iv) The Chief Financial Officer and Assistant Secretary for Budget and Programs.

"(v) The Assistant Secretary for Research and Technology.

"(vi) The Assistant Secretary for Multimodal Freight.

"(vii) The Administrators of—

"(I) the Federal Aviation Administration;

"(II) the Federal Highway Administration;

"(III) the Federal Railroad Administration; and

"(IV) the Federal Transit Administration.

"(viii) The Executive Director of the Build America Bureau.

"(ix) The Assistant Secretary for Governmental Affairs.

"(x) The Assistant Secretary for Transportation Policy.

"(xi) The Deputy Assistant Secretary for Tribal Government Affairs.

"(B) CHAIR.—The Deputy Secretary of Transportation shall be the Chair of the ROUTES Council.

"(C) ADDITIONAL MEMBERS.—The Secretary or the Chair of the ROUTES Council may designate additional members to serve on the ROUTES Council.

"(3) ADDITIONAL MODAL INPUT.—To address issues related to safety and transport of commodities produced in or by, or transported through, as applicable, rural areas, Indian Tribes, or the land of Indian Tribes, the ROUTES Council shall consult with the Administrators (or their designees) of—

"(A) the Maritime Administration;

"(B) the Great Lakes St. Lawrence Seaway Development Corporation; and

"(C) the National Highway Traffic Safety Administration.

"(4) DUTIES.—Members of the ROUTES Council shall—

"(A) participate in all meetings and relevant ROUTES Council activities and be prepared to share information relevant to rural and Tribal transportation infrastructure projects and issues;

"(B) provide guidance and leadership on rural and Tribal transportation infrastructure issues and represent the work of the ROUTES Council and the Department on those issues to external stakeholders; and

"(C) recommend initiatives for the consideration of the Chair of the ROUTES Council to establish and staff any resulting activities or working groups.

"(5) MEETINGS.—The ROUTES Council shall meet bimonthly.

"(6) ADDITIONAL STAFFING.—The Secretary shall ensure that the ROUTES Council and ROUTES Office have adequate staff support to carry out the duties of the ROUTES Council and the ROUTES Office, respectively, under this section.

"(7) WORK PRODUCTS AND DELIVERABLES.—The ROUTES Council may develop work products or deliverables to meet the goals of the ROUTES Council, including—

"(A) an annual report to Congress describing ROUTES Council activities for the past year and expected activities for the coming year;

"(B) any recommendations to enhance the effectiveness of Department discretionary grant programs regarding rural and Tribal infrastructure issues; and

"(C) other guides and reports for relevant groups and the public."

HIGHLY AUTOMATED SYSTEMS SAFETY CENTER OF EXCELLENCE

Pub. L. 116–94, div. H, title I, §105, Dec. 20, 2019, 133 Stat. 2938, provided that:

"(a) The Secretary shall establish a Highly Automated Systems Safety Center of Excellence within the Department of Transportation, in order to have a Department of Transportation workforce capable of reviewing, assessing, and validating the safety of automated technologies.

"(b) The Highly Automated Systems Safety Center of Excellence shall—

"(1) serve as a central location within the Department of Transportation for expertise in automation and human factors, computer science, data analytics, machine learning, sensors, and other technologies involving automated systems;

"(2) collaborate with and provide support on highly automated systems to all Operating Administrations of the Department of Transportation; and

"(3) have a workforce composed of Department of Transportation employees, including direct hires or detailees from Operating Administrations of the Department of Transportation and other Federal agencies.

"(c) Employees of the Highly Automated Systems Safety Center of Excellence, in conjunction with the relevant Operating Administrations of the Department of Transportation, shall review, assess, and validate highly automated systems to ensure their safety.

"(d) The Highly Automated Systems Safety Center of Excellence shall not supersede laws or regulations granting certification authorities to Operating Administrations of the Department of Transportation.

"(e) No later than 90 days after the date of enactment of this Act [Dec. 20, 2019], the Secretary shall report to the Committees on Appropriations of the House of Representatives and the Senate on staffing needs and the staffing plan for the Highly Automated Systems Safety Center of Excellence."

HUMAN TRAFFICKING PREVENTION COORDINATOR

Pub. L. 115–99, §2, Jan. 3, 2018, 131 Stat. 2242, provided that: "The Secretary of Transportation shall designate an official within the Department of Transportation who shall—

"(1) coordinate human trafficking prevention efforts across modal administrations in the Department of Transportation and with other departments and agencies of the Federal Government; and

"(2) in coordinating such efforts, take into account the unique challenges of combating human trafficking within different transportation modes."

COORDINATION

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

NOTICE

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

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

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

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

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

"(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are

authorized by this title or the amendments made by this title, the Secretary shall provide notice of such reorganization to the Committee on Transportation and Infrastructure and the Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives and the Committee on Environment and Public Works of the Senate."

SURFACE TRANSPORTATION ADMINISTRATION

Pub. L. 102–240, title V, §5004, Dec. 18, 1991, 105 Stat. 2160, provided that, not later than 60 days after Dec. 18, 1991, the Secretary was to enter into an agreement with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase effectiveness and report to Congress on the study and recommend appropriate organizational changes no later than Jan. 1, 1993, to be implemented if approved by law.

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

Pub. L. 98–557, §26(c), Oct. 30, 1984, 98 Stat. 2873, provided that, until Apr. 15, 1985, the position of Associate Deputy Secretary could be held by a person named by the President alone.

EX. ORD. NO. 11340. EFFECTIVE DATE

Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, provided:

By virtue of the authority vested in me as President of the United States by Section 15 [renumbered section 16] of the Department of Transportation Act (Public Law 89–670, approved October 15, 1966; 80 Stat. 950) April 1, 1967, is hereby prescribed as the date on which the Department of Transportation Act shall take effect.

LYNDON B. JOHNSON.

[1] So in original. Paragraph (1) does not contain a subparagraph (C).

§103. Federal Railroad Administration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) PERFORMANCE GOALS AND REPORTS.—

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

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

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

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

1994, 108 Stat. 4624; Pub. L. 107–217, §3(n)(1), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 110–432, div. A, title I, §101, div. B, title III, §307, Oct. 16, 2008, 122 Stat. 4851, 4953; Pub. L. 111–350, §5(o)(1), Jan. 4, 2011, 124 Stat. 3853.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

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

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

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

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

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

PUB. L. 103–272

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

EDITORIAL NOTES

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

UPDATE OF FEDERAL RAILROAD ADMINISTRATION WEB SITE

Pub. L. 110–432, div. A, title III, §307, Oct. 16, 2008, 122 Stat. 4881, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(5), Dec. 4, 2015, 129 Stat. 1677, provided that:

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

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

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

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

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

[1] *So in original. Probably should be "chapter;".*

§104. Federal Highway Administration

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

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

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

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

(c) The Administrator shall carry out—

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

EDITORIAL NOTES

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1999 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

ELIMINATION OF REGIONAL OFFICE RESPONSIBILITIES

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

"(a) IN GENERAL.—

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

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

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

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

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

§105. National Highway Traffic Safety Administration

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

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

(c) The Administrator shall carry out—

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

In subsection (c), the words "carry out . . . duties and powers . . . prescribed by the Secretary" are substituted for "perform such duties as are delegated to him by the Secretary" to eliminate surplus words and

for consistency. The list of excepted programs in clause (1) is substituted for "highway safety programs, research and development not specifically referred to in paragraph (1) of this subsection", in section 201(b)(2) of the Highway Safety Act of 1966 for clarity.

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

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

EDITORIAL NOTES

AMENDMENTS

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

REQUIRED REPORTING OF NHTSA AGENDA

Pub. L. 114–94, div. B, title XXIV, §24401, Dec. 4, 2015, 129 Stat. 1720, provided that: "Not later than December 1 of the year beginning after the date of enactment of this Act [Dec. 4, 2015], and each year thereafter, the Administrator of the National Highway Traffic Safety Administration shall publish on the public website of the Administration, and file with the Committees on Energy and Commerce and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual plan for the following calendar year detailing the Administration's projected activities, including—

"(1) the Administrator's policy priorities;

"(2) any rulemakings projected to be commenced;

"(3) any plans to develop guidelines;

"(4) any plans to restructure the Administration or to establish or alter working groups;

"(5) any planned projects or initiatives of the Administration, including the working groups and advisory committees of the Administration; and

"(6) any projected dates or timetables associated with any of the items described in paragraphs (1) through (5)."

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

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

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

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the 'Council') to build, integrate, and aggregate the Administration's expertise in passenger motor vehicle electronics and other new and emerging technologies.

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

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

"(b) HONORS RECRUITMENT PROGRAM.—

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

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

"(c) ASSESSMENT.—The Council, in consultation with affected stakeholders, shall periodically assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such

technologies on consumers, product availability, and cost."

§106. Federal Aviation Administration

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

(b) ADMINISTRATION LEADERSHIP.—

(1) ADMINISTRATOR.—

(A) IN GENERAL.—The head of the Administration is the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) QUALIFICATIONS.—The Administrator shall—

(i) be a citizen of the United States;

(ii) not be an active duty member of the Armed Forces;

(iii) not have retired from the Armed Forces within the 7 years preceding nomination; and

(iv) have experience in organizational management and a field directly related to aviation.

(C) FITNESS.—In appointing an individual as Administrator, the President shall consider the fitness of such individual to carry out efficiently the duties and powers of the office.

(D) TERM OF OFFICE.—The term of office for any individual appointed as Administrator shall be 5 years.

(E) REPORTING CHAIN.—Except as provided in subsection (f) or in other provisions of law, the Administrator reports directly to the Secretary of Transportation.

(2) DEPUTY ADMINISTRATOR.—

(A) IN GENERAL.—The Administrator has a Deputy Administrator, who shall be appointed by the President.

(B) QUALIFICATIONS.—The Deputy Administrator shall—

(i) be a citizen of the United States; and

(ii) have experience in organizational management and a field directly related to aviation.

(C) FITNESS.—In appointing an individual as Deputy Administrator, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office, including the duty to act for the Administrator when the Administrator is absent or unable to serve, or when the office of Administrator is vacant.

(D) REPORTING CHAIN.—The Deputy Administrator reports directly to the Administrator.

(E) DUTIES.—The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(F) COMPENSATION.—

(i) ANNUAL RATE OF BASIC PAY.—The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay payable to the Administrator.

(ii) EXCEPTION.—A retired regular officer of the Armed Forces serving as the Deputy Administrator is entitled to hold a rank and grade not lower than that held when appointed as the Deputy Administrator and may elect to receive—

(I) the pay provided for the Deputy Administrator under clause (i); or

(II) the pay and allowances or the retired pay of the military grade held.

(iii) REIMBURSEMENT OF EXPENSES.—If the Deputy Administrator elects to receive compensation described in clause (ii)(II), the Administration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(3) LEADERSHIP OF THE ADMINISTRATION DEFINED.—In this section, the term "leadership of the Administration" means—

(A) the Administrator under paragraph (1); and
(B) the Deputy Administrator under paragraph (2).

(c) ASSISTANT ADMINISTRATOR FOR RULEMAKING AND REGULATORY IMPROVEMENT.—There is an Assistant Administrator for Rulemaking and Regulatory Improvement who shall be appointed by the Administrator and shall—

(1) be responsible for developing and managing the execution of a regulatory agenda for the Administration that meets statutory and Administration deadlines, including by—
(A) prioritizing rulemaking projects that are necessary to improve safety;
(B) establishing the regulatory agenda of the Administration; and
(C) coordinating with offices of the Administration, the Department, and other Federal entities as appropriate to improve timely feedback generation and approvals when required by law;

(2) not delegate overall responsibility for meeting internal timelines and final completion of the regulatory activities of the Administration outside the Office of the Assistant Administrator for Rulemaking and Regulatory Improvement;
(3) on an ongoing basis, review the regulations of the Administration in effect to—
(A) improve safety;
(B) reduce undue regulatory burden;
(C) replace prescriptive regulations with performance-based regulations, as appropriate;
(D) prevent duplicative regulations; and
(E) increase regulatory clarity and transparency whenever possible;

(4) make recommendations for the review of the Administrator under subsection (f)(3)(C)(ii);
(5) receive, coordinate, and respond to petitions for rulemaking and for exemption as provided for in subpart A of part 11 of title 14, Code of Federal Regulations, and provide an initial response to a petitioner not later than 30 days after the receipt of such a petition—
(A) acknowledging receipt of such petition;
(B) confirming completeness of such petition;
(C) providing an initial indication of the complexity of the request and how such complexity may impact the timeline for adjudication; and
(D) requesting any additional information, as appropriate, that would assist in the consideration of the petition;

(6) track the issuance of exemptions and waivers by the Administration to sections of title 14, Code of Federal Regulations, and establish a methodology by which to determine if it would be more efficient and in the interest of the public to amend a rule to reduce the future need of waivers and exemptions; and
(7) promulgate regulatory updates as determined more efficient or in the best interest of the public under paragraph (6).

(d) [Reserved].
(e) PROHIBITION ON CONFLICTING PECUNIARY INTERESTS.—
(1) IN GENERAL.—The leadership of the Administration may not have a pecuniary interest in, or hold a financial interest in, an aeronautical enterprise or engage in another business, vocation, or employment.
(2) TEACHING.—Notwithstanding paragraph (1), the Deputy Administrator may not receive compensation for teaching without prior approval of the Administrator.
(3) FINANCIAL INTEREST DEFINED.—In this subsection, the term "financial interest"—
(A) means—
(i) any current or contingent ownership, equity, or security interest;
(ii) any indebtedness or compensated employment relationship; or

(iii) any right to purchase or acquire any such ownership, equity, or security interest, including a stock option; and

(B) does not include securities held in an index fund.

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

(1) AUTHORITY OF THE SECRETARY.—Except as provided in paragraphs (2) and (3), the Secretary of Transportation shall carry out the duties and powers, and controls the personnel and activities, of the Administration. In exercising duties, powers, and authorities that are assigned to the Secretary or the Administrator under this title, neither the Secretary nor the Administrator may submit decisions for the approval of, or be bound by the decisions or recommendations of, a committee, board, council, or organization that is—

(A) established by executive order; or

(B) not explicitly directed by legislation to review the exercise of such duties, powers, and authorities by the Secretary or the Administrator.

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

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

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

(ii) the acquisition, establishment, improvement, operation, maintenance, security (including cybersecurity), and disposal of property, facilities, services, and equipment of the Administration, including all elements of the air traffic control system owned by the Administration;

(iii) except as otherwise provided in paragraph (4), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

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

(B) shall offer advice and counsel to the President with respect to civil aviation, any matter for which the Administrator is the final authority under subparagraph (A), any duty carried out by the Administrator pursuant to paragraph (3), or the provisions of this title, or the appointment and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

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

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

(3) DUTIES AND POWERS OF THE ADMINISTRATOR.—

(A) IN GENERAL.—The Administrator shall carry out—

(i) the duties and powers of the Secretary under this subsection related to aviation safety (except duties and powers related to transportation, packaging, marking, or description of hazardous material) and stated in—

(I) subsections (c) and (d) of section 1132;

(II) sections 40101(c), 40103(b), 40106(a), 40108, 40109(b), 40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40117;

(III) chapter 443;

(IV) chapter 445, except sections 44502(a)(3), 44503, and 44509;
(V) chapter 447, except sections 44721(b) and 44723;
(VI) chapter 448;
(VII) chapter 451;
(VIII) chapter 453;
(IX) section 46104;
(X) subsections (d) and (h)(2) of section 46301, section 46303(c), sections 46304 through 46308, section 46310, section 46311, and sections 46313 through 46320;
(XI) chapter 465;
(XII) chapter 471;
(XIII) chapter 475; and
(XIV) chapter 509 of title 51; and

(ii) such additional duties and powers as may be prescribed by the Secretary.

(B) APPLICABILITY.—Section 40101(d) applies to the duties and powers specified in subparagraph (A).

(C) TRANSFER.—Any of the duties and powers specified in subparagraph (A) may only be transferred to another part of the Department if specifically provided by law or in a reorganization plan submitted under chapter 9 of title 5.

(D) ADMINISTRATIVE FINALITY.—A decision of the Administrator in carrying out the duties or powers specified in subparagraph (A) is administratively final.

(4) REGULATIONS.—

(A) IN GENERAL.—

(i) ISSUANCE OF REGULATIONS.—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5.

(ii) PETITIONS FOR RULEMAKING.—The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking.

(iii) RULEMAKING TIMELINE.—The Administrator shall issue a final regulation, or take other final action, not later than 16 months after the last day of the public comment period for the regulations or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after the date of publication in the Federal Register of notice of the proposed rulemaking.

(iv) REPORTING REQUIREMENT.—On February 1 and August 1 of each year the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken.

(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—

(i) IN GENERAL.—The Administrator may not issue, unless the Secretary of Transportation approves the issuance of the regulation in advance, a proposed regulation or final regulation that—

(I) is likely to result in the expenditure by State, local, and Tribal governments in the aggregate, or by the private sector, of $250,000,000 or more (adjusted annually for inflation beginning with the year following the date of enactment of the FAA

Reauthorization Act of 2024) in any year; or

(II) is significant.

(ii) SIGNIFICANT REGULATIONS.—For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation—

(I) will have an annual effect on the economy of $250,000,000 or more (adjusted annually for inflation beginning with the year following the date of enactment of the FAA Reauthorization Act of 2024);

(II) raises novel or serious legal or policy issues that will substantially and materially affect other transportation modes; or

(III) adversely affects, in a substantial and material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or a State, local, or Tribal government or community.

(iii) EMERGENCY REGULATION.—

(I) IN GENERAL.—In an emergency as determined by the Administrator, the Administrator may issue a final regulation described in clause (i) without prior approval of the Secretary.

(II) OBJECTION.—If the Secretary objects to a regulation issued under subclause (II) [1] in writing not later than 5 days (excluding Saturday, Sundays, and legal public holidays) after the issuance, the Administrator shall immediately rescind such regulation.

(iv) OTHER REGULATIONS.—The Secretary may not require that the Administrator submit a proposed or final regulation to the Secretary for approval, nor may the Administrator submit a proposed or final regulation to the Secretary for approval, if the regulation—

(I) does not require the approval of the Secretary under clause (i) (excluding a regulation issued under clause (iii)); or

(II) is a routine or frequent action or a procedural action.

(v) TIMELINE.—The Administrator shall submit a copy of any proposed or final regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve the regulation or return the regulation to the Administrator with comments not later than 30 days after receiving the regulation. If the Secretary fails to approve or return the regulation with comments to the Administrator not later than 30 days after receiving such regulation, the regulation shall be deemed to have been approved by the Secretary.

(C) PERIODIC REVIEW.—

(i) IN GENERAL.—For any significant regulation issued after the date of enactment of the FAA Reauthorization Act of 2024, in addition to the review requirements established under section 5.13(d) [2] of title 49, Code of Federal Regulations, the Administrator shall review any significant regulation 3 years after the effective date of such regulation.

(ii) DISCRETIONARY REVIEW.—The Administrator may review any regulation that has been in effect for more than 3 years.

(iii) SUBSTANCE OF REVIEW.—In performing a review under clause (i) or (ii), the Administrator shall determine if—

(I) the cost assumptions supporting the regulation were accurate;

(II) the intended benefit of the regulation is being realized;

(III) the need remains to continue such regulation as in effect; and

(IV) the Administrator recommends updates to such regulation based on the review criteria specified in section 5.13(d) [2] of title 49, Code of Federal Regulations.

(iv) REVIEW MANAGEMENT.—Any periodic review of a regulation under this subparagraph shall be managed by the Assistant Administrator for Rulemaking and Regulatory Improvement, who may task an advisory committee or the Management Advisory Council established under subsection (p) to assist in performing the review.

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

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

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

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

(g) [reserved].

(h) TECHNICAL CENTER FOR ADVANCED AEROSPACE.—

(1) IN GENERAL.—There is established within the Administration a technology center to support the advancement of aerospace safety and innovation which shall be known as the "William J. Hughes Technical Center for Advanced Aerospace" (in this subsection referred to as the "Technical Center") that shall be used by the Administrator and, as permitted by the Administrator, other governmental entities, academia, and the aerospace industry.

(2) MANAGEMENT.—The activities of the Technical Center shall be managed by a Director.

(3) ACTIVITIES.—The activities of the Technical Center shall include—

(A) developing and stimulating technology partnerships with and between industry, academia, and other government agencies and supporting such partnerships by—

(i) liaising between external persons and offices of the Administration interested in such work;

(ii) providing technical expertise and input, as appropriate; and

(iii) providing access to the properties, facilities, and systems of the Technical Center through appropriate agreements;

(B) managing technology demonstration grants awarded by the Administrator;

(C) identifying software, systems, services, and technologies that could improve aviation safety and the operations and management of the air traffic control system and working with relevant offices of the Administration to consider the use and integration of such software, systems, services, and technologies, as appropriate;

(D) supporting the work of any collocated facilities and tenants of such facilities, and to the extent feasible, enter into agreements as necessary to utilize the facilities, systems, and technologies of such collocated facilities and tenants;

(E) managing the facilities of the Technical Center; and

(F) carrying out any other duties as determined appropriate by the Administrator.

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

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

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

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

(A) $12,729,627,000 for fiscal year 2024;
(B) $13,055,000,000 for fiscal year 2025;
(C) $13,354,000,000 for fiscal year 2026;
(D) $13,650,000,000 for fiscal year 2027; and
(E) $13,954,000,000 for fiscal year 2028.

Such sums shall remain available until expended.

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

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

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

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

(D) Not more than the following amounts for commercial space transportation activities:

(i) $75,938,000 for fiscal year 2023.
(ii) $42,018,000 for fiscal year 2024.
(iii) $52,985,000 for fiscal year 2025.
(iv) $59,044,000 for fiscal year 2026.
(v) $65,225,000 for fiscal year 2027.
(vi) $71,529,000 for fiscal year 2028.

(3) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, in each of fiscal years 2024 through 2028, if the Secretary determines that the funds appropriated under paragraph (1) are insufficient to meet the salary, operations, and maintenance expenses of the Federal Aviation Administration, as authorized by this section, the Secretary shall reduce nonsafety-related activities of the Administration as necessary to reduce such expenses to a level that can be met by the funding available under paragraph (1).

(B) PRIORITIZATION.—In reducing non-safety-related activities of the Administration under subparagraph (A), the Secretary shall prioritize such reductions from amounts other than amounts authorized under this subsection, section 48101, or section 48103.

(C) SUNSET.—This paragraph shall cease to be effective on October 1, 2028.

(l) PERSONNEL AND SERVICES.—

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

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

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

chapter 57 of title 5.

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

(5) VOLUNTARY SERVICES.—

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

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

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

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

(7) PROHIBITION ON CERTAIN PERFORMANCE-BASED INCENTIVES.—No employee of the Administration shall be given an award, financial incentive, or other compensation, as a result of actions to meet performance goals related to meeting or exceeding schedules, quotas, or deadlines for certificates issued under section 44704.

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

(n) ACQUISITION.—

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

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

(i) air traffic control facilities and equipment;

(ii) research and testing sites and facilities; and

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

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

(C) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at the installations of the Administration, and to

acquire, operate, and maintain equipment for these facilities.

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

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

(p) MANAGEMENT ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Administrator shall establish an advisory council which shall be known as the Federal Aerospace Management Advisory Council (in this subsection referred to as the "Council").

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

(A) a designee of the Secretary of Transportation;

(B) a designee of the Secretary of Defense;

(C) 5 members representing aerospace and technology interests, appointed by the Administrator;

(D) 5 members representing aerospace and technology interests, appointed by the Secretary of Transportation; and

(E) 1 member, appointed by the Secretary of Transportation, who is the head of a union representing air traffic control system employees.

(3) QUALIFICATIONS.—No officer or employee of the Federal Government may be appointed to the Council under subparagraph (C) or (D) of paragraph (2).

(4) FUNCTIONS.—

(A) IN GENERAL.—

(i) ADVISE; COUNSEL.—The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the activities of the Administrator.

(ii) RESOURCE.—The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administrator.

(iii) SUBMISSIONS TO ADMINISTRATION.—With respect to Administration management, policy, spending, funding, data management and analysis, safety initiatives, international agreements, activities of the International Civil Aviation Organization, and regulatory matters affecting the aerospace industry and the national airspace system, the Council may—

(I) regardless of whether solicited by the Administrator, submit comments, recommended modifications, proposals, and supporting or dissenting views to the Administrator; and

(II) request the Administrator include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting or supporting views received from the Council under subclause (I).

(iv) REASONING.—Together with a Council submission that is published or described under clause (iii)(II), the Administrator may provide the reasons for any differences between the views of the Council and the views or actions of the Administrator.

(v) COST-BENEFIT ANALYSIS.—The Council shall review the rulemaking cost-benefit analysis process and develop recommendations to improve the analysis and ensure that the public interest is fully protected.

(vi) PROCESS REVIEW.—The Council shall review the process through which the Administration determines to use advisory circulars, service bulletins, and other externally

facing guidance and regulatory material.

(B) MEETINGS.—The Council shall meet not less than 3 times annually or at the call of the chair or the Administrator.

(C) ACCESS TO DOCUMENTS AND STAFF.—The Administrator may give the Council appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5 (commonly known as the "Freedom of Information Act"), cost data associated with the acquisition and operation of air traffic service systems.

(D) DISCLOSURE OF COMMERCIAL OR PROPRIETARY DATA.—Any member of the Council who receives commercial or other proprietary data as provided for in this paragraph from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

(5) APPLICATION OF CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 does not apply to—

(A) the Council;

(B) such aviation rulemaking committees as the Administrator shall designate; or

(C) such aerospace rulemaking committees as the Secretary shall designate.

(6) ADMINISTRATIVE MATTERS.—

(A) TERMS.—Members of the Council appointed under paragraph (2)(C) shall be appointed for a term of 3 years.

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

(C) VACANCY.—Any vacancy on the Council shall be filled in the same manner as the original appointment, except that any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of that term.

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

(E) REMOVAL.—Any member of the Council appointed under paragraph (2) may be removed for cause by whomever makes the appointment.

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

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

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

(q) AIRCRAFT NOISE OMBUDSMAN.—

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

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

(A) be appointed by the Administrator;

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

(C) be consulted when the Administration proposes changes in aircraft routes so as to

minimize any increases in aircraft noise over populated areas.

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

(r) CHIEF OPERATING OFFICER.—

(1) IN GENERAL.—

(A) APPOINTMENT.—There shall be a Chief Operating Officer for the air traffic control system who is appointed by the Administrator and subject to the authority of the Administrator.

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

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

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

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

(2) COMPENSATION.—

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

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

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

(A) the state of good repair of the air traffic control system;

(B) the continuous improvement of the safety and efficiency of the air traffic control system; and

(C) identifying services and solutions to increase the safety and efficiency of airspace use and to support the safe integration of all airspace users.

(4) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing the annual performance agreement required under paragraph (3), an assessment of the performance of the Chief Operating Officer in relation to the performance goals in the performance agreement for the previous year, and such other information as may be prescribed by the Administrator.

(5) RESPONSIBILITIES.—The Administrator may delegate to the Chief Operating Officer any authority of the Administrator and shall delegate, at a minimum the following:

(A) STRATEGIC PLANS.—To implement the strategic plan of the Administration for the air

traffic control system in order to further—

(i) a mission and objectives;

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

(iii) annual and long-range strategic plans;

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

(v) plans to integrate new entrant operations into the national airspace system and associated action items.

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

(i) modernization of the air traffic control system;

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

(iii) training and education; and

(iv) the management of cost-reimbursable contracts.

(C) BUDGET.—To—

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

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

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

(6) UNFUNDED CAPITAL INVESTMENT NEEDS REPORT.—

(A) IN GENERAL.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1150 of title 31,[3] the Administrator shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on any unfunded capital investment needs of the air traffic control system.

(B) CONTENTS OF BRIEFING.—In providing the report under subparagraph (A), the Administrator shall include, for each unfunded capital investment need, the following:

(i) A summary description of such unfunded capital investment need.

(ii) The objective to be achieved if such unfunded capital investment need is funded in whole or in part.

(iii) The additional amount of funds recommended in connection with such objective.

(iv) The Budget Line Item Program and Budget Line Item number associated with such unfunded capital investment need, as applicable.

(v) Any statutory requirement associated with such unfunded capital investment need, as applicable.

(C) PRIORITIZATION OF REQUIREMENTS.—The briefing required under subparagraph (A) shall present unfunded capital investment needs in overall urgency of priority.

(D) UNFUNDED CAPITAL INVESTMENT NEED DEFINED.—In this paragraph, the term "unfunded capital investment need" means a program that—

(i) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31;

(ii) is for infrastructure or a system related to necessary modernization or sustainment of the air traffic control system;

(iii) is listed for any year in the most recent National Airspace System Capital Investment Plan of the Administration; and

(iv) would have been recommended for funding through the budget referred to in subparagraph (A) by the Administrator if—

(I) additional resources had been available for the budget to fund the program, activity,

or mission requirement; or

(II) the program, activity, or mission requirement has emerged since the budget was formulated.

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

(s) CHIEF TECHNOLOGY OFFICER.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—There shall be a Chief Technology Officer for the air traffic control system that shall report directly to the Chief Operating Officer of the air traffic control system.

(B) APPOINTMENT.—The Chief Technology Officer shall be appointed by the Administrator.

(C) MINIMUM QUALIFICATIONS.—The Chief Technology Officer shall have—

(i) at least 10 years experience in engineering management, systems management, or another relevant technical management field; and

(ii) knowledge of or experience in the aviation industry.

(2) RESPONSIBILITIES.—The responsibilities of the Chief Technology Officer shall include—

(A) ensuring the proper operation, maintenance, and cybersecurity of technology systems relating to the air traffic control system across all offices of the Administration;

(B) coordinating the implementation, operation, maintenance, and cybersecurity of technology programs relating to the air traffic control system with the aerospace industry and other Federal agencies;

(C) reviewing and providing advice to the Secretary, the Administrator, and the Chief Operating Officer on the Administration's budget, cost-accounting system, and benefit-cost analyses with respect to technology programs relating to the air traffic control system;

(D) consulting with the Administrator on the Capital Investment Plan of the Administration prior to its submission to Congress;

(E) developing an annual air traffic control system technology operation and maintenance plan that is consistent with the annual performance targets established under paragraph (4); and

(F) ensuring that the air traffic control system architecture remains, to the maximum extent practicable, flexible enough to incorporate future technological advances developed and directly procured by the Administration, aircraft operators, or other private providers of information and services related to air traffic management.

(3) COMPENSATION.—

(A) IN GENERAL.—The Chief Technology Officer shall be paid at an annual rate of basic pay to be determined by the Administrator, in consultation with the Chief Operating Officer. The annual rate may not exceed the annual compensation paid under section 102 of title 3.

(B) POST-EMPLOYMENT.—The Chief Technology Officer shall be subject to the postemployment provisions of section 207 of title 18 as if the position of Chief Technology Officer were described in section 207(c)(2)(A)(i) of such title.

(C) BONUS.—In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief Technology Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief Technology Officer's performance in relation to the performance targets established under paragraph (4).

(4) ANNUAL PERFORMANCE TARGETS.—

(A) IN GENERAL.—The Administrator and the Chief Operating Officer, in consultation

with the Chief Technology Officer, shall establish measurable annual performance targets for the Chief Technology Officer in key operational areas.

(B) REPORT.—The Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the annual performance targets established under subparagraph (A).

(5) ANNUAL PERFORMANCE REPORT.—The Chief Technology Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual report containing—

(A) detailed descriptions and metrics of how successful the Chief Technology Officer was in meeting the annual performance targets established under paragraph (4); and

(B) other information as may be requested by the Administrator and the Chief Operating Officer.

(t) OFFICE OF WHISTLEBLOWER PROTECTION AND AVIATION SAFETY INVESTIGATIONS.—

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

(2) DIRECTOR.—

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

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

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

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

(E) LIMITATION OF DUTIES.— The Director may only perform duties of the Director described in paragraph (3)(A).

(3) COMPLAINTS AND INVESTIGATIONS.—

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

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

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

(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator of the Agency, in writing, regarding further investigation or corrective actions;

(iv) receive allegations of whistleblower retaliation by employees of the Agency;

(v) coordinate with and provide all necessary assistance to the Office of Investigations and Professional Responsibility, the inspector general of the Department of Transportation, and the Office of Special Counsel on investigations relating to whistleblower retaliation by employees of the Agency; and

(vi) investigate allegations of whistleblower retaliation by employees of the Agency that

have been delegated to the Office by the Office of Investigations and Professional Responsibility, the inspector general of the Department of Transportation, or the Office of Special Counsel.

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

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

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

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

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

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

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

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

(7) DEPARTMENT OF TRANSPORTATION OFFICE OF THE INSPECTOR GENERAL PEER REVIEW.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of the FAA Reauthorization Act of 2024, and every 5 years thereafter, the inspector general of the Department of Transportation shall perform a peer review of the Office of Whistleblower Protection and Aviation Safety Investigations.

(B) PEER REVIEW SCOPE.—In completing the peer reviews required under this paragraph, the inspector general shall, to the extent appropriate, use the most recent peer review guides published by the Council of the Inspectors General on Integrity and Efficiency Audit Committee and Investigations Committee.

(C) REPORTS TO CONGRESS.—Not later than 90 days after the completion of a peer review required under this paragraph, the inspector general shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a description of any actions taken or to be taken to address the results of the peer review.

(8) WHISTLEBLOWER OMBUDSMAN.—

(A) IN GENERAL.—Within the Office, there shall be established the position of Whistleblower Ombudsman.

(B) OMBUDSMAN QUALIFICATIONS.—The individual selected as Ombudsman shall have knowledge of Federal labor law and demonstrated government experience in human resource management and conflict resolution.

(C) DUTIES.—The Ombudsman shall carry out the following duties:

(i) Educate Administration employees about prohibitions against materially adverse acts of retaliation and any specific rights or remedies with respect to those retaliatory actions.

(ii) Serve as an independent confidential resource for Administration employees to discuss any specific retaliation allegation and available rights or remedies based on the circumstances, as appropriate.

(iii) Coordinate with Human Resource Management, the Office of Accountability and Whistleblower Protection, the Office of Professional Responsibility, and the Office of the Chief Counsel, as necessary.

(iv) Coordinate with the Office of the Inspector General of the Department of Transportation's Whistleblower Protection Coordinator and the Office of the Special Counsel, as necessary.

(v) Conduct outreach and assist in the development of training within the Agency to mitigate the potential for retaliation and promote timely and appropriate processing of any protected disclosure or allegation of materially adverse acts of retaliation.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2416; Pub. L. 98–216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100–591, §5(a), Nov. 3, 1988, 102 Stat. 3013; Pub. L. 101–508, title IX, §9106, Nov. 5, 1990, 104 Stat. 1388–355; Pub. L. 101–604, title I, §101(c), Nov. 16, 1990, 104 Stat. 3068; Pub. L. 102–581, title I, §104, Oct. 31, 1992, 106 Stat. 4877; Pub. L. 103–272, §§4(j)(3), 5(m)(4), July 5, 1994, 108 Stat. 1365, 1375; Pub. L. 103–305, title I, §103, title II, §201, Aug. 23, 1994, 108 Stat. 1571, 1581; Pub. L. 104–264, title I, §103(a), title II, §§223(a), 224–230, 276(c), title XII, §1210, Oct. 9, 1996, 110 Stat. 3216, 3229–3234, 3282; Pub. L. 104–287, §5(1), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105–102, §3(c)(3), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–6, §4, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–181, title I, §103(a), title III, §§302(a)–(c), 303, 305, 306, 307(c)(1), title VII, §701, Apr. 5, 2000, 114 Stat. 66, 115–118, 121, 123, 124, 126, 154; Pub. L. 106–528, §8(a), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 107–71, title I, §101(c)(3), (d), Nov. 19, 2001, 115 Stat. 602, 603; Pub. L. 108–176, title I, §103(a),(b), title II, §§201–204, 224(c), Dec. 12, 2003, 117 Stat. 2495, 2496, 2522–2526, 2528; Pub. L. 110–330, §6, Sept. 30, 2008, 122 Stat. 3719; Pub. L. 111–12, §6, Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §6, Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §6, Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §6, Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §6, Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §6, July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §105, Aug. 1, 2010, 124 Stat. 2350; Pub. L. 112–30, title II, §206, Sept. 16, 2011, 125 Stat. 359; Pub. L. 112–91, §6, Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §103, title II, §§203, 204, title III, §§306(b), 341, Feb. 14, 2012, 126 Stat. 16, 37, 61, 78; Pub. L. 112–166, §2(k)(2), Aug. 10, 2012, 126 Stat. 1286; Pub. L. 113–188, title XV, §1501(a), Nov. 26, 2014, 128 Stat. 2023; Pub. L. 114–55, title I, §103, Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §103, Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1103, July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §103, Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §103, Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title I, §113, title V, §§545(a), 564, div. K, title I, §1991(a), Oct. 5, 2018, 132 Stat. 3200, 3374, 3385, 3626; Pub. L. 116–260, div. V, title I, §§114, 133(a), (b), Dec. 27, 2020, 134 Stat. 2333, 2353, 2355; Pub. L. 117–286, §4(a)(302), (c)(46), Dec. 27, 2022, 136 Stat. 4339, 4359; Pub. L. 117–328, div. Q, §104, Dec. 29, 2022, 136 Stat. 5253; Pub. L. 118–15, div. B, title II, §2203, Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §103, Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §103, Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title I, §103, title II, §§201, 202(a), 203–204(b), 206(g), 210–214, 216, May 16, 2024, 138 Stat. 1034–1041, 1045, 1049–1054.)

HISTORICAL AND REVISION NOTES
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Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
106(a)	49:1341(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §§301(a), (b), 302(a), (b), 72 Stat. 744; Aug. 14, 1964, Pub. L. 88–426, §305(16) (B), (C), 78 Stat. 424.
	49:1652(e)(1) (related to FAA).	Oct. 15, 1966, Pub. L. 89–670, §3(e) (related to FAA), 80 Stat. 932.
106(b)	49:1341(a) (2d sentence), (b) (1st sentence less 1st–10th words).	
	49:1342(a) (1st sentence), (b) (1st sentence less 1st–11th words).	
	49:1652(e) (related to FAA) (1) (less 1st sentence), (3) (last sentence).	
106(c)	49:1341(b) (1st sentence 1st–10th words, 2d sentence).	
	49:1652(e)(2) (related to Administrator).	
106(d)	49:1342(b) (1st sentence 1st–11th words, 2d sentence, 4th–6th sentences).	
	49:1652(e)(2) (1st sentence less Administrator).	
	49:1343(a)(2) (related to Deputy Administrator).	Aug. 23, 1958, Pub. L. 85–726, §302(c)(2) (related to Deputy Administrator), 72 Stat. 745.
106(e)	49:1341(b) (less 1st, 2d sentences).	
	49:1342(b) (3d sentence).	
106(f)	49:1341(a) (less 1st, 2d sentences).	
106(g)	49:1652(e)(3) (related to FAA) (less last sentence).	
	49:1655(c)(1) (1st sentence proviso).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1) (1st sentence proviso, 2d, last sentences), 80 Stat. 938; Jan. 3, 1975, Pub. L. 93–633, §113(d), 88 Stat. 2163.
106(h)	49:1652(e)(4) (related to FAA).	
	49:1655(c)(1) (2d, last sentences).	
106(i)	49:1342(a) (2d, last sentences).	

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

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

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

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

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

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

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

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

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

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

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

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

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

EDITORIAL NOTES

REFERENCES IN TEXT

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

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsecs. (f)(4)(B)(i)(I), (ii)(I), (C)(i) and (t)(7)(A), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 5.13 of title 49, Code of Federal Regulations, referred to in subsec. (f)(4)(C)(i), (iii)(IV), related in subsection (d) to review of existing Department of Transportation regulations and was omitted in the general revision of part 5 of title 49, Code of Federal Regulations, effective May 3, 2021. See 86 F.R. 17294.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §201(1), inserted heading.

Subsec. (b). Pub. L. 118–63, §201(2), added subsec. (b) and struck out former subsec. (b) which read as follows: "The head of the Administration is the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. Except as provided in

subsection (f) or in other provisions of law, the Administrator reports directly to the Secretary of Transportation. The term of office for any individual appointed as Administrator after August 23, 1994, shall be 5 years."

Subsecs. (c), (d). Pub. L. 118–63, §202(a), added subsec. (c) and reserved subsec. (d) and struck out former subsecs. (c) and (d) which related to qualifications of the Administrator and the office of Deputy Administrator, respectively.

Subsec. (e). Pub. L. 118–63, §203, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment."

Subsec. (f)(1). Pub. L. 118–63, §204(a)(1), substituted "paragraphs (2) and (3)" for "paragraph (2)", "In exercising duties, powers, and authorities that are assigned to the Secretary or the Administrator under this title, neither" for "Neither", and "a committee, board, council, or organization that is—" and subpars. (A) and (B) for "a committee, board, or organization established by executive order."

Subsec. (f)(2)(A)(ii). Pub. L. 118–63, §204(a)(2)(A), substituted "the acquisition, establishment, improvement, operation, maintenance, security (including cybersecurity), and disposal of property, facilities, services, and equipment of the Administration, including all elements of the air traffic control system owned by the Administration;" for "the acquisition and maintenance of property, services, and equipment of the Administration;".

Subsec. (f)(2)(A)(iii). Pub. L. 118–63, §204(a)(2)(B), substituted "paragraph (4)" for "paragraph (3)".

Subsec. (f)(2)(B). Pub. L. 118–63, §204(a)(2)(C), inserted "civil aviation, any matter for which the Administrator is the final authority under subparagraph (A), any duty carried out by the Administrator pursuant to paragraph (3), or the provisions of this title, or" after "with respect to".

Subsec. (f)(3). Pub. L. 118–63, §204(a)(5), added par. (3). Former par. (3) redesignated (4).

Subsec. (f)(3)(A). Pub. L. 118–63, §204(a)(3)(A), inserted cl. (i) designation and heading before "In the performance", cl. (ii) designation and heading before "The Administrator shall act", cl. (iii) designation and heading before "The Administrator shall issue", and cl. (iv) designation and heading before "On February 1".

Subsec. (f)(3)(B), (C). Pub. L. 118–63, §204(a)(3)(B), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which related to approval of Secretary of Transportation of certain regulations and periodic review of certain regulations, respectively.

Subsec. (f)(4), (5). Pub. L. 118–63, §204(a)(4), redesignated pars. (3) and (4) as (4) and (5), respectively.

Subsec. (g). Pub. L. 118–63, §204(b), added reserved subsec. (g) and struck out former subsec. (g) which related to duties and powers of Administrator.

Subsec. (h). Pub. L. 118–63, §206(g), added subsec. (h) and struck out former subsec. (h) which read as follows: "Section 40101(d) of this title applies to duties and powers specified in subsection (g)(1) of this section. Any of those duties and powers may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers is administratively final."

Subsec. (j). Pub. L. 118–63, §210, inserted heading.

Subsec. (k)(1)(A) to (F). Pub. L. 118–63, §103(a), added subpars. (A) to (E) and struck out former subpars. (A) to (F) which appropriated amounts for salaries, operations, and maintenance for fiscal years 2018 to 2023.

Subsec. (k)(1)(G). Pub. L. 118–63, §103(a), struck out subpar. (G) which read as follows: "$7,259,685,792 for the period beginning on October 1, 2023, and ending on May 10, 2024."

Pub. L. 118–41, §103(1), added subpar. (G) and struck out former subpar. (G) which read as follows: "$5,208,743,169 for the period beginning on October 1, 2023, and ending on March 8, 2024."

Subsec. (k)(2)(D)(i) to (vi). Pub. L. 118–63, §103(b), added cls. (ii) to (vi), redesignated former cl. (vi) as (i), and struck out former cls. (i) to (v) which authorized expenditure amounts for commercial space transportation activities for fiscal years 2018 to 2022.

Subsec. (k)(3). Pub. L. 118–63, §103(c), designated existing provisions as subpar. (A) and inserted heading, substituted "in each of fiscal years 2024 through 2028" for "in each of fiscal years 2018 through 2023 and for the period beginning on October 1, 2023, and ending on May 10, 2024", and added subpars. (B) and (C).

Pub. L. 118–41, §103(2), substituted "May 10, 2024" for "March 8, 2024".

Subsec. (p). Pub. L. 118–63, §211(2), added subsec. (p) and struck out former subsec. (p) which established the Federal Aviation Management Advisory Council and the Air Traffic Services Committee.

Subsec. (p)(8). Pub. L. 118–63, §211(1), redesignated par. (8) of subsec. (p) as par. (7) of subsec. (r).

Subsec. (r)(1)(A). Pub. L. 118–63, §212(1)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "There shall be a Chief Operating Officer for the air traffic control system

to be appointed by the Administrator, with the approval of the Air Traffic Services Committee. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator."

Subsec. (r)(1)(E). Pub. L. 118–63, §212(1)(B), substituted "may be appointed for either the remainder of the term or for a full term" for "shall be appointed for the remainder of that term".

Subsec. (r)(2)(A). Pub. L. 118–63, §212(2), struck out ", with the approval of the Air Traffic Services Committee" after "Administrator".

Subsec. (r)(3). Pub. L. 118–63, §212(3), struck out ", in consultation with the Air Traffic Services Committee," before "shall enter" and substituted "annual basis and shall include responsibility for—" and subpars. (A) to (C) for "annual basis."

Subsec. (r)(4). Pub. L. 118–63, §212(4), substituted "the annual performance agreement required under paragraph (3), an assessment of the performance of the Chief Operating Officer in relation to the performance goals in the performance agreement for the previous year, and such other information as may be prescribed by the Administrator" for "such information as may be prescribed by the Secretary".

Subsec. (r)(5). Pub. L. 118–63, §212(5)(A), substituted "Chief Operating Officer any authority of the Administrator and shall delegate, at a minimum" for "Chief Operating Officer, or any other authority within the Administration responsibilities, including" in introductory provisions.

Subsec. (r)(5)(A)(v). Pub. L. 118–63, §212(5)(B), added cl. (v).

Subsec. (r)(5)(C)(ii). Pub. L. 118–63, §212(5)(C), struck out "and the Committee" after "Administrator".

Subsec. (r)(6). Pub. L. 118–63, §213, which directed the addition of par. (6) at end of subsec. (r), was executed by adding par. (6) after par. (5) to reflect the probable intent of Congress and the intervening redesignation of par. (8) of subsec. (p) as par. (7) of subsec. (r). See below.

Subsec. (r)(7). Pub. L. 118–63, §211(1), redesignated par. (8) of subsec. (p) as par. (7) of subsec. (r).

Subsec. (s)(1)(A). Pub. L. 118–63, §214(1)(E), added subpar. (A). Former subpar. (A) redesignated (B).

Pub. L. 118–63, §214(1)(A), substituted "The Chief Technology Officer shall be appointed by the Administrator." for "There shall be a Chief Technology Officer appointed by the Chief Operating Officer. The Chief Technology Officer shall report directly to the Chief Operating Officer."

Subsec. (s)(1)(B). Pub. L. 118–63, §214(1)(D), redesignated subpar. (A) as (B). Former subpar. (B) redesignated (C).

Subsec. (s)(1)(B)(i). Pub. L. 118–63, §214(1)(B), which directed amendment of subpar. (B) by substituting "management, systems management," for "management", was executed in cl. (i) by making the substitution for "management" the first place appearing, to reflect the probable intent of Congress.

Subsec. (s)(1)(C), (D). Pub. L. 118–63, §214(1)(C), (D), redesignated subpar. (B) as (C) and struck out former subpars. (C) and (D) which read as follows:

"(C) REMOVAL.—The Chief Technology Officer shall serve at the pleasure of the Administrator.

"(D) RESTRICTION.—The Chief Technology Officer may not also be the Deputy Administrator."

Subsec. (s)(2)(A). Pub. L. 118–63, §214(2)(A), struck out "program" before "offices".

Subsec. (s)(2)(F). Pub. L. 118–63, §214(2)(B), substituted "the Administration, aircraft operators, or other private providers of information and services related to air traffic management" for "aircraft operators".

Subsec. (s)(3)(A). Pub. L. 118–63, §214(3)(A), struck out at end "The Chief Technology Officer shall be subject to the postemployment provisions of section 207 of title 18 as if the position of Chief Technology Officer were described in section 207(c)(2)(A)(i) of that title."

Subsec. (s)(3)(B), (C). Pub. L. 118–63, §214(3)(B), (C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (t)(7). Pub. L. 118–63, §216(1), (2), added par. (7) and struck out former par. (7) which related to annual reports to Congress by Director of the Office of Whistleblower Protection and Aviation Safety Investigations.

Subsec. (t)(8)(B). Pub. L. 118–63, §216(3), struck out comma after "management".

2023—Subsec. (k)(1)(G). Pub. L. 118–34, §103(1), added subpar. (G) and struck out former subpar. (G) which read as follows: "$2,995,027,322 for the period beginning on October 1, 2023, and ending on December 31, 2023."

Pub. L. 118–15, §2203(1), added subpar. (G).

Subsec. (k)(3). Pub. L. 118–34, §103(2), substituted "March 8, 2024" for "December 31, 2023".

Pub. L. 118–15, §2203(2), inserted "and for the period beginning on October 1, 2023, and ending on December 31, 2023" after "fiscal years 2018 through 2023".

2022—Subsec. (d)(1). Pub. L. 117–328 struck out ", a retired regular officer of an armed force, or a former regular officer of an armed force" after "active duty in an armed force".

Subsec. (p)(5). Pub. L. 117–286, §4(a)(302), substituted "Chapter 10 of title 5" for "Federal Advisory

Committee Act" in heading and "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)" in text.

Subsec. (p)(6)(I)(i). Pub. L. 117–286, §4(c)(46), substituted "section 13103(f) of title 5 for purposes of subchapter I of chapter 131 of such title; except that section 13103(d) of such title" for "section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act".

2020—Subsec. (l)(7). Pub. L. 116–260, §114, added par. (7).

Subsec. (t). Pub. L. 116–260, §133(a)(1)(B), substituted "Office of Whistleblower Protection and Aviation Safety Investigations" for "Aviation Safety Whistleblower Investigation Office" in heading.

Subsec. (t)(1). Pub. L. 116–260, §133(a)(1)(A), substituted "the Office of Whistleblower Protection and Aviation Safety Investigations" for "an Aviation Safety Whistleblower Investigation Office".

Subsec. (t)(2)(E). Pub. L. 116–260, §133(a)(2)(B), added subpar. (E).

Subsec. (t)(3)(A)(i). Pub. L. 116–260, §133(a)(2)(A)(i), substituted "(if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process established under or pursuant to a safety management system)" for "(if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process)".

Subsec. (t)(3)(A)(iv) to (vi). Pub. L. 116–260, §133(a)(2)(A)(ii)–(iv), added cls. (iv) to (vi).

Subsec. (t)(7). Pub. L. 116–260, §133(a)(2)(C)(i), substituted "November 15" for "October 1" in introductory provisions.

Subsec. (t)(7)(A). Pub. L. 116–260, §133(a)(2)(C)(ii), substituted "paragraph (3)(A)(i) in the preceding fiscal year" for "paragraph (3)(A)(i) in the preceding 12-month period".

Subsec. (t)(7)(C). Pub. L. 116–260, §133(a)(3)(A), inserted "the resolution of those submissions, including any" before "further" and struck out "and" at end.

Subsec. (t)(7)(E). Pub. L. 116–260, §133(a)(3)(B), (C), added subpar. (E).

Subsec. (t)(8). Pub. L. 116–260, §133(b), added par. (8).

2018—Subsec. (g). Pub. L. 115–254, §1991(a), amended subsec. (g) generally. Prior to amendment, text read as follows:

"(1) Except as provided in paragraph (2) of this subsection, the Administrator shall carry out—

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

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

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

Subsec. (k)(1)(A)–(E). Pub. L. 115–254, §113(a), added subpars. (A) to (E) and struck out former subpars. (A) to (E) which read as follows:

"(A) $9,653,000,000 for fiscal year 2012;

"(B) $9,539,000,000 for fiscal year 2013;

"(C) $9,596,000,000 for fiscal year 2014;

"(D) $9,653,000,000 for fiscal year 2015;

"(E) $9,909,724,000 for each of fiscal years 2016 and 2017; and".

Subsec. (k)(1)(F). Pub. L. 115–254, §113(a), added subpar. (F) and struck out former subpar. (F) which read as follows: "$10,025,852,000 for fiscal year 2018."

Pub. L. 115–141, §103(1), added subpar. (F) and struck out former subpar. (F) which read as follows: "$4,999,191,956 for the period beginning on October 1, 2017, and ending on March 31, 2018."

Subsec. (k)(2)(D). Pub. L. 115–254, §113(b), added subpar. (D).

Subsec. (k)(3). Pub. L. 115–254, §113(c), substituted "fiscal years 2018 through 2023," for "fiscal years 2012 through 2018,".

Pub. L. 115–141, §103(2), substituted "2018" for "2017 and for the period beginning on October 1, 2017, and ending on March 31, 2018".

Subsec. (p)(5). Pub. L. 115–254, §564, substituted "Committee," for "Committee, or" and ", or such

aerospace rulemaking committees as the Secretary shall designate." for period at end.

Subsec. (s). Pub. L. 115–254, §545(a), amended subsec. (s) generally. Prior to amendment, subsec. (s) related to Chief NextGen Officer.

2017—Subsec. (k)(1)(F). Pub. L. 115–63, §103(1), added subpar. (F).

Subsec. (k)(3). Pub. L. 115–63, §103(2), inserted "and for the period beginning on October 1, 2017, and ending on March 31, 2018" after "fiscal years 2012 through 2017".

2016—Subsec. (k)(1)(E). Pub. L. 114–190, §1103(1), added subpar. (E) and struck out former subpar. (E) which read as follows: "$7,711,387,500 for the period beginning on October 1, 2015, and ending on July 15, 2016."

Pub. L. 114–141, §103(1), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "$4,870,350,000 for the period beginning on October 1, 2015, and ending on March 31, 2016."

Subsec. (k)(3). Pub. L. 114–190, §1103(2), substituted "fiscal years 2012 through 2017," for "fiscal years 2012 through 2015 and for the period beginning on October 1, 2015, and ending on July 15, 2016,".

Pub. L. 114–141, §103(2), substituted "July 15, 2016" for "March 31, 2016".

2015—Subsec. (k)(1)(E). Pub. L. 114–55, §103(1), added subpar. (E).

Subsec. (k)(3). Pub. L. 114–55, §103(2), inserted "and for the period beginning on October 1, 2015, and ending on March 31, 2016" after "fiscal years 2012 through 2015".

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

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

Subsec. (d)(1). Pub. L. 112–166, §2(k)(2)(B), substituted "The Administration has a Deputy Administrator, who shall be appointed by the President. In making an appointment, the President shall consider the fitness of the appointee to efficiently carry out the duties and powers of the office. The Deputy Administrator shall" for "The Deputy Administrator must".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Such sums shall remain available until expended."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (p)(6)(E). Pub. L. 108–176, §202(6), inserted "or Committee" after "Council".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (p)(7)(H)(i). Pub. L. 108–176, §202(14)(L)(i), (ii), substituted "Committee shall" for

"Subcommittee shall" and "Secretary" for "Administrator, the Council".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (g)(1)(A). Pub. L. 106–181, §701, substituted "40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections" for "40113(a), (c), and (d), 40114(a), 40119,

44501(a) and (c), 44502(a)(1), (b), and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304,".

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

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

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

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

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

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

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

Subsec. (r). Pub. L. 106–181, §303, added subsec. (r).

1999—Subsec. (k). Pub. L. 106–6 substituted "$5,632,000,000 for fiscal year 1999." for "$5,158,000,000 for fiscal year 1997 and $5,344,000,000 for fiscal year 1998."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

> "(1) duties and powers of the Secretary related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title and sections 306–309, 312–314, 315–316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security

Improvement Act of 1990), 1101, 1105, and 1111 and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958 (49 App. U.S.C. 1347–1350, 1353–1355, 1421 et seq., 1441 et seq., 1471 et seq., 1501, 1505, 1511, and 1521 et seq.); and

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

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

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

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

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

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

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

EFFECTIVE DATE OF 2003 AMENDMENT

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

EFFECTIVE DATE OF 2000 AMENDMENTS

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

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

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

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

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

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

EFFECTIVE DATE OF 1997 AMENDMENT

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

Pub. L. 105–102, §3(f), Nov. 20, 1997, 111 Stat. 2216, provided that: "The amendments made by subsections (a) through (d) of this section [amending this section and sections 5302, 30501 to 30504, 45301,

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

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

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

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

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

CONSTRUCTION

Pub. L. 118–63, title II, §204(c), May 16, 2024, 138 Stat. 1041, provided that: "Nothing in this section [amending this section] or the amendments made by this section shall be construed to restrict any authority vested in the Administrator [of the Federal Aviation Administration] by statute or by delegation that was in effect on the day before the date of the enactment of this Act [May 16, 2024]."

AIRSPACE MODERNIZATION OFFICE

Pub. L. 118–63, title II, §207, May 16, 2024, 138 Stat. 1046, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—On January 1, 2026, the Administrator [of the Federal Aviation Administration] shall establish within the FAA [Federal Aviation Administration] an Airspace Modernization Office (in this section referred to as the 'Office').

"(2) PLACEMENT.—The Administrator may task an existing office of the FAA with the functions of the Office.

"(3) DUTIES.—The Office shall be responsible for—

"(A) the research and development, systems engineering, enterprise architecture, and portfolio management for the continuous modernization of the national airspace system;

"(B) the development of an information-centric national airspace system, including digitization of the processes and technology that supports such system;

"(C) improving the interoperability of FAA systems and third-party systems that support safe operations in the national airspace system; and

"(D) developing and periodically updating an integrated plan for the future state of the national airspace system in coordination with other offices of the FAA.

"(b) INTEGRATED PLAN REQUIREMENTS.—The integrated plan developed by the Office shall be designed to ensure that the national airspace system meets future safety, security, mobility, efficiency, and capacity needs of a diverse and growing set of airspace users. The integrated plan shall include the following:

"(1) A description of the demand for services that will be required of the future air transportation system, and an explanation of how the demand projections were derived, including—

"(A) the most likely range of average annual resources required over the duration of the plan to cost effectively maintain the safety, sustainability, and other characteristics of national airspace operation and the mission of the FAA; and

"(B) an estimate of FAA resource requirements by user group, including expectations concerning the growth of new entrants and potential new users.

"(2) A roadmap for creating and implementing the integrated plan, including—

"(A) the most significant technical, operational, and personnel obstacles and the activities necessary to overcome such obstacles, including the role of other Federal agencies, corporations,

institutions of higher learning, and nonprofit organizations in carrying out such activities;

"(B) the annual anticipated cost of carrying out such activities;

"(C) the technical milestones that will be used to evaluate the activities; and

"(D) identifying technology gaps that the Administrator or industry may need to address to fully implement the integrated plan.

"(3) A description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system.

"(4) A description of the management of the enterprise architecture framework for the introduction of any operational improvements and to inform FAA financial decision-making.

"(5) A justification for the operational improvements that the Office determines will need to be developed and deployed by 2040 to meet the needs of national airspace users, including the benefits, costs, and risks of the preferred and alternative options.

"(c) CONSIDERATIONS.—In developing an initial integrated plan required under subsection (b) and carrying out such plan, the Office shall consider—

"(1) the results and recommendations of the independent report on implementation of the NextGen [Next Generation Air Transportation System] program under section 603 [138 Stat. 1222, not classified to the Code];

"(2) the status of the transition to, and deployment of, trajectory-based operations within the national airspace system; and

"(3) the findings of the audit required by section 622 [49 U.S.C. 44505 note], and the resulting plan to replace or enhance the identified legacy systems within a reasonable timeframe.

"(d) CONSULTATION.—In developing and carrying out the integrated plan, the Office shall consult with the NextGen Advisory Committee of the FAA.

"(e) PLAN DEADLINE; BRIEFINGS.—

"(1) PLAN DEADLINE.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Appropriations of the House of Representatives an initial integrated plan required under subsection (a)(3)(D).

"(2) ANNUAL BRIEFINGS.—The Administrator shall provide the committees of Congress specified in paragraph (1) with an annual briefing describing the progress in carrying out the integrated plan required under subsection (a)(3)(D), including any changes to the plan, through 2028.

"(f) DOT INSPECTOR GENERAL REVIEW.—Not later than 180 days after submission of the initial integrated plan under subsection (e)(1), the inspector general of the Department of Transportation shall begin a review of the integrated plan and submit to the committees of Congress specified in subsection (e)(1) a report that—

"(1) assesses the justification for the integrated plan;

"(2) provides any recommendations for improving the integrated plan; and

"(3) includes any other information that the inspector general determines appropriate."

FAA TELEWORK

Pub. L. 118–63, title II, §221, May 16, 2024, 138 Stat. 1058, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration]—

"(1) may establish telework policies for employees of the FAA [Federal Aviation Administration] that allow for the Administrator to reduce the office footprint and associated expenses of the FAA, if appropriate, increase workforce retention, and provide flexibilities that the Administrator demonstrates increases efficiency and effectiveness of the Administration, while requiring that any such policy—

"(A) does not adversely impact the mission of the FAA;

"(B) does not reduce the safety or efficiency of the national airspace system;

"(C) for any employee that is designated as an officer or executive in the FAA Executive System or a political appointee (as such term is defined in section 106 of title 49, United States Code)—

"(i) maximizes time at a duty station for such employee, excluding official travel; and

"(ii) may include telework provisions as determined appropriate by the Administrator, commensurate with official duties for such employee;

"(D) provides for on-the-job training opportunities for FAA personnel that are not less than such opportunities available in 2019;

"(E) reflects the appropriate work status of employees based on the job functions of such

employee;

"(F) optimizes the work status of inspectors, investigators, and other personnel performing safety-related functions to ensure timely completion of safety oversight activities;

"(G) provides for personnel, including such personnel performing work related to aircraft certification and flight standards, who are responsible for actively working with regulated entities, external stakeholders, or other members of the public to be—

"(i) routinely available on a predictable basis for in-person and virtual communications with external persons; and

"(ii) not hindered from meeting with, visiting, auditing, or inspecting facilities or projects of regulated persons due to any telework policy; and

"(H) provides opportunities for in-person dialogue, collaboration, and ideation for all employees;

"(2) ensures that locality pay for an employee of the FAA accurately reflects the telework status and duty station of such employee;

"(3) may not establish a telework policy for an employee of the FAA unless such employee will be provided with secure network capacity, communications tools, necessary and secure access to appropriate agency data assets and Federal records, and equipment sufficient to enable such employee to be fully productive; and

"(4) not later than 2 years after the date of enactment of this Act [May 16, 2024], shall evaluate and address any telework policies in effect on the day before such date of enactment to ensure that such policies meet the requirements of paragraph (1).

"(b) CONGRESSIONAL UPDATE.—Not later than 1 year after the date of enactment of this Act, and 1 year thereafter, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on any telework policies currently in place, the implementation of such policies, and the benefits of such policies.

"(c) CONSULTATION.—If the Administrator determines that telework agreements need to be updated to implement the requirements of subsection (a), the Administrator shall, prior to updating such agreements, consult with—

"(1) exclusive bargaining representatives of air traffic controllers certified under section 7111 of title 5, United States Code; and

"(2) labor organizations certified under such section as the exclusive bargaining representative of airway transportation systems specialists and aviation safety inspectors and engineers of the FAA."

FAA PARTICIPATION IN INDUSTRY STANDARDS ORGANIZATIONS

Pub. L. 118–63, title II, §224, May 16, 2024, 138 Stat. 1061, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall encourage the participation of employees of the FAA [Federal Aviation Administration], as appropriate, in the activities of recognized industry standards organizations to advance the adoption, reference, and acceptance rate of standards and means of compliance developed by such organizations by the Administrator.

"(b) PARTICIPATION.—An employee of the FAA directed by the Administrator to participate in a working group, task group, committee, or similar body of a recognized industry standards organization shall—

"(1) actively participate in the discussions and work of such organization;

"(2) accurately represent the position of the Administrator on the subject matter of such discussions and work;

"(3) contribute to the development of work products of such organization, unless determined to be inappropriate by such organization;

"(4) make reasonable efforts to identify and make any concerns of the Administrator relating to such work products known to such organization, including through providing formal comments, as may be allowed for under the procedures of such organization;

"(5) provide regular updates to other FAA employees and management on the progress of such work products; and

"(6) seek advice and input from other FAA employees and management, as needed.

"(c) RECOGNIZED INDUSTRY STANDARDS ORGANIZATION DEFINED.—In this section, the term 'recognized industry standards organization' means a domestic or international organization that—

"(1) uses agreed upon procedures to develop aviation-related industry standards or means of compliance, including standards or means of compliance that satisfy FAA requirements or guidance;

"(2) is comprised of members of the public, including subject matter experts, industry representatives, academics and researchers, and government employees; and

"(3) has had at least 1 standard or means of compliance accepted by the Administrator or referenced in guidance material or a regulation issued by the FAA after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act (Public Law 108–176) [Dec. 12, 2003]."

REQUIRED DESIGNATION

Pub. L. 118–63, title II, §226, May 16, 2024, 138 Stat. 1062, provided that: "The Administrator [of the Federal Aviation Administration] shall designate any aviation rulemaking committee convened under this Act [see Tables for classification] pursuant to section 106(p)(5) of title 49, United States Code."

FAA ENGAGEMENT AND COLLABORATION WITH HBCUS AND MSIS

Pub. L. 118–63, title IV, §404, May 16, 2024, 138 Stat. 1152, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration]—

"(1) shall continue—

"(A) to partner with and conduct outreach to Historically Black Colleges and Universities and minority serving institutions to promote awareness of educational and career opportunities, including the Educational Partnership Initiative of the FAA [Federal Aviation Administration], and develop curriculum related to aerospace, aviation, and air traffic control; and

"(B) operation of the Minority Serving Institutions Internship Program; and

"(2) may—

"(A) make internship placements under the Minority Serving Institutions Internship Program available during academic sessions throughout the year; and

"(B) extend an internship placement under the Minority Serving Institutions Internship Program for a student beyond a single academic session.

"(b) PROGRAM DATA.—In carrying out the Minority Serving Institutions Internship Program, the Administrator shall track data, including annual metrics measuring the following with respect to such Program:

"(1) The total number of applicants.

"(2) The total number of applicants offered an internship and the total number of applicants who accept an internship.

"(3) The line of business in which each intern is placed.

"(4) The conversion rate of interns in the Program who are hired as full-time FAA employees.

"(c) MINORITY SERVING INSTITUTION DEFINED.—In this section, the term 'minority serving institution' means an institution described in paragraphs (1) through (7) of section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a))."

PROHIBITION ON MANDATES

Pub. L. 118–63, title XI, §1106, May 16, 2024, 138 Stat. 1417, provided that:

"(a) PROHIBITION ON MANDATES.—The Administrator [of the Federal Aviation Administration] may not require any contractor to mandate that employees of such contractor obtain a COVID–19 vaccine or enforce any condition regarding the COVID–19 vaccination status of employees of a contractor.

"(b) PROHIBITION ON IMPLEMENTATION.—The Administrator may not implement or enforce any requirement that—

"(1) employees of air carriers be vaccinated against COVID–19;

"(2) employees of the FAA [Federal Aviation Administration] be vaccinated against COVID–19; or

"(3) passengers of air carriers be vaccinated against COVID–19 or wear a mask as a result of a COVID–19 related public health measure."

EMERGENCY FAA EMPLOYEE LEAVE FUND

Pub. L. 117–2, title VII, §7103, Mar. 11, 2021, 135 Stat. 98, provided that:

"(a) ESTABLISHMENT; APPROPRIATION.—There is established in the Federal Aviation Administration the Emergency FAA Employee Leave Fund (in this section referred to as the 'Fund'), to be administered by the Administrator of the Federal Aviation Administration, for the purposes set forth in subsection (b). In addition to amounts otherwise available, there is appropriated for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $9,000,000, which shall be deposited into the Fund and remain available through September 30, 2022.

"(b) PURPOSE.—Amounts in the Fund shall be available to the Administrator for the use of paid leave under this section by any employee of the Administration who is unable to work because the employee—

"(1) is subject to a Federal, State, or local quarantine or isolation order related to COVID–19;

"(2) has been advised by a health care provider to self-quarantine due to concerns related to

COVID–19;

"(3) is caring for an individual who is subject to such an order or has been so advised;

"(4) is experiencing symptoms of COVID–19 and seeking a medical diagnosis;

"(5) is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, if the school of such son or daughter requires or makes optional a virtual learning instruction model or requires or makes optional a hybrid of in-person and virtual learning instruction models, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions;

"(6) is experiencing any other substantially similar condition;

"(7) is caring for a family member with a mental or physical disability or who is 55 years of age or older and incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID–19; or

"(8) is obtaining immunization related to COVID–19 or is recovering from any injury, disability, illness, or condition related to such immunization.

"(c) LIMITATIONS.—

"(1) PERIOD OF AVAILABILITY.—Paid leave under this section may only be provided to and used by an employee of the Administration during the period beginning on the date of enactment of this section [Mar. 11, 2021] and ending on September 30, 2021.

"(2) TOTAL HOURS; AMOUNT.—Paid leave under this section—

"(A) shall be provided to an employee of the Administration in an amount not to exceed 600 hours of paid leave for each full-time employee, and in the case of a part-time employee, employee on an uncommon tour of duty, or employee with a seasonal work schedule, in an amount not to exceed the proportional equivalent of 600 hours to the extent amounts in the Fund remain available for reimbursement;

"(B) shall be paid at the same hourly rate as other leave payments; and

"(C) may not be provided to an employee if the leave would result in payments greater than $2,800 in aggregate for any biweekly pay period for a full-time employee, or a proportionally equivalent biweekly limit for a part-time employee.

"(3) RELATIONSHIP TO OTHER LEAVE.—Paid leave under this section—

"(A) is in addition to any other leave provided to an employee of the Administration; and

"(B) may not be used by an employee of the Administration concurrently with any other paid leave.

"(4) CALCULATION OF RETIREMENT BENEFIT.—Any paid leave provided to an employee of the Administration under this section shall reduce the total service used to calculate any Federal civilian retirement benefit."

REGIONAL OMBUDSMEN

Pub. L. 115–254, div. B, title I, §180, Oct. 5, 2018, 132 Stat. 3230, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], with respect to each region of the Federal Aviation Administration, the Regional Administrator for that region shall designate an individual to be the Regional Ombudsman for the region.

"(b) REQUIREMENTS.—Each Regional Ombudsman shall—

"(1) serve as a regional liaison with the public, including community groups, on issues regarding aircraft noise, pollution, and safety;

"(2) make recommendations to the Administrator for the region to address concerns raised by the public and improve the consideration of public comments in decision-making processes; and

"(3) be consulted on proposed changes in aircraft operations affecting the region, including arrival and departure routes, in order to minimize environmental impacts, including noise."

FEDERAL AVIATION ADMINISTRATION PERFORMANCE MEASURES AND TARGETS

Pub. L. 115–254, div. B, title V, §558, Oct. 5, 2018, 132 Stat. 3383, provided that:

"(a) PERFORMANCE MEASURES.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall establish performance measures relating to the management of the [Federal Aviation] Administration, which shall, at a minimum, include measures to assess—

"(1) the timely and cost-effective completion of projects; and

"(2) the effectiveness of the Administration in achieving the goals described in section 47171 of title 49, United States Code.

"(b) PERFORMANCE TARGETS.—Not later than 180 days after the date on which the Secretary establishes performance measures in accordance with subsection (a), the Secretary shall establish performance

targets relating to each of the measures described in that subsection.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the inspector general of the Department of Transportation shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report describing the progress of the Secretary in meeting the performance targets established under subsection (b)."

ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

Pub. L. 115–254, div. B, title VII, §711, Oct. 5, 2018, 132 Stat. 3410, provided that:

"(a) APPOINTMENT.—Not later than 3 months after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall appoint an Assistant Administrator for Research and Development.

"(b) RESPONSIBILITIES.—The Assistant Administrator for Research and Development shall, at a minimum, be responsible for—

"(1) management and oversight of all the FAA's [Federal Aviation Administration's] research and development programs and activities; and

"(2) production of all congressional reports from the FAA relevant to research and development, including the national aviation research plan required under section 44501(c) of title 49, United States Code.

"(c) DUAL APPOINTMENT.—The Assistant Administrator for Research and Development may be a dual-appointment, holding the responsibilities of another Assistant Administrator."

EDUCATIONAL REQUIREMENTS

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

FAA REVIEW AND REFORM

Pub. L. 115–254, div. B, title V, §511, Oct. 5, 2018, 132 Stat. 3356, provided that:

"(a) AGENCY REPORT.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress a detailed analysis of any actions taken to address the findings and recommendations included in the report required under section 812(d) of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] (49 U.S.C. 106 note), including—

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

"(2) eliminating or streamlining wasteful practices;

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

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

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

"(b) ADDITIONAL REVIEW.—Not later than 18 months after the date of enactment of this Act, the Administrator shall undertake and complete a thorough review of each program, office, and organization within the Administration to identify—

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

"(2) wasteful practices;

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

"(4) inefficient processes; and

"(5) ineffectual or outdated policies.

"(c) ACTIONS TO STREAMLINE AND REFORM FAA.—Not later than 60 days after the date of completion of the review under subsection (b), the Administrator shall undertake such actions as may be necessary to address the findings of the Administrator under such subsection.

"(d) REPORT TO CONGRESS.—Not later than 120 days after the date of completion of the review under subsection (b), the Administrator shall submit to the appropriate committees of Congress a report on the actions taken by the Administrator pursuant to subsection (c), including any recommendations for legislative or administrative actions."

[For definitions of terms used in section 511 of Pub. L. 115–254, set out above, see sections 101 and 501 of Pub. L. 115–254, set out as notes under section 40101 of this title.]

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

"(a) AGENCY REVIEW.—Not later than 60 days after the date of enactment of this Act [Feb. 14, 2012],

the Administrator of the Federal Aviation Administration shall undertake a thorough review of each program, office, and organization within the Administration, including the Air Traffic Organization, to identify—

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

"(2) wasteful practices;

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

"(4) inefficient processes; and

"(5) ineffectual or outdated policies.

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

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

"(2) eliminating or streamlining wasteful practices;

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

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

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

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

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

ORPHAN AVIATION EARMARKS

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

"(a) EARMARK DEFINED.—In this section, the term 'earmark' means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate, or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, or other expenditure with or to an entity or a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

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

"(c) IDENTIFICATION AND REPORT.—

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

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

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

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

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

FEDERAL AVIATION ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

multiplied by 3.

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

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

"(i) For purposes of this section—

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

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

"(3) the term 'Program' means the Federal Aviation Administration Science and Technology Scholarship Program established under this section.

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

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

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

INTERNET AVAILABILITY OF INFORMATION

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

FINDINGS

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

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

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

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

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

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

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

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

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

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

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

"(11) To the extent that Congress determines that certain segments of the aviation community are not

required to pay all of the costs of the government services which they require and benefits which they receive, Congress should appropriate the difference between such costs and any receipts received from such segment.

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

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

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

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

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

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

PURPOSES

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

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

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

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

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

PRESERVATION OF EXISTING AUTHORITY

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

PERSONNEL MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

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

DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

Pub. L. 106–346, §101(a) [title III, §303], Oct. 23, 2000, 114 Stat. 1356, 1356A–23, as amended by Pub. L. 114–95, title IX, §9215(x), Dec. 10, 2015, 129 Stat. 2172, provided that: "Hereafter, funds appropriated under this or any other Act for expenditures by the Federal Aviation Administration shall be available: (1) except as otherwise authorized by title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents; and (2) for transportation of said dependents between schools serving the area that they attend and their places of

residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–69, title III, §303, Oct. 9, 1999, 113 Stat. 1015.
Pub. L. 105–277, div. A, §101(g) [title III, §303], Oct. 21, 1998, 112 Stat. 2681–439, 2681–464.
Pub. L. 105–66, title III, §303, Oct. 27, 1997, 111 Stat. 1441.
Pub. L. 104–205, title III, §303, Sept. 30, 1996, 110 Stat. 2968.
Pub. L. 104–50, title III, §303, Nov. 15, 1995, 109 Stat. 453.
Pub. L. 103–331, title III, §303, Sept. 30, 1994, 108 Stat. 2488.
Pub. L. 103–122, title III, §303, Oct. 27, 1993, 107 Stat. 1219.
Pub. L. 102–388, title III, §303, Oct. 6, 1992, 106 Stat. 1543.
Pub. L. 102–143, title III, §303, Oct. 28, 1991, 105 Stat. 939.
Pub. L. 101–516, title III, §303, Nov. 5, 1990, 104 Stat. 2178.
Pub. L. 101–164, title III, §303, Nov. 21, 1989, 103 Stat. 1091.
Pub. L. 100–457, title III, §303, Sept. 30, 1988, 102 Stat. 2146.
Pub. L. 100–202, §101(l) [title III, §303], Dec. 22, 1987, 101 Stat. 1329–358, 1329–377.
Pub. L. 99–500, §101(l) [H.R. 5205, title III, §303], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, §101(l), Oct. 30, 1986, 100 Stat. 3341–308.
Pub. L. 99–190, §101(e) [title III, §303], Dec. 19, 1985, 99 Stat. 1267, 1284.
Pub. L. 98–473, title I, §101(i) [title III, §303], Oct. 12, 1984, 98 Stat. 1944, 1961.
Pub. L. 98–78, title III, §303, Aug. 15, 1983, 97 Stat. 470.
Pub. L. 97–369, title III, §306, Dec. 18, 1982, 96 Stat. 1781.
Pub. L. 97–102, title III, §306, Dec. 23, 1981, 95 Stat. 1458.
Pub. L. 96–400, title III, §306, Oct. 9, 1980, 94 Stat. 1695.
Pub. L. 96–131, title III, §307, Nov. 30, 1979, 93 Stat. 1037.
Pub. L. 95–335, title III, §310, Aug. 4, 1978, 92 Stat. 448.
Pub. L. 95–85, title III, §310, Aug. 2, 1977, 91 Stat. 416.
Pub. L. 94–387, title III, §312, Aug. 14, 1976, 90 Stat. 1185.
Pub. L. 94–134, title III, §310, Nov. 24, 1975, 89 Stat. 711.
Pub. L. 93–391, title III, §311, Aug. 28, 1974, 88 Stat. 780.
Pub. L. 93–98, title III, §313, Aug. 16, 1973, 87 Stat. 340.
Pub. L. 92–398, title III, §313, Aug. 22, 1972, 86 Stat. 591.
Pub. L. 92–74, title I, Aug. 10, 1971, 85 Stat. 203.
Pub. L. 91–168, title I, Dec. 26, 1969, 83 Stat. 455.
Pub. L. 90–464, title I, Aug. 8, 1968, 82 Stat. 655.
Pub. L. 90–112, title II, Oct. 23, 1967, 81 Stat. 312.
Pub. L. 89–474, title I, June 29, 1966, 80 Stat. 223.
Pub. L. 89–57, title I, June 30, 1965, 79 Stat. 197.
Pub. L. 88–392, title I, Aug. 1, 1964, 78 Stat. 369.
Pub. L. 88–39, title I, June 13, 1963, 77 Stat. 59.
Pub. L. 87–575, title I, Aug. 6, 1962, 76 Stat. 311.
Pub. L. 87–159, title I, Aug. 21, 1961, 75 Stat. 395.
Pub. L. 86–561, title I, June 30, 1960, 74 Stat. 285.
Pub. L. 86–39, title I, June 11, 1959, 73 Stat. 67.
Pub. L. 85–354, title I, Mar. 28, 1958, 72 Stat. 63.
Pub. L. 85–37, title I, May 27, 1957, 71 Stat. 37.
Apr. 2, 1956, ch. 161, title I, 70 Stat. 94.
June 1, 1955, ch. 113, title I, 69 Stat. 74.
May 28, 1954, ch. 242, title I, 68 Stat. 146.
June 18, 1953, ch. 132, title I, 67 Stat. 69.

AVIATION SAFETY COMMISSION

Pub. L. 99–500, title V, §§501–507, Oct. 18, 1986, 100 Stat. 1783–370 to 1783–373, and Pub. L. 99–591, title V, §§501–507, Oct. 30, 1986, 100 Stat. 3341–373 to 3341–376, known as the Aviation Safety Commission Act of 1986, established Aviation Safety Commission, directed Commission to study organization and functions of Federal Aviation Administration and means by which it could most efficiently

and effectively perform its responsibilities and increase aviation safety and to submit reports to the President and the two houses of Congress within 9 months after Oct. 18, 1986, and within 18 months after Oct. 18, 1986, and provided that Commission was to cease to exist 18 months after Oct. 18, 1986.

APPOINTMENT OF RETIRED MILITARY OFFICER AS ADMINISTRATOR

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

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

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

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

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

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

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

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

EXECUTIVE DOCUMENTS

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

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

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

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

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

(c) The Chief Operating Officer (COO) of the Air Traffic Control System, established by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Air-21) (Public Law 106–181) [see Short Title of 2000 Amendments note set out under section 40101 of this title], shall head the ATO and shall report directly to the Administrator and be subject to the authority of the Administrator. The COO, in consultation with the Air Traffic Control Subcommittee of the Aviation Management Advisory Committee, shall enter into an annual performance agreement with the Administrator that sets forth measurable organization and

individual goals in key operational areas and describes specific targets and how such goals will be achieved. The COO may receive an annual bonus not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the COO's performance in relation to the targets and goals described above.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pub. L. 104–264, title II, §202, Oct. 9, 1996, 110 Stat. 3227, provided that: "In this title [see Effective Date of 1996 Amendment note set out above], the following definitions apply:

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

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

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

[1] *So in original. Probably should be "subclause (I)".*

[2] *See References in Text note below.*

[3] *So in original. Probably should be "section 1105 of title 31,".*

§107. Federal Transit Administration

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

EDITORIAL NOTES

AMENDMENTS

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Pub. L. 102–240, title III, §3004(a), (b), Dec. 18, 1991, 105 Stat. 2088, provided that:

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

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

§108. Pipeline and Hazardous Materials Safety Administration

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

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

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

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

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

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

PUB. L. 103–272

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

EDITORIAL NOTES

AMENDMENTS

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISIONS

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

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

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

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

"(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Department, any other authorized official, a court of competent jurisdiction, or operation of law.

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

"(d) SUITS.—

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

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

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

"(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his or her official capacity shall abate by reason of the enactment of this Act.

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

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

"(h) DEFINITION.—In this section, the term 'this Act' includes the amendments made by this Act."

WORKFORCE MANAGEMENT

Pub. L. 114–183, §9, June 22, 2016, 130 Stat. 520, provided that:

"(a) REVIEW.—Not later than 1 year after the date of the enactment of this Act [June 22, 2016], the Inspector General of the Department of Transportation shall submit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a review of Pipeline and Hazardous Materials Safety Administration staff resource management, including—

"(1) geographic allocation plans, hiring and time-to-hire challenges, and expected retirement rates and recruitment and retention strategies;

"(2) an identification and description of any previous periods of macroeconomic and pipeline industry conditions under which the Pipeline and Hazardous Materials Safety Administration has encountered difficulty in filling vacancies, and the degree to which special hiring authorities, including direct hiring authority authorized by the Office of Personnel Management, could have ameliorated such difficulty; and

"(3) recommendations to address hiring challenges, training needs, and any other identified staff resource challenges.

"(b) DIRECT HIRING.—Upon identification of a period described in subsection (a)(2), the Administrator of the Pipeline and Hazardous Materials Safety Administration may apply to the Office of Personnel Management for the authority to appoint qualified candidates to any position relating to pipeline safety, as determined by the Administrator, without regard to sections 3309 through 3319 of title 5, United States Code.

"(c) SAVINGS CLAUSE.—Nothing in this section shall preclude the Administrator of the Pipeline and Hazardous Materials Safety Administration from applying to the Office of Personnel Management for the authority described in subsection (b) prior to the completion of the report required under subsection (a)."

TRANSFER OF DUTIES AND POWERS OF RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

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

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

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

REPORTS

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

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

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

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

"(b) REPORTS BY THE SECRETARY.—

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

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

§109. Maritime Administration

(a) ORGANIZATION AND MISSION.—The Maritime Administration is an administration in the Department of Transportation. The mission of the Maritime Administration is to foster, promote, and develop the merchant maritime industry of the United States.

(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate.

The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

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

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

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

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

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

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

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

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

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

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

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

(j) AUTHORIZATION OF APPROPRIATIONS.—

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

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

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

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

(C) costs of national defense features;

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

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

(F) the Vessel Operations Revolving Fund;

(G) National Defense Reserve Fleet expenses;

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

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

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103–272, §5(m)(5), July 5, 1994, 108 Stat. 1375; Pub. L. 109–304, §12, Oct. 6, 2006, 120 Stat. 1698; Pub. L. 111–84, div. C, title XXXV, §3508, Oct. 28, 2009, 123 Stat. 2721; Pub. L. 111–383, div. A, title X, §1075(d)(26), Jan. 7, 2011, 124 Stat. 4374; Pub. L. 112–213, title IV, §409, Dec. 20, 2012, 126 Stat. 1572; Pub. L. 114–328, div. C, title XXXV, §3505(g), Dec. 23, 2016, 130 Stat. 2776.)

HISTORICAL AND REVISION NOTES

PUB. L. 97–449

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

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

PUB. L. 109–304

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
109(a)	46 App.:1111 note.	Reorg. Plan No. 21 of 1950, eff. May 24, 1950, §201, 64 Stat. 1276.
	46 App.:1601.	Pub. L. 97–31, §2, Aug. 6, 1981, 95 Stat. 151.
109(b)	46 App.:1111 note.	Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, §201, 75 Stat. 842; Pub. L. 88–426, title III, §305(19)(B), Aug. 14, 1964, 78 Stat. 425; Pub. L. 91–469, §38(a), Oct. 21, 1970, 84 Stat. 1036.
	46 App.:1603.	Pub. L. 97–31, §4, Aug. 6, 1981, 95 Stat. 151.
109(c)	46 App.:1111 note.	Reorg. Plan No. 21 of 1950, eff. May 24, 1950, §203, 64 Stat. 1276.
109(d)	46 App.:1111 note.	Reorg. Plan No. 21 of 1950, eff. May 24, 1950, §204, 64 Stat. 1276.
	46 App.:1602.	Pub. L. 97–31, §3, Aug. 6, 1981, 95 Stat. 151.
109(e)	46 App.:1213(b).	June 29, 1936, ch. 858, title VIII, §809(b), as added Pub. L. 94–10, §3,

		Mar. 23, 1975, 89 Stat. 16; Pub. L. 97–31, §12(121), Aug. 6, 1981, 95 Stat. 164.
109(f)	46 App.:1122(d).	June 29, 1936, ch. 858, title II, §212(d), 49 Stat. 1990; Pub. L. 97–31, §12(69), Aug. 6, 1981, 95 Stat. 159.
109(g)	46 App.:1111(f) (2d sentence related to Secretary).	June 29, 1936, ch. 858, title II, §201(f) (2d sentence related to Secretary), 49 Stat. 1986; Aug. 4, 1939, ch. 417, §4, 53 Stat. 1182; Pub. L. 97–31, §12(58)(D), Aug. 6, 1981, 95 Stat. 158.
109(h)	46 App.:1117 (related to Secretary).	June 29, 1936, ch. 858, title II, §207 (related to Secretary), 49 Stat. 1988; June 23, 1938, ch. 600, §2, 52 Stat. 954; Pub. L. 97–31, §12(64), Aug. 6, 1981, 95 Stat. 159; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.
109(i)(1)	46 App.:1119(a).	June 29, 1936, ch. 858, title II, §209, 49 Stat. 1988; Aug. 26, 1937, ch. 822, §3, 50 Stat. 839; Pub. L. 90–81, Sept. 5, 1967, 81 Stat. 193; Pub. L. 91–469, §2, Oct. 21, 1970, 84 Stat. 1018; Pub. L. 95–173, Nov. 12, 1977, §6(a), 91 Stat. 1360; Pub. L. 96–387, §4, Oct. 7, 1980, 94 Stat. 1546; Pub. L. 96–453, §3(a), Oct. 15, 1980, 94 Stat. 2008; Pub. L. 97–31, §12(66), Aug. 6, 1981, 95 Stat. 159.
109(i)(2)	46 App.:1119(b).	
109(i)(3)	46 App.:1295c–1.	Pub. L. 100–202, §101(a) [title V (4th proviso on p. 1329–28)], Dec. 22, 1987, 101 Stat. 1329, 1329–28.

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

In subsection (c), the word "Secretary" means the "Secretary of Transportation" because under 46 App. U.S.C. 1602 all functions, powers, and duties relating to the Maritime Administration were transferred from the Secretary of Commerce to the Secretary of Transportation. The words "in the competitive service" are substituted for "under the classified civil service" because of 5 U.S.C. 2102(c). The words "*Provided*, That such Deputy Administrator shall at no time sit as a member or acting member of the Federal Maritime Board" are omitted as obsolete because the Federal Maritime Board was abolished by section 304 of Reorganization Plan No. 7 of 1961 (46 App. U.S.C. 1111 note).

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

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

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

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

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (j)(3). Pub. L. 114–328 struck out par. (3). Text read as follows: "Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies."

2012—Subsec. (a). Pub. L. 112–213 substituted "Organization and Mission" for "Organization" in heading and inserted at end of text "The mission of the Maritime Administration is to foster, promote, and develop the merchant maritime industry of the United States."

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

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

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

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

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section 1075(d)(26) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111–84 as enacted.

REFERENCES IN OTHER FEDERAL LAWS TO FUNCTIONS OR OFFICES TRANSFERRED

Pub. L. 97–31, §10, Aug. 6, 1981, 95 Stat. 153, provided that: "With respect to any function or office transferred by this Act [see Tables for classification] and exercised on or after the effective date of this Act [Aug. 6, 1981], reference in any other Federal law to the Maritime Administration or any of its predecessor agencies or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary of Transportation, other official, or component of the Department of Transportation to which this Act transfers such functions."

WORKFORCE PLANS AND ONBOARDING POLICIES

Pub. L. 114–328, div. C, title XXXV, §3519, Dec. 23, 2016, 130 Stat. 2792, provided that:

"(a) WORKFORCE PLANS.—Not later than 9 months after the date of the enactment of this Act [Dec. 23, 2016], the Maritime Administrator shall review the Maritime Administration's workforce plans, including its Strategic Human Capital Plan and Leadership Succession Plan, and fully implement competency models for mission-critical occupations, including—

"(1) leadership positions;

"(2) human resources positions; and

"(3) transportation specialist positions.

"(b) ONBOARDING POLICIES.—Not later than 9 months after the date of the enactment of this Act, the Maritime Administrator shall—

"(1) review the Maritime Administration's policies related to new hire orientation, training, and misconduct;

"(2) align the onboarding policies and procedures at headquarters and the field offices to ensure consistent implementation and provision of critical information across the Maritime Administration; and

"(3) update the Maritime Administration's training policies and training systems to include controls that ensure that all completed training is tracked in a standardized training repository.

"(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Maritime Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives that describes the Maritime Administration's compliance with the requirements under this section."

DRUG AND ALCOHOL POLICY

Pub. L. 114–328, div. C, title XXXV, §3520, Dec. 23, 2016, 130 Stat. 2792, provided that:

"(a) REVIEW.—Not later than 9 months after the date of the enactment of this Act [Dec. 23, 2016], the Maritime Administrator shall—

"(1) review the Maritime Administration's drug and alcohol policies, procedures, and training practices;

"(2) ensure that all fleet managers have received training on the Department of Transportation's drug and alcohol policy, including the testing procedures used by the Department and the Maritime Administration in cases of reasonable suspicion; and

"(3) institute a system for tracking all drug and alcohol policy training conducted under paragraph (2) in a standardized training repository.

"(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Maritime Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives that describes the Maritime Administration's compliance with the requirements under this section."

EXPANSION OF THE MARINE VIEW SYSTEM

Pub. L. 111–84, div. C, title XXXV, §3516, Oct. 28, 2009, 123 Stat. 2725, provided that:

"(a) DEFINITIONS.—In this section:

"(1) MARINE TRANSPORTATION SYSTEM.—The term 'marine transportation system' means the navigable water transportation system of the United States, including the vessels, ports (and intermodal connections thereto), and shipyards and other vessel repair facilities that are components of that system.

"(2) MARINE VIEW SYSTEM.—The term 'Marine View system' means the information system of the Maritime Administration known as Marine View.

"(b) PURPOSES.—The purposes of this section are—

"(1) to expand the Marine View system; and

"(2) to provide support for the strategic requirements of the marine transportation system and its contribution to the economic viability of the United States.

"(c) EXPANSION OF MARINE VIEW SYSTEM.—To accomplish the purposes of this section, the Secretary of Transportation shall expand the Marine View system so that such system is able to identify, collect, integrate, secure, protect, store, and securely distribute throughout the marine transportation system information that—

"(1) provides access to many disparate marine transportation system data sources;

"(2) enables a system-wide view of the marine transportation system;

"(3) fosters partnerships between the Government of the United States and private entities;

"(4) facilitates accurate and efficient modeling of the entire marine transportation system environment;

"(5) monitors and tracks threats to the marine transportation system, including areas of severe weather or reported piracy; and

"(6) provides vessel tracking and rerouting, as appropriate, to ensure that the economic viability of the United States waterways is maintained."

§110. Great Lakes St. Lawrence Seaway Development Corporation

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

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

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2418; Pub. L. 103–272, §4(j)(5)(A), July 5, 1994, 108 Stat. 1366; Pub. L. 116–260, div. AA, title V, §512(c)(7)(A)(i), Dec. 27, 2020, 134 Stat. 2757.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
110(a)	(no source).	
110(b)	33:981 (note).	Oct. 15, 1966, Pub. L. 89–670, §8(g)(2), 80 Stat. 943.

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

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260, §512(c)(7)(A)(i)(I), substituted "Great Lakes St. Lawrence Seaway Development Corporation" for "Saint Lawrence Seaway Development Corporation" in section catchline.

Subsec. (a). Pub. L. 116–260, §512(c)(7)(A)(i)(II), substituted "Great Lakes St. Lawrence Seaway Development Corporation" for "Saint Lawrence Seaway Development Corporation".

1994—Subsec. (a). Pub. L. 103–272 substituted "Saint Lawrence" for "St. Lawrence".

[§111. Repealed. Pub. L. 112–141, div. E, title II, §52011(c)(1), July 6, 2012, 126 Stat. 895]

Section, added Pub. L. 102–240, title VI, §6006(a), Dec. 18, 1991, 105 Stat. 2172; amended Pub. L. 104–287, §5(2), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104–324, title XI, §1131, Oct. 19, 1996, 110 Stat. 3985; Pub. L. 105–130, §4(b)(1), Dec. 1, 1997, 111 Stat. 2556; Pub. L. 105–178, title V, §5109(a), June 9, 1998, 112 Stat. 437; Pub. L. 108–426, §3(a), (b), Nov. 30, 2004, 118 Stat. 2424, 2425; Pub. L. 109–59, title V, §5601(a), Aug. 10, 2005, 119 Stat. 1833, established the Bureau of Transportation Statistics. See chapter 63 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[§112. Repealed. Pub. L. 114–94, div. A, title VI, §6012(a), Dec. 4, 2015, 129 Stat. 1570]

Section, added Pub. L. 102–508, title IV, §401(a), Oct. 24, 1992, 106 Stat. 3310; amended Pub. L. 103–429, §6(1), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 108–426, §4(a), Nov. 30, 2004, 118 Stat. 2425; Pub. L. 109–59, title VII, §7301, Aug. 10, 2005, 119 Stat. 1914; Pub. L. 112–141, div. E, title II, §52012, July 6, 2012, 126 Stat. 896; Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 574, related to establishment of the Research

and Innovative Technology Administration, whose functions were subsequently transferred to the Office of the Assistant Secretary for Research and Technology of the Department of Transportation. See Transfer of Duties and Powers note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

TRANSFER OF DUTIES AND POWERS

Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 574, provided in part: "That notwithstanding any other provision of law, the powers and duties, functions, authorities and personnel of the Research and Innovative Technology Administration are hereby transferred to the Office of the Assistant Secretary for Research and Technology in the Office of the Secretary: *Provided further*, That notwithstanding section 102 of title 49 and section 5315 of title 5, United States Code, there shall be an Assistant Secretary for Research and Technology within the Office of the Secretary, appointed by the President with the advice and consent of the Senate, to lead such office: *Provided further*, That any reference in law, regulation, judicial proceedings, or elsewhere to the Research and Innovative Technology Administration shall be deemed to be a reference to the Office of the Assistant Secretary for Research and Technology of the Department of Transportation."

[Pub. L. 119–75, div. D, title I, Feb. 3, 2026, 140 Stat. 325, provided in part: "That any reference in law, regulation, judicial proceedings, or elsewhere to the Research and Innovative Technology Administration shall continue to be deemed to be a reference to the Office of the Assistant Secretary for Research and Technology of the Department of Transportation."]

[Similar provisions were contained in the following prior appropriations acts:
[Pub. L. 118–42, div. F, title I, Mar. 9, 2024, 138 Stat. 300.]
[Pub. L. 117–328, div. L, title I, Dec. 29, 2022, 136 Stat. 5094.]
[Pub. L. 117–103, div. L, title I, Mar. 15, 2022, 136 Stat. 684.]
[Pub. L. 116–260, div. L, title I, Dec. 27, 2020, 134 Stat. 1824.]
[Pub. L. 116–94, div. H, title I, Dec. 20, 2019, 133 Stat. 2934.]
[Pub. L. 116–6, div. G, title I, Feb. 15, 2019, 133 Stat. 396.]
[Pub. L. 115–141, div. L, title I, Mar. 23, 2018, 132 Stat. 972.]
[Pub. L. 115–31, div. K, title I, May 5, 2017, 131 Stat. 725.]
[Pub. L. 114–113, div. L, title I, Dec. 18, 2015, 129 Stat. 2835.]
[Pub. L. 113–235, div. K, title I, Dec. 16, 2014, 128 Stat. 2696.]

Pub. L. 108–426, §4(d), Nov. 30, 2004, 118 Stat. 2426, provided that: "The authority of the Research and Special Programs Administration, other than authority exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Research and Innovative Technology Administration."

For transfer of authority of the Research and Special Programs Administration exercised under chapters 51, 57, 61, 601, and 603 of this title to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

§113. Federal Motor Carrier Safety Administration

(a) IN GENERAL.—The Federal Motor Carrier Safety Administration shall be an administration of the Department of Transportation.

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

(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in motor carrier safety. The Administrator shall report directly to the Secretary of Transportation.

(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator

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

(e) CHIEF SAFETY OFFICER.—The Administration shall have an Assistant Federal Motor Carrier Safety Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

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

(1) duties and powers related to motor carriers or motor carrier safety vested in the Secretary by chapters 5, 51, 55, 57, 59, 133 through 149, 311, 313, 315, and 317 and by section 18 of the Noise Control Act of 1972 (42 U.S.C. 4917; 86 Stat. 1249–1250); except as otherwise delegated by the Secretary to any agency of the Department of Transportation other than the Federal Highway Administration, as of October 8, 1999; and

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

(g) LIMITATION ON TRANSFER OF POWERS AND DUTIES.—A duty or power specified in subsection (f)(1) may only be transferred to another part of the Department when specifically provided by law.

(h) EFFECT OF CERTAIN DECISIONS.—A decision of the Administrator involving a duty or power specified in subsection (f)(1) and involving notice and hearing required by law is administratively final.

(i) CONSULTATION.—The Administrator shall consult with the Federal Highway Administrator and with the National Highway Traffic Safety Administrator on matters related to highway and motor carrier safety.

(Added Pub. L. 106–159, title I, §101(a), Dec. 9, 1999, 113 Stat. 1750.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 2000, see section 107(a) of Pub. L. 106–159, set out as an Effective Date of 1999 Amendment note under section 104 of this title.

GUIDANCE

Pub. L. 114–94, div. A, title V, §5203, Dec. 4, 2015, 129 Stat. 1535, provided that:

"(a) IN GENERAL.—

"(1) DATE OF ISSUANCE AND POINT OF CONTACT.—Each guidance document issued by the Federal Motor Carrier Safety Administration shall have a date of issuance or a date of revision, as applicable, and shall include the name and contact information of a point of contact at the Administration who can respond to questions regarding the guidance.

"(2) PUBLIC ACCESSIBILITY.—

"(A) IN GENERAL.—Each guidance document issued or revised by the Federal Motor Carrier Safety Administration shall be published on a publicly accessible Internet Web site of the Department [of Transportation] on the date of issuance or revision.

"(B) REDACTION.—The Administrator of the Federal Motor Carrier Safety Administration may redact from a guidance document published under subparagraph (A) any information that would reveal investigative techniques that would compromise Administration enforcement efforts.

"(3) INCORPORATION INTO REGULATIONS.—Not later than 5 years after the date on which a guidance document is published under paragraph (2) or during an applicable review under subsection (c), whichever is earlier, the Secretary [of Transportation] shall revise regulations to incorporate the guidance document to the extent practicable.

"(4) REISSUANCE.—If a guidance document is not incorporated into regulations in accordance with paragraph (3), the Administrator shall—

"(A) reissue an updated version of the guidance document; and

"(B) review and reissue an updated version of the guidance document every 5 years until the date on which the guidance document is removed or incorporated into applicable regulations.

"(b) INITIAL REVIEW.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the

Administrator shall review all guidance documents issued by the Federal Motor Carrier Safety Administration and in effect on such date of enactment to ensure that such documents are current, are readily accessible to the public, and meet the standards specified in subparagraphs (A), (B), and (C) of subsection (c)(1).

"(c) REGULAR REVIEW.—

"(1) IN GENERAL.—Subject to paragraph (2), not less than once every 5 years, the Administrator shall conduct a comprehensive review of the guidance documents issued by the Federal Motor Carrier Safety Administration to determine whether such documents are—

"(A) consistent and clear;

"(B) uniformly and consistently enforced; and

"(C) still necessary.

"(2) NOTICE AND COMMENT.—Prior to beginning a review under paragraph (1), the Administrator shall publish in the Federal Register a notice and request for comment that solicits input from stakeholders on which guidance documents should be updated or eliminated.

"(3) REPORT.—

"(A) IN GENERAL.—Not later than 60 days after the date on which a review under paragraph (1) is completed, the Administrator shall publish on a publicly accessible Internet Web site of the Department a report detailing the review and a full inventory of the guidance documents of the Administration.

"(B) CONTENTS.—A report under subparagraph (A) shall include a summary of the response of the Administration to comments received under paragraph (2).

"(d) GUIDANCE DOCUMENT DEFINED.—In this section, the term 'guidance document' means a document issued by the Federal Motor Carrier Safety Administration that—

"(1) provides an interpretation of a regulation of the Administration; or

"(2) includes an enforcement policy of the Administration available to the public."

PETITIONS

Pub. L. 114–94, div. A, title V, §5204, Dec. 4, 2015, 129 Stat. 1536, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Motor Carrier Safety Administration shall—

"(1) publish on a publicly accessible Internet Web site of the Department [of Transportation] a summary of all petitions for regulatory action submitted to the Administration;

"(2) prioritize the petitions submitted based on the likelihood of safety improvements resulting from the regulatory action requested;

"(3) not later than 180 days after the date a summary of a petition is published under paragraph (1), formally respond to such petition by indicating whether the Administrator will accept, deny, or further review the petition;

"(4) prioritize responses to petitions consistent with a petition's potential to reduce crashes, improve enforcement, and reduce unnecessary burdens; and

"(5) not later than 60 days after the date of receipt of a petition, publish on a publicly accessible Internet Web site of the Department an updated inventory of the petitions described in paragraph (1), including any applicable disposition information for those petitions.

"(b) TREATMENT OF MULTIPLE PETITIONS.—The Administrator may treat multiple similar petitions as a single petition for the purposes of subsection (a).

"(c) PETITION DEFINED.—In this section, the term 'petition' means a request for—

"(1) a new regulation;

"(2) a regulatory interpretation or clarification; or

"(3) a determination by the Administrator that a regulation should be modified or eliminated because it is—

"(A) no longer—

"(i) consistent and clear;

"(ii) current with the operational realities of the motor carrier industry; or

"(iii) uniformly enforced;

"(B) ineffective; or

"(C) overly burdensome."

PRIORITIZING STATUTORY RULEMAKINGS

Pub. L. 114–94, div. A, title V, §5302, Dec. 4, 2015, 129 Stat. 1543, provided that: "The Administrator of the Federal Motor Carrier Safety Administration shall prioritize the completion of each outstanding

rulemaking required by statute before beginning any other rulemaking, unless the Secretary [of Transportation] determines that there is a significant need for such other rulemaking and notifies Congress of such determination."

FINDINGS

Pub. L. 106–159, §3, Dec. 9, 1999, 113 Stat. 1749, provided that: "Congress makes the following findings:

"(1) The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.

"(2) The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations.

"(3) The Department of Transportation is failing to meet statutorily mandated deadlines for completing rulemaking proceedings on motor carrier safety and, in some significant safety rulemaking proceedings, including driver hours-of-service regulations, extensive periods have elapsed without progress toward resolution or implementation.

"(4) Too few motor carriers undergo compliance reviews and the Department's data bases and information systems require substantial improvement to enhance the Department's ability to target inspection and enforcement resources toward the most serious safety problems and to improve States' ability to keep dangerous drivers off the roads.

"(5) Additional safety inspectors and inspection facilities are needed in international border areas to ensure that commercial motor vehicles, drivers, and carriers comply with United States safety standards.

"(6) The Department should rigorously avoid conflicts of interest in federally funded research.

"(7) Meaningful measures to improve safety must be implemented expeditiously to prevent increases in motor carrier crashes, injuries, and fatalities.

"(8) Proper use of Federal resources is essential to the Department's ability to improve its research, rulemaking, oversight, and enforcement activities related to commercial motor vehicles, operators, and carriers."

PURPOSES

Pub. L. 106–159, §4, Dec. 9, 1999, 113 Stat. 1749, provided that: "The purposes of this Act [see Tables for classification] are—

"(1) to improve the administration of the Federal motor carrier safety program and to establish a Federal Motor Carrier Safety Administration in the Department of Transportation; and

"(2) to reduce the number and severity of large-truck involved crashes through more commercial motor vehicle and operator inspections and motor carrier compliance reviews, stronger enforcement measures against violators, expedited completion of rulemaking proceedings, scientifically sound research, and effective commercial driver's license testing, recordkeeping and sanctions."

SAVINGS PROVISION

Pub. L. 106–159, title I, §106, Dec. 9, 1999, 113 Stat. 1756, provided that:

"(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Federal Motor Carrier Safety Administration by this Act shall be transferred to the Administration for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Office of Motor Carrier Safety (including any predecessor entity) shall also be transferred to the Administration.

"(b) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

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

"(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Administration, any other authorized official, a court of competent jurisdiction, or operation of law.

"(c) PROCEEDINGS.—

"(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Office at the time this Act takes effect [see Effective Date of 1999

Amendment note set out under section 104 of this title], insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

"(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

"(3) ORDERLY TRANSFER.—The Secretary is authorized to provide for the orderly transfer of pending proceedings from the Office.

"(d) SUITS.—

"(1) IN GENERAL.—This Act shall not affect suits commenced before the date of the enactment of this Act [Dec. 9, 1999], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

"(2) SUITS BY OR AGAINST OMCS.—Any suit by or against the Office begun before January 1, 2000, shall be continued, insofar as it involves a function retained and transferred under this Act, with the Administration (to the extent the suit involves functions transferred to the Administration under this Act) substituted for the Office.

"(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

"(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Office shall abate by reason of the enactment of this Act. No cause of action by or against the Office, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

"(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

"(g) REFERENCES.—Any reference to the Office in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Office or an officer or employee of the Office is deemed to refer to the Administration or a member or employee of the Administration, as appropriate."

§114. Transportation Security Administration

(a) IN GENERAL.—The Transportation Security Administration shall be an administration of the Department of Homeland Security.

(b) LEADERSHIP.—

(1) HEAD OF TRANSPORTATION SECURITY ADMINISTRATION.—

(A) APPOINTMENT.—The head of the Administration shall be the Administrator of the Transportation Security Administration (referred to in this section as the "Administrator"). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(B) QUALIFICATIONS.—The Administrator must—

(i) be a citizen of the United States; and

(ii) have experience in a field directly related to transportation or security.

(C) TERM.—Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after the date of enactment of the TSA Modernization Act, the term of office of an individual appointed as the Administrator shall be 5 years. The term of office of an individual serving as the Administrator on the date of enactment of the TSA Modernization Act shall be 5 years beginning on the date that the Administrator began serving.

(2) DEPUTY ADMINISTRATOR.—

(A) APPOINTMENT.—There is established in the Transportation Security Administration a Deputy Administrator, who shall assist the Administrator in the management of the Transportation Security Administration. The Deputy Administrator shall be appointed by the President.

(B) VACANCY.—The Deputy Administrator shall be Acting Administrator during the absence or incapacity of the Administrator or during a vacancy in the office of Administrator.

(C) QUALIFICATIONS.—The Deputy Administrator must—

(i) be a citizen of the United States; and

(ii) have experience in a field directly related to transportation or security.

(3) CHIEF COUNSEL.—

(A) APPOINTMENT.—There is established in the Transportation Security Administration a Chief Counsel, who shall advise the Administrator and other senior officials on all legal matters relating to the responsibilities, functions, and management of the Transportation Security Administration.

(B) QUALIFICATIONS.—The Chief Counsel must be a citizen of the United States.

(c) LIMITATION ON OWNERSHIP OF STOCKS AND BONDS.—The Administrator may not own stock in or bonds of a transportation or security enterprise or an enterprise that makes equipment that could be used for security purposes.

(d) FUNCTIONS.—The Administrator shall be responsible for security in all modes of transportation, including—

(1) carrying out chapter 449, relating to civil aviation security, and related research and development activities; and

(2) security responsibilities over other modes of transportation that are exercised by the Department of Transportation.

(e) SCREENING OPERATIONS.—The Administrator shall—

(1) be responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation under sections 44901 and 44935;

(2) develop standards for the hiring and retention of security screening personnel;

(3) train and test security screening personnel; and

(4) be responsible for hiring and training personnel to provide security screening at all airports in the United States where screening is required under section 44901, in consultation with the Secretary of Transportation and the heads of other appropriate Federal agencies and departments.

(f) ADDITIONAL DUTIES AND POWERS.—In addition to carrying out the functions specified in subsections (d) and (e), the Administrator shall—

(1) receive, assess, and distribute intelligence information related to transportation security;

(2) assess threats to transportation;

(3) develop policies, strategies, and plans for dealing with threats to transportation security;

(4) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(5) serve as the primary liaison for transportation security to the intelligence and law enforcement communities;

(6) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933;

(7) enforce security-related regulations and requirements;

(8) identify and undertake research and development activities necessary to enhance transportation security;

(9) inspect, maintain, and test security facilities, equipment, and systems;

(10) ensure the adequacy of security measures for the transportation of cargo;

(11) oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

(12) require background checks for airport security screening personnel, individuals with access to secure areas of airports, and other transportation security personnel;

(13) work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations;

(14) work with the International Civil Aviation Organization and appropriate aeronautic authorities of foreign governments under section 44907 to address security concerns on passenger flights by foreign air carriers in foreign air transportation;

(15) establish and maintain a National Deployment Office as required under section 44948 of this title; and

(16) carry out such other duties, and exercise such other powers, relating to transportation security as the Administrator considers appropriate, to the extent authorized by law.

(g) NATIONAL EMERGENCY RESPONSIBILITIES.—

(1) IN GENERAL.—Subject to the direction and control of the Secretary of Homeland Security, the Administrator, during a national emergency, shall have the following responsibilities:

(A) To coordinate domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security).

(B) To coordinate and oversee the transportation-related responsibilities of other departments and agencies of the Federal Government other than the Department of Defense and the military departments.

(C) To coordinate and provide notice to other departments and agencies of the Federal Government, and appropriate agencies of State and local governments, including departments and agencies for transportation, law enforcement, and border control, about threats to transportation.

(D) To carry out such other duties, and exercise such other powers, relating to transportation during a national emergency as the Secretary of Homeland Security shall prescribe.

(2) AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES.—The authority of the Administrator under this subsection shall not supersede the authority of any other department or agency of the Federal Government under law with respect to transportation or transportation-related matters, whether or not during a national emergency.

(3) CIRCUMSTANCES.—The Secretary of Homeland Security shall prescribe the circumstances constituting a national emergency for purposes of this subsection.

(h) MANAGEMENT OF SECURITY INFORMATION.—In consultation with the Transportation Security Oversight Board, the Administrator shall—

(1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;

(2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers—

(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that

individual; and

(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

(i) VIEW OF NTSB.—In taking any action under this section that could affect safety, the Administrator shall give great weight to the timely views of the National Transportation Safety Board.

(j) ACQUISITIONS.—

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

(A) to acquire (by purchase, lease, condemnation, or otherwise) such real property, or any interest therein, within and outside the continental United States, as the Administrator considers necessary;

(B) to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain such personal property (including office space and patents), or any interest therein, within and outside the continental United States, as the Administrator considers necessary;

(C) to lease to others such real and personal property and to provide by contract or otherwise for necessary facilities for the welfare of its employees and to acquire, maintain, and operate equipment for these facilities;

(D) to acquire services, including such personal services as the Secretary of Homeland Security determines necessary, and to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain research and testing sites and facilities; and

(E) in cooperation with the Administrator of the Federal Aviation Administration, to utilize the research and development facilities of the Federal Aviation Administration.

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

(k) TRANSFERS OF FUNDS.—The Administrator is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions assigned by law to the Administrator.

(l) REGULATIONS.—

(1) IN GENERAL.—The Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out the functions of the Administration.

(2) EMERGENCY PROCEDURES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or executive order (including an executive order requiring a cost-benefit analysis), if the Administrator determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Administrator shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary.

(B) REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD.—Any regulation or security directive issued under this paragraph shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective for a period not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Administrator.

(3) FACTORS TO CONSIDER.—In determining whether to issue, rescind, or revise a regulation under this section, the Administrator shall consider, as a factor in the final determination, whether the costs of the regulation are excessive in relation to the enhancement of security the regulation will provide. The Administrator may waive requirements for an analysis

that estimates the number of lives that will be saved by the regulation and the monetary value of such lives if the Administrator determines that it is not feasible to make such an estimate.

(4) AIRWORTHINESS OBJECTIONS BY FAA.—

(A) IN GENERAL.—The Administrator shall not take an aviation security action under this title if the Administrator of the Federal Aviation Administration notifies the Administrator that the action could adversely affect the airworthiness of an aircraft.

(B) REVIEW BY SECRETARY.—Notwithstanding subparagraph (A), the Administrator may take such an action, after receiving a notification concerning the action from the Administrator of the Federal Aviation Administration under subparagraph (A), if the Secretary of Transportation subsequently approves the action.

(m) PERSONNEL AND SERVICES; COOPERATION BY ADMINISTRATOR.—

(1) AUTHORITY OF ADMINISTRATOR.—In carrying out the functions of the Administration, the Administrator shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsections (l) and (m) of section 106.

(2) AUTHORITY OF AGENCY HEADS.—The head of a Federal agency shall have the same authority to provide services, supplies, equipment, personnel, and facilities to the Administrator as the head has to provide services, supplies, equipment, personnel, and facilities to the Administrator of the Federal Aviation Administration under section 106(m).

(n) PERSONNEL MANAGEMENT SYSTEM.—

(1) IN GENERAL.—The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration, or, subject to the requirements of such section, the Administrator may make such modifications to the personnel management system with respect to such employees as the Administrator considers appropriate, such as adopting aspects of other personnel systems of the Department of Homeland Security.

(2) MERITORIOUS EXECUTIVE OR DISTINGUISHED EXECUTIVE RANK AWARDS .—Notwithstanding section 40122(g)(2) of this title, the applicable sections of title 5 shall apply to the Transportation Security Administration personnel management system, except that—

(A) for purposes of applying such provisions to the personnel management system—

(i) the term "agency" means the Department of Homeland Security;

(ii) the term "senior executive" means a Transportation Security Administration executive serving on a Transportation Security Executive Service appointment;

(iii) the term "career appointee" means a Transportation Security Administration executive serving on a career Transportation Security Executive Service appointment; and

(iv) The [1] term "senior career employee" means a Transportation Security Administration employee covered by the Transportation Security Administration Core Compensation System at the L or M pay band;

(B) receipt by a career appointee or a senior career employee of the rank of Meritorious Executive or Meritorious Senior Professional entitles the individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the applicable Transportation Security Administration pay system; and

(C) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the applicable Transportation Security Administration pay system.

(3) DEFINITION OF APPLICABLE SECTIONS OF TITLE 5.—In this subsection, the term "applicable sections of title 5" means—

(A) subsections (b), (c) and (d) of section 4507 of title 5; and

(B) subsections (b) and (c) of section 4507a of title 5.

(o) AUTHORITY OF INSPECTOR GENERAL.—The Transportation Security Administration shall be subject to chapter 4 of title 5 and other laws relating to the authority of the Inspector General of the Department of Homeland Security.

(p) LAW ENFORCEMENT POWERS.—

(1) IN GENERAL.—The Administrator may designate an employee of the Transportation Security Administration or other Federal agency to serve as a law enforcement officer.

(2) POWERS.—While engaged in official duties of the Administration as required to fulfill the responsibilities under this section, a law enforcement officer designated under paragraph (1) may—

(A) carry a firearm;

(B) make an arrest without a warrant for any offense against the United States committed in the presence of the officer, or for any felony cognizable under the laws of the United States if the officer has probable cause to believe that the person to be arrested has committed or is committing the felony; and

(C) seek and execute warrants for arrest or seizure of evidence issued under the authority of the United States upon probable cause that a violation has been committed.

(3) GUIDELINES ON EXERCISE OF AUTHORITY.—The authority provided by this subsection shall be exercised in accordance with guidelines prescribed by the Administrator, in consultation with the Attorney General of the United States, and shall include adherence to the Attorney General's policy on use of deadly force.

(4) REVOCATION OR SUSPENSION OF AUTHORITY.—The powers authorized by this subsection may be rescinded or suspended should the Attorney General determine that the Administrator has not complied with the guidelines prescribed in paragraph (3) and conveys the determination in writing to the Secretary of Homeland Security and the Administrator.

(q) AUTHORITY TO EXEMPT.—The Administrator may grant an exemption from a regulation prescribed in carrying out this section if the Administrator determines that the exemption is in the public interest.

(r) NONDISCLOSURE OF SECURITY ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Administrator shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107–71) or under chapter 449 of this title if the Administrator decides that disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the security of transportation.

(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Administrator may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.

(4) LIMITATIONS.—Nothing in this subsection, or any other provision of law, shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

(A) to conceal a violation of law, inefficiency, or administrative error;

(B) to prevent embarrassment to a person, organization, or agency;

(C) to restrain competition; or

(D) to prevent or delay the release of information that does not require protection in the

interest of transportation security, including basic scientific research information not clearly related to transportation security.

(s) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall develop, prepare, implement, and update, as needed—

(A) a National Strategy for Transportation Security; and

(B) transportation modal security plans addressing security risks, including threats, vulnerabilities, and consequences, for aviation, railroad, ferry, highway, maritime, pipeline, public transportation, over-the-road bus, and other transportation infrastructure assets.

(2) ROLE OF SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall work jointly with the Secretary of Transportation in developing, revising, and updating the documents required by paragraph (1).

(3) CONTENTS OF NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—The National Strategy for Transportation Security shall include the following:

(A) An identification and evaluation of the transportation assets in the United States that, in the interests of national security and commerce, must be protected from attack or disruption by terrorist or other hostile forces, including modal security plans for aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, mass transit, over-the-road bus, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(B) The development of risk-based priorities, based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007) across all transportation modes and realistic deadlines for addressing security needs associated with those assets referred to in subparagraph (A).

(C) The most appropriate, practical, and cost-effective means of defending those assets against threats to their security.

(D) A forward-looking strategic plan that sets forth the agreed upon roles and missions of Federal, State, regional, local, and tribal authorities and establishes mechanisms for encouraging cooperation and participation by private sector entities, including nonprofit employee labor organizations, in the implementation of such plan.

(E) A comprehensive delineation of prevention, response, and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems.

(F) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital transportation assets. Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(G) A 3- and 10-year budget for Federal transportation security programs that will achieve the priorities of the National Strategy for Transportation Security.

(H) Methods for linking the individual transportation modal security plans and the programs contained therein, and a plan for addressing the security needs of intermodal transportation.

(I) Transportation modal security plans described in paragraph (1)(B), including operational recovery plans to expedite, to the maximum extent practicable, the return to operation of an adversely affected transportation system following a major terrorist attack on that system or

other incident. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942) and the National Maritime Transportation Security Plan required under section 70103(a) of title 46.

(4) SUBMISSION OF PLANS.—

(A) IN GENERAL.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans and any revisions to the National Strategy for Transportation Security and the transportation modal security plans, to appropriate congressional committees not less frequently than April 1 of each even-numbered year.

(B) PERIODIC PROGRESS REPORT.—

(i) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security, including the transportation modal security plans.

(ii) CONTENT.—Each progress report submitted under this subparagraph shall include, at a minimum, the following:

(I) Recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal and intermodal security plans that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, considers appropriate.

(II) An accounting of all grants for transportation security, including grants and contracts for research and development, awarded by the Secretary of Homeland Security in the most recent fiscal year and a description of how such grants accomplished the goals of the National Strategy for Transportation Security.

(III) An accounting of all—

(aa) funds requested in the President's budget submitted pursuant to section 1105 of title 31 for the most recent fiscal year for transportation security, by mode;

(bb) personnel working on transportation security by mode, including the number of contractors; and

(cc) information on the turnover in the previous year among senior staff of the Department of Homeland Security, including component agencies, working on transportation security issues. Such information shall include the number of employees who have permanently left the office, agency, or area in which they worked, and the amount of time that they worked for the Department of Homeland Security.

(iii) WRITTEN EXPLANATION OF TRANSPORTATION SECURITY ACTIVITIES NOT DELINEATED IN THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.

(C) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security or the transportation modal security plans that involve information that is properly classified under criteria established by Executive order shall be submitted to the appropriate congressional committees separately in a classified format.

(D) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term "appropriate congressional committees" means the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Homeland

Security and Governmental Affairs, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(5) PRIORITY STATUS.—

(A) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(B) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(i) the current National Maritime Transportation Security Plan under section 70103 of title 46;

(ii) the report required by section 44938 of this title;

(iii) transportation modal security plans required under this section;

(iv) the transportation sector specific plan required under Homeland Security Presidential Directive–7; and

(v) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

(6) COORDINATION.—In carrying out the responsibilities under this section, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall consult, as appropriate, with Federal, State, and local agencies, tribal governments, private sector entities (including nonprofit employee labor organizations), institutions of higher learning, and other entities.

(7) PLAN DISTRIBUTION.—The Secretary of Homeland Security shall make available and appropriately publicize an unclassified version of the National Strategy for Transportation Security, including its component transportation modal security plans, to Federal, State, regional, local and tribal authorities, transportation system owners or operators, private sector stakeholders, including nonprofit employee labor organizations representing transportation employees, institutions of higher learning, and other appropriate entities.

(t) TRANSPORTATION SECURITY INFORMATION SHARING PLAN.—

(1) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" has the meaning given that term in subsection (s)(4)(E).

(B) PLAN.—The term "Plan" means the Transportation Security Information Sharing Plan established under paragraph (2).

(C) PUBLIC AND PRIVATE STAKEHOLDERS.—The term "public and private stakeholders" means Federal, State, and local agencies, tribal governments, and appropriate private entities, including nonprofit employee labor organizations representing transportation employees.

(D) TRANSPORTATION SECURITY INFORMATION.—The term "transportation security information" means information relating to the risks to transportation modes, including aviation, public transportation, railroad, ferry, highway, maritime, pipeline, and over-the-road bus transportation, and may include specific and general intelligence products, as appropriate.

(2) ESTABLISHMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary of Transportation, and public and private stakeholders, shall establish a Transportation Security Information Sharing Plan. In establishing the Plan, the Secretary of Homeland Security shall gather input on the development of the Plan from private and public stakeholders and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(3) PURPOSE OF PLAN.—The Plan shall promote sharing of transportation security

information between the Department of Homeland Security and public and private stakeholders.

(4) CONTENT OF PLAN.—The Plan shall include—

(A) a description of how intelligence analysts within the Department of Homeland Security will coordinate their activities within the Department and with other Federal, State, and local agencies, and tribal governments, including coordination with existing modal information sharing centers and the center described in section 1410 of the Implementing Recommendations of the 9/11 Commission Act of 2007;

(B) the establishment of a point of contact, which may be a single point of contact within the Department of Homeland Security, for each mode of transportation for the sharing of transportation security information with public and private stakeholders, including an explanation and justification to the appropriate congressional committees if the point of contact established pursuant to this subparagraph differs from the agency within the Department of Homeland Security that has the primary authority, or has been delegated such authority by the Secretary of Homeland Security, to regulate the security of that transportation mode;

(C) a reasonable deadline by which the Plan will be implemented; and

(D) a description of resource needs for fulfilling the Plan.

(5) COORDINATION WITH INFORMATION SHARING.—The Plan shall be—

(A) implemented in coordination, as appropriate, with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

(B) consistent with the establishment of the information sharing environment and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of the information sharing environment.

(6) ANNUAL REPORT ON PLAN.—The Secretary of Homeland Security shall annually submit to the appropriate congressional committees a report containing the Plan.

(7) SECURITY CLEARANCES.—The Secretary of Homeland Security shall, to the greatest extent practicable, take steps to expedite the security clearances needed for designated public and private stakeholders to receive and obtain access to classified information distributed under this section, as appropriate.

(8) CLASSIFICATION OF MATERIAL.—The Secretary of Homeland Security, to the greatest extent practicable, shall provide designated public and private stakeholders with transportation security information in an unclassified format.

(u) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY.—

(1) APPLICATION OF SUBSECTION.—

(A) IN GENERAL.—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 701 of title 46 and under a provision of this title other than a provision of chapter 449 (in this subsection referred to as an "applicable provision of this title").

(B) VIOLATIONS OF CHAPTER 449.—The penalties for violations of regulations prescribed and orders issued by the Secretary of Homeland Security or the Administrator under chapter 449 of this title are provided under chapter 463 of this title.

(C) NONAPPLICATION TO CERTAIN VIOLATIONS.—

(i) Paragraphs (2) through (5) do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

(I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;

(II) by a member of the armed forces of the United States when performing official duties; or

(III) by a civilian employee of the Department of Defense when performing official duties.

(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary of Defense's designee.

(2) CIVIL PENALTY.—
(A) IN GENERAL.—A person is liable to the United States Government for a civil penalty of not more than $10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under an applicable provision of this title.
(B) REPEAT VIOLATIONS.—A separate violation occurs under this paragraph for each day the violation continues.

(3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—
(A) IN GENERAL.—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation prescribed, or order issued, under an applicable provision of this title. The Secretary shall give written notice of the finding of a violation and the penalty.
(B) SCOPE OF CIVIL ACTION.—In a civil action to collect a civil penalty imposed by the Secretary of Homeland Security under this subsection, a court may not re-examine issues of liability or the amount of the penalty.
(C) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary of Homeland Security under this subsection if—
(i) the amount in controversy is more than—
(I) $400,000, if the violation was committed by a person other than an individual or small business concern; or
(II) $50,000 if the violation was committed by an individual or small business concern;

(ii) the action is in rem or another action in rem based on the same violation has been brought; or
(iii) another action has been brought for an injunction based on the same violation.

(D) MAXIMUM PENALTY.—The maximum civil penalty the Secretary of Homeland Security administratively may impose under this paragraph is—
(i) $400,000, if the violation was committed by a person other than an individual or small business concern; or
(ii) $50,000, if the violation was committed by an individual or small business concern.

(E) NOTICE AND OPPORTUNITY TO REQUEST HEARING.—Before imposing a penalty under this section the Secretary of Homeland Security shall provide to the person against whom the penalty is to be imposed—
(i) written notice of the proposed penalty; and
(ii) the opportunity to request a hearing on the proposed penalty, if the Secretary of Homeland Security receives the request not later than 30 days after the date on which the person receives notice.

(4) COMPROMISE AND SETOFF.—
(A) The Secretary of Homeland Security may compromise the amount of a civil penalty imposed under this subsection.
(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 shall apply to investigations and

proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary of Homeland Security.

(6) DEFINITIONS.—In this subsection:

(A) PERSON.—The term "person" does not include—

(i) the United States Postal Service; or

(ii) the Department of Defense.

(B) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(7) ENFORCEMENT TRANSPARENCY.—

(A) IN GENERAL.—The Secretary of Homeland Security shall—

(i) provide an annual summary to the public of all enforcement actions taken by the Secretary under this subsection; and

(ii) include in each such summary the docket number of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty.

(B) ELECTRONIC AVAILABILITY.—Each summary under this paragraph shall be made available to the public by electronic means.

(C) RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT AND THE PRIVACY ACT.—Nothing in this subsection shall be construed to require disclosure of information or records that are exempt from disclosure under sections 552 or 552a of title 5.

(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Transportation Security Administration for salaries, operations, and maintenance of the Administration—

(1) $7,849,247,000 for fiscal year 2019;

(2) $7,888,494,000 for fiscal year 2020; and

(3) $7,917,936,000 for fiscal year 2021.

(w) LEADERSHIP AND ORGANIZATION.—

(1) IN GENERAL.—For each of the areas described in paragraph (2), the Administrator of the Transportation Security Administration shall appoint at least 1 individual who shall—

(A) report directly to the Administrator or the Administrator's designated direct report; and

(B) be responsible and accountable for that area.

(2) AREAS DESCRIBED.—The areas described in this paragraph are as follows:

(A) Aviation security operations and training, including risk-based, adaptive security—

(i) focused on airport checkpoint and baggage screening operations;

(ii) workforce training and development programs; and

(iii) ensuring compliance with aviation security law, including regulations, and other specialized programs designed to secure air transportation.

(B) Surface transportation security operations and training, including risk-based, adaptive security—

(i) focused on accomplishing security systems assessments;

(ii) reviewing and prioritizing projects for appropriated surface transportation security grants;

(iii) operator compliance with surface transportation security law, including regulations, and voluntary industry standards; and

(iv) workforce training and development programs, and other specialized programs

designed to secure surface transportation.

(C) Transportation industry engagement and planning, including the development, interpretation, promotion, and oversight of a unified effort regarding risk-based, risk-reducing security policies and plans (including strategic planning for future contingencies and security challenges) between government and transportation stakeholders, including airports, domestic and international airlines, general aviation, air cargo, mass transit and passenger rail, freight rail, pipeline, highway and motor carriers, and maritime.

(D) International strategy and operations, including agency efforts to work with international partners to secure the global transportation network.

(E) Trusted and registered traveler programs, including the management and marketing of the agency's trusted traveler initiatives, including the PreCheck Program, and coordination with trusted traveler programs of other Department of Homeland Security agencies and the private sector.

(F) Technology acquisition and deployment, including the oversight, development, testing, evaluation, acquisition, deployment, and maintenance of security technology and other acquisition programs.

(G) Inspection and compliance, including the integrity, efficiency and effectiveness of the agency's workforce, operations, and programs through objective audits, covert testing, inspections, criminal investigations, and regulatory compliance.

(H) Civil rights, liberties, and traveler engagement, including ensuring that agency employees and the traveling public are treated in a fair and lawful manner consistent with Federal laws and regulations protecting privacy and prohibiting discrimination and reprisal.

(I) Legislative and public affairs, including communication and engagement with internal and external audiences in a timely, accurate, and transparent manner, and development and implementation of strategies within the agency to achieve congressional approval or authorization of agency programs and policies.

(3) NOTIFICATION.—The Administrator shall submit to the appropriate committees of Congress—

(A) not later than 180 days after the date of enactment of the TSA Modernization Act, a list of the names of the individuals appointed under paragraph (1); and

(B) an update of the list not later than 5 days after any new individual is appointed under paragraph (1).

(x) TRANSPORTATION SECURITY PREPAREDNESS PLAN.—

(1) IN GENERAL.—Not later than two years after the date of the enactment of this subsection, the Secretary of Homeland Security, acting through the Administrator, in coordination with the Chief Medical Officer of the Department of Homeland Security, and in consultation with the partners identified under paragraphs (3)(A)(i) through (3)(A)(iv), shall develop a transportation security preparedness plan to address the event of a communicable disease outbreak. The Secretary, acting through the Administrator, shall ensure such plan aligns with relevant Federal plans and strategies for communicable disease outbreaks.

(2) CONSIDERATIONS.—In developing the plan required under paragraph (1), the Secretary, acting through the Administrator, shall consider each of the following:

(A) The findings of the survey required under section 6411 of the National Defense Authorization Act for Fiscal Year 2022.

(B) The findings of the analysis required under section 6414 of the National Defense Authorization Act for Fiscal Year 2022.

(C) The plan required under section 6415 of the National Defense Authorization Act for Fiscal Year 2022.

(D) All relevant reports and recommendations regarding the Administration's response to the COVID–19 pandemic, including any reports and recommendations issued by the Comptroller

General and the Inspector General of the Department of Homeland Security.

(E) Lessons learned from Federal interagency efforts during the COVID–19 pandemic.

(3) CONTENTS OF PLAN.—The plan developed under paragraph (1) shall include each of the following:

(A) Plans for communicating and collaborating in the event of a communicable disease outbreak with the following partners:

(i) Appropriate Federal departments and agencies, including the Department of Health and Human Services, the Centers for Disease Control and Prevention, the Department of Transportation, the Department of Labor, and appropriate interagency task forces.

(ii) The workforce of the Administration, including through the labor organization certified as the exclusive representative of full- and part-time non-supervisory Administration personnel carrying out screening functions under section 44901 of this title.

(iii) International partners, including the International Civil Aviation Organization and foreign governments, airports, and air carriers.

(iv) Public and private stakeholders, as such term is defined under subsection (t)(1)(C).

(v) The traveling public.

(B) Plans for protecting the safety of the Transportation Security Administration workforce, including—

(i) reducing the risk of communicable disease transmission at screening checkpoints and within the Administration's workforce related to the Administration's transportation security operations and mission;

(ii) ensuring the safety and hygiene of screening checkpoints and other workstations;

(iii) supporting equitable and appropriate access to relevant vaccines, prescriptions, and other medical care; and

(iv) tracking rates of employee illness, recovery, and death.

(C) Criteria for determining the conditions that may warrant the integration of additional actions in the aviation screening system in response to the communicable disease outbreak and a range of potential roles and responsibilities that align with such conditions.

(D) Contingency plans for temporarily adjusting checkpoint operations to provide for passenger and employee safety while maintaining security during the communicable disease outbreak.

(E) Provisions setting forth criteria for establishing an interagency task force or other standing engagement platform with other appropriate Federal departments and agencies, including the Department of Health and Human Services and the Department of Transportation, to address such communicable disease outbreak.

(F) A description of scenarios in which the Administrator should consider exercising authorities provided under subsection (g) and for what purposes.

(G) Considerations for assessing the appropriateness of issuing security directives and emergency amendments to regulated parties in various modes of transportation, including surface transportation, and plans for ensuring compliance with such measures.

(H) A description of any potential obstacles, including funding constraints and limitations to authorities, that could restrict the ability of the Administration to respond appropriately to a communicable disease outbreak.

(4) DISSEMINATION.—Upon development of the plan required under paragraph (1), the Administrator shall disseminate the plan to the partners identified under paragraph (3)(A) and to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate.

(5) REVIEW OF PLAN.—Not later than two years after the date on which the plan is

disseminated under paragraph (4), and biennially thereafter, the Secretary, acting through the Administrator and in coordination with the Chief Medical Officer of the Department of Homeland Security, shall review the plan and, after consultation with the partners identified under paragraphs (3)(A)(i) through (3)(A)(iv), update the plan as appropriate.

(Added Pub. L. 107–71, title I, §101(a), Nov. 19, 2001, 115 Stat. 597; amended Pub. L. 107–296, title XVI, §1601(b), title XVII, §1707, Nov. 25, 2002, 116 Stat. 2312, 2318; Pub. L. 108–7, div. I, title III, §351(d), Feb. 20, 2003, 117 Stat. 420; Pub. L. 108–458, title IV, §4001(a), Dec. 17, 2004, 118 Stat. 3710; Pub. L. 110–53, title XII, §§1202, 1203(a), title XIII, §1302(a), title XV, §1503(a), Aug. 3, 2007, 121 Stat. 381, 383, 390, 425; Pub. L. 110–161, div. E, title V, §568(a), Dec. 26, 2007, 121 Stat. 2092; Pub. L. 111–83, title V, §561(c)(1), Oct. 28, 2009, 123 Stat. 2182; Pub. L. 114–301, §2(d), Dec. 16, 2016, 130 Stat. 1514; Pub. L. 115–254, div. K, title I, §§1903, 1904(a), (b)(1), 1905, 1909, 1988(c), Oct. 5, 2018, 132 Stat. 3543, 3544, 3546, 3549, 3623; Pub. L. 117–81, div. F, title LXIV, §6412(a), Dec. 27, 2021, 135 Stat. 2409; Pub. L. 117–286, §4(b)(95), Dec. 27, 2022, 136 Stat. 4353.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the TSA Modernization Act, referred to in subsecs. (b)(1)(C) and (w)(3)(A), is the date of enactment of title I of div. K of Pub. L. 115–254, which was approved Oct. 5, 2018.

The Aviation and Transportation Security Act, referred to in subsec. (r)(1), is Pub. L. 107–71, Nov. 19, 2001, 115 Stat. 597. For complete classification of this Act to the Code, see Short Title of 2001 Amendment note set out under section 101 of this title and Tables.

The Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (s)(3)(B), is Pub. L. 110–53, Aug. 3, 2007, 121 Stat. 266. Section 1410 of the Act is classified to section 1139 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 101 of Title 6 and Tables.

The date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (s)(3)(F), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

The date of the enactment of this subsection, referred to in subsec. (x)(1), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

Section 6411 of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (x)(2)(A), is section 6411 of div. F of Pub. L. 117–81, Dec. 27, 2021, 135 Stat. 2409, which is not classified to the Code.

Section 6414 of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (x)(2)(B), is section 6414 of div. F of Pub. L. 117–81, Dec. 27, 2021, 135 Stat. 2412, which is not classified to the Code.

Section 6415 of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (x)(2)(C), is section 6415 of Pub. L. 117–81, which is set out as a note under section 44901 of this title.

AMENDMENTS

2022—Subsec. (o). Pub. L. 117–286 substituted "chapter 4 of title 5" for "the Inspector General Act of 1978 (5 U.S.C. App.)".

2021—Subsec. (x). Pub. L. 117–81 added subsec. (x).

2018—Pub. L. 115–254, §1904(a)(3), substituted "Administrator" for "Under Secretary" wherever appearing in subsecs. (c) to (n), (p), (q), and (r).

Subsec. (a). Pub. L. 115–254, §1904(a)(1), substituted "Department of Homeland Security" for "Department of Transportation".

Subsec. (b). Pub. L. 115–254, §1904(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows:

"(1) APPOINTMENT.—The head of the Administration shall be the Under Secretary of Transportation for Security. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Under Secretary must—

"(A) be a citizen of the United States; and

"(B) have experience in a field directly related to transportation or security.

"(3) TERM.—The term of office of an individual appointed as the Under Secretary shall be 5 years."

Subsec. (f)(15), (16). Pub. L. 115–254, §1988(c), added par. (15) and redesignated former par. (15) as (16).

Subsec. (g)(1). Pub. L. 115–254, §1904(b)(1)(A)(i)(I), substituted "Subject to the direction and control of the Secretary of Homeland Security" for "Subject to the direction and control of the Secretary" in introductory provisions.

Subsecs. (g)(1)(D), (3), (j)(1)(D). Pub. L. 115–254, §1904(b)(1)(A)(i)(II), (ii), (B), inserted "of Homeland Security" after "Secretary".

Subsec. (k). Pub. L. 115–254, §1904(b)(1)(C), substituted "functions assigned" for "functions transferred, on or after the date of enactment of the Aviation and Transportation Security Act,".

Subsec. (l)(4)(B). Pub. L. 115–254, §1904(b)(1)(D), substituted "Administrator of the Federal Aviation Administration under subparagraph (A)" for "Administrator under subparagraph (A)".

Subsec. (n). Pub. L. 115–254, §1909, inserted par. (1) designation and heading before "The personnel management system", added pars. (2) and (3), and realigned margins.

Pub. L. 115–254, §1904(b)(1)(E), substituted "Department of Homeland Security" for "Department of Transportation".

Subsec. (o). Pub. L. 115–254, §1904(b)(1)(F), substituted "Department of Homeland Security" for "Department of Transportation".

Subsec. (p)(4). Pub. L. 115–254, §1904(b)(1)(G), substituted "Secretary of Homeland Security" for "Secretary of Transportation".

Subsec. (s)(3)(B). Pub. L. 115–254, §1904(b)(1)(H)(i), inserted closing parenthesis after "Act of 2007".

Subsec. (s)(4). Pub. L. 115–254, §1904(b)(1)(H)(ii)(I), substituted "Submission of plans" for "Submissions of plans to Congress" in heading.

Subsec. (s)(4)(A). Pub. L. 115–254, §1904(b)(1)(H)(ii)(IV)(bb), which directed amendment of subpar. (A) by substituting "The" for "After December 31, 2015, the", was executed by making the substitution for "After December 31, 2005, the" to reflect the probable intent of Congress.

Pub. L. 115–254, §1904(b)(1)(H)(ii)(IV)(aa), substituted "In general" for "Subsequent versions" in heading.

Pub. L. 115–254, §1904(b)(1)(H)(ii)(II), (III), redesignated subpar. (B) as (A) and struck out former subpar. (A). Prior to amendment, text of subpar. (A) read as follows: "The Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans, developed under this subsection to the appropriate congressional committees not later than April 1, 2005."

Subsec. (s)(4)(B). Pub. L. 115–254, §1904(b)(1)(H)(ii)(III), redesignated subpar. (C) as (B). Former subpar. (B) redesignated (A).

Subsec. (s)(4)(B)(ii)(III)(cc). Pub. L. 115–254, §1904(b)(1)(H)(ii)(V), substituted "for the Department of Homeland Security" for "for the Department".

Subsec. (s)(4)(C) to (E). Pub. L. 115–254, §1904(b)(1)(H)(ii)(III), redesignated subpars. (D) and (E) as (C) and (D), respectively. Former subpar. (C) redesignated (B).

Subsec. (t). Pub. L. 115–254, §1904(b)(1)(I), redesignated subsec. (u) as (t).

Subsec. (t)(1)(D), (E). Pub. L. 115–254, §1904(b)(1)(J)(i), redesignated subpar. (E) as (D) and struck out former subpar. (D). Prior to amendment, text of subpar. (D) read as follows: "The term 'Secretary' means the Secretary of Homeland Security."

Subsec. (t)(2). Pub. L. 115–254, §1904(b)(1)(J)(ii), inserted "of Homeland Security" after "Plan, the Secretary".

Subsec. (t)(4)(B). Pub. L. 115–254, §1904(b)(1)(J)(iii), inserted "of Homeland Security" after "agency within the Department" and after "Secretary".

Subsec. (t)(6). Pub. L. 115–254, §1904(b)(1)(J)(iv), amended par. (6) generally. Prior to amendment, text read as follows:

"(A) IN GENERAL.—Not later than 150 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate congressional committees, a report containing the Plan.

"(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees a report on updates to and the implementation of the Plan."

Subsec. (t)(7), (8). Pub. L. 115–254, §1904(b)(1)(J)(v), inserted "of Homeland Security" after "Secretary".

Subsec. (u). Pub. L. 115–254, §1904(b)(1)(I), redesignated subsec. (v) as (u). Former subsec. (u) redesignated (t).

Subsec. (u)(1)(B). Pub. L. 115–254, §1904(b)(1)(K)(i)(I), inserted "or the Administrator" after "Secretary of Homeland Security".

Subsec. (u)(1)(C)(ii). Pub. L. 115–254, §1904(b)(1)(K)(i)(II), substituted "Secretary of Defense's designee"

for "Secretary's designee".

Subsec. (u)(3)(B) to (E), (4)(A), (5). Pub. L. 115–254, §1904(b)(1)(K)(i)(III), (ii), (iii), inserted "of Homeland Security" after "Secretary" wherever appearing.

Subsec. (u)(7)(A). Pub. L. 115–254, §1904(b)(1)(K)(iv)(I), substituted "The Secretary of Homeland Security" for "Not later than December 31, 2008, and annually thereafter, the Secretary" in introductory provisions.

Subsec. (u)(7)(D). Pub. L. 115–254, §1904(b)(1)(K)(iv)(II), struck out subpar. (D). Text read as follows: "Not later than 180 days after the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary shall provide a report to the public describing the enforcement process established under this subsection."

Subsec. (v). Pub. L. 115–254, §1904(b)(1)(I), redesignated subsec. (w) as (v). Former subsec. (v) redesignated (u).

Subsec. (w). Pub. L. 115–254, §1905, added subsec. (w). Former subsec. (w) redesignated (v).

Pub. L. 115–254, §1903, amended subsec. (w) generally. Prior to amendment, subsec. (w) related to authorization of appropriations for railroad, over-the-road bus and trucking, and hazardous material and pipeline security for fiscal years 2008 through 2011.

2016—Subsec. (u)(1)(A). Pub. L. 114–301, §2(d)(1), substituted "subsection (s)(4)(E)" for "subsection (t)".

Subsec. (u)(7) to (9). Pub. L. 114–301, §2(d)(2), (3), redesignated pars. (8) and (9) as (7) and (8), respectively, and struck out former par. (7) which related to surveys and reports.

2009—Subsec. (r)(4). Pub. L. 111–83 added par. (4).

2007—Subsecs. (o) to (s). Pub. L. 110–161 redesignated subsecs. (p) to (s) as (o) to (r), respectively, and struck out former subsec. (o). Text of former subsec. (o) read as follows: "The acquisition management system established by the Administrator of the Federal Aviation Administration under section 40110 shall apply to acquisitions of equipment, supplies, and materials by the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the acquisition management system with respect to such acquisitions of equipment, supplies, and materials as the Under Secretary considers appropriate, such as adopting aspects of other acquisition management systems of the Department of Transportation."

Subsec. (t). Pub. L. 110–161 redesignated subsec. (t) as (s).

Subsec. (t)(1)(B). Pub. L. 110–53, §1202(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "transportation modal security plans."

Subsec. (t)(3)(B). Pub. L. 110–53, §1202(b)(1), inserted ", based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007" after "risk-based priorities".

Subsec. (t)(3)(D). Pub. L. 110–53, §1202(b)(2), substituted "local, and tribal" for "and local" and "cooperation and participation by private sector entities, including nonprofit employee labor organizations," for "private sector cooperation and participation".

Subsec. (t)(3)(E). Pub. L. 110–53, §1202(b)(3), substituted "prevention, response, and recovery" for "response and recovery" and inserted "and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems" before period at end.

Subsec. (t)(3)(F). Pub. L. 110–53, §1202(b)(4), inserted at end "Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007."

Subsec. (t)(3)(G) to (I). Pub. L. 110–53, §1202(b)(5), added subpars. (G) to (I).

Subsec. (t)(4)(C)(i). Pub. L. 110–53, §1202(c)(1)(A), inserted ", including the transportation modal security plans" before period at end.

Subsec. (t)(4)(C)(ii), (iii). Pub. L. 110–53, §1202(c)(1)(B), added cls. (ii) and (iii) and struck out former cl. (ii). Text of former cl. (ii) read as follows: "Each progress report under this subparagraph shall include, at a minimum, recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal security plans that the Secretary, in consultation with the Secretary of Transportation, considers appropriate."

Subsec. (t)(4)(E). Pub. L. 110–53, §1202(c)(2), added subpar. (E) and struck out former subpar. (E). Text of former subpar. (E) read as follows: "In this subsection, the term 'appropriate congressional committees' means the Committee on Transportation and Infrastructure and the Select Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate."

Subsec. (t)(5)(B)(iv), (v). Pub. L. 110–53, §1202(d), added cl. (iv) and redesignated former cl. (iv) as (v).
Subsec. (t)(6), (7). Pub. L. 110–53, §1202(e), added pars. (6) and (7).
Subsec. (u). Pub. L. 110–53, §1203(a), added subsec. (u).
Subsec. (v). Pub. L. 110–53, §1302(a), added subsec. (v).
Subsec. (w). Pub. L. 110–53, §1503(a), added subsec. (w).

2004—Subsec. (t). Pub. L. 108–458 added subsec. (t).

2003—Subsec. (q)(1). Pub. L. 108–7 inserted "or other Federal agency" after "Transportation Security Administration".

2002—Subsec. (l)(2)(B). Pub. L. 107–296, §1707, inserted "for a period not to exceed 90 days" after "effective" and "ratified or" before "disapproved".
Subsec. (s). Pub. L. 107–296, §1601(b), added subsec. (s).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Pub. L. 115–254, div. K, title I, §1994, Oct. 5, 2018, 132 Stat. 3646, provided that: "References relating to the Under Secretary of Transportation for Security in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede the effective date of this Act [meaning the date of enactment of Pub. L. 115–254, Oct. 5, 2018] shall be deemed to refer, as appropriate, to the Administrator of the Transportation Security Administration."

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–161, div. E, title V, §568(b), Dec. 26, 2007, 121 Stat. 2092, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of enactment of this Act [Dec. 26, 2007].

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–458, title IV, §4082, Dec. 17, 2004, 118 Stat. 3732, provided that: "This title [enacting section 44925 of this title, amending this section, sections 44903, 44904, 44909, 44917, 44923, 46301 to 46303, and 48301 of this title, and sections 70102 and 70103 of Title 46, Shipping, and enacting provisions set out as notes under sections 44703, 44901, 44913, 44917, 44923, 44925, and 44935 of this title, section 2751 of Title 22, Foreign Relations and Intercourse, and section 70101 of Title 46] shall take effect on the date of enactment of this Act [Dec. 17, 2004]."

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSPORTATION SECURITY SCREENING MODERNIZATION

Pub. L. 118–202, Dec. 23, 2024, 138 Stat. 2688, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Transportation Security Screening Modernization Act of 2024'.

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Transportation Security Administration.

"(2) HAZMAT ENDORSEMENT.—The term 'HAZMAT Endorsement' means the Hazardous Materials Endorsement Threat Assessment program authorized under section 5103a of title 49, United States Code.

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, and the territories and possessions of the United States.

"(4) TSA.—The term 'TSA' means the Transportation Security Administration.

"(5) TWIC.—The term 'TWIC means the Transportation Worker Identification Credential authorized under section 70105 of title 46, United States Code.

"SEC. 3. STREAMLINING OF APPLICATIONS FOR CERTAIN SECURITY THREAT ASSESSMENT PROGRAMS OF THE TRANSPORTATION SECURITY ADMINISTRATION.

"(a) STREAMLINING.—

"(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act [Dec. 23, 2024], the Administrator shall take such actions as are necessary, including issuance of an interim final rule if needed, to streamline the procedures for individuals applying for or renewing enrollment in more than one TSA security threat assessment program, in particular, the TWIC and HAZMAT Endorsement programs, and any other credentialing programs as determined by the Administrator, by—

"(A) permitting an individual to enroll at any TSA authorized enrollment center once for a threat assessment program endorsement and use the application, including associated biometric and biographic data, as well as information generated by TSA's vetting, for one of such programs to enroll in any other of such programs;

"(B) permitting an individual to visit any TSA authorized enrollment center and enroll in more than one TSA security threat assessment program at the same time for a fee that is less than the cumulative fee that would otherwise be incurred for each such program separately;

"(C) permitting an individual to undergo a streamlined and expeditious renewal process;

"(D) aligning the expiration of an individual's successful, valid eligibility determination with the expiration of that individual's eligibility to participate in subsequent TSA security threat assessment programs to which the individual applies;

"(E) providing to States the expiration dates for each individual's TSA security threat assessment to ensure a commercial driver's license of an individual who holds a HAZMAT Endorsement does not indicate the individual is authorized to transport hazardous materials after the expiration date of the enrollment of the individual in the HAZMAT Endorsement security threat assessment program if such commercial driver's license has an expiration date that is different from the expiration date of such enrollment; and

"(F) enrolling an individual in a subsequent TSA security threat assessment program at the minimum cost necessary for the TSA to cover printing, issuance, and case management costs, costs associated with the collection of any additional biometric and biographic data in accordance with paragraph (3), and other costs that are not duplicative.

"(2) STATE REQUIREMENTS FOR STREAMLINING.—Not later than 6 months after the date of the enactment of this Act, the States shall carry out the responsibilities of the States pursuant to section 5103a of title 49, United States Code.

"(3) SPECIAL RULE.—If an individual under this subsection is at different times applying for or renewing enrollment in more than one TSA security threat assessment program, such individual may be required to revisit a TSA authorized enrollment center for the collection of additional data, such as biometrics, necessary for any such program that were not so collected in connection with any other such program.

"(b) PUBLICATION.—The Administrator shall post on a publicly available website of the TSA information relating to the streamlining of the enrollment processes for individuals applying for more than one TSA security threat assessment program described in subsection (a).

"(c) EXPEDITED RULEMAKING.—Notwithstanding sections 551 through 559 of title 5, United States Code, nothing in this section shall require notice and comment rulemaking, and to the extent it is necessary to add additional requirements for which limited rulemaking may be advisable, the Administrator shall implement such requirements through publication of an interim final rule.

"(d) BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall brief Congress on progress made toward the implementation of this section.

"SEC. 4. ELIMINATING DUPLICATIVE COSTS.

"(a) AUDIT.—Not later than 1 year after the date of the enactment of this Act [Dec. 23, 2024], the Comptroller General of the United States shall audit the administration of the security threat assessment programs by the TSA and the States, including the TWIC and HAZMAT Endorsement programs.

"(b) ELEMENTS.—

"(1) TSA AUDIT.—In conducting the audit of the TSA required by subsection (a), the Comptroller

General shall—

"(A) identify any redundancies and duplications in costs and administration of security threat assessment programs that if eliminated would not impact national security and any benefits of eliminating such redundancies and duplications and improving the experiences for individuals applying for or renewing enrollment in more than one TSA security threat assessment program;

"(B) review the impacts of the implementation by the TSA of recommendations from previous studies conducted by the Comptroller General, including GAO–07–756 and GAO–17–182, on increasing the efficiency and effectiveness, and reducing costs, of processing applications for enrollment and renewal in TSA security threat assessment programs;

"(C) review the findings of the assessment required by section 1(b) of the Act entitled 'An Act to require the Secretary of Homeland Security to prepare a comprehensive security assessment of the transportation security card program, and for other purposes', approved December 16, 2016 (46 U.S.C. 70105 note; Public Law 114–278) and determine whether the TSA has implemented any remedies to redundancies and duplication identified by that assessment and whether such implementation impacted national security;

"(D) determine whether there are unique challenges rural applicants have with accessing TSA security threat assessment programs;

"(E) assess the numbers and locations of enrollment centers for meeting the needs of such programs, including determining the access provided to rural applicants;

"(F) identify potential opportunities that exist to improve the enrollment center operations of and customer experience with such programs;

"(G) identify potential opportunities to harmonize the enrollment, vetting, and renewal processes of such programs in which similar information is collected for similar security threat assessment processes for different vetted credentials while not impacting national security;

"(H) identify other ways the TSA can reduce the costs of the TSA security threat assessment programs while not impacting national security; and

"(I) review the vetting, application, and enrollment processes of each TSA security threat assessment program.

"(2) STATE AUDIT.—In conducting the audit of the States required by subsection (a), the Comptroller General shall review—

"(A) the administration of the HAZMAT Endorsement program by the States;

"(B) methods by which the States could streamline the HAZMAT Endorsement program; and

"(C) any potential barriers States face administering TSA security threat assessment programs for individuals applying to TWIC and the HAZMAT Endorsement program or individuals that already have a TWIC credential.

"(c) REPORT AND RECOMMENDATIONS.—Not later than 180 days after the date of the completion of the audit required by subsection (a), the Comptroller General of the United States shall submit to the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security of the House of Representatives a report that includes—

"(1) a summary and analysis of the costs associated with the operation and administration of each individual TSA security threat assessment program;

"(2) a summary and analysis of the application and enrollment costs associated with providing an individual multiple credentials under TSA security threat assessment programs;

"(3) an identification of any potential duplicative processes associated with an applicant applying for, or the vetting or enrollment by the TSA of an individual in, a subsequent or multiple TSA security threat assessment programs;

"(4) a breakdown of costs borne by applicants for current enrollment and renewal processes of such programs;

"(5) ways to improve access to such programs, including for rural applicants;

"(6) any potential recommendations to the TSA for reducing costs and streamlining the administration and operation of each TSA security threat assessment program while not impacting national security;

"(7) any potential recommendations for the TSA to administer such programs in a way that would improve national security; and

"(8) any potential recommendations for ways States can improve their role in administering the HAZMAT Endorsement program and streamline the application process or reduce costs for individuals seeking multiple transportation security credentials.

"(d) IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than 1 year after the date of the receipt of the report required by

subsection (c), the Administrator shall—

"(A) implement the recommendations from such report;

"(B) provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a written notification detailing—

"(i) the timeline for implementation of each recommendation from the report;

"(ii) justifications for any implementation timeline lasting longer than 2 years; and

"(iii) justifications for recommendations that the Administrator has declined to pursue or implement.

"(2) BRIEFINGS.—Not later than 60 days after the date of the receipt of the report required by subsection (c), and annually thereafter until the date that the TSA has implemented each recommendation made in such report, the Administrator shall brief the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives on the implementation of recommendations from the report."

AUTHORIZATION OF TRANSPORTATION SECURITY ADMINISTRATION PERSONNEL DETAILS

Pub. L. 117–81, div. F, title LXIV, §6413, Dec. 27, 2021, 135 Stat. 2412, provided that:

"(a) COORDINATION.—Pursuant to sections 106(m) and 114(m) of title 49, United States Code, the Administrator of the Transportation Security Administration may provide Transportation Security Administration personnel, who are not engaged in front line transportation security efforts, to other components of the Department and other Federal agencies to improve coordination with such components and agencies to prepare for, protect against, and respond to public health threats to the transportation security system of the United States.

"(b) BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Administrator shall brief the appropriate congressional committees regarding efforts to improve coordination with other components of the Department of Homeland Security and other Federal agencies to prepare for, protect against, and respond to public health threats to the transportation security system of the United States."

AVIATION SECURITY

Pub. L. 117–81, div. F, title LXIV, §6423(b), Dec. 27, 2021, 135 Stat. 2420, provided that:

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 27, 2021], the Administrator of the Transportation Security Administration shall develop and implement guidelines with respect to domestic and last point of departure airports to—

"(A) ensure the inclusion, as appropriate, of air carriers, domestic airport operators, and other transportation security stakeholders in the development and implementation of security directives and emergency amendments;

"(B) document input provided by air carriers, domestic airport operators, and other transportation security stakeholders during the security directive and emergency amendment, development, and implementation processes;

"(C) define a process, including timeframes, and with the inclusion of feedback from air carriers, domestic airport operators, and other transportation security stakeholders, for cancelling or incorporating security directives and emergency amendments into security programs;

"(D) conduct engagement with foreign partners on the implementation of security directives and emergency amendments, as appropriate, including recognition if existing security measures at a last point of departure airport are found to provide commensurate security as intended by potential new security directives and emergency amendments; and

"(E) ensure that new security directives and emergency amendments are focused on defined security outcomes.

"(2) BRIEFING TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Administrator of the Transportation Security Administration shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the guidelines described in paragraph (1).

"(3) DECISIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any action of the Administrator of the Transportation Security Administration under paragraph (1) is not subject to judicial review."

EMERGENCY TSA EMPLOYEE LEAVE FUND

Pub. L. 117–2, title VII, §7104, Mar. 11, 2021, 135 Stat. 100, provided that:

"(a) ESTABLISHMENT; APPROPRIATION.—There is established in the Transportation Security

Administration (in this section referred to as the 'Administration') the Emergency TSA Employee Leave Fund (in this section referred to as the 'Fund'), to be administered by the Administrator of the Administration, for the purposes set forth in subsection (b). In addition to amounts otherwise available, there is appropriated for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $13,000,000, which shall be deposited into the Fund and remain available through September 30, 2022.

"(b) PURPOSE.—Amounts in the Fund shall be available to the Administration for the use of paid leave under this section by any employee of the Administration who is unable to work because the employee—

"(1) is subject to a Federal, State, or local quarantine or isolation order related to COVID–19;

"(2) has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;

"(3) is caring for an individual who is subject to such an order or has been so advised;

"(4) is experiencing symptoms of COVID–19 and seeking a medical diagnosis;

"(5) is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, if the school of such son or daughter requires or makes optional a virtual learning instruction model or requires or makes optional a hybrid of in-person and virtual learning instruction models, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions;

"(6) is experiencing any other substantially similar condition;

"(7) is caring for a family member with a mental or physical disability or who is 55 years of age or older and incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID–19; or

"(8) is obtaining immunization related to COVID–19 or is recovering from any injury, disability, illness, or condition related to such immunization.

"(c) LIMITATIONS.—

"(1) PERIOD OF AVAILABILITY.—Paid leave under this section may only be provided to and used by an employee of the Administration during the period beginning on the date of enactment of this section [Mar. 11, 2021] and ending on September 30, 2021.

"(2) TOTAL HOURS; AMOUNT.—Paid leave under this section—

"(A) shall be provided to an employee of the Administration in an amount not to exceed 600 hours of paid leave for each full-time employee, and in the case of a part-time employee, employee on an uncommon tour of duty, or employee with a seasonal work schedule, in an amount not to exceed the proportional equivalent of 600 hours to the extent amounts in the Fund remain available for reimbursement;

"(B) shall be paid at the same hourly rate as other leave payments; and

"(C) may not be provided to an employee if the leave would result in payments greater than $2,800 in aggregate for any biweekly pay period for a full-time employee, or a proportionally equivalent biweekly limit for a part-time employee.

"(3) RELATIONSHIP TO OTHER LEAVE.—Paid leave under this section—

"(A) is in addition to any other leave provided to an employee of the Administration; and

"(B) may not be used by an employee of the Administration concurrently with any other paid leave.

"(4) CALCULATION OF RETIREMENT BENEFIT.—Any paid leave provided to an employee of the Administration under this section shall reduce the total service used to calculate any Federal civilian retirement benefit."

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

TRANSMITTALS TO CONGRESS

Pub. L. 115–254, div. K, title I, §1910, Oct. 5, 2018, 132 Stat. 3550, provided that: "With regard to each report, legislative proposal, or other communication of the Executive Branch related to the TSA and required to be submitted to Congress or the appropriate committees of Congress, the Administrator shall transmit such communication directly to the appropriate committees of Congress."

[For definitions of terms used in section 1910 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

THIRD PARTY TESTING AND VERIFICATION OF SCREENING TECHNOLOGY

Pub. L. 115–254, div. K, title I, §1911, Oct. 5, 2018, 132 Stat. 3550, provided that:

"(a) IN GENERAL.—In carrying out the responsibilities under section 114(f)(9) [probably means section 114(f)(9) of Title 10, United States Code], the Administrator shall develop and implement, not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], a program to enable a vendor of related security screening technology to obtain testing and verification, including as an alternative to the TSA's test and evaluation process, by an appropriate third party, of such technology before procurement or deployment.

"(b) DETECTION TESTING.—

"(1) IN GENERAL.—The third party testing and verification program authorized under subsection (a) shall include detection testing to evaluate the performance of the security screening technology system regarding the probability of detection, the probability of false alarm, and such other indicators that the system is able to meet the TSA's mission needs.

"(2) RESULTS.—The results of the third party detection testing under paragraph (1) shall be considered final if the results are approved by the Administration in accordance with approval standards developed by the Administrator.

"(3) COORDINATION WITH FINAL TESTING.—To the extent practicable, but without compromising the integrity of the TSA test and evaluation process, the Administrator shall coordinate the third party detection testing under paragraph (1) with any subsequent, final Federal Government testing.

"(4) INTERNATIONAL STANDARDS.—To the extent practicable and permissible under law and considering the national security interests of the United States, the Administrator shall—

"(A) share detection testing information and standards with appropriate international partners; and

"(B) coordinate with the appropriate international partners to align TSA testing and evaluation with relevant international standards to maximize the capability to detect explosives and other threats.

"(c) OPERATIONAL TESTING.—

"(1) IN GENERAL.—Subject to paragraph (2), the third party testing and verification program authorized under subsection (a) shall include operational testing.

"(2) LIMITATION.—Third party operational testing under paragraph (1) may not exceed 1 year.

"(d) ALTERNATIVE.—Third party testing under subsection (a) shall replace as an alternative, at the discretion of the Administrator, the testing at the TSA Systems Integration Facility, including testing for—

"(1) health and safety factors;

"(2) operator interface;

"(3) human factors;

"(4) environmental factors;

"(5) throughput;

"(6) reliability, maintainability, and availability factors; and

"(7) interoperability.

"(e) TESTING AND VERIFICATION FRAMEWORK.—

"(1) IN GENERAL.—The Administrator shall—

"(A) establish a framework for the third party testing and for verifying a security technology is operationally effective and able to meet the TSA's mission needs before it may enter or re-enter, as applicable, the operational context at an airport or other transportation facility;

"(B) use phased implementation to allow the TSA and the third party to establish best practices; and

"(C) oversee the third party testing and evaluation framework.

"(2) RECOMMENDATIONS.—The Administrator shall request ASAC's Security Technology Subcommittee, in consultation with representatives of the security manufacturers industry, to develop and submit to the Administrator recommendations for the third party testing and verification framework.

"(f) FIELD TESTING.—The Administrator shall prioritize the field testing and evaluation, including by third parties, of security technology and equipment at airports and on site at security technology manufacturers whenever possible as an alternative to the TSA Systems Integration Facility.

"(g) APPROPRIATE THIRD PARTIES.—

"(1) CITIZENSHIP REQUIREMENT.—An appropriate third party under subsection (a) shall be—

"(A) if an individual, a citizen of the United States; or

"(B) if an entity, owned and controlled by a citizen of the United States.

"(2) WAIVER.—The Administrator may waive the requirement under paragraph (1)(B) if the entity is a United States subsidiary of a parent company that has implemented a foreign ownership, control, or influence mitigation plan that has been approved by the Defense Security Service [now Defense Counterintelligence and Security Agency] of the Department of Defense before applying to provide third

party testing. The Administrator may reject any application to provide third party testing under subsection (a) submitted by an entity that requires a waiver under this paragraph.

"(3) CONFLICTS OF INTEREST.—The Administrator shall ensure, to the extent possible, that an entity providing third party testing under this section does not have a contractual, business, or other pecuniary interest (exclusive of any such testing) in—

"(A) the security screening technology subject to such testing; or

"(B) the vendor of such technology.

"(h) GAO REVIEW.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Oct. 5, 2018], the Comptroller General of the United States shall submit to the appropriate committees of Congress a study on the third party testing program developed under this section[.]

"(2) REVIEW.—The study under paragraph (1) shall include a review of the following:

"(A) Any efficiencies or gains in effectiveness achieved in TSA operations, including technology acquisition or screening operations, as a result of such program.

"(B) The degree to which the TSA conducts timely and regular oversight of the appropriate third parties engaged in such testing.

"(C) The effect of such program on the following:

"(i) The introduction of innovative detection technologies into security screening operations.

"(ii) The availability of testing for technologies developed by small to medium sized businesses.

"(D) Any vulnerabilities associated with such program, including with respect to the following:

"(i) National security.

"(ii) Any conflicts of interest between the appropriate third parties engaged in such testing and the entities providing such technologies to be tested.

"(iii) Waste, fraud, and abuse."

[For definitions of terms used in section 1911 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

TRANSPORTATION SECURITY ADMINISTRATION SYSTEMS INTEGRATION FACILITY

Pub. L. 115–254, div. K, title I, §1912, Oct. 5, 2018, 132 Stat. 3552, provided that:

"(a) IN GENERAL.—The Administrator shall continue to operate the Transportation Security Administration Systems Integration Facility (referred to in this section as the 'TSIF') for the purposes of testing and evaluating advanced transportation security screening technologies related to the mission of the TSA.

"(b) REQUIREMENTS.—The TSIF shall—

"(1) evaluate the technologies described in subsection (a) to enhance the security of transportation systems through screening and threat mitigation and detection;

"(2) test the technologies described in subsection (a) to support identified mission needs of the TSA and to meet requirements for acquisitions and procurement;

"(3) to the extent practicable, provide original equipment manufacturers with test plans to minimize requirement interpretation disputes and adhere to provided test plans;

"(4) collaborate with other technical laboratories and facilities for purposes of augmenting the capabilities of the TSIF;

"(5) deliver advanced transportation security screening technologies that enhance the overall security of domestic transportation systems; and

"(6) to the extent practicable, provide funding and promote efforts to enable participation by a small business concern (as the term is described under section 3 of the Small Business Act (15 U.S.C. 632)) that—

"(A) has an advanced technology or capability; but

"(B) does not have adequate resources to participate in testing and evaluation processes.

"(c) STAFFING AND RESOURCE ALLOCATION.—The Administrator shall ensure adequate staffing and resource allocations for the TSIF in a manner that—

"(1) prevents unnecessary delays in the testing and evaluation of advanced transportation security screening technologies for acquisitions and procurement determinations;

"(2) ensures the issuance of final paperwork certification no later than 45 days after the date such testing and evaluation has concluded; and

"(3) ensures collaboration with technology stakeholders to close capabilities gaps in transportation

security.

"(d) DEADLINE.—

"(1) IN GENERAL.—The Administrator shall notify the appropriate committees of Congress if testing and evaluation by the TSIF of an advanced transportation security screening technology under this section exceeds 180 days from the delivery date.

"(2) NOTIFICATION.—The notification under paragraph (1) shall include—

"(A) information relating to the delivery date;

"(B) a justification for why the testing and evaluation process has exceeded 180 days; and

"(C) the estimated date for completion of such testing and evaluation.

"(3) DEFINITION OF DELIVERY DATE.—In this subsection, the term 'delivery date' means the date that the owner of an advanced transportation security screening technology—

"(A) after installation, delivers the technology to the TSA for testing and evaluation; and

"(B) submits to the Administrator, in such form and manner as the Administrator prescribes, a signed notification of the delivery described in subparagraph (A).

"(e) RETESTING AND EVALUATION.—Advanced transportation security screening technology that fails testing and evaluation by the TSIF may be retested and evaluated at the discretion of the Administrator.

"(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the authority or responsibility of an officer of the Department, or an officer of any other Federal department or agency, with respect to research, development, testing, and evaluation of technologies, including such authorities or responsibilities of the Undersecretary [probably should be "Under Secretary"] for Science and Technology of the Department and Assistant Secretary of the Countering Weapons of Mass Destruction Office of the Department."

[For definitions of terms used in section 1912 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

PUBLIC AREA SECURITY WORKING GROUP

Pub. L. 115–254, div. K, title I, §1931, Oct. 5, 2018, 132 Stat. 3569, provided that:

"(a) DEFINITIONS.—In this section:

"(1) PUBLIC AND PRIVATE STAKEHOLDERS.—The term 'public and private stakeholders' has the meaning given the term in section 114(t)(1)(C) of title 49, United States Code.

"(2) SURFACE TRANSPORTATION ASSET.—The term 'surface transportation asset' includes—

"(A) facilities, equipment, or systems used to provide transportation services by—

"(i) a public transportation agency (as the term is defined in section 1402 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1131));

"(ii) a railroad carrier (as the term is defined in section 20102 of title 49, United States Code); [or]

"(iii) an owner or operator of—

"(I) an entity offering scheduled, fixed-route transportation services by over-the road bus (as the term is defined in section 1501 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1151)); or

"(II) a bus terminal; or

"(B) other transportation facilities, equipment, or systems, as determined by the Secretary.

"(b) PUBLIC AREA SECURITY WORKING GROUP.—

"(1) WORKING GROUP.—The Administrator, in coordination with the National Protection and Programs Directorate, shall establish a working group to promote collaborative engagement between the TSA and public and private stakeholders to develop non-binding recommendations for enhancing security in public areas of transportation facilities (including facilities that are surface transportation assets), including recommendations regarding the following:

"(A) Information sharing and interoperable communication capabilities among the TSA and public and private stakeholders with respect to terrorist or other threats.

"(B) Coordinated incident response procedures.

"(C) The prevention of terrorist attacks and other incidents through strategic planning, security training, exercises and drills, law enforcement patrols, worker vetting, and suspicious activity reporting.

"(D) Infrastructure protection through effective construction design barriers and installation of advanced surveillance and other security technologies.

"(2) ANNUAL REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date the working group is established under

paragraph (1), the Administrator shall submit to the appropriate committee of Congress [probably should be "appropriate committees of Congress"] a report, covering the 12-month period preceding the date of the report, on—

"(i) the organization of the working group;

"(ii) the activities of the working group;

"(iii) the participation of the TSA and public and private stakeholders in the activities of the working group; [and]

"(iv) the findings of the working group, including any recommendations.

"(B) PUBLICATION.—The Administrator may publish a public version of such report that describes the activities of the working group and such related matters as would be informative to the public, consistent with section 552(b) of title 5, United States Code.

"(3) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the working group established under subsection (a) [probably should be "paragraph (1)"] or any subcommittee thereof.

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) inform owners and operators of surface transportation assets about the availability of technical assistance, including vulnerability assessment tools and cybersecurity guidelines, to help protect and enhance the resilience of public areas of such assets; and

"(B) upon request, and subject to the availability of appropriations, provide such technical assistance to owners and operators of surface transportation assets.

"(2) BEST PRACTICES.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], and periodically thereafter, the Secretary shall publish on the Department website and widely disseminate, as appropriate, current best practices for protecting and enhancing the resilience of public areas of transportation facilities (including facilities that are surface transportation assets), including associated frameworks or templates for implementation.

"(d) REVIEW.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall—

"(A) review of [sic] regulations, directives, policies, and procedures issued by the Administrator regarding the transportation of a firearm and ammunition; and

"(B) submit to the appropriate committees of Congress a report on the findings of the review under subparagraph (A), including, as appropriate, information on any plans to modify any regulation, directive, policy, or procedure based on the review.

"(2) CONSULTATION.—In preparing the report under paragraph (1), the Administrator shall consult with—

"(A) ASAC;

"(B) the Surface Transportation Security Advisory Committee under section 404 of the Homeland Security Act of 2002 [6 U.S.C. 204]; and

"(C) appropriate public and private stakeholders."

[For definitions of terms used in section 1931 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

PUBLIC AREA BEST PRACTICES

Pub. L. 115–254, div. K, title I, §1932, Oct. 5, 2018, 132 Stat. 3571, provided that:

"(a) IN GENERAL.—The Administrator shall, in accordance with law and as received or developed, periodically submit information, on any best practices developed by the TSA or appropriate transportation stakeholders related to protecting the public spaces of transportation infrastructure from emerging threats, to the following:

"(1) Federal Security Directors at airports.

"(2) Appropriate security directors for other modes of transportation.

"(3) Other appropriate transportation security stakeholders.

"(b) INFORMATION SHARING.—The Administrator shall, in accordance with law—

"(1) in coordination with the Office of the Director of National Intelligence and industry partners, implement improvements to the Air Domain Intelligence and Analysis Center to encourage increased participation from stakeholders and enhance government and industry security information sharing on transportation security threats, including on cybersecurity threat awareness;

"(2) expand and improve the City and Airport Threat Assessment or similar program to public and private stakeholders to capture, quantify, communicate, and apply applicable intelligence to inform transportation infrastructure mitigation measures, such as—

"(A) quantifying levels of risk by airport that can be used to determine risk-based security mitigation measures at each location; and

"(B) determining random and surge employee inspection operations based on changing levels of risk;

"(3) continue to disseminate Transportation Intelligence Notes, tear-lines, and related intelligence products to appropriate transportation security stakeholders on a regular basis; and

"(4) continue to conduct both regular routine and threat-specific classified briefings between the TSA and appropriate transportation sector stakeholders on an individual or group basis to provide greater information sharing between public and private sectors.

"(c) MASS NOTIFICATION.—The Administrator shall encourage security stakeholders to utilize mass notification systems, including the Integrated Public Alert Warning System of the Federal Emergency Management Agency and social media platforms, to disseminate information to transportation community employees, travelers, and the general public, as appropriate.

"(d) PUBLIC AWARENESS PROGRAMS.—The Secretary, in coordination with the Administrator, shall expand public programs of the Department of Homeland Security and the TSA that increase security threat awareness, education, and training to include transportation network public area employees, including airport and transportation vendors, local hotels, cab and limousine companies, ridesharing companies, cleaning companies, gas station attendants, cargo operators, and general aviation members."

[For definitions of terms used in section 1932 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

SURFACE TRANSPORTATION SECURITY ASSESSMENT AND IMPLEMENTATION OF RISK-BASED STRATEGY

Pub. L. 115–254, div. K, title I, §1964, Oct. 5, 2018, 132 Stat. 3604, provided that:

"(a) SECURITY ASSESSMENT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall complete an assessment of the vulnerabilities of and risks to surface transportation systems.

"(2) CONSIDERATIONS.—In conducting the security assessment under paragraph (1), the Administrator shall, at a minimum—

"(A) consider appropriate intelligence;

"(B) consider security breaches and attacks at domestic and international surface transportation facilities;

"(C) consider the vulnerabilities and risks associated with specific modes of surface transportation;

"(D) evaluate the vetting and security training of—

"(i) employees in surface transportation; and

"(ii) other individuals with access to sensitive or secure areas of surface transportation networks; and

"(E) consider input from—

"(i) representatives of different modes of surface transportation;

"(ii) representatives of critical infrastructure entities;

"(iii) the Transportation Systems Sector Coordinating Council; and

"(iv) the heads of other relevant Federal departments or agencies.

"(b) RISK-BASED SURFACE TRANSPORTATION SECURITY STRATEGY.—

"(1) IN GENERAL.—Not later than 180 days after the date the security assessment under subsection (a) is complete, the Administrator shall use the results of the assessment—

"(A) to develop and implement a cross-cutting, risk-based surface transportation security strategy that includes—

"(i) all surface transportation modes;

"(ii) a mitigating strategy that aligns with each vulnerability and risk identified in subsection (a);

"(iii) a planning process to inform resource allocation;

"(iv) priorities, milestones, and performance metrics to measure the effectiveness of the

risk-based surface transportation security strategy; and

"(v) processes for sharing relevant and timely intelligence threat information with appropriate stakeholders;

"(B) to develop a management oversight strategy that—

"(i) identifies the parties responsible for the implementation, management, and oversight of the risk-based surface transportation security strategy; and

"(ii) includes a plan for implementing the risk-based surface transportation security strategy; and

"(C) to modify the risk-based budget and resource allocations, in accordance with section 1965(c) [set out as a note below], for the Transportation Security Administration.

"(2) COORDINATED APPROACH.—In developing and implementing the risk-based surface transportation security strategy under paragraph (1), the Administrator shall coordinate with the heads of other relevant Federal departments or agencies, and stakeholders, as appropriate—

"(A) to evaluate existing surface transportation security programs, policies, and initiatives, including the explosives detection canine teams, for consistency with the risk-based security strategy and, to the extent practicable, avoid any unnecessary duplication of effort;

"(B) to determine the extent to which stakeholder security programs, policies, and initiatives address the vulnerabilities and risks to surface transportation systems identified in subsection (a); and

"(C) subject to subparagraph (B), to mitigate each vulnerability and risk to surface transportation systems identified in subsection (a).

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date the security assessment under subsection (a) is complete, the Administrator shall submit to the appropriate committees of Congress and the Inspector General of the Department a report that—

"(A) describes the process used to complete the security assessment;

"(B) describes the process used to develop the risk-based security strategy;

"(C) describes the risk-based security strategy;

"(D) includes the management oversight strategy;

"(E) includes—

"(i) the findings of the security assessment;

"(ii) a description of the actions recommended or taken by the Administrator to mitigate the vulnerabilities and risks identified in subsection (a), including interagency coordination;

"(iii) any recommendations for improving the coordinated approach to mitigating vulnerabilities and risks to surface transportation systems; and

"(iv) any recommended changes to the National Infrastructure Protection Plan, the modal annexes to such plan, or relevant surface transportation security programs, policies, or initiatives; and

"(F) may contain a classified annex.

"(2) PROTECTIONS.—In preparing the report, the Administrator shall take appropriate actions to safeguard information described by section 552(b) of title 5, United States Code, or protected from disclosure by any other law of the United States.

"(d) UPDATES.—Not less frequently than semiannually, the Administrator shall report to or brief the appropriate committees of Congress on the vulnerabilities of and risks to surface transportation systems and how those vulnerabilities and risks affect the risk-based security strategy."

[For definitions of terms used in section 1964 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

RISK-BASED BUDGETING AND RESOURCE ALLOCATION

Pub. L. 115–254, div. K, title I, §1965, Oct. 5, 2018, 132 Stat. 3606, provided that:

"(a) REPORT.—In conjunction with the submission of the Department's annual budget request to the Office of Management and Budget, the Administrator shall submit to the appropriate committees of Congress a report that describes a risk-based budget and resource allocation plan for surface transportation sectors, within and across modes, that—

"(1) reflects the risk-based surface transportation security strategy under section 1964(b) [set out as a note above]; and

"(2) is organized by appropriations account, program, project, and initiative.

"(b) BUDGET TRANSPARENCY.—In submitting the annual budget of the United States Government under section 1105 of title 31, United States Code, the President shall clearly distinguish the resources

requested for surface transportation security from the resources requested for aviation security.

"(c) RESOURCE REALLOCATION.—

"(1) IN GENERAL.—Not later than 15 days after the date on which the Transportation Security Administration allocates any resources or personnel, including personnel sharing, detailing, or assignment, or the use of facilities, technology systems, or vetting resources, for a nontransportation security purpose or National Special Security Event (as defined in section 2001 of Homeland Security Act of 2002 (6 U.S.C. 601)), the Secretary shall provide the notification described in paragraph (2) to the appropriate committees of Congress.

"(2) NOTIFICATION.—A notification described in this paragraph shall include—

"(A) the reason for and a justification of the resource or personnel allocation;

"(B) the expected end date of the resource or personnel allocation; and

"(C) the projected cost to the Transportation Security Administration of the personnel or resource allocation.

"(d) 5-YEAR CAPITAL INVESTMENT PLAN.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a 5-year capital investment plan, consistent with the 5-year technology investment plan under section 1611 of title XVI of the Homeland Security Act of 2002 [6 U.S.C. 563], as amended by section 3 of the Transportation Security Acquisition Reform Act (Public Law 113–245; 128 Stat. 2871)."

[For definitions of terms used in section 1965 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

TRANSPARENCY

Pub. L. 115–254, div. K, title I, §1967, Oct. 5, 2018, 132 Stat. 3607, provided that:

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], and every 180 days thereafter, the Administrator [of the Transportation Security Administration] shall publish on a public website information regarding the status of each regulation relating to surface transportation security that is directed by law to be issued and that has not been issued if not less than 2 years have passed since the date of enactment of the law.

"(2) CONTENTS.—The information published under paragraph (1) shall include—

"(A) an updated rulemaking schedule for the outstanding regulation;

"(B) current staff allocations;

"(C) data collection or research relating to the development of the rulemaking;

"(D) current efforts, if any, with security experts, advisory committees, and other stakeholders; and

"(E) other relevant details associated with the development of the rulemaking that impact the progress of the rulemaking.

"(b) INSPECTOR GENERAL REVIEW.—Not later than 180 days after the date of enactment of this Act, and every 2 years thereafter until all of the requirements under titles XIII [6 U.S.C. 1111 et seq.], XIV [6 U.S.C. 1131 et seq.], and XV [6 U.S.C. 1151 et seq.] of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1111 et seq.) and under this title [see Tables for classification] have been fully implemented, the Inspector General of the Department shall submit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a report that—

"(1) identifies the requirements under such titles of that Act and under this title that have not been fully implemented;

"(2) describes what, if any, additional action is necessary; and

"(3) includes recommendations regarding whether any of the requirements under such titles of that Act or this title should be amended or repealed."

TSA COUNTERTERRORISM ASSET DEPLOYMENT

Pub. L. 115–254, div. K, title I, §1968(a), Oct. 5, 2018, 132 Stat. 3608, provided that:

"(1) IN GENERAL.—If the Administrator [of the Transportation Security Administration] deploys any counterterrorism personnel or resource, such as explosive detection sweeps, random bag inspections, or patrols by Visible Intermodal Prevention and Response teams, to enhance security at a transportation system

or transportation facility for a period of not less than 180 consecutive days, the Administrator shall provide sufficient notification to the system or facility operator, as applicable, not less than 14 days prior to terminating the deployment.

"(2) EXCEPTION.—This subsection shall not apply if the Administrator—

"(A) determines there is an urgent security need for the personnel or resource described in paragraph (1); and

"(B) notifies the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] of the determination under subparagraph (A)."

BEST PRACTICES TO SECURE AGAINST VEHICLE-BASED ATTACKS

Pub. L. 115–254, div. K, title I, §1982, Oct. 5, 2018, 132 Stat. 3620, provided that: "Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall disseminate best practices to public and private stakeholders regarding how to enhance transportation security against the threat of a vehicle-based terrorist attack."

RISK SCENARIOS

Pub. L. 115–254, div. K, title I, §1986, Oct. 5, 2018, 132 Stat. 3621, provided that:

"(a) IN GENERAL.—The Administrator shall annually develop, consistent with the transportation modal security plans required under section 114(s) of title 49, United States Code, risk-based priorities based on risk assessments conducted or received by the Secretary across all transportation modes that consider threats, vulnerabilities, and consequences.

"(b) SCENARIOS.—The Administrator shall ensure that the risk-based priorities identified under subsection (a) are informed by an analysis of terrorist attack scenarios for each transportation mode, including cyber-attack scenarios and intelligence and open source information about current and evolving threats.

"(c) REPORT.—Not later than 120 days after the date that annual risk-based priorities are developed under subsection (a), the Administrator shall submit to the appropriate committees of Congress a report that includes the following:

"(1) Copies of the risk assessments for each transportation mode.

"(2) A summary that ranks the risks within and across modes.

"(3) A description of the risk-based priorities for securing the transportation sector that identifies and prioritizes the greatest security needs of such transportation sector, both across and within modes, in the order that such priorities should be addressed.

"(4) Information on the underlying methodologies used to assess risks across and within each transportation mode and the basis for any assumptions regarding threats, vulnerabilities, and consequences made in assessing and prioritizing risks within each such mode and across modes.

"(d) CLASSIFICATION.—The information provided under subsection (c) may be submitted in a classified format or unclassified format, as the Administrator considers appropriate."

[For definitions of terms used in section 1986 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

INTEGRATED AND UNIFIED OPERATIONS CENTERS

Pub. L. 115–254, div. K, title I, §1987, Oct. 5, 2018, 132 Stat. 3622, provided that:

"(a) FRAMEWORK.—Not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator, in consultation with the heads of other appropriate offices or components of the Department, shall make available to public and private stakeholders a framework for establishing an integrated and unified operations center responsible for overseeing daily operations of a transportation facility that promotes coordination for responses to terrorism, serious incidents, and other purposes, as determined appropriate by the Administrator.

"(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall brief the appropriate committees of Congress regarding the establishment and activities of integrated and unified operations centers at transportation facilities at which the TSA has a presence."

[For definitions of terms used in section 1987 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

INFORMATION SHARING AND CYBERSECURITY

Pub. L. 115–254, div. K, title I, §1989, Oct. 5, 2018, 132 Stat. 3624, provided that:

"(a) FEDERAL SECURITY DIRECTORS.—[Amended section 44933 of this title.]
"(b) PLAN TO IMPROVE INFORMATION SHARING.—
"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall develop a plan to improve intelligence information sharing with State and local transportation entities that includes best practices to ensure that the information shared is actionable, useful, and not redundant.
"(2) CONTENTS.—The plan required under paragraph (1) shall include the following:
"(A) The incorporation of best practices for information sharing.
"(B) The identification of areas of overlap and redundancy.
"(C) An evaluation and incorporation of stakeholder input in the development of such plan.
"(D) The integration of any recommendations of the Comptroller General of the United States on information sharing.
"(3) SOLICITATION.—The Administrator shall solicit on an annual basis input from appropriate stakeholders, including State and local transportation entities, on the quality and quantity of intelligence received by such stakeholders relating to information sharing.
"(c) BEST PRACTICES SHARING.—
"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall establish a mechanism to share with State and local transportation entities best practices from across the law enforcement spectrum, including Federal, State, local, and tribal entities, that relate to employee training, employee professional development, technology development and deployment, hardening tactics, and passenger and employee awareness programs.
"(2) CONSULTATION.—The Administrator shall solicit and incorporate stakeholder input—
"(A) in developing the mechanism for sharing best practices as required under paragraph (1); and
"(B) not less frequently than annually on the quality and quantity of information such stakeholders receive through the mechanism established under such paragraph.
"(d) CYBERSECURITY.—
"(1) IN GENERAL.—The Administrator, in consultation with the Secretary, shall—
"(A) not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], implement the Framework for Improving Critical Infrastructure Cybersecurity (referred to in this section as the 'Framework' developed by the National Institute of Standards and Technology, and any update to such Framework under section 2 of the National Institute of Standards and Technology Act (15 U.S.C. 272), to manage the agency's cybersecurity risks; and
"(B) evaluate, on a periodic basis, but not less often than biennially, the use of the Framework under subparagraph (A).
"(2) CYBERSECURITY ENHANCEMENTS TO AVIATION SECURITY ACTIVITIES.—The Secretary, in consultation with the Secretary of Transportation, shall, upon request, conduct cybersecurity vulnerability assessments for airports and air carriers.
"(3) TSA TRUSTED TRAVELER AND CREDENTIALING PROGRAM CYBER EVALUATION.—
"(A) EVALUATION REQUIRED.—Not later than 120 days after the date of enactment of this Act, the Secretary shall—
"(i) evaluate the cybersecurity of TSA trusted traveler and credentialing programs that contain personal information of specific individuals or information that identifies specific individuals, including the Transportation Worker Identification Credential and PreCheck programs;
"(ii) identify any cybersecurity risks under the programs described in clause (i); and
"(iii) develop remediation plans to address the cybersecurity risks identified under clause (ii).
"(B) SUBMISSION TO CONGRESS.—Not later than 30 days after the date the evaluation under subparagraph (A) is complete, the Secretary shall submit to the appropriate committees of Congress information relating to such evaluation, including any cybersecurity vulnerabilities identified and remediation plans to address such vulnerabilities. Such submission shall be provided in a classified form.
"(4) DEFINITIONS.—In this subsection, the terms 'cybersecurity risk' and 'incident' have the meanings given the terms in section 227 [now section 2209] of the Homeland Security Act of 2002 (6 U.S.C. 148) [now 6 U.S.C. 659; see 6 U.S.C. 650]."
[For definitions of terms used in section 1989 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

SAFEGUARDING AND DISPOSAL OF PERSONAL INFORMATION OF REGISTERED TRAVELER PROGRAM PARTICIPANTS

Pub. L. 114–4, title V, §536, Mar. 4, 2015, 129 Stat. 67, provided that:

"(a) Any company that collects or retains personal information directly from any individual who participates in the Registered Traveler or successor program of the Transportation Security Administration shall hereafter safeguard and dispose of such information in accordance with the requirements in—

"(1) the National Institute for Standards and Technology Special Publication 800–30, entitled 'Risk Management Guide for Information Technology Systems';

"(2) the National Institute for Standards and Technology Special Publication 800–53, Revision 3, entitled 'Recommended Security Controls for Federal Information Systems and Organizations'; and

"(3) any supplemental standards established by the Administrator of the Transportation Security Administration (referred to in this section as the 'Administrator').

"(b) The airport authority or air carrier operator that sponsors the company under the Registered Traveler program shall hereafter be known as the 'Sponsoring Entity'.

"(c) The Administrator shall hereafter require any company covered by subsection (a) to provide, not later than 30 days after the date of enactment of this Act [Mar. 4, 2015], to the Sponsoring Entity written certification that the procedures used by the company to safeguard and dispose of information are in compliance with the requirements under subsection (a). Such certification shall include a description of the procedures used by the company to comply with such requirements."

REGISTERED TRAVELER PROGRAMS AND BIOMETRICALLY-SECURE CARDS

Pub. L. 110–161, div. E, title V, §571, Dec. 26, 2007, 121 Stat. 2093, provided that: "Effective no later than ninety days after the date of enactment of this Act [Dec. 26, 2007], the Transportation Security Administration shall permit approved members of Registered Traveler programs to satisfy fully the required identity verification procedures at security screening checkpoints by presenting a biometrically-secure Registered Traveler card in lieu of the government-issued photo identification document required of non-participants: *Provided*, That if their identity is not confirmed biometrically, the standard identity and screening procedures will apply: *Provided further*, That if the Assistant Secretary (Transportation Security Administration) determines this is a threat to civil aviation, then the Assistant Secretary (Transportation Security Administration) shall notify the Committees on Appropriations of the Senate and House of Representatives five days in advance of such determination and require Registered Travelers to present government-issued photo identification documents in conjunction with a biometrically-secure Registered Traveler card."

CONGRESSIONAL OVERSIGHT OF SECURITY ASSURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS

Pub. L. 110–53, title XII, §1203(b), Aug. 3, 2007, 121 Stat. 385, as amended by Pub. L. 115–254, div. K, title I, §1904(b)(2), Oct. 5, 2018, 132 Stat. 3545, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary [of Homeland Security] shall provide a semiannual report to the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

"(A) the number of public and private stakeholders who were provided with each report;

"(B) a description of the measures the Secretary has taken to ensure proper treatment and security for any classified information to be shared with the public and private stakeholders under the Plan; and

"(C) an explanation of the reason for the denial of transportation security information to any stakeholder who had previously received such information.

"(2) NO REPORT REQUIRED IF NO CHANGES IN STAKEHOLDERS.—The Secretary is not required to provide a semiannual report under paragraph (1) if no stakeholders have been added to or removed from the group of persons with whom transportation security information is shared under the plan [probably should be "Plan"] since the end of the period covered by the last preceding semiannual report."

SPECIALIZED TRAINING

Pub. L. 110–53, title XVI, §1611, Aug. 3, 2007, 121 Stat. 485, provided that: "The Administrator of the Transportation Security Administration shall provide advanced training to transportation security officers for the development of specialized security skills, including behavior observation and analysis, explosives detection, and document examination, in order to enhance the effectiveness of layered transportation security measures."

INAPPLICABILITY OF PERSONNEL LIMITATIONS AFTER FISCAL YEAR 2007

Pub. L. 110–53, title XVI, §1612, Aug. 3, 2007, 121 Stat. 485, provided that:

"(a) IN GENERAL.—Notwithstanding any provision of law, any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, does not apply after fiscal year 2007.

"(b) AVIATION SECURITY.—Notwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

"(1) to provide appropriate levels of aviation security; and

"(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of less than 10 minutes."

LEASE OF PROPERTY TO TRANSPORTATION SECURITY ADMINISTRATION EMPLOYEES

Pub. L. 109–90, title V, §514, Oct. 18, 2005, 119 Stat. 2084, provided that: "Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–334, title V, §516, Oct. 18, 2004, 118 Stat. 1318.

ACQUISITION MANAGEMENT SYSTEM OF THE TRANSPORTATION SECURITY ADMINISTRATION

Pub. L. 109–90, title V, §515, Oct. 18, 2005, 119 Stat. 2084, provided that: "For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–334, title V, §517, Oct. 18, 2004, 118 Stat. 1318.

REGISTERED TRAVELER PROGRAM FEE

Pub. L. 109–90, title V, §540, Oct. 18, 2005, 119 Stat. 2088, provided that: "For fiscal year 2006 and thereafter, notwithstanding section 553 of title 5, United States Code, the Secretary of Homeland Security shall impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice in the Federal Register, and may modify the fee from time to time by notice in the Federal Register: *Provided*, That such fees shall not exceed the aggregate costs associated with the program and shall be credited to the Transportation Security Administration registered traveler fee account, to be available until expended."

ENHANCED SECURITY MEASURES

Pub. L. 107–71, title I, §109, Nov. 19, 2001, 115 Stat. 613, as amended by Pub. L. 107–296, title XIV, §1403(b), Nov. 25, 2002, 116 Stat. 2306, provided that:

"(a) IN GENERAL.—The Under Secretary of Transportation for Security [now the Administrator of the Transportation Security Administration] may take the following actions:

"(1) Require effective 911 emergency call capability for telephones serving passenger aircraft and passenger trains.

"(2) Establish a uniform system of identification for all State and local law enforcement personnel for use in obtaining permission to carry weapons in aircraft cabins and in obtaining access to a secured area of an airport, if otherwise authorized to carry such weapons.

"(3) Establish requirements to implement trusted passenger programs and use available technologies to expedite the security screening of passengers who participate in such programs, thereby allowing security screening personnel to focus on those passengers who should be subject to more extensive screening.

"(4) In consultation with the Commissioner of the Food and Drug Administration, develop alternative security procedures under which a medical product to be transported on a flight of an air carrier would not be subject to an inspection that would irreversibly damage the product.

"(5) Provide for the use of technologies, including wireless and wire line data technologies, to enable the private and secure communication of threats to aid in the screening of passengers and other individuals on airport property who are identified on any State or Federal security-related data base for the purpose of having an integrated response coordination of various authorized airport security forces.

"(6) In consultation with the Administrator of the Federal Aviation Administration, consider whether to require all pilot licenses to incorporate a photograph of the license holder and appropriate biometric imprints.

"(7) Provide for the use of voice stress analysis, biometric, or other technologies to prevent a person who might pose a danger to air safety or security from boarding the aircraft of an air carrier or foreign air carrier in air transportation or intrastate air transportation.

"(8) Provide for the use of technology that will permit enhanced instant communications and information between airborne passenger aircraft and appropriate individuals or facilities on the ground.

"(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.

"(b) REPORT.—Not later than 6 months after the date of enactment of this Act [Nov. 19, 2001], and annually thereafter until the Under Secretary [now the Administrator of the Transportation Security Administration] has implemented or decided not to take each of the actions specified in subsection (a), the Under Secretary shall transmit to Congress a report on the progress of the Under Secretary in evaluating and taking such actions, including any legislative recommendations that the Under Secretary may have for enhancing transportation security."

[For definitions of terms used in section 109 of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

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

§115. Transportation Security Oversight Board

(a) IN GENERAL.—There is established in the Department of Homeland Security a board to be known as the "Transportation Security Oversight Board".

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 7 members as follows:

(A) The Secretary of Homeland Security, or the Secretary's designee.
(B) The Secretary of Transportation, or the Secretary's designee.
(C) The Attorney General, or the Attorney General's designee.
(D) The Secretary of Defense, or the Secretary's designee.
(E) The Secretary of the Treasury, or the Secretary's designee.
(F) The Director of National Intelligence, or the Director's designee.
(G) One member appointed by the President to represent the National Security Council.

(2) CHAIRPERSON.—The Chairperson of the Board shall be the Secretary of Homeland Security.

(c) DUTIES.—The Board shall—

(1) review and ratify or disapprove any regulation or security directive issued by the Administrator of the Transportation Security Administration under section 114(l)(2) within 30 days after the date of issuance of such regulation or directive;

(2) facilitate the coordination of intelligence, security, and law enforcement activities affecting transportation;

(3) facilitate the sharing of intelligence, security, and law enforcement information affecting transportation among Federal agencies and with carriers and other transportation providers as appropriate;

(4) explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security;

(5) review plans for transportation security;

(6) make recommendations to the Administrator regarding matters reviewed under paragraph (5).

(d) QUARTERLY MEETINGS.—The Board shall meet at least quarterly.

(e) CONSIDERATION OF SECURITY INFORMATION.—A majority of the Board may vote to close a meeting of the Board to the public, except that meetings shall be closed to the public whenever classified,[1] sensitive security information, or information protected in accordance with section 40119(b),[2] will be discussed.

(Added Pub. L. 107–71, title I, §102(a), Nov. 19, 2001, 115 Stat. 604; amended Pub. L. 107–296, title IV, §426(a), Nov. 25, 2002, 116 Stat. 2186; Pub. L. 111–259, title IV, §411, Oct. 7, 2010, 124 Stat. 2725; Pub. L. 115–254, div. K, title I, §1991(b), Oct. 5, 2018, 132 Stat. 3626.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 40119 of this title, referred to in subsec. (e), was repealed by Pub. L. 115–254, div. K, title I, §1991(c)(3), Oct. 5, 2018, 132 Stat. 3627.

AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115–254, §1991(b)(1), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for security".

Subsec. (c)(6). Pub. L. 115–254, §1991(b)(2), substituted "Administrator" for "Under Secretary".

2010—Subsec. (b)(1)(F). Pub. L. 111–259 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "The Director of the Central Intelligence Agency, or the Director's designee."

2002—Subsec. (a). Pub. L. 107–296, §426(a)(1), substituted "Department of Homeland Security" for "Department of Transportation".

Subsec. (b)(1). Pub. L. 107–296, §426(a)(2), added subpar. (A), redesignated former subpars. (A) to (F) as (B) to (G), respectively, and struck out former subpar. (G) which read as follows: "One member appointed by the President to represent the Office of Homeland Security."

Subsec. (b)(2). Pub. L. 107–296, §426(a)(3), substituted "Secretary of Homeland Security" for "Secretary of Transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] So in original. The word "information" probably should be inserted.

[2] See References in Text note below.

§116. National Surface Transportation and Innovative Finance Bureau

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a National Surface Transportation and Innovative Finance Bureau in the Department.

(b) PURPOSES.—The purposes of the Bureau shall be—

(1) to provide assistance and communicate best practices and financing and funding opportunities to eligible entities for the programs referred to in subsection (d)(1);

(2) to administer the application processes for programs within the Department in accordance with subsection (d);
(3) to promote innovative financing best practices in accordance with subsection (e);
(4) to reduce uncertainty and delays with respect to environmental reviews and permitting in accordance with subsection (f); and
(5) to reduce costs and risks to taxpayers in project delivery and procurement in accordance with subsection (g).

(c) EXECUTIVE DIRECTOR.—
(1) APPOINTMENT.—The Bureau shall be headed by an Executive Director, who shall be appointed in the competitive service by the Secretary, with the approval of the President.
(2) DUTIES.—The Executive Director shall—
(A) report to the Under Secretary of Transportation for Policy;
(B) be responsible for the management and oversight of the daily activities, decisions, operations, and personnel of the Bureau;
(C) support the Council on Credit and Finance established under section 117 in accordance with this section; and
(D) carry out such additional duties as the Secretary may prescribe.

(d) ADMINISTRATION OF CERTAIN APPLICATION PROCESSES.—
(1) IN GENERAL.—The Bureau shall administer the application processes for the following programs:
(A) The infrastructure finance programs authorized under chapter 6 of title 23.
(B) The railroad rehabilitation and improvement financing program authorized under sections 22401 through 22403.
(C) Amount allocations authorized under section 142(m) of the Internal Revenue Code of 1986.
(D) The Rural and Tribal Assistance Pilot Program established under section 21205(b)(1) of the Surface Transportation Investment Act of 2021.

(2) CONGRESSIONAL NOTIFICATION.—The Executive Director shall ensure that the congressional notification requirements for each program referred to in paragraph (1) are followed in accordance with the statutory provisions applicable to the program.
(3) REPORTS.—The Executive Director shall ensure that the reporting requirements for each program referred to in paragraph (1) are followed in accordance with the statutory provisions applicable to the program.
(4) COORDINATION.—In administering the application processes for the programs referred to in paragraph (1), the Executive Director shall coordinate with appropriate officials in the Department and its modal administrations responsible for administering such programs.
(5) STREAMLINING APPROVAL PROCESSES.—Not later than 1 year after the date of enactment of this section, the Executive Director shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Environment and Public Works of the Senate a report that—
(A) evaluates the application processes for the programs referred to in paragraph (1);
(B) identifies administrative and legislative actions that would improve the efficiency of the application processes without diminishing Federal oversight; and
(C) describes how the Executive Director will implement administrative actions identified under subparagraph (B) that do not require an Act of Congress.

(6) PROCEDURES AND TRANSPARENCY.—
(A) PROCEDURES.—With respect to the programs referred to in paragraph (1), the Executive Director shall—

(i) establish procedures for analyzing and evaluating applications and for utilizing the recommendations of the Council on Credit and Finance;

(ii) establish procedures for addressing late-arriving applications, as applicable, and communicating the Bureau's decisions for accepting or rejecting late applications to the applicant and the public; and

(iii) document major decisions in the application evaluation process through a decision memorandum or similar mechanism that provides a clear rationale for such decisions.

(B) REVIEW.—

(i) IN GENERAL.—The Comptroller General of the United States shall review the compliance of the Executive Director with the requirements of this paragraph.

(ii) RECOMMENDATIONS.—The Comptroller General may make recommendations to the Executive Director in order to improve compliance with the requirements of this paragraph.

(iii) REPORT.—Not later than 3 years after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under clause (i), including findings and recommendations for improvement.

(e) INNOVATIVE FINANCING BEST PRACTICES.—

(1) IN GENERAL.—The Bureau shall work with the modal administrations within the Department, eligible entities, and other public and private interests to develop and promote best practices for innovative financing and public-private partnerships.

(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

(A) by making Federal credit assistance programs more accessible to eligible recipients;

(B) by providing advice and expertise to eligible entities that seek to leverage public and private funding;

(C) by sharing innovative financing best practices and case studies from eligible entities with other eligible entities that are interested in utilizing innovative financing methods; and

(D) by developing and monitoring—

(i) best practices with respect to standardized State public-private partnership authorities and practices, including best practices related to—

(I) accurate and reliable assumptions for analyzing public-private partnership procurements;

(II) procedures for the handling of unsolicited bids;

(III) policies with respect to noncompete clauses; and

(IV) other significant terms of public-private partnership procurements, as determined appropriate by the Bureau;

(ii) standard contracts for the most common types of public-private partnerships for transportation facilities; and

(iii) analytical tools and other techniques to aid eligible entities in determining the appropriate project delivery model, including a value for money analysis.

(3) TRANSPARENCY.—The Bureau shall—

(A) ensure the transparency of a project receiving credit assistance under a program referred to in subsection (d)(1) and procured as a public-private partnership by—

(i) requiring the sponsor of the project to undergo a value for money analysis or a comparable analysis prior to deciding to advance the project as a public-private partnership;

(ii) requiring the analysis required under subparagraph (A), and other key terms of the relevant public-private partnership agreement, to be made publicly available by the project

sponsor at an appropriate time;

(iii) not later than 3 years after the date of completion of the project, requiring the sponsor of the project to conduct a review regarding whether the private partner is meeting the terms of the relevant public-private partnership agreement; and

(iv) providing a publicly available summary of the total level of Federal assistance in such project; and

(B) develop guidance to implement this paragraph that takes into consideration variations in State and local laws and requirements related to public-private partnerships.

(4) SUPPORT TO PROJECT SPONSORS.—At the request of an eligible entity, the Bureau shall provide technical assistance to the eligible entity regarding proposed public-private partnership agreements for transportation facilities, including assistance in performing a value for money analysis or comparable analysis.

(f) ENVIRONMENTAL REVIEW AND PERMITTING.—

(1) IN GENERAL.—The Bureau shall take actions that are appropriate and consistent with the Department's goals and policies to improve the delivery timelines for projects carried out under the programs referred to in subsection (d)(1).

(2) ACTIVITIES.—The Bureau shall carry out paragraph (1)—

(A) by coordinating efforts to improve the efficiency and effectiveness of the environmental review and permitting process;

(B) by providing technical assistance and training to field and headquarters staff of Federal agencies on policy changes and innovative approaches to the delivery of projects; and

(C) by identifying, developing, and tracking metrics for permit reviews and decisions by Federal agencies for projects under the National Environmental Policy Act of 1969.

(3) SUPPORT TO PROJECT SPONSORS.—At the request of an eligible entity that is carrying out a project under a program referred to in subsection (d)(1), the Bureau, in coordination with the appropriate modal administrations within the Department, shall provide technical assistance with regard to the compliance of the project with the requirements of the National Environmental Policy Act 1969 and relevant Federal environmental permits.

(g) PROJECT PROCUREMENT.—

(1) IN GENERAL.—The Bureau shall promote best practices in procurement for a project receiving assistance under a program referred to in subsection (d)(1) by developing, in coordination with modal administrations within the Department as appropriate, procurement benchmarks in order to ensure accountable expenditure of Federal assistance over the life cycle of the project.

(2) PROCUREMENT BENCHMARKS.—To the maximum extent practicable, the procurement benchmarks developed under paragraph (1) shall—

(A) establish maximum thresholds for acceptable project cost increases and delays in project delivery;

(B) establish uniform methods for States to measure cost and delivery changes over the life cycle of a project; and

(C) be tailored, as necessary, to various types of project procurements, including design-bid-build, design-build, and public-private partnerships.

(3) DATA COLLECTION.—The Bureau shall—

(A) collect information related to procurement benchmarks developed under paragraph (1), including project specific information detailed under paragraph (2); and

(B) provide on a publicly accessible Internet Web site of the Department a report on the information collected under subparagraph (A).

(h) ELIMINATION AND CONSOLIDATION OF DUPLICATIVE OFFICES.—

(1) ELIMINATION OF OFFICES.—The Secretary may eliminate any office within the Department if the Secretary determines that—

(A) the purposes of the office are duplicative of the purposes of the Bureau; and

(B) the elimination of the office does not adversely affect the obligations of the Secretary under any Federal law.

(2) CONSOLIDATION OF OFFICES AND OFFICE FUNCTIONS.—The Secretary may consolidate any office or office function within the Department into the Bureau that the Secretary determines has duties, responsibilities, resources, or expertise that support the purposes of the Bureau.

(3) STAFFING AND BUDGETARY RESOURCES.—

(A) IN GENERAL.—The Secretary shall ensure that the Bureau is adequately staffed and funded.

(B) STAFFING.—The Secretary may transfer to the Bureau a position within the Department from any office that is eliminated or consolidated under this subsection if the Secretary determines that the position is necessary to carry out the purposes of the Bureau.

(C) SAVINGS PROVISION.—If the Secretary transfers a position to the Bureau under subparagraph (B), the Secretary, in coordination with the appropriate modal administration, shall ensure that the transfer of the position does not adversely affect the obligations of the modal administration under any Federal law.

(D) BUDGETARY RESOURCES.—

(i) TRANSFER OF FUNDS FROM ELIMINATED OR CONSOLIDATED OFFICES .—The Secretary may transfer to the Bureau funds allocated to any office or office function that is eliminated or consolidated under this subsection to carry out the purposes of the Bureau. Any such funds or limitation of obligations or portions thereof transferred to the Bureau may be transferred back to and merged with the original account.

(ii) TRANSFER OF FUNDS ALLOCATED TO ADMINISTRATIVE COSTS.—The Secretary may transfer to the Bureau funds allocated to the administrative costs of processing applications for the programs referred to in subsection (d)(1). Any such funds or limitation of obligations or portions thereof transferred to the Bureau may be transferred back to and merged with the original account.

(4) NOTIFICATION.—Not later than 90 days after the date of enactment of this section, and every 90 days thereafter, the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate of—

(A) the offices eliminated under paragraph (1) and the rationale for elimination of the offices;

(B) the offices and office functions consolidated under paragraph (2) and the rationale for consolidation of the offices and office functions;

(C) the actions taken under paragraph (3) and the rationale for taking such actions; and

(D) any additional legislative actions that may be needed.

(i) SAVINGS PROVISIONS.—

(1) LAWS AND REGULATIONS.—Nothing in this section may be construed to change a law or regulation with respect to a program referred to in subsection (d)(1).

(2) RESPONSIBILITIES.—Nothing in this section may be construed to abrogate the responsibilities of an agency, operating administration, or office within the Department otherwise charged by a law or regulation with other aspects of program administration, oversight, or project approval or implementation for the programs and projects subject to this section.

(3) APPLICABILITY.—Nothing in this section may be construed to affect any pending

application under 1 or more of the programs referred to in subsection (d)(1) that was received by the Secretary on or before the date of enactment of this section.

(j) DEFINITIONS.—In this section, the following definitions apply:

(1) BUREAU.—The term "Bureau" means the National Surface Transportation and Innovative Finance Bureau of the Department.

(2) DEPARTMENT.—The term "Department" means the Department of Transportation.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means an eligible applicant receiving financial or credit assistance under 1 or more of the programs referred to in subsection (d)(1).

(4) EXECUTIVE DIRECTOR.—The term "Executive Director" means the Executive Director of the Bureau.

(5) MULTIMODAL PROJECT.—The term "multimodal project" means a project involving the participation of more than 1 modal administration or secretarial office within the Department.

(6) PROJECT.—The term "project" means a highway project, public transportation capital project, freight or passenger rail project, or multimodal project.

(Added Pub. L. 114–94, div. A, title IX, §9001(a), Dec. 4, 2015, 129 Stat. 1612; amended Pub. L. 115–56, div. D, §164(a), as added Pub. L. 115–123, div. B, §20101(2), Feb. 9, 2018, 132 Stat. 121; Pub. L. 117–58, div. B, title I, §§21101(d)(4), 21205(i), 21301(j)(4)(A), title V, §25009(b), Nov. 15, 2021, 135 Stat. 657, 682, 692, 854.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 142 of the Internal Revenue Code of 1986, referred to in subsec. (d)(1)(C), is classified to section 142 of Title 26, Internal Revenue Code.

Section 21205(b)(1) of the Surface Transportation Investment Act of 2021, referred to in subsec. (d)(1)(D), is section 21205(b)(1) of Pub. L. 117–58, which is set out in a note below.

The date of enactment of this section, referred to in subsecs. (d)(5), (6)(B)(iii), (h)(4), and (i)(3), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

The National Environmental Policy Act of 1969, referred to in subsec. (f)(2)(D), (3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (d)(1)(B). Pub. L. 117–58, §21301(j)(4)(A), substituted "sections 22401 through 22403" for "sections 501 through 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821–823)".

Subsec. (d)(1)(D). Pub. L. 117–58, §21205(h), added subpar. (D). Former subpar. (D) struck out.

Pub. L. 117–58, §21101(d)(4), struck out subpar. (D) which read as follows: "The nationally significant freight and highway projects program under section 117 of title 23."

Subsec. (f)(2). Pub. L. 117–58, §25009(b), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: "by serving as the Department's liaison to the Council on Environmental Quality;".

2018—Subsec. (h)(3)(D)(i), (ii). Pub. L. 115–56, §164(a), as added by Pub. L. 115–123, §20101(2), substituted "The" for "During the 2-year period beginning on the date of enactment of this section, the" and inserted at end "Any such funds or limitation of obligations or portions thereof transferred to the Bureau may be transferred back to and merged with the original account."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

RURAL AND TRIBAL INFRASTRUCTURE ADVANCEMENT

Pub. L. 117–58, div. B, title I, §21205(a)–(h), Nov. 15, 2021, 135 Stat. 680–682, provided that:

"(a) DEFINITIONS.—In this section:

"(1) BUILD AMERICA BUREAU.—The term 'Build America Bureau' means the National Surface Transportation and Innovative Finance Bureau established under section 116 of title 49, United States Code.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a unit of local government or political subdivision that is located outside of an urbanized area with a population of more than 150,000 residents, as determined by the Bureau of the Census;

"(B) a State seeking to advance a project located in an area described in subparagraph (A);

"(C) a federally recognized Indian Tribe; and

"(D) the Department of Hawaiian Home Lands.

"(3) ELIGIBLE PROGRAM.—The term 'eligible program' means any program described in—

"(A) subparagraph (A) or (B) of section 116(d)(1) of title 49, United States Code;

"(B) section 118(d)(3)(A) of that title (as added by section 21101(a)); or

"(C) chapter 67 of that title (as added by section 21201).

"(4) PILOT PROGRAM.—The term 'pilot program' means the Rural and Tribal Assistance Pilot Program established under subsection (b)(1).

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall establish within the Build America Bureau a pilot program, to be known as the 'Rural and Tribal Assistance Pilot Program', to provide to eligible entities the assistance and information described in paragraph (2).

"(2) ASSISTANCE AND INFORMATION.—In carrying out the pilot program, the Secretary may provide to an eligible entity the following:

"(A) Financial, technical, and legal assistance to evaluate potential projects reasonably expected to be eligible to receive funding or financing assistance under an eligible program.

"(B) Assistance with development-phase activities, including—

"(i) project planning;

"(ii) feasibility studies;

"(iii) revenue forecasting and funding and financing options analyses;

"(iv) environmental review;

"(v) preliminary engineering and design work;

"(vi) economic assessments and cost-benefit analyses;

"(vii) public benefit studies;

"(viii) statutory and regulatory framework analyses;

"(ix) value for money studies;

"(x) evaluations of costs to sustain the project;

"(xi) evaluating opportunities for private financing and project bundling; and

"(xii) any other activity determined to be appropriate by the Secretary.

"(C) Information regarding innovative financing best practices and case studies, if the eligible entity is interested in using innovative financing methods.

"(c) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in providing financial, technical, and legal assistance to eligible entities under the pilot program.

"(d) WEBSITE.—

"(1) DESCRIPTION OF PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall make publicly available on the website of the Department [of Transporation] a description of the pilot program, including—

"(i) the resources available to eligible entities under the pilot program; and

"(ii) the application process established under paragraph (2)(A).

"(B) CLEARINGHOUSE.—The Secretary may establish a clearinghouse for tools, templates, and best practices on the page of the website of the Department that contains the information described in subparagraph (A).

"(2) APPLICATIONS.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall establish a process by which an eligible entity may submit to the Secretary an application under the pilot program, in such form and containing such information as the Secretary may require.

"(B) ONLINE PORTAL.—The Secretary shall develop and make available to the public an

online portal through which the Secretary may receive applications under subparagraph (A), on a rolling basis.

"(C) APPROVAL.—

"(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a complete application under subparagraph (A), the Secretary shall provide to each eligible entity that submitted the application a notice describing whether the application is approved or disapproved.

"(ii) ADDITIONAL WRITTEN NOTIFICATION.—

"(I) IN GENERAL.—Not later than 30 days after the date on which the Secretary provides to an eligible entity a notification under clause (i), the Secretary shall provide to the eligible entity an additional written notification of the approval or disapproval of the application.

"(II) DISAPPROVED APPLICATIONS.—If the application of an eligible entity is disapproved under this subparagraph, the additional written notification provided to the eligible entity under subclause (I) shall include an offer for a written or telephonic debrief by the Secretary that will provide an explanation of, and guidance regarding, the reasons why the application was disapproved.

"(iii) INSUFFICIENT APPLICATIONS.—The Secretary shall not approve an application under this subparagraph if the application fails to meet the applicable criteria established under this section.

"(3) DASHBOARD.—The Secretary shall publish on the website of the Department a monthly report that includes, for each application received under the pilot program—

"(A) the type of eligible entity that submitted the application;

"(B) the location of each potential project described in the application;

"(C) a brief description of the assistance requested;

"(D) the date on which the Secretary received the application; and

"(E) the date on which the Secretary provided the notice of approval or disapproval under paragraph (2)(C)(i).

"(e) EXPERTS.—An eligible entity that receives assistance under the pilot program may retain the services of an expert for any phase of a project carried out using the assistance, including project development, regardless of whether the expert is retained by the Secretary under subsection (c).

"(f) FUNDING.—

"(1) IN GENERAL.—For each of fiscal years 2022 through 2026, the Secretary may use to carry out the pilot program, including to retain the services of expert firms under subsection (c), any amount made available to the Secretary to provide credit assistance under an eligible program that is not otherwise obligated, subject to paragraph (2).

"(2) LIMITATION.—The amount used under paragraph (1) to carry out the pilot program shall be not more than—

"(A) $1,600,000 for fiscal year 2022;

"(B) $1,800,000 for fiscal year 2023;

"(C) $2,000,000 for fiscal year 2024;

"(D) $2,200,000 for fiscal year 2025; and

"(E) $2,400,000 for fiscal year 2026.

"(3) GEOGRAPHICAL DISTRIBUTION.—Not more than 20 percent of the funds made available to carry out the pilot program for a fiscal year may be used for projects in a single State during that fiscal year.

"(g) SUNSET.—The pilot program shall terminate on the date that is 5 years after the date of enactment of this Act [Nov. 15, 2021].

"(h) NONAPPLICABILITY.—Nothing in this section limits the ability of the Build America Bureau or the Secretary to establish or carry out any other assistance program under title 23 or title 49, United States Code."

§117. Council on Credit and Finance

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Council on Credit and Finance in accordance with this section.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of the following members:

(A) The Deputy Secretary of Transportation.

(B) The Under Secretary of Transportation for Policy.

(C) The Chief Financial Officer and Assistant Secretary for Budget and Programs.

(D) The General Counsel of the Department of Transportation.

(E) The Assistant Secretary for Transportation Policy.
(F) The Administrator of the Federal Highway Administration.
(G) The Administrator of the Federal Transit Administration.
(H) The Administrator of the Federal Railroad Administration.

(2) ADDITIONAL MEMBERS.—The Secretary may designate up to 3 additional officials of the Department to serve as at-large members of the Council.
(3) CHAIRPERSON AND VICE CHAIRPERSON.—
(A) CHAIRPERSON.—The Deputy Secretary of Transportation shall serve as the chairperson of the Council.
(B) VICE CHAIRPERSON.—The Chief Financial Officer and Assistant Secretary for Budget and Programs shall serve as the vice chairperson of the Council.

(4) EXECUTIVE DIRECTOR.—The Executive Director of the National Surface Transportation and Innovative Finance Bureau shall serve as a nonvoting member of the Council.

(c) DUTIES.—The Council shall—
(1) review applications for assistance submitted under the programs referred to in subparagraphs (A), (B), and (C) of section 116(d)(1);
(2) review applications for assistance submitted under the program referred to in section 116(d)(1)(D), as determined appropriate by the Secretary;
(3) make recommendations to the Secretary regarding the selection of projects to receive assistance under such programs;
(4) review, on a regular basis, projects that received assistance under such programs; and
(5) carry out such additional duties as the Secretary may prescribe.

(Added Pub. L. 114–94, div. A, title IX, §9002(a), Dec. 4, 2015, 129 Stat. 1618.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§118. Office of Multimodal Freight Infrastructure and Policy

(a) DEFINITIONS.—In this section:
(1) DEPARTMENT.—The term "Department" means the Department of Transportation.
(2) FREIGHT OFFICE.—The term "Freight Office" means the Office of Multimodal Freight Infrastructure and Policy established under subsection (b).
(3) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) ESTABLISHMENT.—The Secretary shall establish within the Department an Office of Multimodal Freight Infrastructure and Policy.
(c) PURPOSES.—The purposes of the Freight Office shall be—
(1) to carry out the national multimodal freight policy described in section 70101;
(2) to administer and oversee certain multimodal freight grant programs within the Department in accordance with subsection (d);
(3) to promote and facilitate the sharing of information between the private and public sectors with respect to freight issues;
(4) to conduct research on improving multimodal freight mobility, and to oversee the freight research activities of the various agencies within the Department;
(5) to assist cities and States in developing freight mobility and supply chain expertise;

(6) to liaise and coordinate with other Federal departments and agencies; and
(7) to carry out other duties, as prescribed by the Secretary.

(d) ADMINISTRATION OF POLICIES AND PROGRAMS.—The Freight Office shall—
(1) develop and manage—
(A) the national freight strategic plan described in section 70102; and
(B) the National Multimodal Freight Network established under section 70103;

(2)(A) oversee the development and updating of the State freight plans described in section 70202; and
(B) provide guidance or best practices relating to the development and updating of State freight plans under that section;
(3)(A) administer multimodal freight grant programs, including multimodal freight grants established under section 117 of title 23; and
(B) establish procedures for analyzing and evaluating applications for grants under those programs;
(4) assist States in the establishment of—
(A) State freight advisory committees under section 70201; and
(B) multi-State freight mobility compacts under section 70204; and

(5) provide to the Bureau of Transportation Statistics input regarding freight data and planning tools.

(e) ASSISTANT SECRETARY.—
(1) IN GENERAL.—The Freight Office shall be headed by an Assistant Secretary for Multimodal Freight, who shall—
(A) be appointed by the President, by and with the advice and consent of the Senate; and
(B) have professional standing and demonstrated knowledge in the field of freight transportation.

(2) DUTIES.—The Assistant Secretary shall—
(A) report to the Under Secretary of Transportation for Policy;
(B) be responsible for the management and oversight of the activities, decisions, operations, and personnel of the Freight Office;
(C) work with the modal administrations of the Department to encourage multimodal collaboration; and
(D) carry out such additional duties as the Secretary may prescribe.

(f) CONSOLIDATION AND ELIMINATION OF DUPLICATIVE OFFICES.—
(1) CONSOLIDATION OF OFFICES AND OFFICE FUNCTIONS.—The Secretary may consolidate into the Freight Office any office or office function within the Department that the Secretary determines has duties, responsibilities, resources, or expertise that support the purposes of the Freight Office.
(2) ELIMINATION OF OFFICES.—The Secretary may eliminate any office within the Department if the Secretary determines that—
(A) the purposes of the office are duplicative of the purposes of the Freight Office;
(B) the office or the functions of the office have been substantially consolidated with the Freight Office pursuant to paragraph (1);
(C) the elimination of the office will not adversely affect the requirements of the Secretary under any Federal law; and
(D) the elimination of the office will improve the efficiency and effectiveness of the programs and functions conducted by the office.

(g) STAFFING AND BUDGETARY RESOURCES.—

(1) IN GENERAL.—The Secretary shall ensure that the Freight Office is adequately staffed and funded.

(2) STAFFING.—

(A) TRANSFER OF POSITIONS TO FREIGHT OFFICE.—Subject to subparagraph (B), the Secretary may transfer to the Freight Office any position within any other office of the Department if the Secretary determines that the position is necessary to carry out the purposes of the Freight Office.

(B) REQUIREMENT.—If the Secretary transfers a position to the Freight Office pursuant to subparagraph (A), the Secretary, in coordination with the appropriate modal administration of the Department, shall ensure that the transfer of the position does not adversely affect the requirements of the modal administration under any Federal law.

(3) BUDGETARY RESOURCES.—

(A) TRANSFER OF FUNDS FROM CONSOLIDATED OR ELIMINATED OFFICES.—

(i) IN GENERAL.—To carry out the purposes of the Freight Office, the Secretary may transfer to the Freight Office from any office or office function that is consolidated or eliminated under subsection (f) any funds allocated for the consolidated or eliminated office or office function.

(ii) RETRANSFER.—Any portion of any funds or limitations of obligations transferred to the Freight Office pursuant to clause (i) may be transferred back to, and merged with, the original account.

(B) TRANSFER OF FUNDS ALLOCATED FOR ADMINISTRATIVE COSTS.—

(i) IN GENERAL.—The Secretary may transfer to the Freight Office any funds allocated for the administrative costs of the programs referred to in subsection (d)(3).

(ii) RETRANSFER.—Any portion of any funds or limitations of obligations transferred to the Freight Office pursuant to clause (i) may be transferred back to, and merged with, the original account.

(h) WEBSITE.—

(1) DESCRIPTION OF FREIGHT OFFICE.—The Secretary shall make publicly available on the website of the Department a description of the Freight Office, including a description of—

(A) the programs managed or made available by the Freight Office; and

(B) the eligibility requirements for those programs.

(2) CLEARINGHOUSE.—The Secretary may establish a clearinghouse for tools, templates, guidance, and best practices on a page of the website of the Department that supports the purposes of this section.

(i) NOTIFICATION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, and not less frequently than once every 180 days thereafter until the date on which the Secretary determines that the requirements of this section have been met, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a notification that—

(1) describes—

(A) the programs and activities administered or overseen by the Freight Office; and

(B) the status of those programs and activities;

(2) identifies—

(A) the number of employees working in the Freight Office as of the date of the notification;

(B) the total number of employees expected to join the Freight Office to support the programs and activities described in paragraph (1); and

(C) the total number of positions that, as a result of the consolidation of offices under this section, were—

(i) eliminated; or

(ii) transferred, assigned, or joined to the Freight Office;

(3)(A) indicates whether the Secretary has consolidated into the Freight Office any office or office function pursuant to subsection (f)(1); and

(B) if the Secretary has consolidated such an office or function, describes the rationale for the consolidation;

(4)(A) indicates whether the Secretary has eliminated any office pursuant to subsection (f)(2); and

(B) if the Secretary has eliminated such an office, describes the rationale for the elimination;

(5) describes any other actions carried out by the Secretary to implement this section; and

(6) describes any recommendations of the Secretary for legislation that may be needed to further implement this section.

(j) SAVINGS PROVISIONS.—

(1) EFFECT ON OTHER LAW.—Except as otherwise provided in this section, nothing in this section alters or affects any law (including regulations) with respect to a program referred to in subsection (d).

(2) EFFECT ON RESPONSIBILITIES OF OTHER AGENCIES.—Except as otherwise provided in this section, nothing in this section abrogates the responsibilities of any agency, operating administration, or office within the Department that is otherwise charged by law (including regulations) with any aspect of program administration, oversight, or project approval or implementation with respect to a program or project subject to the responsibilities of the Freight Office under this section.

(3) EFFECT ON PENDING APPLICATIONS.—Nothing in this section affects any pending application under a program referred to in subsection (d) that was received by the Secretary on or before the date of enactment of the Surface Transportation Investment Act of 2021.

(k) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

(2) CERTAIN ACTIVITIES.—Authorizations under subsections (f) and (g) are subject to appropriations.

(Added Pub. L. 117–58, div. B, title I, §21101(a), Nov. 15, 2021, 135 Stat. 652.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section and the date of enactment of the Surface Transportation Investment Act of 2021, referred to in subsecs. (i) and (j)(3), are the date of enactment of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

§119. Advanced Research Projects Agency–Infrastructure

(a) DEFINITIONS.—In this section:

(1) ARPA–I.— The term "ARPA–I" means the Advanced Research Projects Agency–Infrastructure established by subsection (b).

(2) DEPARTMENT.—The term "Department" means the Department of Transportation.

(3) DIRECTOR.—The term "Director" means the Director of ARPA–I appointed under subsection (d).

(4) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a unit of State or local government;
(B) an institution of higher education;
(C) a commercial entity;
(D) a research foundation;
(E) a trade or industry research collaborative;
(F) a federally funded research and development center;
(G) a research facility owned or funded by the Department;
(H) a collaborative that includes relevant international entities; and
(I) a consortia of 2 or more entities described in any of subparagraphs (A) through (H).

(5) INFRASTRUCTURE.—
(A) IN GENERAL.—The term "infrastructure" means any transportation method or facility that facilitates the transit of goods or people within the United States (including territories).
(B) INCLUSIONS.—The term "infrastructure" includes—
(i) roads;
(ii) highways;
(iii) bridges;
(iv) airports;
(v) rail lines;
(vi) harbors; and
(vii) pipelines.

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

(b) ESTABLISHMENT.—There is established within the Department an agency, to be known as the "Advanced Research Projects Agency–Infrastructure", to support the development of science and technology solutions—
(1) to overcome long-term challenges; and
(2) to advance the state of the art for United States transportation infrastructure.

(c) GOALS.—
(1) IN GENERAL.—The goals of ARPA–I shall be—
(A) to advance the transportation infrastructure of the United States by developing innovative science and technology solutions that—
(i) lower the long-term costs of infrastructure development, including costs of planning, construction, and maintenance;
(ii) reduce the lifecycle impacts of transportation infrastructure on the environment, including through the reduction of greenhouse gas emissions;
(iii) contribute significantly to improving the safe, secure, and efficient movement of goods and people; and
(iv) promote the resilience of infrastructure from physical and cyber threats; and

(B) to ensure that the United States is a global leader in developing and deploying advanced transportation infrastructure technologies and materials.

(2) RESEARCH PROJECTS.—ARPA–I shall achieve the goals described in paragraph (1) by providing assistance under this section for infrastructure research projects that—
(A) advance novel, early-stage research with practicable application to transportation infrastructure;
(B) translate techniques, processes, and technologies, from the conceptual phase to prototype, testing, or demonstration;
(C) develop advanced manufacturing processes and technologies for the domestic manufacturing of novel transportation-related technologies; and

(D) accelerate transformational technological advances in areas in which industry entities are unlikely to carry out projects due to technical and financial uncertainty.

(d) DIRECTOR.—

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

(2) QUALIFICATIONS.—The Director shall be an individual who, by reason of professional background and experience, is especially qualified to advise the Secretary regarding, and manage research programs addressing, matters relating to the development of science and technology solutions to advance United States transportation infrastructure.

(3) RELATIONSHIP TO SECRETARY.—The Director shall—

(A) be located within the Office of the Assistant Secretary for Research and Technology; and

(B) report to the Secretary.

(4) RELATIONSHIP TO OTHER PROGRAMS.—No other program within the Department shall report to the Director.

(5) RESPONSIBILITIES.—The responsibilities of the Director shall include—

(A) approving new programs within ARPA–I;

(B) developing funding criteria, and assessing the success of programs, to achieve the goals described in subsection (c)(1) through the establishment of technical milestones;

(C) administering available funding by providing to eligible entities assistance to achieve the goals described in subsection (c)(1);

(D) terminating programs carried out under this section that are not achieving the goals of the programs; and

(E) establishing a process through which eligible entities can submit to ARPA–I unsolicited research proposals for assistance under this section in accordance with subsection (f).

(e) PERSONNEL.—

(1) IN GENERAL.—The Director shall establish and maintain within ARPA–I a staff with sufficient qualifications and expertise to enable ARPA–I to carry out the responsibilities under this section, in conjunction with other operations of the Department.

(2) PROGRAM DIRECTORS.—

(A) IN GENERAL.—The Director shall designate employees to serve as program directors for ARPA–I.

(B) RESPONSIBILITIES.—Each program director shall be responsible for—

(i) establishing research and development goals for the applicable program, including by convening workshops and conferring with outside experts;

(ii) publicizing the goals of the applicable program;

(iii) soliciting applications for specific areas of particular promise, especially in areas that the private sector or the Federal Government are not likely to carry out absent assistance from ARPA–I;

(iv) establishing research collaborations for carrying out the applicable program;

(v) selecting on the basis of merit each project to be supported under the applicable program, taking into consideration—

(I) the novelty and scientific and technical merit of proposed projects;

(II) the demonstrated capabilities of eligible entities to successfully carry out proposed projects;

(III) the extent to which an eligible entity took into consideration future commercial applications of a proposed project, including the feasibility of partnering with 1 or more commercial entities; and

(IV) such other criteria as the Director may establish;

(vi) identifying innovative cost-sharing arrangements for projects carried out or funded by

ARPA–I;

(vii) monitoring the progress of projects supported under the applicable program;

(viii) identifying mechanisms for commercial application of successful technology development projects, including through establishment of partnerships between eligible entities and commercial entities; and

(ix) as applicable, recommending—

(I) program restructuring; or

(II) termination of applicable research partnerships or projects.

(C) TERM OF SERVICE.—A program director—

(i) shall serve for a term of 3 years; and

(ii) may be reappointed for any subsequent term of service.

(3) HIRING AND MANAGEMENT.—

(A) IN GENERAL.—The Director may—

(i) make appointments of scientific, engineering, and professional personnel, without regard to the civil service laws;

(ii) fix the basic pay of such personnel at such rate as the Director may determine, but not to exceed level II of the Executive Schedule, without regard to the civil service laws; and

(iii) pay an employee appointed under this subparagraph payments in addition to basic pay, subject to the condition that the total amount of those additional payments for any 12-month period shall not exceed the least of—

(I) $25,000;

(II) an amount equal to 25 percent of the annual rate of basic pay of the employee; and

(III) the amount of the applicable limitation for a calendar year under section 5307(a)(1) of title 5.

(B) PRIVATE RECRUITING FIRMS.—The Director may enter into a contract with a private recruiting firm for the hiring of qualified technical staff to carry out this section.

(C) ADDITIONAL STAFF.—The Director may use all authorities available to the Secretary to hire administrative, financial, and clerical staff, as the Director determines to be necessary to carry out this section.

(f) RESEARCH PROPOSALS.—

(1) IN GENERAL.—An eligible entity may submit to the Director an unsolicited research proposal at such time, in such manner, and containing such information as the Director may require, including a description of—

(A) the extent of current and prior efforts with respect to the project proposed to be carried out using the assistance, if applicable; and

(B) any current or prior investments in the technology area for which funding is requested, including as described in subsection (c)(2)(D).

(2) REVIEW.—The Director—

(A) shall review each unsolicited research proposal submitted under paragraph (1), taking into consideration—

(i) the novelty and scientific and technical merit of the research proposal;

(ii) the demonstrated capabilities of the applicant to successfully carry out the research proposal;

(iii) the extent to which the applicant took into consideration future commercial applications of the proposed research project, including the feasibility of partnering with 1 or more commercial entities; and

(iv) such other criteria as the Director may establish;

(B) may approve a research proposal if the Director determines that the research—

(i) is in accordance with—

(I) the goals described in subsection (c)(1); or

(II) an applicable transportation research and development strategic plan developed under section 6503; and

(ii) would not duplicate any other Federal research being conducted or funded by another Federal agency; and

(C)(i) if funding is denied for the research proposal, shall provide to the eligible entity that submitted the proposal a written notice of the denial that, as applicable—

(I) explains why the research proposal was not selected, including whether the research proposal fails to cover an area of need; and

(II) recommends that the research proposal be submitted to another research program; or

(ii) if the research proposal is approved for funding, shall provide to the eligible entity that submitted the proposal—

(I) a written notice of the approval; and

(II) assistance in accordance with subsection (g) for the proposed research.

(g) FORMS OF ASSISTANCE.—On approval of a research proposal of an eligible entity, the Director may provide to the eligible entity assistance in the form of—

(1) a grant;

(2) a contract;

(3) a cooperative agreement;

(4) a cash prize; or

(5) another, similar form of funding.

(h) REPORTS AND ROADMAPS.—

(1) ANNUAL REPORTS.—For each fiscal year, the Director shall provide to the Secretary, for inclusion in the budget request submitted by the Secretary to the President under section 1108 of title 31 for the fiscal year, a report that, with respect to the preceding fiscal year, describes—

(A) the projects that received assistance from ARPA–I, including—

(i) each such project that was funded as a result of an unsolicited research proposal; and

(ii) each such project that examines topics or technologies closely related to other activities funded by the Department, including an analysis of whether the Director achieved compliance with subsection (i)(1) in supporting the project; and

(B) the instances of, and reasons for, the provision of assistance under this section for any projects being carried out by industry entities.

(2) STRATEGIC VISION ROADMAP.—Not later than October 1, 2022, and not less frequently than once every 4 years thereafter, the Director shall submit to the relevant authorizing and appropriations committees of Congress a roadmap describing the strategic vision that ARPA–I will use to guide the selection of future projects for technology investment during the 4 fiscal-year period beginning on the date of submission of the report.

(i) COORDINATION AND NONDUPLICATION.—The Director shall ensure that—

(1) the activities of ARPA–I are coordinated with, and do not duplicate the efforts of, programs and laboratories within—

(A) the Department; and

(B) other relevant research agencies; and

(2) no funding is provided by ARPA–I for a project, unless the eligible entity proposing the project—

(A) demonstrates sufficient attempts to secure private financing; or

(B) indicates that the project is not independently commercially viable.

(j) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate technologies resulting from activities funded through ARPA–I.

(k) PARTNERSHIPS.—The Director shall seek opportunities to enter into contracts or partnerships with minority-serving institutions (as described in any of paragraphs (1) through (7) of section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)))—

(1) to accomplish the goals of ARPA–I;

(2) to develop institutional capacity in advanced transportation infrastructure technologies and materials;

(3) to engage underserved populations in developing, demonstrating, and deploying those technologies and materials; and

(4) to otherwise address the needs of ARPA–I.

(l) UNIVERSITY TRANSPORTATION CENTERS.—The Director may—

(1) partner with university transportation centers under section 5505 to accomplish the goals, and address the needs, of ARPA–I; and

(2) sponsor and select for funding, in accordance with section 5505, competitively selected university transportation center grants, in addition to the assistance provided under section 5505, to address targeted technology and material goals of ARPA–I.

(m) ADVICE.—

(1) ADVISORY COMMITTEES.—The Director may seek advice regarding any aspect of ARPA–I from—

(A) an existing advisory committee, office, or other group within the Department; and

(B) a new advisory committee organized to support the programs of ARPA–I by providing advice and assistance regarding—

(i) specific program tasks; or

(ii) the overall direction of ARPA–I.

(2) ADDITIONAL SOURCES.—In carrying out this section, the Director may seek advice and review from—

(A) the President's Council of Advisors on Science and Technology;

(B) the Advanced Research Projects Agency–Energy; and

(C) any professional or scientific organization with expertise relating to specific processes or technologies under development by ARPA–I.

(n) EVALUATION.—

(1) IN GENERAL.—Not later than December 27, 2024, the Secretary may enter into an arrangement with the National Academy of Sciences under which the National Academy shall conduct an evaluation of the achievement by ARPA–I of the goals described in subsection (c)(1).

(2) INCLUSIONS.—The evaluation under paragraph (1) may include—

(A) a recommendation regarding whether ARPA–I should be continued;

(B) a recommendation regarding whether ARPA–I, or the Department generally, should continue to allow entities to submit unsolicited research proposals; and

(C) a description of—

(i) the lessons learned from the operation of ARPA–I; and

(ii) the manner in which those lessons may apply to the operation of other programs of the Department.

(3) AVAILABILITY.—On completion of the evaluation under paragraph (1), the evaluation shall be made available to—

(A) Congress; and

(B) the public.

(o) PROTECTION OF INFORMATION.—

(1) IN GENERAL.—Each type of information described in paragraph (2) that is collected by ARPA–I from eligible entities shall be considered to be—

(A) commercial and financial information obtained from a person;

(B) privileged or confidential; and

(C) not subject to disclosure under section 552(b)(4) of title 5.

(2) DESCRIPTION OF TYPES OF INFORMATION.—The types of information referred to in paragraph (1) are—

(A) information relating to plans for commercialization of technologies developed using assistance provided under this section, including business plans, technology-to-market plans, market studies, and cost and performance models;

(B) information relating to investments provided to an eligible entity from a third party (such as a venture capital firm, a hedge fund, and a private equity firm), including any percentage of ownership of an eligible entity provided in return for such an investment;

(C) information relating to additional financial support that the eligible entity—

(i) plans to invest, or has invested, in the technology developed using assistance provided under this section; or

(ii) is seeking from a third party; and

(D) information relating to revenue from the licensing or sale of a new product or service resulting from research conducted using assistance provided under this section.

(p) EFFECT ON EXISTING AUTHORITIES.—The authority provided by this section—

(1) shall be in addition to any existing authority provided to the Secretary; and

(2) shall not supersede or modify any other existing authority.

(q) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

(2) SEPARATE BUDGET AND APPROPRIATION.—

(A) BUDGET REQUEST.—The budget request for ARPA–I shall be separate from the budget request of the remainder of the Department.

(B) APPROPRIATIONS.—The funding appropriated for ARPA–I shall be separate and distinct from the funding appropriated for the remainder of the Department.

(3) ALLOCATION.—Of the amounts made available for a fiscal year under paragraph (1)—

(A) not less than 5 percent shall be used for technology transfer and outreach activities—

(i) in accordance with the goal described in subsection (c)(2)(D); and

(ii) within the responsibilities of the program directors described in subsection (e)(2)(B)(viii); and

(B) none may be used for the construction of any new building or facility during the 5-year period beginning on the date of enactment of the Surface Transportation Investment Act of 2021.

(Pub. L. 117–58, div. B, title V, §25012(a), Nov. 15, 2021, 135 Stat. 859.)

EDITORIAL NOTES

REFERENCES IN TEXT

Level II of the Executive Schedule, referred to in subsec. (e)(3)(A)(ii), is set out in section 5313 of Title 5, Government Organization and Employees.

The date of enactment of the Surface Transportation Investment Act of 2021, referred to in subsec. (q)(3)(B), is the date of enactment of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

Sec.

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302. Policy standards for transportation.
303. Policy on lands, wildlife and waterfowl refuges, and historic sites.
303a. Development of water transportation.
304. Application of categorical exclusions for multimodal projects.
304a. Accelerated decisionmaking in environmental reviews.
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308. Reports.
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SUBCHAPTER II—ADMINISTRATIVE

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333. Responsibility for rail transportation unification and coordination projects.
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351. Judicial review of actions in carrying out certain transferred duties and powers.
352. Authority to carry out certain transferred duties and powers.
353. Toxicological testing of officers and employees.
354. Investigative authority of Inspector General.
355. Motorcyclist Advisory Council.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title V, §25008(b), Nov. 15, 2021, 135 Stat. 852, which directed amendment of the analysis for subchapter I of this chapter by adding item 313 at the end, was executed by adding item 313 to the analysis for this chapter, to reflect the probable intent of Congress.

Pub. L. 117–58, div. B, title IV, §24111(b), Nov. 15, 2021, 135 Stat. 815, which directed amendment of the analysis for subchapter III of this chapter by adding item 355 at the end, was executed by adding item 355 to the analysis for this chapter, to reflect the probable intent of Congress.

2018—Pub. L. 115–282, title V, §514(c), Dec. 4, 2018, 132 Stat. 4278, which directed amendment of the analysis for this chapter by adding item 312 at the end, was executed by adding item 312 at the end of the item for subchapter I, to reflect the probable intent of Congress.

2016—Pub. L. 114–322, title IV, §5001(b), Dec. 16, 2016, 130 Stat. 1885, added item 311.

2015—Pub. L. 114–94, div. A, title I, §§1311(b), 1312(b), 1313(b), title VI, §6011(c), Dec. 4, 2015, 129 Stat. 1399, 1400, 1402, 1569, added items 304a, 307, and 310 and substituted "Research activities" for "Research contracts" in item 330.

Pub. L. 114–94, div. A, title I, §1446(d)(4), Dec. 4, 2015, 129 Stat. 1438, amended section 1314(b) of Pub. L. 112–141, effective July 6, 2012, as if included in Pub. L. 112–141 as enacted. See 2012 Amendment note below.

2012—Pub. L. 112–141, div. A, title I, §1314(b), div. C, title II, §32932(a)(2), July 6, 2012, 126 Stat. 549, 829, as amended by Pub. L. 114–94, div. A, title I, §1446(d)(4), Dec. 4, 2015, 129 Stat. 1438, substituted "Application of categorical exclusions for multimodal projects" for "Joint activities with the Secretary of Housing and Urban Development" in item 304 and struck out item 307 "Safety information and intervention in Interstate Commerce Commission proceedings".

2003—Pub. L. 108–168, §8(b)(2), Dec. 6, 2003, 117 Stat. 2035, added item 354.

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

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

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

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

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

§301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

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

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

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

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

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

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

(7) consult with the heads of other departments, agencies, and instrumentalities of the United States Government on the transportation requirements of the Government, including encouraging them to establish and observe policies consistent with maintaining a coordinated transportation

system in procuring transportation or in operating their own transport services;

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

(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2418; Pub. L. 102–240, title V, §5002(a), title VI, §6017, Dec. 18, 1991, 105 Stat. 2158, 2183; Pub. L. 105–178, title I, §1504, June 9, 1998, 112 Stat. 251.)

HISTORICAL AND REVISION NOTES

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

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

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

EDITORIAL NOTES

AMENDMENTS

1998—Par. (9). Pub. L. 105–178 added par. (9).

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

GEOMATIC DATA

Pub. L. 117–58, div. A, title I, §11308, Nov. 15, 2021, 135 Stat. 534, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall develop guidance for the acceptance and use of information obtained from a non-Federal entity through geomatic techniques, including remote sensing and land surveying, cartography, geographic information systems, global navigation satellite systems, photogrammetry, or other remote means.

"(b) CONSIDERATIONS.—In carrying out this section, the Secretary shall ensure that acceptance or use of information described in subsection (a) meets the data quality and operational requirements of the Secretary.

"(c) PUBLIC COMMENT.—Before issuing any final guidance under subsection (a), the Secretary shall provide to the public—

"(1) notice of the proposed guidance; and

"(2) an opportunity to comment on the proposed guidance.

"(d) SAVINGS CLAUSE.—Nothing in this section—

"(1) requires the Secretary to accept or use information that the Secretary determines does not meet the guidance developed under this section; or

"(2) changes the current statutory or regulatory requirements of the Department [of Transportation]."

RISK AND SYSTEM RESILIENCE

Pub. L. 117–58, div. B, title V, §25007, Nov. 15, 2021, 135 Stat. 849, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation], in consultation with appropriate Federal, State, and local agencies, shall develop a process for quantifying annual risk in order to increase system resilience with respect to the surface transportation system of the United States by measuring—

"(1) resilience to threat probabilities by type of hazard and geographical location;
"(2) resilience to asset vulnerabilities with respect to each applicable threat; and
"(3) anticipated consequences from each applicable threat to each asset.
"(b) USE BY STATE, REGIONAL, TRIBAL, AND LOCAL ENTITIES.—
"(1) IN GENERAL.—The Secretary shall provide the process developed under subsection (a) to State departments of transportation, metropolitan planning organizations, Indian Tribes, local governments, and other relevant entities.
"(2) GUIDANCE AND TECHNICAL ASSISTANCE.—The Secretary shall provide to the entities described in paragraph (1) guidance and technical assistance on the use of the process referred to in that paragraph.
"(c) RESEARCH.—
"(1) IN GENERAL.—The Secretary shall—
"(A) identify and support fundamental research to develop a framework and quantitative models to support compilation of information for risk-based analysis of transportation assets by standardizing the basis for quantifying annual risk and increasing system resilience; and
"(B) build on existing resilience research, including studies conducted by—
"(i) the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine; and
"(ii) the National Institute of Standards and Technology.
"(2) USE OF EXISTING FACILITIES.—In carrying out paragraph (1), the Secretary shall use existing research facilities available to the Secretary, including the Turner–Fairbank Highway Research Center and University Transportation Centers established under section 5505 of title 49, United States Code."

SAFETY DATA INITIATIVE

Pub. L. 117–58, div. B, title V, §25011, Nov. 15, 2021, 135 Stat. 857, provided that:
"(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—
"(1) a State;
"(2) a unit of local government;
"(3) a transit agency or authority;
"(4) a metropolitan planning organization;
"(5) any other subdivision of a State or local government;
"(6) an institution of higher education; and
"(7) a multi-State or multijurisdictional group.
"(b) SAFETY DATA INITIATIVE.—
"(1) ESTABLISHMENT.—The Secretary [of Transportation] shall establish an initiative, to be known as the 'Safety Data Initiative', to promote the use of data integration, data visualization, and advanced analytics for surface transportation safety through the development of innovative practices and products for use by Federal, State, and local entities.
"(2) ACTIVITIES.—
"(A) APPLIED RESEARCH.—
"(i) IN GENERAL.—The Secretary shall support and carry out applied research to develop practices and products that will encourage the integration and use of traditional and new sources of safety data and safety information to improve policy and decisionmaking at the Federal, State, and local government levels.
"(ii) METHODOLOGY.—In carrying out clause (i), the Secretary may—
"(I) carry out demonstration programs;
"(II) award grants and provide incentives to eligible entities;
"(III) enter into partnerships with—
"(aa) eligible entities;
"(bb) private sector entities; and
"(cc) National Laboratories; and
"(IV) use any other tools, strategies, or methods that will result in the effective use of data and information for safety purposes.
"(B) TOOLS AND PRACTICES.—In carrying out subparagraph (A), the Secretary, to the maximum extent practicable, shall—
"(i) develop safety analysis tools for State and local governments, with a particular focus on State and local governments with limited capacity to perform safety analysis;

"(ii)(I) identify innovative State and local government practices;

"(II) incubate those practices for further development; and

"(III) replicate those practices nationwide; and

"(iii) transfer to State and local governments the results of the applied research carried out under that subparagraph.

"(C) DATA SHARING.—

"(i) IN GENERAL.—To inform the creation of information useful for safety policy and decisionmaking, the Secretary shall—

"(I) encourage the sharing of data between and among Federal, State, and local transportation agencies; and

"(II) leverage data from private sector entities.

"(ii) GOALS.—The goals of the data-sharing activities under clause (i) shall include—

"(I) the creation of data ecosystems to reduce barriers to the efficient integration and analysis of relevant datasets for use by safety professionals; and

"(II) the establishment of procedures adequate to ensure sufficient security, privacy, and confidentiality as needed to promote the sharing of sensitive or proprietary data.

"(iii) MANAGEMENT OF DATA ECOSYSTEMS.—A data ecosystem described in clause (ii)(I) may be managed by—

"(I) the Director of the Bureau of Transportation Statistics;

"(II) 1 or more trusted third parties, as determined by the Secretary; or

"(III) 1 or more other entities or partnerships capable of securing, managing, and analyzing sensitive or proprietary data.

"(3) PLAN.—

"(A) IN GENERAL.—The Safety Data Initiative shall be carried out pursuant to a plan to be jointly established by—

"(i) the Under Secretary of Transportation for Policy;

"(ii) the Chief Information Officer of the Department [of Transportation];

"(iii) the Administrator of the National Highway Traffic Safety Administration;

"(iv) the Administrator of the Federal Highway Administration;

"(v) the Administrator of the Federal Motor Carrier Safety Administration;

"(vi) the Administrator of the Federal Transit Administration; and

"(vii) the Administrator of the Federal Railroad Administration.

"(B) REQUIREMENT.—The plan established under subparagraph (A) shall include details regarding the means by which tools and innovations developed by projects carried out under the Safety Data Initiative will be transferred to the appropriate program of the Department for further implementation.

"(C) DEADLINE.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall direct the officials described in clauses (i) through (vii) of subparagraph (A) to establish, by a date determined by the Secretary, the plan referred to in that subparagraph.

"(4) TERMINATION.—The Safety Data Initiative shall terminate on the later of—

"(A) the date that is 1 year after the date of enactment of this Act; and

"(B) the date on which the Secretary makes the direction to officials described in paragraph (3)(C)."

GAO CYBERSECURITY RECOMMENDATIONS

Pub. L. 117–58, div. B, title V, §25022, Nov. 15, 2021, 135 Stat. 878, provided that:

"(a) CYBERSECURITY RISK MANAGEMENT.—Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall implement the recommendation for the Department [of Transportation] made by the Comptroller General of the United States in the report entitled 'Cybersecurity: Agencies Need to Fully Establish Risk Management Programs and Address Challenges', numbered GAO–19–384, and dated July 2019—

"(1) by developing a cybersecurity risk management strategy for the systems and information of the Department [of Transportation];

"(2) by updating policies to address an organization-wide risk assessment; and

"(3) by updating the processes for coordination between cybersecurity risk management functions and enterprise risk management functions.

"(b) WORK ROLES.—Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall implement the recommendation of the Comptroller General of the United States in the report entitled 'Cybersecurity Workforce: Agencies Need to Accurately Categorize Positions to Effectively Identify

Critical Staffing Needs', numbered GAO–19–144, and dated March 2019, by—

"(1) reviewing positions in the Department; and

"(2) assigning appropriate work roles in accordance with the National Initiative for Cybersecurity Education Cybersecurity Workforce Framework.

"(c) GAO REVIEW.—

"(1) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that examines the approach of the Department to managing cybersecurity for the systems and information of the Department.

"(2) CONTENTS.—The report under paragraph (1) shall include an evaluation of—

"(A) the roles, responsibilities, and reporting relationships of the senior officials of the Department with respect to cybersecurity at the components of the Department;

"(B) the extent to which officials of the Department—

"(i) establish requirements for, share information with, provide resources to, and monitor the performance of managers with respect to cybersecurity within the components of the Department; and

"(ii) hold managers accountable for cybersecurity within the components of the Department; and

"(C) other aspects of cybersecurity, as the Comptroller General of the United States determines to be appropriate."

PERFORMANCE MEASUREMENT, TRANSPARENCY, AND ACCOUNTABILITY

Pub. L. 117–58, div. B, title VII, §27001, Nov. 15, 2021, 135 Stat. 884, provided that: "For each grant awarded under this Act [div. B of Pub. L. 117–58, see Tables for classification], or an amendment made by this Act, the Secretary may—

"(1) develop metrics to assess the effectiveness of the activities funded by the grant;

"(2) establish standards for the performance of the activities funded by the grant that are based on the metrics developed under paragraph (1); and

"(3) not later than the date that is 4 years after the date of the initial award of the grant and every 2 years thereafter until the date on which Federal financial assistance is discontinued for the applicable activity, conduct an assessment of the activity funded by the grant to confirm whether the performance is meeting the standards for performance established under paragraph (2)."

NATIONAL ADVISORY COMMITTEE ON TRAVEL AND TOURISM INFRASTRUCTURE

Pub. L. 114–94, div. A, title I, §1431, Dec. 4, 2015, 129 Stat. 1427, as amended by Pub. L. 117–58, div. B, title V, §25018(a), Nov. 15, 2021, 135 Stat. 874, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) 1 out of every 9 jobs in the United States depends on travel and tourism, and the industry supports 15,000,000 jobs in the United States;

"(2) the travel and tourism industry employs individuals in all 50 States, the District of Columbia, and all of the territories of the United States;

"(3) international travel to the United States is the single largest export industry in the United States, generating a trade surplus balance of approximately $74,000,000,000;

"(4) travel and tourism provide significant economic benefits to the United States by generating nearly $2,100,000,000,000 in annual economic output; and

"(5) the United States intermodal transportation network facilitates the large-scale movement of business and leisure travelers, and is the most important asset of the travel industry.

"(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall establish an advisory committee to be known as the National Advisory Committee on Travel and Tourism Infrastructure (referred to in this section as the 'Committee') to provide information, advice, and recommendations to the Secretary on matters relating to the role of intermodal transportation in facilitating mobility related to travel and tourism activities.

"(c) MEMBERSHIP.—The Committee shall—

"(1) be composed of members appointed by the Secretary for terms of not more than 3 years; and

"(2) include a representative cross-section of public and private sector stakeholders involved in the travel and tourism industry, including representatives of—

"(A) the travel and tourism industry, product and service providers, and travel and tourism-related associations;

"(B) travel, tourism, and destination marketing organizations;

"(C) the travel and tourism-related workforce;
"(D) State tourism offices;
"(E) State departments of transportation;
"(F) regional and metropolitan planning organizations; and
"(G) local governments.

"(d) ROLE OF COMMITTEE.—The Committee shall—

"(1) advise the Secretary on current and emerging priorities, issues, projects, and funding needs related to the use of the intermodal transportation network of the United States to facilitate travel and tourism;

"(2) serve as a forum for discussion for travel and tourism stakeholders on transportation issues affecting interstate and interregional mobility of passengers;

"(3) promote the sharing of information between the private and public sectors on transportation issues impacting travel and tourism;

"(4) gather information, develop technical advice, and make recommendations to the Secretary on policies that improve the condition and performance of an integrated national transportation system that—

"(A) is safe, economical, and efficient; and

"(B) maximizes the benefits to the United States generated through the travel and tourism industry;

"(5) identify critical transportation facilities and corridors that facilitate and support the interstate and interregional transportation of passengers for tourism, commercial, and recreational activities;

"(6) provide for development of measures of condition, safety, and performance for transportation related to travel and tourism;

"(7) provide for development of transportation investment, data, and planning tools to assist Federal, State, and local officials in making investment decisions relating to transportation projects that improve travel and tourism; and

"(8) address other issues of transportation policy and programs impacting the movement of travelers for tourism and recreational purposes, including by making legislative recommendations.

"(e) NATIONAL TRAVEL AND TOURISM INFRASTRUCTURE STRATEGIC PLAN.—Not later than 180 days after the date of enactment of the Surface Transportation Investment Act of 2021 [Nov. 15, 2021], the Secretary, in consultation with the Committee, State departments of transportation, and other appropriate public and private transportation stakeholders, shall develop and post on the public Internet website of the Department a national travel and tourism infrastructure strategic plan—

"(1) to develop an immediate-term and long-term strategy, including policy recommendations across all modes of transportation, for the Department and other agencies to use infrastructure investments to revive the travel and tourism industry and the overall travel and tourism economy in the wake of the Coronavirus Disease 2019 (COVID–19) pandemic; and

"(2) that includes—

"(A) an assessment of the condition and performance of the national transportation network, including consideration of the impacts of the COVID–19 pandemic;

"(B) an identification of the issues on the national transportation network that create significant congestion problems and barriers to long-haul passenger travel and tourism;

"(C) forecasts of long-haul passenger travel and tourism volumes for the 20-year period beginning in the year during which the plan is issued;

"(D) an identification of the major transportation facilities and corridors of regional significance for current and forecasted long-haul travel and tourism volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

"(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved long-haul passenger travel performance (including opportunities for overcoming the barriers);

"(F) best practices for improving the performance of the national transportation network;

"(G) strategies to improve intermodal connectivity for long-haul passenger travel and tourism; and

"(H) an identification of possible infrastructure investments that create recovery opportunities for small, underserved, minority, and rural businesses in the travel and tourism industry, including efforts to preserve and protect the scenic, but often less-traveled, roads that promote tourism and economic development throughout the United States."

COLLABORATION AND SUPPORT

Pub. L. 114–94, div. A, title VI, §6024, Dec. 4, 2015, 129 Stat. 1585, provided that: "The Secretary [of

Transportation] may solicit the support of, and identify opportunities to collaborate with, other Federal research agencies and national laboratories to assist in the effective and efficient pursuit and resolution of research challenges identified by the Secretary."

PUBLIC-PRIVATE PARTNERSHIPS

Pub. L. 112–141, div. A, title I, §1534, July 6, 2012, 126 Stat. 584, provided that:

"(a) BEST PRACTICES.—The Secretary [of Transportation] shall compile, and make available to the public on the website of the Department [of Transportation], best practices on how States, public transportation agencies, and other public officials can work with the private sector in the development, financing, construction, and operation of transportation facilities.

"(b) CONTENTS.—The best practices compiled under subsection (a) shall include polices and techniques to ensure that the interests of the traveling public and State and local governments are protected in any agreement entered into with the private sector for the development, financing, construction, and operation of transportation facilities.

"(c) TECHNICAL ASSISTANCE.—The Secretary, on request, may provide technical assistance to States, public transportation agencies, and other public officials regarding proposed public-private partnership agreements for the development, financing, construction, and operation of transportation facilities, including assistance in analyzing whether the use of a public-private partnership agreement would provide value compared with traditional public delivery methods.

"(d) STANDARD TRANSACTION CONTRACTS.—

"(1) DEVELOPMENT.—Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary shall develop standard public-private partnership transaction model contracts for the most popular types of public-private partnerships for the development, financing, construction, and operation of transportation facilities.

"(2) USE.—The Secretary shall encourage States, public transportation agencies, and other public officials to use the model contracts as a base template when developing their own public-private partnership agreements for the development, financing, construction, and operation of transportation facilities."

VESSEL TRANSFER AUTHORITY

Pub. L. 109–364, div. C, title XXXV, §3504, Oct. 17, 2006, 120 Stat. 2516, provided that: "The Secretary of Transportation may transfer or otherwise make available without reimbursement to any other department a vessel under the jurisdiction of the Department of Transportation, upon request by the Secretary of the department that receives the vessel."

BUDGET JUSTIFICATION

Pub. L. 112–141, div. A, title I, §1532, July 6, 2012, 126 Stat. 583, provided that: "The Secretary [of Transportation] shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification for each agency of the Department concurrently with the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code."

Pub. L. 109–59, title I, §1926, Aug. 10, 2005, 119 Stat. 1483, as amended by Pub. L. 110–244, title I, §108(a), June 6, 2008, 122 Stat. 1602, provided that: "Notwithstanding any other provision of law, the Department of Transportation and each agency in the Department shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code."

COORDINATED TRANSPORTATION SERVICES

Pub. L. 105–178, title III, §3034, June 9, 1998, 112 Stat. 386, provided that, not later than 1 year after June 9, 1998, the Comptroller General would transmit to Congress the results of a study of Federal departments and agencies (other than the Department of Transportation) receiving Federal financial assistance for non-emergency transportation services and any recommendations for enhanced coordination between the Department of Transportation and other Federal departments and agencies that provide non-emergency transportation funding.

ESTABLISHMENT OF NATIONWIDE DIFFERENTIAL GLOBAL POSITIONING SYSTEM

Pub. L. 105–66, title III, §346, Oct. 27, 1997, 111 Stat. 1449, provided that:

"(a) As soon as practicable after the date of enactment of this Act [Oct. 27, 1997], the Secretary of

Transportation, acting for the Department of Transportation, may take receipt of such equipment and sites of the Ground Wave Emergency Network (referred to in this section as 'GWEN') as the Secretary of Transportation determines to be necessary for the establishment of a nationwide system to be known as the 'Nationwide Differential Global Positioning System' (referred to in this section as 'NDGPS').

"(b) As soon as practicable after the date of enactment of this Act [Oct. 27, 1997], the Secretary of Transportation may establish the NDGPS. In establishing the NDGPS, the Secretary of Transportation may—

"(1) if feasible, reuse GWEN equipment and sites transferred to the Department of Transportation under subsection (a);

"(2) to the maximum extent practicable, use contractor services to install the NDGPS;

"(3) modify the positioning system operated by the Coast Guard at the time of the establishment of the NDGPS to integrate the reference stations made available pursuant to subsection (a);

"(4) in cooperation with the Secretary of Commerce, ensure that the reference stations referred to in paragraph (3) are compatible with, and integrated into, the Continuously Operating Reference Station (commonly referred to as 'CORS') system of the National Geodetic Survey of the Department of Commerce; and

"(5) in cooperation with the Secretary of Commerce, investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration.

"(c) The Secretary of Transportation may—

"(1) manage and operate the NDGPS;

"(2) ensure that the service of the NDGPS is provided without the assessment of any user fee; and

"(3) in cooperation with the Secretary of Defense, ensure that the use of the NDGPS is denied to any enemy of the United States.

"(d) In any case in which the Secretary of Transportation determines that contracting for the maintenance of 1 or more NDGPS reference stations is cost-effective, the Secretary of Transportation may enter into a contract to provide for that maintenance.

"(e) The Secretary of Transportation may—

"(1) in cooperation with appropriate representatives of private industries and universities and officials of State governments—

"(A) investigate improvements (including potential improvements) to the NDGPS;

"(B) develop standards for the NDGPS; and

"(C) sponsor the development of new applications for the NDGPS; and

"(2) provide for the continual upgrading of the NDGPS to improve performance and address the needs of—

"(A) the Federal Government;

"(B) State and local governments; and

"(C) the general public."

INTERMODAL TRANSPORTATION ADVISORY BOARD AND OFFICE OF INTERMODALISM

Pub. L. 102–240, title V, §5002(b), (c), Dec. 18, 1991, 105 Stat. 2158, which provided for establishment within the Office of the Secretary of Transportation of an Intermodal Transportation Advisory Board to make recommendations for carrying out responsibilities of the Secretary concerning the coordination of Federal policy on intermodal transportation, and for establishment within the Office of the Secretary of an Office of Intermodalism to develop intermodal transportation data, to coordinate Federal research on intermodal transportation, to provide technical assistance to States and metropolitan planning organizations, and to provide administrative and clerical support to the Intermodal Transportation Advisory Board, was repealed and reenacted as sections 5502 and former 5503 of this title by Pub. L. 103–272, §§1(d), 7(b), July 5, 1994, 108 Stat. 849, 850, 1379.

MODEL INTERMODAL TRANSPORTATION PLANS

Pub. L. 102–240, title V, §5003, Dec. 18, 1991, 105 Stat. 2159, which directed Secretary of Transportation to make grants to States, representing a variety of geographic regions and transportation needs, patterns, and modes, for purpose of developing model State intermodal transportation plans consistent with policy of United States to encourage and promote development of national intermodal transportation system, was repealed and reenacted as section 5504 of this title by Pub. L. 103–272, §§1(d), 7(b), July 5, 1994, 108 Stat. 850, 1379.

NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

Pub. L. 102–240, title V, §5005, Dec. 18, 1991, 105 Stat. 2160, provided for establishment of a National Commission on Intermodal Transportation, consisting of 11 appointed members, to make a complete

investigation and study of intermodal transportation in the United States and internationally and to send a report to Congress not later than Sept. 30, 1993, containing recommendations for implementing the policy set out in section 302(e) of this title, with the Commission to terminate on the 180th day following transmittal of the report, prior to repeal by Pub. L. 104–287, §7(3), Oct. 11, 1996, 110 Stat. 3400.

BORDER CROSSINGS

Pub. L. 102–240, title VI, §6015, Dec. 18, 1991, 105 Stat. 2181, directed Secretary of Transportation to identify existing and emerging trade corridors and transportation subsystems that facilitate trade between United States, Canada, and Mexico and to recommend changes to improve and integrate corridor subsystems in order to achieve increased productivity and use of innovative marketing techniques, and directed Secretary to report to Congress not later than 18 months after Dec. 18, 1991, on transportation infrastructure needs and associated costs and to propose an agenda to develop systemwide integration of services for national benefits.

UNDERGROUND PIPELINES

Pub. L. 102–240, title VI, §6020, Dec. 18, 1991, 105 Stat. 2184, directed Secretary of Transportation to conduct a study to evaluate feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas, and to submit, not later than 2 years after Dec. 18, 1991, a report to Congress on the results of the study, prior to repeal by Pub. L. 104–287, §7(3), Oct. 11, 1996, 110 Stat. 3400.

LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY

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

EXECUTIVE DOCUMENTS

COMMERCIAL EXPENDABLE LAUNCH VEHICLE ACTIVITIES

Designation of Department of Transportation as lead agency and duties of the Secretary for encouraging, facilitating, and developing commercial expendable launch vehicle operations by private enterprise, see Ex. Ord. No. 12465, Feb. 24, 1984, 49 F.R. 7211, set out under section 50903 of Title 51, National and Commercial Space Programs.

EX. ORD. NO. 13274. ENVIRONMENTAL STEWARDSHIP AND TRANSPORTATION INFRASTRUCTURE PROJECT REVIEWS

Ex. Ord. No. 13274, Sept. 18, 2002, 67 F.R. 59449, as amended by Ex. Ord. No. 13286, §2, Feb. 28, 2003, 68 F.R. 10619, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to enhance environmental stewardship and streamline the environmental review and development of transportation infrastructure projects, it is hereby ordered as follows:

SECTION 1. *Policy*. The development and implementation of transportation infrastructure projects in an efficient and environmentally sound manner is essential to the well-being of the American people and a strong American economy. Executive departments and agencies (agencies) shall take appropriate actions, to the extent consistent with applicable law and available resources, to promote environmental stewardship in the Nation's transportation system and expedite environmental reviews of high-priority transportation infrastructure projects.

SEC. 2. *Actions*. (a) For transportation infrastructure projects, agencies shall, in support of the Department of Transportation, formulate and implement administrative, policy, and procedural mechanisms that enable each agency required by law to conduct environmental reviews (reviews) with respect to such projects to ensure completion of such reviews in a timely and environmentally responsible manner.

(b) In furtherance of the policy set forth in section 1 of this order, the Secretary of Transportation, in coordination with agencies as appropriate, shall advance environmental stewardship through cooperative actions with project sponsors to promote protection and enhancement of the natural and human environment

in the planning, development, operation, and maintenance of transportation facilities and services.

(c) The Secretary of Transportation shall designate for the purposes of this order a list of high-priority transportation infrastructure projects that should receive expedited agency reviews and shall amend such list from time to time as the Secretary deems appropriate. For projects on the Secretary's list, agencies shall to the maximum extent practicable expedite their reviews for relevant permits or other approvals, and take related actions as necessary, consistent with available resources and applicable laws, including those relating to safety, public health, and environmental protection.

SEC. 3. *Interagency Task Force*. (a) *Establishment*. There is established, within the Department of Transportation for administrative purposes, the interagency "Transportation Infrastructure Streamlining Task Force" (Task Force) to: (i) monitor and assist agencies in their efforts to expedite a review of transportation infrastructure projects and issue permits or similar actions, as necessary; (ii) review projects, at least quarterly, on the list of priority projects pursuant to section 2(c) of this order; and (iii) identify and promote policies that can effectively streamline the process required to provide approvals for transportation infrastructure projects, in compliance with applicable law, while maintaining safety, public health, and environmental protection.

(b) *Membership and Operation*. The Task Force shall promote interagency cooperation and the establishment of appropriate mechanisms to coordinate Federal, State, tribal, and local agency consultation, review, approval, and permitting of transportation infrastructure projects. The Task Force shall consist exclusively of the following officers of the United States: the Secretary of Agriculture, Secretary of Commerce, Secretary of Transportation (who shall chair the Task Force), Secretary of the Interior, Secretary of Defense, Secretary of Homeland Security, Administrator of the Environmental Protection Agency, Chairman of the Advisory Council on Historic Preservation, and Chairman of the Council on Environmental Quality. A member of the Task Force may designate, to perform the Task Force functions of the member, any person who is part of the member's department, agency, or office and who is either an officer of the United States appointed by the President with the advice and consent of the Senate or a member of the Senior Executive Service. The Task Force shall report to the President through the Chairman of the Council on Environmental Quality.

SEC. 4. *Report*. At least once each year, the Task Force shall submit to the President a report that: (a) Describes the results of the coordinated and expedited reviews on a project-by-project basis, and identifies those procedures and actions that proved to be most useful and appropriate in coordinating and expediting the review of the projects.

(b) Identifies substantive and procedural requirements of Federal, State, tribal, and local laws, regulations, and Executive Orders that are inconsistent with, duplicative of, or are structured so as to restrict their efficient implementation with other applicable requirements.

(c) Makes recommendations regarding those additional actions that could be taken to: (i) address the coordination and expediting of reviews of transportation infrastructure projects by simplifying and harmonizing applicable substantive and procedural requirements; and (ii) elevate and resolve controversies among Federal, State, tribal, and local agencies related to the review or impacts of transportation infrastructure projects in a timely manner.

(d) Provides any other recommendations that would, in the judgement of the Task Force, advance the policy set forth in section 1 of this order.

SEC. 5. *Preservation of Authority*. Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

SEC. 6. *Judicial Review*. This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§302. Policy standards for transportation

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 13101 of this title in addition to other laws.

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

(c) The Secretary shall consider the needs—

(1) for effectiveness and safety in transportation systems; and

(2) of national defense.

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

(A) conducting economic and technological research;

(B) demonstrating advancements in high-speed ground transportation technologies;

(C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and

(D) minimizing the long-term risks of investors.

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

(e) INTERMODAL TRANSPORTATION.—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy, and obtain the optimum yield from the Nation's transportation resources.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 98–216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102–240, title I, §1036(a), title V, §5001, Dec. 18, 1991, 105 Stat. 1978, 2158; Pub. L. 103–272, §5(m)(6), July 5, 1994, 108 Stat. 1375; Pub. L. 104–88, title III, §308(a), Dec. 29, 1995, 109 Stat. 946.)

HISTORICAL AND REVISION NOTES

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

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

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

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted "13101" for "10101a".

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

1991—Subsec. (d). Pub. L. 102–240, §1036(a), added subsec. (d).
Subsec. (e). Pub. L. 102–240, §5001, added subsec. (e).
1984—Subsec. (b). Pub. L. 98–216 substituted "49 App. U.S.C." for "49 U.S.C.".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

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

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

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

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

(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsections (d) and (h), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 [1] of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

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

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

(d) DE MINIMIS IMPACTS.—

(1) REQUIREMENTS.—

(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (c)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de

minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 306108 of title 54, United States Code,[2] that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES .—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(e) SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES.—

(1) IN GENERAL.—The Secretary shall—

(A) align, to the maximum extent practicable, the requirements of this section with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 306108 of title 54, including implementing regulations; and

(B) not later than 90 days after the date of enactment of this subsection, coordinate with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation (referred to in this subsection as the "Council") to establish procedures to satisfy the requirements described in subparagraph (A) (including regulations).

(2) AVOIDANCE ALTERNATIVE ANALYSIS.—

(A) IN GENERAL.—If, in an analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may—

(i) include the determination of the Secretary in the analysis required under that Act;

(ii) provide a notice of the determination to—

(I) each applicable State historic preservation officer and tribal historic preservation officer;

(II) the Council, if the Council is participating in the consultation process under section 306108 of title 54; and

(III) the Secretary of the Interior; and

(iii) request from the applicable preservation officer, the Council, and the Secretary of the Interior a concurrence that the determination is sufficient to satisfy subsection (c)(1).

(B) CONCURRENCE.—If the applicable preservation officer, the Council, and the Secretary of the Interior each provide a concurrence requested under subparagraph (A)(iii), no further analysis under subsection (c)(1) shall be required.

(C) PUBLICATION.—A notice of a determination, together with each relevant concurrence to that determination, under subparagraph (A) shall—

(i) be included in the record of decision or finding of no significant impact of the

Secretary; and

(ii) be posted on an appropriate Federal website by not later than 3 days after the date of receipt by the Secretary of all concurrences requested under subparagraph (A)(iii).

(3) ALIGNING HISTORICAL REVIEWS.—

(A) IN GENERAL.—If the Secretary, the applicable preservation officer, the Council, and the Secretary of the Interior concur that no feasible and prudent alternative exists as described in paragraph (2), the Secretary may provide to the applicable preservation officer, the Council, and the Secretary of the Interior notice of the intent of the Secretary to satisfy subsection (c)(2) through the consultation requirements of section 306108 of title 54.

(B) SATISFACTION OF CONDITIONS.—To satisfy subsection (c)(2), the applicable preservation officer, the Council, and the Secretary of the Interior shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.

(f) REFERENCES TO PAST TRANSPORTATION ENVIRONMENTAL AUTHORITIES.—

(1) SECTION 4(F) REQUIREMENTS.—The requirements of this section are commonly referred to as section 4(f) requirements (see section 4(f) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 934) as in effect before the repeal of that section).

(2) SECTION 106 REQUIREMENTS.—The requirements of section 306108 of title 54 are commonly referred to as section 106 requirements (see section 106 of the National Historic Preservation Act of 1966 (Public Law 89–665; 80 Stat. 917) as in effect before the repeal of that section).

(g) BRIDGE EXEMPTION FROM CONSIDERATION.—A common post-1945 concrete or steel bridge or culvert (as described in 77 Fed. Reg. 68790) that is exempt from individual review under section 306108 of title 54 shall be exempt from consideration under this section.

(h) RAIL AND TRANSIT.—

(1) IN GENERAL.—Improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines or elements thereof that are in use or were historically used for the transportation of goods or passengers shall not be considered a use of a historic site under subsection (c), regardless of whether the railroad or rail transit line or element thereof is listed on, or eligible for listing on, the National Register of Historic Places.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to—

(i) stations; or

(ii) bridges or tunnels located on—

(I) railroad lines that have been abandoned; or

(II) transit lines that are not in use.

(B) CLARIFICATION WITH RESPECT TO CERTAIN BRIDGES AND TUNNELS.—The bridges and tunnels referred to in subparagraph (A)(ii) do not include bridges or tunnels located on railroad or transit lines—

(i) over which service has been discontinued; or

(ii) that have been railbanked or otherwise reserved for the transportation of goods or passengers.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 100–17, title I, §133(d), Apr. 2, 1987, 101 Stat. 173; Pub. L. 109–59, title VI, §6009(a)(2), Aug. 10, 2005, 119 Stat. 1875; Pub. L. 113–287, §5(p), Dec. 19, 2014, 128 Stat. 3272; Pub. L. 114–94, div. A, title I, §§1301(b), 1302(b), 1303(b), title XI, §11502(b), Dec. 4, 2015, 129 Stat. 1376, 1378, 1690.)

HISTORICAL AND REVISION NOTES

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

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

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

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

EDITORIAL NOTES

REFERENCES IN TEXT

Section 204 of title 23, referred to in subsec. (c), was repealed and a new section 204 enacted by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473, 489.

The National Environmental Policy Act of 1969, referred to in subsec. (e)(1)(A), (2)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (e)(1)(B), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114–94, §11502(b)(1), substituted "subsections (d) and (h)" for "subsection (d)".

Subsec. (e). Pub. L. 114–94, §1301(b), added subsec. (e).

Subsec. (f). Pub. L. 114–94, §1302(b), added subsec. (f).

Subsec. (g). Pub. L. 114–94, §1303(b), added subsec. (g).

Subsec. (h). Pub. L. 114–94, §11502(b)(2), added subsec. (h).

2014—Subsec. (d)(2)(A). Pub. L. 113–287 substituted "section 306108 of title 54, United States Code" for "section 106 of the National Historic Preservation Act (16 U.S.C. 470f)" in introductory provisions.

2005—Subsec. (c). Pub. L. 109–59, §6009(a)(2)(A), inserted heading and substituted "Subject to subsection (d), the Secretary" for "The Secretary" in introductory provisions.

Subsec. (d). Pub. L. 109–59, §6009(a)(2)(B), added subsec. (d).

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

TREATMENT OF MILITARY FLIGHT OPERATIONS

Pub. L. 105–85, div. A, title X, §1079, Nov. 18, 1997, 111 Stat. 1916, provided that: "No military flight operation (including a military training flight), or designation of airspace for such an operation, may be treated as a transportation program or project for purposes of section 303(c) of title 49, United States Code."

[1] *See References in Text note below.*

[2] *So in original. The words ", United States Code" probably should not appear.*

§303a. Development of water transportation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

ARCTIC SHIPPING FEDERAL ADVISORY COMMITTEE

Pub. L. 116–283, div. G, title LVXXXIV [LXXXIV], §8426, Jan. 1, 2021, 134 Stat. 4730, provided that:

"(a) PURPOSE.—The purpose of this section is to establish a Federal advisory committee to provide policy recommendations to the Secretary of Transportation on positioning the United States to take advantage of emerging opportunities for Arctic maritime transportation.

"(b) DEFINITIONS.—In this section:

"(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Arctic Shipping Federal Advisory Committee established under subsection (c)(1).

"(2) ARCTIC.—The term 'Arctic' has the meaning given the term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

"(3) Arctic sea routes.—The term 'Arctic Sea Routes' means the international Northern Sea Route, the Transpolar Sea Route, and the Northwest Passage.

"(c) ESTABLISHMENT OF THE ARCTIC SHIPPING FEDERAL ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT OF ADVISORY COMMITTEE.—

"(A) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of State, the Secretary of Defense acting through the Secretary of the Army and the Secretary of the Navy, the Secretary of Commerce, and the Secretary of the Department in which the Coast Guard is operating, shall establish an Arctic Shipping Federal Advisory Committee in the Department of Transportation to advise the Secretary of Transportation and the Secretary of the Department in which the Coast Guard is operating on matters related to Arctic maritime transportation, including Arctic seaway development.

"(B) MEETINGS.—The Advisory Committee shall meet at the call of the Chairperson, and at least once annually in Alaska.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Advisory Committee shall be composed of 17 members as described in subparagraph (B).

"(B) COMPOSITION.—The members of the Advisory Committee shall be—

"(i) 1 individual appointed and designated by the Secretary of Transportation to serve as the Chairperson of the Advisory Committee;

"(ii) 1 individual appointed and designated by the Secretary of the Department in which the Coast Guard is operating to serve as the Vice Chairperson of the Advisory Committee;

"(iii) 1 designee of the Secretary of Commerce;

"(iv) 1 designee of the Secretary of State;

"(v) 1 designee of the Secretary of Transportation;

"(vi) 1 designee of the Secretary of Defense;

"(vii) 1 designee from the State of Alaska, nominated by the Governor of Alaska and designated by the Secretary of Transportation;

"(viii) 1 designee from the State of Washington, nominated by the Governor of Washington and designated by the Secretary of Transportation;

"(ix) 3 Alaska Native Tribal members;

"(x) 1 individual representing Alaska Native subsistence co-management groups affected by Arctic maritime transportation;

"(xi) 1 individual representing coastal communities affected by Arctic maritime transportation;

"(xii) 1 individual representing vessels of the United States (as defined in section 116 of title 46, United States Code) participating in the shipping industry;

"(xiii) 1 individual representing the marine safety community;

"(xiv) 1 individual representing the Arctic business community; and

"(xv) 1 individual representing maritime labor organizations.

"(C) TERMS.—

"(i) LIMITATIONS.—Each member of the Advisory Committee described in clauses (vii) through (xv) of subparagraph (B) shall serve for a 2-year term and shall not be eligible for more than 2 consecutive term reappointments.

"(ii) VACANCIES.—Any vacancy in the membership of the Advisory Committee shall not affect its responsibilities, but shall be filled in the same manner as the original appointment and in accordance with the Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.].

"(3) FUNCTIONS.—The Advisory Committee shall carry out all of the following functions:

"(A) Develop a set of policy recommendations that would enhance the leadership role played by

the United States in improving the safety and reliability of Arctic maritime transportation in accordance with customary international maritime law and existing Federal authority. Such policy recommendations shall consider options to establish a United States entity that could perform the following functions in accordance with United States law and customary international maritime law:

"(i) Construction, operation, and maintenance of current and future maritime infrastructure necessary for vessels transiting the Arctic Sea Routes, including potential new deep draft and deepwater ports.

"(ii) Provision of services that are not widely commercially available in the United States Arctic that would—

"(I) improve Arctic maritime safety and environmental protection;

"(II) enhance Arctic maritime domain awareness; and

"(III) support navigation and incident response for vessels transiting the Arctic Sea Routes.

"(iii) Establishment of rules of measurement for vessels and cargo for the purposes of levying voluntary rates of charges or fees for services.

"(B) As an option under subparagraph (A), consider establishing a congressionally chartered seaway development corporation modeled on the Saint Lawrence Seaway Development Corporation, and—

"(i) develop recommendations for establishing such a corporation and a detailed implementation plan for establishing such an entity; or

"(ii) if the Advisory Committee decides against recommending the establishment of such a corporation, provide a written explanation as to the rationale for the decision and develop an alternative, as practicable.

"(C) Provide advice and recommendations, as requested, to the Secretary of Transportation and the Secretary of the Department in which the Coast Guard is operating on Arctic marine transportation, including seaway development, and consider national security interests, where applicable, in such recommendations.

"(D) In developing the advice and recommendations under subparagraph (C), engage with and solicit feedback from coastal communities, Alaska Native subsistence co-management groups, and Alaska Native tribes.

"(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act [Jan. 1, 2021], the Advisory Committee shall submit a report with its recommendations under subparagraphs (A) and (B) of subsection (c)(3) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(e) TERMINATION OF THE ADVISORY COMMITTEE.—Not later than 8 years after the submission of the report described in subsection (d), the Secretary of Transportation shall dissolve the Advisory Committee.

"(f) INTERNATIONAL ENGAGEMENT.—If a Special Representative for the Arctic Region is appointed by the Secretary of State, the duties of that Representative shall include—

"(1) coordination of any activities recommended by the implementation plan submitted by the Advisory Committee and approved by the Secretary of Transportation; and

"(2) facilitation of multilateral dialogues with member and observer nations of the Arctic Council to encourage cooperation on Arctic maritime transportation.

"(g) TRIBAL CONSULTATION.—In implementing any of the recommendations provided under subsection (c)(3)(C), the Secretary of Transportation shall consult with Alaska Native tribes."

§304. Application of categorical exclusions for multimodal projects

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COOPERATING AUTHORITY.—The term "cooperating authority" means a Department of Transportation operating administration or secretarial office that has expertise but is not the lead authority with respect to a proposed multimodal project.

(2) LEAD AUTHORITY.—The term "lead authority" means a Department of Transportation operating administration or secretarial office that has the lead responsibility for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a proposed multimodal project.

(3) MULTIMODAL PROJECT.—The term "multimodal project" has the meaning given the term in section 139(a) of title 23.

(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title or title 23.

(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply categorical exclusions designated under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in implementing regulations or procedures of a cooperating authority for a proposed multimodal project, subject to the conditions that—

(1) the lead authority makes a determination, with the concurrence of the cooperating authority—

(A) on the applicability of a categorical exclusion to a proposed multimodal project; and

(B) that the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section;

(2) the lead authority follows the implementing regulations of the cooperating authority or procedures under that Act; and

(3) the lead authority determines that—

(A) the proposed multimodal project does not individually or cumulatively have a significant impact on the environment; and

(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under that Act.

(d) COOPERATING AUTHORITY EXPERTISE.—A cooperating authority shall provide expertise to the lead authority on aspects of the multimodal project in which the cooperating authority has expertise.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 112–141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547; Pub. L. 114–94, div. A, title I, §1310, Dec. 4, 2015, 129 Stat. 1397.)

HISTORICAL AND REVISION NOTES

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

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

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

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

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(2) and (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94, §1310(1)(A), substituted "operating administration or secretarial office that has expertise but" for "operating authority that" and inserted "proposed multimodal" after "with respect to a".

Subsec. (a)(2). Pub. L. 114–94, §1310(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The term 'lead authority' means a Department of Transportation operating administration or secretarial office that—

"(A) is the lead authority over a proposed multimodal project; and

"(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

"(i) satisfy the conditions for a categorical exclusion under implementing regulations or procedures of the lead authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(ii) do not require the preparation of an environmental assessment or environmental impact statement under that Act."

Subsec. (b). Pub. L. 114–94, §1310(2), inserted "or title 23" after "under this title".

Subsec. (c). Pub. L. 114–94, §1310(3), added subsec. (c) and struck out former subsec. (c) which related to application of categorical exclusions for multimodal projects.

Subsec. (d). Pub. L. 114–94, §1310(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows:

"(1) IN GENERAL.—A cooperating authority shall provide modal expertise to the lead authority on such aspects of the multimodal project in which the cooperating authority has expertise.

"(2) USE OF CATEGORICAL EXCLUSION.—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the implementing regulations or procedures of the cooperating authority under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section."

2012–Pub. L. 112–141 amended section generally. Prior to amendment, section related to joint activities with the Secretary of Housing and Urban Development.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§304a. Accelerated decisionmaking in environmental reviews

(a) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the lead agency may write on errata sheets attached to the statement, instead of rewriting the draft statement, subject to the condition that the errata sheets—

(1) cite the sources, authorities, and reasons that support the position of the agency; and

(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) SINGLE DOCUMENT.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

(1) the final environmental impact statement makes substantial changes to the proposed action

that are relevant to environmental or safety concerns; or

(2) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the impacts of the proposed action.

(c) ADOPTION AND INCORPORATION BY REFERENCE OF DOCUMENTS.—

(1) AVOIDING DUPLICATION.—To prevent duplication of analyses and support expeditious and efficient decisions, the operating administrations of the Department of Transportation shall use adoption and incorporation by reference in accordance with this subsection.

(2) ADOPTION OF DOCUMENTS OF OTHER OPERATING ADMINISTRATIONS.—An operating administration or a secretarial office within the Department of Transportation may adopt a draft environmental impact statement, an environmental assessment, or a final environmental impact statement of another operating administration for the use of the adopting operating administration when preparing an environmental assessment or final environmental impact statement for a project without recirculating the document for public review, if—

(A) the adopting operating administration certifies that the proposed action is substantially the same as the project considered in the document to be adopted;

(B) the other operating administration concurs with such decision; and

(C) such actions are consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) INCORPORATION BY REFERENCE.—An operating administration or secretarial office within the Department of Transportation may incorporate by reference all or portions of a draft environmental impact statement, an environmental assessment, or a final environmental impact statement for the use of the adopting operating administration when preparing an environmental assessment or final environmental impact statement for a project if—

(A) the incorporated material is cited in the environmental assessment or final environmental impact statement and the contents of the incorporated material are briefly described;

(B) the incorporated material is reasonably available for inspection by potentially interested persons within the time allowed for review and comment; and

(C) the incorporated material does not include proprietary data that is not available for review and comment.

(Added Pub. L. 114–94, div. A, title I, §1311(a), Dec. 4, 2015, 129 Stat. 1398.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (c)(2)(C), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§305. Transportation investment standards and criteria

(a) Subject to sections 301–304 [1] of this title, the Secretary of Transportation shall develop

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

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

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

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

(4) foreign assistance programs;

(5) water resources projects; or

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

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

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

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

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

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

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

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

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

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

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

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2420.)

HISTORICAL AND REVISION NOTES

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

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

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

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

EDITORIAL NOTES

REFERENCES IN TEXT

Section 304 of this title, referred to in subsec. (a), was amended generally by Pub. L. 112–141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547.

[1] *See References in Text note below.*

§306. Prohibited discrimination

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

(b) A person in the United States may not be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a project, program, or activity because of race, color, national origin, or sex when any part of the project, program, or activity is financed through financial assistance under section 332 or 333 or chapter 221, 224, or 249 of this title, or section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726).

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

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

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

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

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

(4) take other action provided by law.

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

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2421; Pub. L. 98–216, §2(3), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(7), July 5, 1994, 108 Stat. 1376; Pub. L. 117–58, div. B, title I, §21301(j)(4)(B), Nov. 15, 2021, 135 Stat. 693.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

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

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

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

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

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

PUB. L. 98–216

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

EDITORIAL NOTES

REFERENCES IN TEXT

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

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58 substituted "chapter 221, 224, or 249 of this title, or" for "chapter 221 or 249 of this title," and struck out ", or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)" before period at end.

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

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

§307. Improving State and Federal agency engagement in environmental reviews

(a) IN GENERAL.—

(1) REQUESTS TO PROVIDE FUNDS.—A public entity receiving financial assistance from the Department of Transportation for 1 or more projects, or for a program of projects, for a public purpose may request that the Secretary allow the public entity to provide funds to Federal agencies, including the Department, State agencies, and Indian tribes participating in the environmental planning and review process for the project, projects, or program.

(2) USE OF FUNDS.—The funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving permitting and review processes, including planning, approval, and consultation processes for the project, projects, or program.

(b) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under subsection (a) include transportation planning activities that precede the initiation of the environmental review process, activities directly related to the environmental review process,

dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(c) AMOUNTS.—A request under subsection (a) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to timely conduct the review.

(d) AGREEMENTS.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under subsection (a), the affected Federal agency and the requesting public entity shall enter into an agreement that establishes a process to identify projects or priorities to be addressed by the use of the funds.

(e) GUIDANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue guidance to implement this section.

(2) FACTORS.—As part of the guidance issued under paragraph (1), the Secretary shall ensure—

(A) to the maximum extent practicable, that expediting and improving the process of environmental review and permitting through the use of funds accepted and expended under this section does not adversely affect the timeline for review and permitting by Federal agencies, State agencies, or Indian tribes of other entities that have not contributed funds under this section;

(B) that the use of funds accepted under this section will not impact impartial decisionmaking with respect to environmental reviews or permits, either substantively or procedurally; and

(C) that the Secretary maintains, and makes publicly available, including on the Internet, a list of projects or programs for which such review or permits have been carried out using funds authorized under this section.

(f) EXISTING AUTHORITY.—Nothing in this section may be construed to conflict with section 139(j) of title 23.

(Added Pub. L. 114–94, div. A, title I, §1312(a), Dec. 4, 2015, 129 Stat. 1399.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

PRIOR PROVISIONS

A prior section 307, Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2421, related to safety information and intervention in Interstate Commerce Commission proceedings, prior to repeal by Pub. L. 112–141, div. C, title II, §32932(a)(1), July 6, 2012, 126 Stat. 829, effective Oct. 1, 2012.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§308. Reports

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

(b) The Secretary shall submit to Congress each year a report on the conditions of the public ports of the United States, including the—

(1) economic and technological development of the ports;
(2) extent to which the ports contribute to the national welfare and security; and
(3) factors that may impede the continued development of the ports.

(c)(1) The Secretary shall submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report of estimates by the Secretary on the current performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.

(2) In reporting to Congress under this subsection, the Secretary shall prepare a complete assessment of public transportation facilities in the United States. The Secretary also shall assess future needs for those facilities and estimate future capital requirements and operation and maintenance requirements for one-year, 5-year, and 10-year periods at specified levels of service.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98–216, §2(1)(A), Feb. 14, 1984, 98 Stat. 4; Pub. L. 104–66, title I, §1121(h), Dec. 21, 1995, 109 Stat. 724; Pub. L. 105–362, title XV, §1502(c), Nov. 10, 1998, 112 Stat. 3295; Pub. L. 118–63, title II, §218(a), May 16, 2024, 138 Stat. 1055.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
308(a)	45:792.	Jan. 2, 1974, Pub. L. 93–236, §602, 87 Stat. 1022.
	49:1658.	Oct. 15, 1966, Pub. L. 89–670, §12, 80 Stat. 949; Feb. 5, 1976, Pub. L. 94–210, §906(1), 90 Stat. 149.
308(b)	49:1354(e).	Aug. 23, 1958, Pub. L. 85–726, §313(e), 72 Stat. 753.
308(c)	15:1519a.	Oct. 3, 1980, Pub. L. 96–371, §2, 94 Stat. 1362; Aug. 6, 1981, Pub. L. 97–31, §12(8), 95 Stat. 154.

In subsection (a), the words "As part of his annual report each year" in 45:792 are omitted as unnecessary because of the restatement of the source provisions.

In subsection (b), before clause (1), the words "aviation activities of the Department" are substituted for "work performed under this chapter" because of the restatement. The words "The report shall include" are substituted for "Such report shall contain" for consistency. In clause (1), the words "and data" after "information" are omitted as surplus. The words "airspace of the United States" are substituted for "National airspace" for clarity and consistency. In clause (2), the words "the Secretary considers necessary" are substituted for "as may be considered" for clarity.

PUB. L. 98–216

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
308(d)	49 App.:1654a.	Oct. 14, 1980, Pub. L. 96–448, §409, 94 Stat. 1948; Dec. 21, 1982, Pub. L. 97–375, §210(a), 96 Stat. 1825.
308(e)	49 App.:1601c.	Jan. 6, 1983, Pub. L. 97–424, §310, 96 Stat. 2151.

This [deletion of the last sentence of subsection (a)] is necessary because section 111(b) of the Congressional Reports Elimination Act of 1982 (Pub. L. 97–375, 96 Stat. 1821) repealed section 602 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93–236, 87 Stat. 1022), which was restated as section

308(a) (last sentence) of title 49 by section 1 of the Act of January 12, 1983 (Pub. L. 97–449, 96 Stat. 2413).

In subsection (e)(1), the words "January of each even-numbered year" are substituted for "January of 1984 and in January of every second year thereafter" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63, §218(a)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to annual report on aviation activities of the Department.

Subsecs. (c), (e). Pub. L. 118–63, §218(a)(3), redesignated subsec. (e) as (c). Former subsec. (c) redesignated (b).

1998—Subsec. (e)(1). Pub. L. 105–362 substituted "submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report" for "submit a report to Congress in January of each even-numbered year".

1995—Subsec. (d). Pub. L. 104–66 struck out subsec. (d) which related to reports to Congress listing assistance provided by Government to railroad industry.

1984—Pub. L. 98–216, §2(1)(A)(i), substituted "Reports" for "Annual reports" in section catchline.

Subsec. (a). Pub. L. 98–216, §2(1)(A)(ii), struck out requirement that the report include a complete statement on the effectiveness of the United States Railway Association and the Consolidated Rail Corporation in carrying out the purposes of the Regional Rail Reorganization Act of 1973.

Subsecs. (d), (e). Pub. L. 98–216, §2(1)(A)(iii), added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

ANNUAL REPORT

Pub. L. 117–58, div. A, title I, §11319, Nov. 15, 2021, 135 Stat. 545, provided that:

"(a) DEFINITION OF COVERED PROJECT.—In this section, the term 'covered project' means a project or activity carried out with funds provided by the Department [of Transportation], including a project carried out under title 23 or 49, United States Code—

"(1) that is more than 5 years behind schedule; or

"(2) for which the total amount spent on the project or activity is not less than $1,000,000,000 more than the original cost estimate for the project or activity.

"(b) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], and annually thereafter, the Secretary [of Transportation] shall submit to Congress a report on covered projects of the Department, which shall include, for each covered project—

"(1) a brief description of the covered project, including—

"(A) the purpose of the covered project;

"(B) each location in which the covered project is carried out;

"(C) the contract or award number of the covered project, if applicable;

"(D) the year in which the covered project was initiated;

"(E) the Federal share of the total cost of the covered project; and

"(F) each primary contractor, subcontractor, grant recipient, and subgrantee recipient of the covered project;

"(2) an explanation of any change to the original scope of the covered project, including by the addition or narrowing of the initial requirements of the covered project;

"(3) the original expected date for completion of the covered project;

"(4) the current expected date for completion of the covered project;

"(5) the original cost estimate for the covered project, as adjusted to reflect increases in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics;

"(6) the current cost estimate for the covered project, as adjusted to reflect increases in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics;

"(7) an explanation for a delay in completion or an increase in the original cost estimate for the covered project, including, where applicable, any impact of insufficient or delayed appropriations; and

"(8) the amount of and rationale for any award, incentive fee, or other type of bonus, if any, awarded for the covered project."

RULEMAKING REPORT

Pub. L. 117–58, div. B, title IV, §24210, Nov. 15, 2021, 135 Stat. 824, provided that:

"(a) DEFINITION OF COVERED RULEMAKING.—In this section, the term 'covered rulemaking' means a regulation or rulemaking that—

"(1) has not been finalized by the date on which the relevant notification is submitted under subsection (b); and

"(2) relates to—

"(A) section 30120A of title 49, United States Code;

"(B) section 30166(o) of title 49, United States Code;

"(C) section 30172 of title 49, United States Code;

"(D) section 32302(c) of title 49, United States Code;

"(E) a defect reporting requirement under section 32302(d) of title 49, United States Code;

"(F) subsections (b) and (c) of section 32304A of title 49, United States Code;

"(G) the tire pressure monitoring standards required under section 24115 of the FAST Act (49 U.S.C. 30123 note; Public Law 114–94);

"(H) the amendment made by section 24402 of the FAST Act (129 Stat. 1720; Public Law 114–94) to section 30120(g)(1) of title 49, United States Code;

"(I) the records retention rule required under section 24403 of the FAST Act (49 U.S.C. 30117 note; Public Law 114–94);

"(J) the amendments made by section 24405 of the FAST Act (Public Law 114–94; 129 Stat. 1721) to section 30114 of title 49, United States Code;

"(K) a defect and noncompliance notification required under—

"(i) section 24104 of the FAST Act (49 U.S.C. 30119 note; Public Law 114–94); or

"(ii) section 31301 of MAP–21 (49 U.S.C. 30166 note; Public Law 112–141);

"(L) a side impact or frontal impact test procedure for child restraint systems under section 31501 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

"(M) an upgrade to child restraint anchorage system usability requirements required under section 31502 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

"(N) the rear seat belt reminder system required under section 31503 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

"(O) a motorcoach rulemaking required under section 32703 of MAP–21 (49 U.S.C. 31136 note; Public Law 112–141); or

"(P) any rulemaking required under this Act [div. B of Pub. L. 117–58, see Tables for classification].

"(b) NOTIFICATION.—Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], and not less frequently than biannually thereafter until the applicable covered rulemaking is complete, the Secretary [of Transportation] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a written notification that includes, with respect to each covered rulemaking—

"(1) for a covered rulemaking with a statutory deadline for completion—

"(A) an explanation of why the deadline was not met; and

"(B) an expected date of completion of the covered rulemaking; and

"(2) for a covered rulemaking without a statutory deadline for completion, an expected date of completion of the covered rulemaking.

"(c) ADDITIONAL CONTENTS.—A notification under subsection (b) shall include, for each applicable covered rulemaking—

"(1) an updated timeline;

"(2) a list of factors causing delays in the completion of the covered rulemaking; and

"(3) any other details associated with the status of the covered rulemaking."

AVAILABILITY OF REPORTS

Pub. L. 114–94, div. A, title I, §1434, Dec. 4, 2015, 129 Stat. 1430, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall make available to the public on the website of the Department any report required to be submitted by the Secretary to Congress after the date of enactment of this Act [Dec. 4, 2015].

"(b) DEADLINE.—Each report described in subsection (a) shall be made available on the website not later than 30 days after the report is submitted to Congress."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any

annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which reporting provisions contained in subsecs. (a) and (b) of this section and, as subsequently amended, subsec. (e) of this section, are listed, respectively, as the 11th item on page 133, the last item on page 132, and the 5th item on page 138), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

ANNUAL REPORT ON SAFETY ENFORCEMENT ACTIVITIES OF FEDERAL AVIATION ADMINISTRATION

Pub. L. 100–202, §101(l) [title III, §317(a)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–380, and Pub. L. 100–457, title III, §317(a), Sept. 30, 1988, 102 Stat. 2148, which required Secretary of Transportation to transmit to Congress an annual report on Federal Aviation Administration's prior safety enforcement activities including staffing level comparisons, inspector experience and training schedules, criteria used to set annual work programs, annual inspection comparisons, statement of adequacy of internal management controls, status of regulatory changes, list of specific operational measures of effectiveness, schedule showing number of civil penalty cases closed, schedule showing number of enforcement actions taken, and schedules showing aviation industry's safety record, were repealed and reenacted as section 44723 of this title by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1202, 1379.

§309. High-speed ground transportation

(a) The Secretary of Transportation, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.

(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable benefit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

(I) feasibility of guideway or track design and construction;

(II) safety and reliability;

(III) impact on the environment in comparison to other high-speed ground transportation technologies;

(IV) minimization of land use;

(V) effect on human factors related to high-speed ground transportation;

(VI) energy and power consumption and cost;

(VII) integration of high-speed ground transportation systems with other modes of

transportation;

(VIII) actual and projected ridership; and

(IX) design of signaling, communications, and control systems.

(C) For the purposes of this paragraph, the term "eligible applicant" means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary.

(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activities conducted pursuant to the authorization contained in paragraph (1).

(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

(A) an economic and financial analysis;

(B) a technical assessment; and

(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

(B) an examination of the potential markets for short-haul high-speed ground transportation

systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

(i) the current transportation practices and trends in each market; and

(ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

(I) an assessment of the potential for a high-speed ground transportation technology export market;

(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

(3) The technical assessment referred to in paragraph (1)(B) shall include—

(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems;

and

(G) any other technical assessments the Secretary considers important for carrying out this section.

(e)(1) Within 12 months after the submission of the study required by subsection (d), the Secretary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the "Policy").

(2) The Policy shall include—

(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.

(Added Pub. L. 102–240, title I, §1036(c)(1), Dec. 18, 1991, 105 Stat. 1982.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsecs. (b)(2)(A) and (d)(3)(B), is section 1036(b) of Pub. L. 102–240, which is set out below.

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (c)(3), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

Section 7 of the Rail Safety Improvement Act of 1988, referred to in subsec. (d)(3)(C), is section 7 of Pub. L. 100–342, which amended section 431 of Title 45, Railroads.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as an Effective Date of 1991 Amendment note under section 104 of Title 23, Highways.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

Pub. L. 102–240, title I, §1036(b), Dec. 18, 1991, 105 Stat. 1978, provided that:

"(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the 'Assistant Secretary'). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the 'Maglev Project Office'), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

"(2) PHASE ONE CONTRACTS.—

"(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act [Dec. 18, 1991], the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

"(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

"(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share.

"(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

"(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

"(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

"(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

"(4) PROTOTYPE.—

"(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

"(i) 1 member to be appointed by the Secretary,

"(ii) 1 member to be appointed by the Assistant Secretary,

"(iii) 3 members to be appointed by the Senate majority and minority leaders, and

"(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House,

shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall report to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

"(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the

recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of constructing a prototype maglev system in accordance with the selected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

"(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

"(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

"(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

"(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

"(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

"(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

"(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

"(vii) The project shall have at least 1 switch.

"(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, port, passenger rail station, or other transportation mode.

"(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars).

"(5) LICENSING.—

"(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

"(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701–3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

"(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

"(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term 'eligible applicant' means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories."

§310. Aligning Federal environmental reviews

(a) COORDINATED AND CONCURRENT ENVIRONMENTAL REVIEWS.—Not later than 1 year after the date of enactment of this section, the Department of Transportation, in coordination with the heads of Federal agencies likely to have substantive review or approval responsibilities under Federal law, shall develop a coordinated and concurrent environmental review and permitting process for transportation projects when initiating an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (in this section referred to as "NEPA").

(b) CONTENTS.—The coordinated and concurrent environmental review and permitting process developed under subsection (a) shall—

(1) ensure that the Department of Transportation and agencies of jurisdiction possess sufficient information early in the review process to determine a statement of a transportation project's purpose and need and range of alternatives for analysis that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project;

(2) achieve early concurrence or issue resolution during the NEPA scoping process on the Department of Transportation's statement of a project's purpose and need, and during development of the environmental impact statement on the range of alternatives for analysis, that the lead agency and agencies of jurisdiction will rely on for concurrent environmental reviews and permitting decisions required for the proposed project absent circumstances that require reconsideration in order to meet an agency of jurisdiction's obligations under a statute or Executive order; and

(3) achieve concurrence or issue resolution in an expedited manner if circumstances arise that require a reconsideration of the purpose and need or range of alternatives considered during any Federal agency's environmental or permitting review in order to meet an agency of jurisdiction's obligations under a statute or Executive order.

(c) ENVIRONMENTAL CHECKLIST.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary of Transportation and Federal agencies of jurisdiction likely to have substantive review or approval responsibilities on transportation projects shall jointly develop a checklist to help project sponsors identify potential natural, cultural, and historic resources in the area of a proposed project.

(2) PURPOSE.—The purpose of the checklist shall be to—

(A) identify agencies of jurisdiction and cooperating agencies;

(B) develop the information needed for the purpose and need and alternatives for analysis; and

(C) improve interagency collaboration to help expedite the permitting process for the lead agency and agencies of jurisdiction.

(d) INTERAGENCY COLLABORATION.—

(1) IN GENERAL.—Consistent with Federal environmental statutes, the Secretary of Transportation shall facilitate annual interagency collaboration sessions at the appropriate jurisdictional level to coordinate business plans and facilitate coordination of workload planning and workforce management.

(2) PURPOSE OF COLLABORATION SESSIONS.—The interagency collaboration sessions shall ensure that agency staff is—

(A) fully engaged;

(B) utilizing the flexibility of existing regulations, policies, and guidance; and

(C) identifying additional actions to facilitate high quality, efficient, and targeted environmental reviews and permitting decisions.

(3) FOCUS OF COLLABORATION SESSIONS.—The interagency collaboration sessions, and the interagency collaborations generated by the sessions, shall focus on methods to—

(A) work with State and local transportation entities to improve project planning, siting, and application quality; and

(B) consult and coordinate with relevant stakeholders and Federal, tribal, State, and local representatives early in permitting processes.

(4) CONSULTATION.—The interagency collaboration sessions shall include a consultation with groups or individuals representing State, tribal, and local governments that are engaged in the infrastructure permitting process.

(e) PERFORMANCE MEASUREMENT.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with relevant Federal agencies, shall establish a program to measure and report on progress toward aligning Federal reviews and reducing permitting and project delivery time as outlined in this section.

(f) REPORTS.—

(1) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section and biennially thereafter, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make publicly available on the Department of Transportation website, a report that describes—

(A) progress in aligning Federal environmental reviews under this section; and

(B) the impact this section has had on accelerating the environmental review and permitting process.

(2) INSPECTOR GENERAL REPORT.—Not later than 3 years after the date of enactment of this section, the Inspector General of the Department of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(A) progress in aligning Federal environmental reviews under this section; and

(B) the impact this section has had on accelerating the environmental review and permitting process.

(g) SAVINGS PROVISION.—This section shall not apply to any project subject to section 139 of title 23.

(Added Pub. L. 114–94, div. A, title I, §1313(a), Dec. 4, 2015, 129 Stat. 1400; amended Pub. L. 115–420, §3, Jan. 3, 2019, 132 Stat. 5444.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a), (c)(1), (e), and (f)(1), (2), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2019—Subsec. (f)(1). Pub. L. 115–420 inserted ", and make publicly available on the Department of Transportation website," after "House of Representatives" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§311. Congressional notification requirements

(a) IN GENERAL.—Except as provided in subsection (b) or as expressly provided in another provision of law, the Secretary of Transportation shall provide to the appropriate committees of Congress notice of an announcement concerning a covered project at least 3 full business days before the announcement is made by the Department.

(b) EMERGENCY PROGRAM.—With respect to an allocation of funds under section 125 of title 23, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate notice of the allocation—

(1) at least 3 full business days before the issuance of the allocation; or

(2) concurrently with the issuance of the allocation, if the allocation is made using the quick release process of the Department (or any successor process).

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Environment and Public Works, the Committee on Commerce, Science, and Transportation, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) COVERED PROJECT.—The term "covered project" means a project competitively selected by the Department to receive a discretionary grant award, letter of intent, loan commitment, loan guarantee commitment, or line of credit commitment in an amount equal to or greater than $750,000.

(3) DEPARTMENT.—The term "Department" means the Department of Transportation, including the modal administrations of the Department.

(Added Pub. L. 114–322, title IV, §5001(a), Dec. 16, 2016, 130 Stat. 1884.)

§312. Alternative timing system

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Transportation shall provide for the establishment, sustainment, and operation of a resilient,[1] and reliable alternative timing system—

(1) to reduce critical dependencies and provide a complement to and backup for the timing component of the Global Positioning System (referred to in this section as "GPS"); and

(2) to ensure the availability of uncorrupted and non-degraded timing signals for military and civilian users in the event that GPS timing signals are corrupted, degraded, unreliable, or otherwise unavailable.

(b) ESTABLISHMENT OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the National Timing Resilience and Security Act of 2018, the Secretary of Transportation shall establish requirements for the procurement of the system required by subsection (a) as a complement to and backup for the timing component of GPS in accordance with the timing requirements study required by section 1618 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2595).

(2) REQUIREMENTS.—The Secretary of Transportation shall ensure, to the maximum extent practicable, that the system established under subsection (a) will—

(A) be wireless;

(B) be terrestrial;

(C) provide wide-area coverage;

(D) be synchronized with coordinated universal time;

(E) be resilient and extremely difficult to disrupt or degrade;

(F) be able to penetrate underground and inside buildings;

(G) be capable of deployment to remote locations;

(H) be developed, constructed, and operated incorporating applicable private sector expertise;

(I) work in concert with and complement any other similar positioning, navigation, and timing systems, including enhanced long-range navigation systems and Nationwide Differential GPS systems;

(J) be available for use by Federal and non-Federal government agencies for public purposes at no net cost to the Federal Government within 10 years of initiation of operation;

(K) be capable of adaptation and expansion to provide position and navigation capabilities;

(L) incorporate the recommendations from any GPS back-up demonstration program initiated and completed by the Secretary, in coordination with other Federal agencies, before the date specified in subsection (c)(1); and

(M) incorporate such other elements as the Secretary considers appropriate.

(c) IMPLEMENTATION PLAN.—

(1) PLAN REQUIRED.—Not later than 180 days after the date of enactment of the National Timing Resilience and Security Act of 2018, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report setting forth the following:

(A) A plan to develop, construct, and operate the system required by subsection (a).

(B) A description and assessment of the advantages of a system to provide a follow-on complementary and backup positioning and navigation capability to the timing component of GPS.

(2) DEADLINE FOR COMMENCEMENT OF OPERATION.—The system required by subsection (a) shall be in operation by not later than 2 years after the date of enactment of the National Timing Resilience and Security Act of 2018.

(3) MINIMUM DURATION OF OPERATIONAL CAPABILITY.—The system required by subsection (a) shall be designed to be fully operational for not less than 20 years.

(d) LORAN FACILITIES.—

(1) IN GENERAL.—If the Secretary of Transportation determines that any LORAN infrastructure, including the underlying real property and any spectrum associated with LORAN, in the possession of the Coast Guard is required by the Department of Transportation for the purpose of establishing the system required by subsection (a), the Commandant shall transfer such property, spectrum, and equipment to the Secretary.

(2) CERCLA NOT AFFECTED.—This subsection shall not be construed to limit the application of or otherwise affect section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) with respect to the Federal Government facilities described in paragraph (1).

(e) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary of Transportation may enter into a cooperative agreement (as that term is described in section 6305 of title 31) with an entity upon such terms and conditions as the Secretary of Transportation determines will fulfill the purpose and requirements of this section and be in the public interest.

(2) REQUIREMENTS.—The cooperative agreement under paragraph (1) shall, at a minimum, require the Secretary of Transportation to—

(A) authorize the entity to sell timing and other services to commercial and non-commercial third parties, subject to any national security requirements determined by the Secretary, in consultation with the Secretary of Defense;

(B) require the entity to develop, construct, and operate at private expense the backup timing system in accordance with this section;

(C) allow the entity to make any investments in technologies necessary over the life of such agreement to meet future requirements for advanced timing resilience and technologies;

(D) require the entity to share 25 percent of the gross proceeds received by the entity from the sale of timing services to third parties with the Secretary for at least 10 years after the date upon which the Secretary enters into the cooperative agreement;

(E) require the entity—

(i) to assume all financial risk for the completion and operational capability of the system, after the Secretary provides any LORAN facilities necessary for the system under subsection (d), if required for the alternative timing system; and

(ii) to furnish performance and payment bonds in connection with the system in a reasonable amount as determined by the Secretary; and

(F) require the entity to make any investments in technologies necessary over the life of the agreement to meet future requirements for advanced timing resiliency.

(3) COMPETITION REQUIRED.—The Secretary shall use competitive procedures similar to those authorized under section 2667 of title 10 in selecting an entity to enter into a cooperative agreement pursuant to this subsection.

(4) AUTHORIZATION TO PURCHASE SERVICES.—The Secretary may not purchase timing system services from the entity for use by the Department of Transportation or for provision to other Federal and non-Federal governmental agencies until the system achieves operational status, and then only if the necessary funds for such purchases are provided for in subsequent yearly appropriations acts made available to the Secretary for each and every year in which such purchases are made.

(5) DETERMINATION REQUIREMENT.—The Secretary may not enter into a cooperative agreement under this subsection unless the Secretary determines that the cooperative agreement is in the best financial interest of the Federal Government. The Secretary shall notify the Committee on Committee on [2] Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such determination not later than 30 days after the date of the determination.

(6) DEFINITION.—In this subsection the term "entity" means a non-Federal entity with the demonstrated technical expertise and requisite administrative and financial resources to meet any terms and conditions established by the Secretary for purposes of this subsection.

(Added Pub. L. 115–282, title V, §514(b), Dec. 4, 2018, 132 Stat. 4276; amended Pub. L. 116–283, div. G, title LVXXXV [LXXXV], §8507(d)(2), Jan. 1, 2021, 134 Stat. 4754; Pub. L. 117–103, div. L, title I, §109A, Mar. 15, 2022, 136 Stat. 691.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the National Timing Resilience and Security Act of 2018, referred to in subsecs. (b)(1) and (c)(1), (2), is the date of enactment of section 514 of Pub. L. 115–282, which was approved Dec. 4, 2018.

Section 1618 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (b)(1), is section 1618 of Pub. L. 114–328, div. A, title XVI, Dec. 23, 2016, 130 Stat. 2595, which is not classified to the Code.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–103 struck out "land-based," after "operation of a".

2021—Pub. L. 116–283 made technical correction to directory language of Pub. L. 115–282, §514(b), which enacted this section.

EFFECTIVE DATE OF 2021 AMENDMENT

Section 8507(d) of div. G of Pub. L. 116–283 effective as if included in Pub. L. 115–282, see section 8507(d)(7) of Pub. L. 116–283, set out as a note under section 1226 of Title 33, Navigation and Navigable Waters.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of section 514 of Pub. L. 115–282, which enacted this section, as the "National Timing Resilience and Security Act of 2018", see section 514(a) of Pub. L. 115–282, set out as a Short Title of 2018 Amendment note under section 101 of this title.

[1] *So in original. The comma probably should not appear.*

[2] *So in original.*

§313. Nontraditional and Emerging Transportation Technology Council

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the "Secretary") shall establish a council, to be known as the "Nontraditional and Emerging Transportation Technology Council" (referred to in this section as the "Council"), to address coordination on emerging technology issues across all modes of transportation.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of—

(A) the Secretary, who shall serve as an ex officio member of the Council;

(B) the Deputy Secretary of Transportation;

(C) the Under Secretary of Transportation for Policy;

(D) the Assistant Secretary for Research and Technology of the Department of Transportation;

(E) the Assistant Secretary for Budget and Programs of the Department of Transportation;

(F) the General Counsel of the Department of Transportation;

(G) the Chief Information Officer of the Department of Transportation;

(H) the Administrator of the Federal Aviation Administration;

(I) the Administrator of the Federal Highway Administration;

(J) the Administrator of the Federal Motor Carrier Safety Administration;

(K) the Administrator of the Federal Railroad Administration;

(L) the Administrator of the Federal Transit Administration;

(M) the Administrator of the Maritime Administration;

(N) the Administrator of the National Highway Traffic Safety Administration;

(O) the Administrator of the Pipeline and Hazardous Materials Safety Administration; and

(P) any other official of the Department of Transportation, as determined by the Secretary.

(2) CHAIR AND VICE CHAIR.—

(A) CHAIR.—The Deputy Secretary of Transportation (or a designee) shall serve as Chair of the Council.

(B) VICE CHAIR.—The Under Secretary of Transportation for Policy (or a designee) shall serve as Vice Chair of the Council.

(c) DUTIES.—The Council shall—

(1) identify and resolve jurisdictional and regulatory gaps or inconsistencies associated with nontraditional and emerging transportation technologies, modes, or projects pending or brought before the Department of Transportation to reduce, to the maximum extent practicable, impediments to the prompt and safe deployment of new and innovative transportation technology, including with respect to—

(A) safety oversight;

(B) environmental review; and
(C) funding and financing issues;

(2) coordinate the response of the Department of Transportation to nontraditional and emerging transportation technology projects;
(3) engage with stakeholders in nontraditional and emerging transportation technology projects; and
(4) develop and establish Department of Transportation-wide processes, solutions, and best practices for identifying and managing nontraditional and emerging transportation technology projects.

(d) BEST PRACTICES.—Not later than 1 year after the date of enactment of this section, the Council shall—
(1) publish initial guidelines to achieve the purposes described in subsection (c)(4); and
(2) promote each modal administration within the Department of Transportation to further test and support the advancement of nontraditional and emerging transportation technologies not specifically considered by the Council.

(e) SUPPORT.—The Office of the Secretary shall provide support for the Council.
(f) MEETINGS.—The Council shall meet not less frequently than 4 times per year, at the call of the Chair.
(g) LEAD MODAL ADMINISTRATION.—For each nontraditional or emerging transportation technology, mode, or project associated with a jurisdictional or regulatory gap or inconsistency identified under subsection (c)(1), the Chair of the Council shall—
(1) designate a lead modal administration of the Department of Transportation for review of the technology, mode, or project; and
(2) arrange for the detailing of staff between modal administrations or offices of the Department of Transportation as needed to maximize the sharing of experience and expertise.

(h) TRANSPARENCY.—Not later than 1 year after the date of establishment of the Council, and not less frequently than annually thereafter until December 31, 2026, the Council shall post on a publicly accessible website a report describing the activities of the Council during the preceding calendar year.

(Added Pub. L. 117–58, div. B, title V, §25008(a), Nov. 15, 2021, 135 Stat. 850.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a) and (d), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

SUBCHAPTER II—ADMINISTRATIVE

§321. Definitions

In this subchapter, "aeronautics", "air commerce", and "air navigation facility" have the same meanings given those terms in section 40102(a) of this title.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98–216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(8), July 5, 1994, 108 Stat. 1376; Pub. L. 103–429, §6(2), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
321	(no source).	

A number of the source provisions of the subchapter are taken from 49:ch. 20. The text of 49:ch. 20 contains general definitions, some of which are used in those source provisions. The section includes those definitions from 49:ch. 20 that are used in the source provisions included in the subchapter.

PUB. L. 103–429

This makes a clarifying amendment to 49:321.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–429 struck out ", respectively" after "of this title".

Pub. L. 103–272 substituted "section 40102(a) of this title" for "section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8))".

1984—Pub. L. 98–216 substituted "49 App. U.S.C." for "49 U.S.C.".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–429, §9, Oct. 31, 1994, 108 Stat. 4391, provided that: "The amendments made by sections 6(2)–(15), (19)–(35), (37)–(39), (41), (44)–(52), (54)–(62), (65), (66)(B), (70), (73)–(76), and (78)–(81) of this Act [enacting section 41312 of this title and amending this section and sections 5103, 5104, 5115, 5125, 5307, 5318, 5320, 5323, 5326, 5327, 5331, 5337, 5565, 20136, 22108, 24501, 24904, 30141, 30165, 30166, 30308, 31501, 32101, 32304, 32309, 32505, 32703, 32705, 32706, 32908 to 32910, 32913, 33101, 33106, 40102, 40104, 40110, 41103, 41110, 41734, 44502, 44701, 44711, 44937, 45105, 45302, 46301, 46310, 46502, 47101, 47113, 47114, 47128, 47531, 47532, 60109, and 60112 of this title] shall take effect on July 5, 1994."

§322. General powers

(a) The Secretary of Transportation may prescribe regulations to carry out the duties and powers of the Secretary. An officer of the Department of Transportation may prescribe regulations to carry out the duties and powers of the officer.

(b) The Secretary may delegate, and authorize successive delegations of, duties and powers of the Secretary to an officer or employee of the Department. An officer of the Department may delegate, and authorize successive delegations of, duties and powers of the officer to another officer or employee of the Department. However, the duties and powers specified in sections 103(c)(1),[1] 104(c)(1), and 106(g)(1) [1] of this title may not be delegated to an officer or employee outside the Administration concerned.

(c) On a reimbursable basis when appropriate, the Secretary may, in carrying out aviation duties and powers—

(1) use the available services, equipment, personnel, and facilities of other civilian or military departments, agencies, and instrumentalities of the United States Government, with their consent;

(2) cooperate with those departments, agencies, and instrumentalities in establishing and using aviation services, equipment, and facilities of the Department; and

(3) confer and cooperate with, and use the services, records, and facilities of, State, territorial, municipal, and other agencies.

(d) The Secretary may make expenditures to carry out aviation duties and powers, including expenditures for—

(1) rent and personal services;

(2) travel expenses;

(3) office furniture, equipment, supplies, lawbooks, newspapers, periodicals, and reference books, including exchanges;

(4) printing and binding;

(5) membership in and cooperation with domestic or foreign organizations related to, or a part of, the civil aeronautics industry or the art of aeronautics;

(6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent authorized for members of the Foreign Service of comparable grade;

(7) investigations and studies about aeronautics; and

(8) acquiring, exchanging, operating, and maintaining passenger-carrying aircraft and automobiles and other property.

(e) The Secretary may negotiate, without advertising, the purchase of technical or special property related to air navigation when the Secretary decides that—

(1) making the property would require a substantial initial investment or an extended period of preparation; and

(2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in duplication of necessary preparation that would unreasonably delay procuring the property.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2422.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
322(a)	49:1657(e)(1) (last 19 words), (2) (last 19 words), (f), (g).	Oct. 15, 1966, Pub. L. 89–670, §9(e)–(g), 80 Stat. 944.
322(b)	49:1344(d) (less words after semicolon).	Aug. 23, 1958, Pub. L. 85–726, §§302(k), 303(a), (d) (less words after semicolon), 80 Stat. 747, 749.
	49:1657(e)(1) (less last 19 words), (2) (less last 19 words), (3).	
	5 App. U.S.C.	Reorg. Plan No. 2 of 1968, eff. July 1, 1968, §2, 82 Stat. 1369.
322(c)	49:1343(i).	
322(d)	49:1344(a).	
322(e)	49:1344(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §303(e); added May 21, 1970, Pub. L. 91–258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, §112(e), 94 Stat. 2240.

In the chapter, the words "Secretary of Transportation" and "Secretary" are substituted for "Administrator" in the provisions of the Federal Aviation Act of 1958 (Pub. L. 85–726, 72 Stat. 731) restated in the revised chapter because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (a), the words "may prescribe regulations to carry out the duties and powers" are substituted for "may make such rules and regulations as may be necessary to carry out . . . functions, powers, and duties" for consistency and to eliminate unnecessary words. The text of 49:1657(f) and (g) is omitted as executed

because the transfer of personnel, assets, and liabilities, etc., has been accomplished.

In subsection (b), the words "Except where this chapter vests in any administration, agency or board, specific functions, powers, and duties" before "the Secretary may" in 49:1657(e)(1) are omitted because of the specific wording of sections 103, 104, and 106 of the revised title. The words "in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to or vested in the Secretary in this chapter" before "delegate" in 49:1657(e)(1) are omitted because the authority of the Secretary to delegate is consolidated in the subsection. The words "the duties and powers of the Secretary" are substituted for "any of his residual functions, powers, and duties" in 49:1657(e)(1) and "any of the functions transferred to him by this reorganization plan" in section 2 of Reorganization Plan No. 2 of 1968 (eff. July 1, 1968, 82 Stat. 1369), for clarity and consistency. The words "as he may designate" and "of such functions, powers, and duties as he may deem desirable" are omitted as surplus each place they appear in 49:1657(e)(1) and (2). The text of section 322(b) (1st sentence) of the revised title is substituted for 49:1344(d) (less words after semicolon) for clarity and because of the transfer of aviation functions to the Secretary of Transportation under 49:1655(c)(1). The text of 49:1657(e)(2) (words before 2d comma) is omitted as unnecessary because the authority of an officer to delegate is consolidated in the subsection. The words "the duties and powers of the officer" are substituted for "such functions, powers, and duties" in 49:1657(e)(2) for clarity and consistency. The words "the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title" are substituted for "any of the statutory duties and responsibilities specifically assigned to them by this chapter" in 49:1657(e)(3) for clarity. The words "may not be delegated to an officer or employee outside the Administration concerned" are substituted for "The Administrators established by section 1652(e) of this title . . . may not delegate . . . outside of their respective administrations" in 49:1657(e)(3) for clarity and because of the restatement of the section.

In subsection (c), before clause (1), the words "aviation duties and powers" are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. In clause (2), the words "those departments, agencies, and instrumentalities" are substituted for "such other agencies and instrumentalities" in 49:1343(i) for clarity and consistency. The words "aviation . . . Department" are substituted for "Administration" in 49:1343(i) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (d), before clause (1), the words "aviation duties and powers" are substituted for "for the exercise and performance of the powers and duties vested in and imposed upon him by law" in 49:1344(a) because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words "at the seat of government and elsewhere as may be necessary" after "expenditures" and "and as from time to time may be appropriated for by Congress" are omitted as surplus. In clause (8), the words "passenger-carrying aircraft and automobiles" are substituted for "passenger-carrying automobiles and aircraft" in 49:1344(a) for clarity. The words "such . . . as is necessary in the exercise and performance of the powers and duties of the Secretary" after "aircraft" in 49:1344(a) are omitted as unnecessary because of the restatement of the section. The text of 49:1344(a) (proviso) is omitted as unnecessary.

In subsection (e), before clause (1), the words "or in support of" are omitted as surplus. In clause (1), the words "making the property" are substituted for "for manufacture" for clarity. In clause (2), the word "formal" is omitted as unnecessary. The word "unreasonably" is substituted for "unduly" for consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 103(c)(1) of this title, referred to in subsec. (b), was struck out by Pub. L. 110–432, div. A, title I, §101, Oct. 16, 2008, 122 Stat. 4851. Provisions similar to those contained in former subsec. (c)(1) of section 103 are now contained in subsec. (g)(1) of section 103.

Section 106(g)(1) of this title, referred to in subsec. (b), was struck out by Pub. L. 118–63, title II, §204(b), May 16, 2024, 138 Stat. 1041. Provisions similar to those contained in former subsec. (g)(1) of section 106 are now contained in subsec. (f)(3)(A)(i) of section 106.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ELECTRONIC SIGNATURES

Pub. L. 115–271, title VIII, §8108(c), Oct. 24, 2018, 132 Stat. 4107, provided that: "Not later than 18 months after the date of the deadline under subsection (a)(2) [section 8108(a)(2) of Pub. L. 115–271, set out in

a note under section 7301 of Title 5, Government Organization and Employees], the Secretary of Transportation shall issue a final rule revising part 40 of title 49, Code of Federal Regulations, to authorize, to the extent practicable, the use of electronic signatures or digital signatures executed to electronic forms instead of traditional handwritten signatures executed on paper forms."

AVAILABILITY OF RECEIPTS FROM FITNESS CENTERS FOR OPERATION AND MAINTENANCE OF FACILITIES

Pub. L. 106–69, title III, §329, Oct. 9, 1999, 113 Stat. 1021, provided that: "Hereafter, notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–277, div. A, §101(g) [title III, §332], Oct. 21, 1998, 112 Stat. 2681–439, 2681–471.

Pub. L. 105–66, title III, §332, Oct. 27, 1997, 111 Stat. 1447.

Pub. L. 104–205, title III, §344, Sept. 30, 1996, 110 Stat. 2976.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11382

Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, as amended by Ex. Ord. No. 11428, Sept. 5, 1968, 33 F.R. 12719, upon establishment of Department of Transportation amended and revoked certain executive orders relating to transportation, and, in addition to any other authority, authorized Secretary of Transportation and Federal Aviation Administrator to redelegate and authorize successive redelegations of any authority conferred in the order or the orders amended by it.

[1] *See References in Text note below.*

§323. Personnel

(a) The Secretary of Transportation may appoint and fix the pay of officers and employees of the Department of Transportation and may prescribe their duties and powers.

(b) The Secretary may procure services under section 3109 of title 5. However, an individual may be paid not more than $100 a day for services.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
323(a)	49:1343(d).	Aug. 23, 1958, Pub. L. 85–726, §302(f), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87–367, §205(b), 75 Stat. 791; Oct. 11, 1962, Pub. L. 87–793, §1001(h), 76 Stat. 864.
	49:1343(f).	Aug. 23, 1958, Pub. L. 85–726, §302(h), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87–367, §205(a), 75 Stat. 791.
	49:1657(a).	Oct. 15, 1966, Pub. L. 89–670, §9(a), (b), 80 Stat. 944; Mar. 27, 1978, Pub. L. 95–251, §2(a)(12), 92 Stat. 183.
323(b)	49:1343(g) (1st sentence 33d–43d words).	Aug. 23, 1958, Pub. L. 85–726, §302(i) (1st sentence 31st–41st words), 72 Stat. 747.

	49:1657(b).	

In the section, the word "pay" is substituted for "compensation" for consistency with title 5.

In subsection (a), the words "In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department" before "the Secretary" and "subject to the civil service and classification laws" before "to select" in 49:1657(a) are omitted as unnecessary because of title 5, especially sections 3301, 5101, and 5331. The word "appoint" is substituted for "select, employ, appoint" because it is inclusive. The words "attorneys, and agents" after "employees" in 49:1343(d) and "including investigators, attorneys, and administrative law judges" after "employees" in 49:1657(a) are omitted as included in "officers and employees". The words "of the Department of Transportation" are substituted for "as are necessary to carry out the provisions of this chapter" for consistency.

The text of 49:1343(d) (words after 1st comma) is omitted because of section 414(a)(1)(B) of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 92 Stat. 1177). The text of 49:1343(f) is omitted because of section 414(a)(2)(A) of that Act.

In subsection (b), the word "procure" is substituted for "obtain" to conform to 5:3109. The words "unless otherwise specified in an appropriation Act" after "individuals" in 49:1657(b) are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

POST-EMPLOYMENT POLICY STUDY

Pub. L. 112–141, div. C, title I, §31308(b), July 6, 2012, 126 Stat. 770, provided that:

"(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

"(2) REPORT.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Committee on Energy and Commerce of the House of Representatives; and

"(C) the Secretary of Transportation.

"(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate."

§324. Members of the armed forces

(a) The Secretary of Transportation—

(1) to ensure that national defense interests are safeguarded properly and that the Secretary is advised properly about the needs and special problems of the armed forces, shall provide for participation of members of the armed forces in carrying out the duties and powers of the Secretary related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace; and

(2) may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary.

(b) A member of the Coast Guard on active duty may be appointed, detailed, or assigned to a position in the Department of Transportation, except the position of Secretary, Deputy Secretary, or Assistant Secretary for Administration. A retired member of the Coast Guard may be appointed, detailed, or assigned to a position in the Department.

(c) The Secretary of Transportation and the Secretary of a military department may make cooperative agreements, including agreements on reimbursement as may be considered appropriate by the Secretaries, under which a member of the armed forces may be appointed, detailed, or assigned to the Department of Transportation under this section. The Secretary of Transportation shall send a report each year to the appropriate committees of Congress on agreements made to carry

out subsection (a)(2) of this section, including the number, rank, and position of each member appointed, detailed, or assigned under those agreements.

(d) The Secretary of a military department does not control the duties and powers of a member of the armed forces appointed, detailed, or assigned under this section when those duties and powers pertain to the Department of Transportation. A member of the armed forces appointed, detailed, or assigned under subsection (a)(2) of this section may not be charged against a statutory limitation on grades or strengths of the armed forces. The appointment, detail, or assignment and service of a member under this section to a position in the Department of Transportation does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from that status, office, rank, or grade.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
324(a)(1)	49:1343(a)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §302(c)(1), (2) (related to cooperative agreements), 72 Stat. 745.
324(a)(2)	49:1657(c) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §9(c), (d), 80 Stat. 944.
324(b)	49:1657(p).	Oct. 15, 1966, Pub. L. 89–670, §9(p), 80 Stat. 947; Oct. 28, 1974, Pub. L. 93–496, §16(b), 88 Stat. 1533.
324(c)	49:1343(a)(1) (less 1st sentence). 49:1657(c) (less 1st sentence), (d)(2).	
324(d)	49:1343(a)(2) (related to cooperative agreements). 49:1657(d)(1).	

In the section, the words "members of the armed forces" are substituted for "military personnel", "Members of the Army, the Navy, the Air Force, or the Marine Corps", and "members of the armed services" for clarity and to conform to title 10.

In subsection (a)(2), the words "other duties and powers of the Secretary" are substituted for "the functions of the Department" for clarity and consistency.

In subsection (b), the words "Notwithstanding any provision of this chapter or other law" before "a member" and "Subject to the provisions of title 5" before "a retired" are omitted as unnecessary.

In subsection (c), the words "The Secretary of Transportation and the Secretary of a military department may make cooperative agreements under which" are substituted for "by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation" in 49:1343(a)(1) and 49:1657(c) for clarity. The words "or the Coast Guard" before "may be detailed" in 49:1343(a)(1) (2d sentence) are omitted because of the transfer of the Coast Guard to the Secretary under 49:1655(b) and the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words "may be appointed, detailed, or assigned" are substituted for "may be detailed" for clarity and consistency in 49:1343(a)(1) and 49:1657(c). The words "to the Department of Transportation" are substituted for "for service in the Administration to effect such participation" in 49:1343(a)(1) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and to eliminate unnecessary words. The words "in writing" after "annually" in 49:1657(d)(2) are omitted as unnecessary. The words "each member appointed, detailed, or assigned" are substituted for "personnel appointed" and "members of the armed services detailed" in 49:1657(d)(2) for clarity and consistency.

In subsection (d), the words "The Secretary of a military department" are substituted for "his armed force or any officer thereof" in 49:1657(d)(1) and "the department from which detailed or appointed or by any agency or officer thereof" in 49:1343(a)(2) for clarity and consistency. The words "directly or indirectly" before "with respect to" are omitted as surplus. The words "the duties and powers of . . . when those duties and powers

pertain to the Department of Transportation" are substituted for "with respect to his responsibilities under this chapter or within the Administration" in 49:1343(a)(2) and "with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned" in 49:1657(d)(1) for consistency and because of the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words "does not control" are substituted for "No . . . shall be subject to direction or control by" in 49:1343(a)(2) and "shall not be subject to direction by or control by" 49:1657(d)(1) for clarity. The words "the acceptance of" before "and service" and "any appointive or other" before "position" in 49:1657(d)(1) are omitted as unnecessary. The words "a member" are added because of the restatement of the section. The words "that member" are substituted for "commissioned officers or enlisted men" in 49:1343(a)(2) and "officers and enlisted men" in 49:1657(d)(1) because of the restatement of the section and to eliminate unnecessary words. The word "held" is substituted for "may occupy or hold" to eliminate unnecessary words. The words "right or benefit" are substituted for "emolument, perquisite, right, privilege, or benefit" to eliminate unnecessary words. The words "incident to or" before "arising" are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (c) of this section is listed as the 5th item on page 132), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§325. Advisory committees

(a) Without regard to the provisions of title 5 governing appointment in the competitive service, the Secretary of Transportation may appoint advisory committees to consult with and advise the Secretary in carrying out the duties and powers of the Secretary.

(b) While attending a committee meeting or otherwise serving at the request of the Secretary, a member of an advisory committee may be paid not more than $100 a day. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to individuals regularly employed by the United States Government.

(c) A member of an advisory committee advising the Secretary in carrying out aviation duties and powers may serve for not more than 100 days in a calendar year.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2424.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
325(a)	49:1343(g) (1st sentence 1st–32d words).	Aug. 23, 1958, Pub. L. 85–726, §302(i) (less 1st sentence 31st–41st words), 72 Stat. 747.
	49:1657(*o*) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §9(*o*), 80 Stat. 947.
325(b)	49:1343(g) (1st sentence 44th–53d words, last sentence).	
	49:1657(*o*) (last sentence).	

325(c)	49:1343(g) (1st sentence 54th–last words).	

In subsection (a), the words "provisions of title 5 governing appointment in the competitive service" are substituted for "civil service laws" in 49:1657(o) for clarity and consistency. The words "as shall be appropriate for the purpose of" before "consultation" in 49:1657(o) are omitted as surplus. The words "the Secretary in carrying out the duties and powers of the Secretary" are substituted for "the Department in performance of its functions" in 49:1657(o) and "the Administration in performance of its functions hereunder" in 49:1343(g) for clarity and consistency because the duties and powers are vested in the Secretary of Transportation.

In subsection (b), the word "compensation" after "may be paid" in 49:1657(o) is omitted as surplus. The words "not more than $100 a day" are substituted for "at rates not exceeding those authorized for individuals under subsection (b) of this section" in 49:1657(o) for clarity because that is the rate under 49:1657(b). The words "A member is entitled to reimbursement for expenses under section 5703 of title 5" are substituted for 49:1343(g) (last sentence) and 49:1657(o) (last sentence words after 4th comma) for clarity.

In subsection (c), the words "A member of an advisory committee advising the Secretary" are substituted for "in the case of any individual" in 49:1343(g) for clarity. The words "may serve" are added for clarity and because of the restatement of the section. The words "in carrying out aviation duties and powers" are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

§326. Gifts

(a) The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, under the terms of the gift.

(b) The Department has a fund in the Treasury. Disbursements from the fund are made on order of the Secretary. The fund consists of—

(1) gifts of money;

(2) income from property accepted under this section and proceeds from the sale of that property; and

(3) income from securities under subsection (c) of this section.

(c) On request of the Secretary of Transportation, the Secretary of the Treasury may invest and reinvest amounts in the fund in securities of, or in securities whose principal and interest is guaranteed by, the United States Government.

(d) Property accepted under this section is a gift to or for the use of the Government under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2424; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

326(a)	49:1344(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §303(c)(1), 72 Stat. 748.
	49:1657(m)(1) (1st, 3d sentences).	Oct. 15, 1966, Pub. L. 89–670, §9(m), 80 Stat. 946.
326(b)	49:1657(m)(1) (2d sentence), (3) (less 1st sentence).	
326(c)	49:1657(m)(3) (1st sentence).	
326(d)	49:1657(m)(2).	

In the section, the word "gifts" is substituted for "gifts and bequests" in 49:1657(m)(1) because it is inclusive.

In subsection (a), the words "accept and use" are substituted for "accept, hold, administer, and utilize", and the words "for the Department" are substituted for "for the purpose of aiding or facilitating the work of the Department" in 49:1657(m)(1), to eliminate unnecessary words. The word "property" is substituted for "property, both real and personal" in 49:1657(m)(1), and "gift or donation of money or other property, real and personal" in 49:1344(c)(1) to eliminate unnecessary words. The words "aviation duties and powers" are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words "under this section and proceeds from that property" are substituted for "pursuant to this paragraph, and the proceeds thereof" in 49:1657(m)(1) for clarity.

In subsection (b), the words "The Department has a" and "The fund consists of" are added for clarity and because of the restatement of the section. The word "separate" before "fund" is omitted as unnecessary and for consistency. The words "from the fund" are added for clarity. The words "accepted under this section" are substituted for "held by the Secretary pursuant to paragraph (1)" for clarity. The words "that property" are substituted for "other property received as gifts or bequests" to eliminate unnecessary words. The words "from securities under subsection (c) of this section" are substituted for "accruing from such securities" for clarity.

In subsection (c), the words "amounts in the fund" are substituted for "any moneys contained in the fund provided for in paragraph (1)" for clarity and consistency.

In subsection (d), the words "under this section" are substituted for "under paragraph (1)" because of the restatement of the section. The words "the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" are substituted for "For the purpose of Federal income, estate, and gift taxes" for consistency.

EDITORIAL NOTES

AMENDMENTS

1986—Subsec. (d). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

§327. Administrative working capital fund

(a) The Department of Transportation has an administrative working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services the Secretary of Transportation decides are desirable for the efficiency and economy of the Department. The services may include—

(1) a central supply service for stationery and other supplies and equipment through which adequate stocks may be maintained to meet the requirements of the Department;

(2) central messenger, mail, telephone, and other communications services;

(3) office space;

(4) central services for document reproduction, and for graphics and visual aids; and

(5) a central library service.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Secretary transfers to the fund, less the related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, in advance, from amounts available to the Department or from other sources, for supplies and services at rates that will approximate the expenses of operation, including the accrual of annual leave and the depreciation of equipment. Amounts in the fund, in excess of amounts transferred or appropriated to maintain the fund, shall be deposited in the Treasury as miscellaneous receipts. All assets, liabilities, and prior losses are considered in determining the amount of the excess.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2425.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
327(a)	49:1657(j) (1st sentence less 11th–17th words).	Oct. 15, 1966, Pub. L. 89–670, §9(j), 80 Stat. 945.
327(b)	49:1657(j) (1st sentence 11th–17th words, 2d sentence, 18th–22d words).	
327(c)	49:1657(j) (2d sentence less 18th–22d words, 4th sentence).	
327(d)	49:1657(j) (less 1st, 2d, 4th sentences).	

In subsection (a), the words "Department of Transportation has" are substituted for "Secretary is authorized to establish" because the working capital fund has been established. The words "administrative" before "working" and "Amounts in the fund are available" are added for clarity. The words "the Secretary of Transportation decides are" are substituted for "as he shall find to be" for clarity. The words "desirable for the economy" are substituted for "desirable in the interest of economy" to eliminate unnecessary words. The words "such services as" before "a central supply service" and "in whole or in part" before "the requirements of the Department" are omitted as surplus. The words "the requirements of the Department" are substituted for "the requirements of the Department and its agencies" because they are inclusive.

In subsection (b), the words "Amounts in the fund" are added for clarity. The words "Amounts may be appropriated to the fund" are substituted for "(which appropriations are hereby authorized)" for clarity.

In subsection (c), the words "The fund consists of" are substituted for "The capital of the fund shall consist of" and "The fund shall also be credited with" for clarity. The word "reasonable" is substituted for "fair and reasonable" because it is inclusive. The words "amounts appropriated to the fund" are substituted for "of any appropriations made for the purpose of providing capital" for clarity. The words "amounts received from the sale" are substituted for "receipts from the sale", and the words "payments received for loss" are substituted for "receipts in payment for", as being more precise.

In subsection (d), the words "agencies and offices in" after "available funds of" are omitted because they are included in "Department". The words "Amounts in the fund, in excess of amounts" are added for clarity. The words "any surplus found in the fund . . . above the" after "miscellaneous receipts" are omitted because of the restatement of this section. The words "to establish and" before "maintain" are omitted because the working capital fund has been established. The words "deposited in the Treasury" are substituted for "covered into the United States Treasury" for consistency. The words "are . . . in determining the amount of the excess" are added for clarity.

§328. Transportation Systems Center working capital fund

(a) The Department of Transportation has a Transportation Systems Center working capital fund.

Amounts in the fund are available for financing the activities of the Center, including research, development, testing, evaluation, analysis, and related activities the Secretary of Transportation approves, for the Department, other agencies, State and local governments, other public authorities, private organizations, and foreign countries.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The capital of the fund consists of—

(1) amounts appropriated to the fund;

(2) net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980;

(3) the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and

(4) the reasonable value of property and other assets donated to the fund.

(d) The fund shall be reimbursed or credited with—

(1) advance payments from applicable funds or appropriations of the Department and other agencies, and with advance payments from other sources, the Secretary authorizes, for—

(A) services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and

(B) acquiring property and equipment under regulations the Secretary prescribes; and

(2) receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

(e) The Secretary shall deposit at the end of each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing in the fund that the Secretary decides are in excess of the needs of the fund.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2425.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
328(a)	49:1657(r)(1) (1st sentence, 2d sentence words before last comma, last sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §9(r); added May 30, 1980, Pub. L. 96–254, §207, 94 Stat. 413.
328(b)	49:1657(r)(1) (2d sentence words after last comma), (2)(B) (words after last comma).	
328(c)	49:1657(r)(2)(A), (B) (words before last comma), (C).	
328(d)	49:1657(r)(3).	
328(e)	49:1657(r)(4).	

In subsection (a), the words "Department of Transportation has" are substituted for "Secretary is authorized to establish" because the working capital fund has been established. The text of 49:1657(r)(1) (2d sentence words before last comma) are omitted as executed. The words "The Transportation Systems Center is authorized to perform" are omitted as unnecessary because of the restatement. The word "approves" is substituted for "direct . . . and, when approved by the Secretary" to eliminate unnecessary words. The words "or his designee" are omitted because of section 322(b) of the revised title.

In subsection (c)(3) and (4), the words "fair and" are omitted as surplus.

In subsection (c)(3), the words "by the Department and other agencies of the Government" are omitted as surplus.

In subsection (c)(4), the words "from other sources" are omitted as surplus.

In subsection (d)(1), before clause (A), the words "or his designee" are omitted because of section 322(b) of the revised title.

In subsection (e), the words "The Secretary shall deposit" are substituted for "there shall be transferred" for clarity and consistency. The words "in the fund" are added for clarity.

§329. Transportation information

(a) The Secretary of Transportation may collect and collate transportation information the Secretary decides will contribute to the improvement of the transportation system of the United States. To the greatest practical extent, the Secretary shall use information available from departments, agencies, and instrumentalities of the United States Government and other sources. To the extent practical, the Secretary shall make available to other Government departments, agencies, and instrumentalities and to the public the information collected under this subsection.

(b) The Secretary shall—

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under chapter 11 of this title) including, at a minimum, information on (A) the origin and destination of passengers in interstate air transportation (as that term is used in part A of subtitle VII of this title), and (B) the number of passengers traveling by air between any two points in interstate air transportation; except that, if the Secretary requires air carriers to provide flight-specific information, the Secretary—

(A) shall not disseminate fare information for a specific flight to the general public for a period of at least 9 months following the date of the flight; and

(B) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rulemaking prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare;

(2) study the possibilities of developing air commerce and the aeronautical industry; and

(3) exchange information on civil aeronautics with governments of foreign countries through appropriate departments, agencies, and instrumentalities of the Government.

(c)(1) On the written request of a person, a State, territory, or possession of the United States, or a political subdivision of a State, territory, or possession, the Secretary may—

(A) make special statistical studies on foreign and domestic transportation;

(B) make special studies on other matters related to duties and powers of the Secretary;

(C) prepare, from records of the Department of Transportation, special statistical compilations; and

(D) provide transcripts of studies, tables, and other records of the Department.

(2) The person or governmental authority requesting information under paragraph (1) of this subsection must pay the actual cost of preparing the information. Payments shall be deposited in the Treasury in an account that the Secretary shall administer. The Secretary may use amounts in the account for the ordinary expenses incidental to getting and providing the information.

(d) To assist in carrying out duties and powers under part A of subtitle VII of this title, the Secretary of Transportation shall maintain separate cooperative agreements with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration for the timely exchange of information on their programs, policies, and requirements directly related to carrying out that part.

(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist in the publication of data under paragraph (1), the Secretary of Transportation may request the Secretary of Homeland Security to periodically report on the number of complaints about security screening received by the Secretary of Homeland Security.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2426; Pub. L. 98–216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 98–443, §5(a), Oct. 4, 1984, 98 Stat. 1705; Pub. L. 103–272, §4(j)(7), July 5, 1994, 108 Stat. 1366; Pub. L. 104–287, §5(3), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 108–176, title IV, §421, title VIII, §805(a), Dec. 12, 2003, 117 Stat. 2551, 2587.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
329(a)	49:1634.	Sept. 30, 1965, Pub. L. 89–220, §4, 79 Stat. 893.
	49:1655(a)(2)(A) (related to 49:1634).	Oct. 15, 1966, Pub. L. 89–670, §§6(a)(2)(A) (related to §4 of the Act of Sept. 30, 1965), 9(n), 80 Stat. 937, 946.
329(b)	49:1352.	Aug. 23, 1958, Pub. L. 85–726, §311, 72 Stat. 751.
329(c)(1)	49:1657(n)(1) (less last 17 words).	
329(c)(2)	49:1657(n)(1) (last 17 words), (2).	
329(d)	49:1343(b).	Aug. 23, 1958, Pub. L. 85–726, §302(d), 72 Stat. 746.

In subsection (a), the word "information" is substituted for "data, statistics, and other information" in 49:1634 to eliminate unnecessary words. The words "transportation system of the United States" are substituted for "national transportation system" in 49:1634 for clarity and consistency. The words "in carrying out this activity" before "the Secretary shall" in 49:1634 are omitted as surplus. The words "departments, agencies, and instrumentalities of the United States Government" are substituted for "Federal agencies" in 49:1634 for clarity and consistency. The words "To the greatest extent practical" are substituted for "insofar as practicable" in 49:1634 for consistency. The words "The Secretary shall" are added for clarity.

In subsection (b), the words "by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) or the Civil Aeronautics Board under title IV of that Act (49 U.S.C. 1371 et seq.)" are substituted for "the Board under subchapter IV and VII of this chapter)" in 49:1352 because 49:1655(d) (1st sentence) transferred duties of the Civil Aeronautics Board under 49:ch. 20, subch. VII to the Secretary of Transportation to be carried out through the National Transportation Safety Board. The reference to the National Transportation Safety Board is to the independent Board established by section 303(a) of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2167) outside the Department of Transportation and not to the prior Board that was a part of the Department. The words "departments, agencies, and instrumentalities of the Government" are substituted for "government channels" in 49:1352 for clarity and consistency.

In subsection (c)(1), the words "of the United States" are added for clarity and consistency. The words "of a State, territory, or possession" are substituted for "thereof" after "subdivision" for clarity. The words "related to the duties and powers of the Secretary" are substituted for "falling within the province of the Department" for clarity and consistency.

In subsection (c)(2), the words "governmental authority requesting information under paragraph (1) of this subsection" are substituted for "body requesting it" for clarity and consistency. The word "separate" before "account" is omitted as unnecessary and for consistency. The words "must pay" are substituted for "upon the payment" after "other records" for clarity. The words "preparing the information" are substituted for "such work" after "actual cost of" for clarity. The word "payments" is substituted for "All moneys received by the

Department in payment of the cost of work under paragraph (1)" to eliminate unnecessary words. The words "in the Treasury" are added for clarity and consistency. The words "The Secretary may use amounts in the account" are substituted for "These moneys may be used, in the discretion of the Secretary" for clarity and to eliminate unnecessary words. The words "to getting and providing the information" are substituted for "to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States" for clarity and to eliminate unnecessary words.

In subsection (d), the words "in carrying out duties and powers under the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.)" are substituted for "in discharge of responsibilities under this chapter" in 49:1343(b) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and for consistency. The words "directly related to carrying out that part" are substituted for "directly relating to such responsibilities" in 49:1343(b) because of the restatement of the source provisions.

PUB. L. 103–272

Section 4(j)(7) amends 49:329 to omit references to overseas air transportation because there no longer is a distinction between interstate air transportation and overseas air transportation.

PUB. L. 104–287

This amends 49:329 to make conforming amendments necessary because of the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 745).

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–176, §805(a), substituted "except that, if the Secretary requires air carriers to provide flight-specific information, the Secretary—" and subpars. (A) and (B) for "except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate air transportation and are not used for providing essential air transportation under subchapter II of chapter 417 of this title;".

Subsec. (e). Pub. L. 108–176, §421, added subsec. (e).

1996—Subsec. (b)(1). Pub. L. 104–287, §5(3)(A), substituted "(as that term is used in part A of subtitle VII of this title)" for "(as those terms are used in such Act)".

Subsec. (d). Pub. L. 104–287, §5(3)(B), substituted "that part" for "that Act".

1994—Subsec. (b)(1). Pub. L. 103–272, §4(j)(7)(A), substituted "chapter 11 of this title" for "title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)", "in interstate air transportation" for "in interstate and overseas air transportation" in two places, "for interstate air transportation" for "for interstate or overseas air transportation", and "subchapter II of chapter 417 of this title" for "section 419 of the Federal Aviation Act of 1958".

Subsec. (d). Pub. L. 103–272, §4(j)(7)(B), substituted "part A of subtitle VII of this title" for "the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)".

1984—Subsec. (b)(1). Pub. L. 98–443 struck out reference to information collected and disseminated by the Civil Aeronautics Board under section 1371 et seq. of this title, and added cls. (A) and (B).

Pub. L. 98–216 substituted "49 App. U.S.C." for "49 U.S.C.".

Subsec. (d). Pub. L. 98–216 substituted "49 App. U.S.C." for "49 U.S.C.".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 421 of Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

Pub. L. 108–176, title VIII, §805(b), Dec. 12, 2003, 117 Stat. 2588, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105–AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code." [RIN 2105–AC71 was withdrawn on June 1, 2011. Final rule under RIN

2105–AE45 updating the Origin and Destination Survey of Airline Passenger Traffic, pursuant to section 329(b)(1) of this title, was issued on Jan. 31, 2023, effective Mar. 2, 2023, see 88 F.R. 6145.]

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–443, §5(b), Oct. 4, 1984, 98 Stat. 1705, provided that: "The amendment made by this section [amending this section] shall take effect on January 1, 1985."

DEPARTMENT OF TRANSPORTATION PUBLIC DRUG AND ALCOHOL TESTING DATABASE

Pub. L. 115–271, title VIII, §8103, Oct. 24, 2018, 132 Stat. 4104, provided that:

"(a) IN GENERAL.—Subject to subsection (c), the Secretary of Transportation shall—

"(1) not later than March 31, 2019, establish and make publicly available on its website a database of the drug and alcohol testing data reported by employers for each mode of transportation; and

"(2) update the database annually.

"(b) CONTENTS.—The database under subsection (a) shall include, for each mode of transportation—

"(1) the total number of drug and alcohol tests by type of substance tested;

"(2) the drug and alcohol test results by type of substance tested;

"(3) the reason for the drug or alcohol test, such as pre-employment, random, post-accident, reasonable suspicion or cause, return-to-duty, or follow-up, by type of substance tested; and

"(4) the number of individuals who refused testing.

"(c) COMMERCIALLY SENSITIVE DATA.—The Department of Transportation shall not release any commercially sensitive data or personally identifiable data furnished by an employer under this section unless the data is aggregated or otherwise in a form that does not identify the employer providing the data.

"(d) SAVINGS CLAUSE.—Nothing in this section may be construed as limiting or otherwise affecting the requirements of the Secretary of Transportation to adhere to requirements applicable to confidential business information and sensitive security information, consistent with applicable law."

§330. Research activities

(a) IN GENERAL.—The Secretary of Transportation may make contracts with educational institutions, public and private agencies and organizations, and persons for scientific or technological research into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) RESPONSIBILITIES.—In carrying out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) PUBLICATIONS.—The Secretary may distribute publications containing information the Secretary considers relevant to research carried out under this section.

(d) DUTIES.—The Secretary shall provide for the following:

(1) Coordination, facilitation, and review of Department of Transportation research and development programs and activities.

(2) Advancement, and research and development, of innovative technologies, including intelligent transportation systems.

(3) Comprehensive transportation statistics research, analysis, and reporting.

(4) Education and training in transportation and transportation-related fields.

(5) Activities of the Volpe National Transportation Systems Center.

(6) Coordination in support of multimodal and multidisciplinary research activities.

(e) ADDITIONAL AUTHORITIES.—The Secretary may—

(1) enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons to conduct research into transportation service and infrastructure assurance and to carry out other research activities of the Department of Transportation;

(2) carry out, on a cost-shared basis, collaborative research and development to encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology with—

(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

(B) Federal laboratories; and

(C) other Federal agencies; and

(3) directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Academies, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the cost of an activity carried out under subsection (e)(3) shall not exceed 50 percent.

(2) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

(3) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subsection (e)(3).

(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2016 through 2020, the Secretary is authorized to expend not more than 1 ½ percent of the amounts authorized to be appropriated for the coordination, evaluation, and oversight of the programs administered by the Office of the Assistant Secretary for Research and Technology.

(h) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this section, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(i) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this section.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2427; Pub. L. 114–94, div. A, title VI, §6011(b), Dec. 4, 2015, 129 Stat. 1568.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
330(a)	49:1657(q)(1). 49:1657(q)(2) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §9(q)(1)–(3), 80 Stat. 947.
330(b)	49:1657(q)(2) (less 1st sentence).	
330(c)	49:1657(q)(3).	

In subsection (a), the words "may make contracts" are substituted for "is authorized to enter into contracts" to eliminate unnecessary words. The words "the conduct of" before "scientific" are omitted as surplus. The words "a problem" are substituted for "any aspect of the problems" because of the style of the revised title. The words "carried out by the Secretary" are substituted for "of the Department which are authorized by statute" because the Secretary of Transportation is vested with all duties and powers. The words "Before making a contract" are substituted for "with which he expects to enter into contracts pursuant to this subsection" for clarity and to eliminate unnecessary words. The words "is able to carry out the contract" are substituted for "have the capability of doing effective work" for clarity.

In subsection (b), before clause (1), the words "In carrying out this section" are added for clarity. In clause (1), the word "give" is substituted for "furnish" before "such advice" for consistency. The words "duties and powers of the Secretary" are substituted for "mission of the Department" for clarity and consistency. In clause (4), the word "contractors" is substituted for "the institutions, agencies, organizations, or persons" to eliminate unnecessary words. The words "departments, agencies, and instrumentalities of the United States Government" are substituted for "Federal agencies" for clarity and consistency.

In subsection (c), the words "considers relevant" are substituted for "as he deems pertinent" as more precise. The words "from time to time" before "disseminate" and "in the form of reports or . . . to public or private agencies or organizations, or individuals" before "such information" are omitted as unnecessary.

EDITORIAL NOTES

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (h), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

2015—Pub. L. 114–94, §6011(b)(1), substituted "activities" for "contracts" in section catchline.

Subsecs. (a) to (c). Pub. L. 114–94, §6011(b)(2)–(4), inserted headings.

Subsecs. (d) to (i). Pub. L. 114–94, §6011(b)(5), added subsecs. (d) to (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

VOLPE OVERSIGHT

Pub. L. 117–58, div. B, title V, §25023, Nov. 15, 2021, 135 Stat. 879, provided that:

"(a) FINANCIAL MANAGEMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall implement the recommendations of the Inspector General of the Department [of Transportation] included in the report entitled 'DOT Needs to Strengthen Its Oversight of IAAs With Volpe' and dated September 30, 2019, to improve planning, financial management, and the sharing of performance information with respect to intraagency agreements with the John A. Volpe National Transportation Systems Center (referred to in this section as the 'Volpe Center').

"(b) GAO REVIEW.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that examines the surface transportation activities at the Volpe Center.

"(2) CONTENTS.—The report under paragraph (1) shall include an evaluation of—

"(A) the amount of Department funding provided to the Volpe Center, as compared to other Federal and non-Federal research partners;

"(B) the process used by the Department to determine whether to work with the Volpe Center, as compared to any other Federal or non-Federal research partner;

"(C) the extent to which the Department is collaborating with the Volpe Center to address research needs relating to emerging issues; and

"(D) whether the operation of the Volpe Center is duplicative of other public or private sector efforts."

CONFLICTS OF INTEREST

Pub. L. 106–159, title I, §101(g), Dec. 9, 1999, 113 Stat. 1752, provided that:

"(1) COMPLIANCE WITH REGULATION.—In awarding any contract for research, the Secretary shall comply with section 1252.209–70 of title 48, Code of Federal Regulations, as in effect on the date of the enactment of this section [Dec. 9, 1999]. The Secretary shall require that the text of such section be included in any request for proposal and contract for research made by the Secretary.

"(2) STUDY.—

"(A) IN GENERAL.—The Secretary shall conduct a study to determine whether or not compliance with the section referred to in paragraph (1) is sufficient to avoid conflicts of interest in contracts for research awarded by the Secretary and to evaluate whether or not compliance with such section unreasonably delays or burdens the awarding of such contracts.

"(B) CONSULTATION.—In conducting the study under this paragraph, the Secretary shall consult, as appropriate, with the Inspector General of the Department of Transportation, the Comptroller General, the heads of other Federal agencies, research organizations, industry representatives, employee organizations, safety organizations, and other entities.

"(C) REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study conducted under this paragraph."

§331. Service, supplies, and facilities at remote places

(a) When necessary and not otherwise available, the Secretary of Transportation may provide for, construct, or maintain the following for officers and employees of the Department of Transportation and their dependents stationed in remote places:

(1) emergency medical services and supplies.

(2) food and other subsistence supplies.

(3) messing facilities.

(4) motion picture equipment and film for recreation and training.

(5) living and working quarters and facilities.

(6) reimbursement for food, clothing, medicine, and other supplies provided by an officer or employee in an emergency for the temporary relief of individuals in distress.

(b) The Secretary shall prescribe reasonable charges for medical treatment provided under subsection (a)(1) of this section and for supplies and services provided under subsection (a)(2) and (3) of this section. Amounts received under this subsection shall be credited to the appropriation from which the expenditure was made.

(c) When appropriations for a fiscal year for aviation duties and powers have not been made before June 1 immediately before the beginning of the fiscal year, the Secretary may designate an officer, and authorize that officer, to incur obligations to buy and transport supplies to carry out those duties and powers at installations outside the 48 contiguous States and the District of Columbia. The amount obligated under this subsection in a fiscal year may be not more than 75 percent of the amount available for buying and transporting supplies to those installations for the then current fiscal year. Payment of obligations under this subsection shall be made from appropriations for the next fiscal year when available.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2427; Pub. L. 103–272, §4(j)(8), July 5, 1994, 108 Stat. 1367.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
331(a)	49:1657(*l*) (less last sentence).	Oct. 15, 1966, Pub. L. 89–670, §9(*l*), 80 Stat. 946.
331(b)	49:1657(*l*) (last sentence).	
331(c)	49:1344(b).	Aug. 23, 1958, Pub. L. 85–726, §303(b), 72 Stat. 748.

In subsection (a), the text of 49:1657(l) (words before 3d comma) is omitted as unnecessary. The words "of the Department of Transportation" are added for clarity. In clause (6), the words "individuals in distress" are substituted for "distressed persons" as being more precise.

In subsection (b), the words "The Secretary shall prescribe reasonable charges" are substituted for "shall be at prices reflecting reasonable value as determined by the Secretary" for clarity and to eliminate surplus words. The words "services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section" are substituted for "The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection" to eliminate surplus words. The words "Amounts received under this subsection" are substituted for "and the proceeds therefrom" for clarity.

In subsection (c), the words "aviation duties and powers" are substituted for "the Administration" in 49:1344(b) because of the transfer of aviation functions to the Secretary of Transportation under 49:1655(c)(1). The words "before June 1" are substituted for "prior to the first day of March" in 49:1344(b) to conform to the change in the start of the fiscal year from July 1 to October 1 under 31:1020(a)(2). The words "and materials necessary" after "supplies" in 49:1344(b) are omitted as surplus. The words "to carry out those duties and powers" are substituted for "necessary to the proper execution of the Secretary of Transportation's functions" in 49:1344(b) for clarity and consistency. The words "the 48 contiguous States and the District of Columbia" are substituted for "the continental United States" in 49:1344(b) for clarity. The words "including those in Alaska" before "in amounts" in 49:1344(b) are omitted as unnecessary because of the restatement of the section. The words "The amount obligated under this subsection in a fiscal year" in 49:1344(b) are added for clarity. The words "available for buying and transporting supplies to those installations" are substituted for "made available for such purposes" in 49:1344(b) for clarity. The word "succeeding" after "next" in 49:1344(b) is omitted as surplus.

PUB. L. 103–272

Section 4(j)(8) amends 49:331(b) to follow more closely the language in former 49:1657(l) on which it was based.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–272 substituted "medical treatment provided under subsection (a)(1) of this section and for supplies and services provided under subsection (a)(2) and (3) of this section" for "services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section".

§332. Minority Resource Center

(a) In this section, "minority" includes women.

(b) The Department of Transportation has a Minority Resource Center. The Center may—

(1) include a national information clearinghouse for minority entrepreneurs and businesses to disseminate information to them on business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the railroads of the United States;

(2) carry out market research, planning, economic and business analyses, and feasibility studies to identify those business opportunities;

(3) assist minority entrepreneurs and businesses in obtaining investment capital and debt financing;

(4) design and carry out programs to encourage, promote, and assist minority entrepreneurs and businesses in getting contracts, subcontracts, and projects related to those business opportunities;

(5) develop support mechanisms (including venture capital, surety and bonding organizations,

and management and technical services) that will enable minority entrepreneurs and businesses to take advantage of those business opportunities;

(6) participate in, and cooperate with, United States Government programs and other programs designed to provide financial, management, and other forms of support and assistance to minority entrepreneurs and businesses; and

(7) make arrangements to carry out this section.

(c) The Center has an advisory committee of 5 individuals appointed by the Secretary of Transportation. The Secretary shall make the appointments from lists of qualified individuals recommended by minority-dominated trade associations in the minority business community. Each of those trade associations may submit a list of not more than 3 qualified individuals.

(d) The United States Railway Association, the Consolidated Rail Corporation, and the Secretary shall provide the Center with relevant information (including procurement schedules, bids, and specifications on particular maintenance, rehabilitation, restructuring, improvement, and revitalization projects) the Center requests in carrying out this section.

(e) BONDING ASSISTANCE.—

(1) IN GENERAL.—The Secretary, acting through the Minority Resource Center established under subsection (b), shall provide assistance in obtaining bid, payment, and performance bonds by disadvantaged business enterprises pursuant to subsection (b)(4).

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out activities under this subsection.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2428; Pub. L. 109–59, title I, §1951, Aug. 10, 2005, 119 Stat. 1514.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
332(a)	49:1657a(e).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §11; added Feb. 5, 1976, Pub. L. 94–210, §906(2), 90 Stat. 149.
332(b)	49:1657a(a), (c).	
332(c)	49:1657a(b).	
332(d)	49:1657a(d).	

In subsection (b), before clause (1), the word "has" is substituted for "The Secretary shall, within 180 days after February 5, 1976, establish" because the time for establishing the Center has expired and the Center has been established. The words "The Department of Transportation" are added because of the restatement of the section. The words "(hereafter in this section referred to as the 'Center')" after "Minority Resource Center" are omitted because of the style of the revised title.

In subsection (b)(1), the word "include" is substituted for "establish and maintain", and the words "to disseminate information" are substituted for "and disseminate information from", for clarity. The words "to them . . . related to" are substituted for "to such entrepreneurs and businesses . . . with respect to" to omit unnecessary words. The words "for purposes of furnishing . . . information" before "with respect to" are omitted as surplus.

In subsection (b)(2), the words "those business opportunities" are substituted for "such opportunities" after "identify" for clarity.

In subsection (b)(4), the words "those business opportunities" are substituted for "the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads" to eliminate surplus words.

In subsection (b)(5), the words "related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the nation's railroads" are omitted as unnecessary because of the restatement.

In subsection (b)(7), the words "make arrangements" are substituted for "enter into such contracts, cooperative agreements, or other transactions" to eliminate unnecessary words. The words "as may be

necessary" after "transactions" are omitted as surplus. The words "to carry out this section" are substituted for "in the conduct of its functions and duties" for clarity and consistency.

In subsection (c), the words "The Secretary shall make the appointments" and the words "Each of those trade associations may submit a list of not more than" are added for clarity and because of the restatement of the section.

In subsection (d), the words "in carrying out this section" are substituted for "in connection with the performance of its functions" for clarity and consistency.

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–59 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

The United States Railway Association abolished effective Apr. 1, 1987, all powers, duties, rights, and obligations of Association relating to Consolidated Rail Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) transferred to Secretary of Transportation on Jan. 1, 1987, and any securities of Corporation held by Association transferred to Secretary of Transportation on Oct. 21, 1986, see section 1341 of Title 45, Railroads.

§333. Responsibility for rail transportation unification and coordination projects

(a) The Secretary of Transportation may develop and make available to interested persons any plans, proposals, and recommendations for mergers, consolidations, reorganizations, and other unification or coordination projects for rail transportation (including arrangements for joint use of tracks and other facilities and acquisition or sale of assets) that the Secretary believes will result in a rail system that is more efficient and consistent with the public interest.

(b) To achieve a more efficient, economical, and viable rail system in the private sector, the Secretary, when requested by a rail carrier and under this section, may assist in planning, negotiating, and carrying out a unification or coordination of operations and facilities of at least 2 rail carriers.

(c)(1) The Secretary may conduct studies to determine the potential cost savings and possible improvements in the quality of rail transportation that are likely to result from unification or coordination of at least 2 rail carriers, through—

(A) elimination of duplicating or overlapping operations and facilities;
(B) reducing switching operations;
(C) using the shortest or more efficient and economical routes;
(D) exchanging trackage rights;
(E) combining trackage and terminal or other facilities;
(F) upgrading tracks and other facilities used by at least 2 rail carriers;
(G) reducing administrative and other expenses; and
(H) other measures likely to reduce costs and improve rail transportation.

(2) When the Secretary requests information for a study under this section, a rail carrier shall provide the information requested. In carrying out this section, the Secretary may designate an officer or employee to get from a rail carrier information on the kind, quality, origin, destination, consignor, consignee, and routing of property. This information may be obtained without the consent of the consignor or consignee notwithstanding section 11904 of this title. When appropriate, the designated officer or employee has the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973 to carry out this section, but a subpena must be issued under the signature of the Secretary.

(d)(1) When requested by a rail carrier, the Secretary may hold conferences on and mediate

disputes resulting from a proposed unification or coordination project. The Secretary may invite to a conference—

(A) officers and directors of an affected rail carrier;
(B) representatives of rail carrier employees who may be affected;
(C) representatives of the Surface Transportation Board;
(D) State and local government officials, shippers, and consumer representatives; and
(E) representatives of the Federal Trade Commission and the Attorney General.

(2) A person attending or represented at a conference on a proposed unification or coordination project is not liable under the antitrust laws of the United States for any discussion at the conference and for any agreements reached at the conference, that are entered into with the approval of the Secretary to achieve or determine a plan of action to carry out the unification or coordination project.

(e) When the approval of a proposal submitted by a rail carrier for a merger or other action is subject to the jurisdiction of the Surface Transportation Board under section 11323(a) of this title, the Secretary may study the proposal to decide whether it satisfies section 11324(b) of this title. When the proposal is the subject of an application and proceeding before the Board, the Secretary may appear in any proceeding related to the application.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2429; Pub. L. 104–88, title III, §308(b), Dec. 29, 1995, 109 Stat. 946; Pub. L. 112–141, div. C, title II, §32932(a)(3), (4), July 6, 2012, 126 Stat. 829.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
333(a)	49:1654(a).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(a)–(e); added Feb. 5, 1976, Pub. L. 94–210, §401, 90 Stat. 61.
333(b)	49:1654(b).	
333(c)	49:1654(c).	
333(d)	49:1654(d).	
333(e)	49:1654(e).	

In the section, the word "transportation" is substituted for "services" for consistency.

In subsection (a), the words "feasible" and "but not limited to" are omitted as surplus.

In subsection (b), the words "In order" are omitted as surplus. The words "at least 2" are substituted for "two or more" for consistency.

In subsection (c)(1), the words "as are deemed" are omitted as unnecessary.

In subsection (c)(2), the words "and the study described in section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976" and "or such section 901" are omitted as executed. The word "nature" is omitted as covered by "kind". The word "When" is substituted for "to the extent" for consistency. The word "necessary" is omitted as being included in "appropriate". A cross-reference to section 203(c) of the Regional Rail Reorganization Act of 1973 is included even though the law is unclear because section 1149 of the Omnibus Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 675) amended section 203 to repeal the powers referred to in the source provisions. No position is taken as to whether the powers described in section 203(c) are still in existence.

In subsection (d)(1)(A), the word "appropriate" is omitted as surplus.

In subsection (d)(1)(C), the words "representatives of" are added for consistency in the section.

In subsection (e), the words "in his judgment" are omitted as unnecessary and covered by "decide". The word "satisfies" is substituted for "is in accordance with the standards set forth in" to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 203 of the Regional Rail Reorganization Act of 1973, referred to in subsec. (c)(2), which is

classified to section 713 of Title 45, Railroads, was amended generally by Pub. L. 97–35, title XI, §1149, Aug. 13, 1981, 95 Stat. 675, and as so amended does not contain a subsec. (c). For further details, see the fifth par. of Historical and Revision Notes above.

AMENDMENTS

2012–Subsec. (d)(1)(C). Pub. L. 112–141, §32932(a)(3), substituted "Surface Transportation Board" for "Interstate Commerce Commission".

Subsec. (e). Pub. L. 112–141, §32932(a)(4), substituted "Surface Transportation Board" for "Interstate Commerce Commission" and "Board" for "Commission".

1995—Subsec. (c)(2). Pub. L. 104–88, §308(b)(1), substituted "11904" for "11910(a)(1)".

Subsec. (e). Pub. L. 104–88, §308(b)(2), substituted "11323(a)" for "11343(a)" and "11324(b)" for "11344(b)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

[§§334, 335. Repealed. Pub. L. 103–272, §4(j)(9)(A), July 5, 1994, 108 Stat. 1367]

Section 334, Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2430; Pub. L. 98–216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100–223, title III, §304, Dec. 30, 1987, 101 Stat. 1525; Pub. L. 100–690, title VII, §7207(c)(3), Nov. 18, 1988, 102 Stat. 4428, related to a limit on aviation charges. See section 45301 of this title.

Section 335, Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2430, authorized appropriations to the Secretary of Transportation for fiscal years ending Sept. 30, 1983, and Sept. 30, 1984.

§336. Civil penalty procedures

(a) After notice and an opportunity for a hearing, a person found by the Secretary of Transportation to have violated a provision of law that the Secretary carries out through the Maritime Administrator or the Commandant of the Coast Guard or a regulation prescribed under that law by the Secretary for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

(c) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) The Secretary may refund or remit a civil penalty collected under this section if—

(1) application has been made for refund or remission of the penalty within one year from the date of payment; and

(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

(Added Pub. L. 101–225, title III, §305(1), Dec. 12, 1989, 103 Stat. 1924.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§337. Budget request for the Director of Intelligence and Security

The annual budget the Secretary of Transportation submits shall include a specific request for the Office of the Director of Intelligence and Security. In deciding on the budget request for the Office, the Secretary shall consider recommendations in the annual report submitted under section 44938(a) of this title.

(Pub. L. 103–272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1367.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
337	49 App.:1652b (note).	Nov. 16, 1990, Pub. L. 101–604, §102(d), 104 Stat. 3069.

The words "the Secretary of Transportation submits" are substituted for "submission for the Department of Transportation", and the words "budget request for the Office" are substituted for "budget request for the Director", for clarity and consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER III—MISCELLANEOUS

§351. Judicial review of actions in carrying out certain transferred duties and powers

(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.

(b) APPLICATION OF PROCEDURAL REQUIREMENTS.—A statutory requirement related to notice, an opportunity for a hearing, action on the record, or administrative review that applied to a duty or power transferred by the Act applies to the Secretary or Administrator when carrying out the duty or power.

(c) NONAPPLICATION.—This section does not apply to a duty or power transferred from the Interstate Commerce Commission to the Secretary under section 6(e)(1)–(4) and (6)(A) of the Act.

(Pub. L. 103–272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1367; Pub. L. 109–59, title IV, §4125(b), Aug. 10, 2005, 119 Stat. 1738.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
351	49 App.:1653(c).	Oct. 15, 1966, Pub. L. 89–670, §4(c), 80 Stat. 933.

In this subchapter, the words "duty or power" are substituted for "functions, powers, and duties" for clarity and consistency. The words "department, agency, or instrumentality of the United States Government" are substituted for "department or agency" for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the word "orders" is omitted as being included in "action".

EDITORIAL NOTES

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsecs. (a) and (b), is Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103–272, July 5, 1994, 108 Stat. 745. The Act was also repealed by Pub. L. 104–287, §7(5), Oct. 11, 1996, 110 Stat. 3400. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59 substituted "Federal Motor Carrier Safety Administration" for "Federal Highway Administration".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title, and section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§352. Authority to carry out certain transferred duties and powers

In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.

(Pub. L. 103–272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1368; Pub. L. 109–59, title IV, §4125(c), Aug. 10, 2005, 119 Stat. 1738.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
352	49 App.:1653(d).	Oct. 15, 1966, Pub. L. 89–670, §4(d), 80 Stat. 934.

The words "force and" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Department of Transportation Act, referred to in text, is Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103–272, July 5, 1994, 108 Stat. 745. The Act was also repealed by Pub. L. 104–287, §7(5), Oct. 11, 1996, 110 Stat. 3400. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

2005—Pub. L. 109–59 substituted "Federal Motor Carrier Safety Administration" for "Federal Highway Administration".

§353. Toxicological testing of officers and employees

(a) COLLECTING SPECIMENS.—When the Secretary of Transportation or the head of a component of the Department of Transportation conducts post-accident or post-incident toxicological testing of an officer or employee of the Department, the Secretary or head shall collect the specimen from the officer or employee as soon as practicable after the accident or incident. The Secretary or head shall try to collect the specimen not later than 4 hours after the accident or incident.

(b) REPORTS.—The head of each component shall submit a report to the Secretary on the circumstances about the amount of time required to collect the specimen for a toxicological test conducted on an officer or employee who is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the National Transportation Safety Board.

(c) NONCOMPLIANCE NOT A DEFENSE.—An officer or employee required to submit to toxicological testing may not assert failure to comply with this section as a claim, cause of action, or defense in an administrative or judicial proceeding.

(Pub. L. 103–272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
353	49 App.:1657–1.	Nov. 28, 1990, Pub. L. 101–641, §5, 104 Stat. 4656.

In this section, the words "officer or employee" are substituted for "employee" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words "Secretary of Transportation or the head of a component of the Department of Transportation" are substituted for "Department of Transportation, including any of its agencies" for consistency in the revised title and with other titles of the Code.

In subsection (b), the word "Secretary" is substituted for "Office of the Secretary of Transportation" for consistency in the revised title and with other titles of the Code. The words "within that agency" are omitted as unnecessary.

In subsection (c), the words "An officer or employee required to submit to toxicological testing may not assert" are substituted for "may not be asserted" for clarity.

§354. Investigative authority of Inspector General

(a) IN GENERAL.—The statutory authority of the Inspector General of the Department of Transportation includes authority to conduct, pursuant to Federal criminal statutes, investigations of

allegations that a person or entity has engaged in fraudulent or other criminal activity relating to the programs and operations of the Department or its operating administrations.

(b) REGULATED ENTITIES.—The authority to conduct investigations referred to in subsection (a) extends to any person or entity subject to the laws and regulations of the Department or its operating administrations, whether or not they are recipients of funds from the Department or its operating administrations.

(Added and amended Pub. L. 108–168, §8(a), (b)(1), Dec. 6, 2003, 117 Stat. 2034.)

EDITORIAL NOTES

CODIFICATION

The text of section 228 of Pub. L. 106–159, formerly set out as a note under section 4 of the Inspector General Act of 1978, Pub. L. 95–452, formerly set out in the Appendix to Title 5, Government Organization and Employees, which was transferred to this section, redesignated as text of section, and amended by Pub. L. 108–168, §8(a), (b)(1), was based on Pub. L. 106–159, title II, §228, Dec. 9, 1999, 113 Stat. 1773.

AMENDMENTS

2003—Pub. L. 108–168 renumbered section 228 of Pub. L. 106–159 as this section and substituted "Investigative authority of Inspector General" for "DOT Authority" in section catchline. See Codification note above.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEPOSIT OF FORFEITED FUNDS

Pub. L. 113–235, div. K, title I, Dec. 16, 2014, 128 Stat. 2724, provided in part: "That hereafter funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account [Office of Inspector General, Salaries and Expenses] for law enforcement activities authorized under the Inspector General Act of 1978, as amended [see 5 U.S.C. 401 et seq.], to remain available until expended."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 600.

§355. Motorcyclist Advisory Council

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the "Secretary") shall establish a council, to be known as the "Motorcyclist Advisory Council" (referred to in this section as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be comprised of 13 members, to be appointed by the Secretary, of whom—

(A) 5 shall be representatives of units of State or local government with expertise relating to highway engineering and safety issues, including—

(i) motorcycle and motorcyclist safety;

(ii) barrier and road design, construction, and maintenance; or

(iii) intelligent transportation systems;

(B) 1 shall be a motorcyclist who serves as a State or local—

(i) traffic and safety engineer;

(ii) design engineer; or

(iii) other transportation department official;

(C) 1 shall be a representative of a national association of State transportation officials;
(D) 1 shall be a representative of a national motorcyclist association;
(E) 1 shall be a representative of a national motorcyclist foundation;
(F) 1 shall be a representative of a national motorcycle manufacturing association;
(G) 1 shall be a representative of a motorcycle manufacturing company headquartered in the United States;
(H) 1 shall be a roadway safety data expert with expertise relating to crash testing and analysis; and
(I) 1 shall be a member of a national safety organization that represents the traffic safety systems industry.

(2) TERM.—
(A) IN GENERAL.—Subject to subparagraphs (B) and (C), each member shall serve on the Council for a single term of 2 years.
(B) ADDITIONAL TERM.—If a successor is not appointed for a member of the Council before the expiration of the term of service of the member, the member may serve on the Council for a second term of not longer than 2 years.
(C) APPOINTMENT OF REPLACEMENTS.—If a member of the Council resigns before the expiration of the 2-year term of service of the member—
(i) the Secretary may appoint a replacement for the member, who shall serve the remaining portion of the term; and
(ii) the resigning member may continue to serve after resignation until the date on which a successor is appointed.

(3) VACANCIES.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.
(4) COMPENSATION.—A member of the Council shall serve without compensation.

(c) DUTIES.—
(1) ADVISING.—The Council shall advise the Secretary, the Administrator of the National Highway Traffic Safety Administration, and the Administrator of the Federal Highway Administration regarding transportation safety issues of concern to motorcyclists, including—
(A) motorcycle and motorcyclist safety;
(B) barrier and road design, construction, and maintenance practices; and
(C) the architecture and implementation of intelligent transportation system technologies.

(2) BIENNIAL REPORT.—Not later than October 31 of the calendar year following the calendar year in which the Council is established, and not less frequently than once every 2 years thereafter, the Council shall submit to the Secretary a report containing recommendations of the Council regarding the issues described in paragraph (1).

(d) DUTIES OF SECRETARY.—
(1) COUNCIL RECOMMENDATIONS.—
(A) IN GENERAL.—The Secretary shall determine whether to accept or reject a recommendation contained in a report of the Council under subsection (c)(2).
(B) INCLUSION IN REVIEW.—
(i) IN GENERAL.—The Secretary shall indicate in each review under paragraph (2) whether the Secretary accepts or rejects each recommendation of the Council covered by the review.
(ii) EXCEPTION.—The Secretary may indicate in a review under paragraph (2) that a recommendation of the Council is under consideration, subject to the condition that a recommendation so under consideration shall be accepted or rejected by the Secretary in the subsequent review of the Secretary under paragraph (2).

(2) REVIEW.—

(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a report from the Council under subsection (c)(2), the Secretary shall submit a review describing the response of the Secretary to the recommendations of the Council contained in the Council report to—

(i) the Committee on Commerce, Science, and Transportation of the Senate;

(ii) the Committee on Environment and Public Works of the Senate;

(iii) the Subcommittee on Transportation, Housing and Urban Development, and Related Agencies of the Committee on Appropriations of the Senate;

(iv) the Committee on Transportation and Infrastructure of the House of Representatives; and

(v) the Subcommittee on Transportation, Housing and Urban Development, and Related Agencies of the Committee on Appropriations of the House of Representatives.

(B) CONTENTS.—A review of the Secretary under this paragraph shall include a description of—

(i) each recommendation contained in the Council report covered by the review; and

(ii)(I) each recommendation of the Council that was categorized under paragraph (1)(B)(ii) as being under consideration by the Secretary in the preceding review submitted under this paragraph; and

(II) for each such recommendation, whether the recommendation—

(aa) is accepted or rejected by the Secretary; or

(bb) remains under consideration by the Secretary.

(3) ADMINISTRATIVE AND TECHNICAL SUPPORT.—The Secretary shall provide to the Council such administrative support, staff, and technical assistance as the Secretary determines to be necessary to carry out the duties of the Council under this section.

(e) TERMINATION.—The Council shall terminate on the date that is 6 years after the date on which the Council is established under subsection (a).

(Added Pub. L. 117–58, div. B, title IV, §24111(a), Nov. 15, 2021, 135 Stat. 812.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

CHAPTER 5—SPECIAL AUTHORITY

SUBCHAPTER I—POWERS

Sec.

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EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178, title IV, §4014(a)(2), June 9, 1998, 112 Stat. 411, added item 508.
1997—Pub. L. 105–102, §2(1), Nov. 20, 1997, 111 Stat. 2204, struck out "DUTIES AND" before "POWERS" in item for heading of subchapter I.

[1] Section catchline amended by Pub. L. 112–141 without corresponding amendment of chapter analysis.

SUBCHAPTER I—POWERS

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102, §2(2), Nov. 20, 1997, 111 Stat. 2204, struck out "AND" before "POWERS".
1995—Pub. L. 104–88, title III, §308(c)(1), Dec. 29, 1995, 109 Stat. 947, struck out "DUTIES" before "AND".

§501. Definitions and application

(a) In this chapter—

(1) the definitions in sections 10102 and 13102 of this title apply.

(2) "migrant worker" has the same meaning given that term in section 31501 of this title.

(3) "motor carrier of migrant workers" means a motor carrier of migrant workers subject to the jurisdiction of the Secretary of Transportation under section 31502(c) of this title.

(b) APPLICATION.—This chapter only applies in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1) and 20303 and chapters 205 (except section 20504(b)), 211, 213 (in carrying out those sections and chapters), and 315 of this title.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2431; Pub. L. 98–216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102–548, §2(c), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103–272, §§4(j)(11)(A), 5(m)(9), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104–88, title III, §308(c)(2), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
501(a)	(no source).	
501(b)	45:15.	Apr. 14, 1910, ch. 160, §6, 36 Stat. 299.

49:26(g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(g); added Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919.
49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

In the chapter, the source provisions are those in effect on March 31, 1967, the day before the effective date of the Department of Transportation Act (Pub. L. 89–670, 80 Stat. 931), because 49:1655(f)(2) gave the Secretary of Transportation the same powers enumerated in 49:1655(f)(2) that the Interstate Commerce Commission had before certain duties and powers under 49:1655(e) were transferred on April 1, 1967, from the Commission to the Secretary. All references to brokers in the source provisions are omitted as not being applicable to the duties and powers transferred to the Secretary of Transportation.

Subsection (a) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision notes for sections 3101, 3102(c), and 10102 of the revised title.

In subsection (b), the provisions of law to which the chapter applies are only certain laws listed in 49:1655(e). Those laws include the source provisions restated in chapter 31 of the revised title and 45:4, 5, 6 (in carrying out 45:4 and 5), 11, 12, 13 (proviso), 13 (less proviso in carrying out 45:11, 12, and 13 (proviso)), and 61–64b, and 49:26(a)–(f) (words before last semicolon) and (h). The administrative powers of the Secretary under the chapter are based on the administrative powers of 49:1655(f)(2). That provision lists administrative powers the Commission had under the Interstate Commerce Act (ch. 104, 24 Stat. 379) to carry out the Act, and certain other laws authorized the Commission to use its powers under the Act to carry out those other laws. The administrative powers listed in 49:1655(f)(2) and codified in the chapter therefore apply only to a law listed in 49:1655(e) that was a part of the Interstate Commerce Act or to which the powers of the Commission under the Act were applied. The text of 45:61–64b is included because section 4 of the Act of March 4, 1907 (ch. 2939, 34 Stat. 1417), stated, "It shall be the duty of the Interstate Commerce Commission to execute and enforce the provisions of this Act, and all powers granted to the Interstate Commerce Commission are hereby extended to it in the execution of this Act". The transfer to the Secretary was executed on March 31, 1967. The Act of March 4, 1907, was restated by the Act of December 26, 1969 (Pub. L. 91–169, 83 Stat. 463); section 4 was not included in the restatement. However, repeal by implication is not favored and the transfer was completed on March 31, 1967. Therefore, the text of 45:61–64b is included within the scope of the chapter. The text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

PUB. L. 103–272

Section 4(j)(11) makes conforming amendments to 49:ch. 5 to reflect the restatement of 49:508 and related provisions in chapter 59 of the revised title.

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104–88 substituted "sections 10102 and 13102" for "section 10102".

1994—Subsec. (a)(2). Pub. L. 103–272, §5(m)(9)(A), substituted "section 31501" for "section 3101".

Subsec. (a)(3). Pub. L. 103–272, §5(m)(9)(B), substituted "section 31502(c)" for "section 3102(c)".

Subsec. (a)(4) to (9). Pub. L. 103–272, §4(j)(11)(A), struck out pars. (4) to (9) which defined "beneficial owner", "carrier", "container", "initial carrier", "intermodal transportation", and "trailer", respectively.

Subsec. (b). Pub. L. 103–272, §5(m)(9)(C), added subsec. (b) and struck out former subsec. (b) which read as follows: "This chapter only applies in carrying out—

"(1) chapter 31 of this title; and

"(2) other duties and powers transferred to the Secretary under section 6(e) of the Department of Transportation Act (49 App. U.S.C. 1655(e)) and vested in the Interstate Commerce Commission before October 15, 1966."

1992—Subsec. (a)(4) to (9). Pub. L. 102–548 added pars. (4) to (9).

1984—Subsec. (b)(2). Pub. L. 98–216 substituted "49 App. U.S.C." for "49 U.S.C.".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–548, §1, Oct. 28, 1992, 106 Stat. 3646, provided that: "This Act [enacting section 508 of this title, amending this section and section 521 of this title, and enacting provisions set out as notes under section 508 of this title] may be cited as the 'Intermodal Safe Container Transportation Act of 1992'."

§502. General authority

(a) The Secretary of Transportation shall carry out this chapter.

(b) The Secretary may—

(1) inquire into and report on the management of the business of rail carriers and motor carriers;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of the person is related to the management of the business of that carrier; and

(3) obtain from those carriers and persons information the Secretary determines to be necessary.

(c) In carrying out this chapter as it applies to motor carriers, motor carriers of migrant workers, and motor private carriers, the Secretary may—

(1) confer and hold joint hearings with State authorities;

(2) cooperate with and use the services, records, and facilities of State authorities; and

(3) make cooperative agreements with a State to enforce the safety laws and regulations of a State and the United States related to highway transportation.

(d) The Secretary may subpena witnesses and records related to a proceeding or investigation under this chapter from a place in the United States to the designated place of the proceeding or investigation. If a witness disobeys a subpena, the Secretary, or a party to a proceeding or investigation before the Secretary, may petition the district court for the judicial district in which the proceeding or investigation is conducted to enforce the subpena. The court may punish a refusal to obey an order of the court to comply with a subpena as a contempt of court.

(e)(1) In a proceeding or investigation, the Secretary may take testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding or investigation pending before the Secretary may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding or investigation is at issue on petition and answer. If a witness fails to be deposed or to produce records under this subsection, the Secretary may subpena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding or investigation.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(5) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. The deposition shall be filed with the Secretary promptly.

(f) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2431; Pub. L. 103–272, §4(j)(12), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
502	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
502(c)–(f)	49:304(a)(3) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 205"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 205"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 502	*49 U.S. Code*	*Revised Section*
(a), (b)	12(1)(a) (1st sentence, 2d sentence, and last sentence words before 1st semicolon).	10321
	304(a) (matter before (1)), (6), (7) (less words after semicolon).	10321
(c)	305(f).	11502
(d)	12(1)(a) (last sentence words after last semicolon), (2), (3).	10321
	305(d) (related to Commission subpena power).	10321
(e)(1)–(3)	12(4).	10321
	305(d) (related to depositions taken by Commission).	10321
(e)(4) and (5)	12(5), (6).	10321
	305(d) (related to depositions taken by Commission).	10321
(f)	12(7).	10321
	18(1) (last sentence).	10321
	305(d) (related to depositions taken by Commission).	10321

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:305(a)–(c), (e), and (g)–(j) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsection (b), the text of 49:12(1)(a) (2d sentence words after semicolon) is omitted as unnecessary because the Secretary of Transportation already has authority under chapter 3 of the revised title to make recommendations to Congress.

In subsections (c)–(f), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

In subsection (c), the words "economic and" are omitted as not being transferred to the Secretary. The text of 49:305(f) (last sentence) is omitted as not applicable to this chapter.

In subsection (d), the reference to joint boards in 49:305(d) is omitted as not applicable to this chapter because 49:305(a) (establishing joint boards) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

PUB. L. 103–272

Section 4(j)(12) amends 49:502(e)(2) and 10321(d)(3) to reflect the change in the name of United States magistrates to United States magistrate judges made by section 321 of the Judicial Improvements Act of 1990 (Public Law 101–650, 104 Stat. 5117).

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (e)(2). Pub. L. 103–272 inserted "judge" after "United States magistrate".

§503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers

(a) Each motor carrier of migrant workers (except a motor contract carrier) and each motor private carrier shall designate an agent by name and post office address on whom service of notices in a proceeding before, and actions of, the Secretary of Transportation may be made. The designation shall be in writing and filed with the Secretary. The carrier also shall file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(b) A notice of the Secretary to a carrier under this section is served personally or by mail on that carrier or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If the carrier does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier maintains headquarters and with the Secretary.

(c) Each of those carriers, including such a carrier operating in the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier. The designation shall be in writing and filed with the Secretary and with the authority of each State in which the carrier operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier in that State. The designation may be changed at any time in the same manner as originally made.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2432.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
503	49:304(a)(3) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 221"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 221"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(e)(6)(D) (related to "Sec. 321(a), (c)").	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(D) (related to "Sec. 221(a), (c)"), 80 Stat. 940.

The section is included because 49:1655(e)(6)(D) transferred to the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission under 49:321(a) and (c) to the extent those subsections relate to motor carriers of migrant workers and motor private carriers. The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 503	*49 U.S. Code*	*Revised Section*
(a), (b)	321(a).	10329
(c)	321(c).	10330

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the words "motor carriers" are omitted because 49:1655(e)(6)(D) applies 49:321(a) and (c) only to motor carriers of migrant workers, other than motor contract carriers, and to motor private carriers, and 49:1655(f)(2)(B)(ii) contains no reference to 49:321. The text of 49:321(b) and (d) is not included because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(e)(6)(D).

In subsection (b), the text of 49:321(a) (less 1st–5th sentences) is omitted as not applicable to this chapter.

§504. Reports and records

(a) In this section—

(1) "association" means an organization maintained by or in the interest of a group of rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers that performs a service, or engages in activities, related to transportation of that carrier.

(2) "carrier" means a motor carrier, motor carrier of migrant workers, motor private carrier, and rail carrier.

(3) "lessor" means a person owning a railroad that is leased to and operated by a rail carrier, and a person leasing a right to operate as a motor carrier, motor carrier of migrant workers, or motor private carrier to another.

(4) "lessor" and "carrier" include a receiver or trustee of that lessor or carrier, respectively.

(b)(1) The Secretary of Transportation may prescribe the form of records required to be prepared or compiled under this section by—

(A) carriers and lessors; and

(B) a person furnishing cars or protective service against heat or cold to or for a rail carrier.

(2) The Secretary may require—

(A) carriers, lessors, associations, or classes of them as the Secretary may prescribe, to file annual, periodic, and special reports with the Secretary containing answers to questions asked by the Secretary; and

(B) a person furnishing cars or protective service against heat or cold to a rail carrier to file reports with the Secretary containing answers to questions about those cars or service.

(c) The Secretary, or an employee (and, in the case of a motor carrier, a contractor, or an employee of the recipient of a grant issued under section 31102 of this title) designated by the Secretary, may on demand and display of proper credentials, in person or in writing—

(1) inspect the equipment of a carrier or lessor; and

(2) inspect and copy any record of—

(A) a carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier, if the Secretary considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail carrier if the Secretary prescribed the form of that record.

(d) The Secretary may prescribe the time period during which records must be preserved by a carrier, lessor, and person furnishing cars or protective service.

(e)(1) An annual report shall contain an account, in as much detail as the Secretary may require, of the affairs of a carrier, lessor, or association for the 12-month period ending on the 31st day of December of each year. The annual report shall be filed with the Secretary by the end of the 3d month after the end of the year for which the report is made unless the Secretary extends the filing date or changes the period covered by the report.

(2) The annual report and, if the Secretary requires, any other report made under this section shall be made under oath.

(f) No part of a report of an accident occurring in operations of a motor carrier, motor carrier of migrant workers, or motor private carrier and required by the Secretary, and no part of a report of an investigation of the accident made by the Secretary, may be admitted into evidence or used in a civil action for damages related to a matter mentioned in the report or investigation.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2433; Pub. L. 105–178, title IV, §4006(b), June 9, 1998, 112 Stat. 401; Pub. L. 112–141, div. C, title II, §32501(a), July 6, 2012, 126 Stat. 802.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
504	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), (b)–(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 220(a) (1st, 2d sentences), (b)–(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), (b)–(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 220(a) (1st, 2d sentences), (b)–(g)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
504(f)	49:320(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §220(f); added Sept. 18, 1940, ch. 722, §24, 54 Stat. 926.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 504	*49 U.S. Code*	*Revised Section*
(a)(1), (3), and (4)	20(8).	3501, 11141
	320(e).	11141
(a)(2)	(no source).	
(b)(1)	20(5) (1st sentence), (6) (2d sentence, 1st cl.), (7)(b) (proviso).	11144
	320(d) (1st sentence).	11144
(b)(2)	20(1) (1st sentence less manner and form of reports), (6) (2d sentence, 2d cl.).	11145
	320(a) (1st sentence).	11145
(c)	20(5) (less 1st sentence), (6) (less 2d sentence).	11144
	320(d) (3d and 4th sentences).	11144
(d)	20(7)(b) (proviso).	11144
	320(d) (less 1st, 3d, and 4th sentences).	11144
(e)	20(1) (1st sentence related to manner and form of reports).	11145
	320(a) (2d sentence), (b).	11145

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The provisions of 49:320(c) are not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In the section, the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed. The text of 49:320(b) (related to 13-period accounting year) and (g) is not included because it was enacted after the effective date of the transfer authority under 49:1655.

In subsection (a), references to "water line" and "pipe line" are omitted as not applicable to this chapter. Clause (2) is added to provide a simple phrase to refer to all types of carriers to which the section applies.

In subsection (f), the words "the course of the" are omitted as surplus. The words "civil action" are substituted for "suit or action" because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–141 inserted ", or an employee of the recipient of a grant issued under section 31102 of this title" after "a contractor" and ", in person or in writing" after "proper credentials" in introductory provisions.

1998—Subsec. (c). Pub. L. 105–178 inserted "(and, in the case of a motor carrier, a contractor)" after "employee" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§505. Arrangements and public records

(a) The Secretary of Transportation may require a motor carrier, motor carrier of migrant workers, or motor private carrier to file a copy of each arrangement related to a matter under this chapter that it has with another person. The Secretary may disclose the existence or contents of an arrangement between a motor contract carrier and a shipper filed under this section only if the disclosure is consistent with the public interest and is made as part of the record in a formal proceeding.

(b) Except as provided in subsection (a) of this section, all arrangements and statistics, tables, and figures contained in reports filed with the Secretary by a motor carrier under this chapter are public records. Such a public record, or a copy or extract of it, certified by the Secretary under seal is competent evidence in a proceeding of the Secretary, and, except as provided in section 504(f) of this title, in a judicial proceeding.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
505	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
505(a)	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 505	*49 U.S. Code*	*Revised Section*
(a)	320(a) (less 1st, 2d sentences).	10764
(b)	16(13).	10303
	304(d) (related to administrative matters).	10303

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a), the text of 49:320(a) (proviso) is not included for motor carriers of migrant workers and

motor private carriers because that provision, while included in the enumeration in 49:304(a)(3) and (3a), is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 40:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed. The words "also" and "with it" are omitted as surplus. The words "contract, agreement, or" are omitted as covered by "arrangement". The words "carrier or" are omitted as covered by "person". The words "related to a matter under this chapter" are substituted for "in relation to any traffic affected by the provisions of this chapter" for clarity because of section 501 of the revised title.

Subsection (b) does not apply to reports made to the Secretary by a rail carrier because 49:16(13) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The subsection does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. References to schedules, classifications, and tariffs are omitted as not applicable to this chapter. The words "Except as provided in subsection (a) of this section" are added for clarity. The words "except as provided in section 504(f) of this title" are added for clarity and consistency because of the restatement of the chapter.

§506. Authority to investigate

(a) The Secretary of Transportation may begin an investigation under this chapter on the initiative of the Secretary or on complaint. If the Secretary finds that a rail carrier, motor carrier, motor carrier of migrant workers, or motor private carrier is violating this chapter, the Secretary shall take appropriate action to compel compliance with this chapter. The Secretary may take action only after giving the carrier notice of the investigation and an opportunity for a proceeding.

(b) A person, including a governmental authority, may file with the Secretary a complaint about a violation of this chapter by a carrier referred to in subsection (a) of this section. The complaint must state the facts that are the subject of the violation. The Secretary may dismiss a complaint the Secretary determines does not state reasonable grounds for investigation and action. However, the Secretary may not dismiss a complaint made against a rail carrier because of the absence of direct damage to the complainant.

(c) The Secretary shall make a written report of each proceeding involving a rail carrier or motor carrier conducted and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Secretary. The Secretary may have the reports published for public use. A published report of the Secretary is competent evidence of its contents.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
506	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
506(a), (b)	49:304(a)(3) (last sentence) (related to "Sec. 304(c)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 204(c)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546; Sept. 18, 1940, ch. 722, §20(b)(4), 54 Stat. 922.
	49:304(a)(3a) (last sentence) (related to "Sec. 304(c)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 204(c)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title

for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 506	*49 U.S. Code*	*Revised Section*
(a)	13(1) (1st sentence less words before semicolon, last sentence), (2) (1st, 2d sentences).	11701
	304(c) (1st sentence words after 5th comma, 2d sentence).	11701
(b)	13(1) (1st sentence words before semicolon).	11701
	13(2) (less 1st, 2d sentences).	11701
	304(c) (less 1st sentence words after 5th comma, 2d sentence).	11701
(c)	14.	10310
	304(d) (related to reports).	10310

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsections (a) and (b), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

Subsection (a) is patterned after 49:304(c). The words "violating this chapter" are substituted for "failed to comply with any such provision or requirement" for clarity.

In subsection (b), the text of 49:13(2) (last sentence) is omitted because 49:13(3) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The words "referred to in subsection (a) of this section" are added for clarity.

Subsection (c) does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) applies only to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. The word "proceeding" is substituted for "investigation" for clarity and to conform to other sections of the revised title. The word "findings" is added for clarity. The word "decision" is omitted as covered by "conclusions". The words "or requirement" are omitted as covered by "order". The words "in the premises" are omitted as surplus. The words "and in case damages are awarded, such report shall include the findings of fact on which the award is made" are omitted as not applicable to this chapter. The words "entered of record", "and decisions in such form and manner as may be best adapted for public information and use", and "in all courts of the United States and of the several States without any further proof or authentication thereof" are omitted as surplus. The text of 49:14(3) (last sentence) is omitted as unnecessary.

§507. Enforcement

(a) The Secretary of Transportation may bring a civil action to enforce—

(1) an order of the Secretary under this chapter when violated by a rail carrier; and

(2) this chapter or a regulation or order of the Secretary under this chapter when violated by a motor carrier, motor carrier of migrant workers, motor private carrier, or freight forwarder.

(b) The Attorney General may, and on request of the Secretary shall, bring court proceedings to enforce this chapter or a regulation or order of the Secretary under this chapter and to prosecute a person violating this chapter or a regulation or order of the Secretary.

(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this

title, or an order or regulation issued under any of those provisions. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(d) A person injured because a rail carrier or freight forwarder does not obey an order of the Secretary under this chapter may bring a civil action to enforce that order under this subsection.

(e) In a civil action brought under subsection (a)(2) of this section against a motor carrier, motor carrier of migrant workers, or motor private carrier—

(1) trial is in the judicial district in which the carrier operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is brought; and

(3) a person participating with the carrier in a violation may be joined in the civil action without regard to the residence of the person.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98–554, title II, §213(a), Oct. 30, 1984, 98 Stat. 2841; Pub. L. 103–272, §5(m)(10), July 5, 1994, 108 Stat. 1376.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
507	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
507(a), (d)	49:304(a)(3) (last sentence) (related to "Sec. 322(b)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(b)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(b)").	Feb 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(b)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 507	*49 U.S. Code*	*Revised Section*
(a)	16(12) (related to Commission action).	11702
	322(b)(1) (less 1st sentence last 18 words, 2d sentence, last sentence).	11702
	1017(b)(1) (related to Commission action).	11702
(b)	12(1)(a) (last sentence less words before 1st semicolon and after last semicolon).	11703
	16(12) (related to action by the Attorney General).	11703
	20(9).	11703
(c)	16(12) (related to action by	11705

	private person).	
	1017(b)(1) (related to action by the Attorney General).	11703
(d)	322(b)(1) (1st sentence last 18 words, 2d sentence, last sentence).	11702
	1017(b)(1) (related to action by private person).	11705

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the text of 49:322(b)(2) and (3) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsections (a) and (d), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

In subsection (a), the words "or of any term or condition of any certificate or permit" are omitted as not applicable to this chapter.

In subsection (a)(1), reference to a civil action to enforce an order for the payment of money is omitted as not applicable to this chapter.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–272 substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984" and "any of those provisions" for "such section or Act".

1984—Subsecs. (c) to (e). Pub. L. 98–554 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DOT IMPLEMENTATION PLAN

Pub. L. 105–178, title IV, §4026, June 9, 1998, 112 Stat. 416, provided that:

"(a) ASSESSMENT.—Not later than 18 months after the date of enactment of this section [June 9, 1998], the Secretary [of Transportation] shall assess the scope of the problem of shippers, freight forwarders, brokers, consignees, or other persons (other than rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers) encouraging violations of chapter 5 of title 49, United States Code, or a regulation or order issued by the Secretary under such chapter.

"(b) SUBMISSION OF IMPLEMENTATION PLAN.—After completion of the assessment under subsection (a), the Secretary may submit to the Congress a plan for implementing authority (if subsequently provided by law) to investigate and bring civil actions to enforce chapter 5 of title 49, United States Code, or regulations or orders issued by the Secretary under such chapter with respect to persons described in subsection (a).

"(c) CONTENTS OF IMPLEMENTATION PLAN.—In developing the implementation plan under subsection (b), the Secretary shall consider, as appropriate—

"(1) in what circumstances the Secretary would exercise the new authority;

"(2) how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations described in subsection (a), including what types of evidence would be conclusive;

"(3) what procedures would be necessary during investigations to ensure the confidentiality of shipper contract terms prior to the Secretary's findings of violations;

"(4) what impact the exercise of the new authority would have on the Secretary's resources, including whether additional investigative or legal resources would be necessary and whether the staff would need specialized education or training to exercise properly such authority;

"(5) to what extent the Secretary would conduct educational activities for persons who would be

subject to the new authority; and

"(6) any other information that would assist the Congress in determining whether to provide the Secretary the new authority."

§508. Safety performance history of new drivers; limitation on liability

(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

(2) a person who has complied with such a request; or

(3) the agents or insurers of a person described in paragraph (1) or (2).

(b) RESTRICTIONS ON APPLICABILITY.—

(1) MOTOR CARRIER REQUESTING.—Subsection (a) does not apply to a motor carrier requesting safety performance records unless—

(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in deciding whether to hire that individual; and

(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

(2) PERSON COMPLYING WITH REQUESTS.—Subsection (a) does not apply to a person complying with a request for safety performance records unless—

(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

(3) PERSONS KNOWINGLY FURNISHING FALSE INFORMATION.—Subsection (a) does not apply to persons who knowingly furnish false information.

(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.

(Added Pub. L. 105–178, title IV, §4014(a)(1), June 9, 1998, 112 Stat. 409.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 105–178, title IV, §4014(a)(1), June 9, 1998, 112 Stat. 409, which directed the addition of section 508 at end of this chapter, was executed by adding this section at the end of subchapter I of this chapter to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 508, added Pub. L. 102–548, §2(a), Oct. 28, 1992, 106 Stat. 3646, related to certification of weights and description, prior to repeal by Pub. L. 103–272, §4(j)(11)(B), July 5, 1994, 108 Stat. 1368. See chapter 59 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 105–178, title IV, §4014(b), June 9, 1998, 112 Stat. 411, provided that: "The amendments made by subsection (a) [enacting this section] shall take effect on January 31, 1999."

SUBCHAPTER II—PENALTIES

§521. Civil penalties

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of $500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of $100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of $100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

(1) NOTICE.—

(A) IN GENERAL.—If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A),[1] or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) NONAPPLICABILITY TO REPORTING AND RECORDKEEPING VIOLATIONS .—Subparagraph (A) shall not apply to reporting and recordkeeping violations.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding $2,500.

(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.

(C) VIOLATIONS PERTAINING TO CDLS.—Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United States for a civil penalty not to exceed $2,500 for each offense.

(D) DETERMINATION OF AMOUNT.—The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(E)(i) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed $1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $10,000. In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service. It shall be a defense to a penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.

(ii) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.

(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed $25,000.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

(6) CRIMINAL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed $25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed $2,500.

(B) VIOLATIONS PERTAINING TO CDLS.—Any person who knowingly and willfully violates—

(i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title or a regulation issued under such section, or

(ii) with respect to notification of a serious traffic violation as defined under section 31301 of this title, any provision of section 31303(a) of this title or a regulation issued under section 31303(a),

shall, upon conviction, be subject for each offense to a fine not to exceed $5,000 or imprisonment for a term not to exceed 90 days, or both.

(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and

orders under this subsection.

(8) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—

(A) IN GENERAL.—An owner or operator of a commercial motor vehicle against whom a civil penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil penalty may not operate in interstate commerce beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty. This paragraph shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

(B) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and an opportunity for public comment, shall issue regulations setting forth procedures for ordering commercial motor vehicle owners and operators delinquent in paying civil penalties to cease operations until payment has been made.

(9) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(10) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

(11) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(12) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(13) The provisions of this subsection shall not affect chapter 51 of this title or any regulation promulgated by the Secretary under chapter 51.

(14) As used in this subsection, the terms "commercial motor vehicle", "employee", "employer", and "State" have the meaning such terms have under section 31132 of this title.

(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

(iii) The Secretary's designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A

review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

(C) DEFINITION.—In this paragraph, the term "impoundment" or "impounding" means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98–554, title II, §213(b), Oct. 30, 1984, 98 Stat. 2842; Pub. L. 99–570, title XII, §12012, Oct. 27, 1986, 100 Stat. 3207–184; Pub. L. 101–500, §15(e)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102–548, §2(b), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103–272, §§4(j)(11)(D), 5(m)(11), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104–287, §5(4), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–178, title IV, §4015(a), (b), June 9, 1998, 112 Stat. 411; Pub. L. 106–159, title II, §§206(b), 208, Dec. 9, 1999, 113 Stat. 1763, 1764; Pub. L. 109–59, title IV, §§4102(a), 4103, Aug. 10, 2005, 119 Stat. 1715, 1716; Pub. L. 112–141, div. C, title II, §§32501(b), 32502–32504, 32506, July 6, 2012, 126 Stat. 803, 804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
521	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 521	*49 U.S. Code*	*Revised Section*
(a)	20(7)(a), (c)–(e).	11901
(b)	322(h).	11901

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a)(3), the words "against heat and cold" are inserted for consistency with sections 11105 and 11901 of the revised title.

Subsection (b) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(h) (1st sentence) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(h) (1st sentence) to motor carriers of migrant workers and motor private carriers. The reference to 49:303(c), 306(a)(1), and 309(a)(1) is omitted as not applicable to this chapter.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 31310(g)(1)(A), referred to in subsec. (b)(1)(A), was redesignated section 31310(i)(1)(A), by Pub. L. 106–159, title II, §201(b)(1), Dec. 9, 1999, 113 Stat. 1759.

The date of the enactment of this paragraph, referred to in subsec. (b)(8)(B), is the date of enactment of Pub. L. 106–159, which was approved Dec. 9, 1999.

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(12), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2012—Subsec. (b)(2)(D). Pub. L. 112–141, §32506, struck out "ability to pay," after "prior offenses,".

Subsec. (b)(2)(E). Pub. L. 112–141, §32501(b), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(E)(i). Pub. L. 112–141, §32502, inserted "In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service." after "$10,000." and substituted "defense to a penalty" for "defense to such penalty".

Subsec. (b)(2)(F). Pub. L. 112–141, §32503, added subpar. (F).

Subsec. (b)(15). Pub. L. 112–141, §32504, added par. (15).

2005—Subsec. (b). Pub. L. 109–59, §4103(1), inserted headings for subsec. (b), par. (1), and subpar. (A).

Subsec. (b)(2)(B). Pub. L. 109–59, §4102(a)(2), substituted "$10,000" for "$5,000" in cls. (i) and (ii).

Subsec. (b)(2)(B)(i). Pub. L. 109–59, §4102(a)(1), substituted "$1,000" for "$500".

Subsec. (b)(2)(E). Pub. L. 109–59, §4103(2), added subpar. (E).

1999—Subsec. (b)(5)(B). Pub. L. 106–159, §208, substituted "substantially increases the likelihood of" for "is likely to result in".

Subsec. (b)(8) to (14). Pub. L. 106–159, §206(b), added par. (8) and redesignated former pars. (8) to (13) as (9) to (14), respectively.

1998—Subsec. (b)(1)(A). Pub. L. 105–178, §4015(a)(1), struck out "fix a reasonable time for abatement of the violation," before "specify the proposed civil penalty".

Subsec. (b)(1)(B). Pub. L. 105–178, §4015(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "The Secretary shall, not later than 60 days after November 3, 1990, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

> "(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and
>
> "(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious."

Subsec. (b)(2)(A). Pub. L. 105–178, §4015(b)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title or which is a violation of chapter 59 of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed $2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed $1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (other than subparagraph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000."

Subsec. (b)(2)(B) to (D). Pub. L. 105–178, §4015(b)(2), (3), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1996—Subsec. (b)(1)(B). Pub. L. 104–287 substituted "November 3, 1990" for "the date of enactment of this subparagraph" in introductory provisions.

1994—Subsec. (b)(1)(A). Pub. L. 103–272, §5(m)(11)(A), substituted "a provision of subchapter III of

chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(2)(A). Pub. L. 103–272, §5(m)(11)(B), substituted "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984".

Pub. L. 103–272, §4(j)(11)(D), substituted "chapter 59 of this title" for "section 508 of this title".

Subsec. (b)(2)(B). Pub. L. 103–272, §5(m)(11)(C), substituted "section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(3). Pub. L. 103–272, §5(m)(11)(D), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(5)(A). Pub. L. 103–272, §5(m)(11)(E), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(6)(A). Pub. L. 103–272, §5(m)(11)(F), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "section 3102 of this title, the Motor Carrier Safety Act of 1984", "any of those provisions" for "such section or Act", and "shall be subject" for "shall be liable".

Subsec. (b)(6)(B)(i). Pub. L. 103–272, §5(m)(11)(G), substituted "section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(6)(B)(ii). Pub. L. 103–272, §5(m)(11)(H), substituted "section 31301 of this title" for "section 12019 of such Act", "section 31303(a) of this title" for "section 12003(a) of such Act", and "section 31303(a)" for "such section 12003(a)".

Subsec. (b)(12). Pub. L. 103–272, §5(m)(11)(I), substituted "chapter 51 of this title" for "any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812)" and "chapter 51" for "such Act".

Subsec. (b)(13). Pub. L. 103–272, §5(m)(11)(J), substituted "section 31132 of this title" for "section 204 of the Motor Carrier Safety Act of 1984".

1992—Subsec. (b)(2)(A). Pub. L. 102–548 inserted "or which is a violation of section 508 of this title" after "Act of 1984".

1990—Subsec. (b)(1). Pub. L. 101–500 designated existing provisions as subpar. (A) and added subpar. (B).

1986—Subsec. (b)(1). Pub. L. 99–570, §12012(a), inserted "or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(2). Pub. L. 99–570, §12012(b), (f)(1), inserted heading, designated existing provisions as subpars. (A) and (C) with corresponding headings, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and inserted exception relating to subpar. (B).

Subsec. (b)(3). Pub. L. 99–570, §12012(c), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984".

Subsec. (b)(5)(A). Pub. L. 99–570, §12012(d), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(6). Pub. L. 99–570, §12012(e), (f)(2), (g)(1), inserted heading, designated existing provisions as subpar. (A) with corresponding heading, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and substituted "to a fine" for "for a fine" in two places.

Subsec. (b)(13). Pub. L. 99–570, §12012(g)(2), substituted "section 204" for "section 4".

1984—Subsec. (b)(1). Pub. L. 98–554 substituted provisions relating to notice to violators and opportunity for hearings for former provisions which set forth penalties for failure to make reports and keep records.

Subsec. (b)(2). Pub. L. 98–554 substituted provisions setting forth amount of civil penalties for former provisions which related to the place of trial and manner of service of process for violations of recordkeeping and reporting provisions.

Subsec. (b)(3) to (13). Pub. L. 98–554 added pars. (3) to (13).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

MINIMUM AND MAXIMUM ASSESSMENTS

Pub. L. 106–159, title II, §222, Dec. 9, 1999, 113 Stat. 1769, provided that:

"(a) IN GENERAL.—The Secretary of Transportation should ensure that motor carriers operate safely by imposing civil penalties at a level calculated to ensure prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

"(b) ESTABLISHMENT.—The Secretary—

"(1) should establish and assess minimum civil penalties for each violation of a law referred to in subsection (a); and

"(2) shall assess the maximum civil penalty for each violation of a law referred to in subsection (a) by any person who is found to have committed a pattern of violations of critical or acute regulations issued to carry out such a law or to have previously committed the same or a related violation of critical or acute regulations issued to carry out such a law.

"(c) EXTRAORDINARY CIRCUMSTANCES.—If the Secretary determines and documents that extraordinary circumstances exist which merit the assessment of any civil penalty lower than any level established under subsection (b), the Secretary may assess such lower penalty. In cases where a person has been found to have previously committed the same or a related violation of critical or acute regulations issued to carry out a law referred to in subsection (a), extraordinary circumstances may be found to exist when the Secretary determines that repetition of such violation does not demonstrate a failure to take appropriate remedial action.

"(d) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the effectiveness of the revised civil penalties established in the Transportation Equity Act for the 21st Century [Pub. L. 105–178, see Tables for classification] and this Act [see Tables for classification] in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

"(2) SUBMISSION TO CONGRESS.—The Secretary shall transmit the results of such study and any recommendations to Congress by September 30, 2002."

REPORT; PENALTIES; EFFECTIVENESS

Section 213(d) of Pub. L. 98–554 directed Secretary of Transportation to conduct a study of effectiveness of civil and criminal penalties established by amendments made by section 213 of Pub. L. 98–554 in deterring violations of commercial motor vehicle safety regulations issued under title II of Pub. L. 98–554 and in effectively prosecuting such violations when they occur, which study was to examine the effectiveness of penalties in effect before Oct. 30, 1984, in comparison to the penalties established by the amendments made by title II of Pub. L. 98–554, and was to further investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations, and further directed Secretary to submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after Oct. 30, 1984.

[1] *See References in Text note below.*

§522. Reporting and record keeping violations

A person required to make a report to the Secretary of Transportation, or make, prepare, or

preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2436; Pub. L. 105–178, title IV, §4015(c), June 9, 1998, 112 Stat. 412.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
522	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
522(b)	49:304(a)(3) (last sentence) (related to "Sec. 322(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(g)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 522	*49 U.S. Code*	*Revised Section*
(a)	20(7)(b) (less proviso).	11909
(b)	322(g).	11909

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178 struck out "(a)" before "A person required to make a report to the Secretary of Transportation" and struck out subsec. (b) which read as follows: "A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a

false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than $5,000."

§523. Unlawful disclosure of information

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and

(3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2436.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
523	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
523(b)	49:304(a)(3) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
523(c)	49:304(a)(3) (last sentence) (related to "Sec. 322(d)").	
	49:304(a)(3a) (last sentence) (related to "Sec. 322(d)").	

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 523	*49 U.S. Code*	*Revised Section*
(a)	322(e).	11910
(b)	322(f).	11910
(c)	20(7)(f).	11910
	322(d).	11910

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

Subsection (a) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(e) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(e) to motor carriers of migrant workers and motor private carriers. The words "engaged in interstate or foreign commerce" are omitted as unnecessary because of the restatement of the chapter.

In subsections (b) and (c), the text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

§524. Evasion of regulation of motor carriers

A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation of motor carriers under this chapter, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, shall be fined at least $2,000 but not more than $5,000 for the first violation and at least $2,500 but not more than $7,500 for a subsequent violation.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2437; Pub. L. 112–141, div. C, title II, §32505(a), July 6, 2012, 126 Stat. 804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
524	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 524	*49 U.S. Code*	*Revised Section*
	322(c) (related to evasion of regulation).	11906

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to motor carriers of migrant workers and motor private carriers because 49:322(c) (related to evasion of regulation) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(c) (related to evasion of regulation) to motor carriers of migrant workers and motor private carriers.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 struck out "knowingly and willfully" after "by any means", inserted ", chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions," after "this chapter", and substituted "$2,000 but not more than $5,000" for "$200 but not more than $500" and "$2,500 but not more than $7,500" for "$250 but not more than $2,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§525. Disobedience to subpoenas

A motor carrier, motor carrier of migrant workers, or motor private carrier not obeying a subpoena or requirement of the Secretary of Transportation under this chapter to appear and testify or produce records shall be fined at least $1,000 but not more than $10,000, imprisoned for not more than one year, or both. The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2437; Pub. L. 112–141, div. C, title II, §32110, July 6, 2012, 126 Stat. 782.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
525	49:304(a)(3) (last sentence) (related to "Sec. 305(d) (related to liability)").	Feb. 4, 1887, ch. 104, 24 Stat., 379, §204(a)(3) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 305(d) (related to liability)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 525	*49 U.S. Code*	*Revised Section*
	305(d) (related to liability).	11913

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to the liability of a rail carrier because 49:46 is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed. The words "under this chapter" are added for clarity.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 substituted "subpoenas" for "subpenas" in section catchline, and, in text, substituted "subpoena" for "subpena", "$1,000" for "$100", and "$10,000" for "$5,000" and inserted at end "The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§526. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions, related to transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, shall be fined at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2437; Pub. L. 98–554, title II, §213(c), Oct. 30, 1984, 98 Stat. 2844; Pub. L. 103–272, §5(m)(12), July 5, 1994, 108 Stat. 1377.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
526	49:304(a)(3) (last sentence) (related to "Sec. 322(a)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(a)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(a)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(a)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 526	*49 U.S. Code*	*Revised Section*
	322(a).	11914

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The reference to a certificate, permit, or licence is omitted as not applicable to this chapter. The text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–272 substituted "a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions" for "this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and willfully violates a provision of this chapter or such section or Act, or a regulation or order of the Secretary of Transportation under this chapter or such section or Act".

1984—Pub. L. 98–554 inserted ", section 3102 of this title, or the Motor Carrier Safety Act of 1984" after "chapter" the first place it appears and inserted "or such section or Act" after "chapter" the second and third places it appears.

[CHAPTER 7—TRANSFERRED]

EDITORIAL NOTES

CODIFICATION

Former chapter 7 of this title was renumbered chapter 13 of this title and transferred to follow chapter 11 of this title. Sections 701 to 706, 721 to 724, and 726 were renumbered sections 1301 to 1306 and 1321 to 1325, respectively, and former sections 725 and 727 were repealed.

SUBCHAPTER I—ESTABLISHMENT

[§§701 to 706. Renumbered §§1301 to 1306]

SUBCHAPTER II—ADMINISTRATIVE

[§§721 to 724. Renumbered §§1321 to 1324]

[§725. Repealed. Pub. L. 114–110, §3(a)(4), Dec. 18, 2015, 129 Stat. 2228]

Section, Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937, required Secretary of Transportation to provide administrative support for the Board.

[§726. Renumbered §1325]

[§727. Repealed. Pub. L. 114–110, §3(a)(4), Dec. 18, 2015, 129 Stat. 2228]

Section, Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 940, related to definitions for this chapter.

SUBTITLE II—OTHER GOVERNMENT AGENCIES

Chapter		Sec.
11.	**National Transportation Safety Board**	**1101**
13.	**Surface Transportation Board**	**1301**

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title XII, §1221(c), May 16, 2024, 138 Stat. 1432, added item for chapter 13 which had been editorially supplied.

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

SUBCHAPTER I—GENERAL

Sec.

1101. Definitions.

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

1111. General organization.
1112. Special boards of inquiry on air transportation safety.
1113. Administrative.
1114. Disclosure, availability, and use of information.
1115. Training.
1116. Reports, studies, and retrospective reviews.
1117. Methodology.
1118. Authorization of appropriations.
1119. Accident and safety data classification and publication.

SUBCHAPTER III—AUTHORITY

1131. General authority.
1132. Civil aircraft accident investigations.
1133. Review of other agency action.
1134. Inspections and autopsies.
1135. Secretary of Transportation's responses to safety recommendations.
1136. Assistance to passengers involved in aircraft accidents and families of such passengers.
1137. Authority of the Inspector General.
1138. Evaluation and audit of National Transportation Safety Board.
1139. Assistance to passengers involved in rail passenger accidents and families of such passengers.
1140. Information for families of individuals involved in accidents.[1]

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

1151. Aviation enforcement.
1152. Joinder and intervention in aviation proceedings.
1153. Judicial review.
1154. Discovery and use of cockpit and surface vehicle recordings and transcripts.
1155. Penalties.

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title XII, §§1215(b), (f), 1216(b), 1221(b), May 16, 2024, 138 Stat. 1428, 1431, 1432, added item 1117, substituted "Assistance to passengers involved in aircraft accidents and families of such passengers" for "Assistance to families of passengers involved in aircraft accidents" in item 1136, "Assistance to passengers involved in rail passenger accidents and families of such passengers" for "Assistance to families of passengers involved in rail passenger accidents" in item 1139, and "Penalties" for "Aviation penalties" in item 1155 and struck out item 117 "Methodology" and former item 1117 "Annual report".

2018—Pub. L. 115–254, div. C, §§1107(b)(2), 1109(e)(2), 1111(b), 1113(a), Oct. 5, 2018, 132 Stat. 3433, 3435, 3436, 3438, added items 117 and 1140 and substituted "Reports, studies, and retrospective reviews" for "Reports and studies" in item 1116 and "Board." for "Board" in item 1138.

2008—Pub. L. 110–432, div. A, title V, §501(b), Oct. 16, 2008, 122 Stat. 4897, added item 1139.

2006—Pub. L. 109–443, §5(b), Dec. 21, 2006, 120 Stat. 3300, added item 1138.

2000—Pub. L. 106–424, §§5(c)(2), 12(b), Nov. 1, 2000, 114 Stat. 1885, 1887, added item 1137 and substituted "and surface vehicle recordings and transcripts" for "voice and other material" in item 1154.

1996—Pub. L. 104–264, title IV, §407(a)(2), title VII, §702(a)(2), Oct. 9, 1996, 110 Stat. 3258, 3267, added items 1119 and 1136.

1994—Pub. L. 103–272, §1(c), (d), July 5, 1994, 108 Stat. 745, added subtitle II (comprised of chapter 11, §§1101–1155) and struck out former subtitle II, except that chapter 31 (comprised of §§3101–3104) of subtitle II was redesignated and restated as chapter 315 (comprised of §§31501–31504) of subtitle VI, as enacted by Pub. L. 103–272, §1(e).

[1] Section catchline amended by Pub. L. 118–63 without corresponding amendment of chapter analysis.

SUBCHAPTER I—GENERAL

§1101. Definitions

(a) IN GENERAL.—In this chapter:

(1) ACCIDENT.—The term "accident" includes damage to or destruction of vehicles in surface or air transportation or pipelines, regardless of whether the initiating event is accidental or otherwise.

(2) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and Guam.

(b) APPLICABILITY OF OTHER DEFINITIONS.—Section 2101(24) [1] of title 46 and section 40102(a) of this title shall apply to this chapter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 746; Pub. L. 106–424, §2, Nov. 1, 2000, 114 Stat. 1883; Pub. L. 115–232, div. C, title XXXV, §3541(b)(17), Aug. 13, 2018, 132 Stat. 2324; Pub. L. 118–63, title XII, §1203, May 16, 2024, 138 Stat. 1422; Pub. L. 119–60, div. G, title LXXIII, §7301(k)(2)(D), Dec. 18, 2025, 139 Stat. 1759.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1101	(no source)	

A number of the source provisions of the chapter are taken from 49 App.:ch. 20. The text of 49 App.:ch. 20 contains general definitions, some of which are used in those source provisions.

This section is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision note for section 40102(a) of the

revised title.

EDITORIAL NOTES

AMENDMENTS

2025—Subsec. (b). Pub. L. 119–60 substituted "Section 2101(24)" for "Section 2101(23)".

2024—Pub. L. 118–63 amended section generally. Prior to amendment, text read as follows: "Section 2101(23) of title 46 and section 40102(a) of this title apply to this chapter. In this chapter, the term 'accident' includes damage to or destruction of vehicles in surface or air transportation or pipelines, regardless of whether the initiating event is accidental or otherwise."

2018—Pub. L. 115–232 substituted "Section 2101(23)" for "Section 2101(17a)".

2000—Pub. L. 106–424 amended section catchline and text generally. Prior to amendment, text read as follows: "Section 40102(a) of this title applies to this chapter."

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118–63, title XII, §1201, May 16, 2024, 138 Stat. 1422, provided that: "This title [amending this section and sections 1113 to 1116, 1118, 1131, 1134 to 1136, 1138 to 1140, 1151, 1155, and 24316 of this title, enacting provisions set out as notes under sections 1111, 1114, and 1131 of this title, and repealing provisions set out as a note under section 1113 of this title] may be cited as the 'National Transportation Safety Board Amendments Act of 2024'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–110, §1(a), Dec. 18, 2015, 129 Stat. 2228, provided that: "This Act [see Tables for classification] may be cited as the 'Surface Transportation Board Reauthorization Act of 2015'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–443, §1(a), Dec. 21, 2006, 120 Stat. 3297, provided that: "This Act [enacting section 1138 of this title, amending sections 1111, 1113, 1117, 1118, 1131, 1135, and 1137 of this title, enacting provisions set out as notes under sections 1111 and 1118 of this title, and amending provisions set out as a note under section 1113 of this title] may be cited as the 'National Transportation Safety Board Reauthorization Act of 2006'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–168, §1, Dec. 6, 2003, 117 Stat. 2032, provided that: "This Act [enacting section 354 of this title, amending sections 354, 1118, 1119, 1131, 1135, and 1136 of this title, and enacting provisions set out as notes under sections 1113, 1131, and 1135 of this title] may be cited as the 'National Transportation Safety Board Reauthorization Act of 2003'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–424, §1(a), Nov. 1, 2000, 114 Stat. 1883, provided that: "This Act [enacting section 1137 of this title, amending this section and sections 1111, 1113 to 1115, 1118, 1131, 1154, 44721, and 46301 of this title, and enacting provisions set out as notes under sections 1111, 1113, 1131, 44703, and 44721 of this title] may be cited as the 'National Transportation Safety Board Amendments Act of 2000'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–291, title I, §101, Oct. 11, 1996, 110 Stat. 3452, provided that: "This title [amending sections 1114, 1115, and 1118 of this title] may be cited as the 'National Transportation Safety Board Amendments of 1996'."

DEFINITIONS OF TERMS IN DIV. C OF PUB. L. 115–254

Pub. L. 115–254, div. C, §1102, Oct. 5, 2018, 132 Stat. 3429, provided that: "In this division [enacting section 1140 of this title, amending sections 1111, 1113, 1114, 1116 to 1118, 1131, 1134, 1136, 1138, 1139, 1154, 41113, and 41313 of this title, and enacting provisions set out as notes under sections 1116, 1119, and 40101 of this title], the following definitions apply:

"(1) BOARD.—The term 'Board' means the National Transportation Safety Board.

"(2) CHAIRMAN.—The term 'Chairman' means the Chairman of the National Transportation Safety

Board.

"(3) MOST WANTED LIST.—The term 'Most Wanted List' means the Board publication entitled 'Most Wanted List'."

[1] *So in original. Probably should be "2101(25)".*

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

§1111. General organization

(a) ORGANIZATION.—The National Transportation Safety Board is an independent establishment of the United States Government.

(b) APPOINTMENT OF MEMBERS.—The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) TERMS OF OFFICE AND REMOVAL.—The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 3 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) DUTIES AND POWERS OF CHAIRMAN.—The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

(1) appoint and supervise officers and employees, other than regular and full-time employees in the immediate offices of another member, necessary to carry out this chapter;

(2) fix the pay of officers and employees necessary to carry out this chapter;

(3) distribute business among the officers, employees, and administrative units of the Board; and

(4) supervise the expenditures of the Board.

(f) QUORUM.—Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) OFFICES, BUREAUS, AND DIVISIONS.—The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

(1) aviation.

(2) highway and motor vehicle.

(3) rail and tracked vehicle.

(4) pipeline.

(5) marine.

(h) CHIEF FINANCIAL OFFICER.—The Chairman shall designate an officer or employee of the Board as the Chief Financial Officer. The Chief Financial Officer shall—

(1) report directly to the Chairman on financial management and budget execution;

(2) direct, manage, and provide policy guidance and oversight on financial management and property and inventory control; and

(3) review the fees, rents, and other charges imposed by the Board for services and things of value it provides, and suggest appropriate revisions to those charges to reflect costs incurred by the Board in providing those services and things of value.

(i) BOARD MEMBER STAFF.—Each member of the Board shall select and supervise regular and full-time employees in his or her immediate office as long as any such employee has been approved for employment by the designated agency ethics official under the same guidelines that apply to all employees of the Board. Except for the Chairman, the appointment authority provided by this subsection is limited to the number of full-time equivalent positions, in addition to 1 senior professional staff at a level not to exceed the GS 15 level and 1 administrative staff, allocated to each member through the Board's annual budget and allocation process.

(j) SEAL.—The Board shall have a seal that shall be judicially recognized.

(k) OPEN MEETINGS.—

(1) IN GENERAL.—The Board shall be deemed to be an agency for purposes of section 552b of title 5.

(2) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

(A) IN GENERAL.—Notwithstanding section 552b of title 5, a majority of the members may hold a meeting that is not open to public observation to discuss official agency business if—

(i) no formal or informal vote or other official agency action is taken at the meeting;

(ii) each individual present at the meeting is a member or an employee of the Board;

(iii) at least 1 member of the Board from each political party is present at the meeting, if applicable; and

(iv) the General Counsel of the Board is present at the meeting.

(B) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Except as provided under subparagraphs (C) and (D), not later than 2 business days after the conclusion of a meeting under subparagraph (A), the Board shall make available to the public, in a place easily accessible to the public—

(i) a list of the individuals present at the meeting; and

(ii) a summary of the matters, including key issues, discussed at the meeting, except for any matter the Board properly determines may be withheld from the public under section 552b(c) of title 5.

(C) SUMMARY.—If the Board properly determines a matter may be withheld from the public under section 552b(c) of title 5, the Board shall provide a summary with as much general information as possible on each matter withheld from the public.

(D) ACTIVE INVESTIGATIONS.—If a discussion under subparagraph (A) directly relates to an active investigation, the Board shall make the disclosure under subparagraph (B) on the date the Board adopts the final report.

(E) PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION .—Nothing in this paragraph may be construed to limit the applicability of section 552b of title 5 with respect to a meeting of the members other than that described in this paragraph.

(F) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed—

(i) to limit the applicability of section 552b of title 5 with respect to any information which is proposed to be withheld from the public under subparagraph (B)(ii); or

(ii) to authorize the Board to withhold from any individual any record that is accessible to that individual under section 552a of title 5.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 746; Pub. L. 106–424, §10, Nov. 1, 2000, 114 Stat.

1886; Pub. L. 109–443, §9(a), (d), Dec. 21, 2006, 120 Stat. 3301; Pub. L. 115–254, div. C, §1112(a), (b), Oct. 5, 2018, 132 Stat. 3436.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1111(a)	49 App.:1902(a).	Jan. 3, 1975, Pub. L. 93–633, §303(a), (b)(2)– (c), 88 Stat. 2167, 2168.
1111(b)	49 App.:1902(b)(1) (1st sentence words before comma, 2d–last sentences).	Jan. 3, 1975, Pub. L. 93–633, §303(b)(1), 88 Stat. 2167; Oct. 14, 1982, Pub. L. 97–309, §1 (1st sentence), 96 Stat. 1453.
1111(c)	49 App.:1902(b)(2).	
1111(d)	49 App.:1902(b)(1) (1st sentence words after comma), (3) (1st, 2d, 4th sentences).	
1111(e)	49 App.:1902(b)(3) (3d, last sentences), (c)(3).	
1111(f)	49 App.:1902(b)(4).	
1111(g)	49 App.:1902(b)(5), (c)(1).	
1111(h)	49 App.:1902(c)(2).	

In subsection (a), the words "previously established within the Department of Transportation" are omitted as unnecessary. The words "in accordance with this section, on and after April 1, 1975" are omitted as executed.

In subsection (c), the words "except as otherwise provided in this paragraph" are omitted as surplus. The text of 49 App.:1902(b)(2) (4th sentence) is omitted as executed.

In subsection (d), the words "On or before January 1, 1976" are omitted as executed. The words "(and thereafter as required)" and "(hereafter in this chapter referred to as the 'Chairman')" are omitted as unnecessary.

In subsection (e), before clause (1), the words "is the chief executive and administrative officer of the Board" are substituted for "shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board" for clarity. The words "Subject to the general policies and decisions of the Board, the Chairman shall" are substituted for 49 App.:1902(b)(3) (last sentence) to eliminate unnecessary words. In clause (1), the words "Subject to the civil service and classification laws" are omitted as unnecessary because of title 5, United States Code, especially sections 3301, 5101, and 5331. The words "the Board is authorized" are omitted for consistency because the authority to appoint officers and employees is vested in the Chairman subject to the "general policies and decisions of the Board" as provided in the source provisions. The words "including investigators, attorneys, and administrative law judges" are omitted as covered by "officers and employees". The words "carry out this chapter" are substituted for "carry out its powers and duties under this chapter" to eliminate unnecessary words. In clause (3), the words "expenditures of the Board" are substituted for "the use and expenditure of funds" for clarity.

In subsection (f), the words "duties and powers" are substituted for "function" for consistency in the revised title and with other titles of the Code.

In subsection (g), the text of 49 App.:1902(c)(1) is omitted as unnecessary because of 40:ch. 10.

EDITORIAL NOTES

REFERENCES IN TEXT

GS–15, referred to in subsec. (i), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–254, §1112(a), substituted "3 years" for "2 years".

Subsec. (k). Pub. L. 115–254, §1112(b), added subsec. (k).

2006—Subsec. (e)(1). Pub. L. 109–443, §9(d)(1), added par. (1) and struck out former par. (1) which read as follows: "appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;".

Subsec. (e)(2) to (4). Pub. L. 109–443, §9(d)(2), (3), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (g)(5). Pub. L. 109–443, §9(a), added par. (5).

Subsecs. (i), (j). Pub. L. 109–443, §9(d)(4), (5), added subsec. (i) and redesignated former subsec. (i) as (j).

2000—Subsecs. (h), (i). Pub. L. 106–424 added subsec. (h) and redesignated former subsec. (h) as (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DRUG-FREE WORKPLACE

Pub. L. 118–63, title XII, §1218, May 16, 2024, 138 Stat. 1431, provided that: "Not later than 12 months after the date of enactment of this Act [May 16, 2024], the National Transportation Safety Board shall implement a drug testing program applicable to Board employees, including employees in safety or security sensitive positions, in accordance with Executive Order No. 12564 (51 Fed. Reg. 32889)."

UTILIZATION PLAN

Pub. L. 109–443, §2(a)(2), Dec. 21, 2006, 120 Stat. 3297, provided that:

"(A) PLAN.—Within 90 days after the date of enactment of this Act [Dec. 21, 2006], the National Transportation Safety Board shall—

"(i) develop a plan to achieve, to the maximum extent feasible, the self-sufficient operation of the National Transportation Safety Board Academy and utilize the Academy's facilities and resources;

"(ii) submit a draft of the plan to the Comptroller General for review and comment; and

"(iii) submit a draft of the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) PLAN DEVELOPMENT CONSIDERATIONS.—The Board shall—

"(i) give consideration in developing the plan under subparagraph (A)(i) to other revenue-generating measures, including subleasing the facility to another entity; and

"(ii) include in the plan a detailed financial statement that covers current Academy expenses and revenues and an analysis of the projected impact of the plan on the Academy's expenses and revenues.

"(C) REPORT.—Within 180 days after the date of enactment of this Act [Dec. 21, 2006], the National Transportation Safety Board shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

"(i) an updated copy of the plan developed pursuant to subparagraph (A)(i);

"(ii) any comments and recommendations made by the Comptroller General pursuant to the Government Accountability Office's review of the draft plan; and

"(iii) a response to the Comptroller General's comments and recommendations, including a description of any modifications made to the plan in response to those comments and recommendations.

"(D) IMPLEMENTATION.—The plan developed pursuant to subparagraph (A)(i) shall be implemented within 2 years after the date of enactment of this Act [Dec. 21, 2006]."

AUDIT PROCEDURES

Pub. L. 109–443, §6, Dec. 21, 2006, 120 Stat. 3300, provided that: "The National Transportation Safety Board, in consultation with the Inspector General of the Department of Transportation, shall continue to develop and implement comprehensive internal audit controls for its operations. The audit controls shall address, at a minimum, Board asset management systems, including systems for accounting management, debt collection, travel, and property and inventory management and control."

IMPROVED AUDIT PROCEDURES

Pub. L. 106–424, §11, Nov. 1, 2000, 114 Stat. 1887, provided that: "The National Transportation Safety Board, in consultation with the Inspector General of the Department of Transportation, shall develop and implement comprehensive internal audit controls for its financial programs based on the findings and recommendations of the private sector audit firm contract entered into by the Board in March, 2000. The improved internal audit controls shall, at a minimum, address Board asset management systems, including systems for accounting management, debt collection, travel, and property and inventory management and control."

§1112. Special boards of inquiry on air transportation safety

(a) ESTABLISHMENT.—If an accident involves a substantial question about public safety in air transportation, the National Transportation Safety Board may establish a special board of inquiry composed of—

(1) one member of the Board acting as chairman; and

(2) 2 members representing the public, appointed by the President on notification of the establishment of the special board of inquiry.

(b) QUALIFICATIONS AND CONFLICTS OF INTEREST.—The public members of a special board of inquiry must be qualified by training and experience to participate in the inquiry and may not have a pecuniary interest in an aviation enterprise involved in the accident to be investigated.

(c) AUTHORITY.—A special board of inquiry has the same authority that the Board has under this chapter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 747.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1112	49 App.:1443.	Aug. 23, 1958, Pub. L. 85–726, §703, 72 Stat. 782.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), 88 Stat. 2168.

In subsection (c), the words "when convened to investigate an accident certified to it by the National Transportation Safety Board" are omitted as surplus.

§1113. Administrative

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct hearings to carry out this chapter, administer oaths, and require, by subpoena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a hearing under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the hearing. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpoena shall be issued under the signature of the Chairman or the Chairman's delegate but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpoena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpoena, order, or notice. An action under this paragraph may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpoena, order, or notice as a contempt of court.

(b) ADDITIONAL POWERS.—(1) The Board may—

(A) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;

(B) make agreements and other transactions necessary to carry out this chapter without regard to section 6101(b) to (d) of title 41;

(C) use, when appropriate, available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(D) confer with employees and use services, records, and facilities of State and local governmental authorities;

(E) appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate;

(F) accept voluntary and uncompensated services notwithstanding another law;

(G) accept gifts of money and other property;

(H) make contracts with nonprofit entities to carry out studies related to duties and powers of the Board;

(I) negotiate and enter into agreements with individuals and private entities and departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries for the provision of facilities, accident-related and technical services or training in accident investigation theory and techniques, and require that such entities provide appropriate consideration for the reasonable costs of any facilities, goods, services, or training provided by the Board;

(J) notwithstanding section 1343 of title 31, acquire 1 or more small unmanned aircraft (as defined in section 44801) for use in investigations under this chapter; and

(K) notwithstanding section 3301 of title 41, acquire training on emerging transportation technologies if such training—

(i) is required for an ongoing investigation; and

(ii) meets the criteria under section 3304(a)(7)(A) of title 41.

(2) The Board shall deposit in the Treasury amounts received under paragraph (1)(I) of this subsection to be credited as offsetting collections to the appropriation of the Board. The Board shall maintain an annual record of collections received under paragraph (1)(I) of this subsection.

(c) SUBMISSION OF CERTAIN COPIES TO CONGRESS.—When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer, department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress. The Board shall develop and approve a process for the Board's review and comment or approval of documents submitted to the President, Director of the Office of Management and Budget, or Congress under this subsection.

(d) LIAISON COMMITTEES.—The Chairman may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies, and instrumentalities of the Government, State and local governmental authorities, and independent standard-setting authorities that carry out programs and activities related to transportation safety. The Board may designate representatives to serve on or assist those committees.

(e) INQUIRIES.—The Board, or an officer or employee of the Board designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety after publishing notice of the inquiry in the Federal Register. The Board or designated officer or employee may require by order a department, agency, or instrumentality of the Government, a State or local governmental authority, or a person transporting individuals or property in commerce to submit to the Board a written report and answers to requests and questions related to a duty or power of the Board. The Board may prescribe the time within which the report and answers must be given to the Board or to the designated officer or employee. Copies of the report and answers shall be made available for public inspection.

(f) REGULATIONS.—The Board may prescribe regulations to carry out this chapter.

(g) OVERTIME PAY.—

(1) IN GENERAL.—Subject to the requirements of this section and notwithstanding paragraphs (1) and (2) of section 5542(a) of title 5, for an employee of the Board whose basic pay is at a rate which equals or exceeds the minimum rate of basic pay for GS–10 of the General Schedule, the Board may establish an overtime hourly rate of pay for the employee with respect to work performed at the scene of an accident (including travel to or from the scene) and other work that is critical to an accident investigation in an amount equal to one and one-half times the hourly rate of basic pay of the employee. All of such amount shall be considered to be premium pay.

(2) LIMITATION ON OVERTIME PAY TO AN EMPLOYEE.—An employee of the Board may not receive overtime pay under paragraph (1), for work performed in a calendar year, in an amount that exceeds 15 percent of the annual rate of basic pay of the employee for such calendar year.

(3) LIMITATION ON TOTAL AMOUNT OF OVERTIME PAY.—The Board may not make overtime payments under paragraph (1) for work performed in any fiscal year in a total amount that exceeds 1.5 percent of the amount appropriated to carry out this chapter for that fiscal year.

(4) BASIC PAY DEFINED.—In this subsection, the term "basic pay" includes any applicable locality-based comparability payment under section 5304 of title 5 (or similar provision of law) and any special rate of pay under section 5305 of title 5 (or similar provision of law).

(h) STRATEGIC WORKFORCE PLAN.—

(1) IN GENERAL.—The Board shall develop a strategic workforce plan that addresses the immediate and long-term workforce needs of the Board with respect to carrying out the authorities and duties of the Board under this chapter.

(2) ALIGNING THE WORKFORCE TO STRATEGIC GOALS.—In developing the strategic workforce plan under paragraph (1), the Board shall take into consideration—

(A) the current state and capabilities of the Board, including a high-level review of mission requirements, structure, workforce, and performance of the Board;

(B) the significant workforce trends, needs, issues, and challenges with respect to the Board and the transportation industry;

(C) with respect to employees involved in transportation safety work, the needs, issues, and challenges, including accident severity and risk, posed by each mode of transportation, and how the Board's staffing for each transportation mode reflects these aspects;

(D) the workforce policies, strategies, performance measures, and interventions to mitigate succession risks that guide the workforce investment decisions of the Board;

(E) a workforce planning strategy that identifies workforce needs, including the knowledge, skills, and abilities needed to recruit and retain skilled employees at the Board;

(F) a workforce management strategy that is aligned with the mission of the Board, including plans for continuity of leadership and knowledge sharing;

(G) an implementation system that addresses workforce competency gaps, particularly in mission-critical occupations; and

(H) a system for analyzing and evaluating the performance of the Board's workforce management policies, programs, and activities.

(3) PLANNING PERIOD.—The strategic workforce plan developed under paragraph (1) shall address a 5-year forecast period, but may include planning for longer periods based on information about emerging technologies or safety trends in transportation.

(4) PLAN UPDATES.—The Board shall update the strategic workforce plan developed under paragraph (1) not less than once every 5 years.

(5) RELATIONSHIP TO STRATEGIC PLAN.—The strategic workforce plan developed under paragraph (1) may be developed separately from, or incorporated into, the strategic plan required under section 306 of title 5.

(6) AVAILABILITY.—The strategic workforce plan under paragraph (1) and the strategic plan required under section 306 of title 5 shall be—

(A) submitted to the Committee on Transportation and Infrastructure of the House of

Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(B) made available to the public on a website of the Board.

(i) NON-ACCIDENT-RELATED TRAVEL BUDGET.—

(1) IN GENERAL.—The Board shall establish annual fiscal year budgets for non-accident-related travel expenditures for each Board member.

(2) NOTIFICATION.—The Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of any non-accident-related travel budget overrun for any Board member not later than 30 days of such overrun becoming known to the Board.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 747; Pub. L. 106–424, §§3(a), (b)(1), 4, Nov. 1, 2000, 114 Stat. 1883, 1884; Pub. L. 109–443, §9(e)–(g), Dec. 21, 2006, 120 Stat. 3301; Pub. L. 111–350, §5(o)(2), Jan. 4, 2011, 124 Stat. 3853; Pub. L. 115–254, div. C, §1112(c)–(e), Oct. 5, 2018, 132 Stat. 3437, 3438; Pub. L. 118–63, title XII, §§1204(a), 1205–1207(a), May 16, 2024, 138 Stat. 1422–1424.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1113(a)	49 App.:1903(b)(1), (3).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), (b)(1), (3), (4), (7)–(9), 88 Stat. 2168, 2169, 2170; July 19, 1988, Pub. L. 100–372, §4, 102 Stat. 876.
1113(b)(1)(A)	49 App.:1441(b) (words before semicolon).	Aug. 23, 1958, Pub. L. 85–726, §701(b), 72 Stat. 781.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A), (b)(6)(C).	
1113(b)(1)(B)	49 App.:1903(b)(4).	
1113(b)(1)(C)	49 App.:1441(b) (words after semicolon).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
	49 App.:1903(b)(6)(A).	Jan. 3, 1975, Pub. L. 93–633, §304(b)(6), 88 Stat. 2170; July 19, 1988, Pub. L. 100–372, §5, 102 Stat. 877.
1113(b)(1)(D)–(I), (2)	49 App.:1903(b)(6)(B), (D)–(H).	
1113(c)	49 App.:1903(b)(7).	
1113(d)	49 App.:1903(b)(8).	
1113(e)	49 App.:1903(b)(9).	
1113(f)	49 App.:1903(b)(12).	Jan. 3, 1975, Pub. L. 93–633, §304(b)(12), 88 Stat. 2171; July 19, 1988, Pub. L. 100–372, §4, 102 Stat. 876; Nov. 28, 1990, Pub. L. 101–641, §6, 104 Stat. 4656.

In subsection (a)(1), the words "sit and act at such times and places" are omitted as unnecessary. The word "necessary" is substituted for "as the Board or such officer or employee deems advisable" because it is more accurate.

In subsection (a)(2), the words "the witness would have been" are added for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words "If a person disobeys" are substituted for "In case of contumacy or refusal to obey" for consistency in the revised title and with other titles of the Code. The words "of the Board" are substituted for "of the Board, or of any duly designated employee thereof" to eliminate unnecessary words. The words "the Board may bring a civil action in a district court of the United States" are substituted for "such district court shall, upon the request of the Board, have jurisdiction" for consistency in the revised title and because of 28:1331. The word "forthwith" is omitted as surplus. The words "An action under this paragraph may be brought in the judicial district" are added for clarity.

In subsection (b)(1)(A), the text of 49 App.:1441(b) (words before semicolon) is omitted as superseded by 49 App.:1903(b)(6)(C).

In subsection (b)(1)(B), the words "make agreements and other transactions" are substituted for "enter into . . . such contracts, leases, cooperative agreements, or other transactions" to eliminate unnecessary words. The words "to carry out this chapter" are substituted for "in the conduct of the functions and the duties of the Board under this chapter" for consistency. The words "with any government entity or any person" are omitted as surplus.

In subsection (b)(1)(C), the words "Department of Transportation and of other" are omitted as surplus. The words "department, agency, or instrumentality of the United States Government" are substituted for "civilian or military agencies and instrumentalities of the Federal Government" in 49 App.:1903(b)(6)(A) for consistency in the revised title and with other titles of the Code. The text of 49 App.:1441(b) (words after semicolon) is omitted as superseded by 49 App.:1903(b)(6)(A).

In subsection (b)(1)(D), the word "available" is omitted as surplus.

In subsection (b)(1)(E), the words "one or more" are omitted as surplus because the authority to appoint advisory committees is discretionary and unlimited on its face. The word "appropriate" is substituted for "necessary or appropriate" to eliminate unnecessary words. The words "in accordance with the Federal Advisory Committee Act" are omitted as surplus because that Act applies unless specifically excluded. (See 5 App. U.S.C.)

In subsection (b)(1)(G), the words "gifts of money and other property" are substituted for "gifts or donations of money or property (real, personal, mixed, tangible, or intangible)" to eliminate unnecessary words.

In subsection (b)(1)(H), the words "public or private" are omitted as surplus.

Subsection (b)(2) is substituted for "and to apply the funds received to the Board's appropriations" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c), the word "submits" is substituted for "submits or transmits" for consistency. The words "Director of the Office of Management and Budget" are substituted for "Office of Management and Budget" because of 31:502(a).

In subsection (d), the word "appropriate" is substituted for "necessary or appropriate" to eliminate unnecessary words.

In subsection (e), the words "officer or employee" are substituted for "employee" for consistency in the revised title. The words "by order" are substituted for "by special or general orders" to eliminate unnecessary words. The word "individuals" is substituted for "people" for consistency in the revised title.

In subsection (f), the words "prescribe regulations to carry out this chapter" are substituted for "rules and regulations as may be necessary to the exercise of its functions" for consistency in the revised title and with other titles of the Code and because "rule" and "regulation" are synonymous.

EDITORIAL NOTES

REFERENCES IN TEXT

GS–10 of the General Schedule, referred to in subsec. (g)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

2024—Subsec. (b)(1)(K). Pub. L. 118–63, §1204(a), added subpar. (K).

Subsec. (g)(5). Pub. L. 118–63, §1205, struck out par. (5). Text read as follows: "Not later than January 31, 2002, and annually thereafter, the Board shall transmit to the Senate Committee on Commerce, Science, and

Transportation and the House Transportation and Infrastructure Committee a report identifying the total amount of overtime payments made under this subsection in the preceding fiscal year, and the number of employees whose overtime pay under this subsection was limited in that fiscal year as a result of the 15 percent limit established by paragraph (2)."

Subsec. (h). Pub. L. 118–63, §1206, added subsec. (h).

Subsec. (i). Pub. L. 118–63, §1207(a), added subsec. (i).

2018—Subsec. (a)(1). Pub. L. 115–254, §1112(e), substituted "subpoena" for "subpena".

Subsec. (b)(1)(J). Pub. L. 115–254, §1112(c), added subpar. (J).

Subsec. (h). Pub. L. 115–254, §1112(d), struck out subsec. (h). Text read as follows: "The Board shall maintain at least 1 full-time employee in each State located more than 1,000 miles from the nearest Board regional office to provide initial investigative response to accidents the Board is empowered to investigate under this chapter that occur in that State."

2011—Subsec. (b)(1)(B). Pub. L. 111–350 substituted "section 6101(b) to (d) of title 41" for "section 3709 of the Revised Statutes (41 U.S.C. 5)".

2006—Subsec. (a)(3). Pub. L. 109–443, §9(e), substituted "subpoena" for "subpena".

Subsec. (a)(4). Pub. L. 109–443, §9(e), which directed substitution of "subpoena" for "subpena", was executed by making the substitution wherever appearing, to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 109–443, §9(f), inserted at end "The Board shall develop and approve a process for the Board's review and comment or approval of documents submitted to the President, Director of the Office of Management and Budget, or Congress under this subsection."

Subsec. (h). Pub. L. 109–443, §9(g), added subsec. (h).

2000—Subsec. (b)(1)(I). Pub. L. 106–424, §3(a), amended subpar. (I) generally. Prior to amendment, subpar. (I) read as follows: "require that the departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries provide appropriate consideration for the reasonable costs of goods and services supplied by the Board."

Subsec. (b)(2). Pub. L. 106–424, §3(b)(1), inserted "as offsetting collections" after "to be credited" and "The Board shall maintain an annual record of collections received under paragraph (1)(I) of this subsection." at end.

Subsec. (g). Pub. L. 106–424, §4, added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES

Pub. L. 108–168, §4, Dec. 6, 2003, 117 Stat. 2033, as amended by Pub. L. 109–443, §3, Dec. 21, 2006, 120 Stat. 3298, provided that:

"(a) IN GENERAL.—The National Transportation Safety Board may enter into agreements or contracts under the authority of section 1113(b)(1)(B) of title 49, United States Code, for investigations conducted under section 1131 of that title without regard to any other provision of law requiring competition if necessary to expedite the investigation.

"(b) REPORT ON USAGE.—On July 1 of each year, as part of the annual report required by section 1117 of title 49, United States Code, the National Transportation Safety Board shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Government Reform [now Committee on Oversight and Accountability], the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Governmental Affairs that—

"(1) describes each contract executed by the Board to which the authority provided by subsection (a) was applied; and

"(2) sets forth the rationale for dispensing with competition requirements with respect to such contract."

TRAVEL BUDGETS

Pub. L. 106–424, §9, Nov. 1, 2000, 114 Stat. 1886, which required the Chairman of the National Transportation Safety Board to establish annual fiscal year budgets for non-accident-related travel expenditures for Board members to be approved by the Board and submitted to the appropriate congressional committees with detailed travel reports, was repealed by Pub. L. 118–63, title XII, §1207(b), May 16, 2024, 138 Stat. 1424.

§1114. Disclosure, availability, and use of information

(a) GENERAL.—(1) Except as provided in subsections (b), (c), (d), and (f) of this section, a copy of a record, information, or investigation submitted or received by the National Transportation Safety Board, or a member or employee of the Board, shall be made available to the public on identifiable request and at reasonable cost. This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.

(2) The Board shall deposit in the Treasury amounts received under paragraph (1) to be credited to the appropriation of the Board as offsetting collections.

(b) CERTAIN CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—The Board may disclose confidential information described in section 1905 of title 18, including trade secrets, only—

(A) to another department, agency, or instrumentality of the United States Government when requested for official use;

(B) to a committee of Congress having jurisdiction over the subject matter to which the information is related, when requested by that committee;

(C) in a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and

(D) to the public to protect health and safety after giving notice to any interested person to whom the information is related and an opportunity for that person to comment in writing, or orally in closed session, on the proposed disclosure, if the delay resulting from notice and opportunity for comment would not be detrimental to health and safety.

(2) Information disclosed under paragraph (1) of this subsection may be disclosed only in a way designed to preserve its confidentiality.

(3) PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION .—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose voluntarily provided safety-related information if that information is not related to the exercise of the Board's accident or incident investigation authority under this chapter and if the Board finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(c) COCKPIT RECORDINGS AND TRANSCRIPTS.—

(1) CONFIDENTIALITY OF RECORDINGS.—Except as provided in paragraph (2), the Board may not disclose publicly any part of a cockpit voice or video recorder recording or transcript of oral communications by and between flight crew members and ground stations related to an accident or incident investigated by the Board.

(2) EXCEPTION.—Subject to subsections (b) and (g), the Board shall make public any part of a transcript, any written depiction of visual information obtained from a video recorder, or any still image obtained from a video recorder the Board decides is relevant to the accident or incident—

(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing; or

(B) if the Board does not hold a public hearing, at the time a majority of the other factual reports on the accident or incident are placed in the public docket.

(3) REFERENCES TO INFORMATION IN MAKING SAFETY RECOMMENDATIONS .—This subsection does not prevent the Board from referring at any time to cockpit voice or video recorder information in making safety recommendations.

(d) SURFACE VEHICLE RECORDINGS AND TRANSCRIPTS.—

(1) CONFIDENTIALITY OF RECORDINGS.—Except as provided in paragraph (2), the Board may not disclose publicly any part of a surface vehicle voice or video recorder recording or transcript of oral communications by or among drivers, train employees, or other operating employees responsible for the movement and direction of the vehicle or vessel, or between such

operating employees and company communication centers, related to an accident investigated by the Board.

(2) EXCEPTION.—Subject to subsections (b) and (g), the Board shall make public any part of a transcript, any written depiction of visual information obtained from a video recorder, or any still image obtained from a video recorder the Board decides is relevant to the accident—

(A) if the Board holds a public hearing on the accident, at the time of the hearing; or

(B) if the Board does not hold a public hearing, at the time a majority of the other factual reports on the accident are placed in the public docket.

(3) REFERENCES TO INFORMATION IN MAKING SAFETY RECOMMENDATIONS .—This subsection does not prevent the Board from referring at any time to voice or video recorder information in making safety recommendations.

(e) DRUG TESTS.—(1) Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (Public Law 100–71, 101 Stat. 471), the Secretary of Transportation shall provide the following information to the Board when requested in writing by the Board:

(A) any report of a confirmed positive toxicological test, verified as positive by a medical review officer, conducted on an officer or employee of the Department of Transportation under post-accident, unsafe practice, or reasonable suspicion toxicological testing requirements of the Department, when the officer or employee is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the Board.

(B) any laboratory record documenting that the test is confirmed positive.

(2) Except as provided by paragraph (3) of this subsection, the Board shall maintain the confidentiality of, and exempt from disclosure under section 552(b)(3) of title 5—

(A) a laboratory record provided the Board under paragraph (1) of this subsection that reveals medical use of a drug allowed under applicable regulations; and

(B) medical information provided by the tested officer or employee related to the test or a review of the test.

(3) The Board may use a laboratory record made available under paragraph (1) of this subsection to develop an evidentiary record in an investigation of an accident or incident if—

(A) the fitness of the tested officer or employee is at issue in the investigation; and

(B) the use of that record is necessary to develop the evidentiary record.

(f) FOREIGN INVESTIGATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose records or information relating to its participation in foreign aircraft accident investigations; except that—

(A) the Board shall release records pertaining to such an investigation when the country conducting the investigation issues its final report or 2 years following the date of the accident, whichever occurs first; and

(B) the Board may disclose records and information when authorized to do so by the country conducting the investigation.

(2) SAFETY RECOMMENDATIONS.—Nothing in this subsection shall restrict the Board at any time from referring to foreign accident investigation information in making safety recommendations.

(g) PRIVACY PROTECTIONS.—Before making public any still image obtained from a video recorder under subsection (c)(2) or subsection (d)(2), the Board shall take such action as appropriate to protect from public disclosure any information that readily identifies an individual, including a decedent.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 749; Pub. L. 104–291, title I, §§102, 103, Oct. 11, 1996, 110 Stat. 3452; Pub. L. 106–424, §§3(b)(2), 5(a), (b), Nov. 1, 2000, 114 Stat. 1884, 1885; Pub. L. 115–254, div. C, §1104(a), Oct. 5, 2018, 132 Stat. 3429; Pub. L. 118–63, title XII, §1208(a), May 16, 2024, 138 Stat. 1424.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1114(a)	49 App.:1905(a).	Jan. 3, 1975, Pub. L. 93–633, §306(a), (b), 88 Stat. 2172; Oct. 14, 1982, Pub. L. 97–309, §2, 96 Stat. 1453.
1114(b)	49 App.:1905(b).	
1114(c)	49 App.:1905(c).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §306(c); added Oct. 14, 1982, Pub. L. 97–309, §2, 96 Stat. 1453; restated Nov. 28, 1990, Pub. L. 101–641, §4, 104 Stat. 4654.
1114(d)(1)	49 App.:1903(b) (11)(A).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §304(b)(11); added Nov. 28, 1990, Pub. L. 101–641, §6, 104 Stat. 4656.
1114(d)(2)	49 App.:1903(b) (11)(B).	
1114(d)(3)	49 App.:1903(b) (11)(C).	

In subsection (a), the words "record, information, or investigation" are substituted for "communication, document, investigation, or other report, or information" to eliminate unnecessary words. The words "of the United States" are added for clarity.

In subsection (c)(1), before clause (A), the words "Notwithstanding any other provision of law" are omitted as surplus. The word "relevant" is substituted for "relevant and pertinent" to eliminate unnecessary words.

In subsection (d), the words "officer or employee" are substituted for "employee" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (d)(2), before clause (A), the words "maintain the confidentiality of" are substituted for "maintain in confidence" for consistency in the revised title and with other titles of the Code. In clause (A), the words "of a confirmed and verified toxicological test" are omitted as unnecessary because of the restatement of the source provisions in paragraph (1) of this subsection.

In subsection (d)(3), the words "laboratory record made available under paragraph (1) of this subsection" are substituted for "such a laboratory record" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 503(e) of the Supplemental Appropriations Act, 1987, referred to in subsec. (e)(1), is section 503(e) of Pub. L. 100–71, which is set out as a note under section 7301 of Title 5, Government Organization and Employees.

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63, §1208(a)(1), substituted "Certain Confidential Information" for "Trade Secrets" in heading.

Subsec. (b)(1). Pub. L. 118–63, §1208(a)(2), inserted heading and substituted "confidential information described in section 1905 of title 18, including trade secrets," for "information related to a trade secret referred to in section 1905 of title 18" in introductory provisions.

2018—Subsec. (c)(1). Pub. L. 115–254, §1104(a)(1)(C)(i), inserted heading and substituted "Except as provided in paragraph (2), the Board" for "The Board".

Subsec. (c)(2). Pub. L. 115–254, §1104(a)(1)(C)(ii), designated second sentence of par. (1) as par. (2) and amended it generally. Prior to amendment, second sentence of par. (1) read as follows: "However, the Board

shall make public any part of a transcript or any written depiction of visual information the Board decides is relevant to the accident or incident—

"(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing; or

"(B) if the Board does not hold a public hearing, at the time a majority of the other factual reports on the accident or incident are placed in the public docket."

Former par. (2) redesignated (3).

Subsec. (c)(3). Pub. L. 115–254, §1104(a)(1)(A), (B), redesignated par. (2) as (3) and inserted heading.

Subsec. (d)(1). Pub. L. 115–254, §1104(a)(2)(B)(i), substituted "Except as provided in paragraph (2), the Board" for "The Board".

Subsec. (d)(2). Pub. L. 115–254, §1104(a)(2)(B)(ii), designated second sentence of par. (1) as par. (2) and amended it generally. Prior to amendment, second sentence of par. (1) read as follows: "However, the Board shall make public any part of a transcript or any written depiction of visual information that the Board decides is relevant to the accident—

"(A) if the Board holds a public hearing on the accident, at the time of the hearing; or

"(B) if the Board does not hold a public hearing, at the time a majority of the other factual reports on the accident are placed in the public docket."

Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 115–254, §1104(a)(2)(A), redesignated par. (2) as (3).

Subsec. (g). Pub. L. 115–254, §1104(a)(3), added subsec. (g).

2000—Subsec. (a). Pub. L. 106–424, §§3(b)(2), 5(b)(2), designated existing provisions as par. (1), substituted "(d), and (f)" for "and (e)" in first sentence, and added par. (2).

Subsec. (c). Pub. L. 106–424, §5(a)(1), struck out "Voice" after "Cockpit" in heading.

Subsec. (c)(1). Pub. L. 106–424, §5(a)(2), (3), substituted "cockpit voice or video recorder" for "cockpit voice recorder" in first sentence and inserted "or any written depiction of visual information" after "transcript" in second sentence.

Subsec. (c)(2). Pub. L. 106–424, §5(a)(2), substituted "cockpit voice or video recorder" for "cockpit voice recorder".

Subsec. (d). Pub. L. 106–424, §5(b)(1)(B), which directed the addition of subsec. (d) after subsec. (e), was executed by adding subsec. (d) before subsec. (e) to reflect the probable intent of Congress. Former subsec. (d) redesignated (e).

Subsecs. (e), (f). Pub. L. 106–424, §5(b)(1)(A), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

1996—Subsec. (a). Pub. L. 104–291, §102(1), substituted "(b), (c), and (e)" for "(b) and (c)".

Subsec. (b)(3). Pub. L. 104–291, §103, added par. (3).

Subsec. (e). Pub. L. 104–291, §102(2), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

ELECTRONIC AVAILABILITY OF PUBLIC DOCKET RECORDS

Pub. L. 118–63, title XII, §1217, May 16, 2024, 138 Stat. 1431, provided that:

"(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act [May 16, 2024], the National Transportation Safety Board shall make all records included in the public docket of an accident or incident investigation conducted by the Board (or the public docket of a study, report, or other product issued by the Board) electronically available in a publicly accessible database on a website of the Board, regardless of the date on which such public docket or record was created.

"(b) DATABASE.—In carrying out subsection (a), the Board may utilize the multimodal accident database management system established pursuant to section 1108 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 1119 note) or such other publicly available database as the Board determines appropriate.

"(c) BRIEFINGS.—The Board shall provide the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] an annual briefing on the implementation of this section until requirements of subsection (a) are fulfilled. Such briefings shall include—

"(1) the number of public dockets that have been made electronically available pursuant to this section; and

"(2) the number of public dockets that were unable to be made electronically available, including all reasons for such inability.

"(d) DEFINITIONS.—In this section, the terms 'public docket' and 'record' have the same meanings given such terms in section 801.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of

this Act."

§1115. Training

(a) DEFINITION.—In this section, "Institute" means the Transportation Safety Institute of the Department of Transportation and any successor organization of the Institute.

(b) USE OF INSTITUTE SERVICES.—The National Transportation Safety Board may use, on a reimbursable basis, the services of the Institute. The Secretary of Transportation shall make the Institute available to—

(1) the Board for safety training of employees of the Board in carrying out their duties and powers; and

(2) other safety personnel of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations the Board designates in consultation with the Secretary.

(c) FEES.—(1) Training at the Institute for safety personnel (except employees of the Government) shall be provided at a reasonable fee established periodically by the Board in consultation with the Secretary. The fee shall be paid directly to the Secretary, and the Secretary shall deposit the fee in the Treasury. The amount of the fee—

(A) shall be credited to the appropriate appropriation (subject to the requirements of any annual appropriation); and

(B) is an offset against any annual reimbursement agreement between the Board and the Secretary to cover all reasonable costs of providing training under this subsection that the Secretary incurs in operating the Institute.

(2) The Board shall maintain an annual record of offsets under paragraph (1)(B) of this subsection.

(d) TRAINING OF BOARD EMPLOYEES AND OTHERS.—The Board may conduct training of its employees in those subjects necessary for the proper performance of accident investigation and in those subjects furthering the personnel and workforce development needs set forth in the strategic workforce plan of the Board as required under section 1113(h). The Board may also authorize attendance at courses given under this subsection by other government personnel, personnel of foreign governments, and personnel from industry or otherwise who have a requirement for accident investigation training. The Board may require non-Board personnel to reimburse some or all of the training costs, and amounts so reimbursed shall be credited to the appropriation of the Board as offsetting collections.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 750; Pub. L. 104–291, title I, §104, Oct. 11, 1996, 110 Stat. 3453; Pub. L. 106–424, §3(b)(3), Nov. 1, 2000, 114 Stat. 1884; Pub. L. 118–63, title XII, §1204(b), May 16, 2024, 138 Stat. 1423.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1115(a)	(no source).	
1115(b)	49 App.:1903(b)(10) (1st, 2d sentences).	Jan. 3, 1975, Pub. L. 93–633, §304(b)(10), 88 Stat. 2156; added July 19, 1988, Pub. L. 100–372, §4, 102 Stat. 876.
1115(c)	49 App.:1903(b)(10) (3d–last sentences).	

In subsections (b) and (c), the words "or successor organization" are omitted as unnecessary because of subsection (a) of this section.

In subsection (b), before clause (1), the words "(established for the purpose of developing courses and conducting training in safety and security for all modes of transportation)" are omitted as surplus. In clause (1), the words "carrying out their duties and powers" are substituted for "in the performance of all of their authorized functions" for consistency in the revised title and with other titles of the United States Code. In clause (2), the words "of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations" are substituted for "of Federal, interstate, State, local, and foreign governments and non-governmental organizations" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(1), before clause (A), the words "the Secretary shall deposit the fee in the Treasury" are added for clarity. In clause (B), the words "direct and indirect" are omitted as surplus. The word "administration" is omitted as being included in "operating". The text of 49 App.:1903(b)(10) (last sentence) is omitted because 5:ch. 41 applies to the National Transportation Safety Board by its own terms.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (d). Pub. L. 118–63 inserted "and in those subjects furthering the personnel and workforce development needs set forth in the strategic workforce plan of the Board as required under section 1113(h)" after "of accident investigation" in first sentence.

2000—Subsec. (d). Pub. L. 106–424 substituted "of the Board" for "of the 'National Transportation Safety Board, Salaries and Expenses' ".

1996—Subsec. (d). Pub. L. 104–291 added subsec. (d).

§1116. Reports, studies, and retrospective reviews

(a) PERIODIC REPORTS.—The National Transportation Safety Board shall report periodically to Congress, departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities concerned with transportation safety, and other interested persons. The report shall—

(1) advocate meaningful responses to reduce the likelihood of transportation accidents similar to those investigated by the Board; and

(2) propose corrective action to make the transportation of individuals as safe and free from risk of injury as possible, including action to minimize personal injuries that occur in transportation accidents.

(b) STUDIES, INVESTIGATIONS, AND OTHER REPORTS.—The Board also shall—

(1) carry out special studies and investigations about transportation safety, including avoiding personal injury;

(2) examine techniques and methods of accident investigation and periodically publish recommended procedures for accident investigations;

(3) prescribe requirements for persons reporting accidents and aviation incidents that—

(A) may be investigated by the Board under this chapter; or

(B) involve public aircraft (except aircraft of the armed forces and the intelligence agencies);

(4) evaluate, examine the effectiveness of, and publish the findings of the Board about the transportation safety consciousness of other departments, agencies, and instrumentalities of the Government and their effectiveness in preventing accidents; and

(5) evaluate the adequacy of safeguards and procedures for the transportation of hazardous material and the performance of other departments, agencies, and instrumentalities of the Government responsible for the safe transportation of that material.

(c) ANNUAL REPORT.—The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include—

(1) a statistical and analytical summary of the transportation accident investigations conducted

and reviewed by the Board during the prior calendar year;

(2) a survey and summary of the recommendations made by the Board to reduce the likelihood of recurrence of those accidents together with the observed response to each recommendation;

(3) a list of each recommendation made by the Board to the Secretary of Transportation or the Commandant of the Coast Guard that was closed in an unacceptable status in the preceding 12 months, including—

(A) any explanation the Board received from the Secretary or Commandant; and

(B) any explanation from the Board as to why the recommendation was closed in an unacceptable status, including a discussion of why alternate means, if any, taken by the Secretary or Commandant to address the Board's recommendation were inadequate;

(4) a detailed appraisal of the accident investigation and accident prevention activities of other departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities having responsibility for those activities under a law of the United States or a State;

(5) a description of the activities and operations of the National Transportation Safety Board Training Center during the prior calendar year;

(6) a list of accidents, during the prior calendar year, that the Board was required to investigate under section 1131 but did not investigate and an explanation of why they were not investigated; and

(7) a list of ongoing investigations that have exceeded the expected time allotted for completion by Board order and an explanation for the additional time required to complete each such investigation.

(d) RETROSPECTIVE REVIEWS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than June 1, 2019, and at least every 5 years thereafter, the Chairman shall complete a retrospective review of recommendations issued by the Board that are classified as open by the Board.

(2) CONTENTS.—A review under paragraph (1) shall include—

(A) a determination of whether the recommendation should be updated, closed, or reissued in light of—

(i) changed circumstances;

(ii) more recently issued recommendations;

(iii) the availability of new technologies; or

(iv) new information making the recommendation ineffective or insufficient for achieving its objective; and

(B) a justification for each determination under subparagraph (A).

(3) REPORT.—Not later than 180 days after the date a review under paragraph (1) is complete, the Chairman shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

(A) the findings of the review under paragraph (1);

(B) each determination under paragraph (2)(A) and justification under paragraph (2)(B); and

(C) if applicable, a schedule for updating, closing, or reissuing a recommendation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 751; Pub. L. 115–254, div. C, §§1107(a), 1111(a), Oct. 5, 2018, 132 Stat. 3432, 3436; Pub. L. 118–63, title XII, §1209, May 16, 2024, 138 Stat. 1425.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

1116(a)	49 App.:1441(a)(3), (5) (related to reducing accidents).	Aug. 23, 1958, Pub. L. 85–726, §701(a)(3), (5), 72 Stat. 781.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A), (3).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), (3)–(5), (7), (8), 88 Stat. 2168, 2169.
1116(b)(1)	49 App.:1441(a)(5) (related to studies).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A), (4).	
1116(b) (2)–(5)	49 App.:1903(a)(5).	
	49 App.:1903(a)(6).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(6), 88 Stat. 2169; Nov. 3, 1981, Pub. L. 97–74, §4, 95 Stat. 1065; Dec. 30, 1987, Pub. L. 100–223, §311(a), 101 Stat. 1528.
	49 App.:1903(a)(7), (8).	

In subsection (a)(1), the word "recommending" is omitted as being included in "advocate" in 49 App.:1903(a)(3). The word "recurrence" is omitted as surplus. The text of 49 App.:1441(a)(3) and (5) (related to reducing accidents) is omitted as superseded by 49 App.:1903(a)(3).

In subsection (b)(1), the words "carry out" are substituted for "initiate and conduct" in 49 App.:1903(a)(4) for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1441(a)(5) (related to studies) is omitted as superseded by 49 App.:1903(a)(4).

In subsection (b)(2), the word "examine" is substituted for "assess and reassess" for clarity. The words "prepare and" are omitted as surplus.

In subsection (b)(3), the words "by regulation" are omitted as unnecessary because of section 1113(f) of the revised title.

In subsection (b)(4), the word "effectiveness" is substituted for "efficacy" for clarity.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c)(3) to (7). Pub. L. 118–63 added par. (3) and redesignated former pars. (3) to (6) as (4) to (7), respectively.

2018—Pub. L. 115–254, §1111(a)(1), substituted ", studies, and retrospective reviews" for "and studies" in section catchline.

Subsec. (c). Pub. L. 115–254, §1107(a), added subsec. (c).

Subsec. (d). Pub. L. 115–254, §1111(a)(2), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS CLAUSE

Pub. L. 115–254, div. C, §1111(c), Oct. 5, 2018, 132 Stat. 3436, provided that: "Nothing in this section [amending this section] or the amendments made by this section may be construed to limit or otherwise affect the authority of the [National Transportation Safety] Board to update, close, or reissue a recommendation."

§1117. Methodology

(a) IN GENERAL.—Not later than 2 years after the date of enactment of the National Transportation Safety Board Reauthorization Act, the Chairman shall include with each investigative report in which a recommendation is issued by the Board a methodology section detailing the process and information underlying the selection of each recommendation.

(b) ELEMENTS.—Except as provided in subsection (c), the methodology section under subsection (a) shall include, for each recommendation—

(1) a brief summary of the Board's collection and analysis of the specific accident investigation information most relevant to the recommendation;

(2) a description of the Board's use of external information, including studies, reports, and experts, other than the findings of a specific accident investigation, if any were used to inform or support the recommendation, including a brief summary of the specific safety benefits and other effects identified by each study, report, or expert; and

(3) a brief summary of any examples of actions taken by regulated entities before the publication of the safety recommendation, to the extent such actions are known to the Board, that were consistent with the recommendation.

(c) ACCEPTABLE LIMITATION.—If the Board knows of more than 3 examples taken by regulated entities before the publication of the safety recommendation that were consistent with the recommendation, the brief summary under subsection (b)(3) may be limited to only 3 of those examples.

(d) EXCEPTION.—Subsection (a) shall not apply if the recommendation is only for a person to disseminate information on—

(1) an existing agency best practices document; or

(2) an existing regulatory requirement.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to require any change to a recommendation made by the Board before the date of enactment of the National Transportation Safety Board Reauthorization Act, unless the recommendation is a repeat recommendation issued on or after the date of enactment of such Act.

(f) SAVINGS CLAUSE.—Nothing in this section may be construed—

(1) to delay publication of the findings, cause, or probable cause of a Board investigation;

(2) to delay the issuance of an urgent recommendation that the Board has determined must be issued to avoid immediate loss, death, or injury; or

(3) to limit the number of examples the Board may consider before issuing a recommendation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 751; Pub. L. 104–66, title II, §2151, Dec. 21, 1995, 109 Stat. 731; Pub. L. 109–443, §2(a)(1), Dec. 21, 2006, 120 Stat. 3297; Pub. L. 115–254, div. C, §1107(b)(1), Oct. 5, 2018, 132 Stat. 3432.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1117	49 App.:1904.	Jan. 3, 1975, Pub. L. 93–633, §305, 88 Stat. 2171.

In this section, before clause (1), the words "but need not be limited to" are omitted as surplus. In clause (2), the words "in such detail as the Board deems advisable" are omitted as surplus. In clause (3), the words "departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities" are substituted for "other government agencies" for clarity and consistency in the revised title and with other titles of the United States Code. The words "for those activities" are substituted for "in this field" for clarity. In clause (4), the word "evaluation" is substituted for "appraisal and evaluation and review" because it is inclusive.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the National Transportation Safety Board Reauthorization Act and the date of enactment of such Act, referred to in subsecs. (a) and (e), are the date of enactment of div. C of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Pub. L. 115–254 amended section generally. Prior to amendment, section related to annual report.

2006—Pars. (4) to (6). Pub. L. 109–443 added pars. (4) to (6).

1995—Par. (4). Pub. L. 104–66 struck out par. (4) which read as follows: "an evaluation conducted every 2 years of transportation safety and recommendations for legislative and administrative action and change."

§1118. Authorization of appropriations

(a) IN GENERAL.—

(1) AUTHORIZATIONS.—There is authorized to be appropriated for purposes of this chapter—

(A) $140,000,000 for fiscal year 2024;

(B) $145,000,000 for fiscal year 2025;

(C) $148,000,000 for fiscal year 2026;

(D) $151,000,000 for fiscal year 2027; and

(E) $154,000,000 for fiscal year 2028.

(2) AVAILABILITY.—Amounts authorized under paragraph (1) shall remain available until expended.

(b) EMERGENCY FUND.—The Board has an emergency fund of $2,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level not to exceed $4,000,000.

(c) FEES, REFUNDS, AND REIMBURSEMENTS.—

(1) IN GENERAL.—The Board may impose and collect such fees, refunds, and reimbursements as it determines to be appropriate for services provided by or through the Board.

(2) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee, refund, or reimbursement collected under this subsection—

(A) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed or with which the refund or reimbursement is associated;

(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed or with which the refund or reimbursement is associated; and

(C) shall remain available until expended.

(3) REFUNDS.—The Board may refund any fee paid by mistake or any amount paid in excess of that required.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 752; Pub. L. 103–411, §2, Oct. 25, 1994, 108 Stat. 4236; Pub. L. 104–291, title I, §105, Oct. 11, 1996, 110 Stat. 3453; Pub. L. 106–424, §13, Nov. 1, 2000, 114 Stat. 1888; Pub. L. 108–168, §2, Dec. 6, 2003, 117 Stat. 2032; Pub. L. 109–443, §8(a), (b)(1), (c), Dec. 21, 2006, 120 Stat. 3300; Pub. L. 115–254, div. C, §1103, Oct. 5, 2018, 132 Stat. 3429; Pub. L. 118–63, title XII, §1202, May 16, 2024, 138 Stat. 1422.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1118(a)	49 App.:1907(a) (1st–6th, last	Jan. 3, 1975, Pub. L. 93–633, §309(a),

	sentences).	88 Stat. 2173; Oct. 11, 1976, Pub. L. 94–481, 90 Stat. 2080; Sept. 11, 1978, Pub. L. 95–363, §2, 92 Stat. 597; Nov. 3, 1981, Pub. L. 97–74, §2, 95 Stat. 1065; June 6, 1983, Pub. L. 98–37, 97 Stat. 204; July 19, 1988, Pub. L. 100–372, §2, 102 Stat. 876; Nov. 28, 1990, Pub. L. 101–641, §2, 104 Stat. 4654.
1118(b)	49 App.:1907(b) (1st, 2d sentences).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §309(b); added July 19, 1988, Pub. L. 100–372, §2(b), 102 Stat. 876.
1118(c)	49 App.:1907(a) (7th sentence), (b) (last sentence).	

In subsection (a), the words "to the National Transportation Safety Board" are added for clarity and consistency in the revised title. References to the fiscal years ending June 30, 1975, through September 30, 1992, are omitted as obsolete.

In subsection (b)(2), the words "amounts equal to amounts expended annually out of the fund" are substituted for "to replenish the fund annually" for clarity.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized appropriations for fiscal years 2019 through 2022.

2018—Subsec. (a). Pub. L. 115–254 amended subsec. (a) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated for the purposes of this chapter $57,000,000 for fiscal year 2000, $65,000,000 for fiscal year 2001, $72,000,000 for fiscal year 2002, $73,325,000 for fiscal year 2003, $78,757,000 for fiscal year 2004, $83,011,000 for fiscal year 2005, $87,539,000 for fiscal year 2006, $81,594,000 for fiscal year 2007, and $92,625,000 for fiscal year 2008. Such sums shall remain available until expended."

2006—Subsec. (a). Pub. L. 109–443, §8(a), struck out "and" after "2005," and substituted "2006, $81,594,000 for fiscal year 2007, and $92,625,000 for fiscal year 2008." for "2006."

Subsec. (c). Pub. L. 109–443, §8(b)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to appropriations and fees for the National Transportation Safety Board Academy.

Subsec. (d). Pub. L. 109–443, §8(c), struck out heading and text of subsec. (d). Text read as follows: "The National Transportation Safety Board shall transmit an annual report to the Congress on the activities and operations of the National Transportation Safety Board Academy."

2003—Subsec. (a). Pub. L. 108–168, §2(a), struck out "and" after "fiscal year 2001," and substituted "$73,325,000 for fiscal year 2003, $78,757,000 for fiscal year 2004, $83,011,000 for fiscal year 2005, and $87,539,000 for fiscal year 2006. Such sums shall" for "such sums to".

Subsec. (b). Pub. L. 108–168, §2(b), added second sentence and struck out former second sentence which read as follows: "Amounts equal to the amounts expended annually out of the fund are authorized to be appropriated to the emergency fund."

Subsecs. (c), (d). Pub. L. 108–168, §2(c), added subsecs. (c) and (d).

2000—Pub. L. 106–424 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this chapter $37,580,000 for fiscal year 1994, $44,000,000 for fiscal year 1995, $45,100,000 for fiscal year 1996, $42,400,00 for fiscal year 1997, $44,400,000 for fiscal year 1998, and $46,600,000 for fiscal year 1999. Such sums shall remain available until expended.

"(b) EMERGENCY FUND.—The Board has an emergency fund of $1,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. The following amounts may be appropriated to the fund:

"(1) $1,000,000 to establish the fund.

"(2) amounts equal to amounts expended annually out of the fund.

"(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended."

1996—Subsec. (a). Pub. L. 104–291 struck out "and" after "1995," and inserted ", $42,400,00 for fiscal year 1997, $44,400,000 for fiscal year 1998, and $46,600,000 for fiscal year 1999." before period at end of first sentence.

1994—Subsec. (a). Pub. L. 103–411 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Not more than $38,800,000 may be appropriated to the National Transportation Safety Board for the fiscal year ending September 30, 1993, to carry out this chapter."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–443, §8(b)(2), Dec. 21, 2006, 120 Stat. 3300, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 2005."

§1119. Accident and safety data classification and publication

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, the National Transportation Safety Board shall, in consultation and coordination with the Administrator of the Federal Aviation Administration, develop a system for classifying air carrier accident data maintained by the Board.

(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of the enactment of this section, provides for safety-related categories that provide clearer descriptions of accidents associated with air transportation, including a more refined classification of accidents which involve fatalities, injuries, or substantial damage and which are only related to the operation of an aircraft.

(2) PUBLIC COMMENT.—In developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

(3) FINAL CLASSIFICATION.—After providing for public review and comment, and after consulting with the Administrator, the Board shall issue final classifications. The Board shall ensure that air travel accident covered under this section is classified in accordance with the final classifications issued under this section for data for calendar year 1997, and for each subsequent calendar year.

(4) PUBLICATION.—The Board shall publish on a periodic basis accident and safety data in accordance with the final classifications issued under paragraph (3).

(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.

(c) APPEALS.—

(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.

(Added Pub. L. 104–264, title IV, §407(a)(1), Oct. 9, 1996, 110 Stat. 3257; amended Pub. L. 108–168, §5, Dec. 6, 2003, 117 Stat. 2034.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a) and (b)(1), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–168 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

MULTIMODAL ACCIDENT DATABASE MANAGEMENT SYSTEM

Pub. L. 115–254, div. C, §1108, Oct. 5, 2018, 132 Stat. 3433, provided that:

"(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the [National Transportation Safety] Board shall establish and maintain a multimodal accident database management system for Board investigators.

"(b) PURPOSES.—The purposes of the system shall be to support the Board in improving—

"(1) the quality of accident data the Board makes available to the public; and

"(2) the selection of accidents for investigation and allocation of limited resources.

"(c) REQUIREMENTS.—The system shall—

"(1) maintain a historical record of accidents that are investigated by the Board; and

"(2) be capable of the secure storage, retrieval, and management of information associated with the investigations of such accidents."

SUBCHAPTER III—AUTHORITY

§1131. General authority

(a) GENERAL.—(1) The National Transportation Safety Board shall investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

(A) an aircraft accident the Board has authority to investigate under section 1132 of this title or an aircraft accident involving a public aircraft as defined by section 40102(a) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States;

(B) a highway accident, including a railroad grade crossing accident, the Board selects, concurrent with any State investigation, in which case the Board and the relevant State agencies shall coordinate to ensure both the Board and State agencies have timely access to the information needed to conduct each such investigation, including any criminal and enforcement activities conducted by the relevant State agency;

(C) a railroad—

(i) accident in which there is a fatality or substantial property damage, except—

(I) a grade crossing accident or incident, unless selected by the Board; or

(II) an accident or incident involving a trespasser, unless selected by the Board; or

(ii) accident or incident that involves a passenger train, except in any case in which such accident or incident resulted in no fatalities or serious injuries to the passengers or crewmembers of such train, and—

(I) was a grade crossing accident or incident, unless selected by the Board; or

(II) such accident or incident involved a trespasser, unless selected by the Board;

(D) a pipeline accident in which there is a fatality, substantial property damage, or significant injury to the environment;

(E) a major marine casualty (except a casualty involving only public vessels) occurring on or under the navigable waters, internal waters, or the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988, or involving a vessel of the United States (as defined in section 116 of title 46), under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) the accident is catastrophic;

(ii) the accident involves problems of a recurring character; or

(iii) the investigation of the accident would carry out this chapter.

(2)(A) Subject to the requirements of this paragraph, an investigation by the Board under paragraph (1)(A)–(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(B) If the Attorney General, in consultation with the Chairman of the Board, determines and notifies the Board that circumstances reasonably indicate that the accident may have been caused by an intentional criminal act, the Board shall relinquish investigative priority to the Federal Bureau of Investigation. The relinquishment of investigative priority by the Board shall not otherwise affect the authority of the Board to continue its investigation under this section.

(C) If a Federal law enforcement agency suspects and notifies the Board that an accident being investigated by the Board under subparagraph (A), (B), (C), or (D) of paragraph (1) may have been caused by an intentional criminal act, the Board, in consultation with the law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

(3) This section and sections 1113, 1116(b), 1133, and 1134(a) and (c)–(e) of this title do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b) ACCIDENTS INVOLVING PUBLIC VESSELS.—(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c) ACCIDENTS NOT INVOLVING GOVERNMENT MISFEASANCE OR NONFEASANCE .—(1) When asked by the Board, the Secretary of Transportation or the Secretary of the department in which the Coast Guard is operating may—

(A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and

(B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(a), (b), (d), and (f) of this title.

(e) ACCIDENT REPORTS.—The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public—

(1) in electronic form at no cost in a publicly accessible database on a website of the Board; and

(2) if the electronic form required in paragraph (1) is not printable, in printed form upon a reasonable request at a reasonable cost.

(f) TIMELINESS OF REPORTS.—If any accident report under subsection (e) is not completed within 2 years from the date of the accident, the Board shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report identifying such accident report and the reasons for which such report has not been completed. The Board shall report progress toward completion of the accident report to each such Committees every 90 days thereafter, until such time as the accident report is completed.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 752; Pub. L. 103–411, §3(c), Oct. 25, 1994, 108 Stat. 4237; Pub. L. 106–424, §§6(a), 7, Nov. 1, 2000, 114 Stat. 1885, 1886; Pub. L. 108–168, §7, Dec. 6, 2003, 117 Stat. 2034; Pub. L. 109–443, §9(b), (c), Dec. 21, 2006, 120 Stat. 3301; Pub. L. 115–254, div. C, §1113(b), Oct. 5, 2018, 132 Stat. 3438; Pub. L. 117–263, div. K, title CXVI, §11601(c)(3), Dec. 23, 2022, 136 Stat. 4146; Pub. L. 118–63, title XII, §§1210–1212, May 16, 2024, 138 Stat. 1425, 1426.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1131(a)(1)	49 App.:1903(a) (1)(A)–(E) (less last sentence of (E)), (F).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A)–(F), 88 Stat. 2168; Oct. 24, 1992, Pub. L. 102–508, §303, 106 Stat. 3307.
1131(a)(2)	49 App.:1903(a)(1) (2d, 3d sentences).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1) (less (A)–(F)), 88 Stat. 2168; Nov. 3, 1981, Pub. L. 97–74, §3, 95 Stat. 1065.
1131(a)(3)	49 App.:1903(a)(1) (4th, 5th sentences).	
1131(b)	49 App.:1903(a)(1)(E) (last sentence).	
1131(c)	49 App.:1441(f).	Aug. 23, 1958, Pub. L. 85–726, §701(a)(4), (f), 72 Stat. 781.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A) (6th, last sentences).	

1131(d)	49 App.:1441(a)(4). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). 49 App.:1903(a)(2).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(2), 88 Stat. 2168; July 19, 1988, Pub. L. 100–372, §3(a), 102 Stat. 876.

In this section, the word "conditions" is omitted as being included in "circumstances". The words "head of the department in which the Coast Guard is operating" are substituted for "Secretary of the department in which the Coast Guard is operating" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1)(A), the words "the Board has authority to investigate under section 1132 of this title" are substituted for "which is within the scope of the functions, powers, and duties transferred from the Civil Aeronautics Board under section 1655(d) of this Appendix pursuant to title VII of the Federal Aviation Act of 1958, as amended [49 App. U.S.C. 1441 et seq.]" because of the restatement.

In subsection (a)(1)(F), before subclause (i), the word "decides" is substituted for "in the judgment of" for clarity. The word "individuals" is substituted for "people" for consistency in the revised title. In subclause (iii), the words "the investigation of" are added as being more precise.

In subsection (a)(3), the word "developed" is substituted for "obtained or developed" to eliminate unnecessary words.

In subsection (b)(2), the word "affect" is substituted for "eliminate or diminish" for clarity.

In subsection (c), the text of 49 App.:1441(f) is omitted as superseded by 49 App.:1903(a)(1) (6th, last sentences).

In subsection (d), the words "in writing" in 49 App.:1903(a)(2) are omitted as surplus. The words "by it" are added for clarity. The text of 49 App.:1441(a)(4) is omitted as superseded by 49 App.:1903(a)(1)(A) and (2).

EDITORIAL NOTES

REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in subsec. (a)(1)(E), is set out as a note under section 1331 of Title 43, Public Lands.

AMENDMENTS

2024—Subsec. (a)(1)(B). Pub. L. 118–63, §1210(a), substituted "selects, concurrent with any State investigation, in which case the Board and the relevant State agencies shall coordinate to ensure both the Board and State agencies have timely access to the information needed to conduct each such investigation, including any criminal and enforcement activities conducted by the relevant State agency" for "selects in cooperation with a State".

Subsec. (a)(1)(C). Pub. L. 118–63, §1210(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;".

Subsec. (e). Pub. L. 118–63, §1211, substituted "public—" and pars. (1) and (2) for "public at reasonable cost."

Subsec. (f). Pub. L. 118–63, §1212, added subsec. (f).

2022—Subsec. (a)(1)(E). Pub. L. 117–263 substituted "section 116" for "section 2101(46)".

2018—Subsec. (a)(1)(A). Pub. L. 115–254 substituted "a public aircraft as defined by section 40102(a) of this title" for "a public aircraft as defined by section 40102(a)(37) of this title".

2006—Subsec. (a)(1)(E). Pub. L. 109–443, §9(b), substituted "on or under the navigable waters, internal waters, or the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988," for "on the navigable waters or territorial sea of the United States," and inserted "(as defined in section 2101(46) of title 46)" after "vessel of the United States".

Subsec. (c)(1). Pub. L. 109–443, §9(c), inserted "or the Secretary of the department in which the Coast Guard is operating" after "Transportation" in introductory provisions.

2003—Subsec. (a)(2)(B), (C). Pub. L. 108–168 realigned margins.

2000—Subsec. (a)(2). Pub. L. 106–424, §6(a), designated existing provisions as subpar. (A), substituted "Subject to the requirements of this paragraph, an investigation" for "An investigation", and added subpars.

(B) and (C).

Subsec. (d). Pub. L. 106–424, §7, substituted "1134(a), (b), (d), and (f)" for "1134(b)(2)".

1994—Subsec. (a)(1)(A). Pub. L. 103–411, §3(c)(1), inserted before semicolon at end "or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States".

Subsecs. (d), (e). Pub. L. 103–411, §3(c)(2), added subsec. (d) and redesignated former subsec. (d) as (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–411, §3(d), Oct. 25, 1994, 108 Stat. 4237, provided that: "The amendments made by subsections (a) and (c) [amending this section and section 40102 of this title] shall take effect on the 180th day following the date of the enactment of this Act [Oct. 25, 1994]."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

AIR SAFETY INVESTIGATORS

Pub. L. 118–63, title XII, §1222, May 16, 2024, 138 Stat. 1432, provided that:

"(a) REMOVAL OF FAA [FEDERAL AVIATION ADMINISTRATION] MEDICAL CERTIFICATE REQUIREMENT.—Not later than 60 days after the date of enactment of this Act [May 16, 2024], the Director of the Office of Personnel Management, in consultation with the Administrator [of the Federal Aviation Administration] and the Chairman of the National Transportation Safety Board, shall take such actions as may be necessary to revise the eligibility requirements for the Air Safety Investigating Series 1815 occupational series (and any similar occupational series relating to transportation accident investigating) to remove any requirement that an individual hold a current medical certificate issued by the Administrator.

"(b) UPDATES TO OTHER REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director, in coordination with the Administrator and Chairman, shall take such actions as may be necessary to update and revise experiential, educational, and other eligibility requirements for the Air Safety Investigating Series 1815 occupational series (and any similar occupational series relating to transportation accident investigating).

"(2) CONSIDERATIONS.—In updating the requirements under paragraph (1), the Director shall consider—

"(A) the direct relationship between any requirement and the duties expected to be performed by the position;

"(B) changes in the skills and tools necessary to perform transportation accident investigations; and

"(C) such other considerations as the Director, Administrator, or Chairman determines appropriate."

REVISION OF 1977 AGREEMENT

Pub. L. 108–168, §3(b), Dec. 6, 2003, 117 Stat. 2033, provided that: "Not later than 1 year after the date of enactment of this Act [Dec. 6, 2003], the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this section [amending section 1136 of this title] and shall submit a copy of the revised agreement to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate."

Pub. L. 106–424, §6(b), Nov. 1, 2000, 114 Stat. 1886, provided that: "Not later than 1 year after the date of the enactment of this Act [Nov. 1, 2000], the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this Act [see Short Title of 2000 Amendment note set out under section 1101 of this title]."

MEMORANDUM OF UNDERSTANDING

Pub. L. 106–424, §8, Nov. 1, 2000, 114 Stat. 1886, provided that: "Not later than 1 year after the date of the enactment of this Act [Nov. 1, 2000], the National Transportation Safety Board and the United States Coast Guard shall revise their Memorandum of Understanding governing major marine accidents—

"(1) to redefine or clarify the standards used to determine when the National Transportation Safety Board will lead an investigation; and

"(2) to develop new standards to determine when a major marine accident involves significant safety issues relating to Coast Guard safety functions."

§1132. Civil aircraft accident investigations

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board shall investigate—

(A) each accident involving civil aircraft; and

(B) with the participation of appropriate military authorities, each accident involving both military and civil aircraft.

(2) A person employed under section 1113(b)(1) of this title that is conducting an investigation or hearing about an aircraft accident has the same authority to conduct the investigation or hearing as the Board.

(b) NOTIFICATION AND REPORTING.—The Board shall prescribe regulations governing the notification and reporting of accidents involving civil aircraft.

(c) PARTICIPATION OF SECRETARY.—The Board shall provide for the participation of the Secretary of Transportation in the investigation of an aircraft accident under this chapter when participation is necessary to carry out the duties and powers of the Secretary. However, the Secretary may not participate in establishing probable cause.

(d) ACCIDENTS INVOLVING ONLY MILITARY AIRCRAFT.—If an accident involves only military aircraft and a duty of the Secretary is or may be involved, the military authorities shall provide for the participation of the Secretary. In any other accident involving only military aircraft, the military authorities shall give the Board or Secretary information the military authorities decide would contribute to the promotion of air safety.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 753.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1132(a)(1)	49 App.:1441(a)(2).	Aug. 23, 1958, Pub. L. 85–726, §§701(a)(1), (2), (c) (1st sentence), (g), 702, 72 Stat. 781, 782.
	49 App.:1442(a).	
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), 88 Stat. 2168.
1132(a)(2)	49 App.:1441(c) (1st sentence).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1132(b)	49 App.:1441(a)(1).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1132(c)	49 App.:1441(g).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670,

		§6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
1132(d)	49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). 49 App.:1442(b), (c). 49 App.:1655(c)(1), (d) (1st sentence). 49 App.:1903(a)(1)(A).	

In subsection (a)(1)(A), the words "and report the facts, conditions, and circumstances related to each accident and the probable cause thereof" in 49 App.:1441(a)(2) are omitted as unnecessary because of section 1131(d) of the revised title.

In subsection (a)(1)(B), the words "provide for" in 49 App.:1442(a) are omitted as surplus.

In subsection (a)(2), the words "any member of the National Transportation Safety Board or any officer or employee of the National Transportation Safety Board" in 49 App.:1441(c) are omitted as unnecessary because of sections 1113 and 1134 of the revised title.

In subsections (c) and (d), the words "Secretary of Transportation" and "Secretary" are substituted for "Administrator" in sections 701(g) and 702(b) and (c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 782) for consistency. Section 6(c)(1) of the Department of Transportation Act (Public Law 89–670, 80 Stat. 938) transferred all duties and powers of the Federal Aviation Agency and the Administrator to the Secretary of Transportation. However, the Secretary was to carry out certain provisions through the Administrator. In addition, various laws enacted since then have vested duties and powers in the Administrator. All provisions of law the Secretary is required to carry out through the Administrator are included in 49:106(g).

In subsection (c), the words "and his representatives" in 49 App.:1441(g) are omitted because of 49:322(b). The words "when participation is necessary to carry out the duties and powers" are substituted for "In order to assure the proper discharge . . . of his duties and responsibilities" to eliminate unnecessary words. The words "or his representatives" are omitted because of 49:322(b).

§1133. Review of other agency action

The National Transportation Safety Board shall review on appeal—

(1) the denial, amendment, modification, suspension, or revocation of a certificate issued by the Secretary of Transportation under section 44703, 44709, or 44710 of this title;

(2) the revocation of a certificate of registration under section 44106 of this title;

(3) a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under section 6101, 6301, or 7503, chapter 77, or section 9303 of title 46; and

(4) under section 46301(d)(5) of this title, an order imposing a penalty under section 46301.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 754.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1133(1)–(3)	49 App.:1903(a)(9).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(9), 88 Stat. 2169; Oct. 19, 1984, Pub. L. 98–499, §4(b), 98 Stat. 2315.
1133(4)	(no source).	

In clause (1), the word "certificate" is substituted for "operating certificate" for consistency in the revised title. The words "or license" are omitted as unnecessary because only certificates are issued under the sections cited in this section.

In clause (3), the words "head of the department in which the Coast Guard is operating" are substituted for "Commandant of the Coast Guard" for consistency with 14:5 and 46:2101(34).

Clause (4) is added to reflect all the appellate responsibilities of the National Transportation Safety Board.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§1134. Inspections and autopsies

(a) ENTRY AND INSPECTION.—An officer or employee of the National Transportation Safety Board—

(1) on display of appropriate credentials and written notice of inspection authority, may enter property where a transportation accident has occurred or wreckage from the accident is located and do anything necessary to conduct an investigation; and

(2) during reasonable hours, may inspect any record, including an electronic record, process, control, or facility related to an accident investigation under this chapter.

(b) INSPECTION, TESTING, PRESERVATION, AND MOVING OF AIRCRAFT AND PARTS .—(1) In investigating an aircraft accident under this chapter, the Board may inspect and test, to the extent necessary, any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce.

(2) Any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce shall be preserved, and may be moved, only as provided by regulations of the Board.

(c) AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.—In carrying out subsection (a)(1) of this section, an officer or employee may examine or test any vehicle, vessel, rolling stock, track, or pipeline component. The examination or test shall be conducted in a way that—

(1) does not interfere unnecessarily with transportation services provided by the owner or operator of the vehicle, vessel, rolling stock, track, or pipeline component; and

(2) to the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) EXCLUSIVE AUTHORITY OF BOARD.—Only the Board has the authority to decide on the way in which testing under this section will be conducted, including decisions on the person that will conduct the test, the type of test that will be conducted, and any individual who will witness the test. Those decisions are committed to the discretion of the Board. The Board shall make any of those decisions based on the needs of the investigation being conducted and, when applicable, subsections (a), (c), and (e) of this section.

(e) PROMPTNESS OF TESTS AND AVAILABILITY OF RESULTS.—An inspection, examination, or test under subsection (a) or (c) of this section shall be started and completed promptly, and the results shall be made available.

(f) AUTOPSIES.—(1) The Board may order an autopsy to be performed and have other tests made when necessary to investigate an accident under this chapter. However, local law protecting religious beliefs related to autopsies shall be observed to the extent consistent with the needs of the accident investigation.

(2) With or without reimbursement, the Board may obtain a copy of an autopsy report performed

by a State or local official on an individual who died because of a transportation accident investigated by the Board under this chapter.

(g) RECORDERS AND DATA.—In investigating an accident under this chapter, the Board may require from a transportation operator or equipment manufacturer or the vendors, suppliers, subsidiaries, or parent companies of such manufacturer, or operator of a product or service which is subject to an investigation by the Board—

(1) any recorder or recorded information pertinent to the accident;

(2) without undue delay, information the Board determines necessary to enable the Board to read and interpret any recording device or recorded information pertinent to the accident; and

(3) design specifications or data related to the operation and performance of the equipment the Board determines necessary to enable the Board to perform independent physics-based simulations and analyses of the accident situation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 754; Pub. L. 115–254, div. C, §1105, Oct. 5, 2018, 132 Stat. 3431; Pub. L. 118–63, title XII, §1213, May 16, 2024, 138 Stat. 1426.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1134(a)	49 App.:1903(b)(2) (1st sentence words before 3d comma, 3d sentence).	Jan. 3, 1975, Pub. L. 93–633, §304(b)(2), 88 Stat. 2170; Nov. 3, 1981, Pub. L. 97–74, §5, 95 Stat. 1065; Nov. 28, 1990, Pub. L. 101–641, §3, 104 Stat. 4654.
1134(b)	49 App.:1441(c) (2d sentence), (d).	Aug. 23, 1958, Pub. L. 85–726, §701(c) (2d, last sentences), (d), 72 Stat. 781; Oct. 15, 1962, Pub. L. 87–810, §§1, 2, 76 Stat. 921.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), (b)(5), 88 Stat. 2168, 2170.
1134(c)	49 App.:1903(b)(2) (1st sentence words after 3d comma, 2d sentence).	
1134(d)	49 App.:1903(b)(2) (5th, last sentences).	
1134(e)	49 App.:1903(b)(2) (4th sentence).	
1134(f)	49 App.:1441(c) (last sentence).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A), (b)(5).	

In subsection (a), before clause (1), the word "officer" is added for consistency in the revised title.

In subsection (b)(1), the words "investigating an aircraft accident" are substituted for "carrying out its duties" in 49 App.:1441(c) for clarity. The words "inspect and test" are substituted for "examine and test" for consistency in the revised title and with other titles of the United States Code.

In subsection (c), before clause (1), the words "In carrying out subsection (a)(1) of this section, an officer or employee" are added because of the restatement. The words "or any part of any such item" are omitted as surplus. The words "when such examination or testing is determined to be required for purposes of such investigation" are omitted as unnecessary because of the words "do anything necessary to conduct an investigation" in subsection (a)(1) of this section. In clause (1), the word "obstruct" is omitted as being included in "interfere".

In subsection (d), the word "individuals" is substituted for "persons" the 2d time that word is used for clarity. The words "The Board shall make any of those decisions" are substituted for "and shall be made" because of the restatement.

In subsection (e), the word "promptly" is substituted for "with reasonable promptness" to eliminate unnecessary words.

In subsection (f)(1), the words "In the case of any fatal accident" in 49 App.:1441(c) are omitted as surplus. The words "to examine the remains of any deceased person aboard the aircraft at the time of the accident, who dies as a result of the accident" are omitted as unnecessary because of the authority of the Board to conduct autopsies.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (g). Pub. L. 118–63 added subsec. (g).

2018—Subsec. (a)(2). Pub. L. 115–254 inserted "including an electronic record," after "record,".

§1135. Secretary of Transportation's responses to safety recommendations

(a) GENERAL.—When the National Transportation Safety Board submits a recommendation about transportation safety to the Secretary of Transportation, the Secretary shall give to the Board a formal written response to each recommendation not later than 90 days after receiving the recommendation. The response shall indicate whether the Secretary intends—

(1) to carry out procedures to adopt the complete recommendation;

(2) to carry out procedures to adopt a part of the recommendation; or

(3) to refuse to carry out procedures to adopt the recommendation.

(b) TIMETABLE FOR COMPLETING PROCEDURES AND REASONS FOR REFUSALS.—A response under subsection (a)(1) or (2) of this section shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) of this section shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendation. A response under subsection (a)(3) of this section shall detail the reasons for the refusal to carry out procedures.

(c) PUBLIC AVAILABILITY.—The Board shall make a copy of each recommendation and response available to the public—

(1) in electronic form at no cost in a publicly accessible database on a website of the Board; and

(2) if the electronic form required in paragraph (1) is not printable, in printed form upon a reasonable request at a reasonable cost.

(d) ANNUAL REPORT ON AIR CARRIER SAFETY RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary shall submit to Congress and the Board, on an annual basis, a report on the recommendations made by the Board to the Secretary regarding air carrier operations conducted under part 121 of title 14, Code of Federal Regulations.

(2) RECOMMENDATIONS TO BE COVERED.—The report shall cover—

(A) any recommendation for which the Secretary has developed, or intends to develop, procedures to adopt the recommendation or part of the recommendation, but has yet to complete the procedures; and

(B) any recommendation for which the Secretary, in the preceding year, has issued a response under subsection (a)(2) or (a)(3) refusing to carry out all or part of the procedures to adopt the recommendation.

(3) CONTENTS.—

(A) PLANS TO ADOPT RECOMMENDATIONS.—For each recommendation of the Board described in paragraph (2)(A), the report shall contain—

(i) a description of the recommendation;

(ii) a description of the procedures planned for adopting the recommendation or part of the recommendation;

(iii) the proposed date for completing the procedures; and

(iv) if the Secretary has not met a deadline contained in a proposed timeline developed in connection with the recommendation under subsection (b), an explanation for not meeting the deadline.

(B) REFUSALS TO ADOPT RECOMMENDATIONS.—For each recommendation of the Board described in paragraph (2)(B), the report shall contain—

(i) a description of the recommendation; and

(ii) a description of the reasons for the refusal to carry out all or part of the procedures to adopt the recommendation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 755; Pub. L. 108–168, §6, Dec. 6, 2003, 117 Stat. 2034; Pub. L. 109–443, §2(b), Dec. 21, 2006, 120 Stat. 3298; Pub. L. 111–216, title II, §202, Aug. 1, 2010, 124 Stat. 2351; Pub. L. 111–249, §6(1), (2), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 118–63, title XII, §§1214, 1220(a), May 16, 2024, 138 Stat. 1426, 1432.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1135(a), (b)	49 App.:1906(a) (less last sentence).	Jan. 3, 1975, Pub. L. 93–633, §307(a), 88 Stat. 2172; Nov. 3, 1981, Pub. L. 97–74, §6, 95 Stat. 1066; July 19, 1988, Pub. L. 100–372, §3(b), 102 Stat. 876.
1135(c)	49 App.:1906(a) (last sentence).	
1135(d)	49 App.:1906(b).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §307(b); added Nov. 3, 1981, Pub. L. 97–74, §6, 95 Stat. 1066.

In subsections (a) and (b), the words "carry out" are substituted for "initiate and conduct" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the word "complete" is substituted for "in full" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63, §1214, substituted "public—" and pars. (1) and (2) for "public at reasonable cost."

Subsec. (e). Pub. L. 118–63, §1220(a), struck out subsec. (e) which required the Secretary to annually submit regulatory status reports to Congress.

2010—Subsec. (a). Pub. L. 111–216, §202(a), as amended by Pub. L. 111–249, §6(1), inserted "to the Board" after "shall give" in introductory provisions.

Subsecs. (d), (e). Pub. L. 111–216, §202(b), as amended by Pub. L. 111–249, §6(2), added subsec. (d) and redesignated former subsec. (d) as (e).

2006—Subsec. (d)(3). Pub. L. 109–443 amended heading and text of par. (3) generally. Prior to amendment, text read as follows: "This subsection shall cease to be in effect after the report required to be filed on February 1, 2008, is filed."

2003—Subsec. (d). Pub. L. 108–168 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "The Secretary shall submit to Congress on January 1 of each year a report containing each recommendation on transportation safety made by the Board to the Secretary during the prior year and a copy of the Secretary's response to each recommendation."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–249, §6, Sept. 30, 2010, 124 Stat. 2628, provided that the amendments made by section 6 of Pub. L. 111–249 are effective as of Aug. 1, 2010, and as if included in Pub. L. 111–216 as enacted.

REPORTS ON CERTAIN OPEN SAFETY RECOMMENDATIONS

Pub. L. 108–168, §9, Dec. 6, 2003, 117 Stat. 2035, provided that:

"(a) INITIAL REPORT.—Within 1 year after the date of enactment of this Act [Dec. 6, 2003], the Secretary of Transportation shall submit a report to Congress and the National Transportation Safety Board containing the regulatory status of each open safety recommendation made by the Board to the Secretary concerning—

"(1) 15-passenger van safety;

"(2) railroad grade crossing safety; and

"(3) medical certifications for a commercial driver's license.

"(b) BIENNIAL UPDATES.—The Secretary shall continue to report on the regulatory status of each such recommendation (and any subsequent recommendation made by the Board to the Secretary concerning a matter described in paragraph (1), (2), or (3) of subsection (a)) at 2-year intervals until—

"(1) final regulatory action has been taken on the recommendation;

"(2) the Secretary determines, and states in the report, that no action should be taken on that recommendation; or

"(3) the report, if any, required to be submitted in 2008 is submitted.

"(c) FAILURE TO REPORT.—If the Board has not received a report required to be submitted under subsection (a) or (b) within 30 days after the date on which that report is required to be submitted, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate."

NTSB SAFETY RECOMMENDATIONS

Pub. L. 107–355, §19, Dec. 17, 2002, 116 Stat. 3009, as amended by Pub. L. 108–426, §2(c)(3), Nov. 30, 2004, 118 Stat. 2424, provided that:

"(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Pipeline and Hazardous Materials Safety Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

"(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in subsections (a) and (b) of section 1135, title 49, United States Code.

"(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation."

§1136. Assistance to passengers involved in aircraft accidents and families of such passengers

(a) IN GENERAL.—As soon as practicable after being notified of an aircraft accident within United States airspace or airspace delegated to the United States involving an air carrier or foreign air carrier, resulting in any loss of life, and for which the National Transportation Safety Board will serve as the lead investigative agency, the Chairman of the Board shall—

(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care, psychological care, and family support services of passengers involved in the accident and the families of such passengers.

(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for facilitating the recovery and identification of fatally-injured passengers involved in an accident described in subsection (a).

(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to passengers involved in the accident and the families of such passengers:

(1) To provide emotional care, psychological care, and family support services, in coordination with the disaster response team of the air carrier or foreign air carrier involved.

(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

(3) To meet with passengers involved in the accident and the families of such passengers who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all passengers and affected families regularly thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

(4) To communicate with the passengers and families as to the roles of the organization, government agencies, and the air carrier or foreign air carrier involved with respect to the accident and the post-accident activities.

(5) To arrange a suitable memorial service, in consultation with the families.

(d) PASSENGER LISTS.—

(1) REQUESTS FOR PASSENGER LISTS BY THE DIRECTOR OF FAMILY SERVICES.—

(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the air carrier or foreign air carrier involved in the accident a passenger list, which is based on the best available information at the time of the request.

(B) USE OF INFORMATION.—The director of family support services may not release to any person information on a list obtained under subparagraph (A), except that the director may, to the extent the director considers appropriate, provide information on the list about a passenger to—

(i) the family of the passenger; or

(ii) a local, Tribal, State, or Federal agency responsible for determining the whereabouts or welfare of a passenger.

(C) LIMITATION.—A local, Tribal, State, or Federal agency may not release to any person any information obtained under subparagraph (B)(ii), except if given express authority from the director of family support services.

(D) RULE OF CONSTRUCTION.—Nothing in subparagraph (C) shall be construed to preclude a local, Tribal, State, or Federal agency from releasing information that is lawfully obtained through other means independent of releases made by the director of family support services under subparagraph (B).

(2) REQUESTS FOR PASSENGER LISTS BY DESIGNATED ORGANIZATION.—

(A) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the air carrier or foreign air carrier involved in the accident a passenger list.

(B) USE OF INFORMATION.—The designated organization may not release to any person information on a passenger list but may provide information on the list about a passenger to the family of the passenger to the extent the organization considers appropriate.

(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of

an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

(1) are briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and

(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

(f) USE OF AIR CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the air carrier or foreign air carrier involved in the accident so that the resources of the carrier can be used to the greatest extent possible to carry out the organization's responsibilities under this section.

(g) PROHIBITED ACTIONS.—

(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of passengers involved in the accident and the families of such passengers to have contact with one another.

(2) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving an air carrier providing interstate or foreign air transportation and in the event of an accident involving a foreign air carrier that occurs within the United States, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

(3) PROHIBITION ON ACTIONS TO PREVENT CERTAIN CARE AND SUPPORT SERVICES.—No State or political subdivision thereof may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing emotional care, psychological care, and family support services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the passengers and families and if State and local authorities are notified of the determination.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRCRAFT ACCIDENT.—The term "aircraft accident" means any aviation disaster, regardless of its cause or suspected cause, for which the Board is the lead investigative agency.

(2) PASSENGER.—The term "passenger" includes—

(A) an employee of an air carrier or foreign air carrier aboard an aircraft;

(B) any other person aboard the aircraft without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the flight; and

(C) any other person injured or killed in the aircraft accident, as determined appropriate by the Board.

(3) PASSENGER LIST.—The term "passenger list" means a list based on the best available information at the time of a request, of the name of each passenger aboard the aircraft involved in the accident.

(i) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to passengers involved in the aircraft accident and the families of such passengers.

(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to an aircraft

accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

(2) BOARD ASSISTANCE.—If this section does not apply to an aircraft accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

(Added Pub. L. 104–264, title VII, §702(a)(1), Oct. 9, 1996, 110 Stat. 3265; amended Pub. L. 106–181, title IV, §401(a)(1), (b)–(d), Apr. 5, 2000, 114 Stat. 129; Pub. L. 108–168, §3(a), Dec. 6, 2003, 117 Stat. 2033; Pub. L. 115–254, div. C, §1109(c), Oct. 5, 2018, 132 Stat. 3434; Pub. L. 118–63, title XII, §1215(a), May 16, 2024, 138 Stat. 1427.)

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, §1215(a)(1), substituted "to passengers involved in aircraft accidents and families of such passengers" for "to families of passengers involved in aircraft accidents" in section catchline.

Subsec. (a). Pub. L. 118–63, §1215(a)(2)(A), (B), in introductory provisions, inserted "within United States airspace or airspace delegated to the United States" after "aircraft accident" and substituted "Board shall" for "National Transportation Safety Board shall".

Subsec. (a)(2). Pub. L. 118–63, §1215(a)(2)(C), substituted "emotional care, psychological care, and family support services" for "emotional care and support" and "passengers involved in the accident and the families of such passengers" for "the families of passengers involved in the accident".

Subsec. (c). Pub. L. 118–63, §1215(a)(3)(A), substituted "passengers involved in the accident and the families of such passengers" for "the families of passengers involved in the accident" in introductory provisions.

Subsec. (c)(1). Pub. L. 118–63, §1215(a)(3)(B), substituted "emotional care, psychological care, and family support services" for "mental health and counseling services".

Subsec. (c)(3). Pub. L. 118–63, §1215(a)(3)(C), substituted "passengers involved in the accident and the families of such passengers who have traveled to the location of the accident" for "the families who have traveled to the location of the accident" and "regularly" for "periodically" and inserted "passengers and" after "contact all".

Subsec. (c)(4). Pub. L. 118–63, §1215(a)(3)(D), inserted "passengers and" before "families".

Subsec. (d). Pub. L. 118–63, §1215(a)(4), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to requests for passenger lists and use of such information.

Subsec. (g)(1). Pub. L. 118–63, §1215(a)(5), substituted "passengers involved in the accident and the families of such passengers" for "the families of passengers involved in the accident".

Subsec. (g)(3). Pub. L. 118–63, §1215(a)(6), in heading, substituted "prevent certain care and support" for "prevent mental health and counseling" and, in text, substituted "providing emotional care, psychological care, and family support services" for "providing mental health and counseling services" and inserted "passengers and" before "families".

Subsec. (h)(1). Pub. L. 118–63, §1215(a)(7)(A), struck out "National Transportation Safety" before "Board".

Subsec. (h)(3). Pub. L. 118–63, §1215(a)(7)(B), added par. (3).

Subsec. (i). Pub. L. 118–63, §1215(a)(8), substituted "passengers involved in the aircraft accident and the families of such passengers" for "the families of passengers involved in an aircraft accident".

2018—Subsec. (a). Pub. L. 115–254, §1109(c)(1), in introductory provisions, substituted "aircraft accident involving an air carrier or foreign air carrier, resulting in any loss of life, and for which the National Transportation Safety Board will serve as the lead investigative agency" for "aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life".

Subsec. (h)(1). Pub. L. 115–254, §1109(c)(2)(A), amended par. (1) generally. Prior to amendment, text read as follows: "The term 'aircraft accident' means any aviation disaster regardless of its cause or suspected cause."

Subsec. (h)(2)(C). Pub. L. 115–254, §1109(c)(2)(B), added subpar. (C).

2003—Subsec. (j). Pub. L. 108–168 added subsec. (j).

2000—Subsec. (g)(2). Pub. L. 106–181, §401(a)(1), substituted "transportation and in the event of an

accident involving a foreign air carrier that occurs within the United States," for "transportation,", inserted "(including any associate, agent, employee, or other representative of an attorney)" after "attorney", and substituted "45th day" for "30th day".

Subsec. (g)(3). Pub. L. 106–181, §401(b), added par. (3).

Subsec. (h)(2). Pub. L. 106–181, §401(c), amended heading and text generally. Prior to amendment, text read as follows: "The term 'passenger' includes an employee of an air carrier aboard an aircraft."

Subsec. (i). Pub. L. 106–181, §401(d), added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§1137. Authority of the Inspector General

(a) IN GENERAL.—The Inspector General of the Department of Transportation, in accordance with the mission of the Inspector General to prevent and detect fraud and abuse, shall have authority to review only the financial management, property management, and business operations of the National Transportation Safety Board, including internal accounting and administrative control systems, to determine compliance with applicable Federal laws, rules, and regulations.

(b) DUTIES.—In carrying out this section, the Inspector General shall—

(1) keep the Chairman of the Board and Congress fully and currently informed about problems relating to administration of the internal accounting and administrative control systems of the Board;

(2) issue findings and recommendations for actions to address such problems; and

(3) report periodically to Congress on any progress made in implementing actions to address such problems.

(c) ACCESS TO INFORMATION.—In carrying out this section, the Inspector General may exercise authorities granted to the Inspector General under subsections (a) and (c) of section 406 of title 5.

(d) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) FUNDING.—There are authorized to be appropriated to the Secretary of Transportation for use by the Inspector General of the Department of Transportation such sums as may be necessary to cover expenses associated with activities pursuant to the authority exercised under this section.

(2) REIMBURSABLE AGREEMENT.—In the absence of an appropriation under this subsection for an expense referred to in paragraph (1), the Inspector General and the Board shall have a reimbursable agreement to cover such expense.

(Added Pub. L. 106–424, §12(a), Nov. 1, 2000, 114 Stat. 1887; amended Pub. L. 109–443, §4, Dec. 21, 2006, 120 Stat. 3299; Pub. L. 117–286, §4(b)(96), Dec. 27, 2022, 136 Stat. 4353.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (c). Pub. L. 117–286 substituted "subsections (a) and (c) of section 406 of title 5." for "subsections (a) and (b) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.)."

2006—Subsec. (d). Pub. L. 109–443 amended heading and text of subsec. (d) generally. Prior to

amendment, text read as follows: "The Inspector General shall be reimbursed by the Board for the costs associated with carrying out activities under this section."

§1138. Evaluation and audit of National Transportation Safety Board

(a) IN GENERAL.—To promote economy, efficiency, and effectiveness in the administration of the programs, operations, and activities of the National Transportation Safety Board, the Comptroller General of the United States shall evaluate and audit the programs and expenditures of the Board. Such evaluation and audit shall be conducted as determined necessary by the Comptroller General or the appropriate congressional committees.

(b) RESPONSIBILITY OF COMPTROLLER GENERAL.—The Comptroller General shall evaluate and audit Board programs, operations, and activities, including—

(1) information management and security, including privacy protection of personally identifiable information;

(2) resource management;

(3) workforce development;

(4) procurement and contracting planning, practices and policies;

(5) the process and procedures to select an accident to investigate;

(6) the extent to which the Board follows leading practices in selected management areas; and

(7) the extent to which the Board addresses management challenges in completing accident investigations.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this section the term "appropriate congressional committees" means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 109–443, §5(a), Dec. 21, 2006, 120 Stat. 3299; amended Pub. L. 113–188, title XV, §1502, Nov. 26, 2014, 128 Stat. 2025; Pub. L. 115–254, div. C, §1110, Oct. 5, 2018, 132 Stat. 3435; Pub. L. 118–63, title XII, §1221(a), May 16, 2024, 138 Stat. 1432.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 substituted "expenditures of the" for "expenditures of the National Transportation Safety".

2018—Subsec. (b)(5) to (7). Pub. L. 115–254, §1110(1), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (c). Pub. L. 115–254, §1110(2), inserted comma after "Science".

2014—Subsec. (a). Pub. L. 113–188 struck out "at least annually, but may be conducted" after "Such evaluation and audit shall be conducted".

§1139. Assistance to passengers involved in rail passenger accidents and families of such passengers

(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in any loss of life, and for which the National Transportation Safety Board will serve as the lead investigative agency, the Chairman of the Board shall—

(1) designate and publicize the name and telephone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and post-trauma communication with families, which shall have primary responsibility for coordinating the emotional care, psychological care, and family support services of passengers involved in the accident and the families of such passengers.

(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

(2) communicating with the families of passengers involved in the accident as to the roles, with respect to the accident and the post-accident activities, of—

(A) the organization designated for an accident under subsection (a)(2);

(B) Government agencies; and

(C) the rail passenger carrier involved.

(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to passengers involved in the accident and the families of such passengers:

(1) To provide emotional care, psychological care, and family support services, in coordination with the disaster response team of the rail passenger carrier involved.

(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

(3) To meet with passengers involved in the accident and the families of such passengers who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all passengers and affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

(4) To arrange a suitable memorial service, in consultation with the passengers and families.

(d) PASSENGER LISTS.—

(1) REQUESTS FOR PASSENGER LISTS BY THE DIRECTOR OF FAMILY SERVICES.—

(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a passenger list, which is based on the best available information at the time of the request.

(B) USE OF INFORMATION.—The director of family support services may not release to any person information on a list obtained under subparagraph (A), except that the director may, to the extent the director considers appropriate, provide information on the list about a passenger to—

(i) the family of the passenger; or

(ii) a local, Tribal, State, or Federal agency responsible for determining the whereabouts or welfare of a passenger.

(C) LIMITATION.—A local, Tribal, State, or Federal agency may not release to any person any information obtained under subparagraph (B)(ii), except if given express authority from the director of family support services.

(D) RULE OF CONSTRUCTION.—Nothing in subparagraph (C) shall be construed to preclude a local, Tribal, State, or Federal agency from releasing information that is lawfully obtained through other means independent of releases made by the director of family support services under subparagraph (B).

(2) REQUESTS FOR PASSENGER LISTS BY DESIGNATED ORGANIZATION.—

(A) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a passenger list.

(B) USE OF INFORMATION.—The designated organization may not release to any person information on a passenger list but may provide information on the list about a passenger to the family of the passenger to the extent the organization considers appropriate.

(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

(g) PROHIBITED ACTIONS.—

(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision thereof) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of passengers involved in the accident and the families of such passengers to have contact with one another.

(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action or settlement offer for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation, including the railroad carrier or rail passenger carrier, to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

(3) PROHIBITION ON ACTIONS TO PREVENT CERTAIN CARE AND SUPPORT SERVICES.—No State or political subdivision thereof may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing emotional care, psychological care, and family support services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the passengers and families and if State and local authorities are notified of the determination.

(h) DEFINITIONS.—In this section:

(1) RAIL PASSENGER ACCIDENT.—The term "rail passenger accident" means any rail passenger disaster that—

(A) results in any loss of life;

(B) the Board will serve as the lead investigative agency for; and

(C) occurs in the provision of—

(i) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

(ii) high-speed rail (as such term is defined in section 26105) transportation, regardless of its cause or suspected cause.

(2) RAIL PASSENGER CARRIER.—The term "rail passenger carrier" means a rail carrier providing—

(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term does not include a tourist, historic, scenic, or excursion rail carrier.

(3) PASSENGER.—The term "passenger" includes—

(A) an employee of a rail passenger carrier aboard a train;

(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

(C) any other person injured or killed in a rail passenger accident, as determined appropriate by the Board.

(4) PASSENGER LIST.—The term "passenger list" means a list based on the best available information at the time of the request, of the name of each passenger aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a rail passenger accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

(2) BOARD ASSISTANCE.—If this section does not apply to a rail passenger accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

(k) SAVINGS CLAUSE.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including development of information regarding the nature of injuries sustained and the manner in which they were sustained for the purposes of determining compliance with existing laws and regulations or for identifying means of preventing similar injuries in the future, or both.

(Added Pub. L. 110–432, div. A, title V, §501(a), Oct. 16, 2008, 122 Stat. 4894; amended Pub. L. 114–94, div. A, title XI, §11316(a), Dec. 4, 2015, 129 Stat. 1676; Pub. L. 115–254, div. C, §1109(d), Oct. 5, 2018, 132 Stat. 3435; Pub. L. 118–63, title XII, §1215(c), May 16, 2024, 138 Stat. 1428.)

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, §1215(c)(1), substituted "to passengers involved in rail passenger accidents and families of such passengers" for "to families of passengers involved in rail passenger accidents" in section catchline.

Subsec. (a). Pub. L. 118–63, §1215(c)(2), substituted "Board shall" for "National Transportation Safety Board shall" in introductory provisions.

Subsec. (a)(2). Pub. L. 118–63, §1215(c)(3), substituted "emotional care, psychological care, and family

support services" for "emotional care and support" and "passengers involved in the accident and the families of such passengers" for "the families of passengers involved in the accident".

Subsec. (c). Pub. L. 118–63, §1215(c)(4)(A), substituted "passengers involved in the accident and the families of such passengers" for "the families of passengers involved in the accident" in introductory provisions.

Subsec. (c)(1). Pub. L. 118–63, §1215(c)(4)(B), substituted "emotional care, psychological care, and family support services" for "mental health and counseling services".

Subsec. (c)(3). Pub. L. 118–63, §1215(c)(4)(C), substituted "passengers involved in the accident and the families of such passengers who have traveled to the location of the accident" for "the families who have traveled to the location of the accident" and inserted "passengers and" before "affected families".

Subsec. (c)(4). Pub. L. 118–63, §1215(c)(4)(D), inserted "passengers and" before "families".

Subsec. (d). Pub. L. 118–63, §1215(c)(5), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to requests for passenger lists and use of such information.

Subsec. (g)(1). Pub. L. 118–63, §1215(c)(6)(A), substituted "passengers involved in the accident and the families of such passengers" for "the families of passengers involved in the accident".

Subsec. (g)(3). Pub. L. 118–63, §1215(c)(6)(B), in heading, substituted "prevent certain care and support" for "prevent mental health and counseling" and, in text, substituted "providing emotional care, psychological care, and family support services" for "providing mental health and counseling services" and inserted "passengers and" before "families".

Subsec. (h)(1)(B). Pub. L. 118–63, §1215(c)(7)(A), struck out "National Transportation Safety" before "Board ".

Subsec. (h)(4). Pub. L. 118–63, §1215(c)(7)(B), added par. (4).

2018—Subsec. (a). Pub. L. 115–254, §1109(d)(1), substituted "resulting in any loss of life, and for which the National Transportation Safety Board will serve as the lead investigative agency" for "resulting in a major loss of life" in introductory provisions.

Subsec. (h)(1). Pub. L. 115–254, §1109(d)(2), amended par. (1) generally. Prior to amendment, text read as follows: "The term 'rail passenger accident' means any rail passenger disaster resulting in a major loss of life occurring in the provision of—

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation, regardless of its cause or suspected cause."

2015—Subsec. (a)(1). Pub. L. 114–94, §11316(a)(1), substituted "telephone number" for "phone number".

Subsec. (a)(2). Pub. L. 114–94, §11316(a)(2), substituted "post-trauma communication with families" for "post trauma communication with families".

Subsec. (j). Pub. L. 114–94, §11316(a)(3), substituted "rail passenger accident" for "railroad passenger accident" in pars. (1) and (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

ESTABLISHMENT OF TASK FORCE

Pub. L. 110–432, div. A, title V, §503, Oct. 16, 2008, 122 Stat. 4899, provided that:

"(a) ESTABLISHMENT.—The Secretary [of Transportation], in cooperation with the National Transportation Safety Board, organizations potentially designated under section 1139(a)(2) of title 49, United States Code, rail passenger carriers (as defined in section 1139(h)(2) of title 49, United States Code), and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of rail passenger carrier employees, and representatives of such other entities as the Secretary considers appropriate.

"(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

"(1) a model plan to assist rail passenger carriers in responding to passenger rail accidents;

"(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

"(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

"(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

"(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 16, 2008], the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation containing the model plan and recommendations developed by the task force under subsection (b)."

§1140. Information individuals [1] involved in accidents and families of such individuals

In the course of an investigation of an accident described in section 1131(a)(1), except an aircraft accident described in section 1136 or a rail passenger accident described in section 1139, the Board may, to the maximum extent practicable, ensure that individuals involved in accidents and the families of such individuals, and other individuals the Board deems appropriate—

(1) are informed as to the roles, with respect to the accident and the post-accident activities, of the Board;

(2) are briefed, before any public briefing, about the accident, its causes, and any other findings from the investigation; and

(3) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

(Added Pub. L. 115–254, div. C, §1109(e)(1), Oct. 5, 2018, 132 Stat. 3435; amended Pub. L. 118–63, title XII, §1215(e), May 16, 2024, 138 Stat. 1430.)

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63 substituted "individuals involved in accidents and families of such individuals" for "for families of individuals involved in accidents" in section catchline and "individuals involved in accidents and the families of such individuals" for "the families of individuals involved in the accident" in introductory provisions in text.

[1] So in original. Probably should be preceded by "for".

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

§1151. Aviation enforcement

(a) CIVIL ACTIONS BY BOARD.—The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), 1136(g)(2), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS BY ATTORNEY GENERAL.—On request of the Board, the Attorney General may bring a civil action in an appropriate court—

(1) to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), 1136(g)(2), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) to prosecute a person violating those sections or a regulation prescribed or order issued under any of those sections.

(c) PARTICIPATION OF BOARD.—On request of the Attorney General, the Board may

participate in a civil action to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), 1136(g)(2), or 1155(a) of this title.

(d) NOTIFICATION TO CONGRESS.—If the Board or Attorney General carry out such civil actions described in subsection (a) or (b) of this section against an airman employed at the time of the accident or incident by an air carrier operating under part 121 of title 14, Code of Federal Regulations, the Board shall immediately notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of such civil actions, including—

(1) the labor union representing the airman involved, if applicable;
(2) the air carrier at which the airman is employed;
(3) the docket information of the incident or accident in which the airman was involved;
(4) the date of such civil actions taken by the Board or Attorney General; and
(5) a description of why such civil actions were taken by the Board or Attorney General.

(e) SUBSEQUENT NOTIFICATION TO CONGRESS.—Not later than 15 days after the notification described in subsection (d), the Board shall submit a report to or brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the status of compliance with the civil actions taken.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 756; Pub. L. 106–181, title IV, §401(a)(2), Apr. 5, 2000, 114 Stat. 129; Pub. L. 118–63, title XII, §1208(b), May 16, 2024, 138 Stat. 1424.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1151(a)	49 App.:1487(a) (related to CAB).	Aug. 23, 1958, Pub. L. 85–726, §§1007 (related to CAB), 1008 (related to CAB), 72 Stat. 796.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), 88 Stat. 2168.
1151(b)	49 App.:1487(b) (related to CAB).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1151(c)	49 App.:1488 (related to CAB).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	

In this section, the words "section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title" are substituted for "issued under this chapter" and "provisions of this chapter" because those sections restate the relevant provisions of 49 App.:ch. 20 carried out by the National Transportation Safety Board.

In subsections (a) and (b), the word "rule" is omitted as being synonymous with "regulation". The word "requirement" is omitted as being included in "order". The words "or any term, condition, or limitation of any certificate or permit" are omitted because the National Transportation Safety Board does not have authority to issue certificates or permits.

In subsection (a), the words "their duly authorized agents" are omitted as surplus. The words "may bring a civil action" are substituted for "may apply" in 49 App.:1487(a) for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "An action under this subsection may be brought in the judicial district in which" are substituted for "for any district wherein" for clarity. The text of 49 App.:1487(a) (words after semicolon) is omitted as unnecessary because of rule 81(b) of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (b), before clause (1), the words "Attorney General" are substituted for "any district attorney of the United States" in 49 App.:1487(b) because of 28:509. The words "to whom the Board or Secretary of Transportation may apply" are omitted as surplus. The words "may bring a civil action" are substituted for "is authorized to institute . . . all necessary proceedings" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "under the direction of the Attorney General" are omitted as unnecessary because of 28:516. The text of 49 App.:1487(b) (words after last comma) is omitted as obsolete.

In subsection (c), the words "civil action" are substituted for "proceeding in court" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

EDITORIAL NOTES

AMENDMENTS

2024—Subsecs. (d), (e). Pub. L. 118–63 added subsecs. (d) and (e).

2000—Pub. L. 106–181 inserted "1136(g)(2)," before "or 1155(a)" in subsecs. (a), (b)(1), and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§1152. Joinder and intervention in aviation proceedings

A person interested in or affected by a matter under consideration in a proceeding or a civil action to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title, or a regulation prescribed or order issued under any of those sections, may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1152	49 App.:1489.	Aug. 23, 1958, Pub. L. 85–726, §1009, 72 Stat. 796.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), 88 Stat. 2168.

The words "civil action" are substituted for "proceedings . . . begun originally in any court of the United States" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title" are substituted for "the provisions of this chapter" in 49 App.:1489 because 49 App.:1489 is taken from 49 App.:ch. 20 and the sections in quotations restate the relevant provisions of 49 App.:ch. 20 carried out by the National Transportation Safety Board. The remaining relevant provisions of 49 App.:ch. 20 are restated in part A of subtitle VII of the revised title, and provisions comparable to this section are included as section 46109 of the revised title. The word "rule" is omitted as being synonymous with "regulation". The word "requirement" is omitted as included in "order". The words "or any term, condition, or limitation of any certificate or permit" are omitted because the Board does not have authority to issue certificates or permits. The words "may be joined as a party or permitted to intervene" are substituted for "it shall be lawful to include as parties, or to permit the intervention of" for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

§1153. Judicial review

(a) GENERAL.—The appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia Circuit may review a final order of the National Transportation Safety Board under this chapter. A person disclosing a substantial interest in the order may apply for review by filing a petition not later than 60 days after the order of the Board is issued.

(b) PERSONS SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—(1) A person disclosing a substantial interest in an order related to an aviation matter issued by the Board under this chapter may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60 days only if there was a reasonable ground for not filing within that 60-day period.

(2) When a petition is filed under paragraph (1) of this subsection, the clerk of the court immediately shall send a copy of the petition to the Board. The Board shall file with the court a record of the proceeding in which the order was issued.

(3) When the petition is sent to the Board, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Board to conduct further proceedings. After reasonable notice to the Board, the court may grant interim relief by staying the order or taking other appropriate action when cause for its action exists. Findings of fact by the Board, if supported by substantial evidence, are conclusive.

(4) In reviewing an order under this subsection, the court may consider an objection to an order of the Board only if the objection was made in the proceeding conducted by the Board or if there was a reasonable ground for not making the objection in the proceeding.

(5) A decision by a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(c) ADMINISTRATOR SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—When the Administrator of the Federal Aviation Administration decides that an order of the Board under section 44703(d), 44709, or 46301(d)(5) of this title will have a significant adverse impact on carrying out this chapter related to an aviation matter, the Administrator may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(d) COMMANDANT SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.—If the Commandant of the Coast Guard decides that an order of the Board issued pursuant to a review of a Coast Guard action under section 1133 of this title will have an adverse impact on maritime safety or security, the Commandant may obtain judicial review of the order under subsection (a). The Commandant, in the official capacity of the Commandant, shall be a party to the judicial review proceedings.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 756; Pub. L. 108–293, title VI, §622, Aug. 9, 2004, 118 Stat. 1063; Pub. L. 112–95, title III, §301(b), Feb. 14, 2012, 126 Stat. 56.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1153(a)	49 App.:1655(d) (last sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d), 80 Stat. 938.
	49 App.:1903(d).	Jan. 3, 1975, Pub. L. 93–633, §304(d), 88 Stat. 2171.
1153(b)(1)	49 App.:1486(a), (b) (as 1486(a), (b) relates to CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(a), (b), (e), (f) (as §1006(a), (b), (e), (f) relates to CAB), 72 Stat. 795.

	49 App.:1655(d) (1st sentence).	
1153(b)(2)	49 App.:1486(c) (related to CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(c) (related to CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86–546, §1, 74 Stat. 255.
	49 App.:1655(d) (1st sentence).	
1153(b)(3)	49 App.:1486(d), (e) (1st sentence) (as 1486(d), (e) (1st sentence) relates to CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(d) (related to CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87–225, §2, 75 Stat. 497.
	49 App.:1655(d) (1st sentence).	
1153(b)(4)	49 App.:1486(e) (last sentence related to CAB).	
	49 App.:1655(d) (1st sentence).	
1153(b)(5)	49 App.:1486(f) (related to CAB).	
	49 App.:1655(d) (1st sentence).	
1153(c)	49 App.:1429(a) (8th–last sentences related to Administrator under subch. VII).	Aug. 23, 1958, Pub. L. 85–726, §609(a) (8th–last sentences related to Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92–159, §2(a), 85 Stat. 481; Aug. 26, 1992, Pub. L. 102–345, §3(a)(2), 106 Stat. 925.
	49 App.:1471(a) (3)(D)(v) (related to Administrator under subch. VII).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §901(a) (3)(D)(v) (related to Administrator under title VII); added Nov. 18, 1988, Pub. L. 100–690, §7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102–345, §2(a), 106 Stat. 923.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In subsection (a), the text of 49 App.:1903(d) (last sentence) is omitted as unnecessary because 5:ch. 7 applies by its own terms. The words "final order" are substituted for "order, affirmative or negative" in 49 App.:1903(d) and "Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final" in 49 App.:1655(d) to eliminate unnecessary words. The words "is issued" are substituted for "after the entry" for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1655(d) (last sentence words after last comma) is omitted as unnecessary because of 49 App.:1903(d).

In subsection (b)(1), the words "affirmative or negative" are omitted as surplus. The words "related to an aviation matter" are added because the source provisions being restated only apply to aviation matters. The words "is issued" are substituted for "the entry of" for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words "if any" are omitted as surplus. The words "of the proceeding" are added for clarity. The words "complained of" and "as provided in section 2112 of title 28" are omitted as surplus.

In subsection (b)(3), the word "amend" is added for consistency in the revised title. The word "interim" is substituted for "interlocutory" for clarity. The words "taking other appropriate action" are substituted for "by such mandatory or other relief as may be appropriate" for clarity and to eliminate unnecessary words.

In subsection (b)(4), the words "made in the proceeding conducted by" are substituted for "urged before" for clarity.

In subsection (c), the source provisions are combined to eliminate unnecessary words and are restated in

this chapter to alert the reader to the authority of the Administrator of the Federal Aviation Administration to seek judicial review of an order of the National Transportation Safety Board under section 44709 or 46301(d) of the revised title that the Administrator decides will have a significant adverse impact on carrying out source provisions restated in this chapter that are derived from title VII of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 781).

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–95 substituted "section 44703(d), 44709, or" for "section 44709 or".
2004—Subsec. (d). Pub. L. 108–293 added subsec. (d).

§1154. Discovery and use of cockpit and surface vehicle recordings and transcripts

(a) IN GENERAL.—(1) Except as provided by this subsection, a party in a judicial proceeding may not use discovery to obtain—

(A) any still image that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title;

(B) any part of a cockpit or surface vehicle recorder transcript that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title; and

(C) a cockpit or surface vehicle recorder recording.

(2)(A) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit or surface vehicle recorder transcript if, after an in camera review of the transcript, the court decides that—

(i) the part of the transcript made available to the public under section 1114(c) or 1114(d) of this title does not provide the party with sufficient information for the party to receive a fair trial; and

(ii) discovery of additional parts of the transcript is necessary to provide the party with sufficient information for the party to receive a fair trial.

(B) A court may allow discovery, or require production for an in camera review, of a cockpit or surface vehicle recorder transcript that the Board has not made available under section 1114(c) or 1114(d) of this title only if the cockpit or surface vehicle recorder recording is not available.

(3) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit or surface vehicle recorder recording, including with regard to a video recording any still image that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title, if, after an in camera review of the recording, the court decides that—

(A) the parts of the transcript made available to the public under section 1114(c) or 1114(d) of this title and to the party through discovery under paragraph (2) of this subsection do not provide the party with sufficient information for the party to receive a fair trial; and

(B) discovery of the cockpit or surface vehicle recorder recording, including with regard to a video recording any still image that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title, is necessary to provide the party with sufficient information for the party to receive a fair trial.

(4)(A) When a court allows discovery in a judicial proceeding of a still image or a part of a cockpit or surface vehicle recorder transcript not made available to the public under section 1114(c) or 1114(d) of this title or a cockpit or surface vehicle recorder recording, the court shall issue a protective order—

(i) to limit the use of the still image, the part of the transcript, or the recording to the judicial

proceeding; and

(ii) to prohibit dissemination of the still image, the part of the transcript, or the recording to any person that does not need access to the still image, the part of the transcript, or the recording for the proceeding.

(B) A court may allow a still image or a part of a cockpit or surface vehicle recorder transcript not made available to the public under section 1114(c) or 1114(d) of this title or a cockpit or surface vehicle recorder recording to be admitted into evidence in a judicial proceeding, only if the court places the still image, the part of the transcript, or the recording under seal to prevent the use of the still image, the part of the transcript, or the recording for purposes other than for the proceeding.

(5) This subsection does not prevent the Board from referring at any time to cockpit or surface vehicle recorder information in making safety recommendations.

(6) In this subsection:

(A) RECORDER.—The term "recorder" means a voice or video recorder.

(B) STILL IMAGE.—The term "still image" means any still image obtained from a video recorder.

(C) TRANSCRIPT.—The term "transcript" includes any written depiction of visual information obtained from a video recorder.

(b) REPORTS.—No part of a report of the Board, related to an accident or an investigation of an accident, may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 757; Pub. L. 106–424, §5(c)(1), Nov. 1, 2000, 114 Stat. 1885; Pub. L. 115–254, div. C, §1104(b), Oct. 5, 2018, 132 Stat. 3430.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1154(a)	49 App.:1905(c)(3), (d).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §306(c)(3), (d); added Oct. 14, 1982, Pub. L. 97–309, §2, 96 Stat. 1453; restated Nov. 28, 1990, Pub. L. 101–641, §4, 104 Stat. 4655.
1154(b)	49 App.:1441(e).	Aug. 23, 1958, Pub. L. 85–726, §701(e), 72 Stat. 781.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A), (c).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), (c), 88 Stat. 2168, 2171.

In subsection (a), the word "transcript" is substituted for "transcriptions" for clarity.

In subsection (a)(1)(A), the words "that the National Transportation Safety Board has not made available to the public" are substituted for "other than such portions made available to the public by the Board" for clarity.

In subsection (a)(2)(B), the words "prepared by or under the direction of the Board" are omitted as unnecessary and for consistency with the source provisions restated in this subsection.

In subsection (b), the words "civil action" are substituted for "suit or action" in 49 App.:1441(e) and 1903(c) for consistency with the Federal Rules of Civil Procedure (28 App. U.S.C.).

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1104(b)(1), substituted "In General" for "Transcripts and

Recordings" in heading.

Subsec. (a)(1). Pub. L. 115–254, §1104(b)(2), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsec. (a)(3). Pub. L. 115–254, §1104(b)(3), substituted "recorder recording, including with regard to a video recording any still image that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title," for "recorder recording" in introductory provisions and in subpar. (B).

Subsec. (a)(4)(A). Pub. L. 115–254, §1104(b)(4), inserted "a still image or" before "a part of a cockpit" in introductory provisions and substituted "the still image, the part of the transcript, or the recording" for "the part of the transcript or the recording" wherever appearing.

Subsec. (a)(4)(B). Pub. L. 115–254, §1104(b)(4)(B), inserted "a still image or" before "a part of a cockpit" and substituted "the still image, the part of the transcript, or the recording" for "the part of the transcript or the recording" in two places.

Subsec. (a)(6)(B), (C). Pub. L. 115–254, §1104(b)(5), added subpar. (B) and redesignated former subpar. (B) as (C).

2000—Pub. L. 106–424, §5(c)(1)(A), substituted "and surface vehicle recordings and transcripts" for "voice and other material" in section catchline.

Subsec. (a). Pub. L. 106–424, §5(c)(1)(B), substituted "cockpit or surface vehicle recorder" for "cockpit voice recorder" wherever appearing.

Pub. L. 106–424, §5(c)(1)(C), substituted "section 1114(c) or 1114(d)" for "section 1114(c)" wherever appearing.

Subsec. (a)(6). Pub. L. 106–424, §5(c)(1)(D), which directed the amendment of this section by adding par. (6) at the end, was executed by adding par. (6) at the end of subsec. (a) to reflect the probable intent of Congress.

§1155. Penalties

(a) CIVIL PENALTY.—(1) A person violating section 1132, section 1134(b), section 1134(f)(1), section 1136(g), or section 1139(g) of this title or a regulation prescribed or order issued under any of those sections is liable to the United States Government for a civil penalty of not more than $1,000. A separate violation occurs for each day a violation continues.

(2) This subsection does not apply to a member of the armed forces of the United States or an employee of the Department of Defense subject to the Uniform Code of Military Justice when the member or employee is performing official duties. The appropriate military authorities are responsible for taking necessary disciplinary action and submitting to the National Transportation Safety Board a timely report on action taken.

(3) The Board may compromise the amount of a civil penalty imposed under this subsection.

(4) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) A civil penalty under this subsection may be collected by bringing a civil action against the person liable for the penalty. The action shall conform as nearly as practicable to a civil action in admiralty.

(b) CRIMINAL PENALTY.—A person that knowingly and without authority removes, conceals, or withholds a part of a civil aircraft involved in an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 758; Pub. L. 104–264, title VII, §702(b), Oct. 9, 1996, 110 Stat. 3267; Pub. L. 118–63, title XII, §1216(a), May 16, 2024, 138 Stat. 1431.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1155(a)(1), (2)	49 App.:1471(a)(1) (related to subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(1) (related to title VII), 72 Stat. 783; restated July 10, 1962,

		Pub. L. 87–528, §12, 76 Stat. 149; Aug. 5, 1974, Pub. L. 93–366, §107, 88 Stat. 414; Jan. 3, 1975, Pub. L. 93–633, §113(b), 88 Stat. 2162.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), 88 Stat. 2168.
1155(a)(3), (4)	49 App.:1471(a)(2) (related to subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(2) (related to title VII), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, §12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, §35(b), 92 Stat. 1740.
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1155(a)(5)	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95–504, §36, 92 Stat. 1741.
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85–726, §903(b)(4), 72 Stat. 787.
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1155(b)	49 App.:1472(p).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(p); added Oct. 15, 1962, Pub. L. 87–810, §4, 76 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410; Dec. 30, 1987, Pub. L. 100–223, §204(e), 101 Stat. 1520.

In subsection (a)(1), the words "section 1132 or 1134(b) or (f)(1) (related to an aircraft accident) of this title" are substituted for "any provision of subchapter . . . VII . . . of this chapter" in 49 App.:1471(a)(1) because those sections restate the relevant source provisions of 49 App.:ch. 20 carried out by the Board. The words "regulation prescribed or order issued under either of those sections" are substituted for "rule, regulation, or order issued thereunder" for clarity and consistency in the revised title and with other titles of the United States Code and because "rule" and "regulation" are synonymous. The words "liable to the United States Government" are substituted for "subject to" for clarity. The words "for each such violation" are omitted as unnecessary because of 18:1.

In subsection (a)(2), the word "civilian" is omitted as unnecessary. The words "with respect thereto" are omitted as surplus.

In subsection (a)(4), the words "imposed or compromised" are substituted for "finally determined or fixed by order of the Board, or the amount agreed upon in compromise" in 49 App.:1471(a)(2) for consistency and to eliminate unnecessary words.

In subsection (a)(5), the words "imposed or assessed" are omitted as surplus. The words "civil action against the person" are substituted for "proceedings in personam against the person" in 49 App.:1473(b)(1) for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.) and to eliminate unnecessary words. The text of 49 App.:1473(b)(1) (1st sentence words after 1st comma and last sentence) is omitted as unnecessary because penalties imposed by the National Transportation Safety Board do not involve liens on aircraft. The text of 49 App.:1473(b)(4) is omitted as unnecessary because of 28:ch. 131.

EDITORIAL NOTES

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a)(2), is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

PRIOR PROVISIONS

Prior chapter 31 (§§3101–3104) of subtitle II redesignated and restated as chapter 315 (§§31501–31504) of subtitle VI of this title by Pub. L. 103–272, §1(c), (e).

AMENDMENTS

2024—Pub. L. 118–63, §1216(a)(1), substituted "Penalties" for "Aviation penalties" in section catchline.

Subsec. (a)(1). Pub. L. 118–63, §1216(a)(2), substituted "section 1136(g), or section 1139(g)" for "or section 1136(g) (related to an aircraft accident)".

1996—Subsec. (a)(1). Pub. L. 104–264 substituted ", section 1134(b), section 1134(f)(1), or section 1136(g)" for "or 1134(b) or (f)(1)" and "any of" for "either of".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

CHAPTER 13—SURFACE TRANSPORTATION BOARD

I—ESTABLISHMENT [1]

Sec.
1301. Establishment of Board
1302. Functions.
1303. Administrative provisions.
1304. Reports.
1305. Authorization of appropriations.
1306. Reporting official action.

II—ADMINISTRATIVE [1]

1321. Powers.
1322. Board action.
1323. Service of notice in Board proceedings.
1324. Service of process in court proceedings.
1325. Railroad-Shipper Transportation Advisory Council.
1326. Authority of the Inspector General.

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §§3(a)(1), (2), 10, Dec. 18, 2015, 129 Stat. 2228, 2233, renumbered chapter 7 of this title as this chapter and amended analysis generally, substituting items 1301 to 1306 and 1321 to 1326 for former items 701 to 706 and 721 to 727, respectively.

[1] So in original. Does not conform to subchapter heading since word "SUBCHAPTER" does not appear.

SUBCHAPTER I—ESTABLISHMENT

§1301. Establishment of Board

(a) ESTABLISHMENT.—The Surface Transportation Board is an independent establishment of the United States Government.

(b) MEMBERSHIP.—(1) The Board shall consist of 5 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party.

(2) At all times—

(A) at least 3 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation, transportation regulation, or economic regulation; and

(B) at least 2 members shall be individuals with professional or business experience (including agriculture) in the private sector.

(3) The term of each member of the Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(4) No individual may serve as a member of the Board for more than 2 terms. In the case of an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

(5) A member of the Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

(6) A vacancy in the membership of the Board does not impair the right of the remaining members to exercise all of the powers of the Board. The Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

(c) CHAIRMAN.—(1) There shall be at the head of the Board a Chairman, who shall be designated by the President from among the members of the Board. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

(2) Subject to the general policies, decisions, findings, and determinations of the Board, the Chairman shall be responsible for administering the Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Board. The Chairman shall—

(A) appoint and supervise, other than regular and full-time employees in the immediate offices of another member, the officers and employees of the Board, including attorneys to provide legal aid and service to the Board and its members, and to represent the Board in any case in court;

(B) appoint the heads of offices with the approval of the Board;

(C) distribute Board business among officers and employees and offices of the Board;

(D) prepare requests for appropriations for the Board and submit those requests to the President and Congress with the prior approval of the Board; and

(E) supervise the expenditure of funds allocated by the Board for major programs and purposes.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 932, §701; amended Pub. L. 104–287, §5(5), Oct. 11, 1996, 110 Stat. 3389; renumbered §1301 and amended Pub. L. 114–110, §§3(a)(3), (b), 4, Dec. 18, 2015, 129 Stat. 2228, 2229.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §3(a)(3), renumbered section 701 of this title as this section.

Subsec. (a). Pub. L. 114–110, §3(b), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "There is hereby established within the Department of Transportation the Surface Transportation Board."

Subsec. (b)(1). Pub. L. 114–110, §4(a)(1), substituted "5 members" for "3 members" and "3 members" for "2 members".

Subsec. (b)(2). Pub. L. 114–110, §4(a)(2), added par. (2) and struck out former par. (2) which read as follows: "At any given time, at least 2 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience (including agriculture) in the private sector."

Subsec. (b)(4). Pub. L. 114–110, §4(b)(3), struck out "who becomes a member of the Board pursuant to paragraph (4), or an individual" after "In the case of an individual".

Pub. L. 114–110, §4(b)(1), (2), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "On January 1, 1996, the members of the Interstate Commerce Commission serving unexpired terms on December 29, 1995, shall become members of the Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission. Any member of the Interstate Commerce Commission whose term expires on December 31, 1995, shall become a member of the Board, subject to paragraph (3)."

Subsec. (b)(5), (6). Pub. L. 114–110, §4(b)(2), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

1996—Subsec. (b)(4). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of this section" and "December 29, 1995," for "the date of the enactment of the ICC Termination Act of 1995".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 104–88, §2, Dec. 29, 1995, 109 Stat. 804, provided that: "Except as otherwise provided in this Act [see Tables for classification], this Act shall take effect on January 1, 1996."

SAVINGS PROVISION

Pub. L. 104–88, title II, §204, Dec. 29, 1995, 109 Stat. 941, provided that:

"(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

"(1) that have been issued, made, granted, or allowed to become effective by the Interstate Commerce Commission, any officer or employee of the Interstate Commerce Commission, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act [see Tables for classification] or the amendments made by this Act; and

"(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board [Surface Transportation Board], any other authorized official, a court of competent jurisdiction, or operation of law. The Board shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act.

"(b) PROCEEDINGS.—(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect [see Effective Date note above], insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

"(2) The Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

"(3)(A) Except as provided in subparagraphs (B) and (C), in the case of a proceeding under a provision of law repeal [repealed], and not reenacted, by this Act such proceeding shall be terminated.

"(B) Any proceeding involving a pipeline carrier under subtitle IV of title 49, United States Code, shall be continued to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section [see Effective Date note above], until completion of such proceeding.

"(C) Any proceeding involving the merger of a motor carrier property under subtitle IV of title 49, United States Code, shall continue to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section, until completion of such proceeding.

"(4) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation, or service that was pending under the Intercoastal Shipping Act, 1933 [former 46 U.S.C. App. 843 et seq.] or the Shipping Act, 1916 [former 46 U.S.C. App. 801 et seq., see Disposition Table preceding section 101 of Title 46, Shipping] before the Federal Maritime Commission on November 1, 1995, shall continue to be heard until completion or issuance of a final order thereon under all applicable laws in effect as of November 1, 1995.

"(c) SUITS.—(1) This Act shall not affect suits commenced before the date of the enactment of this Act [Dec. 29, 1995], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

"(2) Any suit by or against the Interstate Commerce Commission begun before the effective date of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Board (to the extent the suit involves functions transferred to the Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

"(3) If the court in a suit described in paragraph (1) remands a case to the Board or the Secretary, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

"(d) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

"(e) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Board may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act."

CONSTRUCTION

Pub. L. 114–110, §17, Dec. 18, 2015, 129 Stat. 2238, provided that: "Nothing in this Act [see Tables for classification] may be construed to affect any suit commenced by or against the Surface Transportation Board, or any proceeding or challenge pending before the Surface Transportation Board, before the date of the enactment of this Act [Dec. 18, 2015]."

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Pub. L. 104–88, title I, §101, Dec. 29, 1995, 109 Stat. 804, provided that: "The Interstate Commerce Commission is abolished."

ORGANIZATION OF FUNCTIONS OF SURFACE TRANSPORTATION BOARD

Pub. L. 104–88, title II, §202, Dec. 29, 1995, 109 Stat. 940, provided that: "The Chairman of the Surface Transportation Board (in this Act [see Tables for classification] referred to as the 'Board') may allocate or reallocate any function of the Board, consistent with this title [see Tables for classification] and [former] subchapter I of chapter 7 [now 49 U.S.C. 1301 et seq.], as amended by section 201 of this title, among the members or employees of the Board, and may establish, consolidate, alter, or discontinue in the Board any organizational entities that were entities of the Interstate Commerce Commission, as the Chairman considers necessary or appropriate."

TRANSFER OF ASSETS AND PERSONNEL

Pub. L. 104–88, title II, §203, Dec. 29, 1995, 109 Stat. 941, provided that:

"(a) TO BOARD.—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Board [Surface Transportation Board] by this Act shall be transferred to the Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be

transferred to the Board. Such unexpended balances, allocations, and other funds, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996, may be used to pay for the closedown of the Commission and severance costs for Commission personnel, regardless of whether those costs are incurred at the Commission or at the Board.

"(b) TO SECRETARY.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

"(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service)."

REFERENCES TO INTERSTATE COMMERCE COMMISSION DEEMED TO BE REFERENCES TO SURFACE TRANSPORTATION BOARD

Pub. L. 104–88, title II, §205, Dec. 29, 1995, 109 Stat. 943, provided that: "Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Board [Surface Transportation Board], a member or employee of the Board, or the Secretary, as appropriate."

SURFACE TRANSPORTATION BOARD PASSENGER RAIL PROGRAM

Pub. L. 117–58, div. B, title II, §22309, Nov. 15, 2021, 135 Stat. 734, provided that: "The Surface Transportation Board shall—

"(1) establish a passenger rail program with primary responsibility for carrying out the Board's passenger rail responsibilities; and

"(2) hire up to 10 additional full-time employees to assist in carrying out the responsibilities referred to in paragraph (1)."

INFORMATION SECURITY IMPROVEMENT

Pub. L. 115–269, Oct. 16, 2018, 132 Stat. 3763, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'STB Information Security Improvement Act'.

"SEC. 2. REQUIREMENTS.

"(a) IN GENERAL.—The Surface Transportation Board (in this section referred to as the 'STB') shall develop a timeline and plan to implement the recommendations of the Inspector General of the Department of Transportation in Report No. FI2018002, including improvements—

"(1) to identify controls, including risk management, weakness remediation, and security authorization;

"(2) to protect controls, including configuration management, user identity and access management, and security training;

"(3) to detect controls, including continuous monitoring;

"(4) to respond [to] controls, including incident handling and reporting;

"(5) to recover controls for contingency planning; and

"(6) [sic] any additional tools that will improve the implementation of the recommendations.

"(b) IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 16, 2018], the STB shall submit the plan and timeline developed under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce of the Senate.

"(2) REPORT.—The STB shall report annually to such Committees on the progress on implementation of the recommendations until the implementation is complete.

"(3) PLAN IMPLEMENTATION.—The STB shall designate an individual to implement the plan developed under subsection (a).

"SEC. 3. NO ADDITIONAL FUNDS AUTHORIZED.

"No additional funds are authorized to carry out the requirements of this Act. Such requirements shall be carried out using amounts otherwise authorized."

§1302. Functions

Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Board shall perform all functions that, immediately before January 1, 1996, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 933, §702; amended Pub. L. 104–287, §5(6), Oct. 11, 1996, 110 Stat. 3389; renumbered §1302, Pub. L. 114–110, §3(a)(3), Dec. 18, 2015, 129 Stat. 2228.)

EDITORIAL NOTES

REFERENCES IN TEXT

The ICC Termination Act of 1995, referred to in text, is Pub. L. 104–88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

2015—Pub. L. 114–110 renumbered section 702 of this title as this section.
1996—Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of such Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§1303. Administrative provisions

(a) OPEN MEETINGS.—

(1) IN GENERAL.—The Board shall be deemed to be an agency for purposes of section 552b of title 5.

(2) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

(A) IN GENERAL.—Notwithstanding section 552b of title 5, a majority of the members may hold a meeting that is not open to public observation to discuss official agency business if—

(i) no formal or informal vote or other official agency action is taken at the meeting;

(ii) each individual present at the meeting is a member or an employee of the Board; and

(iii) the General Counsel of the Board is present at the meeting.

(B) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Except as provided under subparagraph (C), not later than 2 business days after the conclusion of a meeting under subparagraph (A), the Board shall make available to the public, in a place easily accessible to the public—

(i) a list of the individuals present at the meeting; and

(ii) a summary of the matters discussed at the meeting, except for any matters the Board properly determines may be withheld from the public under section 552b(c) of title 5.

(C) SUMMARY.—If the Board properly determines matters may be withheld from the public under section 555b(c) of title 5, the Board shall provide a summary with as much general information as possible on those matters withheld from the public.

(D) ONGOING PROCEEDINGS.—If a discussion under subparagraph (A) directly relates to an ongoing proceeding before the Board, the Board shall make the disclosure under subparagraph (B) on the date of the final Board decision.

(E) PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION .—Nothing in this paragraph may be construed to limit the applicability of section 552b of title 5 with respect to a meeting of the members other than that described in this paragraph.

(F) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed—

(i) to limit the applicability of section 552b of title 5 with respect to any information which is proposed to be withheld from the public under subparagraph (B)(ii); or

(ii) to authorize the Board to withhold from any individual any record that is accessible to that individual under section 552a of title 5, United States Code.

(b) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Chairman of the Board may appear for, and represent the Board in, any civil action brought in connection with any function carried out by the Board pursuant to this chapter or subtitle IV or as otherwise authorized by law.

(c) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

(d) SUBMISSION OF CERTAIN DOCUMENTS TO CONGRESS.—

(1) IN GENERAL.—If the Board submits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for a congressional hearing, or comment on legislation to the President or to the Office of Management and Budget, the Board shall concurrently submit a copy of such document to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

(2) NO APPROVAL REQUIRED.—No officer or agency of the United States has any authority to require the Board to submit budget estimates or requests, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review before submitting such recommendations, testimony, or comments to Congress.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934, §703; renumbered §1303 and amended Pub. L. 114–110, §§3(a)(3), (c)(1), 5, Dec. 18, 2015, 129 Stat. 2228–2230.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §3(a)(3), renumbered section 703 of this title as this section.

Subsec. (a). Pub. L. 114–110, §5, amended subsec. (a) generally. Prior to amendment, text read as follows: "For purposes of section 552b of title 5, United States Code, the Board shall be deemed to be an agency."

Pub. L. 114–110, §3(c)(1)(A), (B), redesignated subsec. (b) as (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "Chapter 9 of title 5, United States Code, shall apply to the Board in the same manner as it does to an independent regulatory agency, and the Board shall be an establishment of the United States Government."

Subsec. (b). Pub. L. 114–110, §3(c)(1)(B), redesignated subsec. (d) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 114–110, §3(c)(1)(A), (B), redesignated subsec. (e) as (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "In the performance of their functions, the members, employees, and other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation."

Subsec. (d). Pub. L. 114–110, §3(c)(1)(C), added subsec. (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 114–110, §3(c)(1)(B), redesignated subsec. (e) as (c).

Subsecs. (f), (g). Pub. L. 114–110, §3(c)(1)(A), struck out subsecs. (f) and (g) which read as follows:

"(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Board and include a statement by the Board—

"(1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

"(2) an assessment of the budgetary needs of the Board.

"(g) DIRECT TRANSMITTAL TO CONGRESS.—The Board shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Board with Congress, or a committee or Member of Congress, about the information."

§1304. Reports

(a) ANNUAL REPORT.—The Board shall annually transmit to the Congress a report on its activities, including each instance in which the Board has initiated an investigation on its own initiative under this chapter or subtitle IV.

(b) RATE CASE REVIEW METRICS.—

(1) QUARTERLY REPORTS.—The Board shall post a quarterly report of rail rate review cases pending or completed by the Board during the previous quarter that includes—

(A) summary information of the case, including the docket number, case name, commodity or commodities involved, and rate review guideline or guidelines used;

(B) the date on which the rate review proceeding began;

(C) the date for the completion of discovery;

(D) the date for the completion of the evidentiary record;

(E) the date for the submission of closing briefs;

(F) the date on which the Board issued the final decision; and

(G) a brief summary of the final decision;

(2) WEBSITE POSTING.—Each quarterly report shall be posted on the Board's public website.

(c) COMPLAINTS.—

(1) IN GENERAL.—The Board shall establish and maintain a database of complaints received by the Board.

(2) QUARTERLY REPORTS.—The Board shall post a quarterly report of formal and informal service complaints received by the Board during the previous quarter that includes—

(A) the date on which the complaint was received by the Board;

(B) a list of the type of each complaint;

(C) the geographic region of each complaint; and

(D) the resolution of each complaint, if appropriate.

(3) WRITTEN CONSENT.—The quarterly report may identify a complainant that submitted an informal complaint only upon the written consent of the complainant.

(4) WEBSITE POSTING.—Each quarterly report shall be posted on the Board's public website.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934, §704; renumbered §1304 and amended Pub. L. 114–110, §§3(a)(3), 6, Dec. 18, 2015, 129 Stat. 2228, 2231.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §6, substituted "Reports" for "Annual report" in section catchline, designated existing provisions as subsec. (a) and inserted heading, substituted "on its activities, including each instance in which the Board has initiated an investigation on its own initiative under this chapter or subtitle IV." for "on its activities.", and added subsecs. (b) and (c).

Pub. L. 114–110, §3(a)(3), renumbered section 704 of this title as this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

QUARTERLY REPORTS

Pub. L. 114–110, §15(b), Dec. 18, 2015, 129 Stat. 2238, provided that: "Beginning not later than 60 days after the date of the enactment of this Act [Dec. 18, 2015], the Surface Transportation Board shall submit quarterly reports to the congressional committees referred to in section 14(b) [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] that describes the Surface Transportation Board's progress toward addressing the issues raised in each unfinished regulatory proceeding, regardless of whether the proceeding is subject to a statutory or regulatory deadline."

§1305. Authorization of appropriations

There are authorized to be appropriated for the activities of the Board—

(1) $33,000,000 for fiscal year 2016;
(2) $35,000,000 for fiscal year 2017;
(3) $35,500,000 for fiscal year 2018;
(4) $35,500,000 for fiscal year 2019; and
(5) $36,000,000 for fiscal year 2020.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934, §705; renumbered §1305 and amended Pub. L. 114–110, §§3(a)(3), 7, Dec. 18, 2015, 129 Stat. 2228, 2232.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §3(a)(3), renumbered section 705 of this title as this section.

Pars. (1) to (5). Pub. L. 114–110, §7, added pars. (1) to (5) and struck out former pars. (1) to (3) which related to appropriations for fiscal years 1996, 1997, and 1998, respectively.

§1306. Reporting official action

(a) REPORTS ON PROCEEDINGS.—The Board shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Board and, if damages are awarded, the findings of fact supporting the award. The Board may have its reports published for public use. A published report of the Board is competent evidence of its contents.

(b) SPECIAL RULES FOR MATTERS RELATED TO RAIL CARRIERS.—(1) When action of the Board in a matter related to a rail carrier is taken by the Board, an individual member of the Board, or another individual or group of individuals designated to take official action for the Board, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statement, or regulation) shall indicate—

(A) the official designation of the individual or group taking the action;
(B) the name of each individual taking, or participating in taking, the action; and
(C) the vote or position of each participating individual.

(2) If an individual member of a group taking an official action referred to in paragraph (1) does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 934, §706; renumbered §1306, Pub. L. 114–110, §3(a)(3), Dec. 18, 2015, 129 Stat. 2228.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110 renumbered section 706 of this title as this section.

SUBCHAPTER II—ADMINISTRATIVE

§1321. Powers

(a) IN GENERAL.—The Board shall carry out this chapter and subtitle IV. Enumeration of a power of the Board in this chapter or subtitle IV does not exclude another power the Board may have in carrying out this chapter or subtitle IV. The Board may prescribe regulations in carrying out this chapter and subtitle IV.

(b) INQUIRIES, REPORTS, AND ORDERS.—The Board may—

(1) inquire into and report on the management of the business of carriers providing transportation and services subject to subtitle IV;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of that carrier;

(3) obtain from those carriers and persons information the Board decides is necessary to carry out subtitle IV; and

(4) when necessary to prevent irreparable harm, issue an appropriate order without regard to subchapter II of chapter 5 of title 5.

(c) SUBPOENA WITNESSES.—(1) The Board may subpoena witnesses and records related to a proceeding of the Board from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Board, or a party to a proceeding before the Board, may petition a court of the United States to enforce that subpoena.

(2) The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

(d) DEPOSITIONS.—(1) In a proceeding, the Board may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Board may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) If a witness fails to be deposed or to produce records under paragraph (1), the Board may subpoena the witness to take a deposition, produce the records, or both.

(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Board or agreed on by the parties by written stipulation filed with the Board. A deposition shall be filed with the Board promptly.

(e) WITNESS FEES.—Each witness summoned before the Board or whose deposition is taken

under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 935, §721; renumbered §1321, Pub. L. 114–110, §3(a)(5), Dec. 18, 2015, 129 Stat. 2228.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110 renumbered section 721 of this title as this section.

§1322. Board action

(a) EFFECTIVE DATE OF ACTIONS.—Unless otherwise provided in subtitle IV, the Board may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect.

(b) TERMINATING AND CHANGING ACTIONS.—An action of the Board remains in effect under its own terms or until superseded. The Board may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Board. A court of competent jurisdiction may suspend or set aside any such action.

(c) RECONSIDERING ACTIONS.—The Board may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

(1) reopen a proceeding;

(2) grant rehearing, reargument, or reconsideration of an action of the Board; or

(3) change an action of the Board.

An interested party may petition to reopen and reconsider an action of the Board under this subsection under regulations of the Board.

(d) FINALITY OF ACTIONS.—Notwithstanding subtitle IV, an action of the Board under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 936, §722; renumbered §1322, Pub. L. 114–110, §3(a)(5), Dec. 18, 2015, 129 Stat. 2228.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110 renumbered section 722 of this title as this section.

§1323. Service of notice in Board proceedings

(a) DESIGNATION OF AGENT.—A carrier providing transportation subject to the jurisdiction of the Board under subtitle IV shall designate an agent on whom service of notices in a proceeding before, and of actions of, the Board may be made.

(b) FILING AND CHANGING DESIGNATIONS.—A designation under subsection (a) shall be in writing and filed with the Board. The designation may be changed at any time in the same manner as originally made.

(c) SERVICE OF NOTICE.—Except as otherwise provided, notices of the Board shall be served on its designated agent at the office or usual place of residence of that agent. A notice of action of the Board shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Board.

(d) SPECIAL RULE FOR RAIL CARRIERS.—In a proceeding involving the lawfulness of classifications, rates, or practices of a rail carrier that has not designated an agent under this section, service of notice of the Board on an attorney in fact for the carrier constitutes service of notice on the carrier.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937, §723; renumbered §1323 and amended Pub. L. 114–110, §§3(a)(5), 8(a), Dec. 18, 2015, 129 Stat. 2228, 2232.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §3(a)(3), renumbered section 723 of this title as this section.

Subsec. (a). Pub. L. 114–110, §8(a)(1), struck out "in the District of Columbia," after "designate an agent".

Subsec. (c). Pub. L. 114–110, §8(a)(2), struck out "in the District of Columbia" after " usual place of residence".

§1324. Service of process in court proceedings

(a) DESIGNATION OF AGENT.—A carrier providing transportation subject to the jurisdiction of the Board under subtitle IV shall designate an agent on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Board.

(b) CHANGING DESIGNATION.—A designation under this section may be changed at any time in the same manner as originally made.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937, §724; renumbered §1324 and amended Pub. L. 114–110, §§3(a)(5), 8(b), Dec. 18, 2015, 129 Stat. 2228, 2232.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §3(a)(3), renumbered section 724 of this title as this section.

Subsec. (a). Pub. L. 114–110, §8(b), struck out "in the District of Columbia" after "designate an agent" and "usual place of residence".

§1325. Railroad-Shipper Transportation Advisory Council

(a) ESTABLISHMENT; MEMBERSHIP.—There is established the Railroad-Shipper Transportation Advisory Council (in this section referred to as the "Council") to be composed of 19 members, of which 15 members shall be appointed by the Chairman of the Board, after recommendation from rail carriers and shippers, within 60 days after December 29, 1995. The members of the Council shall be appointed as follows:

(1) The members of the Council shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of the various segments of the railroad and rail shipper industries.

(2) Nine of the members shall be appointed from senior executive officers of organizations engaged in the railroad and rail shipping industries, which 9 members shall be the voting members of the Council. Council action and Council positions shall be determined by a majority vote of the members present. A majority of such voting members shall constitute a quorum. Of such 9 voting members—

(A) at least 4 shall be representative of small shippers (as determined by the Chairman); and

(B) at least 4 shall be representative of Class II or III railroads.

(3) The remaining 6 members of the Council shall serve in a nonvoting advisory capacity only, but shall be entitled to participate in Council deliberations. Of the remaining members—

(A) 3 shall be representative of Class I railroads; and

(B) 3 shall be representative of large shipper organizations (as determined by the Chairman).

(4) The Secretary of Transportation and the members of the Board shall serve as ex officio, nonvoting members of the Council. The Council shall not be subject to chapter 10 of title 5. A list of the members appointed to the Council shall be forwarded to the Chairmen and ranking members of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(5) Each ex officio member of the Council may designate an alternate, who shall serve as a member of the Council whenever the ex officio member is unable to attend a meeting of the Council. Any such designated alternate shall be selected from individuals who exercise significant decision-making authority in the Federal agency involved.

(b) TERM OF OFFICE.—The members of the Council shall be appointed for a term of office of 3 years, except that of the members first appointed—

(1) 5 members shall be appointed for terms of 1 year; and

(2) 5 members shall be appointed for terms of 2 years,

as designated by the Chairman at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Council shall be filled in the same manner in which the original appointments were made. No member of the Council shall be eligible to serve in excess of two consecutive terms.

(c) ELECTION AND DUTIES OF OFFICERS.—The Council Chairman and Vice Chairman and other appropriate officers of the Council shall be elected by and from the voting members of the Council. The Council Chairman shall serve as the Council's executive officer and shall direct the administration of the Council, assign officer and committee duties, and shall be responsible for issuing and communicating the reports, policy positions and statements of the Council. In the event that the Council Chairman is unable to serve, the Vice Chairman shall act as Council Chairman.

(d) EXPENSES.—(1) The members of the Council shall receive no compensation for their services as such, but upon request by the Council Chairman, based on a showing of significant economic burden, the Secretary of Transportation or the Chairman of the Board, to the extent provided in advance in appropriation Acts, may provide reasonable and necessary travel expenses for such individual Council members from Department or Board funding sources in order to foster balanced representation on the Council.

(2) Upon request by the Council Chairman, the Secretary or Chairman of the Board, to the extent provided in advance in appropriations Acts, may pay the reasonable and necessary expenses incurred by the Council in connection with the coordination of Council activities, announcement and reporting of meetings, and preparation of such Council documents as are required or permitted by this section.

(3) The Council may solicit and use private funding for its activities, subject to this subsection.

(4) Prior to making any Federal funding requests, the Council Chairman shall undertake best efforts to fund such activities privately unless the Council Chairman determines that such private funding would create a conflict of interest, or the appearance thereof, or is otherwise impractical. The Council Chairman shall not request funding from any Federal agency without providing written justification as to why private funding would create any such conflict or appearance, or is otherwise impractical.

(5) To enable the Council to carry out its functions—

(A) the Council Chairman may request directly from any Federal agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as the Council Chairman determines necessary to carry out the functions of the Council;

(B) each Federal agency may, in its discretion, furnish the Council with such information, services, and facilities as the Council Chairman may request to the extent permitted by law and within the limits of available funds; and

(C) each Federal agency may, in its discretion, detail to temporary duty with the Council, such personnel as the Council Chairman may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status.

(e) MEETINGS.—The Council shall meet at least semi-annually and shall hold other meetings at the call of the Council Chairman. Appropriate Federal facilities, where available, may be used for such meetings. Whenever the Council, or a committee of the Council, considers matters that affect the jurisdictional interests of Federal agencies that are not represented on the Council, the Council Chairman may invite the heads of such agencies, or their designees, to participate in the deliberations of the Council.

(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—(1) The Council shall advise the Secretary, the Chairman, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives with respect to rail transportation policy issues it considers significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims.

(2) To the extent the Council addresses specific grain car issues, it shall coordinate such activities with the National Grain Car Council. The Secretary and Chairman shall cooperate with the Council to provide research, technical and other reasonable support in developing any reports and policy statements required or authorized by this subsection.

(3) The Council shall endeavor to develop within the private sector mechanisms to prevent, or identify and effectively address, obstacles to the most effective and efficient transportation system practicable.

(4) The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve industry issues, and propose whatever regulatory or legislative relief it considers appropriate. The Council shall include in the annual report such recommendations as it considers appropriate with respect to the performance of the Secretary and Chairman under this chapter, and with respect to the operation and effectiveness of meetings and industry developments relating to the Council's efforts, and such other information as it considers appropriate. Such annual reports shall be reviewed by the Secretary and Chairman, and shall include the Secretary's and Chairman's views or comments relating to—

(A) the accuracy of information therein;

(B) Council efforts and reasonableness of Council positions and actions; and

(C) any other aspects of the Council's work as they may consider appropriate.

The Council may prepare other reports or develop policy statements as the Council considers appropriate. An annual report shall be submitted for each fiscal year and shall be submitted to the Secretary and Chairman within 90 days after the end of the fiscal year. Other such reports and statements may be submitted as the Council considers appropriate.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 937, §726; amended Pub. L. 104–287, §5(7), Oct. 11, 1996, 110 Stat. 3389; renumbered §1325, Pub. L. 114–110, §3(a)(6), Dec. 18, 2015, 129 Stat. 2229; amended Pub. L. 117–286, §4(a)(303), Dec. 27, 2022, 136 Stat. 4339.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (a)(4). Pub. L. 117–286 substituted "chapter 10 of title 5." for "the Federal Advisory

Committee Act."

2015—Pub. L. 114–110 renumbered section 726 of this title as this section.

1996—Subsec. (a). Pub. L. 104–287 substituted "December 29, 1995" for "the date of enactment of the ICC Termination Act of 1995" in introductory provisions.

§1326. Authority of the Inspector General

(a) IN GENERAL.—The Inspector General of the Department of Transportation, in accordance with the mission of the Inspector General to prevent and detect fraud and abuse, shall have authority to review only the financial management, property management, and business operations of the Surface Transportation Board, including internal accounting and administrative control systems, to determine the Board's compliance with applicable Federal laws, rules, and regulations.

(b) DUTIES.—In carrying out this section, the Inspector General shall—

(1) keep the Chairman of the Board, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives fully and currently informed about problems relating to administration of the internal accounting and administrative control systems of the Board;

(2) issue findings and recommendations for actions to address the problems referred to in paragraph (1); and

(3) submit periodic reports to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives that describe any progress made in implementing actions to address the problems referred to in paragraph (1).

(c) ACCESS TO INFORMATION.—In carrying out this section, the Inspector General may exercise authorities granted to the Inspector General under subsections (a) and (c) of section 406 of title 5.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FUNDING.—There are authorized to be appropriated to the Secretary of Transportation for use by the Inspector General of the Department of Transportation such sums as may be necessary to cover expenses associated with activities pursuant to the authority exercised under this section.

(2) REIMBURSABLE AGREEMENT.—In the absence of an appropriation under this subsection for an expense referred to in paragraph (1), the Inspector General and the Board shall have a reimbursement agreement to cover such expense.

(Added Pub. L. 114–110, §9, Dec. 18, 2015, 129 Stat. 2232; amended Pub. L. 117–286, §4(b)(97), Dec. 27, 2022, 136 Stat. 4353.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (c). Pub. L. 117–286 substituted "subsections (a) and (c) of section 406 of title 5." for "subsections (a) and (b) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.)."

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

Chapter		Sec.
51.	**Transportation of Hazardous Material**	**5101**
53.	**Public Transportation**	**5301**
55.	**Intermodal Transportation**	**5501**
57.	**Sanitary Food Transportation**	**5701**
59.	**Intermodal Safe Container Transportation**	**5901**

61. One-Call Notification Programs 6101
63.[1] Bureau of Transportation Statistics 6301 [2]
63.[1] Bureau of Transportation Statistics 6301
65. Research planning 6501
67. Multimodal infrastructure investments 6701 [3]

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title I, §21202(c), Nov. 15, 2021, 135 Stat. 676, added item for chapter 67. Item was conformed to the style of this analysis and starting section number was supplied editorially.

2015—Pub. L. 114–94, div. A, title VI, §6019(c), Dec. 4, 2015, 129 Stat. 1581, added second item for chapter 63 and item for chapter 65.

2012—Pub. L. 112–141, div. E, title II, §52011(c)(2), July 6, 2012, 126 Stat. 895, added first item for chapter 63.

2005—Pub. L. 109–59, title III, §3002(c), Aug. 10, 2005, 119 Stat. 1545, substituted "Public" for "Mass" in item for chapter 53.

1998—Pub. L. 105–178, title VII, §7302(b), June 9, 1998, 112 Stat. 482, added item for chapter 61.

[1] So in original. Two items for chapter 63 have been enacted.

[2] Editorially supplied.

[3] See 2021 Amendment note below.

CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

Sec.

5101. Purpose.
5102. Definitions.
5103. General regulatory authority.
5103a. Limitation on issuance of hazmat licenses.
5104. Representation and tampering.
5105. Transporting certain highly radioactive material.
5106. Handling criteria.
5107. Hazmat employee training requirements and grants.
5108. Registration.
5109. Motor carrier safety permits.
5110. Shipping papers and disclosure.
[5111. Repealed.]
5112. Highway routing of hazardous material.
5113. Unsatisfactory safety rating.
5114. Air transportation of ionizing radiation material.
5115. Training curriculum for the public sector.
5116. Planning and training grants, monitoring, and review.
5117. Special permits and exclusions.
5118. Hazardous material technical assessment, research and development, and analysis program.
5119. Uniform forms and procedures.
5120. International uniformity of standards and requirements.
5121. Administrative.
5122. Enforcement.
5123. Civil penalty.

5124. Criminal penalty.
5125. Preemption.
5126. Relationship to other laws.
5127. Judicial review.
5128. Authorization of appropriations.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141, div. C, title III, §33007(b), July 6, 2012, 126 Stat. 836, added item 5118.

2005—Pub. L. 109–59, title VII, §§7111, 7115(a)(2), (h), 7123(c), Aug. 10, 2005, 119 Stat. 1899, 1901, 1908, struck out item 5111 "Rail tank cars", substituted "Special permits and exclusions" for "Exemptions and exclusions" in item 5117, struck out item 5118 "Inspectors", added items 5127 and 5128, and struck out former item 5127 "Authorization of appropriations".

2001—Pub. L. 107–56, title X, §1012(a)(2), Oct. 26, 2001, 115 Stat. 397, added item 5103a.

§5101. Purpose

The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 759; Pub. L. 109–59, title VII, §7101(b), Aug. 10, 2005, 119 Stat. 1891.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5101	49 App.:1801.	Jan. 3, 1975, Pub. L. 93–633, §102, 88 Stat. 2156.

The words "It is declared to be the policy of Congress", "the Nation", and "which are" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59 substituted "The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce" for "The purpose of this chapter is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title III, §3001, Dec. 4, 2015, 129 Stat. 1446, provided that: "This title [amending sections 5302 to 5304, 5307, 5309 to 5312, 5314, 5315, 5323, 5325, 5327, 5329, 5336 to 5340, and 10501 of this title and sections 5313 and 5314 of Title 5, Government Organization and Employees, repealing sections 5313, 5319, and 5322 of this title, enacting provisions set out as notes under 5309, 5310, 5325, 5329, 5338 of this title, section 5313 of Title 5, and section 12143 of Title 42, The Public Health and Welfare, amending provisions set out as a note under sections 5303 of this title, and repealing provisions set out as a note under section 5309 of this title] may be cited as the 'Federal Public Transportation Act of 2015'."

Pub. L. 114–94, div. A, title VII, §7001, Dec. 4, 2015, 129 Stat. 1588, provided that: "This title [amending sections 5103, 5107 to 5109, 5116, 5117, 5121, and 5128 of this title and enacting provisions set out as notes under sections 5103, 5116, 20103, 20141, 20155, and 31305 of this title] may be cited as the 'Hazardous

Materials Transportation Safety Improvement Act of 2015'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–141, div. B, §20001, July 6, 2012, 126 Stat. 622, provided that: "This division [see Tables for classification] may be cited as the 'Federal Public Transportation Act of 2012'."

Pub. L. 112–141, div. C, title III, §33001, July 6, 2012, 126 Stat. 832, provided that: "This title [see Tables for classification] may be cited as the 'Hazardous Materials Transportation Safety Improvement Act of 2012'."

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–59, title III, §3001, Aug. 10, 2005, 119 Stat. 1544, provided that: "This title [see Tables for classification] may be cited as the 'Federal Public Transportation Act of 2005'."

Pub. L. 109–59, title VII, §7001, Aug. 10, 2005, 119 Stat. 1891, provided that: "This title [see Tables for classification] may be cited as the 'Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–178, title III, §3001, June 9, 1998, 112 Stat. 338, provided that: "This title [amending sections 5302 to 5305, 5307 to 5315, 5317 to 5320, 5323, 5325 to 5328, and 5333 to 5338 of this title and enacting provisions set out as notes under sections 301, 5301, 5307 to 5310, 5323, 5336, and 5338 of this title and sections 138 and 322 of Title 23, Highways] may be cited as the 'Federal Transit Act of 1998'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–291, title II, §201, Oct. 11, 1996, 110 Stat. 3453, provided that: "This title [enacting section 5908 of this title and amending sections 5901 to 5903 and 5905 to 5907 of this title] may be cited as the 'Intermodal Safe Container Transportation Amendments Act of 1996'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–311, title I, §101, Aug. 26, 1994, 108 Stat. 1673, provided that: "This title [amending sections 5102 to 5104, 5107, 5108, 5110, 5116, 5117, 5121, and 5125 to 5127 of this title and enacting provisions set out as notes under this section, sections 5103, 5112, and 5121 of this title, and section 307 of Title 23, Highways] may be cited as the 'Hazardous Materials Transportation Authorization Act of 1994'."

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

FINDINGS

Pub. L. 109–59, title VII, §7101(a), Aug. 10, 2005, 119 Stat. 1891, provided that: "Congress finds with respect to hazardous materials transportation that—

"(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

"(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality and meet consumer demands and must be conducted in a safe, secure, and efficient manner;

"(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;

"(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable; and

"(5) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential."

BUY AMERICAN

Pub. L. 103–311, title I, §123, Aug. 26, 1994, 108 Stat. 1682, provided that:

"(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title [see Short Title of 1994 Amendment note above] may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 ([former] 41 U.S.C. 10a–10c; popularly known as the 'Buy American Act' [see 41 U.S.C. 8301 et seq.]), which are applicable to those funds.

"(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

"(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

"(2) In providing financial assistance under this title, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

"(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

"(d) RECIPROCITY.—

"(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

"(2)(A) The Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

"(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party."

"SECRETARY" DEFINED

Pub. L. 112–141, div. C, title III, §33002, July 6, 2012, 126 Stat. 832, provided that: "In this title [see Tables for classification], the term 'Secretary' means the Secretary of Transportation."

§5102. Definitions

In this chapter—

(1) "commerce" means trade or transportation in the jurisdiction of the United States—

(A) between a place in a State and a place outside of the State;

(B) that affects trade or transportation between a place in a State and a place outside of the State; or

(C) on a United States-registered aircraft.

(2) "hazardous material" means a substance or material the Secretary designates under section 5103(a) of this title.

(3) "hazmat employee"—

(A) means an individual—

(i) who—

(I) is employed on a full time, part time, or temporary basis by a hazmat employer; or

(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and

(ii) who during the course of such full time, part time, or temporary employment, or such self employment, directly affects hazardous material transportation safety as the Secretary decides by regulation; and

(B) includes an individual, employed on a full time, part time, or temporary basis by a hazmat employer, or self employed, who during the course of employment—

(i) loads, unloads, or handles hazardous material;

(ii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

(iii) prepares hazardous material for transportation;
(iv) is responsible for the safety of transporting hazardous material; or
(v) operates a vehicle used to transport hazardous material.

(4) "hazmat employer"—
(A) means a person—
(i) who—
(I) employs or uses at least 1 hazmat employee on a full time, part time, or temporary basis; or
(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and

(ii) who—
(I) transports hazardous material in commerce;
(II) causes hazardous material to be transported in commerce; or
(III) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; and

(B) includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in clause (ii).

(5) "imminent hazard" means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
(6) "Indian tribe" has the same meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).[1]
(7) "motor carrier"—
(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102; but
(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.

(8) "National Response Team" means the National Response Team established under the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).
(9) "person", in addition to its meaning under section 1 of title 1—
(A) includes a government, Indian tribe, or authority of a government or tribe that—
(i) offers hazardous material for transportation in commerce;
(ii) transports hazardous material to further a commercial enterprise; or
(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; but

(B) does not include—
(i) the United States Postal Service; and
(ii) in sections 5123 and 5124 of this title, a department, agency, or instrumentality of the Government.

(10) "public sector employee"—

(A) means an individual employed by a State, political subdivision of a State, or Indian tribe and who during the course of employment has responsibilities related to responding to an accident or incident involving the transportation of hazardous material;

(B) includes an individual employed by a State, political subdivision of a State, or Indian tribe as a firefighter or law enforcement officer; and

(C) includes an individual who volunteers to serve as a firefighter for a State, political subdivision of a State, or Indian tribe.

(11) "Secretary" means the Secretary of Transportation except as otherwise provided.

(12) "State" means—

(A) except in section 5119 of this title, a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States designated by the Secretary; and

(B) in section 5119 of this title, a State of the United States and the District of Columbia.

(13) "transports" or "transportation" means the movement of property and loading, unloading, or storage incidental to the movement.

(14) "United States" means all of the States.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 759; Pub. L. 103–311, title I, §117(a)(1), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 104–88, title III, §308(d), Dec. 29, 1995, 109 Stat. 947; Pub. L. 109–59, title VII, §§7102, 7126, Aug. 10, 2005, 119 Stat. 1892, 1909; Pub. L. 110–244, title III, §302(a), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5102(1)	49 App.:1802(1)–(3), (13).	Jan. 3, 1975, Pub. L. 93–633, §103, 88 Stat. 2156; restated Nov. 16, 1990, Pub. L. 101–615, §3(a), 104 Stat. 3245; Oct. 24, 1992, Pub. L. 102–508, §§501, 502, 106 Stat. 3311.
5102(2)	49 App.:1802(4).	
5102(3)	49 App.:1802(5).	
5102(4)	49 App.:1802(6).	
5102(5)	49 App.:1802(7).	
5102(6)	49 App.:1802(8).	
5102(7)	49 App.:1802(9).	
5102(8)	49 App.:1802(10).	
5102(9)	49 App.:1802(11).	
5102(10)	49 App.:1802(12).	
5102(11)	49 App.:1802(14).	
5102(12)	49 App.:1802(15).	
5102(13)	49 App.:1802(16).	

In this chapter, the words "or shipped" are omitted as being included in "transported".

In clause (1), before subclause (A), the text of 49 App.:1802(1), (3), and (13) is omitted because the complete names of the Administrator of the Environmental Protection Agency, Director of the Federal Emergency Management Agency, and Secretary of Transportation are used the first time the terms appear in a section. The words "traffic, commerce" are omitted as surplus. In subclause (B), the words "between a place in a State and a place outside of the State" are substituted for "described in clause (A)" for clarity.

In clauses (3)(C) and (10)(B), the words "at a minimum" are omitted as surplus.

In clause (5), the words "administrative hearing or other" are omitted as surplus.

In clause (9), before subclause (A), the words "including any trustee, receiver, assignee, or similar representative thereof" are omitted as surplus.

In clause (12), the words "by any mode" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), referred to in par. (6), is section 4 of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2204, which was classified to section 450b of Title 25, Indians, prior to editorial reclassification as section 5304 of Title 25.

AMENDMENTS

2008—Par. (3). Pub. L. 110–244 amended Pub. L. 109–59, §7102(2). See 2005 Amendment notes below.

2005—Par. (1)(C). Pub. L. 109–59, §7102(1), added subpar. (C).

Par. (2). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Par. (3)(A)(i). Pub. L. 109–59, §7102(2)(A), as amended by Pub. L. 110–244, §302(a)(1), (2), added cl. (i) and struck out former cl. (i) which read as follows: "employed by a hazmat employer; and".

Par. (3)(A)(ii). Pub. L. 109–59, §7102(2)(B), as amended by Pub. L. 110–244, §302(a)(1), (3), substituted "course of such full time, part time, or temporary employment, or such self employment," for "course of employment" and inserted "and" at end.

Par. (3)(B). Pub. L. 109–59, §7102(2)(D)(i), as amended by Pub. L. 110–244, §302(a)(1), substituted "employed on a full time, part time, or temporary basis by a hazmat employer, or self employed," for "employed by a hazmat employer," in introductory provisions.

Pub. L. 109–59, §7102(2)(C), as amended by Pub. L. 110–244, §302(a)(1), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and".

Par. (3)(B)(ii). Pub. L. 109–59, §7102(2)(D)(ii), as amended by Pub. L. 110–244, §302(a)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: "manufactures, reconditions, or tests containers, drums, and packagings represented as qualified for use in transporting hazardous material;".

Par. (3)(C). Pub. L. 109–59, §7102(2)(C), as amended by Pub. L. 110–244, §302(a)(1), redesignated subpar. (C) as (B).

Par. (4). Pub. L. 109–59, §7102(3), amended par. (4) generally. Prior to amendment, par. (4) consisted of subpars. (A) to (C), which included within definition of "hazmat employer" a person using at least one employee in connection with transporting or containers for transporting hazardous material, an owner-operator of a motor vehicle transporting hazardous material in commerce, and a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out certain described activities.

Par. (5). Pub. L. 109–59, §7102(4), inserted "relating to hazardous material" after "of a condition".

Par. (7). Pub. L. 109–59, §7102(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: " 'motor carrier' means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title."

Par. (8). Pub. L. 109–59, §7102(6), substituted "National Response Team" for "national response team" in two places and "National Contingency Plan" for "national contingency plan".

Par. (9)(A). Pub. L. 109–59, §7102(7), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but".

Pars. (11) to (14). Pub. L. 109–59, §7102(8), added par. (11) and redesignated former pars. (11) to (13) as (12) to (14), respectively.

1995—Par. (7). Pub. L. 104–88 substituted "motor carrier, motor private" for "motor common carrier, motor contract carrier, motor private" and "section 13102" for "section 10102".

1994—Pars. (3)(C)(ii), (4)(A)(iii). Pub. L. 103–311 substituted "packagings" for "packages".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

[1] *See References in Text note below.*

§5103. General regulatory authority

(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary shall designate material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

(A) apply to a person who—

(i) transports hazardous material in commerce;

(ii) causes hazardous material to be transported in commerce;

(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

(iv) prepares or accepts hazardous material for transportation in commerce;

(v) is responsible for the safety of transporting hazardous material in commerce;

(vi) certifies compliance with any requirement under this chapter; or

(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate.

(2) A proceeding to prescribe the regulations must be conducted under section 553 of title 5, including an opportunity for informal oral presentation.

(c) FEDERALLY DECLARED DISASTERS AND EMERGENCIES.—

(1) IN GENERAL.—The Secretary may by order waive compliance with any part of an applicable standard prescribed under this chapter without prior notice and comment and on terms the Secretary considers appropriate if the Secretary determines that—

(A) it is in the public interest to grant the waiver;

(B) the waiver is not inconsistent with the safety of transporting hazardous materials; and

(C) the waiver is necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

(3) STATEMENT OF REASONS.—The Secretary shall include in any order issued under this section the reasons for granting the waiver.

(d) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security

shall consult with the Secretary of Transportation.

(e) BIENNIAL REPORT.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103–311, title I, §117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103–429, §6(3), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 107–296, title XVII, §1711(a), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 109–59, title VII, §§7103, 7126, Aug. 10, 2005, 119 Stat. 1893, 1909; Pub. L. 109–177, title VII, §741, Mar. 9, 2006, 120 Stat. 272; Pub. L. 114–94, div. A, title VII, §7201, Dec. 4, 2015, 129 Stat. 1589.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5103(a)	49 App.:1803.	Jan. 3, 1975, Pub. L. 93–633, §104, 88 Stat. 2156.
5103(b)	49 App.:1804(a) (1)–(3).	Jan. 3, 1975, Pub. L. 93–633, §105(a)(1)–(3), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, §4, 104 Stat. 3247.

In subsection (a), the words "such quantity and form of material" and "in his discretion" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "in accordance with section 553 of title 5" are omitted because 5:553 applies unless otherwise stated. In clause (A)(i), the words "hazardous material in commerce", and in clause (A)(ii), the words "hazardous material . . . in commerce", are added for consistency in this chapter.

PUB. L. 103–429

This amends 49:5103(b)(2) to clarify the restatement of 49 App.:1804(a)(2) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 761).

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(1)(C), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2015—Subsecs. (c) to (e). Pub. L. 114–94 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2006—Subsec. (d). Pub. L. 109–177 added subsec. (d).

2005—Subsec. (a). Pub. L. 109–59, §7126, substituted "Secretary shall designate" for "Secretary of Transportation shall designate".

Pub. L. 109–59, §7103(a), substituted "infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material," for "etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material," and "determines" for "decides".

Subsec. (b)(1)(A). Pub. L. 109–59, §7103(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "apply to a person—

"(i) transporting hazardous material in commerce;

"(ii) causing hazardous material to be transported in commerce; or

"(iii) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a packaging or a container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; and".

Subsec. (b)(1)(C). Pub. L. 109–59, §7103(c)(1), struck out heading and text of subpar. (C). Text read as follows: "When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary."

Subsec. (c). Pub. L. 109–59, §7103(c)(2), added subsec. (c).

2002—Subsec. (b)(1). Pub. L. 107–296, §1711(a)(1), substituted "transportation, including security," for "transportation" in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107–296, §1711(a)(2), substituted "aspects, including security," for "aspects".

Subsec. (b)(1)(C). Pub. L. 107–296, §1711(a)(3), added subpar. (C).

1994—Subsec. (b)(1)(A)(iii). Pub. L. 103–311 substituted "a packaging or a" for "a package or".

Subsec. (b)(2). Pub. L. 103–429 substituted "be conducted under section 553 of title 5, including" for "include" and "presentation" for "presentations".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

GAO STUDY ON ACCEPTANCE OF CLASSIFICATION EXAMINATIONS

Pub. L. 114–94, div. A, title VII, §7207, Dec. 4, 2015, 129 Stat. 1592, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Comptroller General of the United States shall evaluate and transmit to the Secretary [of Transportation], the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report on the standards, metrics, and protocols that the Secretary uses to regulate the performance of persons approved to recommend hazard classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations (commonly referred to as 'third-party labs').

"(b) EVALUATION.—The evaluation required under subsection (a) shall—

"(1) identify what standards and protocols are used to approve such persons, assess the adequacy of such standards and protocols to ensure that persons seeking approval are qualified and capable of performing classifications, and make recommendations to address any deficiencies identified;

"(2) assess the adequacy of the Secretary's oversight of persons approved to perform the classifications, including the qualification of individuals engaged in the oversight of approved persons, and make recommendations to enhance oversight sufficiently to ensure that classifications are issued as required;

"(3) identify what standards and protocols exist to rescind, suspend, or deny approval of persons who perform such classifications, assess the adequacy of such standards and protocols, and make recommendations to enhance such standards and protocols if necessary; and

"(4) include annual data for fiscal years 2005 through 2015 on the number of applications received for new classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations, of those applications how many classifications recommended by persons approved by the Secretary were changed to another classification and the reasons for the change, and how many hazardous materials incidents have been attributed to a classification recommended by such approved persons in the United States.

"(c) ACTION PLAN.—Not later than 180 days after receiving the report required under subsection (a), the Secretary shall make available to the public a plan describing any actions the Secretary will take to establish

standards, metrics, and protocols based on the findings and recommendations in the report to ensure that persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, can sufficiently perform such examinations in a manner that meets the hazardous materials regulations.

"(d) REGULATIONS.—If the report required under subsection (a) recommends new regulations in order for the Secretary to have confidence in the accuracy of classification recommendations rendered by persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, the Secretary shall consider such recommendations, and if determined appropriate, issue regulations to address the recommendations not later than 18 months after the date of the publication of the plan under subsection (c)."

RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY

Pub. L. 110–432, div. A, title IV, §411, Oct. 16, 2008, 122 Stat. 4888, provided that:

"(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) [probably means section 5105(a)] of title 49, United States Code), supplementing the report submitted under section 5101(b) [probably means section 5105(b)] of that title, which may include—

"(1) an analysis of the potential application of 'as low as reasonably achievable' principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

"(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

"(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

"(4) a review of the effectiveness of the Department's packaging requirements for radioactive materials.

"(b) REPORT.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

"(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials."

[For definitions of "railroad carrier", "Department", "railroad", and "Secretary", as used in section 411 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

SAFE PLACEMENT OF TRAIN CARS

Pub. L. 103–311, title I, §111, Aug. 26, 1994, 108 Stat. 1676, provided that: "The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act [Aug. 26, 1994]."

FIBER DRUM PACKAGING

Pub. L. 104–88, title IV, §406, Dec. 29, 1995, 109 Stat. 957, provided that:

"(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of the enactment of this Act [Dec. 29, 1995] authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991, if—

"(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act [former 49 U.S.C. 1801 et seq.] as in effect on September 30, 1991; and

"(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packing Groups I and II.

"(b) EXPIRATION.—The regulation referred to in subsection (a) shall expire on the later of September 30, 1997, or the date on which funds are authorized to be appropriated to carry out chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), for fiscal years beginning after September 30, 1997.

"(c) STUDY.—

"(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act [Dec. 29, 1995], the Secretary shall contract with the National Academy of Sciences to conduct a study—

"(A) to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to fiber drum packaging with a removable head can be met for the transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards (including fiber drum industry standards set forth in a June 8, 1992, exemption application submitted to the Department of Transportation), other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations; and

"(B) to determine whether a packaging standard (including such fiber drum industry standards), other than such performance-oriented packaging standards, will provide an equal or greater level of safety for the transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect.

"(2) COMPLETION.—The study shall be completed before March 1, 1997 and shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

"(d) SECRETARIAL ACTION.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c)."

Pub. L. 103–311, title I, §122, Aug. 26, 1994, 108 Stat. 1681, provided that:

"(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act [Aug. 26, 1994], the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations.

"(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

"(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

"(d) LIMITATIONS.—

"(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

"(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials."

§5103a. Limitation on issuance of hazmat licenses

(a) LIMITATION.—

(1) ISSUANCE OF LICENSES.—A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless—

(A) "the Secretary of Homeland Security"; [1] has first determined, upon receipt of a notification under subsection (d)(1)(B), that the individual does not pose a security risk warranting denial of the license; or

(B) the individual holds a valid transportation security card issued under section 70105 of title 46.

(2) RENEWALS INCLUDED.—For the purposes of this section, the term "issue", with respect to a license, includes renewal of the license.

(b) HAZARDOUS MATERIALS DESCRIBED.—The limitation in subsection (a) shall apply with respect to any material defined as hazardous material by the Secretary of Transportation for which the Secretary of Transportation requires placarding of a commercial motor vehicle transporting that material in commerce.

(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secretary of Health and Human Services determines that such material or agent poses a significant risk to the health of individuals.

(d) BACKGROUND RECORDS CHECK.—

(1) IN GENERAL.—Upon the request of a State regarding issuance of a license under subsection (a)(1)(A) to an individual, the Attorney General—

(A) shall carry out a background records check regarding the individual; and

(B) upon completing the background records check, shall notify the Secretary of Homeland Security of the completion and results of the background records check.

(2) SCOPE.—A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history data bases.

(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international data bases through Interpol–U.S. National Central Bureau or other appropriate means.

(e) REPORTING REQUIREMENT.—Each State shall submit to the Secretary of Homeland Security, at such time and in such manner as the Secretary of Homeland Security may prescribe, the name, address, and such other information as the Secretary of Homeland Security may require, concerning—

(1) each alien to whom the State issues a license described in subsection (a); and

(2) each other individual to whom such a license is issued, as the Secretary of Homeland Security may require.

(f) ALIEN DEFINED.—In this section, the term "alien" has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act.

(g) BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.—

(1) IN GENERAL.—

(A) EMPLOYER NOTIFICATION.—Not later than 90 days after the date of enactment of this subsection, the Director of the Transportation Security Administration, after receiving comments from interested parties, shall develop and implement a process for notifying hazmat employers designated by an applicant of the results of the applicant's background record check, if—

(i) such notification is appropriate considering the potential security implications; and

(ii) the Director, in a final notification of threat assessment,[2] served on the applicant [2] determines that the applicant does not meet the standards set forth in regulations issued to carry out this section.

(B) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

(i) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(I) has performed a security threat assessment under this section; and

(II) has issued a final notification of no security threat,

is deemed to have met the requirements of any other background check that is required for purposes of any Federal law applicable to transportation workers if that background check is equivalent to, or less stringent than, the background check required under this section.

(ii) DETERMINATION BY DIRECTOR.—Not later than 60 days after the date of issuance of the report under paragraph (5), but no later than 120 days after the date of enactment of this subsection, the Director shall initiate a rulemaking proceeding, including notice and opportunity for comment, to determine which background checks required for purposes of Federal laws applicable to transportation workers are equivalent to, or less stringent than, those required under this section.

(iii) FUTURE RULEMAKINGS.—The Director shall make a determination under the criteria established under clause (ii) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this subsection.

(2) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes its own standards for applicants for a hazardous materials endorsement to a commercial driver's license, the State shall also provide—

(A) an appeals process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial; and

(B) a waiver process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may apply for a waiver.

(3) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term "transportation security incident", as defined in part 1572 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Not later than 30 days after the date of enactment of this subsection, the Director shall modify the definition of that term to reflect the preceding sentence.

(4) BACKGROUND CHECK CAPACITY.—Not later than October 1, 2005, the Director shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives a report on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

(5) REPORT.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Director shall transmit to the committees referred to in paragraph (4) a report on the Director's plans to reduce or eliminate redundant background checks for holders of hazardous materials endorsements performed under this section.

(B) CONTENTS.—The report shall—

(i) include a list of background checks and other security or threat assessment requirements

applicable to transportation workers under Federal laws for which the Department of Homeland Security is responsible and the process by which the Secretary of Homeland Security will determine whether such checks or assessments are equivalent to, or less stringent than, the background check performed under this section; and

(ii) provide an analysis of how the Director plans to reduce or eliminate redundant background checks in a manner that will continue to ensure the highest level of safety and security.

(h) COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.—

(1) IN GENERAL.—Beginning on the date that is 6 months after the date of enactment of this subsection, a commercial motor vehicle operator registered to operate in Mexico or Canada shall not operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) EXTENSION.—The Director of the Transportation Security Administration may extend the deadline established by paragraph (1) for a period not to exceed 6 months if the Director determines that such an extension is necessary.

(3) COMMERCIAL MOTOR VEHICLE DEFINED.—In this subsection, the term "commercial motor vehicle" has the meaning given that term by section 31101.

(Added Pub. L. 107–56, title X, §1012(a)(1), Oct. 26, 2001, 115 Stat. 396; amended Pub. L. 109–59, title VII, §§7104, 7105, 7126, Aug. 10, 2005, 119 Stat. 1894, 1909; Pub. L. 110–53, title XV, §1556(a), Aug. 3, 2007, 121 Stat. 475; Pub. L. 110–244, title III, §302(b), June 6, 2008, 122 Stat. 1618; Pub. L. 115–254, div. K, title I, §1978, Oct. 5, 2018, 132 Stat. 3618.)

EDITORIAL NOTES

REFERENCES IN TEXT

With respect to a "transportation security card issued under section 70105 of title 46", referred to in subsec. (a)(1)(B), amendments made by Pub. L. 117–263 to section 70105 of Title 46, Shipping, are such that section 70105 now refers to "transportation worker identification credential" rather than "transportation security card". See section 70105 of Title 46.

Section 101(a)(3) of the Immigration and Nationality Act, referred to in subsec. (f), is classified to section 1101(a)(3) of Title 8, Aliens and Nationality.

The date of enactment of this subsection, referred to in subsecs. (g) and (h), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–254, §1978(a), substituted "unless—" for "unless", "(A) 'the Secretary of Homeland Security';" for "the Secretary of Homeland Security", and "; or" for period at end and added subpar. (B).

Subsec. (d)(1). Pub. L. 115–254, §1978(b), substituted "under subsection (a)(1)(A)" for "described in subsection (a)(1)" in introductory provisions.

2008—Subsec. (g)(1)(B)(ii). Pub. L. 110–244 substituted "subsection" for "Act".

2007—Subsec. (a)(1). Pub. L. 110–53, §1556(a)(1), substituted "Secretary of Homeland Security" for "Secretary".

Subsec. (b). Pub. L. 110–53, §1556(a)(2), substituted "Secretary of Transportation" for "Secretary" in two places.

Subsec. (d)(1)(B). Pub. L. 110–53, §1556(a)(3), substituted "Secretary of Homeland Security" for "Secretary".

Subsec. (e). Pub. L. 110–53, §1556(a)(4), substituted "Secretary of Homeland Security" for "Secretary" wherever appearing.

2005—Subsec. (a)(1). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Pub. L. 109–59, §7104(c), substituted "subsection (d)(1)(B)," for "subsection (c)(1)(B),".

Subsec. (b). Pub. L. 109–59, §7104(a), substituted "with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce" for "with respect to—

"(1) any material defined as a hazardous material by the Secretary of Transportation; and

"(2) any chemical or biological material or agent determined by the Secretary of Health and Human Services or the Attorney General as being a threat to the national security of the United States".

Subsec. (c). Pub. L. 109–59, §7104(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109–59, §7104(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1)(B). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Subsec. (e). Pub. L. 109–59, §7126, substituted "submit to the Secretary" for "submit to the Secretary of Transportation" in introductory provisions.

Pub. L. 109–59, §7104(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–59, §7104(b)(1), redesignated subsec. (e) as (f).

Subsecs. (g), (h). Pub. L. 109–59, §7105, added subsecs. (g) and (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 107–56, title X, §1012(c), Oct. 26, 2001, 115 Stat. 398, provided that: "There is authorized to be appropriated for the Department of Transportation and the Department of Justice such amounts as may be necessary to carry out section 5103a of title 49, United States Code, as added by subsection (a)."

[1] So in original. The quotation marks and semicolon probably should not appear.

[2] So in original. Comma probably should appear after "applicant".

§5104. Representation and tampering

(a) REPRESENTATION.—A person may represent, by marking or otherwise, that—

(1) a package, component of a package, or packaging for transporting hazardous material is safe, certified, or complies with this chapter only if the package, component of a package, or packaging meets the requirements of each applicable regulation prescribed under this chapter; or

(2) hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel only if the material is present.

(b) TAMPERING.—No person may alter, remove, destroy, or otherwise tamper unlawfully with—

(1) a marking, label, placard, or description on a document required under this chapter or a regulation prescribed under this chapter; or

(2) a package, component of a package, or packaging, container, motor vehicle, rail freight car, aircraft, or vessel used to transport hazardous material.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103–311, title I, §117(b), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103–429, §6(4), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 109–59, title VII, §7106, Aug. 10, 2005, 119 Stat. 1897.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5104(a)	49 App.:1804(e).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §105(e), (f); added Nov. 16, 1990, Pub. L. 101–615, §5, 104 Stat.

5104(b)	49 App.:1804(f).	3252.

In subsection (a)(1), the words "the requirements of" and "applicable" are omitted as surplus.
In subsection (b), before clause (1), the word "deface" is omitted as surplus.

PUB. L. 103–429

This amends 49:5104(a)(1) to clarify the restatement of 49 App.:1804(e)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 761).

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, §7106(a), substituted "a package, component of a package, or packaging for" for "a container, package, or packaging (or a component of a container, package, or packaging) for" and "the package, component of a package, or packaging meets" for "the container, package, or packaging (or a component of a container, package, or packaging) meets".

Subsec. (b). Pub. L. 109–59, §7106(b)(1), substituted "No person may" for "A person may not" in introductory provisions.

Subsec. (b)(2). Pub. L. 109–59, §7106(b)(2), inserted "component of a package, or packaging," after "package,".

1994—Subsec. (a)(1). Pub. L. 103–429 inserted "applicable" after "each".

Pub. L. 103–311 substituted ", package, or packaging (or a component of a container, package, or packaging)" for "or package" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§5105. Transporting certain highly radioactive material

(a) DEFINITIONS.—In this section, "high-level radioactive waste" and "spent nuclear fuel" have the same meanings given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) TRANSPORTATION SAFETY STUDY.—In consultation with the Secretary of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the rail transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, the Secretary shall conduct a study comparing the safety of using trains operated only to transport high-level radioactive waste and spent nuclear fuel with the safety of using other methods of rail transportation for transporting that waste and fuel. The Secretary shall submit to Congress not later than November 16, 1991, a report on the results of the study.

(c) SAFE RAIL TRANSPORTATION REGULATIONS.—Not later than November 16, 1992, after considering the results of the study conducted under subsection (b) of this section, the Secretary shall prescribe amendments to existing regulations that the Secretary considers appropriate to provide for the safe rail transportation of high-level radioactive waste and spent nuclear fuel, including trains operated only for transporting high-level radioactive waste and spent nuclear fuel.

(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—(1) Not later than November 16, 1991, the Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United

States motor carrier safety laws and regulations. The Secretary may require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures.

(2) The Secretary may allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter. The inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle apply to an individual conducting an inspection under this paragraph.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 762; Pub. L. 109–59, title VII, §§7107, 7126, Aug. 10, 2005, 119 Stat. 1897, 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5105(a)	49 App.:1813(e).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §116(e); added Oct. 24, 1992, Pub. L. 102–508, §505(2), 106 Stat. 3311.
	49 App.:1813 (note).	Nov. 16, 1990, Pub. L. 101–615, §16(e), 104 Stat. 3263.
5105(b)	49 App.:1813(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §116(a)–(d); added Oct. 30, 1984, Pub. L. 98–559, §3, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101–615, §15, 104 Stat. 3261; Oct. 24, 1992, Pub. L. 102–508, §505(1), 106 Stat. 3311.
5105(c)	49 App.:1813(b).	
5105(d)	49 App.:1813(c).	
5105(e)	49 App.:1813(d).	

In subsection (a), section 16(e) of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3263) is included to correct a mistake in the source provisions being restated. See section 16(a)(1) of the Act of 1990 (Public Law 101–615, 104 Stat. 3262), stating that the meanings of "high-level radioactive waste" and "spent nuclear fuel" are as defined in 49 App.:1813, as added by section 15 of the Act (104 Stat. 3261). See also Cong. Rec. S16863 (daily ed., Oct. 23, 1990).

In subsection (b), the words "Secretary of Energy" are substituted for "Department of Energy" because of 42:7131.

In subsection (c), the word "regulations" is substituted for "rule" for consistency in the revised title and with other titles of the United States Code and because "rule" and "regulation" are synonymous.

In subsection (d), before clause (1), the words "In combination" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2005—Subsecs. (b), (c). Pub. L. 109–59, §7126, substituted "Secretary shall" for "Secretary of Transportation shall" wherever appearing.

Subsec. (d). Pub. L. 109–59, §7126, substituted "Secretary shall" for "Secretary of Transportation shall" in par. (1) and "Secretary may" for "Secretary of Transportation may" in par. (2).

Pub. L. 109–59, §7107, redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to a study to be conducted not later than Nov. 16, 1991, to decide which factors, if any, shippers and carriers should consider when selecting routes and modes that would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel.

Subsec. (e). Pub. L. 109–59, §7107(2), redesignated subsec. (e) as (d).

§5106. Handling criteria

The Secretary may prescribe criteria for handling hazardous material, including—

(1) a minimum number of personnel;

(2) minimum levels of training and qualifications for personnel;

(3) the kind and frequency of inspections;

(4) equipment for detecting, warning of, and controlling risks posed by the hazardous material;

(5) specifications for the use of equipment and facilities used in handling and transporting the hazardous material; and

(6) a system of monitoring safety procedures for transporting the hazardous material.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 763; Pub. L. 109–59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5106	49 App.:1805(a).	Jan. 3, 1975, Pub. L. 93–633, §106(a), 88 Stat. 2157.

Before clause (1), the text of 49 App.:1805(a) (last sentence) is omitted as being included in "prescribe". In clause (4), the words "to be used" are omitted as surplus. In clause (6), the word "assurance" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59 substituted "Secretary" for "Secretary of Transportation" in introductory provisions.

§5107. Hazmat employee training requirements and grants

(a) TRAINING REQUIREMENTS.—The Secretary shall prescribe by regulation requirements for training that a hazmat employer must give hazmat employees of the employer on the safe loading, unloading, handling, storing, and transporting of hazardous material and emergency preparedness for responding to an accident or incident involving the transportation of hazardous material. The regulations—

(1) shall establish the date, as provided by subsection (b) of this section, by which the training shall be completed; and

(2) may provide for different training for different classes or categories of hazardous material and hazmat employees.

(b) BEGINNING AND COMPLETING TRAINING.—A hazmat employer shall begin the training of hazmat employees of the employer not later than 6 months after the Secretary prescribes the regulations under subsection (a) of this section. The training shall be completed within a reasonable period of time after—

(1) 6 months after the regulations are prescribed; or

(2) the date on which an individual is to begin carrying out a duty or power of a hazmat employee if the individual is employed as a hazmat employee after the 6-month period.

(c) CERTIFICATION OF TRAINING.—After completing the training, each hazmat employer shall certify, with documentation the Secretary may require by regulation, that the hazmat employees of the employer have received training and have been tested on appropriate transportation areas of

responsibility, including at least one of the following:

(1) recognizing and understanding the Department of Transportation hazardous material classification system.

(2) the use and limitations of the Department hazardous material placarding, labeling, and marking systems.

(3) general handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transporting hazardous material.

(4) health, safety, and risk factors associated with hazardous material and the transportation of hazardous material.

(5) appropriate emergency response and communication procedures for dealing with an accident or incident involving hazardous material transportation.

(6) the use of the Department Emergency Response Guidebook and recognition of its limitations or the use of equivalent documents and recognition of the limitations of those documents.

(7) applicable hazardous material transportation regulations.

(8) personal protection techniques.

(9) preparing a shipping document for transporting hazardous material.

(d) COORDINATION OF TRAINING REQUIREMENTS.—In consultation with the Administrator of the Environmental Protection Agency and the Secretary of Labor, the Secretary shall ensure that the training requirements prescribed under this section do not conflict with or duplicate—

(1) the requirements of regulations the Secretary of Labor prescribes related to hazard communication, and hazardous waste operations, and emergency response that are contained in part 1910 of title 29, Code of Federal Regulations; and

(2) the regulations the Agency prescribes related to worker protection standards for hazardous waste operations that are contained in part 311 of title 40, Code of Federal Regulations.

(e) TRAINING GRANTS.—

(1) IN GENERAL.—Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—

(A) for training instructors to train hazmat employees; and

(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.

(2) ELIGIBILITY.—A grant under this subsection shall be made through a competitive process to a nonprofit organization that demonstrates—

(A) expertise in conducting a training program for hazmat employees; and

(B) the ability to reach and involve in a training program a target population of hazmat employees.

(f) TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.

(g) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)–(d) of this section.

(2) An action of the Secretary under subsections (a)–(d) of this section and section 5106 is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(h) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.

(i) COMMUNITY SAFETY GRANTS.—The Secretary shall establish a competitive program for making grants to nonprofit organizations for—

(1) conducting national outreach and training programs to assist communities in preparing for and responding to accidents and incidents involving the transportation of hazardous materials, including Class 3 flammable liquids by rail; and

(2) training State and local personnel responsible for enforcing the safe transportation of hazardous materials, including Class 3 flammable liquids.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 763; Pub. L. 103–311, title I, §§106, 119(c)(1)–(3), Aug. 26, 1994, 108 Stat. 1674, 1680; Pub. L. 109–59, title VII, §§7108, 7126, Aug. 10, 2005, 119 Stat. 1897, 1909; Pub. L. 112–141, div. C, title III, §33016, July 6, 2012, 126 Stat. 841; Pub. L. 114–94, div. A, title VII, §7301, Dec. 4, 2015, 129 Stat. 1594.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5107(a)	49 App.:1805(b)(1), (2), (5) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §106(b); added Nov. 16, 1990, Pub. L. 101–615, §7(3), 104 Stat. 3253.
5107(b)	49 App.:1805(b)(4), (5) (last sentence).	
5107(c)	49 App.:1805(b)(6).	
5107(d)	49 App.:1805(b)(3) (1st sentence).	
5107(e)	49 App.:1816(a)–(c).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §118(a)–(c); added Nov. 16, 1990, Pub. L. 101–615, §18, 104 Stat. 3269.
5107(f)(1)	49 App.:1805(b)(7).	
5107(f)(2)	49 App.:1805(b)(3) (last sentence).	

In subsections (a)(1) and (b), before clause (1), the words "in order to comply with requirements established by such regulations" are omitted as surplus.

In subsection (a), before clause (1), the words "Within 18 months after November 16, 1990" are omitted as obsolete. In clause (1), the words "as provided by subsection (b) of this section" are added for clarity.

In subsection (b), before clause (1), the words "in accordance with the requirements established by such regulations" are omitted as surplus.

In subsection (c), before clause (1), the words "in accordance with the requirements established under this subsection" and "appropriate" before "documentation" are omitted as surplus.

In subsection (d), before clause (1), the words "take such actions as may be necessary to" are omitted as surplus. In clauses (1) and (2), the words "(and amendments thereto)" are omitted as surplus. In clause (1), the words "Secretary of Labor" are substituted for "Occupational Safety and Health Administration of the Department of Labor" because of 29:551.

In subsection (e), the words "and education" are omitted as being included in "training". Before clause (1), the words "regarding the safe loading, unloading, handling, storage, and transportation of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials in order to meet the requirements issued under section 1816(b) of this title may be made under this section" are omitted as surplus.

In subsection (f)(1), the words "(relating to coordination of Federal information policy)" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (i). Pub. L. 114–94 added subsec. (i).

2012—Subsec. (e)(2). Pub. L. 112–141 inserted "through a competitive process" after "shall be made" and struck out "hazmat employee" after "nonprofit" in introductory provisions.

2005—Subsecs. (a) to (d). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in introductory provisions of subsecs. (a) to (c) and "Secretary shall" for "Secretary of Transportation shall" in introductory provisions of subsec. (d).

Subsec. (e). Pub. L. 109–59, §7108(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: "The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section. A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

"(1) expertise in conducting a training program for hazmat employees; and

"(2) the ability to reach and involve in a training program a target population of hazmat employees."

Subsec. (f). Pub. L. 109–59, §7108(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, §7108(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Subsec. (g)(2). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Pub. L. 109–59, §7108(4), substituted "section 5106" for "sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title".

Subsec. (h). Pub. L. 109–59, §7108(2), redesignated subsec. (g) as (h).

1994—Subsec. (d). Pub. L. 103–311, §106, in introductory provisions inserted "or duplicate" after "conflict with" and in par. (1) substituted "hazard communication, and hazardous waste operations, and" for "hazardous waste operations and".

Subsec. (e). Pub. L. 103–311, §119(c)(1), (2), in first sentence substituted "The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section." for "In consultation with the Secretaries of Transportation and Labor and the Administrator, the Director of the National Institute of Environmental Health Sciences may make grants to train hazmat employees under this section." and in second sentence inserted "hazmat employee" after "nonprofit".

Subsec. (g). Pub. L. 103–311, §119(c)(3), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5108. Registration

(a) PERSONS REQUIRED TO FILE.—(1) A person shall file a registration statement with the Secretary under this subsection if the person is transporting or causing to be transported in commerce any of the following:

(A) a highway-route-controlled quantity of radioactive material.

(B) more than 25 kilograms of a Division 1.1, 1.2, or 1.3 explosive material in a motor vehicle, rail car, or transport container.

(C) more than one liter in each package of a hazardous material the Secretary designates as extremely toxic by inhalation.

(D) hazardous material in a bulk packaging, container, or tank, as defined by the Secretary, if the bulk packaging, container, or tank has a capacity of at least 3,500 gallons or more than 468 cubic feet.

(E) a shipment of at least 5,000 pounds (except in a bulk packaging) of a class of hazardous

material for which placarding of a vehicle, rail car, or freight container is required under regulations prescribed under this chapter.

(2) The Secretary may require any of the following persons to file a registration statement with the Secretary under this subsection:

(A) a person transporting or causing to be transported hazardous material in commerce and not required to file a registration statement under paragraph (1) of this subsection.

(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(3) A person required to file a registration statement under this subsection may transport or cause to be transported, or design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or container for use in transporting, hazardous material, only if the person has a statement on file as required by this subsection.

(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.

(b) FORM, CONTENTS, AND LIMITATION ON FILINGS.—(1) A registration statement under subsection (a) of this section shall be in the form and contain information the Secretary requires by regulation. The Secretary may use existing forms of the Department of Transportation and the Environmental Protection Agency to carry out this subsection. The statement shall include—

(A) the name and principal place of business of the registrant;

(B) a description of each activity the registrant carries out for which filing a statement under subsection (a) of this section is required; and

(C) each State in which the person carries out any of the activities.

(2) A person carrying out more than one activity, or an activity at more than one location, for which filing is required only has to file one registration statement to comply with subsection (a) of this section.

(c) FILING.—Each person required to file a registration statement under subsection (a) shall file the statement in accordance with regulations prescribed by the Secretary.

(d) SIMPLIFYING THE REGISTRATION PROCESS.—The Secretary may take necessary action to simplify the registration process under subsections (a)–(c) of this section and to minimize the number of applications, documents, and other information a person is required to file under this chapter and other laws of the United States.

(e) COOPERATION WITH ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall assist the Secretary in carrying out subsections (a)–(g)(1) and (h) of this section by providing the Secretary with information the Secretary requests to carry out the objectives of subsections (a)–(g)(1) and (h).

(f) AVAILABILITY OF STATEMENTS.—The Secretary shall make a registration statement filed under subsection (a) of this section available for inspection by any person for a fee the Secretary establishes. However, this subsection does not require the release of information described in section 552(b) of title 5 or otherwise protected by law from disclosure to the public.

(g) FEES.—(1) The Secretary shall establish, impose, and collect from a person required to file a registration statement under subsection (a) of this section a fee necessary to pay for the costs of the Secretary in processing the statement.

(2)(A) In addition to a fee established under paragraph (1) of this subsection, the Secretary shall establish and impose by regulation and collect an annual fee. Subject to subparagraph (B) of this

paragraph, the fee shall be at least $250 but not more than $3,000 from each person required to file a registration statement under this section. The Secretary shall determine the amount of the fee under this paragraph on at least one of the following:

(i) gross revenue from transporting hazardous material.

(ii) the type of hazardous material transported or caused to be transported.

(iii) the amount of hazardous material transported or caused to be transported.

(iv) the number of shipments of hazardous material.

(v) the number of activities that the person carries out for which filing a registration statement is required under this section.

(vi) the threat to property, individuals, and the environment from an accident or incident involving the hazardous material transported or caused to be transported.

(vii) the percentage of gross revenue derived from transporting hazardous material.

(viii) the amount to be made available to carry out sections 5108(g)(2), 5115, and 5116 of this title.

(ix) other factors the Secretary considers appropriate.

(B) The Secretary shall adjust the amount being collected under this paragraph to reflect any unexpended balance in the account established under section 5116(h) of this title. However, the Secretary is not required to refund any fee collected under this paragraph.

(C) The Secretary shall transfer to the Secretary of the Treasury amounts the Secretary of Transportation collects under this paragraph for deposit in the Hazardous Materials Emergency Preparedness Fund established under section 5116(h) of this title.

(3) FEES ON EXEMPT PERSONS.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the costs incurred by the Secretary in processing registration statements filed by such persons.

(h) MAINTAINING PROOF OF FILING AND PAYMENT OF FEES.—The Secretary may prescribe regulations requiring a person required to file a registration statement under subsection (a) of this section to maintain proof of the filing and payment of fees imposed under subsection (g) of this section.

(i) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)–(g)(1) and (h) of this section.

(2)(A) This section does not apply to an employee of a hazmat employer.

(B) Subsections (a)–(h) of this section do not apply to a department, agency, or instrumentality of the United States Government, an authority of a State or political subdivision of a State, an Indian tribe, or an employee of a department, agency, instrumentality, or authority carrying out official duties.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 765; Pub. L. 103–311, title I, §§104, 117(a)(3), 119(d)(1), Aug. 26, 1994, 108 Stat. 1673, 1678, 1680; Pub. L. 105–102, §2(3), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105–225, §7(b)(1), Aug. 12, 1998, 112 Stat. 1511; Pub. L. 109–59, title VII, §§7109(a)–(c), (e), (f), 7114(d)(3), 7126, Aug. 10, 2005, 119 Stat. 1897, 1898, 1900, 1909; Pub. L. 114–94, div. A, title VII, §7203(b)(1), Dec. 4, 2015, 129 Stat. 1591.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5108(a)(1)	49 App.:1805(c)(1).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §106(c); added Nov. 16, 1990, Pub. L. 101–615, §8(a), 104 Stat.

		3255; Oct. 24, 1992, Pub. L. 102–508, §503(a)(1)–(3), (b), 106 Stat. 3311.
5108(a)(2)	49 App.:1805(c)(3).	
5108(a)(3)	49 App.:1805(c)(4).	
5108(b)	49 App.:1805(c)(7), (8).	
5108(c)	49 App.:1805(c)(5), (6).	
5108(d)	49 App.:1805(c)(9).	
5108(e)	49 App.:1805(c)(2).	
5108(f)	49 App.:1805(c)(10).	
5108(g)(1)	49 App.:1805(c)(11).	
5108(g)(2)	49 App.:1815(h) (1)–(5).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A(h)(1)– (5); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3267.
5108(h)	49 App.:1805(c)(12).	
5108(i)	49 App.:1805(c) (13)–(15).	

In subsection (b)(1), before clause (A), the words "at a minimum" are omitted as surplus.

In subsection (d), the words "streamline and", "with respect to a person who is required to file a registration statement under this subsection", and "with the Department of Transportation" are omitted as surplus.

In subsection (g), the word "impose" is substituted for "assess" for consistency in the revised title and with other titles of the United States Code.

In subsection (g)(2)(A), before clause (i), the words "Not later than September 30, 1992" are omitted as obsolete. In clause (viii), the words "of funds" are omitted as surplus.

In subsection (g)(2)(B), the words "of fees" and "from persons" are omitted as surplus.

In subsection (i)(1), the words "(relating to coordination of Federal information policy)" are omitted as surplus.

In subsection (i)(2)(A), the words "Notwithstanding any other provisions of this subsection" are omitted as surplus.

PUB. L. 105–102

This amends 49:5108(f) to correct an erroneous cross-reference.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (g)(2)(B), (C). Pub. L. 114–94 substituted "5116(h)" for "5116(i)".

2005—Subsec. (a)(1). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 109–59, §7109(a)(1), substituted "Division 1.1, 1.2, or 1.3 explosive material" for "class A or B explosive".

Subsec. (a)(2). Pub. L. 109–59, §7126, substituted "Secretary may" for "Secretary of Transportation may" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 109–59, §7109(a)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "a person manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a package or container the person represents, marks, certifies, or sells for use in transporting in commerce hazardous material the Secretary designates."

Subsec. (a)(3). Pub. L. 109–59, §7109(a)(3), substituted "design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or" for "manufacture, fabricate, mark, maintain, recondition, repair, or test a package or".

Subsec. (b)(1). Pub. L. 109–59, §7126, substituted "Secretary requires" for "Secretary of Transportation requires" in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 109–59, §7109(b), substituted "any of the activities" for "the activity".

Subsec. (c). Pub. L. 109–59, §7109(c), amended heading and text of subsec. (c) generally. Prior to

amendment, text read as follows:

"(1) Each person required to file a registration statement under subsection (a) of this section must file the first statement not later than March 31, 1992. The Secretary of Transportation may extend that date to September 30, 1992, for activities referred to in subsection (a)(1) of this section. A person shall renew the statement periodically consistent with regulations the Secretary prescribes, but not more than once each year and not less than once every 5 years.

"(2) The Secretary of Transportation shall decide by regulation when and under what circumstances a registration statement must be amended and the procedures to follow in amending the statement."

Subsecs. (d) to (f). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in subsec. (d), "Secretary in carrying" for "Secretary of Transportation in carrying" in subsec. (e), and "Secretary shall" for "Secretary of Transportation shall" in subsec. (f).

Subsec. (g)(1). Pub. L. 109–59, §7126, substituted "Secretary shall" for "Secretary of Transportation shall".

Pub. L. 109–59, §7109(f)(1), substituted "shall" for "may".

Subsec. (g)(2)(A). Pub. L. 109–59, §7126, substituted "Secretary shall establish" for "Secretary of Transportation shall establish" in introductory provisions.

Pub. L. 109–59, §7109(f)(2), substituted "$3,000" for "$5,000" in introductory provisions.

Subsec. (g)(2)(B). Pub. L. 109–59, §7126, substituted "Secretary shall" for "Secretary of Transportation shall".

Subsec. (g)(2)(C). Pub. L. 109–59, §7126, substituted "Secretary shall" for "Secretary of Transportation shall".

Pub. L. 109–59, §7114(d)(3), substituted "the Hazardous Materials Emergency Preparedness Fund established" for "the account the Secretary of the Treasury establishes".

Subsec. (g)(3). Pub. L. 109–59, §7109(f)(3), added par. (3).

Subsec. (h). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Subsec. (i)(1). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Subsec. (i)(2)(B). Pub. L. 109–59, §7109(e), inserted "an Indian tribe," after "subdivision of a State,".

1998—Subsec. (f). Pub. L. 105–225 substituted "section 552(b)" for "section 552(f)".

1997—Subsec. (f). Pub. L. 105–102 which directed substitution of "section 552(b)" for "section 522(f)" could not be executed because "section 522(f)" did not appear.

1994—Subsec. (a)(1)(D). Pub. L. 103–311, §117(a)(3), substituted "a bulk packaging" for "a bulk package" and "the bulk packaging" for "the package".

Subsec. (a)(4). Pub. L. 103–311, §104, added par. (4).

Subsec. (g)(2)(A)(viii). Pub. L. 103–311, §119(d)(1), struck out "5107(e)," before "5108(g)(2)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

REGISTRATION

Pub. L. 109–59, title VII, §7109(d), Aug. 10, 2005, 119 Stat. 1898, provided that: "As soon as practicable, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act [Aug. 10, 2005] under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant."

§5109. Motor carrier safety permits

(a) REQUIREMENT.—A motor carrier may transport or cause to be transported by motor vehicle in commerce hazardous material only if the carrier holds a safety permit the Secretary issues under this section authorizing the transportation and keeps a copy of the permit, or other proof of its existence, in the vehicle. The Secretary shall issue a permit if the Secretary finds the carrier is fit, willing, and able—

(1) to provide the transportation to be authorized by the permit;

(2) to comply with this chapter and regulations the Secretary prescribes to carry out this chapter;

and

(3) to comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations.

(b) APPLICABLE TRANSPORTATION.—The Secretary shall prescribe by regulation the hazardous material and amounts of hazardous material to which this section applies. However, this section shall apply at least to transportation by a motor carrier, in amounts the Secretary establishes, of—

(1) a class A or B explosive;
(2) liquefied natural gas;
(3) hazardous material the Secretary designates as extremely toxic by inhalation; and
(4) a highway-route-controlled quantity of radioactive material, as defined by the Secretary.

(c) APPLICATIONS.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this section. The Secretary may approve any part of the application or deny the application. The application shall be under oath and contain information the Secretary requires by regulation.

(d) AMENDMENTS, SUSPENSIONS, AND REVOCATIONS.—(1) After notice and an opportunity for a hearing, the Secretary may amend, suspend, or revoke a safety permit, as provided by procedures prescribed under subsection (e) of this section, when the Secretary decides the motor carrier is not complying with a requirement of this chapter, a regulation prescribed under this chapter, or an applicable United States motor carrier safety law or regulation or minimum financial responsibility law or regulation.

(2) If the Secretary decides an imminent hazard exists, the Secretary may amend, suspend, or revoke a permit before scheduling a hearing.

(e) PROCEDURES.—The Secretary shall prescribe by regulation—

(1) application procedures, including form, content, and fees necessary to recover the complete cost of carrying out this section;
(2) standards for deciding the duration, terms, and limitations of a safety permit;
(3) procedures to amend, suspend, or revoke a permit; and
(4) other procedures the Secretary considers appropriate to carry out this section.

(f) SHIPPER RESPONSIBILITY.—A person offering hazardous material for motor vehicle transportation in commerce may offer the material to a motor carrier only if the carrier has a safety permit issued under this section authorizing the transportation.

(g) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this section only if the carrier complies with conditions the Secretary finds are required to protect public safety.

(h) LIMITATION ON DENIAL.—The Secretary may not deny a non-temporary permit held by a motor carrier pursuant to this section based on a comprehensive review of that carrier triggered by safety management system scores or out-of-service disqualification standards, unless—

(1) the carrier has the opportunity, prior to the denial of such permit, to submit a written description of corrective actions taken and other documentation the carrier wishes the Secretary to consider, including a corrective action plan; and
(2) the Secretary determines the actions or plan is insufficient to address the safety concerns identified during the course of the comprehensive review.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 767; Pub. L. 109–59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909; Pub. L. 114–94, div. A, title VII, §7202, Dec. 4, 2015, 129 Stat. 1589.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

5109(a)	49 App.:1805(d)(1), (2).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §106(d); added Nov. 16, 1990, Pub. L. 101–615, §8(a), 104 Stat. 3257; Oct. 24, 1992, Pub. L. 102–508, §503(a)(4), (5), (b), 106 Stat. 3311.
5109(b)	49 App.:1805(d)(5).	
5109(c)	49 App.:1805(d)(7).	
5109(d)	49 App.:1805(d)(4).	
5109(e)	49 App.:1805(d)(6).	
5109(f)	49 App.:1805(d)(3).	
5109(g)	49 App.:1805(d)(8).	
5109(h)	49 App.:1805 (note).	Nov. 16, 1990, Pub. L. 101–615, §8(b), 104 Stat. 3258.

In subsection (a), before clause (1), the words "Except as provided in this subsection" and "used to provide such transportation" are omitted as surplus.

In subsection (b), before clause (1), the word "all" is omitted as surplus.

In subsection (e)(2), the word "conditions" is omitted as being included in "terms".

In subsection (h), the text of section 8(b) (words before semicolon of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3258) is omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (h). Pub. L. 114–94 amended subsec. (h) generally. Prior to amendment, text read as follows: "The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991."

2005—Subsec. (a). Pub. L. 109–59 substituted "Secretary issues" for "Secretary of Transportation issues" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

MOTOR CARRIER SAFETY PERMITS

Pub. L. 112–141, div. C, title III, §33014, July 6, 2012, 126 Stat. 840, provided that:

"(a) REVIEW.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall conduct a study of, and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on, the implementation of the hazardous material safety permit program under section 5109 of title 49, United States Code. In conducting the study, the Secretary shall review, at a minimum—

"(1) the list of hazardous materials requiring a safety permit;

"(2) the number of permits that have been issued, denied, revoked, or suspended since inception of the program and the number of commercial motor carriers that have never had a permit denied, revoked, or suspended since inception of the program;

"(3) the reasons for such denials, revocations, or suspensions;

"(4) the criteria used by the Federal Motor Carrier Safety Administration to determine whether a hazardous material safety permit issued by a State is equivalent to the Federal permit; and

"(5) actions the Secretary could implement to improve the program, including whether to provide opportunities for an additional level of fitness review prior to the denial, revocation, or suspension of a

safety permit.

"(b) ACTIONS TAKEN.—Not later than 2 years after the date of enactment of this Act, based on the study conducted under subsection (a), the Secretary shall either institute a rulemaking to make any necessary improvements to the hazardous materials safety permit program under section 5109 of title 49, United States Code or publish in the Federal Register the Secretary's justification for why a rulemaking is not necessary."

§5110. Shipping papers and disclosure

(a) PROVIDING SHIPPING PAPERS.—Each person offering for transportation in commerce hazardous material to which the shipping paper requirements of the Secretary apply shall provide to the carrier providing the transportation a shipping paper that makes the disclosures the Secretary prescribes in regulations.

(b) KEEPING SHIPPING PAPERS ON THE VEHICLE.—(1) A motor carrier, and the person offering the hazardous material for transportation if a private motor carrier, shall keep the shipping paper on the vehicle transporting the material.

(2) Except as provided in paragraph (1) of this subsection, the shipping paper shall be kept in a location the Secretary specifies in a motor vehicle, train, vessel, aircraft, or facility until—

(A) the hazardous material no longer is in transportation; or

(B) the documents are made available to a representative of a department, agency, or instrumentality of the United States Government or a State or local authority responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

(c) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—When an incident involving hazardous material being transported in commerce occurs, the person transporting the material, immediately on request of appropriate emergency response authorities, shall disclose to the authorities information about the material.

(d) RETENTION OF PAPERS.—

(1) OFFERORS.—The person who provides the shipping paper under this section shall retain the paper, or an electronic format of it, for a period of 2 years after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the offeror's principal place of business.

(2) CARRIERS.—The carrier required to keep the shipping paper under this section,[1] shall retain the paper, or an electronic format of it, for a period of 1 year after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the carrier's principal place of business.

(3) AVAILABILITY TO GOVERNMENT AGENCIES.—Any person required to keep a shipping paper under this subsection shall, upon request, make it available to a Federal, State, or local government agency at reasonable times and locations.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 768; Pub. L. 103–311, title I, §115, Aug. 26, 1994, 108 Stat. 1678; Pub. L. 109–59, title VII, §§7110, 7126, Aug. 10, 2005, 119 Stat. 1898, 1909; Pub. L. 110–244, title III, §302(i), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5110(a)	49 App.:1804(g)(1) (1st sentence words before "for the carrier").	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §105(g); added Nov. 16, 1990, Pub. L. 101–615, §6, 104 Stat. 3253.
5110(b)	49 App.:1804(g)(2).	
5110(c)	49 App.:1804(g)(1) (1st sentence words after "paragraph (2)", last sentence), (3).	

5110(d)	49 App.:1804(g)(4).	

In subsection (c)(1), the words "A motor carrier" are substituted for "the carrier" for clarity.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110–244, §302(i)(2), substituted "offeror's" for "shipper's".

Pub. L. 110–244, §302(i)(1), which directed substitution of "Offerors" for "Shippers" "in the subsection heading", was executed by making the substitution in par. (1) heading to reflect the probable intent of Congress.

2005—Subsec. (a). Pub. L. 109–59, §7126, substituted "Secretary apply" for "Secretary of Transportation apply".

Pub. L. 109–59, §7110(a)(1), substituted "in regulations" for "under subsection (b) of this section".

Subsecs. (b), (c). Pub. L. 109–59, §7110(a)(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which related to considerations and requirements in carrying out subsec. (a).

Subsec. (d). Pub. L. 109–59, §7110(b), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: "After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations."

Pub. L. 109–59, §7110(a)(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 109–59, §7110(a)(3), redesignated subsec. (e) as (d).

1994—Subsec. (e). Pub. L. 103–311 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Pub. L. 101–615, §25, Nov. 16, 1990, 104 Stat. 3273, provided that:

"(a) RULEMAKING PROCEEDING.—

"(1) INITIATION.—In order to develop methods of improving the current system of identifying hazardous materials being transported in vehicles for safeguarding the health and safety of persons responding to emergencies involving such hazardous materials and the public and to facilitate the review and reporting process required by subsection (d), the Secretary of Transportation shall initiate a rulemaking proceeding not later than 30 days after the date of the enactment of this Act [Nov. 16, 1990].

"(2) PRIMARY PURPOSES.—The primary purposes of the rulemaking proceeding initiated under this subsection are—

"(A) to determine methods of improving the current system of placarding vehicles transporting hazardous materials; and

"(B) to determine methods for establishing and operating a central reporting system and computerized telecommunications data center described in subsection (b)(1).

"(3) METHODS OF IMPROVING PLACARDING SYSTEM.—The methods of improving the current system of placarding to be considered under the rulemaking proceeding initiated under this subsection shall include methods to make such placards more visible, methods to reduce the number of improper and missing placards, alternative methods of marking vehicles for the purpose of identifying the hazardous materials being transported, methods of modifying the composition of placards in order to ensure their resistance to flammability, methods of improving the coding system used with respect to such placards, identification of appropriate emergency response procedures through symbols on placards, and whether or not telephone numbers of any continually monitored telephone systems which are established under the Hazardous Materials Transportation Act [see 49 U.S.C. 5101 et seq.] are displayed on vehicles transporting hazardous materials.

"(4) COMPLETION OF RULEMAKING PROCEEDING WITH RESPECT TO REPORTING SYSTEM AND DATA CENTER.—Not later than 19 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall complete the rulemaking proceeding initiated with

respect to the central reporting system and computerized telecommunications data center described in subsection (b).

"(5) FINAL RULE WITH RESPECT TO PLACARDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a final rule relating to improving the current system for placarding vehicles transporting hazardous materials.

"(b) CENTRAL REPORTING SYSTEM AND COMPUTERIZED TELECOMMUNICATIONS DATA CENTER STUDY.—

"(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials, that can identify hazardous materials being transported by any mode of transportation, and that can provide information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

"(2) CONSULTATION AND REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study under this section, the Secretary of Transportation shall request the National Academy of Sciences—

"(A) to consult with the Department of Transportation, the Department of Health and Human Services, the Environmental Protection Agency, the Federal Emergency Management Agency, and the Occupational Safety and Health Administration, shippers and carriers of hazardous materials, manufacturers of computerized telecommunications systems, State and local emergency preparedness organizations (including law enforcement and firefighting organizations), and appropriate international organizations in conducting such study; and

"(B) to submit, not later than 19 months after the date of the enactment of this Act, to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives a report on the results of such study.

Such report shall include recommendations of the National Academy of Sciences with respect to establishment and operation of a central reporting system and computerized telecommunications data center described in paragraph (1).

"(3) AUTHORIZATION OF APPROPRIATION.—In addition to amounts authorized under section 115 of the Hazardous Materials Transportation Act [see 49 U.S.C. 5127(a)], there is authorized to be appropriated to the Secretary of Transportation to carry out this subsection $350,000.

"(c) ADDITIONAL PURPOSES OF RULEMAKING PROCEEDING AND STUDY.—Additional purposes of the rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center described in subsection (b) and the study conducted under subsection (b) are—

"(1) to determine whether such a system and center should be established and operated by the United States Government or by a private entity, either on its own initiative or under contract with the United States;

"(2) to determine, on an annualized basis, the estimated cost for establishing, operating, and maintaining such a system and center and for carrier and shipper compliance with such a system;

"(3) to determine methods for financing the cost of establishing, operating, and maintaining such a system and center;

"(4) to determine projected safety benefits of establishing and operating such a system and center;

"(5) to determine whether or not shippers, carriers, and handlers of hazardous materials, in addition to law enforcement officials and persons responsible for responding to emergencies involving hazardous materials, should have access to such system for obtaining information concerning shipments of hazardous materials and technical and other information and advice with respect to such emergencies;

"(6) to determine methods for ensuring the security of the information and data stored in such a system;

"(7) to determine types of hazardous materials and types of shipments for which information and data should be stored in such a system;

"(8) to determine the degree of liability of the operator of such a system and center for providing incorrect, false, or misleading information;

"(9) to determine deadlines by which shippers, carriers, and handlers of hazardous materials should be required to submit information to the operator of such a system and center and minimum standards relating

to the form and contents of such information;

"(10) to determine measures (including the imposition of civil and criminal penalties) for ensuring compliance with the deadlines and standards referred to in paragraph (9); and

"(11) to determine methods for accessing such a system through mobile satellite service or other technologies having the capability to provide 2-way voice, data, or facsimile services.

"(d) REVIEW AND REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 25 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall review the report of the National Academy of Sciences submitted under subsection (b) and the results of rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center and shall prepare and submit to Congress a report summarizing the report of the National Academy of Sciences and the results of such rulemaking proceeding, together with the Secretary's recommendations concerning the establishment and operation of such a system and center and the Secretary's recommendations concerning implementation of the recommendations contained in the report of the National Academy of Sciences.

"(2) WEIGHT TO BE GIVEN TO RECOMMENDATIONS OF NAS.—In conducting the review and preparing the report under this subsection, the Secretary shall give substantial weight to the recommendations contained in the report of the National Academy of Sciences submitted under subsection (b).

"(3) INCLUSION OF REASONS FOR NOT FOLLOWING RECOMMENDATIONS.—If the Secretary does not include in the report prepared for submission to Congress under this subsection a recommendation for implementation of a recommendation contained in the report of the National Academy of Sciences submitted under subsection (b), the Secretary shall include in the report to Congress under this subsection the Secretary's reasons for not recommending implementation of the recommendation of the National Academy of Sciences."

CONTINUALLY MONITORED TELEPHONE SYSTEMS

Pub. L. 101–615, §26, Nov. 16, 1990, 104 Stat. 3273, provided that:

"(a) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall initiate a rulemaking proceeding on the feasibility, necessity, and safety benefits of requiring carriers involved in the hazardous materials transportation industry to establish continually monitored telephone systems equipped to provide emergency response information and assistance with respect to accidents and incidents involving hazardous materials. Additional objectives of such proceeding shall be to determine which hazardous materials, if any, should be covered by such a requirement and which segments of such industry (including persons who own and operate motor vehicles, trains, vessels, aircraft, and in-transit storage facilities) should be covered by such a requirement.

"(b) COMPLETION OF PROCEEDING.—Not later than 30 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall complete the proceeding under this section and may issue a final rule relating to establishment of continually monitored telephone systems described in subsection (a)."

[1] *So in original. Comma probably should not appear.*

[§5111. Repealed. Pub. L. 109–59, title VII, §7111, Aug. 10, 2005, 119 Stat. 1899]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 769, related to use of rail tank cars built before Jan. 1, 1971, to transport hazardous material in commerce.

§5112. Highway routing of hazardous material

(a) APPLICATION.—(1) This section applies to a motor vehicle only if the vehicle is transporting hazardous material in commerce for which placarding of the vehicle is required under regulations prescribed under this chapter. However, the Secretary by regulation may extend application of this section or a standard prescribed under subsection (b) of this section to—

(A) any use of a vehicle under this paragraph to transport any hazardous material in commerce; and

(B) any motor vehicle used to transport hazardous material in commerce.

(2) Except as provided by subsection (d) of this section and section 5125(c) of this title, each State and Indian tribe may establish, maintain, and enforce—

(A) designations of specific highway routes over which hazardous material may and may not be transported by motor vehicle; and

(B) limitations and requirements related to highway routing.

(b) STANDARDS FOR STATES AND INDIAN TRIBES.—(1) The Secretary, in consultation with the States, shall prescribe by regulation standards for States and Indian tribes to use in carrying out subsection (a) of this section. The standards shall include—

(A) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall enhance public safety in the area subject to the jurisdiction of the State or tribe and in areas of the United States not subject to the jurisdiction of the State or tribe and directly affected by the designation, limitation, or requirement;

(B) minimum procedural requirements to ensure public participation when the State or Indian tribe is establishing a highway routing designation, limitation, or requirement;

(C) a requirement that, in establishing a highway routing designation, limitation, or requirement, a State or Indian tribe consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of that State or tribe establishing the designation, limitation, or requirement and with affected industries;

(D) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall ensure through highway routing for the transportation of hazardous material between adjacent areas;

(E) a requirement that a highway routing designation, limitation, or requirement of one State or Indian tribe affecting the transportation of hazardous material in another State or tribe may be established, maintained, and enforced by the State or tribe establishing the designation, limitation, or requirement only if—

(i) the designation, limitation, or requirement is agreed to by the other State or tribe within a reasonable period or is approved by the Secretary under subsection (d) of this section; and

(ii) the designation, limitation, or requirement is not an unreasonable burden on commerce;

(F) a requirement that establishing a highway routing designation, limitation, or requirement of a State or Indian tribe be completed in a timely way;

(G) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe provide reasonable routes for motor vehicles transporting hazardous material to reach terminals, facilities for food, fuel, repairs, and rest, and places to load and unload hazardous material;

(H) a requirement that a State be responsible—

(i) for ensuring that political subdivisions of the State comply with standards prescribed under this subsection in establishing, maintaining, and enforcing a highway routing designation, limitation, or requirement; and

(ii) for resolving a dispute between political subdivisions; and

(I) a requirement that, in carrying out subsection (a) of this section, a State or Indian tribe shall consider—

(i) population densities;

(ii) the types of highways;

(iii) the types and amounts of hazardous material;

(iv) emergency response capabilities;

(v) the results of consulting with affected persons;

(vi) exposure and other risk factors;

(vii) terrain considerations;

(viii) the continuity of routes;
(ix) alternative routes;
(x) the effects on commerce;
(xi) delays in transportation; and
(xii) other factors the Secretary considers appropriate.

(2) The Secretary may not assign a specific weight that a State or Indian tribe shall use when considering the factors under paragraph (1)(I) of this subsection.

(c) LIST OF ROUTE DESIGNATIONS.—

(1) IN GENERAL.—In coordination with the States, the Secretary shall update and publish periodically a list of currently effective hazardous material highway route designations.

(2) STATE RESPONSIBILITIES.—

(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

(i) the name of the State agency responsible for hazardous material highway route designations; and

(ii) a list of the State's currently effective hazardous material highway route designations.

(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

(i) at least once every 2 years; and

(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.

(d) DISPUTE RESOLUTION.—(1) The Secretary shall prescribe regulations for resolving a dispute related to through highway routing or to an agreement with a proposed highway route designation, limitation, or requirement between or among States, political subdivisions of different States, or Indian tribes.

(2) A State or Indian tribe involved in a dispute under this subsection may petition the Secretary to resolve the dispute. The Secretary shall resolve the dispute not later than one year after receiving the petition. The resolution shall provide the greatest level of highway safety without being an unreasonable burden on commerce and shall ensure compliance with standards prescribed under subsection (b) of this section.

(3)(A) After a petition is filed under this subsection, a civil action about the subject matter of the dispute may be brought in a court only after the earlier of—

(i) the day the Secretary issues a final decision; or

(ii) the last day of the one-year period beginning on the day the Secretary receives the petition.

(B) A State or Indian tribe adversely affected by a decision of the Secretary under this subsection may bring a civil action for judicial review of the decision in an appropriate district court of the United States not later than 89 days after the day the decision becomes final.

(e) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect sections 31111 and 31113 of this title or section 127 of title 23.

(f) EXISTING RADIOACTIVE MATERIAL ROUTING REGULATIONS.—The Secretary is not required to amend or again prescribe regulations related to highway routing designations over which radioactive material may and may not be transported by motor vehicles, and limitations and requirements related to the routing, that were in effect on November 16, 1990.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 769; Pub. L. 109–59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909; Pub. L. 112–141, div. C, title III, §33013(a), July 6, 2012, 126 Stat. 839.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

5112(a)(1)	49 App.:1804(b)(7).	Jan. 3, 1975, Pub. L. 93–633, §105(b)(1)–(3), (5)–(9), (c), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, §4, 104 Stat. 3248, 3251.
5112(a)(2)	49 App.:1804(b)(1).	
5112(b)(1)	49 App.:1804(b)(2), (3).	
5112(b)(2)	49 App.:1804(b)(9).	
5112(c)	49 App.:1804(c).	
5112(d)	49 App.:1804(b)(5).	
5112(e)	49 App.:1804(b)(6).	
5112(f)	49 App.:1804(b)(8).	

In subsection (a)(1), the words "in the area which is subject to the jurisdiction of such State or Indian tribe" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "Not later than 18 months after November 16, 1990" are omitted as obsolete. In clause (H)(i), the words "prescribed under this subsection" are added for clarity.

In subsection (d)(1), the words "within 18 months of November 16, 1990" are omitted as obsolete. The words "over a matter" are omitted as surplus.

In subsection (d)(3), the word "civil" is added for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the words "superseding or otherwise", "application of", "relating to vehicle weight limitations", and "relating to vehicle length and vehicle width limitations, respectively" are omitted as surplus.

In subsection (f), the word "modify" is omitted as surplus and for consistency in the revised title. The words "issued by the Department of Transportation before November 16, 1990, and" are omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–141 designated existing provisions as par. (1), inserted heading, and added par. (2).

2005—Subsec. (a)(1). Pub. L. 109–59 substituted "Secretary" for "Secretary of Transportation" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS

Pub. L. 103–311, title I, §121, Aug. 26, 1994, 108 Stat. 1681, directed Secretary of Transportation to submit to Congress, not later than 1 year after Aug. 26, 1994, report on results of study to determine safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners, which was to include evaluation of ability of such facilities and designated local planning agencies to safely evacuate such prisoners in event of emergency and any special training, equipment, or personnel that would be required by such facility and designated local emergency planning agencies to carry out such evacuation.

§5113. Unsatisfactory safety rating

A violation of section 31144(c)(3) shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 771; Pub. L. 105–178, title IV, §4009(b), June 9, 1998, 112 Stat. 407; Pub. L. 109–59, title VII, §7112(a), Aug. 10, 2005, 119 Stat. 1899.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5113(a)	49 App.:1814(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117; added Nov. 3, 1990, Pub. L. 101–500, §15(b)(1), 104 Stat. 1218.
5113(b)	49 App.:1814(b).	
5113(c)	49 App.:1814(c).	
5113(d)	49 App.:2501 (note).	Nov. 3, 1990, Pub. L. 101–500, §15(b)(2), 104 Stat. 1219.

In subsections (a) and (c), the words "individuals" is substituted for "passengers, including the driver" for clarity and consistency.

In subsection (a), before clause (1), the words "Effective January 1, 1991" are omitted as obsolete. The words "to take such action as may be necessary " are omitted as surplus.

In subsection (b), the words "from the Secretary" and "conditions and other" are omitted as surplus.

In subsection (d), the words "Not later than 1 year after the date of enactment of this Act" are omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59 amended text generally. Prior to amendment, text read as follows: "See section 31144."

1998—Pub. L. 105–178 substituted "See section 31144." for subsecs. (a) to (d) which related to unsatisfactory safety ratings.

§5114. Air transportation of ionizing radiation material

(a) TRANSPORTING IN AIR COMMERCE.—Material that emits ionizing radiation spontaneously may be transported on a passenger-carrying aircraft in air commerce (as defined in section 40102(a) of this title) only if the material is intended for a use in, or incident to, research or medical diagnosis or treatment and does not present an unreasonable hazard to health and safety when being prepared for, and during, transportation.

(b) PROCEDURES.—The Secretary shall prescribe procedures for monitoring and enforcing regulations prescribed under this section.

(c) NONAPPLICATION.—This section does not apply to material the Secretary decides does not pose a significant hazard to health or safety when transported because of its low order of radioactivity.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 772; Pub. L. 109–59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5114(a)	49 App.:1807(a) (1st, 2d sentences), (b) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, §108, 88 Stat. 2159; Nov. 16, 1990, Pub. L. 101–615, §10, 104 Stat. 3259.

5114(b)	49 App.:1807(a) (last sentence).	
5114(c)	49 App.:1807(b) (last sentence).	

In subsection (a), the text of 49 App.:1807(a) (1st sentence) is omitted as executed. The words "or combination of materials" are omitted as surplus.

In subsection (b), the words "further" and "effective" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59 substituted "Secretary" for "Secretary of Transportation".

§5115. Training curriculum for the public sector

(a) IN GENERAL.—In coordination with the Administrator of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall maintain, and update periodically, a current curriculum of courses, including online curriculum as appropriate, necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material. Only in developing the curriculum, the Secretary of Transportation shall consult with regional response teams established under the national contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), representatives of commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) that provide training for responding to accidents and incidents involving the transportation of hazardous material, and representatives of persons that respond to those accidents and incidents.

(b) REQUIREMENTS.—The curriculum maintained and updated under subsection (a) of this section—

(1) shall include—

(A) a recommended course of study to train public sector employees to respond to an accident or incident involving the transportation of hazardous material and to plan for those responses;

(B) recommended courses and minimum number of hours of instruction necessary for public sector employees to be able to respond safely and efficiently to an accident or incident involving the transportation of hazardous material and to plan those responses; and

(C) appropriate emergency response training and planning programs for public sector employees developed with Federal financial assistance, including programs developed with grants made under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a); and

(2) may include recommendations on material appropriate for use in a recommended course described in clause (1)(B) of this subsection.

(c) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—A recommended course described in subsection (b)(1)(B) of this section shall provide the training necessary for public sector employees to comply with—

(1) regulations related to hazardous waste operations and emergency response contained in part 1910 of title 29, Code of Federal Regulations, prescribed by the Secretary of Labor;

(2) regulations related to worker protection standards for hazardous waste operations contained

in part 311 of title 40, Code of Federal Regulations, prescribed by the Administrator; and

(3) standards related to emergency response training prescribed by the National Fire Protection Association and such other voluntary consensus standard-setting organizations as the Secretary of Transportation determines appropriate.

(d) DISTRIBUTION AND PUBLICATION.—With the National Response Team—

(1) the Secretary shall distribute the curriculum and any updates to the curriculum to the regional response teams and all committees and commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001); and

(2) the Secretary may publish and distribute a list of programs and courses maintained and updated under this section and of any programs utilizing such courses.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 772; Pub. L. 103–429, §6(5), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 109–59, title VII, §§7113, 7126, Aug. 10, 2005, 119 Stat. 1899, 1909; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 112–141, div. C, title III, §33004(a), July 6, 2012, 126 Stat. 832; Pub. L. 114–94, div. A, title VI, §6013, Dec. 4, 2015, 129 Stat. 1570.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5115(a)	49 App.:1815(g)(1), (5).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A (g)(1)–(6), (8); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3265, 3267.
5115(b)	49 App.:1815(g)(2), (3).	
5115(c)	49 App.:1815(g)(4).	
5115(d)(1)	49 App.:1815(g)(6).	
5115(d)(2)	49 App.:1815(g)(8).	

In subsection (c)(3), the words "including standards 471 and 472" are omitted as surplus.

In subsection (d)(1), the word "updates" is substituted for "amendments" for clarity.

PUB. L. 103–429

This amends 49:5115(b)(1)(C) to make a cross-reference more precise.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94 inserted ", including online curriculum as appropriate," after "a current curriculum of courses".

2012—Subsecs. (b)(1)(B), (2), (c). Pub. L. 112–141 struck out "basic" after "recommended".

2005—Subsec. (a). Pub. L. 109–59, §7113(a), inserted heading and first sentence and struck out former heading and first sentence. Text read as follows: "Not later than November 16, 1992, in coordination with the Director of the Federal Emergency Management Agency, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, Secretaries of Labor, Energy, and Health and Human Services, and Director of the National Institute of Environmental Health Sciences, and using the existing coordinating mechanisms of the national response team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall develop and update periodically a curriculum consisting of a list of courses necessary to train public sector emergency response and preparedness teams."

Subsec. (b). Pub. L. 109–59, §7113(b)(1), substituted "maintained and updated" for "developed" in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 109–59, §7113(b)(2), substituted "with Federal financial assistance, including programs" for "under other United States Government grant programs, including those".

Subsec. (c)(3). Pub. L. 109–59, §7113(c), inserted "and such other voluntary consensus standard-setting organizations as the Secretary of Transportation determines appropriate" before period at end.

Subsec. (d). Pub. L. 109–59, §7113(d)(1), substituted "National Response Team" for "national response team" in introductory provisions.

Subsec. (d)(1). Pub. L. 109–59, §7113(d)(2), substituted "Secretary" for "Director of the Federal Emergency Management Agency".

Subsec. (d)(2). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Pub. L. 109–59, §7113(d)(3), inserted "and distribute" after "publish" and substituted "list of programs and courses maintained and updated under this section and of any programs utilizing such courses" for "list of programs that uses a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material".

1994—Subsec. (b)(1)(C). Pub. L. 103–429 substituted "126(g)" for "126".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" substituted for "Director of the Federal Emergency Management Agency" in subsec. (a) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§5116. Planning and training grants, monitoring, and review

(a) PLANNING AND TRAINING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes—

(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe;

(B) to decide on the need for regional hazardous material emergency response teams; and

(C) to train public sector employees to respond to accidents and incidents involving hazardous material.

(2) To the extent that a grant is used to train emergency responders under paragraph (1)(C), the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.

(3) The Secretary may make a grant to a State or Indian tribe under paragraph (1) of this subsection only if—

(A) the State or Indian tribe certifies that the total amount the State or Indian tribe expends (except amounts of the Federal Government) for the purpose of the grant will at least equal the average level of expenditure for the last 5 years; and

(B) any emergency response training provided under the grant shall consist of—

(i) a course developed or identified under section 5115 of this title; or

(ii) any other course the Secretary determines is consistent with the objectives of this section.

(4) A State or Indian tribe receiving a grant under this subsection shall ensure that planning and emergency response training under the grant is coordinated with adjacent States and Indian tribes.

(5) A training grant under paragraph (1)(C) may be used—

(A) to pay—

(i) the tuition costs of public sector employees being trained;

(ii) travel expenses of those employees to and from the training facility;

(iii) room and board of those employees when at the training facility; and

(iv) travel expenses of individuals providing the training;

(B) by the State, political subdivision, or Indian tribe to provide the training; and

(C) to make an agreement with a person (including an authority of a State, a political subdivision of a State or Indian tribe, or a local jurisdiction), subject to approval by the Secretary, to provide the training if—

(i) the agreement allows the Secretary and the State or Indian tribe to conduct random examinations, inspections, and audits of the training without prior notice;

(ii) the person agrees to have an auditable accounting system; and

(iii) the State or Indian tribe conducts at least one on-site observation of the training each year.

(6) The Secretary shall allocate amounts made available for grants under this subsection among eligible States and Indian tribes based on the needs of the States and Indian tribes for emergency response planning and training. In making a decision about those needs, the Secretary shall consider—

(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the Indian tribe;

(B) the types and amounts of hazardous material transported in the State or on such land;

(C) whether the State or Indian tribe imposes and collects a fee for transporting hazardous material;

(D) whether such fee is used only to carry out a purpose related to transporting hazardous material;

(E) the past record of the State or Indian tribe in effectively managing planning and training grants; and

(F) any other factors the Secretary determines are appropriate to carry out this subsection.

(b) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State under this section in a fiscal year only if the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003).

(c) APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary. The application must be submitted at the time, and contain information, the Secretary requires by regulation to carry out the objectives of this section.

(d) GOVERNMENT'S SHARE OF COSTS.—A grant under this section is for 80 percent of the cost the State or Indian tribe incurs in the fiscal year to carry out the activity for which the grant is made. Amounts of the State or tribe under subsection (a)(3)(A) of this section are not part of the non-Government share under this subsection.

(e) MONITORING AND TECHNICAL ASSISTANCE.—In coordination with the Secretaries of

Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the National Institute of Environmental Health Sciences, the Administrator of the Federal Emergency Management Agency shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretaries, Administrators, and Director each shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.

(f) DELEGATION OF AUTHORITY.—To minimize administrative costs and to coordinate Federal financial assistance for emergency response training and planning, the Secretary may delegate to the Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, and Secretaries of Labor and Energy any of the following:

(1) authority to receive applications for grants under this section.

(2) authority to review applications for technical compliance with this section.

(3) authority to review applications to recommend approval or disapproval.

(4) any other ministerial duty associated with grants under this section.

(g) MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

(h) ANNUAL REGISTRATION FEE ACCOUNT AND ITS USES.—The Secretary of the Treasury shall establish an account in the Treasury (to be known as the "Hazardous Materials Emergency Preparedness Fund") into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

(1) to make grants under this section and section 5107(e);

(2) to monitor and provide technical assistance under subsection (e) of this section;

(3) to publish and distribute an emergency response guide; and

(4) to pay administrative costs of carrying out this section and sections 5107(e) and 5108(g)(2) of this title, except that not more than 2 percent of the amounts made available from the account in a fiscal year may be used to pay those costs.

(i) SUPPLEMENTAL TRAINING GRANTS.—

(1) In order to further the purposes of subsection (a), the Secretary shall, subject to the availability of funds and through a competitive process, make a grant or make grants to national nonprofit fire service organizations for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

(B) prioritize such needs and develop a means for identifying additional specific training needs.

(3) Funds granted to an organization under this subsection shall only be used—

(A) to provide training, including portable training, for instructors to conduct hazardous materials response training programs;

(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to provide training, including portable training, for instructors to conduct hazardous materials response training programs in such fiscal year that will use—

(A) a course or courses developed or identified under section 5115 of this title; or

(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall comply with Federal regulations and national consensus standards for hazardous materials response and be open to all such individuals on a nondiscriminatory basis.

(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.

(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.

(7) For the purposes of this subsection, the term "portable training" means live, instructor-led training provided by certified fire service instructors that can be offered in any suitable setting, rather than specific designated facilities. Under this training delivery model, instructors travel to locations convenient to students and utilize local facilities and resources.

(8) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

(j) ALERT GRANT PROGRAM.—

(1) ASSISTANCE FOR LOCAL EMERGENCY RESPONSE TRAINING.—The Secretary shall establish a grant program to make grants to eligible entities described in paragraph (2)—

(A) to develop a hazardous materials response training curriculum for emergency responders, including response activities for the transportation of crude oil, ethanol, and other flammable liquids by rail, consistent with the standards of the National Fire Protection Association; and

(B) to make the training described in subparagraph (A) available in an electronic format.

(2) ELIGIBLE ENTITIES.—An eligible entity referred to in paragraph (1) is a nonprofit organization that—

(A) represents first responders or public officials responsible for coordinating disaster response; and

(B) is able to provide direct or web-based training to individuals responsible for responding to accidents and incidents involving hazardous materials.

(3) FUNDING.—

(A) IN GENERAL.—To carry out the grant program under paragraph (1), the Secretary may use, for each fiscal year, any amounts recovered during such fiscal year from grants awarded under this section during a prior fiscal year.

(B) OTHER HAZARDOUS MATERIAL TRAINING ACTIVITIES.—For each fiscal year, after providing grants under paragraph (1), if funds remain available, the Secretary may use the amounts described in subparagraph (A)—

(i) to make grants under—

(I) subsection (a)(1)(C);

(II) subsection (i); and

(III) section 5107(e);

(ii) to conduct monitoring and provide technical assistance under subsection (e);

(iii) to publish and distribute the emergency response guide referred to in subsection (h)(3); and

(iv) to pay administrative costs in accordance with subsection (h)(4).

(C) OBLIGATION LIMITATION.—Notwithstanding any other provision of law, for each fiscal year, amounts described in subparagraph (A) shall not be included in the obligation limitation for the Hazardous Materials Emergency Preparedness grant program for that fiscal year.

(k) REPORTS.—The Secretary shall submit an annual report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and make available the report to the public. The report submitted under this subsection shall include information on the allocation and uses of the planning and training grants under subsection (a) and grants under subsections (i) and (j) of this section and under subsections (e) and (i) of section 5107. The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

(1) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

(2) the number of persons trained under the grant program, by training level;

(3) an evaluation of the efficacy of such planning and training programs; and

(4) any recommendations the Secretary may have for improving such grant programs.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 773; Pub. L. 103–311, title I, §§105, 119(a), (d)(2), (3), Aug. 26, 1994, 108 Stat. 1673, 1679, 1680; Pub. L. 103–429, §7(c), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 104–287, §§5(8), 6(b), Oct. 11, 1996, 110 Stat. 3389, 3398; Pub. L. 109–59, title VII, §§7114(a)–(d)(2), (e), 7126, Aug. 10, 2005, 119 Stat. 1900, 1909; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 112–141, div. C, title III, §33004(b), July 6, 2012, 126 Stat. 832; Pub. L. 114–94, div. A, title VII, §7203(a), (b)(2), Dec. 4, 2015, 129 Stat. 1589, 1591; Pub. L. 117–58, div. B, title VI, §26002, Nov. 15, 2021, 135 Stat. 882.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5116(a)	49 App.:1815(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A(a)–(f), (g)(7), (9), (h)(6); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3263, 3266, 3267, 3268.

5116(b)(1)	49 App.:1815(b)(1).	
5116(b)(2)	49 App.:1815(b) (2)–(4).	
5116(b)(3)	49 App.:1815(b)(5), (6).	
5116(b)(4)	49 App.:1815(b)(7).	
5116(c)	49 App.:1815(c).	
5116(d)	49 App.:1815(e).	
5116(e)	49 App.:1815(d).	
5116(f)	49 App.:1815(g)(7).	
5116(g)	49 App.:1815(f).	
5116(h)	49 App.:1815(g)(9).	
5116(i)	49 App.:1815(h)(6).	

In subsections (a)(2)(A) and (b)(2)(A), the words "at least equal" are substituted for "be maintained at a level which does not fall below" to eliminate unnecessary words.

In subsection (a)(2)(B), the words "by the State emergency response commission" are omitted as surplus.

In subsection (b)(2)(B)(i), the words "or courses" are omitted because of 1:1.

In subsection (c), the words "including compliance with such sections with respect to accidents and incidents involving the transportation of hazardous materials" are omitted as surplus.

In subsection (d), the word "section" is substituted for "subsection" for clarity because there are no objectives in the subsection being restated.

In subsection (e), the words "A grant under this section is for" are substituted for "By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed" to eliminate unnecessary words and for consistency in the revised title. The words "which are required to be expended under subsections (a)(2) and (b)(2) of this section" are omitted as surplus. The words "under this subsection" are added for clarity.

In subsection (h), the words "including coordination of training programs" are omitted as surplus.

PUB. L. 104–287, §5(8)

This amends 49:5116(j)(4)(A) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

The Emergency Planning and Community Right-To-Know Act of 1986, referred to in subsec. (a)(1)(A), is title III of Pub. L. 99–499, Oct. 17, 1986, 100 Stat. 1728, which is classified generally to chapter 116 (§11001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11001 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (j). Pub. L. 117–58, §26002(3), added subsec. (j). Former subsec. (j) redesignated (k).

Pub. L. 117–58, §26002(1), substituted "subsections (i) and (j)" for "subsection (i)" in introductory provisions.

Subsec. (k). Pub. L. 117–58, §26002(2), redesignated subsec. (j) as (k).

2015—Subsec. (a). Pub. L. 114–94, §7203(a)(3), added subsec. (a) and struck out former subsec. (a) which related to planning grants.

Subsecs. (b), (c). Pub. L. 114–94, §7203(a)(1), (2), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which related to training grants.

Subsec. (d). Pub. L. 114–94, §7203(a)(1), (b)(2)(A), redesignated subsec. (e) as (d) and substituted "subsection (a)(3)(A)" for "subsections (a)(2)(A) and (b)(2)(A)". Former subsec. (d) redesignated (c).

Subsecs. (e) to (g). Pub. L. 114–94, §7203(a)(1), redesignated subsecs. (f) to (h) as (e) to (g), respectively. Former subsec. (e) redesignated (d).

Subsec. (h). Pub. L. 114–94, §7203(a)(1), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Subsec. (h)(1). Pub. L. 114–94, §7203(b)(2)(B)(i), inserted "and section 5107(e)" after "section".

Subsec. (h)(2). Pub. L. 114–94, §7203(b)(2)(B)(ii), substituted "subsection (e)" for "subsection (f)".

Subsec. (h)(4). Pub. L. 114–94, §7203(b)(2)(B)(iii), substituted "5107(e) and 5108(g)(2)" for "5108(g)(2)

and 5115".

Subsec. (i). Pub. L. 114–94, §7203(a)(1), (b)(2)(C), redesignated subsec. (j) as (i) and substituted "subsection (a)" for "subsection (b)" in par. (1). Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 114–94, §7203(b)(2)(D), substituted, in introductory provisions, "planning and training grants under subsection (a) and grants under subsection (i) of this section and under subsections (e) and (i) of section 5107" for "planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107" and redesignated subpars. (A) to (D) as pars. (1) to (4), respectively.

Pub. L. 114–94, §7203(a)(1), redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Subsec. (k). Pub. L. 114–94, §7203(a)(1), redesignated subsec. (k) as (j).

2012—Subsec. (b)(1). Pub. L. 112–141, §33004(b)(1), inserted at end "To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials."

Subsec. (j)(1). Pub. L. 112–141, §33004(b)(2)(A), substituted "funds and through a competitive process, make a grant or make grants to national nonprofit fire service organizations for" for "funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for".

Subsec. (j)(3)(A). Pub. L. 112–141, §33004(b)(2)(B), substituted "provide training, including portable training, for" for "train".

Subsec. (j)(4). Pub. L. 112–141, §33004(b)(2)(C)(ii), which directed insertion of "comply with Federal regulations and national consensus standards for hazardous materials response and" after "training course shall", was executed by making the insertion after "training courses shall" in concluding provisions, to reflect the probable intent of Congress.

Pub. L. 112–141, §33004(b)(2)(C)(i), substituted "provide training, including portable training, for" for "train" in introductory provisions.

Subsec. (j)(5) to (8). Pub. L. 112–141, §33004(b)(2)(D), (E), added pars. (5) to (7) and redesignated former par. (5) as (8).

Subsec. (k). Pub. L. 112–141, §33004(b)(3), substituted "an annual report" for "annually" and inserted "the report" after "make available" in first sentence, substituted ". The report submitted under this subsection shall include information" for "information" and "The report submitted under this subsection shall identify the ultimate recipients of such grants and include—" for "The report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out.", and added pars. (A) to (D).

2005—Subsec. (a)(1), (2). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 109–59, §7114(a), substituted "5 fiscal years" for "2 fiscal years".

Subsec. (b)(1). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Subsec. (b)(2). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 109–59, §7114(a), substituted "5 fiscal years" for "2 fiscal years".

Subsec. (b)(3)(C), (4). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in introductory provisions of par. (3)(C) and "Secretary shall allocate" for "Secretary of Transportation shall allocate" in introductory provisions of par. (4).

Subsecs. (c), (d). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in subsec. (c) and "Secretary." for "Secretary of Transportation." in subsec. (d).

Subsec. (f). Pub. L. 109–59, §7114(b), substituted "National Response Team" for "national response team".

Subsec. (g). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in introductory provisions.

Pub. L. 109–59, §7114(c), substituted "Federal financial assistance" for "Government grant programs" in introductory provisions.

Subsec. (i). Pub. L. 109–59, §7114(d)(1), (2), in introductory provisions, inserted "(to be known as the 'Hazardous Materials Emergency Preparedness Fund')" after "an account in the Treasury" and struck out "collects under section 5108(g)(2)(A) of this title and" before "transfers to the Secretary", added par. (3), and redesignated former par. (3) as (4) and substituted "2 percent" for "10 percent".

Subsec. (k). Pub. L. 109–59, §7114(e), substituted "The Secretary shall submit annually to the Committee

on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and make available to the public information on the allocation and uses of the planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107" for "Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996" and "The report" for "Such report".

1996—Subsec. (a)(2). Pub. L. 104–287, §6(b), made technical correction to directory language of Pub. L. 103–311, §105(b)(2). See 1994 Amendment note below.

Subsec. (j)(4)(A). Pub. L. 104–287, §5(8), substituted "section 5115 of this title" for "subsection (g)".

1994—Subsec. (a)(1). Pub. L. 103–311, §105(a), in introductory provisions inserted "and Indian tribes" after "States", and in subpar. (A) substituted "on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe" for "in a State and between States".

Subsec. (a)(2). Pub. L. 103–311, §105(b)(2), as amended by Pub. L. 104–287, §6(b), struck out "the State" after "only if" in introductory provisions.

Pub. L. 103–311, §105(b)(1), inserted "or Indian tribe" after "grant to a State" in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 103–311, §105(b)(1), (3), inserted "the State or Indian tribe" before "certifies" and "or Indian tribe" before "expends".

Subsec. (a)(2)(B). Pub. L. 103–311, §105(b)(4), inserted "the State" before "agrees".

Subsec. (a)(3). Pub. L. 103–311, §105(c), added par. (3).

Subsec. (i)(1). Pub. L. 103–311, §119(d)(2), as amended by Pub. L. 103–429, struck out "and section 5107(e) of this title" after "under this section".

Subsec. (i)(3). Pub. L. 103–311, §119(d)(3), as amended by Pub. L. 103–429, substituted "5108(g)(2)" for "5107(e), 5108(g)(2),".

Subsecs. (j), (k). Pub. L. 103–311, §119(a), added subsecs. (j) and (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency", "Administrators, and Director", and "Administrator of the Federal Emergency Management Agency, Director of the National Institute of Environmental Health Sciences" substituted for "Director of the Federal Emergency Management Agency", "Administrator, and Directors", and "Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences", respectively, in subsecs. (f) to (h), on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–287, §6(b), Oct. 11, 1996, 110 Stat. 3398, provided that the amendment made by section 6(b) is effective Aug. 26, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–429, §7(c), Oct. 31, 1994, 108 Stat. 4389, provided that the amendment made by section 7(c) is effective Aug. 26, 1994.

SAVINGS CLAUSE

Pub. L. 114–94, div. A, title VII, §7203(c), Dec. 4, 2015, 129 Stat. 1591, provided that: "Nothing in this section [amending this section and section 5108 of this title] may be construed to prohibit the Secretary [of Transportation] from recovering and deobligating funds from grants that are not managed or expended in compliance with a grant agreement."

§5117. Special permits and exclusions

(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—(1) As provided under procedures prescribed by regulation, the Secretary may issue, modify, or terminate a special permit authorizing a variance from this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title to a person performing a function regulated by the Secretary under section 5103(b)(1) in a way that achieves a safety level—

(A) at least equal to the safety level required under this chapter; or

(B) consistent with the public interest and this chapter, if a required safety level does not exist.

(2) A special permit issued under this section shall be effective for an initial period of not more than 2 years and may be renewed by the Secretary upon application for successive periods of not more than 4 years each or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

(b) APPLICATIONS.—When applying for a special permit or renewal of a special permit under this section, the person must provide a safety analysis prescribed by the Secretary that justifies the special permit. The Secretary shall publish in the Federal Register notice that an application for a new special permit or a modification to an existing special permit has been filed and shall give the public an opportunity to inspect the safety analysis and comment on the application. The Secretary shall make available to the public on the Department of Transportation's Internet Web site any special permit other than a new special permit or a modification to an existing special permit and shall give the public an opportunity to inspect the safety analysis and comment on the application for a period of not more than 15 days. This subsection does not require the release of information protected by law from public disclosure.

(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew a special permit or approval for which an application was filed or deny such issuance or renewal within 120 days after the first day of the month following the date of the filing of such application, or the Secretary shall make available to the public a statement of the reason why the Secretary's decision on a special permit or approval is delayed, along with an estimate of the additional time necessary before the decision is made.

(d) EXCLUSIONS.—(1) The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

(A) a public vessel (as defined in section 2101 of title 46);

(B) a vessel exempted under section 3702 of title 46 from chapter 37 of title 46; and

(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 [1] (33 U.S.C. 1221 et seq.).

(2) This chapter and regulations prescribed under this chapter do not prohibit—

(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

(B) transportation of a firearm or ammunition in commerce.

(e) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a special permit or renewal granted under this section is the only way a person subject to this chapter may be granted a variance from this chapter.

(f) INCORPORATION INTO REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date on which a special permit has been in continuous effect for a 10-year period, the Secretary shall conduct a review and analysis of that

special permit to determine whether it may be converted into the hazardous materials regulations.

(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

(A) the safety record for hazardous materials transported under the special permit;

(B) the application of a special permit;

(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

(D) rulemaking activity in related areas.

(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and after providing notice and opportunity for public comment, the Secretary shall either institute a rulemaking to incorporate the special permit into the hazardous materials regulations or publish in the Federal Register the Secretary's justification for why the special permit is not appropriate for incorporation into the regulations.

(g) DISCLOSURE OF FINAL ACTION.—The Secretary shall periodically, but at least every 120 days—

(1) publish in the Federal Register notice of the final disposition of each application for a new special permit, modification to an existing special permit, or approval during the preceding quarter; and

(2) make available to the public on the Department of Transportation's Internet Web site notice of the final disposition of any other special permit during the preceding quarter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 776; Pub. L. 103–311, title I, §120(a), Aug. 26, 1994, 108 Stat. 1680; Pub. L. 109–59, title VII, §§7115(a)(1), (b)–(g), 7126, Aug. 10, 2005, 119 Stat. 1901, 1909; Pub. L. 112–141, div. C, title III, §33012(c), July 6, 2012, 126 Stat. 839; Pub. L. 114–94, div. A, title VII, §7204, Dec. 4, 2015, 129 Stat. 1592.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5117(a)	49 App.:1806(a) (1st, 2d sentences).	Jan. 3, 1975, Pub. L. 93–633, §107, 88 Stat. 2158; Nov. 16, 1990, Pub. L. 101–615, §9, 104 Stat. 3259.
5117(b)	49 App.:1806(a) (3d–last sentences).	
5117(c)(1)	49 App.:1806(b).	
5117(c)(2)	49 App.:1806(c).	
5117(d)	49 App.:1806(d).	

In subsection (a)(1), before clause (A), the words "or renew" and "subject to the requirements of this chapter" are omitted as surplus. In clause (A), the words "at least equal to the safety level required under this chapter" are substituted for "which is equal to or exceeds that level of safety which would be required in the absence of such exemption" to eliminate unnecessary words.

In subsection (a)(2), the words "issued or renewed" are omitted as surplus.

In subsection (b), the words "upon application" and "grant of such" are omitted as surplus. The words "give the public an opportunity to inspect" are substituted for "afford access to . . . public" for clarity. The words "described by subsection (b) of section 552 of title 5, or which is otherwise" are omitted as surplus.

In subsection (c)(1), clauses (A) and (B) are substituted for "any vessel which is excepted from the application of section 201 of the Ports and Waterways Safety Act of 1972 by paragraph (2) of such section". Section 201 of that Act amended section 4417a of the Revised Statutes (classified at 46:391a prior to its repeal and reenactment as part of the codification of subtitle II of title 46 in 1983). Clauses (A) and (B) restate the exceptions provided by section 201 of that Act and by section 4417a of the Revised Statutes as subsequently amended. Clause (C) is substituted for "any other vessel regulated under such Act, to the extent of such regulation" because of the restatement.

In subsection (c)(2), before clause (A), the word "prescribed" is substituted for "issued" for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words "by which", "the requirements of", and "or relieved of the obligation to meet any requirements imposed under" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Ports and Waterways Safety Act of 1972, referred to in subsec. (d)(1)(C), is Pub. L. 92–340, July 10, 1972, 86 Stat. 424, which was renamed the Ports and Waterways Safety Act by Pub. L. 95–474, §2, Oct. 17, 1978, 92 Stat. 1471, and was classified generally to chapter 25 (§1221 et seq.) of Title 33, Navigation and Navigable Waters, prior to repeal by Pub. L. 115–282, title IV, §402(e), Dec. 4, 2018, 132 Stat. 4264. See Transitional and Savings Provisions note preceding section 101 of Title 46, Shipping, and chapter 700 (§70001 et seq.) of Title 46.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94, §7204(1), substituted "an application for a new special permit or a modification to an existing special permit" for "an application for a special permit" and inserted "The Secretary shall make available to the public on the Department of Transportation's Internet Web site any special permit other than a new special permit or a modification to an existing special permit and shall give the public an opportunity to inspect the safety analysis and comment on the application for a period of not more than 15 days." before "This subsection".

Subsec. (c). Pub. L. 114–94, §7204(2), substituted "a special permit or approval" for "the special permit" in two places, "120 days" for "180 days", and "make available to the public" for "publish", and struck out "in the Federal Register" after "a statement".

Subsec. (g). Pub. L. 114–94, §7204(3), added subsec. (g).

2012—Subsec. (f). Pub. L. 112–141 added subsec. (f).

2005—Pub. L. 109–59, §7115(a)(1), substituted "Special permits and exclusions" for "Exemptions and exclusions" in section catchline.

Subsec. (a). Pub. L. 109–59, §7115(b), substituted "Issue Special Permits" for "Exempt" in heading.

Subsec. (a)(1). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation" in introductory provisions.

Pub. L. 109–59, §7115(c), in introductory provisions, substituted "issue, modify, or terminate a special permit authorizing a variance" for "issue an exemption" and "performing a function regulated by the Secretary under section 5103(b)(1)" for "transporting, or causing to be transported, hazardous material".

Subsec. (a)(2). Pub. L. 109–59, §7115(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "An exemption under this subsection is effective for not more than 2 years and may be renewed on application to the Secretary."

Subsec. (b). Pub. L. 109–59, §7115(e), substituted "the special permit" for "the exemption" and substituted "a special permit" for "an exemption" wherever appearing.

Subsec. (c). Pub. L. 109–59, §7115(f), substituted "the special permit" for "the exemption" in two places.

Subsec. (e). Pub. L. 109–59, §7115(g), substituted "a special permit" for "an exemption" and "be granted a variance" for "be exempt".

1994—Subsecs. (c) to (e). Pub. L. 103–311 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS

Pub. L. 112–141, div. C, title III, §33012(a), (b), July 6, 2012, 126 Stat. 838, provided that:

"(a) RULEMAKING.—Not later than 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation], after providing notice and an opportunity for public comment, shall issue regulations that establish—

"(1) standard operating procedures to support administration of the special permit and approval programs; and

"(2) objective criteria to support the evaluation of special permit and approval applications.

"(b) REVIEW OF SPECIAL PERMITS.—

"(1) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a review and analysis of special permits that have been in continuous effect for a 10-year period to determine which special permits may be converted into the hazardous materials regulations.

"(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

"(A) the safety record for hazardous materials transported under the special permit;

"(B) the application of a special permit;

"(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

"(D) rulemaking activity in related areas.

"(3) RULEMAKING.—After completing the review and analysis under paragraph (1), but not later than 3 years after the date of enactment of this Act, and after providing notice and opportunity for public comment, the Secretary shall issue regulations to incorporate into the hazardous materials regulations any special permits identified in the review under paragraph (1) that the Secretary determines are appropriate for incorporation, based on the factors identified in paragraph (2)."

[1] *See References in Text note below.*

§5118. Hazardous material technical assessment, research and development, and analysis program

(a) RISK REDUCTION.—

(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

(A) reducing the risks associated with the transportation of hazardous material; and

(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

(A) utilize information gathered from other modal administrations with similar programs;

(B) coordinate with other modal administrations, as appropriate; and

(C) coordinate, as appropriate, with other Federal agencies.

(b) COOPERATION.—In carrying out subsection (a), the Secretary shall work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.

(c) COOPERATIVE RESEARCH.—

(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may carry out cooperative research on hazardous materials transport.

(2) NATIONAL ACADEMIES.—The Secretary may enter into an agreement with the National Academies to support research described in paragraph (1).

(3) RESEARCH.—Research conducted under this subsection may include activities relating to—

(A) emergency planning and response, including information and programs that can be

readily assessed and implemented in local jurisdictions;
(B) risk analysis and perception and data assessment;
(C) commodity flow data, including voluntary collaboration between shippers and first responders for secure data exchange of critical information;
(D) integration of safety and security;
(E) cargo packaging and handling;
(F) hazmat release consequences; and
(G) materials and equipment testing.

(Added Pub. L. 112–141, div. C, title III, §33007(a), July 6, 2012, 126 Stat. 835; amended Pub. L. 114–94, div. A, title VI, §6014, Dec. 4, 2015, 129 Stat. 1570.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5118, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 777; Pub. L. 108–426, §2(c)(2), Nov. 30, 2004, 118 Stat. 2424, related to employment of additional hazardous material safety inspectors, prior to repeal by Pub. L. 109–59, title VII, §7115(h), Aug. 10, 2005, 119 Stat. 1901.

AMENDMENTS

2015—Subsec. (a)(2)(C). Pub. L. 114–94, §6014(1), added subpar. (C).
Subsec. (c). Pub. L. 114–94, §6014(2), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5119. Uniform forms and procedures

(a) ESTABLISHMENT OF WORKING GROUP.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

(b) PURPOSE OF WORKING GROUP.—The purpose of the working group shall be to develop uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

(c) LIMITATION ON WORKING GROUP.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

(d) PROCEDURE.—The Secretary shall develop a procedure for the working group to employ in developing recommendations for the Secretary to harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.

(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

(f) REGULATIONS.—Not later than 18 months after the date the working group's report is delivered to the Secretary, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate. In developing such regulations, the

Secretary shall consider the State needs associated with the transition to and implementation of a uniform forms and procedures program.

(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 777; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 109–59, title VII, §7116, Aug. 10, 2005, 119 Stat. 1901.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5119(a)	49 App.:1819(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §121(a)–(g); added Nov. 16, 1990, Pub. L. 101–615, §22, 104 Stat. 3271; Oct. 24, 1992, Pub. L. 102–508, §507, 106 Stat. 3312.
5119(b)	49 App.:1819(b), (c).	
5119(c)(1)	49 App.:1819(d).	
5119(c)(2)	49 App.:1819(e).	
5119(c)(3)	49 App.:1819(f).	
5119(d)	49 App.:1819(g).	

In subsection (a), before clause (1), the words "As soon as practicable after November 16, 1990" are omitted as obsolete.

In subsection (c)(1), the words "Subject to the provisions of this subsection" and "to the Secretary" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (e), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2005—Pub. L. 109–59 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to establishment of working group, consultation and reporting, regulations, and relationship to other laws.

1996—Subsec. (b)(2), Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

§5120. International uniformity of standards and requirements

(a) PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of State, the Secretary of Transportation shall participate in international forums that establish or recommend mandatory standards and requirements for transporting hazardous material in international commerce.

(b) CONSULTATION.—The Secretary may consult with interested authorities to ensure that, to the extent practicable, regulations the Secretary prescribes under sections 5103(b), 5104, 5110, and 5112 of this title are consistent with standards and requirements related to transporting hazardous material that international authorities adopt.

(c) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—This section—

(1) does not require the Secretary to prescribe a standard or requirement identical to a standard

or requirement adopted by an international authority if the Secretary decides the standard or requirement is unnecessary or unsafe; and

(2) does not prohibit the Secretary from prescribing a safety standard or requirement more stringent than a standard or requirement adopted by an international authority if the Secretary decides the standard or requirement is necessary in the public interest.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 778; Pub. L. 109–59, title VII, §§7117, 7126, Aug. 10, 2005, 119 Stat. 1902, 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5120(a)	49 App.:1804(d)(1).	Jan. 3, 1975, Pub. L. 93–633, §105(d), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615 §4, 104 Stat. 3252.
5120(b)	49 App.:1804(d)(2) (1st sentence).	
5120(c)	49 App.:1804(d)(2) (last sentence).	

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59, §7126, substituted "Secretary may" for "Secretary of Transportation may".

Pub. L. 109–59, §7117(a), inserted "and requirements" after "standards".

Subsec. (c)(1). Pub. L. 109–59, §7126, substituted "Secretary to prescribe" for "Secretary of Transportation to prescribe".

Pub. L. 109–59, §7117(b)(1), inserted "or requirement" after "standard" wherever appearing.

Subsec. (c)(2). Pub. L. 109–59, §7117(b)(2), struck out "included in a standard" before "adopted" and inserted "standard or" before "requirement" wherever appearing.

§5121. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. Except as provided in subsections (c) and (d), after notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

(1) maintain records and property, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, property, reports, and information available for inspection when the Secretary undertakes an investigation or makes a request.

(c) INSPECTIONS AND INVESTIGATIONS.—

(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

(A) may inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);

(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the

officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material;

(C) may remove from transportation a package or related packages in a shipment offered for or in transportation for which—

(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

(ii) such officer, employee, or agent contemporaneously documents such belief in accordance with procedures set forth in guidance or regulations prescribed under subsection (e);

(D) may gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

(E) as necessary, under terms and conditions specified by the Secretary, may order the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis;

(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection; and

(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

(i) his or her decision to exercise his or her authority under paragraph (1);

(ii) any findings made; and

(iii) any actions being taken as a result of a finding of noncompliance.

(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials, in person or in writing, when requested.

(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

(A) in the safe and prompt resumption of transportation of the package concerned; or

(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.

(d) EMERGENCY ORDERS.—

(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

(2) WRITTEN ORDERS.—The action of the Secretary under paragraph (1) shall be in a written emergency order that—

(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

(C) describes the standards and procedures for obtaining relief from the order.

(3) OPPORTUNITY FOR REVIEW.—After taking action under paragraph (1), the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.

(4) EXPIRATION OF EFFECTIVENESS OF ORDER.—If a petition for review of an action is filed under paragraph (3) and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

(5) OUT-OF-SERVICE ORDER DEFINED.—In this subsection, the term "out-of-service order" means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

(e) REGULATIONS.—

(1) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, the Secretary shall issue temporary regulations to carry out subsections (c) and (d). The temporary regulations shall expire on the date of issuance of the regulations under paragraph (2).

(2) FINAL REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.

(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

(B) the means by which—

(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

(ii) noncompliant packages that do not present a hazard are moved to their final destination;

(C) appropriate training and equipment for inspectors; and

(D) the proper closure of packaging in accordance with the hazardous material regulations.

(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary shall—

(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the Government and State and local governments on meeting an emergency related to the transportation of hazardous material; and

(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

(g) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into grants and cooperative agreements with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

(1) to expand risk assessment and emergency response capabilities with respect to the safety and security of transportation of hazardous material;

(2) to enhance emergency communications capacity as determined necessary by the Secretary, including the use of integrated, interoperable emergency communications technologies where appropriate;

(3) to conduct research, development, demonstration, risk assessment, and emergency response planning and training activities; or

(4) to otherwise carry out this chapter.

(h) REPORT.—The Secretary shall, once every 2 years, prepare and make available to the public on the Department of Transportation's Internet Web site a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years. The report shall include—

(1) a statistical compilation of accidents and casualties related to the transportation of hazardous material;

(2) a list and summary of applicable Government regulations, criteria, orders, and special permits;

(3) a summary of the basis for each special permit;

(4) an evaluation of the effectiveness of enforcement activities relating to a function regulated by the Secretary under section 5103(b)(1) and the degree of voluntary compliance with regulations;

(5) a summary of outstanding problems in carrying out this chapter in order of priority; and

(6) recommendations for appropriate legislation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 779; Pub. L. 103–311, title I, §§108, 117(a)(2), Aug. 26, 1994, 108 Stat. 1674, 1678; Pub. L. 109–59, title VII, §§7118, 7126, Aug. 10, 2005, 119 Stat. 1902, 1909; Pub. L. 110–244, title III, §302(e), June 6, 2008, 122 Stat. 1618; Pub. L. 112–141, div. C, title II, §32501(c), title III, §33009(a), (b)(1), (c), July 6, 2012, 126 Stat. 803, 836, 837; Pub. L. 114–94, div. A, title VII, §7205, Dec. 4, 2015, 129 Stat. 1592.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5121(a)	49 App.:1808(a) (1st sentence, last sentence words before semicolon).	Jan. 3, 1975, Pub. L. 93–633, §109(a) (1st sentence, last sentence words before semicolon), (b), (c), 88 Stat. 2159.
5121(b)	49 App.:1808(b).	
5121(c)	49 App.:1808(c).	
5121(d)	49 App.:1808(d).	Jan. 3, 1975, Pub. L. 93–633, §109(d), 88 Stat. 2159; Oct. 30, 1984, Pub. L. 98–559, §1(a), 98 Stat. 2907; Nov. 16, 1990, Pub. L. 101–615, §11, 104 Stat. 3259.
5121(e)	49 App.:1808(e).	Jan. 3, 1975, Pub. L. 93–633, §109(e), 88 Stat. 2159; Oct. 30, 1984, Pub. L. 98–559, §1(b), 98 Stat. 2907.

In subsection (a), the words "to the extent necessary . . . his responsibilities under" and "relevant" are omitted as surplus. The word "documents" is omitted as being included in "records". The words "directly or indirectly" are omitted as surplus. The word "prescribed" is substituted for "issued" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), the words "requirements under" are omitted as surplus. In clause (1), the words "establish and" are omitted as surplus. The word "requires" is substituted for "prescribe" for clarity and consistency.

In subsection (c)(1), before clause (A), the words "enter upon . . . and examine" and "of persons to the extent such records and properties" are omitted as surplus. In clause (B), the words "or shipment by any

person" are omitted as surplus.

In subsection (d)(1), before clause (A), the words "establish and" are omitted as executed. In clause (B), the words "capable of" are substituted for "so as to be able to" to eliminate unnecessary words. The words "technical and other" and "of communities" are omitted as surplus. The words "and employees" are added for consistency in the revised title and with other titles of the Code. In clause (C), the words "in order" and "to be able to" are omitted as surplus.

In subsection (e), before clause (1), the words "prepare and" and "comprehensive" are omitted as surplus. In clause (1), the word "thorough" is omitted as surplus. In clause (2), the words "in effect" are omitted as surplus. In clause (3), the words "granted or maintained" are omitted as surplus. In clause (6), the words "additional . . . as are deemed necessary or" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, referred to in subsec. (e), is the date of enactment of title VII of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2015—Subsec. (h). Pub. L. 114–94 substituted "make available to the public on the Department of Transportation's Internet Web site" for "transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate" in introductory provisions.

2012—Subsec. (c)(1)(G). Pub. L. 112–141, §33009(a), added subpar. (G).

Subsec. (c)(2). Pub. L. 112–141, §32501(c), inserted ", in person or in writing," after "proper credentials".

Subsec. (e)(3). Pub. L. 112–141, §33009(b)(1), added par. (3).

Subsec. (g)(1). Pub. L. 112–141, §33009(c), inserted "safety and" before "security".

2008—Subsec. (h)(2). Pub. L. 110–244, §302(e)(1), substituted "special permits" for "exemptions".

Subsec. (h)(3). Pub. L. 110–244, §302(e)(2), substituted "special permit" for "exemption".

2005—Subsec. (a). Pub. L. 109–59, §7126, substituted "Secretary may investigate" for "Secretary of Transportation may investigate".

Pub. L. 109–59, §7118(a), inserted "conduct tests," after "investigate," and substituted "Except as provided in subsections (c) and (d), after" for "After" and "regulation prescribed, or an order, special permit, or approval issued," for "regulation prescribed".

Subsec. (b)(1). Pub. L. 109–59, §7118(b)(1), inserted "and property" after "records".

Subsec. (b)(2). Pub. L. 109–59, §7118(b)(2), inserted "property," after "records," and "for inspection" after "available" and substituted "undertakes an investigation or makes a request" for "requests".

Subsec. (c). Pub. L. 109–59, §7118(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

"(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

"(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

"(B) the transportation of hazardous material in commerce.

"(2) An officer, employee, or agent under this subsection shall display proper credentials when requested."

Subsecs. (d), (e). Pub. L. 109–59, §7118(d), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (h), respectively.

Subsec. (f). Pub. L. 109–59, §7118(d)(1), redesignated subsec. (d) as (f).

Subsec. (g). Pub. L. 109–59, §7118(e), added subsec. (g).

Subsec. (h). Pub. L. 109–59, §7118(f)(1), substituted "transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate" for "submit to the President for transmittal to the Congress" in introductory provisions.

Pub. L. 109–59, §7118(d)(1), redesignated subsec. (e) as (h).

Subsec. (h)(4). Pub. L. 109–59, §7118(f)(2), inserted "relating to a function regulated by the Secretary under section 5103(b)(1)" after "activities".

1994—Subsec. (c)(1)(A). Pub. L. 103–311, §117(a)(2), substituted "a packaging or a" for "a package or".

Subsec. (e). Pub. L. 103–311, §108, substituted "Report" for "Annual Report" in heading and substituted

first sentence for former first sentence which read as follows: "The Secretary shall submit to the President, for submission to Congress, not later than June 15th of each year, a report about the transportation of hazardous material during the prior calendar year."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM

Pub. L. 112–141, div. C, title III, §33005, July 6, 2012, 126 Stat. 833, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least 1 of the pilot projects under this section shall take place in a rural area.

"(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

"(1) may not waive the requirements under section 5110 of title 49, United States Code; and

"(2) shall consult with organizations representing—

"(A) fire services personnel;

"(B) law enforcement and other appropriate enforcement personnel;

"(C) other emergency response providers;

"(D) persons who offer hazardous material for transportation;

"(E) persons who transport hazardous material by air, highway, rail, and water; and

"(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary shall—

"(1) prepare a report on the results of the pilot projects carried out under this section, including—

"(A) a detailed description of the pilot projects;

"(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

"(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations;

"(D) an analysis of the associated benefits and costs of using the paperless hazard communications systems for each mode of transportation; and

"(E) a recommendation that incorporates the information gathered in subparagraphs (A), (B), (C), and (D) on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

"(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

"(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.—In this section, the term 'paperless hazard communications system' means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier."

HAZARDOUS MATERIAL ENFORCEMENT TRAINING

Pub. L. 112–141, div. C, title III, §33008, July 6, 2012, 126 Stat. 836, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101

of Title 23, Highways], the Secretary [of Transportation] shall develop uniform performance standards for training hazardous material inspectors and investigators on—

"(1) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

"(2) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

"(b) STANDARDS AND GUIDELINES.—The Secretary may develop—

"(1) guidelines for hazardous material inspector and investigator qualifications;

"(2) best practices and standards for hazardous material inspector and investigator training programs; and

"(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

"(c) AVAILABILITY.—The standards, protocols, and guidelines established under this section—

"(1) shall be mandatory for—

"(A) the Department of Transportation's multimodal personnel conducting hazardous material enforcement inspections or investigations; and

"(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

"(2) shall be made available to Federal, State, and local hazardous material safety enforcement personnel."

FINALIZING REGULATIONS

Pub. L. 112–141, div. C, title III, §33009(b)(2), July 6, 2012, 126 Stat. 837, provided that: "In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall take all actions necessary to finalize a regulation under paragraph (1) of this subsection [amending this section]."

TOLL FREE NUMBER FOR REPORTING

Pub. L. 103–311, title I, §116, Aug. 26, 1994, 108 Stat. 1678, provided that: "The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter."

§5122. Enforcement

(a) GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order, special permit, or approval issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123.

(b) IMMINENT HAZARDS.—(1) If the Secretary has reason to believe that an imminent hazard exists, the Secretary may bring a civil action in an appropriate district court of the United States—

(A) to suspend or restrict the transportation of the hazardous material responsible for the hazard; or

(B) to eliminate or mitigate the hazard.

(2) On request of the Secretary, the Attorney General shall bring an action under paragraph (1) of this subsection.

(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or individual in charge may be subject to such a civil penalty or fine, the Secretary of Homeland Security, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of title 46.

(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 780; Pub. L. 104–324, title III, §312(a), Oct. 19, 1996, 110 Stat. 3920; Pub. L. 109–59, title VII, §§7119, 7126, Aug. 10, 2005, 119 Stat. 1905, 1909; Pub. L. 109–304, §17(h)(1), Oct. 6, 2006, 120 Stat. 1709.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5122(a)	49 App.:1808(a) (last sentence words after semicolon). 49 App.:1810(a).	Jan. 3, 1975, Pub. L. 93–633, §§109(a) (last sentence words after semicolon), 111(a), 88 Stat. 2159, 2161.
5122(b)	49 App.:1810(b).	Jan. 3, 1975, Pub. L. 93–633, §111(b), 88 Stat. 2161; Nov. 16, 1990, Pub. L. 101–615, §3(b), 104 Stat. 3247.

In this section, the words "bring a civil action" are substituted for "bring an action in" in 49 App.:1810 and "petition . . . for an order . . . for such other order" for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the text of 49 App.:1808(a) (last sentence words after semicolon) and the words "for equitable relief" in 49 App.:1810(a) are omitted as surplus. The words "enforce this chapter" are substituted for "redress a violation by any person of a provision of this chapter" to eliminate unnecessary words. The words "regulation prescribed or order issued" are substituted for "order or regulation issued" for consistency in the revised title and with other titles of the Code. The words "The court may award appropriate relief, including" are substituted for "Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and" to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words "as is necessary" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (c)(1). Pub. L. 109–304 substituted "Secretary of Homeland Security" and "section 60105 of title 46" for "Secretary of the Treasury" and "section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)", respectively.

2005—Subsec. (a). Pub. L. 109–59, §7126, substituted "Secretary" for "Secretary of Transportation".

Pub. L. 109–59, §7119(a), substituted "this chapter or a regulation prescribed or order, special permit, or approval" for "this chapter or a regulation prescribed or order" and "The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123" for "The court may award appropriate relief, including punitive damages".

Subsec. (b)(1)(B). Pub. L. 109–59, §7119(b), substituted "or mitigate the hazard" for "or ameliorate the hazard".

1996—Subsec. (c). Pub. L. 104–324 added subsec. (c).

§5123. Civil penalty

(a) PENALTY.—(1) A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of not more than $75,000 for each violation. A person acts knowingly when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have

that knowledge.

(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person or substantial destruction of property, the Secretary may increase the amount of the civil penalty for such violation to not more than $175,000.

(3) If the violation is related to training, a person described in paragraph (1) shall be liable for a civil penalty of at least $450.

(4) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues.

(b) HEARING REQUIREMENT.—The Secretary may find that a person has violated this chapter or a regulation prescribed or order, special permit, or approval issued under this chapter only after notice and an opportunity for a hearing. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty.

(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue to do business; and

(3) other matters that justice requires.

(d) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.

(e) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(f) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(g) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—

(1) The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

(2) For the purposes of this subsection, the term "obstructs" means actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation.

(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—

(1) IN GENERAL.—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.

(2) EXCEPTION.—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

(3) RULEMAKING.—Not later than 2 years after the date of enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

(B) ensures [1] that the person described in subparagraph (A)—

(i) is notified in writing; and

(ii) is given an opportunity to respond before the person is required to cease the activity.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 780; Pub. L. 109–59, title VII, §§7120(a)–(c), 7126, Aug. 10, 2005, 119 Stat. 1905, 1906, 1909; Pub. L. 112–141, div. C, title III, §33010, July 6, 2012, 126 Stat. 837.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5123(a)(1)	49 App.:1809(a)(1) (1st sentence less 3d–16th words, 2d sentence words before 4th comma, 3d sentence).	Jan. 3, 1975, Pub. L. 93–633, §110(a)(1), 88 Stat. 2160; Nov. 16, 1990, Pub. L. 101–615, §12(a)(1), 104 Stat. 3259.
	49 App.:1809(a)(3).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §110(a)(3); added Nov. 16, 1990, Pub. L. 101–615, §12(a)(2), 104 Stat. 3259.
5123(a)(2)	49 App.:1809(a)(1) (2d sentence words after 4th comma).	
5123(b)	49 App.:1809(a)(1) (1st sentence 3d–16th words, 4th sentence).	
5123(c)	49 App.:1809(a)(1) (last sentence).	
5123(d), (e)	49 App.:1809(a)(2) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, §110(a)(2), 88 Stat. 2160.
5123(f)	49 App.:1809(a)(2) (2d sentence).	
5123(g)	49 App.:1809(a)(2) (last sentence).	

In subsection (a)(1), before clause (1), the words "A person that knowingly violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $25,000 for each violation" are substituted for 49 App.:1809(a)(1) (1st sentence less 3d–16th words, 2d sentence words before 4th comma, 3d sentence) to eliminate unnecessary words.

In subsection (b), the word "impose" is substituted for "assessed" for consistency.

In subsection (c)(2), the words "the violator" are substituted for "the person found to have committed such violation" to eliminate unnecessary words.

In subsection (f), the words "imposed or compromised" are substituted for "of such penalty, when finally determined (or agreed upon in compromise)" to eliminate unnecessary words and for consistency. The words "liable for the penalty" are substituted for "charged" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (i)(3), is the date of enactment of Pub. L. 112–141, which was approved July 6, 2012.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141, §33010(1)(A), in introductory provisions, struck out "at least $250 but" after "civil penalty of" and substituted "$75,000" for "$50,000".

Subsec. (a)(2). Pub. L. 112–141, §33010(1)(B), substituted "$175,000" for "$100,000".

Subsec. (a)(3). Pub. L. 112–141, §33010(1)(C), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "If the violation is related to training, paragraph (1) shall be applied by substituting '$450' for '$250'."

Subsecs. (h), (i). Pub. L. 112–141, §33010(2), added subsecs. (h) and (i).

2005—Subsec. (a)(1). Pub. L. 109–59, §7120(a)(1), in introductory provisions substituted "regulation, order, special permit, or approval issued" for "regulation prescribed or order issued" and "$50,000" for "$25,000".

Subsec. (a)(2) to (4). Pub. L. 109–59, §7120(a)(2), (3), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (b). Pub. L. 109–59, §7126, substituted "Secretary may" for "Secretary of Transportation may".

Pub. L. 109–59, §7120(b), substituted "regulation prescribed or order, special permit, or approval issued" for "regulation prescribed".

Subsec. (d). Pub. L. 109–59, §7120(c), substituted "section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review." for "section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title VII, §7120(d), Aug. 10, 2005, 119 Stat. 1906, provided that:

"(1) HEARING REQUIREMENT.—The amendment made by subsection (b) [amending this section] shall take effect on the date of enactment of this Act [Aug. 10, 2005], and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

"(2) CIVIL ACTIONS TO COLLECT.—The amendment made by subsection (c) [amending this section] shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after the date of enactment of this Act [Aug. 10, 2005]."

[1] *So in original. Probably should be "ensure".*

§5124. Criminal penalty

(a) IN GENERAL.—A person knowingly violating section 5104(b) or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to any person.

(b) KNOWING VIOLATIONS.—For purposes of this section—

(1) a person acts knowingly when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

(2) knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary, is not an element of an offense under this section.

(c) WILLFUL VIOLATIONS.—For purposes of this section, a person acts willfully when—

(1) the person has knowledge of the facts giving rise to the violation; and

(2) the person has knowledge that the conduct was unlawful.

(d) RECKLESS VIOLATIONS.—For purposes of this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard to the consequences of that person's conduct.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 781; Pub. L. 109–59, title VII, §7121, Aug. 10, 2005, 119 Stat. 1906.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5124	49 App.:1809(b).	Jan. 3, 1975, Pub. L. 93–633, §110(b), 88 Stat. 2161; restated Nov. 16, 1990, Pub. L. 101–615, §12(b), 104 Stat. 3259.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both."

§5125. Preemption

(a) GENERAL.—Except as provided in subsections (b), (c), and (e) of this section and unless authorized by another law of the United States, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; or

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.

(b) SUBSTANTIVE DIFFERENCES.—(1) Except as provided in subsection (c) of this section and unless authorized by another law of the United States, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security, is preempted:

(A) the designation, description, and classification of hazardous material.

(B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident.

(E) the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(2) If the Secretary prescribes or has prescribed under section 5103(b), 5104, 5110, or 5112 of this title or prior comparable provision of law a regulation or standard related to a subject referred to in paragraph (1) of this subsection, a State, political subdivision of a State, or Indian tribe may prescribe, issue, maintain, and enforce only a law, regulation, standard, or order about the subject that is substantively the same as a provision of this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall decide on and publish in the Federal Register the effective date of section 5103(b) of this title for any regulation or standard about any of those subjects that the Secretary prescribes. The effective date may not be earlier than 90 days after the Secretary prescribes the regulation or standard nor later than the last day of the 2-year period beginning on the date the Secretary prescribes the regulation or standard.

(3) If a State, political subdivision of a State, or Indian tribe imposes a fine or penalty the Secretary decides is appropriate for a violation related to a subject referred to in paragraph (1) of this subsection, an additional fine or penalty may not be imposed by any other authority.

(c) COMPLIANCE WITH SECTION 5112(b) REGULATIONS.—(1) Except as provided in paragraph (2) of this subsection, after the last day of the 2-year period beginning on the date a regulation is prescribed under section 5112(b) of this title, a State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b), and is published in the Department's hazardous materials route registry under section 5112(c).

(2)(A) A highway routing designation, limitation, or requirement established before the date a regulation is prescribed under section 5112(b) of this title does not have to comply with section 5112(b)(1)(B), (C), and (F).

(B) This subsection and section 5112 of this title do not require a State or Indian tribe to comply with section 5112(b)(1)(I) if the highway routing designation, limitation, or requirement was established before November 16, 1990.

(C) The Secretary may allow a highway routing designation, limitation, or requirement to continue in effect until a dispute related to the designation, limitation, or requirement is resolved under section 5112(d) of this title.

(d) DECISIONS ON PREEMPTION.—(1) A person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision, or tribe may apply to the Secretary, as provided by regulations prescribed by the Secretary, for a decision on whether the requirement is preempted by subsection (a), (b)(1), or (c) of this section or section 5119(f). The Secretary shall publish notice of the application in the Federal Register. The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made. After notice is published, an applicant may not seek judicial relief on the same or substantially the same issue until the Secretary takes final action on the application or until 180 days after the application is filed, whichever occurs first.

(2) After consulting with States, political subdivisions of States, and Indian tribes, the Secretary shall prescribe regulations for carrying out paragraph (1) of this subsection.

(3) Subsection (a) of this section does not prevent a State, political subdivision of a State, or Indian tribe, or another person directly affected by a requirement, from seeking a decision on preemption from a court of competent jurisdiction instead of applying to the Secretary under paragraph (1) of this subsection.

(e) WAIVER OF PREEMPTION.—A State, political subdivision of a State, or Indian tribe may apply to the Secretary for a waiver of preemption of a requirement the State, political subdivision, or tribe acknowledges is preempted by subsection (a), (b)(1), or (c) of this section or section 5119(f). Under a procedure the Secretary prescribes by regulation, the Secretary may waive preemption on deciding the requirement—

(1) provides the public at least as much protection as do requirements of this chapter and regulations prescribed under this chapter; and

(2) is not an unreasonable burden on commerce.

(f) FEES.—(1) A State, political subdivision of a State, or Indian tribe may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall biennially report to the Secretary on—

(A) the basis on which the fee is levied upon persons involved in such transportation;

(B) the purposes for which the revenues from the fee are used;

(C) the annual total amount of the revenues collected from the fee; and

(D) such other matters as the Secretary requests.

(g) APPLICATION OF EACH PREEMPTION STANDARD.—Each standard for preemption in subsection (a), (b)(1), or (c), and in section 5119(f), is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

(h) NON-FEDERAL ENFORCEMENT STANDARDS.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 781; Pub. L. 103–311, title I, §§107, 117(a)(2), 120(b), Aug. 26, 1994, 108 Stat. 1674, 1678, 1681; Pub. L. 103–429, §6(6), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 107–296, title XVII, §1711(b), Nov. 25, 2002, 116 Stat. 2320; Pub. L. 109–59, title VII, §§7122, 7123(a), 7126, Aug. 10, 2005, 119 Stat. 1907, 1909; Pub. L. 110–244, title III, §302(c), June 6, 2008, 122 Stat. 1618; Pub. L. 112–141, div. C, title III, §§33006(d), 33011, 33013(b), July 6, 2012, 126 Stat. 835, 838, 839.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5125(a)	49 App.:1811(a).	Jan. 3, 1975, Pub. L. 93–633, §112(a)–(e), 88 Stat. 2161; Nov. 30, 1979, Pub. L. 96–129, §216(a), 93 Stat. 1015; restated Nov. 16, 1990, Pub. L. 101–615, §13, 104 Stat. 3259.
5125(b)	49 App.:1804(a)(4), (5).	Jan. 3, 1975, Pub. L. 93–633, §105(a)(4), (5), (b)(4), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, §4, 104 Stat. 3247, 3250.
5125(c)	49 App.:1804(b)(4).	
5125(d)	49 App.:1811(c).	
5125(e)	49 App.:1811(d).	
5125(f)	49 App.:1811(e).	
5125(g)	49 App.:1811(b).	

In subsections (a) and (b)(1), the words "and unless authorized by Federal law" are omitted as surplus.

In subsection (a), before clause (1), the reference to subsections (b) and (c) is substituted for 49 App.:1811(a)(3) for clarity.

In subsection (b)(1), before clause (A), the words "ruling, provision" are omitted as surplus.

In subsection (b)(3), the word "imposes" is substituted for "assesses" for consistency.

In subsection (c)(1), the words "the procedural requirements of" and "the substantive requirements of" are omitted as surplus.

In subsection (c)(2)(A), the words "procedural requirements of the Federal standards established pursuant to" are omitted as surplus.

In subsection (f), the words "may bring a civil action for judicial review" are substituted for "may seek judicial review . . . only by filing a petition" for consistency in the revised title.

PUB. L. 103–429

This amends 49:5125(a) and (b)(1) to clarify the restatement of 49 App.:1804(a)(4) and 1811(a) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 781).

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (b)(1)(D). Pub. L. 112–141, §33006(d), inserted "and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident" before period at end.

Subsec. (c)(1). Pub. L. 112–141, §33013(b), inserted ", and is published in the Department's hazardous materials route registry under section 5112(c)" before period at end.

Subsec. (f)(2). Pub. L. 112–141, §33011, substituted "biennially" for ", upon the Secretary's request,".

2008—Subsec. (d)(1). Pub. L. 110–244, §302(c)(1), substituted "5119(f)" for "5119(e)".

Subsec. (e). Pub. L. 110–244, §302(c)(2), substituted "5119(f)" for "5119(b)" in introductory provisions.

Subsec. (g). Pub. L. 110–244, §302(c)(2), (3), substituted "(a), (b)(1), or (c)" for "(b), (c)(1), or (d)" and "5119(f)" for "5119(b)".

2005—Subsec. (b)(1)(E). Pub. L. 109–59, §7122(a)(1), added subpar. (E) and struck out former subpar. (E) which read as follows: "the design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material."

Subsec. (b)(2). Pub. L. 109–59, §7126, substituted "If the Secretary" for "If the Secretary of Transportation".

Pub. L. 109–59, §7122(a)(2), substituted "subjects that the Secretary prescribes. The" for "subjects that the Secretary prescribes after November 16, 1990. However, the".

Subsec. (d)(1). Pub. L. 109–59, §7122(b), inserted "or section 5119(e)" before period at end of first sentence.

Subsec. (e). Pub. L. 109–59, §7122(c), inserted "or section 5119(b)" before period at end of first sentence.

Subsec. (f). Pub. L. 109–59, §7123(a), redesignated subsec. (g) as (f), realigned margins, and struck out heading and text of former subsec. (f). Text read as follows: "A party to a proceeding under subsection (d) or (e) of this section may bring a civil action in an appropriate district court of the United States for judicial review of the decision of the Secretary not later than 60 days after the decision becomes final."

Subsec. (g). Pub. L. 109–59, §7123(a)(2), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsecs. (h), (i). Pub. L. 109–59, §7123(a)(2), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

Pub. L. 109–59, §7122(d), added subsecs. (h) and (i).

2002—Subsecs. (a), (b)(1). Pub. L. 107–296 substituted "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security" for "chapter or a regulation prescribed under this chapter" wherever appearing.

1994—Subsecs. (a), (b)(1). Pub. L. 103–429 inserted "and unless authorized by another law of the United States" after "section" in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 103–311, §117(a)(2), substituted "a packaging or a" for "a package or".

Subsec. (d). Pub. L. 103–311, §120(b), inserted after second sentence "The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made."

Subsec. (g). Pub. L. 103–311, §107, designated existing provisions as par. (1) and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§5126. Relationship to other laws

(a) CONTRACTS.—A person under contract with a department, agency, or instrumentality of the United States Government that transports hazardous material, or causes hazardous material to be transported, or designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented as qualified for use in transporting hazardous material shall comply with this chapter, regulations prescribed and orders issued under this chapter, and all other requirements of the Government, State and local governments, and Indian tribes (except a requirement preempted by a law of the United States) in the same way and to the same extent that any person engaging in that transportation, designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing that is in or affects commerce must comply with the provision, regulation, order, or requirement.

(b) NONAPPLICATION.—This chapter does not apply to—

(1) a pipeline subject to regulation under chapter 601 of this title; or

(2) any matter that is subject to the postal laws and regulations of the United States under this chapter or title 18 or 39.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 783; Pub. L. 103–311, title I, §117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 109–59, title VII, §7124, Aug. 10, 2005, 119 Stat. 1908; Pub. L. 110–244, title III, §302(d), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5126(a)	49 App.:1818.	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §120; added Nov. 16, 1990, Pub. L. 101–615, §20, 104 Stat. 3270.
5126(b)	49 App.:1811(f).	Jan. 3, 1975, Pub. L. 93–633, §112(f), 88 Stat. 2161; Nov. 30, 1979, Pub. L. 96–129, §216(a), 93 Stat. 1015; restated Nov. 16, 1990, Pub. L. 101–615, §13, 104 Stat. 3260.

In subsection (a), the word "manufactures" is substituted for "manufacturers" to correct an error in the source provisions. The words "of the executive, legislative, or judicial branch", "be subject to and", "substantive and procedural", and "this chapter or any other" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–244 amended Pub. L. 109–59. See 2005 Amendment note below.

2005—Subsec. (a). Pub. L. 109–59, §7124(4), substituted "designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing" for "manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing".

Pub. L. 109–59, §7124(3), as amended by Pub. L. 110–244, substituted "shall comply with this chapter" for "must comply with this chapter".

Pub. L. 109–59, §7124(1), (2), substituted "transports hazardous material, or causes hazardous material to be transported," for "transports or causes to be transported hazardous material," and "designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented" for "manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a packaging or a container that the person represents, marks, certifies, or sells".

1994—Subsec. (a). Pub. L. 103–311 substituted "a packaging or a" for "a package or".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

§5127. Judicial review

(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.

(Added Pub. L. 109–59, title VII, §7123(b), Aug. 10, 2005, 119 Stat. 1907.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5127 was renumbered section 5128 of this title.

§5128. Authorization of appropriations

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

(1) $67,000,000 for fiscal year 2022;

(2) $68,000,000 for fiscal year 2023;

(3) $69,000,000 for fiscal year 2024;
(4) $70,000,000 for fiscal year 2025; and
(5) $71,000,000 for fiscal year 2026.

(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Preparedness Fund established under section 5116(h), the Secretary may expend, for each of fiscal years 2022 through 2026—
(1) $39,050,000 to carry out section 5116(a);
(2) $150,000 to carry out section 5116(e);
(3) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(h)(3); and
(4) $2,000,000 to carry out section 5116(i).

(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(h), the Secretary may expend $5,000,000 for each of fiscal years 2022 through 2026 to carry out section 5107(e).
(d) COMMUNITY SAFETY GRANTS.—Of the amounts made available under subsection (a) to carry out this chapter, the Secretary shall withhold $4,000,000 for each of fiscal years 2022 through 2026 to carry out section 5107(i).
(e) CREDITS TO APPROPRIATIONS.—
(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, Indian tribe, authority or entity.
(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 783, §5127; Pub. L. 103–311, title I, §§103, 119(b), (c)(4), Aug. 26, 1994, 108 Stat. 1673, 1680; renumbered §5128 and amended Pub. L. 109–59, title VII, §§7123(b), 7125, Aug. 10, 2005, 119 Stat. 1907, 1908; Pub. L. 110–244, title III, §302(f), June 6, 2008, 122 Stat. 1618; Pub. L. 112–141, div. C, title III, §33017, July 6, 2012, 126 Stat. 841; Pub. L. 113–159, title I, §1301, Aug. 8, 2014, 128 Stat. 1847; Pub. L. 114–21, title I, §1301, May 29, 2015, 129 Stat. 225; Pub. L. 114–41, title I, §1301, July 31, 2015, 129 Stat. 453; Pub. L. 114–73, title I, §1301, Oct. 29, 2015, 129 Stat. 575; Pub. L. 114–87, title I, §1301, Nov. 20, 2015, 129 Stat. 684; Pub. L. 114–94, div. A, title VII, §7101, Dec. 4, 2015, 129 Stat. 1588; Pub. L. 117–58, div. B, title VI, §26001, Nov. 15, 2021, 135 Stat. 881.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5127(a)	49 App.:1812(a).	Jan. 3, 1975, Pub. L. 93–633, §115, 88 Stat. 2164; July 19, 1975, Pub. L. 94–56, §4, 89 Stat. 264; Oct. 11, 1976, Pub. L. 94–474, §3, 90 Stat. 2068; Sept. 30, 1978, Pub. L. 95–403, 92 Stat. 863; Oct. 30, 1984, Pub. L. 98–559, §2, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101–615, §14, 104 Stat. 3260; Oct. 24, 1992, Pub. L. 102–508, §504, 106 Stat. 3311.
5127(b)	49 App.:1816(d).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §118(d); added Nov. 16, 1990,

		Pub. L. 101–615, §18, 104 Stat. 3269; Oct. 24, 1992, Pub. L. 102–508, §506, 106 Stat. 3312.
5127(c)	49 App.:1815(i)(3).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A(i); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3268.
5127(d)	49 App.:1815(i)(1), (2), (4).	
5127(e)	49 App.:1819(h) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §121(h); added Nov. 16, 1990, Pub. L. 101–615, §22, 104 Stat. 3272.
5127(f)	49 App.:1812(b).	
5127(g)	49 App.:1815(i)(5).	
	49 App.:1819(h) (last sentence).	

In the section, references to fiscal years 1991 and 1992 are omitted as obsolete.
In subsections (b), (c)(1), and (d), the words "amounts in" are omitted as surplus.
In subsection (c), the text of 49 App.:1815(i)(3)(A) is omitted as obsolete.
In subsection (c)(2), the words "relating to dissemination of the curriculum" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58 amended section generally. Prior to amendment, section related to authorization of appropriations for fiscal years 2016 to 2020.

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to authorization of appropriations for fiscal years 2013 to 2015.

Subsec. (a)(3). Pub. L. 114–41, §1301(a)(2), added par. (3) and struck out former par. (3) which read as follows: "$35,615,474 for the period beginning on October 1, 2014, and ending on July 31, 2015."

Pub. L. 114–21, §1301(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "$28,468,948 for the period beginning on October 1, 2014, and ending on May 31, 2015."

Subsec. (a)(4). Pub. L. 114–87, §1301(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "$5,958,639 for the period beginning on October 1, 2015, and ending on November 20, 2015."

Pub. L. 114–73, §1301(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "$3,388,246 for the period beginning on October 1, 2015, and ending on October 29, 2015."

Pub. L. 114–41, §1301(a), added par. (4).

Subsec. (b)(1). Pub. L. 114–41, §1301(b)(1), substituted "FISCAL YEARS 2013 THROUGH 2015"for " FISCAL YEARS 2013 AND 2014" in heading and "fiscal years 2013 through 2015" for "fiscal years 2013 and 2014" in introductory provisions.

Subsec. (b)(2). Pub. L. 114–87, §1301(b), amended par. (2) generally. Prior to amendment, text read as follows: "From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend for the period beginning on October 1, 2015, and ending on November 20, 2015—

"(A) $26,197 to carry out section 5115;

"(B) $3,037,705 to carry out subsections (a) and (b) of section 5116, of which not less than $1,902,049 shall be available to carry out section 5116(b);

"(C) $20,902 to carry out section 5116(f);

"(D) $87,090 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

"(E) $139,344 to carry out section 5116(j)."

Pub. L. 114–73, §1301(b), amended par. (2) generally. Prior to amendment, text read as follows: "From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend for the period beginning on October 1, 2015, and ending on October 29, 2015—

"(A) $14,896 to carry out section 5115;

"(B) $1,727,322 to carry out subsections (a) and (b) of section 5116, of which not less than $1,081,557 shall be available to carry out section 5116(b);

"(C) $11,885 to carry out section 5116(f);

"(D) $49,522 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

"(E) $79,235 to carry out section 5116(j)."

Pub. L. 114–41, §1301(b)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend for the period beginning on October 1, 2014, and ending on July 31, 2015—

"(A) $156,581 to carry out section 5115;

"(B) $18,156,712 to carry out subsections (a) and (b) of section 5116, of which not less than $11,368,767 shall be available to carry out section 5116(b);

"(C) $124,932 to carry out section 5116(f);

"(D) $520,548 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

"(E) $832,877 to carry out section 5116(j)."

Pub. L. 114–21, §1301(b), amended par. (2) generally. Prior to amendment, text read as follows: "From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend for the period beginning on October 1, 2014, and ending on May 31, 2015—

"(A) $125,162 to carry out section 5115;

"(B) $14,513,425 to carry out subsections (a) and (b) of section 5116, of which not less than $9,087,534 shall be available to carry out section 5116(b);

"(C) $99,863 to carry out section 5116(f);

"(D) $416,096 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

"(E) $665,753 to carry out section 5116(j)."

Subsec. (c). Pub. L. 114–87, §1301(c), substituted "and $710,383 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $557,377 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1301(c), substituted "and $557,377 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $316,940 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1301(c), substituted "each of fiscal years 2013 through 2015 and $316,940 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of the fiscal years 2013 and 2014 and $3,331,507 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1301(c), substituted "and $3,331,507 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $2,663,014 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

2014—Subsec. (a)(3). Pub. L. 113–159, §1301(a), added par. (3).

Subsec. (b). Pub. L. 113–159, §1301(b), designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) to (5) as subpars. (A) to (E), respectively, of par. (1) and realigned margins, and added par. (2).

Subsec. (c). Pub. L. 113–159, §1301(c), inserted "and $2,663,014 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "2014".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to authorization of appropriations for fiscal years 2005 to 2008.

2008—Pub. L. 110–244 substituted "Authorization" for "Authorizations" in section catchline.

2005—Pub. L. 109–59, §7125, substituted "Authorizations" for "Authorization" in section catchline and amended text generally, substituting provisions relating to authorization of appropriations for fiscal years 2005 to 2008, consisting of subsecs. (a) to (f), for provisions relating to authorization of appropriations for fiscal years 1993 to 1998, consisting of subsecs. (a) to (g).

Pub. L. 109–59, §7123(b), renumbered section 5127 of this title as this section.

1994—Subsec. (a). Pub. L. 103–311, §103, substituted "fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997" for "the fiscal year ending September 30, 1993,".

Subsec. (b). Pub. L. 103–311, §119(c)(4), amended subsec. (b)(1) generally. Prior to amendment, subsec. (b)(1) read as follows:

"(b) HAZMAT EMPLOYEE TRAINING.—(1) Not more than $250,000 is available to the Director of the National Institute of Environmental Health Sciences from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5107(e) of this title."

Pub. L. 103–311, §119(b), designated existing provisions as par. (1) and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

CHAPTER 53—PUBLIC TRANSPORTATION

Sec.

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EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94, div. A, title III, §§3008(c), 3009(b), 3017(b), 3030(b)–(d), Dec. 4, 2015, 129 Stat. 1469, 1473, 1487, 1496, 1497, substituted "Public transportation innovation" for "Research, development, demonstration, and deployment projects" in item 5312, "Technical assistance and workforce development" for "Technical assistance and standards development" in item 5314, and "Grants for buses and bus facilities" for "Bus and bus facilities formula grants" in item 5339, and struck out item 5313 "Transit cooperative research program", item 5319 "Bicycle facilities", and item 5322 "Human resources and training".

2012—Pub. L. 112–141, div. B, §20030(k), July 6, 2012, 126 Stat. 731, amended generally the analysis for this chapter, adding item 5326, substituting "Policies and purposes" for "Policies, findings, and purposes" in item 5301, "Statewide and nonmetropolitan transportation planning" for "Statewide transportation planning" in item 5304, "Fixed guideway capital investment grants" for "Capital investment grants" in item 5309, "Formula grants for the enhanced mobility of seniors and individuals with disabilities" for "Formula grants for special needs of elderly individuals and individuals with disabilities" in item 5310, "Formula grants for rural areas" for "Formula grants for other than urbanized areas" in item 5311, "Technical assistance and standards development" for "National research programs" in item 5314, "Private sector participation" for "National transit institute" in item 5315, "Human resources and training" for "Human resource programs" in item 5322, "General provisions" for "General provisions on assistance" in item 5323, "Public transportation emergency relief program" for "Special provisions for capital projects" in item 5324, "Public transportation safety program" for "Investigations of safety hazards and security risks" in item 5329, "State of good repair grants" for "Apportionment based on fixed guideway factors" in item 5337, and "Bus and bus facilities formula grants" for "Alternatives analysis program" in item 5339, and striking out items 5308 "Clean fuels grant program", 5316 "Job access and reverse commute formula grants", 5317 "New freedom program", 5320 "Alternative transportation in parks and public lands, and 5328 "Project review".

2005—Pub. L. 109–59, title III, §§3002(b)(1), 3005(c), 3006(c), 3007(b), 3010(b), 3011(b), 3012(c), 3013(i), 3014(e)(2), 3015(b)(2), 3016(d), 3018(b), 3019(b), 3021(b), 3024(b), 3025(b), 3028(d), 3029(b), 3033(b), 3035(b), 3038(b), Aug. 10, 2005, 119 Stat. 1544, 1559, 1566, 1568, 1573, 1588, 1593, 1596, 1597, 1600, 1605, 1608, 1614, 1620, 1622, 1625, 1627, 1629, 1638, substituted "PUBLIC" for "MASS" in chapter heading, substituted "transportation planning" for "planning" in item 5303, "Statewide transportation planning" for "Transportation improvement program" in item 5304, "Planning programs" for "Transportation management areas" in item 5305, "grant program" for "formula grant program" in item 5308, "grants" for "grants and loans" in item 5309, "Formula grants" for "Formula grants and loans" in item 5310, "grants" for "grant" in item 5311, "deployment" for "training" in item 5312, "Transit cooperative research program" for "State planning and research programs" in item 5313, "research programs" for "planning and research programs" in item 5314, "Alternative transportation in parks and public lands" for "Suspended light rail system technology pilot project" in item 5320, "Special provisions for capital projects" for "Limitations on discretionary and special needs grants and loans" in item 5324, "Investigations of safety hazards and security risks" for "Investigation of safety hazards" in item 5329, "State safety oversight" for "Withholding amounts for noncompliance with safety requirements" in item 5330, "National transit database" for "Reports and audits" in item 5335, and "Apportionment based on fixed guideway factors" for "Apportionment of appropriations for fixed guideway modernization" in item 5337, added items 5316, 5317, and 5340, and struck out item 5326 "Special procurements".

Pub. L. 109–59, title III, §3037(b), Aug. 10, 2005, 119 Stat. 1636, which directed amendment of the analysis for chapter 53 by striking the item relating to section 5339 and inserting a new item 5339, was executed by adding the new item 5339 after item 5338 to reflect the probable intent of Congress, because no item for section 5339 had been enacted.

1998—Pub. L. 105–178, title III, §§3007(a)(2), 3008(b), 3009(b), 3014(b), 3017(b), 3025(b)(2), title V, §5110(c), June 9, 1998, 112 Stat. 347, 352, 359, 361, 365, 444, substituted "Urbanized area formula grants" for "Block grants" in item 5307, "Clean fuels formula grant program" for "Mass Transit Account block grants" in item 5308, "Capital investment" for "Discretionary" in item 5309, "Formula grant" for "Financial assistance" in item 5311, and "transit" for "mass transportation" in item 5315, struck out items 5316 "University research institutes" and 5317 "Transportation centers", and inserted "provisions" after "Administrative" in item 5334.

Pub. L. 105–178, title III, §3013(b), June 9, 1998, 112 Stat. 359, which directed insertion of "formula" before "grants" in item 5310, was executed by substituting "Formula grants" for "Grants" to reflect the

probable intent of Congress.

Pub. L. 105–178, title III, §3027(d), as added by Pub. L. 105–206, title IX, §9009(o)(2), July 22, 1998, 112 Stat. 858, substituted "formula grants" for "block grants" in item 5336.

[1] Section repealed by Pub. L. 112–141 without corresponding amendment of chapter analysis.

§5301. Policies and purposes

(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems with the cooperation of both public transportation companies and private companies engaged in public transportation.

(b) GENERAL PURPOSES.—The purposes of this chapter are to—

(1) provide funding to support public transportation;

(2) improve the development and delivery of capital projects;

(3) establish standards for the state of good repair of public transportation infrastructure and vehicles;

(4) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

(5) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

(6) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

(7) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

(8) promote the development of the public transportation workforce.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 785; Pub. L. 109–59, title III, §§3002(b)(4), 3003, Aug. 10, 2005, 119 Stat. 1545; Pub. L. 112–141, div. B, §20003, July 6, 2012, 126 Stat. 622.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5301(a)	49 App.:1607(a) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2098.
5301(b)	49 App.:1601(a).	July 9, 1964, Pub. L. 88–365, §2, 78 Stat. 302; Dec. 18, 1991, Pub. L. 102–240, §3005, 105 Stat. 2088.
	49 App.:1601b.	Nov. 26, 1974, Pub. L. 93–503, §2, 88 Stat. 1566.
5301(c)	49 App.:1601a (1st sentence).	Oct. 15, 1970, Pub. L. 91–453, §1, 84 Stat. 962.
5301(d)	49 App.:1612(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(a); added Oct. 15, 1970, Pub. L. 91–453, §8, 84 Stat. 967;

		Dec. 18, 1991, Pub. L. 102–240, §3021(1), 105 Stat. 2110.
5301(e)	49 App.:1610(a) (1st sentence).	July 9, 1964, Pub. L. 88–365, §14(a) (1st sentence), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; restated Oct. 15, 1970, Pub. L. 91–453, §6, 84 Stat. 966.
5301(f)	49 App.:1601(b). 49 App.:1601a (last sentence).	

In subsection (b)(1), the words "the predominant part" in 49 App.:1601(a)(1) and "lives in urban areas" in 49 App.:1601b(1) are omitted because of the restatement. The words "metropolitan and other" in 49 App.:1601(a)(1) are omitted as surplus.

In subsection (b)(2), the words "housing, urban renewal, highway, and other", "being", "the . . . provision of", and "transportation and other" in 49 App.:1601(a)(2) are omitted as surplus.

In subsection (b)(4), the words "the early 1970's" are substituted for "recent years" in 49 App.:1601b(4), and the words "minimal mass transportation service" are substituted for "this essential public service", for clarity.

In subsection (b)(5), the word "particularly" in 49 App.:1601b(5) is omitted as surplus.

In subsection (b)(6), the words "were . . . in the early 1970's" are substituted for "now" in 49 App.:1601b(6) for clarity. The words "engaged in", "actually", and "comprehensive" in 49 App.:1601b(6) are omitted as surplus.

In subsection (b)(9), the word "many" in 49 App.:1601(b)(7) is omitted as surplus.

In subsection (c), the text of 49 App.:1601a (1st sentence words after semicolon) is omitted as executed.

In subsections (d) and (e), the words "hereby declared to be" are omitted as surplus.

In subsection (d), the words "to ensure that mass transportation can be used by elderly individuals and individuals with disabilities" are substituted for "in the planning and design of mass transportation facilities and services so that the availability to elderly persons and persons with disabilities of mass transportation which they can effectively utilize will be assured" to eliminate unnecessary words. The words "the field of" and "(including the programs under this chapter) . . . contain provisions" are omitted as surplus.

In subsection (e), the words "carrying out" are substituted for "construction of", and the word "capital" is added, for consistency in the revised chapter. The reference to section 5310 of the revised title is added for clarity because a loan or grant made under section 5310 is deemed to have been made under section 5309.

In subsection (f)(5), the words "local" and "to exercise the initiative necessary" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to policies, findings, and purposes.

2005—Subsec. (a). Pub. L. 109–59, §3003(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution."

Subsec. (b)(1). Pub. L. 109–59, §3003(b), substituted "two-thirds" for "70 percent" and "urbanized areas" for "urban areas".

Subsecs. (b)(4), (6) to (9), (d). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

Subsec. (e). Pub. L. 109–59, §3003(c), substituted "a" for "an urban" and struck out "under sections 5309 and 5310 of this title" before period at end.

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (f)(1). Pub. L. 109–59, §3003(d)(1), substituted "public transportation equipment" for "mass transportation equipment" and "both public transportation companies and private companies engaged in public transportation" for "public and private mass transportation companies".

Subsec. (f)(2). Pub. L. 109–59, §3003(d)(2), substituted "public transportation systems" for "urban mass transportation systems" and "both public transportation companies and private companies engaged in public

transportation" for "public and private mass transportation companies".

Subsec. (f)(3). Pub. L. 109–59, §3003(d)(3), substituted "public transportation systems" for "urban mass transportation systems" and "public transportation companies or private companies engaged in public transportation" for "public or private mass transportation companies".

Subsec. (f)(5). Pub. L. 109–59, §3003(d)(4), substituted "public" for "urban mass".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

FEDERAL TRANSIT ADMINISTRATION GRANTS

Pub. L. 117–2, title III, §3401, Mar. 11, 2021, 135 Stat. 72, provided that:

"(a) FEDERAL TRANSIT ADMINISTRATION APPROPRIATION.—

"(1) IN GENERAL.—In addition to amounts otherwise made available, there are appropriated for fiscal year 2021, out of any funds in the Treasury not otherwise appropriated, $30,461,355,534, to remain available until September 30, 2024, that shall—

"(A) be for grants to eligible recipients under sections 5307, 5309, 5310, and 5311 of title 49, United States Code, to prevent, prepare for, and respond to coronavirus; and

"(B) not be subject to any prior restriction on the total amount of funds available for implementation or execution of programs authorized under sections 5307, 5310, or 5311 of such title.

"(2) AVAILABILITY OF FUNDS FOR OPERATING EXPENSES.—

"(A) IN GENERAL.—Notwithstanding subsection (a)(1) or (b) of section 5307 and section 5310(b)(2)(A) of title 49, United States Code, funds provided under this section, other than subsection (b)(4), shall be available for the operating expenses of transit agencies to prevent, prepare for, and respond to the coronavirus public health emergency, including, beginning on January 20, 2020—

"(i) reimbursement for payroll of public transportation (including payroll and expenses of private providers of public transportation);

"(ii) operating costs to maintain service due to lost revenue due as a result of the coronavirus public health emergency, including the purchase of personal protective equipment; and

"(iii) paying the administrative leave of operations or contractor personnel due to reductions in service.

"(B) USE OF FUNDS.—Funds described in subparagraph (A) shall be—

"(i) available for immediate obligation, notwithstanding the requirement for such expenses to be included in a transportation improvement program, long-range transportation plan, statewide transportation plan, or statewide transportation improvement program under sections 5303 and 5304 of title 49, United States Code;

"(ii) directed to payroll and operations of public transportation (including payroll and expenses of private providers of public transportation), unless the recipient certifies to the Administrator of the Federal Transit Administration that the recipient has not furloughed any employees;

"(iii) used to provide a Federal share of the costs for any grant made under this section of 100 percent.

"(b) ALLOCATION OF FUNDS.—

"(1) URBANIZED AREA FORMULA GRANTS.—

"(A) IN GENERAL.—Of the amounts made available under subsection (a), $26,086,580,227 shall be for grants to recipients and subrecipients under section 5307 of title 49, United States Code, and shall be administered as if such funds were provided under section 5307 of such title.

"(B) ALLOCATION.—Amounts made available under subparagraph (A) shall be apportioned to urbanized areas based on data contained in the National Transit Database such that—

"(i) each urbanized area shall receive an apportionment of an amount that, when combined with amounts that were otherwise made available to such urbanized area for similar activities to prevent, prepare for, and respond to coronavirus, is equal to 132 percent of the urbanized area's 2018 operating costs; and

"(ii) for funds remaining after the apportionment described in clause (i), such funds shall be apportioned such that each urbanized area that did not receive an apportionment under clause (i) shall receive an apportionment equal to 25 percent of the urbanized area's 2018 operating costs.

"(2) FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.—

"(A) IN GENERAL.—Of the amounts made available under subsection (a), $50,000,000 shall be for grants to recipients or subrecipients eligible under section 5310 of title 49, United States Code, and shall be apportioned in accordance with such section.

"(B) ALLOCATION RATIO.—Amounts made available under subparagraph (A) shall be allocated in the same ratio as funds were provided under section 5310 of title 49, United States Code, for fiscal year 2020.

"(3) FORMULA GRANTS FOR RURAL AREAS.—

"(A) IN GENERAL.—Of the amounts made available under subsection (a), $317,214,013 shall be for grants to recipients or subrecipients eligible under section 5311 of title 49, United States Code, and shall be administered as if the funds were provided under section 5311 of such title, and shall be apportioned in accordance with such section, except as described in paragraph (B).

"(B) ALLOCATION RATIO.—Amounts made available under subparagraph (A) to States, as defined in section 5302 of title 49, United States Code, shall be allocated to such States based on data contained in the National Transit Database, such that—

"(i) any State that received an amount for similar activities to prevent, prepare for, and respond to coronavirus that is equal to or greater than 150 percent of the combined 2018 rural operating costs of the recipients and subrecipients in such State shall receive an amount equal to 5 percent of such State's 2018 rural operating costs;

"(ii) any State that does not receive an allocation under clause (i) that received an amount for similar activities to prevent, prepare for, and respond to coronavirus that is equal to or greater than 140 percent of the combined 2018 rural operating costs of the recipients and subrecipients in that State shall receive an amount equal to 10 percent of such State's 2018 rural operating costs; and

"(iii) any State that does not receive an allocation under clauses (i) or (ii) shall receive an amount equal to 20 percent of such State's 2018 rural operating costs.

"(4) CAPITAL INVESTMENTS.—

"(A) IN GENERAL.—Of the amounts made available under subsection (a)—

"(i) $1,425,000,000 shall be for grants administered under subsections (d) and (e) of section 5309 of title 49, United States Code; and

"(ii) $250,000,000 shall be for grants administered under subsection (h) of section 5309 of title 49, United States Code.

"(B) FUNDING DISTRIBUTION.—

"(i) IN GENERAL.—Of the amounts made available in subparagraph (A)(i), $1,250,000,000 shall be provided to each recipient for all projects with existing full funding grant agreements that received allocations for fiscal year 2019 or 2020, except that recipients with projects open for revenue service are not eligible to receive a grant under this subparagraph. Funds shall be provided proportionally based on the non-capital investment grant share of the amount allocated.

"(ii) ALLOCATION.—Of the amounts made available in subparagraph (A)(i), $175,000,000 shall be provided to each recipient for all projects with existing full funding grant agreements that received an allocation only prior to fiscal year 2019, except that projects open for revenue service are not eligible to receive a grant under this subparagraph and no project may receive more than 40 percent of the amounts provided under this clause. The Administrator of the Federal Transit Administration shall proportionally distribute funds in excess of such percent to recipients for which the percent of funds does not exceed 40 percent. Funds shall be provided proportionally based on the non-capital investment grant share of the amount allocated.

"(iii) ELIGIBLE RECIPIENTS.—For amounts made available in subparagraph (A)(ii), eligible recipients shall be any recipient of an allocation under subsection (h) of section 5309 of title 49, United States Code, or an applicant in the project development phase described in paragraph (2) of such subsection.

"(iv) AMOUNT.—Amounts distributed under clauses (i), (ii), and (iii) of subparagraph (A) shall be provided notwithstanding the limitation of any calculation of the maximum amount of Federal financial assistance for the project under subsection (k)(2)(C)(ii) or (h)(7) of section 5309 of title 49, United States Code.

"(5) SECTION 5311(F) SERVICES.—

"(A) IN GENERAL.—Of the amounts made available under subsection (a) and in addition to the amounts made available under paragraph (3), $100,000,000 shall be available for grants to recipients for bus operators that partner with recipients or subrecipients of funds under section 5311(f) of title 49,

United States Code.

"(B) ALLOCATION RATIO.—Notwithstanding paragraph (3), the Administrator of the Federal Transit Administration shall allocate amounts under subparagraph (A) in the same ratio as funds were provided under section 5311 of title 49, United States Code, for fiscal year 2020.

"(C) EXCEPTION.—If a State or territory does not have bus providers eligible under section 5311(f) of title 49, United States Code, funds under this paragraph may be used by such State or territory for any expense eligible under section 5311 of title 49, United States Code.

"(6) PLANNING.—

"(A) IN GENERAL.—Of the amounts made available under subsection (a), $25,000,000 shall be for grants to recipients eligible under section 5307 of title 49, United States Code, for the planning of public transportation associated with the restoration of services as the coronavirus public health emergency concludes and shall be available in accordance with such section.

"(B) AVAILABILITY OF FUNDS FOR ROUTE PLANNING.—Amounts made available under subparagraph (A) shall be available for route planning designed to—

"(i) increase ridership and reduce travel times, while maintaining or expanding the total level of vehicle revenue miles of service provided in the planning period; or

"(ii) make service adjustments to increase the quality or frequency of service provided to low-income riders and disadvantaged neighborhoods or communities.

"(C) LIMITATION.—Amounts made available under subparagraph (A) shall not be used for route planning related to transitioning public transportation service provided as of the date of receipt of funds to a transportation network company or other third-party contract provider, unless the existing provider of public transportation service is a third-party contract provider.

"(7) RECIPIENTS AND SUBRECIPIENTS REQUIRING ADDITIONAL ASSISTANCE.—

"(A) IN GENERAL.—Of the amounts made available under subsection (a), $2,207,561,294 shall be for grants to eligible recipients or subrecipients of funds under sections 5307 or 5311 of title 49, United States Code, that, as a result of COVID–19, require additional assistance for costs related to operations, personnel, cleaning, and sanitization combating the spread of pathogens on transit systems, and debt service payments incurred to maintain operations and avoid layoffs and furloughs.

"(B) ADMINISTRATION.—Funds made available under subparagraph (A) shall, after allocation, be administered as if provided under paragraph (1) or (3), as applicable.

"(C) APPLICATION REQUIREMENTS.—

"(i) IN GENERAL.—The Administrator of the Federal Transit Administration may not allocate funds to an eligible recipient or subrecipient of funds under chapter 53 of title 49, United States Code, unless the recipient provides to the Administrator—

"(I) estimates of financial need;

"(II) data on reductions in farebox or other sources of local revenue for sustained operations;

"(III) a spending plan for such funds; and

"(IV) demonstration of expenditure of greater than 90 percent of funds available to the applicant from funds made available for similar activities in fiscal year 2020.

"(ii) DEADLINES.—The Administrator of the Federal Transit Administration shall—

"(I) not later than 180 days after the date of enactment of this Act [Mar. 11, 2021], issue a Notice of Funding Opportunity for assistance under this paragraph; and

"(II) not later than 120 days after the application deadline established in the Notice of Funding Opportunity under subclause (I), make awards under this paragraph to selected applicants.

"(iii) EVALUATION.—

"(I) IN GENERAL.—Applications for assistance under this paragraph shall be evaluated by the Administrator of the Federal Transit Administration based on the level of financial need demonstrated by an eligible recipient or subrecipient, including projections of future financial need to maintain service as a percentage of the 2018 operating costs that has not been replaced by the funds made available to the eligible recipient or subrecipient under paragraphs (1) through (5) of this subsection when combined with the amounts allocated to such eligible recipient or subrecipient from funds previously made available for the operating expenses of transit agencies related to the response to the COVID–19 public health emergency.

"(II) RESTRICTION.—Amounts made available under this paragraph shall only be available for operating expenses.

"(iv) STATE APPLICANTS.—A State may apply for assistance under this paragraph on behalf of an eligible recipient or subrecipient or a group of eligible recipients or subrecipients.

"(D) UNOBLIGATED FUNDS.—If amounts made available under this paragraph remain

unobligated on September 30, 2023, such amounts shall be available for any purpose eligible under sections 5307 or 5311 of title 49, United States Code."

CONTRACTING OUT STUDY

Pub. L. 105–178, title III, §3032, June 9, 1998, 112 Stat. 385, as amended by Pub. L. 105–206, title IX, §9009(v), July 22, 1998, 112 Stat. 861, provided that a study of the effect of contracting out mass transportation operation and administrative functions was to be arranged between the Secretary of Transportation and the Transportation Research Board of the National Academy of Sciences no later than 6 months after June 9, 1998, and made available funds for fiscal year 1999.

COMMUTE-TO-WORK BENEFITS

Pub. L. 102–240, title VIII, §8004, Dec. 18, 1991, 105 Stat. 2206, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

"(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

"(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

"(4) current Federal law allows employers to provide only up to $21 per month in employee benefits for transit or van pools;

"(5) the current 'cliff provision', which treats an entire commuter transit benefit as taxable income if it exceeds $21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

"(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

"(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

"(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy 'levels the playing field' between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air."

§5302. Definitions

Except as otherwise specifically provided, in this chapter the following definitions apply:

(1) ASSAULT ON A TRANSIT WORKER.—The term "assault on a transit worker" means a circumstance in which an individual knowingly, without lawful authority or permission, and with intent to endanger the safety of any individual, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates a transit worker while the transit worker is performing the duties of the transit worker.

(2) ASSOCIATED TRANSIT IMPROVEMENT.—The term "associated transit improvement" means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

(B) bus shelters;

(C) functional landscaping and streetscaping, including benches, trash receptacles, and street lights;

(D) pedestrian access and walkways;

(E) bicycle access, including bicycle storage shelters and parking facilities and the installation of equipment for transporting bicycles on public transportation vehicles;

(F) signage; or

(G) enhanced access for persons with disabilities to public transportation.

(3) BUS RAPID TRANSIT SYSTEM.—The term "bus rapid transit system" means a bus transit system—

(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

(i) defined stations;

(ii) traffic signal priority for public transportation vehicles;

(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

(4) CAPITAL PROJECT.—The term "capital project" means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus;

(C) remanufacturing a bus;

(D) overhauling rail rolling stock;

(E) preventive maintenance;

(F) leasing equipment or a facility for use in public transportation;

(G) a joint development improvement that—

(i) enhances economic development or incorporates private investment, such as commercial and residential development;

(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

(II) establishes new or enhanced coordination between public transportation and other transportation;

(iii) provides a fair share of revenue that will be used for public transportation;

(iv) provides that if equipment to fuel privately owned zero-emission passenger vehicles is installed, the recipient of assistance under this chapter shall collect fees from users of the equipment in order to recover the costs of construction, maintenance, and operation of the equipment;

(v) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means; and

(vi) may include—

(I) property acquisition;

(II) demolition of existing structures;

(III) site preparation;

(IV) utilities;

(V) building foundations;

(VI) walkways;

(VII) pedestrian and bicycle access to a public transportation facility;

(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

(IX) renovation and improvement of historic transportation facilities;

(X) open space;

(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

(XII) facilities that incorporate community services such as daycare or health care;

(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall;

(XIV) construction of space for commercial uses; and

(XV) technology to fuel a zero-emission vehicle;

(H) the introduction of new technology, through innovative and improved products, into public transportation;

(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts—

(i) not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311; or

(ii) not to exceed 20 percent of such recipient's annual formula apportionment under sections 5307 and 5311, if, consistent with guidance issued by the Secretary, the recipient demonstrates that the recipient meets at least 2 of the following requirements:

(I) Provides an active fixed route travel training program that is available for riders with disabilities.

(II) Provides that all fixed route and paratransit operators participate in a passenger safety, disability awareness, and sensitivity training class on at least a biennial basis.

(III) Has memoranda of understanding in place with employers and the American Job Center to increase access to employment opportunities for people with disabilities.

(J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

(K) mobility management—

(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

(ii) excluding operating public transportation services;

(L) associated capital maintenance, including—

(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used;

(M) associated transit improvements; or

(N) technological changes or innovations to modify low or no emission vehicles (as defined in section 5339(c)) or facilities.

(5) DESIGNATED RECIPIENT.—The term "designated recipient" means—

(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of

200,000 or more in population; or

(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

(6) DISABILITY.—The term "disability" has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(7) EMERGENCY REGULATION.—The term "emergency regulation" means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(8) FIXED GUIDEWAY.—The term "fixed guideway" means a public transportation facility—

(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

(B) using rail;

(C) using a fixed catenary system;

(D) for a passenger ferry system; or

(E) for a bus rapid transit system.

(9) GOVERNOR.—The term "Governor"—

(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

(B) includes the designee of the Governor.

(10) JOB ACCESS AND REVERSE COMMUTE PROJECT.—

(A) IN GENERAL.—The term "job access and reverse commute project" means a transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.

(B) DEFINITIONS.—In this paragraph:

(i) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term "eligible low-income individual" means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Service Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

(ii) WELFARE RECIPIENT.—The term "welfare recipient" means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under section 5307 or 5311.

(11) LOCAL GOVERNMENTAL AUTHORITY.—The term "local governmental authority" includes—

(A) a political subdivision of a State;

(B) an authority of at least 1 State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(12) LOW-INCOME INDIVIDUAL.—The term "low-income individual" means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

(13) NET PROJECT COST.—The term "net project cost" means the part of a project that reasonably cannot be financed from revenues.

(14) NEW BUS MODEL.—The term "new bus model" means a bus model (including a model using alternative fuel)—

(A) that has not been used in public transportation in the United States before the date of production of the model; or

(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

(15) PUBLIC TRANSPORTATION.—The term "public transportation"—

(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

(B) does not include—

(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

(ii) intercity bus service;

(iii) charter bus service;

(iv) school bus service;

(v) sightseeing service;

(vi) courtesy shuttle service for patrons of one or more specific establishments; or

(vii) intra-terminal or intra-facility shuttle services.

(16) REGULATION.—The term "regulation" means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

(17) RURAL AREA.—The term "rural area" means an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce.

(18) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(19) SENIOR.—The term "senior" means an individual who is 65 years of age or older.

(20) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(21) STATE OF GOOD REPAIR.—The term "state of good repair" has the meaning given that term by the Secretary, by rule, under section 5326(b).

(22) TRANSIT.—The term "transit" means public transportation.

(23) URBAN AREA.—The term "urban area" means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

(24) URBANIZED AREA.—The term "urbanized area" means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce.

(25) VALUE CAPTURE.—The term "value capture" means recovering the increased property value to property located near public transportation resulting from investments in public transportation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 786; Pub. L. 103–331, title III, §335A, Sept. 30, 1994, 108 Stat. 2495; Pub. L. 104–50, title III, §333(a), Nov. 15, 1995, 109 Stat. 457; Pub. L. 104–287, §6(c), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 105–102, §3(a), Nov. 20, 1997, 111 Stat. 2214; Pub. L. 105–178, title III, §3003, June 9, 1998, 112 Stat. 338; Pub. L. 105–206, title IX,

§9009(a), July 22, 1998, 112 Stat. 852; Pub. L. 109–59, title III, §§3002(b)(4), 3004, Aug. 10, 2005, 119 Stat. 1545; Pub. L. 110–244, title II, §201(a), June 6, 2008, 122 Stat. 1609; Pub. L. 112–141, div. B, §20004, July 6, 2012, 126 Stat. 623; Pub. L. 114–94, div. A, title III, §3002, Dec. 4, 2015, 129 Stat. 1446; Pub. L. 117–58, div. C, §30001(a), Nov. 15, 2021, 135 Stat. 889.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5302(a)(1)	49 App.:1608(c)(1).	July 9, 1964, Pub. L. 88–365, §12(c)(1), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(a), 96 Stat. 2151; Apr. 2, 1987, Pub. L. 100–17, §309(a), 101 Stat. 227.
	49 App.:1608(c)(7), (8).	July 9, 1964, Pub. L. 88–365, §12(c)(3)–(9), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Dec. 18, 1991, Pub. L. 102–240, §3016, 105 Stat. 2108.
5302(a)(2)	49 App.:1608(c)(3).	
5302(a)(3)	49 App.:1608(c)(13).	July 9, 1965, Pub. L. 88–365, 78 Stat. 302, §12(c)(12), (13); added Apr. 2, 1987, Pub. L. 100–17, §318(b)(3), 101 Stat. 234.
5302(a)(4)	49 App.:1608(c)(2).	July 9, 1964, Pub. L. 88–365, §12(c)(2), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(b), 96 Stat. 2151.
5302(a)(5)	49 App.:1608(c)(4) (1st sentence).	

5302(a)(6)	49 App.:1608(c)(5).	
5302(a)(7)	49 App.:1608(c)(6).	
5302(a)(8)	(no source).	
5302(a)(9)	49 App.:1608(h)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(h)(2); added Apr. 2, 1987, Pub. L. 100–17, §317(a), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, §6021(a), 105 Stat. 2184.
	49 App.:1608 (note).	Apr. 2, 1988, Pub. L. 100–17, §317(b)(4), 101 Stat. 233.
5302(a)(10)	49 App.:1608(c)(12).	
5302(a)(11)	49 App.:1608(c)(9).	
5302(a)(12)	49 App.:1608(c)(10).	July 9, 1964, Pub. L. 88–365, §12(c)(10), (11), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Apr. 2, 1987, Pub. L. 100–17, §318(b)(1), (2), 101 Stat. 234.
5302(a)(13)	49 App.:1608(c)(11).	
5302(b)	49 App.:1608(c)(4) (last sentence).	

In this chapter, the words "local governmental authority" are substituted for "local public body" for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the text of 49 App.:1608(c)(7) is omitted as surplus. The text of 49 App.:1608(c)(8) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section. In clause (1), before subclause (A), the words "capital project" are substituted for "construction" for clarity. In subclause (A), the words "actual", "all", and "reconstruction" are omitted as surplus. In subclause (D), the words "(whether or not such overhaul increases the useful life of the rolling stock)" are omitted as surplus. In clause (2), the words "for each of the jurisdictions included in the definition of 'State' " are omitted as surplus. In clauses (3) and (10), the word "regulation" is substituted for "rule" for consistency in the revised title and with other titles of the Code and because the terms are synonymous. In clause (3)(B)(iii), the words "of persons" are omitted as surplus. In clauses (4) and (5), the word "mass" is substituted for "public" because of the restatement. In clause (4)(A), the words "including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses" are omitted as surplus. In clause (6)(A), the words "municipalities and other" are omitted as surplus. In clause (6)(B), the word "authority" is substituted for "public agencies and instrumentalities" for consistency in the revised title and with other titles of the Code. The word "municipalities" is omitted as surplus. In clause (7), the words "bus, or rail, or other", "either publicly or privately owned", and "on a . . . basis" are omitted as surplus. Clause (8) is added for clarity because the term "net project cost" has the same meaning throughout this chapter. In clause (11), the words "the Commonwealths of" are omitted as surplus. In clause (12), the word "individuals" is substituted for "commuters or others" to eliminate unnecessary words. In clause (13)(A), the words "in the case of any such area" and "entire" are omitted as surplus. The words "Secretary of Commerce" are substituted for "Bureau of the Census" because of 15:1511(e). In clause (13)(B), the words "so designated by the Bureau of Census", "which shall be", "responsible", and "in cooperation with each other" are omitted as surplus.

Subsection (b) applies to section 5307(d)(1)(D) of the revised title because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (4)(I), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Social Security Act, referred to in par. (10)(B)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2021—Pub. L. 117–58 added par. (1), redesignated former pars. (1) to (24) as (2) to (25), respectively; in subpar. (G) of par. (4), added cl. (iv) and redesignated former cls. (iv) and (v) as (v) and (vi), respectively; and in cl. (vi) of subpar. (G) of par. (4), added subcl. (XV).

2015—Par. (1)(C). Pub. L. 114–94, §3002(1)(A), inserted "functional" before "landscaping and".

Par. (1)(E). Pub. L. 114–94, §3002(1)(B), substituted "bicycle storage shelters and parking facilities and the installation of equipment" for "bicycle storage facilities and installing equipment".

Par. (3)(F). Pub. L. 114–94, §3002(2)(A), added subpar. (F) and struck out former subpar. (F), which read as follows: "leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;".

Par. (3)(G)(iv). Pub. L. 114–94, §3002(2)(B)(i), inserted "and" at end.

Par. (3)(G)(v)(XIV). Pub. L. 114–94, §3002(2)(B)(ii), struck out "and" at end.

Par. (3)(G)(vi). Pub. L. 114–94, §3002(2)(B)(iii), struck out cl. (vi), which read as follows: "does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;".

Par. (3)(I). Pub. L. 114–94, §3002(2)(C), added subpar. (I) and struck out former subpar. (I), which read as follows: "the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;".

Par. (3)(M), (N). Pub. L. 114–94, §3002(2)(D)–(F), added subpars. (M) and (N).

Par. (24). Pub. L. 114–94, §3002(3), added par. (24).

2012—Pub. L. 112–141 amended section generally, substituting pars. (1) to (23) for former provisions defining terms for this chapter consisting of subsecs. (a) and (b).

2008—Subsec. (a)(10). Pub. L. 110–244 substituted "charter, sightseeing," for "charter,".

2005—Subsec. (a). Pub. L. 109–59, §3004(a), substituted "Except as otherwise specifically provided, in this chapter" for "In this chapter" in introductory provisions.

Subsec. (a)(1)(A), (F). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (a)(1)(G). Pub. L. 109–59, §3004(b)(1), inserted "construction, renovation, and improvement of intercity bus and intercity rail stations and terminals," after "public transportation facility," in introductory provisions.

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing in introductory provisions.

Subsec. (a)(1)(G)(ii). Pub. L. 109–59, §3004(b)(2), inserted "(other than an intercity bus station or terminal)" after "commercial revenue-producing facility".

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (a)(1)(H). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (a)(1)(J) to (L). Pub. L. 109–59, §3004(b)(3)–(5), added subpars. (J) to (L).

Subsec. (a)(4). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in introductory provisions and subpar. (A).

Subsec. (a)(5). Pub. L. 109–59, §3004(c), substituted "Individual with a disability" for "Handicapped individual" in heading and "individual with a disability" for "handicapped individual" in text.

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in two places.

Subsec. (a)(7). Pub. L. 109–59, §3004(d), amended heading and text of par. (7) generally. Prior to amendment, text read as follows: "The term 'mass transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation."

Subsec. (a)(9). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in subpars. (A) and (B).

Subsec. (a)(10). Pub. L. 109–59, §3004(e), amended heading and text of par. (10) generally. Prior to amendment, text read as follows: "The term 'public transportation' means mass transportation."

Subsec. (a)(14) to (16). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

Subsec. (a)(17). Pub. L. 109–59, §3004(f), reenacted heading without change and amended text of par. (17) generally. Prior to amendment, text read as follows: "The term 'urbanized area' means an area—

"(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

"(B) designated as an urbanized area within boundaries fixed by State and local officials and approved by the Secretary."

Subsec. (b). Pub. L. 109–59, §3004(g), substituted "Individual With a Disability" for "Handicapped Individual" in heading and "individual with a disability" for "handicapped individual" in text.

1998—Pub. L. 105–178, §3003(a), formerly §3003, as renumbered by Pub. L. 105–206, §9009(a)(1), amended section generally, revising and restating existing definitions and adding new pars. defining additional terms.

Subsec. (a)(1)(G)(i). Pub. L. 105–178, §3003(b), as added by Pub. L. 105–206, §9009(a)(2), substituted "daycare or" for "daycare and".

1997—Subsec. (a)(1)(B), (C). Pub. L. 105–102 made technical correction to directory language of Pub. L. 104–50, §333(a). See 1995 Amendment notes below.

1996—Subsec. (a)(1). Pub. L. 104–287 made technical correction to directory language of Pub. L. 103–331, §335A. See 1994 Amendment note below.

1995—Subsec. (a)(1)(B). Pub. L. 104–50, §333(a)(1), as amended by Pub. L. 105–102, §3(a)(1), struck out "that extends the economic life of a bus for at least 5 years" after "rehabilitating a bus".

Subsec. (a)(1)(C). Pub. L. 104–50, §333(a)(2), as amended by Pub. L. 105–102, §3(a)(2), struck out "that extends the economic life of a bus for at least 8 years" after "remanufacturing a bus".

1994—Subsec. (a)(1). Pub. L. 103–331, §335A, as amended by Pub. L. 104–287, inserted "payments for the capital portions of rail trackage rights agreements," after "rights of way),".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(a), Nov. 20, 1997, 111 Stat. 2214, provided that the amendment made by section 3(a) is effective Nov. 15, 1995.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–287, §6(c), Oct. 11, 1996, 110 Stat. 3398, provided that the amendment made by section 6(c) is effective Sept. 30, 1994.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104–50, title III, §333(b), Nov. 15, 1995, 109 Stat. 457, provided that: "The amendments made by this section [amending this section] shall not take effect before March 31, 1996."

§5303. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

(1) to encourage and promote the safe and efficient management, operation, and development of resilient surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas and better connect housing and employment, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" means the policy board of an organization established as a result of the designation process under subsection (d).

(3) NONMETROPOLITAN AREA.—The term "nonmetropolitan area" means a geographic area outside designated metropolitan planning areas.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization established as the result of a designation under section 5304(l).

(6) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities

and commuter vanpool providers) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) REPRESENTATION.—

(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

(D) CONSIDERATIONS.—In designating officials or representatives under paragraph (2) for the first time, subject to the bylaws or enabling statute of the metropolitan planning organization, the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(5) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (6).

(6) REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together

represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

(7) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION .—More than 1 metropolitan planning organization may be designated within an existing urbanized area (as defined by the Bureau of the Census) only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the area make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA–LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(6).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA–LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this

section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within an urbanized area (as defined by the Bureau of the Census) or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded under this chapter or title 23, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, housing, tourism, natural disaster risk reduction, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(i) recipients of assistance under this chapter;

(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(iii) recipients of assistance under section 204 of title 23.

(4) COORDINATION BETWEEN MPOS.—If more than 1 metropolitan planning organization is designated within an urbanized area (as defined by the Bureau of the Census) under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.

(5) SAVINGS CLAUSE.—Nothing in this subsection requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality

of life, and promote consistency between transportation improvements and State and local planned growth, housing, and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system; and

(I) improve the resiliency and reliability of the transportation system.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed by recipients of assistance under this chapter, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

(B) FREQUENCY.—

(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

(I) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

(ii) OTHER AREAS.—In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(III) recommends any additional financing strategies for needed projects and programs.

(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure, provide for multimodal capacity increases based on regional priorities and needs, and reduce the vulnerability of the existing transportation infrastructure to natural disasters.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities, including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) assumed distribution of population and housing;

(iv) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(v) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(vi) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vii) estimated costs and potential revenues available to support each scenario.

(C) METRICS.—In addition to the performance measures identified in section 150(c) of title 23, metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) CONSULTATION.—

(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

(B) ISSUES.—The consultation shall involve, as appropriate—

(i) comparison of transportation plans with State conservation plans or maps, if available;

or

(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, affordable housing organizations, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

(i) shall be developed in consultation with all interested parties; and

(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(D) USE OF TECHNOLOGY.—A metropolitan planning organization may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

(7) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(E).

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the metropolitan planning area that—

(i) contains projects consistent with the current metropolitan transportation plan;

(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be—

(i) updated at least once every 4 years; and

(ii) approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

(i) demonstrates how the TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to

be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of Federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

(i) by—

(I) in the case of projects under title 23, the State; and

(II) in the case of projects under this chapter, the designated recipients of public transportation funding; and

(ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by

the metropolitan planning organization in cooperation with the State and public transportation operators.

(3) CONGESTION MANAGEMENT PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects, and operational management strategies.

(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization serving a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and non-profit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(4) HOUSING COORDINATION PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section may address the integration of housing, transportation, and economic development strategies through a process that provides for effective integration, based on a cooperatively developed and implemented strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23.

(B) COORDINATION IN INTEGRATED PLANNING PROCESS.—In carrying out the process described in subparagraph (A), a metropolitan planning organization may—

(i) consult with—

(I) State and local entities responsible for land use, economic development, housing, management of road networks, or public transportation; and

(II) other appropriate public or private entities; and

(ii) coordinate, to the extent practicable, with applicable State and local entities to align the goals of the process with the goals of any comprehensive housing affordability strategies established within the metropolitan planning area pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and plans developed under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1).

(C) HOUSING COORDINATION PLAN.—

(i) IN GENERAL.—A metropolitan planning organization serving a transportation management area may develop a housing coordination plan that includes projects and strategies that may be considered in the metropolitan transportation plan of the metropolitan planning organization.

(ii) CONTENTS.—A plan described in clause (i) may—

(I) develop regional goals for the integration of housing, transportation, and economic development strategies to—

(aa) better connect housing and employment while mitigating commuting times;

(bb) align transportation improvements with housing needs, such as housing supply shortages, and proposed housing development;

(cc) align planning for housing and transportation to address needs in relationship to household incomes within the metropolitan planning area;

(dd) expand housing and economic development within the catchment areas of existing transportation facilities and public transportation services when appropriate, including higher-density development, as locally determined;

(ee) manage effects of growth of vehicle miles traveled experienced in the metropolitan planning area related to housing development and economic development;

(ff) increase share of households with sufficient and affordable access to the transportation networks of the metropolitan planning area;

(II) identify the location of existing and planned housing and employment, and transportation options that connect housing and employment; and

(III) include a comparison of transportation plans to land use management plans, including zoning plans, that may affect road use, public transportation ridership and housing development.

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(6) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(l) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area with a population of 200,000 or less and their ability to carry out the requirements of this section.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

(p) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 or section 5305(g) shall be available to carry out this section.

(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under that Act.

(r) BI-STATE METROPOLITAN PLANNING ORGANIZATION.—

(1) DEFINITION OF BI-STATE MPO REGION.—In this subsection, the term "Bi-State Metropolitan Planning Organization" has the meaning given the term "region" in subsection (a) of Article II of the Lake Tahoe Regional Planning Compact (Public Law 96–551; 94 Stat. 3234).

(2) TREATMENT.—For the purpose of this title, the Bi-State Metropolitan Planning Organization shall be treated as—

(A) a metropolitan planning organization;

(B) a transportation management area under subsection (k); and

(C) an urbanized area, which is comprised of a population of 145,000 and 25 square miles of land area and 25 square miles of land area [1] in the State of California and a population of 65,000 and 12 square miles of land area and 12 square miles of land area [1] in the State of Nevada.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 788; Pub. L. 104–287, §5(10), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–102, §2(4), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105–178, title III, §§3004, 3029(b)(1)–(3), June 9, 1998, 112 Stat. 341, 372; Pub. L. 105–206, title IX, §9009(b), July 22, 1998, 112 Stat. 852; Pub. L. 109–59, title III, §3005(a), Aug. 10, 2005, 119 Stat. 1547; Pub. L. 110–244, title II, §201(b), June 6, 2008, 122 Stat. 1609; Pub. L. 112–141, div. B, §20005(a), July 6, 2012, 126 Stat. 628; Pub. L. 114–94, div. A, title III, §3003(a), Dec. 4, 2015, 129 Stat. 1447; Pub. L. 114–322, title III, §3603(f)(3), Dec. 16, 2016, 130 Stat. 1789; Pub. L. 115–31, div. K, title I, §192, May 5, 2017, 131 Stat. 756; Pub. L. 117–58, div. C, §30002, Nov. 15, 2021, 135 Stat. 890.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5303(a)	49 App.:1607(a) (2d–last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(a) (2d–last sentences)–(g), (n); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2098, 2104.
5303(b)	49 App.:1607(f).	
5303(c)(1)	49 App.:1607(b)(1).	
5303(c)(2)	49 App.:1607(b)(2).	
5303(c)(3)	49 App.:1607(b)(6).	

5303(c)(4)	49 App.:1607(b)(4).	
5303(c)(5)	49 App.:1607(b)(5).	
5303(c)(6)	49 App.:1607(b)(3).	
5303(d)	49 App.:1607(c).	
5303(e)	49 App.:1607(d), (e).	
5303(f)	49 App.:1607(g).	
5303(g)	49 App.:1607(n).	
5303(h)	49 App.:1607(p).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(p); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2105; Oct. 6, 1992, Pub. L. 102–388, §502(h), 106 Stat. 1566.

In this section, the word "together" is omitted as surplus. The words "Secretary of Commerce" are substituted for "Bureau of the Census" because of 15:1511(e).

In subsection (b)(2), the word "applicable" is omitted as surplus.

In subsection (b)(3), the words "where it does not yet occur" are omitted as surplus.

In subsection (b)(4), the words "the provisions of all applicable" are omitted as surplus.

In subsection (c)(4), before clause (A), the words "whether made under this section or other provisions of law" are omitted as surplus.

In subsection (d), the word "entire" is omitted as surplus.

In subsection (e)(2), the words "or compacts" and "joint or otherwise" are omitted as surplus.

In subsection (f)(3), the word "area" is added for clarity and consistency with 42:7501(2).

In subsection (f)(5)(A), the words "published or otherwise" are omitted as surplus.

In subsection (g), before clause (1), the words "local governmental authorities" are substituted for "local public bodies", and the words "departments, agencies, and instrumentalities of the Government" are substituted for "Federal departments and agencies", for consistency in the revised title and with other titles of the United States Code.

In subsection (h)(6)(A), the words "for obligation", "a period of", and "the close of" are omitted as surplus.

PUB. L. 104–287

This amends 49:5303(f)(2) and (h)(4) to correct erroneous cross-references.

PUB. L. 105–102, §2(4)(A)

This amends 49:5303(c)(1) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(B)

This amends 49:5303(c)(4)(A) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(C)

This amends 49:5303(c)(5)(A) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsecs. (d)(2) and (l)(2), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

The Clean Air Act, referred to in subsecs. (e)(4)(A), (5)(D), (g)(1), (i)(3), (m)(2), and (n)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the SAFETEA-LU, referred to in subsec. (e)(4)(A), (5), is the date of enactment of

title III of Pub. L. 109–59, which was approved Aug. 10, 2005.

The National Environmental Policy Act of 1969, referred to in subsec. (q), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §30002(a)(1), inserted "and better connect housing and employment" after "urbanized areas".

Subsec. (d)(3)(D). Pub. L. 117–58, §30002(b)(1)(A), added subpar. (D).

Subsec. (d)(7). Pub. L. 117–58, §30002(b)(1)(B), substituted "an existing urbanized area (as defined by the Bureau of the Census)" for "an existing metropolitan planning area" and "the area" for "the existing metropolitan planning area".

Subsec. (g)(1). Pub. L. 117–58, §30002(b)(2)(A), substituted "an urbanized area (as defined by the Bureau of the Census)" for "a metropolitan area".

Subsec. (g)(3)(A). Pub. L. 117–58, §30002(a)(2), inserted "housing," after "economic development,".

Subsec. (g)(4), (5). Pub. L. 117–58, §30002(b)(2)(B), added pars. (4) and (5).

Subsec. (h)(1)(E). Pub. L. 117–58, §30002(a)(3), inserted ", housing," after "growth".

Subsec. (i)(4)(B)(iii) to (vii). Pub. L. 117–58, §30002(a)(4)(A), added cl. (iii) and redesignated former cls. (iii) to (vi) as (iv) to (vii), respectively.

Subsec. (i)(6)(A). Pub. L. 117–58, §30002(a)(4)(B), inserted "affordable housing organizations," after "disabled,".

Subsec. (i)(6)(D). Pub. L. 117–58, §30002(b)(3), added subpar. (D).

Subsec. (k)(4) to (6). Pub. L. 117–58, §30002(a)(5), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (p). Pub. L. 117–58, §30002(b)(4), substituted "section 104(b)(6)" for "section 104(b)(5)".

2017—Subsec. (r)(2)(C). Pub. L. 115–31 made amendment identical to that made by Pub. L. 114–322. See 2016 Amendment note below.

2016—Subsec. (r)(2)(C). Pub. L. 114–322 inserted "and 25 square miles of land area" after "145,000" and "and 12 square miles of land area" after "65,000".

2015—Subsec. (a)(1). Pub. L. 114–94, §3003(a)(1), inserted "resilient" after "development of".

Subsec. (c)(2). Pub. L. 114–94, §3003(a)(2), substituted ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers" for "and bicycle transportation facilities".

Subsec. (d)(3) to (7). Pub. L. 114–94, §3003(a)(3), added par. (3), redesignated pars. (3) to (6) as (4) to (7), respectively, and in par. (5), substituted "paragraph (6)" for "paragraph (5)".

Subsec. (e)(4)(B). Pub. L. 114–94, §3003(a)(4), substituted "subsection (d)(6)" for "subsection (d)(5)".

Subsec. (g)(3)(A). Pub. L. 114–94, §3003(a)(5), inserted "tourism, natural disaster risk reduction," after "economic development,".

Subsec. (h)(1)(I). Pub. L. 114–94, §3003(a)(6), added subpar. (I).

Subsec. (i)(2)(A)(i). Pub. L. 114–94, §3003(a)(7)(A)(i), substituted "public transportation facilities, intercity bus facilities" for "transit".

Subsec. (i)(2)(G). Pub. L. 114–94, §3003(a)(7)(A)(ii), substituted ", provide" for "and provide" and inserted before period at end ", and reduce the vulnerability of the existing transportation infrastructure to natural disasters".

Subsec. (i)(2)(H). Pub. L. 114–94, §3003(a)(7)(A)(iii), inserted before period at end ", including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated".

Subsec. (i)(6)(A). Pub. L. 114–94, §3003(a)(7)(B), inserted "public ports," before "freight shippers," and "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation".

Subsec. (i)(8). Pub. L. 114–94, §3003(a)(7)(C), substituted "paragraph (2)(E)" for "paragraph (2)(C)" in two places.

Subsec. (k)(3)(A). Pub. L. 114–94, §3003(a)(8)(A), inserted "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects," after "travel demand

reduction".

Subsec. (k)(3)(C), (D). Pub. L. 114–94, §3003(a)(8)(B), added subpars. (C) and (D).

Subsec. (l)(1). Pub. L. 114–94, §3003(a)(9)(A), inserted a period at end.

Subsec. (l)(2)(D). Pub. L. 114–94, §3003(a)(9)(B), substituted "with a population of 200,000 or less" for "of less than 200,000".

Subsec. (p). Pub. L. 114–94, §3003(a)(10), substituted "Funds apportioned under section 104(b)(5)" for "Funds set aside under section 104(f)".

Subsec. (r). Pub. L. 114–94, §3003(a)(11), added subsec. (r).

2012—Pub. L. 112–141 amended section generally, substituting provisions consisting of subsecs. (a) to (q), including requirement to submit report on performance-based planning processes, for former provisions consisting of subsecs. (a) to (p).

2008—Subsec. (f)(3)(C)(ii)(II). Pub. L. 110–244, §201(b)(1), added subcl. (II) and struck out former subcl. (II). Prior to amendment, text read as follows: "In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this chapter and title 23, 1 percent of the funds allocated under section 202 of title 23 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph."

Subsec. (j)(3)(D). Pub. L. 110–244, §201(b)(2), inserted "or the identified phase" after "the project" in two places.

Subsec. (k)(2). Pub. L. 110–244, §201(b)(3), struck out "a metropolitan planning area serving" before "a transportation management area,".

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to designation of a metropolitan planning organization for each urbanized area with a population of more than 50,000, general requirements, scope of planning process, boundaries of each area, coordination in multistate areas, development of long-range transportation plans, grants for studies and evaluations, and apportionment of funds.

1998—Subsecs. (a), (b). Pub. L. 105–178, §3004(a), added subsecs. (a) and (b) and struck out headings and text of former subsecs. (a) and (b) which related to development requirements and plan and program factors, respectively.

Subsec. (c)(1)(A). Pub. L. 105–178, §3004(b)(1)(B), substituted "or cities, as defined by the Bureau of the Census)" for "as defined by the Secretary of Commerce)".

Pub. L. 105–178, §3004(b)(1)(A), as amended by Pub. L. 105–206, §9009(b)(1)(A), substituted "general purpose local government that together represent" for "general local government representing".

Subsec. (c)(2). Pub. L. 105–178, §3004(b)(2), substituted "Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of" for "In a metropolitan area designated as a transportation management area, the designated metropolitan planning organization, if redesignated after December 18, 1991, shall include" and "officials of public agencies" for "officials of authorities".

Subsec. (c)(3). Pub. L. 105–178, §3004(b)(3), as amended by Pub. L. 105–206, §9009(b)(1)(B), substituted "within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area" for "in an urbanized area (as defined by the Secretary of Commerce) only if the chief executive officer decides that the size and complexity of the urbanized area".

Subsec. (c)(4)(A). Pub. L. 105–178, §3004(b)(4), as added by Pub. L. 105–206, §9009(b)(1)(E), directed an amendment identical to that made by Pub. L. 105–102, §2(4)(B). See 1997 Amendment note below.

Subsec. (c)(5)(A). Pub. L. 105–178, §3004(b)(5)(A), formerly §3004(b)(4)(A), as renumbered and amended by Pub. L. 105–206, §9009(b)(1)(C), (D), substituted "general purpose local government that together represent" for "general local government representing".

Subsec. (c)(5)(B). Pub. L. 105–178, §3004(b)(5)(B), formerly §3004(b)(4)(B), as renumbered by Pub. L. 105–206, §9009(b)(1)(D), substituted "or cities, as defined by the Bureau of the Census)" for "as defined by the Secretary of Commerce)".

Subsec. (c)(5)(D). Pub. L. 105–178, §3004(b)(5)(C), formerly §3004(b)(4)(C), as renumbered by Pub. L. 105–206, §9009(b)(1)(D), added subpar. (D).

Subsec. (d). Pub. L. 105–178, §3004(c), inserted "Planning" after "Metropolitan" in subsec. heading, designated existing provisions as par. (1), inserted par. heading, realigned margins, inserted "planning" before "area" in first sentence and substituted pars. (2) to (4) for "The area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Secretary of Commerce. An area designated as a nonattainment area for ozone or carbon monoxide under the

Clean Air Act (42 U.S.C. 7401 et seq.) shall include at least the boundaries of the nonattainment area, except as the chief executive officer and metropolitan planning organization otherwise agree."

Subsec. (e)(2). Pub. L. 105–178, §3004(d)(1), inserted "or compact" after "2 States making an agreement" and substituted "making the agreements and compacts effective" for "making the agreement effective".

Subsec. (e)(4) to (6). Pub. L. 105–178, §3004(d)(2), as amended by Pub. L. 105–206, §9009(b)(2), added pars. (4) to (6).

Subsec. (f). Pub. L. 105–178, §3004(e)(5), substituted "Developing Long-Range Transportation Plans" for "Developing Long-Range Plans" in heading.

Pub. L. 105–178, §3004(e)(6), which directed substitution of "long-range transportation plans" for "long-range plans" wherever appearing, could not be executed because "long-range plans" does not appear in text.

Subsec. (f)(1)(A). Pub. L. 105–178, §3004(e)(1)(A), substituted "national, regional, and metropolitan transportation functions" for "United States and regional transportation functions".

Subsec. (f)(1)(B)(iii). Pub. L. 105–178, §3004(e)(1)(B), added cl. (iii) and struck out former cl. (iii) which read as follows: "recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects and programs;".

Subsec. (f)(1)(C). Pub. L. 105–178, §3004(e)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: "assess capital investment and other measures necessary—

"(i) to ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, and operations, maintenance, modernization, and rehabilitation of existing and future mass transportation facilities; and

"(ii) to use existing transportation facilities most efficiently to relieve vehicular congestion and maximize the mobility of individuals and goods; and".

Subsec. (f)(1)(E). Pub. L. 105–178, §3004(f)(1), as added by Pub. L. 105–206, §9009(b)(3), added subpar. (E).

Subsec. (f)(2). Pub. L. 105–178, §3004(e)(2), substituted "and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process" for "as they are related to a 20-year forecast period".

Subsec. (f)(4). Pub. L. 105–178, §3004(e)(3), inserted "freight shippers, providers of freight transportation services," after "mass transportation authority employees," and "representatives of users of public transit," after "private providers of transportation,".

Subsec. (f)(5)(A). Pub. L. 105–178, §3004(e)(4), inserted "published or otherwise" before "made readily available".

Subsec. (f)(6). Pub. L. 105–178, §3004(f)(2), as added by Pub. L. 105–206, §9009(b)(3), added par. (6).

Subsec. (h)(1). Pub. L. 105–178, §3029(b)(1), (2), substituted "subsection (c) or (h)(1) of section 5338 of this title" for "section 5338(g)(1) of this title" and "sections 5304 and 5305 of this title" for "sections 5304–5306 of this title".

Subsec. (h)(2)(A), (3)(A). Pub. L. 105–178, §3029(b)(1), substituted "subsection (c) or (h)(1) of section 5338 of this title" for "section 5338(g)(1) of this title".

Subsec. (h)(4). Pub. L. 105–178, §3029(b)(3), substituted "subsection (c) or (h)(1) of section 5338 of this title" for "section 5338(g) of this title".

1997—Subsec. (c)(1). Pub. L. 105–102, §2(4)(A), inserted "and sections 5304–5306 of this title" after "this section".

Subsec. (c)(4)(A). Pub. L. 105–102, §2(4)(B), substituted "paragraph (5)" for "paragraph (3)".

Subsec. (c)(5)(A). Pub. L. 105–102, §2(4)(C), inserted "and sections 5304–5306 of this title" after "this section".

1996—Subsec. (f)(2). Pub. L. 104–287, §5(10)(A), substituted "subsection (b)" for "subsection (e)".

Subsec. (h)(4). Pub. L. 104–287, §5(10)(B), substituted "section 5338(g)" for "5338(g)(1)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 8(1) of Pub. L. 104–287, as amended by Pub. L. 105–102, §3(d)(2)(A), Nov. 20, 1997, 111 Stat. 2215, provided that: "The amendments made by sections 3 and 5(10)–(17), (19), (20), (52), (53), (55), (61), (62), (65), (70), (77)–(79), and (91)–(93) of this Act [amending this section, sections 5307, 5309, 5315, 5317, 5323, 5325, 5327, 5336, 5338, 20301, 21301, 22106, 32702, 32705, 40109, 41109, 46301, 46306, 46316, 60114, 70102, and 70112 of this title, and section 1445 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 5, 1994."

PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING

Pub. L. 112–141, div. B, §20005(b), July 6, 2012, 126 Stat. 642, as amended by Pub. L. 117–58, div. C, §30009, Nov. 15, 2021, 135 Stat. 904, provided that:

"(1) DEFINITIONS.—In this subsection the following definitions shall apply:

"(A) ELIGIBLE PROJECT.—The term 'eligible project' means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive or site-specific planning associated with an eligible project that seeks to—

"(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

"(B) facilitate multimodal connectivity and accessibility;

"(C) increase access to transit hubs for pedestrian and bicycle traffic;

"(D) enable mixed-use development;

"(E) identify infrastructure needs associated with the eligible project; and

"(F) include private sector participation.

"(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

"(A) identification of an eligible project;

"(B) a schedule and process for the development of a comprehensive plan or a site-specific plan;

"(C) a description of how the eligible project and the proposed comprehensive plan or the proposed site-specific plan advance the metropolitan transportation plan of the metropolitan planning organization;

"(D) proposed performance criteria for the development and implementation of the comprehensive plan or the site-specific plan; and

"(E) identification of—

"(i) partners;

"(ii) availability of and authority for funding; and

"(iii) potential State, local or other impediments to the implementation of the comprehensive plan or the site-specific plan."

GUIDANCE ON DOCUMENTING COMPLIANCE WITH REQUIREMENTS OF PRIVATE ENTERPRISE PARTICIPATION IN PUBLIC TRANSPORTATION PLANNING AND TRANSPORTATION IMPROVEMENT PROGRAMS

Pub. L. 112–141, div. B, §20013(d), July 6, 2012, 126 Stat. 694, as amended by Pub. L. 114–94, div. A, title III, §3010(b), Dec. 4, 2015, 129 Stat. 1474, provided that: "Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall publish in the Federal Register policy guidance regarding how to best document compliance by recipients of

Federal assistance under chapter 53 of title 49, United States Code, with the requirements regarding private enterprise participation in public transportation planning and transportation improvement programs under sections 5303(i)(6), 5306(a), and 5307(b) of such title 49."

SCHEDULE FOR IMPLEMENTATION

Pub. L. 109–59, title III, §3005(b), Aug. 10, 2005, 119 Stat. 1559, required the Secretary of Transportation to issue guidance on a schedule for implementation of the changes made to this section by section 3005(a) of Pub. L. 109–59 and required State or metropolitan planning organization plan or program updates to reflect such changes beginning July 1, 2007.

[1] *So in original.*

§5304. Statewide and nonmetropolitan transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 5303, to accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State.

(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a) and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—Two or more States may enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;
(D) increase the accessibility and mobility of people and freight;
(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;
(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;
(G) promote efficient system management and operation;
(H) emphasize the preservation of the existing transportation system; and
(I) improve the resiliency and reliability of the transportation system.

(2) PERFORMANCE-BASED APPROACH.—
(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.
(B) PERFORMANCE TARGETS.—
(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—
(I) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the State.
(II) COORDINATION.—Selection of performance targets by a State shall be coordinated with the relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—In areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, selection of performance targets by a State shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph, in other State transportation plans and transportation processes, as well as any plans developed pursuant to title 23 by providers of public transportation in areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program.
(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be considered by a State when developing policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum—
(1) with respect to nonmetropolitan areas, cooperate with affected local officials with responsibility for transportation or, if applicable, through regional transportation planning

organizations described in subsection (l);

(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

(3) consider coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in cooperation with affected nonmetropolitan officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the consultation process in each State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide to—

(i) nonmetropolitan local elected officials, or, if applicable, through regional transportation planning organizations described in subsection (l), an opportunity to participate in accordance with subparagraph (B)(i); and

(ii) citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties a reasonable opportunity to comment on the proposed plan.

(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(i) develop and document a consultative process to carry out subparagraph (A)(i) that is

separate and discrete from the public involvement process developed under clause (ii);

(ii) hold any public meetings at convenient and accessible locations and times;

(iii) employ visualization techniques to describe plans; and

(iv) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(C) USE OF TECHNOLOGY.—A State may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

(4) MITIGATION ACTIVITIES.—

(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(5) FINANCIAL PLAN.—The statewide transportation plan may include—

(A) a financial plan that—

(i) demonstrates how the adopted statewide transportation plan can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(iii) recommends any additional financing strategies for needed projects and programs; and

(B) for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) PERFORMANCE-BASED APPROACH.—The statewide transportation plan should include—

(A) a description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (d)(2); and

(B) a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2), including progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

(8) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—Each State shall develop a statewide transportation improvement program for all areas of the State.

(B) DURATION AND UPDATING OF PROGRAM.—Each program developed under subparagraph (A) shall cover a period of 4 years and shall be updated every 4 years or more frequently if the Governor of the State elects to update more frequently.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

(B) NONMETROPOLITAN AREAS.—

(i) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in cooperation with affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

(ii) ROLE OF SECRETARY.—The Secretary shall not review or approve the specific consultation process in the State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

(4) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

(5) INCLUDED PROJECTS.—

(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include Federally supported surface transportation expenditures within the boundaries of the State.

(B) LISTING OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects for which funds have been obligated for the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review.

(ii) FUNDING CATEGORIES.—The listing described in clause (i) shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

(C) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

(i) consistent with the statewide transportation plan developed under this section for the State;

(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as a nonattainment area for ozone, particulate matter, or carbon monoxide under part D of title I of that Act (42 U.S.C. 7501 et seq.).

(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

(F) FINANCIAL PLAN.—

(i) IN GENERAL.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs.

(ii) ADDITIONAL PROJECTS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this chapter and title 23.

(6) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this chapter), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation or, if applicable, through regional transportation planning organizations described in subsection (l).

(B) OTHER PROJECTS.—Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this chapter shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

(7) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

(8) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5303.

(9) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

(h) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

(A) The extent to which the State is making progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed appropriate performance targets.

(B) The extent to which the State has made transportation investments that are efficient and cost-effective.

(C) The extent to which the State—

(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

(ii) provides reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

(2) REPORT.—

(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

(ii) the effectiveness of the performance-based planning process of each State.

(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5303, and sections 134 and 135 of title 23, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 5303, and sections 134 and 135 of title 23, as appropriate.

(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(k) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule

for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.

(l) DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

(2) STRUCTURE.—A regional transportation planning organization shall be established as a multijurisdictional organization of nonmetropolitan local officials or their designees who volunteer for such organization and representatives of local transportation systems who volunteer for such organization.

(3) REQUIREMENTS.—A regional transportation planning organization shall establish, at a minimum—

(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.

(4) DUTIES.—The duties of a regional transportation planning organization shall include—

(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

(B) developing a regional transportation improvement program for consideration by the State;

(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

(D) providing technical assistance to local officials;

(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

(F) providing a forum for public participation in the statewide and regional transportation planning processes;

(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, metropolitan planning organizations, and, where appropriate, tribal organizations; and

(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

(5) STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS .—If a State chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 793; Pub. L. 105–178, title III, §3005, June 9, 1998, 112 Stat. 345; Pub. L. 105–206, title IX, §9009(c)(2), July 22, 1998, 112 Stat. 854; Pub. L. 109–59, title III, §3006(a), Aug. 10, 2005, 119 Stat. 1559; Pub. L. 112–141, div. B, §20006, July 6, 2012, 126 Stat. 643; Pub. L. 114–94, div. A, title III, §3003(b), Dec. 4, 2015, 129 Stat. 1449; Pub. L. 117–58, div. C, §30003, Nov. 15, 2021, 135 Stat. 893.)

HISTORICAL AND REVISION NOTES

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5304(a)	49 App.:1607(h)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(h); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2102; Oct. 6, 1992, Pub. L. 102–388, §§501, 502(e), 106 Stat. 1566.
5304(b)	49 App.:1607(h)(2).	
5304(c)	49 App.:1607(h)(3), (5).	
5304(d)	49 App.:1607(h)(6).	
5304(e)	49 App.:1607(h)(4).	

In subsection (b)(1), the word "initial" is omitted as surplus.

In subsection (b)(2)(C), the words "and programs" are omitted as surplus.

In subsection (c)(1), the word "otherwise" is omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b)(2) and (g)(5)(D)(iii), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. Part D of title I of the Act is classified generally to part D (§7501 et seq.) of subchapter I of chapter 85 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsec. (h)(2)(A), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

The National Environmental Policy Act of 1969, referred to in subsec. (j), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (e). Pub. L. 117–58, §30003(a)(1), struck out quotation marks before "In" in introductory provisions.

Subsec. (f)(3)(C). Pub. L. 117–58, §30003(b), added subpar. (C).

Subsec. (i). Pub. L. 117–58, §30003(a)(2), substituted "this" for "this this".

2015—Subsec. (a)(2). Pub. L. 114–94, §3003(b)(1), substituted ", bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers" for "and bicycle transportation facilities".

Subsec. (d)(1)(I). Pub. L. 114–94, §3003(b)(2)(A), added subpar. (I).

Subsec. (d)(2)(B)(ii). Pub. L. 114–94, §3003(b)(2)(B)(i), struck out "urbanized" after "In".

Subsec. (d)(2)(C). Pub. L. 114–94, §3003(b)(2)(B)(ii), struck out "urbanized" after "public transportation in".

Subsec. (f)(3)(A)(ii). Pub. L. 114–94, §3003(b)(3), inserted "public ports," before "freight shippers," and "(including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program)" after "private providers of transportation".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to statewide transportation planning and consisted of subsecs. (a) to (j).

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (e) relating to development and updating of a transportation improvement program, contents of program, selection of projects, notice and an opportunity to comment on proposed programs, and conformance

of review requirements under the National Environmental Policy Act of 1969.

1998—Subsec. (a). Pub. L. 105–178, §3005(d)(1), as added by Pub. L. 105–206, §9009(c)(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

Pub. L. 105–178, §3005(a), in second sentence, substituted "the metropolitan planning organization, in cooperation with the chief executive officer of the State and any affected mass transportation operator," for "the organization" and inserted "other affected employee representatives, freight shippers, providers of freight transportation services," after "transportation authority employees," and "representatives of users of public transit," after "private providers of transportation,".

Subsec. (b)(2)(B). Pub. L. 105–178, §3005(d)(2)(A), as added by Pub. L. 105–206, §9009(c)(2), struck out "and" at end.

Subsec. (b)(2)(C). Pub. L. 105–178, §3005(d)(2)(B), as added by Pub. L. 105–206, §9009(c)(2), which directed amendment of subpar. (C) by substituting "strategies; and" for "strategies which may include", was executed by making the substitution for "strategies, which may include" to reflect the probable intent of Congress. Remaining provisions of subpar. (C) redesignated (D).

Pub. L. 105–178, §3005(b), added subpar. (C) and struck out former subpar. (C) which read as follows: "recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects."

Subsec. (b)(2)(D). Pub. L. 105–178, §3005(d)(2)(B), as added by Pub. L. 105–206, §9009(c)(2), which directed amendment of subpar. (C) by substituting "strategies; and" followed by "(D) may include" for "strategies which may include", was executed by making the substitutions for "strategies, which may include" to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 105–178, §3005(c)(1), added par. (1) and struck out former par. (1) which read as follows: "Except as provided in section 5305(d)(1) of this title, the State, in cooperation with the metropolitan planning organization, shall select projects in a metropolitan area that involve United States Government participation. Selection shall comply with the transportation improvement program for the area."

Subsec. (c)(3). Pub. L. 105–178, §3005(c)(2), added par. (3).

Subsec. (c)(4). Pub. L. 105–178, §3005(d)(3), as added by Pub. L. 105–206, §9009(c)(2), added par. (4) and struck out heading and text of former par. (4). Text read as follows: "Notwithstanding subsection (b)(2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(C)."

Pub. L. 105–178, §3005(c)(2), added par. (4).

Subsec. (c)(5), (6). Pub. L. 105–178, §3005(c)(2), added pars. (5) and (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

SCHEDULE FOR IMPLEMENTATION

Pub. L. 109–59, title III, §3006(b), Aug. 10, 2005, 119 Stat. 1565, required the Secretary of Transportation to issue guidance on a schedule for implementation of the changes made to this section by section 3006(a) of Pub. L. 109–59 and required State or metropolitan planning organization plan or program updates to reflect such changes beginning July 1, 2007.

§5305. Planning programs

(a) STATE DEFINED.—In this section, the term "State" means a State of the United States, the District of Columbia, and Puerto Rico.

(b) GENERAL AUTHORITY.—

(1) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, and make agreements with other departments, agencies, or instrumentalities of the Government to—

(A) develop transportation plans and programs;

(B) plan, engineer, design, and evaluate a public transportation project; and

(C) conduct technical studies relating to public transportation.

(2) ELIGIBLE ACTIVITIES.—Activities eligible under paragraph (1) include the following:

(A) Studies related to management, planning, operations, capital requirements, and economic feasibility.

(B) Evaluating previously financed projects.

(C) Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners.

(D) Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

(d) METROPOLITAN PLANNING PROGRAM.—

(1) APPORTIONMENT TO STATES.—

(A) IN GENERAL.—The Secretary shall apportion 80 percent of the amounts made available under subsection (g)(1) among the States to carry out sections 5303 and 5306 in the ratio that—

(i) the population of urbanized areas in each State, as shown by the latest available decennial census of population; bears to

(ii) the total population of urbanized areas in all States, as shown by that census.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

(2) ALLOCATION TO MPO'S.—Amounts apportioned to a State under paragraph (1) shall be made available, not later than 30 days after the date of apportionment, to metropolitan planning organizations in the State designated under this section under a formula that—

(A) considers population of urbanized areas;

(B) provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section;

(C) the State develops in cooperation with the metropolitan planning organizations; and

(D) the Secretary approves.

(3) SUPPLEMENTAL AMOUNTS.—

(A) IN GENERAL.—The Secretary shall apportion 20 percent of the amounts made available under subsection (g)(1) among the States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

(B) FORMULA.—The Secretary shall apportion amounts referred to in subparagraph (A) under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 in certain urbanized areas.

(e) STATE PLANNING AND RESEARCH PROGRAM.—

(1) APPORTIONMENT TO STATES.—

(A) IN GENERAL.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out this section and sections 5304 and 5306 in the ratio that—

(i) the population of urbanized areas in each State, as shown by the latest available decennial census; bears to

(ii) the population of urbanized areas in all States, as shown by that census.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

(2) SUPPLEMENTAL AMOUNTS.—A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts made available under subsection (d).

(f) GOVERNMENT SHARE OF COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Government share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government—

(A) not to require a State or local match; or

(B) to allow a Government share greater than 80 percent.

(2) CERTAIN ACTIVITIES.—

(A) IN GENERAL.—The Government share of the cost of an activity funded using amounts made available under this section shall be not less than 90 percent for an activity that assists parts of an urbanized area or rural area with lower population density or lower average income levels compared to—

(i) the applicable urbanized area;

(ii) the applicable rural area;

(iii) an adjoining urbanized area; or

(iv) an adjoining rural area.

(B) REPORT.—A State or metropolitan planning organization that carries out an activity described in subparagraph (A) with an increased Government share described in that subparagraph shall report to the Secretary, in a form as determined by the Secretary, how the increased Government share for transportation planning activities benefits commuting and other essential travel in parts of the applicable urbanized area or rural area described in subparagraph (A) with lower population density or lower average income levels.

(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(a)(2)(A) for a fiscal year—

(1) 82.72 percent shall be available for the metropolitan planning program under subsection (d); and

(2) 17.28 percent shall be available to carry out subsection (e).

(h) AVAILABILITY OF FUNDS.—Funds apportioned under this section to a State that have not been obligated in the 3-year period beginning after the last day of the fiscal year for which the funds are authorized shall be reapportioned among the States.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 794; Pub. L. 105–178, title III, §3006, June 9, 1998, 112 Stat. 346; Pub. L. 105–206, title IX, §9009(d), July 22, 1998, 112 Stat. 854; Pub. L. 109–59, title

III, §3007(a), Aug. 10, 2005, 119 Stat. 1566; Pub. L. 111–147, title IV, §431, Mar. 18, 2010, 124 Stat. 88; Pub. L. 111–322, title II, §2301, Dec. 22, 2010, 124 Stat. 3526; Pub. L. 112–5, title III, §301, Mar. 4, 2011, 125 Stat. 18; Pub. L. 112–30, title I, §131, Sept. 16, 2011, 125 Stat. 350; Pub. L. 112–102, title III, §301, Mar. 30, 2012, 126 Stat. 275; Pub. L. 112–140, title III, §301, June 29, 2012, 126 Stat. 396; Pub. L. 112–141, div. B, §20030(a), div. G, title III, §113001, July 6, 2012, 126 Stat. 730, 983; Pub. L. 117–58, div. C, §30004, Nov. 15, 2021, 135 Stat. 893.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5305(a)–(e)	49 App.:1607(i).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(i); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2103; Oct. 6, 1992, Pub. L. 102–388, §502(f), 106 Stat. 1566.
5305(f)	49 App.:1607(*l*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(j), (*l*); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2104.
5305(g)	49 App.:1607(j).	

In subsection (c), the words "title 23" are substituted for "this title" for consistency in this chapter and to reflect the apparent intent of Congress. The word "appropriate" is omitted as surplus.

In subsection (e)(2), the words "under the formula program" are omitted as surplus.

In subsections (f) and (g), the word "area" is added for clarity and consistency with 42:7501(2).

In subsection (f), the words "Notwithstanding any other provisions of this chapter or title 23, United States Code" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (e)(1)(A). Pub. L. 117–58, §30004(1), substituted "this section and sections" for "this section and section".

Subsec. (f). Pub. L. 117–58, §30004(2), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: "The Government share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government not to require a State or local match."

2012—Subsec. (e)(1)(A). Pub. L. 112–141, §20030(a)(1), substituted "section 5304 and 5306" for "sections 5304, 5306, 5315, and 5322" in introductory provisions.

Subsec. (f). Pub. L. 112–141, §20030(a)(2), substituted "GOVERNMENT" for "GOVERNMENT'S" in heading and "Government" for "Government's" in text.

Subsec. (g). Pub. L. 112–141, §113001, substituted "2012" for "2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012" in introductory provisions.

Pub. L. 112–141, §20030(a)(3), substituted "section 5338(a)(2)(A) for a fiscal year" for "section 5338(c) for fiscal years 2005 through 2012" in introductory provisions.

Pub. L. 112–140, §§1(c), 301, temporarily substituted "ending on July 6, 2012" for "ending on June 30, 2012" in introductory provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102 substituted "2011 and for the period beginning on October 1, 2011, and ending on June 30, 2012" for "2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012" in

introductory provisions.

2011—Subsec. (g). Pub. L. 112–30 substituted "2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012" for "2011".

Pub. L. 112–5 substituted "2011" for "2010, and for the period beginning October 1, 2010, and ending March 4, 2011,".

2010—Subsec. (g). Pub. L. 111–322 substituted "March 4, 2011" for "December 31, 2010".

Pub. L. 111–147 substituted "2010, and for the period beginning October 1, 2010, and ending December 31, 2010," for "2009" in introductory provisions.

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to designation of areas as transportation management areas and plans and programs in an area.

1998—Subsec. (a)(2). Pub. L. 105–178, §3006(a), added par. (2) and struck out former par. (2) which read as follows: "any other area, including the Lake Tahoe Basin as defined in the Act of December 19, 1980 (Public Law 96–551, 94 Stat. 3233), when requested by the chief executive officer and the metropolitan organization designated for the area or the affected local officials."

Subsec. (b). Pub. L. 105–178, §3006(b), inserted "affected" before "mass transportation operators".

Subsec. (c). Pub. L. 105–178, §3006(c), struck out at end "The Secretary shall establish a phase-in schedule to comply with sections 5303, 5304, and 5306."

Subsec. (d)(1). Pub. L. 105–178, §3006(d), as amended by Pub. L. 105–206, §9009(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

"(1)(A) In consultation with the State, the metropolitan planning organization designated for a transportation management area shall select the projects to be carried out in the area with United States Government participation under this chapter or title 23, except projects of the National Highway System or under the Bridge and Interstate Maintenance programs.

"(B) In cooperation with the metropolitan planning organization designated for a transportation management area, the State shall select the projects to be carried out in the area of the National Highway System or under the Bridge and Interstate Maintenance programs."

Subsec. (e)(2). Pub. L. 105–178, §3006(e)(1), added par. (2) and struck out former par. (2) which read as follows: "If the Secretary does not certify before October 1, 1993, that a metropolitan planning organization is carrying out its responsibilities, the Secretary may withhold any part of the apportionment under section 104(b)(3) of title 23 attributed to the relevant metropolitan area under section 133(d)(3) of title 23 and capital amounts apportioned under section 5336 of this title. If an organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of that apportionment and capital amounts shall be withheld. The withheld apportionments shall be restored when the Secretary certifies the organization."

Subsec. (e)(4). Pub. L. 105–178, §3006(e)(2), added par. (4).

Subsec. (h). Pub. L. 105–178, §3006(f), added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 20030(a) of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as a note under section 101 of Title 23, Highways.

Pub. L. 112–141, div. G, title IV, §114001, July 6, 2012, 126 Stat. 988, provided that: "This division [amending this section and sections 5307, 5309, 5311, 5337, 5338, 31104, and 31144 of this title, enacting provisions set out as a note under section 101 of Title 23, Highways, and amending provisions set out as notes under sections 5309, 5310, 5338, 14710, and 31100 of this title] and the amendments made by this division shall take effect on July 1, 2012."

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

§5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations

(a) PRIVATE ENTERPRISE PARTICIPATION.—A plan or program required by section 5303, 5304, or 5305 of this title shall encourage to the maximum extent feasible, as determined by local policies, criteria, and decisionmaking, the participation of private enterprise. If equipment or a facility already being used in an urban area is to be acquired under this chapter, the program shall provide that it be improved so that it will better serve the transportation needs of the area.

(b) RELATIONSHIP TO OTHER LIMITATIONS.—Sections 5303–5305 of this title do not authorize—

(1) a metropolitan planning organization to impose a legal requirement on a transportation facility, provider, or project not eligible under this chapter or title 23; and

(2) intervention in the management of a transportation authority.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 795; Pub. L. 109–59, title III, §3008, Aug. 10, 2005, 119 Stat. 1568.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5306(a)	49 App.:1607(*o*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(*o*); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2105.
5306(b)	49 App.:1607(m).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(m); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102–388, §502(g), 106 Stat. 1566.

In subsection (a), the words "(through modernization, extension, addition, or otherwise)" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59 inserted ", as determined by local policies, criteria, and decisionmaking," after "feasible".

§5307. Urbanized area formula grants

(a) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section for—

(A) capital projects;

(B) planning;

(C) job access and reverse commute projects; and

(D) operating costs of equipment and facilities for use in public transportation in an

urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

(2) The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

(A) for public transportation systems that—

(i) operate 75 or fewer buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 75 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; or

(ii) operate a minimum of 76 buses and a maximum of 100 buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; or

(B) subject to paragraph (3), for public transportation systems that—

(i) operate 75 or fewer buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 75 percent of the share of the apportionment allocated to such systems within the urbanized area, as determined by the local planning process and included in the designated recipient's final program of projects prepared under subsection (b); or

(ii) operate a minimum of 76 buses and a maximum of 100 buses in fixed route service or demand response service, excluding ADA complementary paratransit service during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment allocated to such systems within the urbanized area, as determined by the local planning process and included in the designated recipient's final program of projects prepared under subsection (b).

(3) The amount available to a public transportation system under subparagraph (B) of paragraph (2) shall be not more than 10 percent greater than the amount that would otherwise be available to the system under subparagraph (A) of that paragraph.

(b) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(7) make the final program of projects available to the public.

(c) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year

only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (b) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities in accordance with the recipient's transit asset management plan;

(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

(i) senior;

(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

(iii) individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

(F) has complied with subsection (b) of this section;

(G) has available and will provide the required amounts as provided by subsection (d) of this section;

(H) will comply with sections 5303 and 5304;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

(ii) has decided that the expenditure for security projects is not necessary;

(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in section 5302; and

(L) will comply with section 5329(d); and

(2) the Secretary accepts the certification.

(d) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

(A) in cash from non-Government sources other than revenues from providing public transportation services;

(B) from revenues from the sale of advertising and concessions;

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(e) UNDERTAKING PROJECTS IN ADVANCE.—

(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) FINANCING COSTS.—

(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(f) REVIEWS, AUDITS, AND EVALUATIONS.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (c) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (c) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

(g) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

(h) PASSENGER FERRY GRANTS.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 795; Pub. L. 103–429, §6(7), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–287, §5(11), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–178, title III, §3007(a)(1), (b)–(h), June 9, 1998, 112 Stat. 347, 348; Pub. L. 105–206, title IX, §9009(e), July 22, 1998, 112 Stat. 855; Pub. L. 107–232, §1, Oct. 1, 2002, 116 Stat. 1478; Pub. L. 108–88, §8(n), Sept. 30, 2003, 117 Stat. 1125; Pub. L. 108–202, §9(n), Feb. 29, 2004, 118 Stat. 488; Pub. L. 108–224, §7(n), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, §7(n), June 30, 2004, 118 Stat. 708; Pub. L. 108–280, §7(n), July 30, 2004, 118 Stat. 885; Pub. L. 108–310, §8(n), Sept. 30, 2004, 118 Stat. 1158; Pub. L. 109–14, §7(m), May 31, 2005, 119 Stat. 333; Pub. L. 109–20, §7(m), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, §7(m), July 20, 2005, 119 Stat. 389; Pub. L. 109–37, §7(m), July 22, 2005, 119 Stat. 404; Pub. L. 109–40, §7(m), July 28, 2005, 119 Stat. 420; Pub. L. 109–59, title III, §§3002(b)(4), 3009(a)–(h), Aug. 10, 2005, 119 Stat. 1545, 1568–1571; Pub. L. 110–244, title II, §201(c), June 6, 2008, 122 Stat. 1609; Pub. L. 111–147, title IV, §432, Mar. 18, 2010, 124 Stat. 88; Pub. L. 111–322, title II, §2302, Dec. 22, 2010, 124 Stat. 3526; Pub. L. 112–5, title III, §302, Mar. 4, 2011, 125 Stat. 18; Pub. L. 112–30, title I, §132, Sept. 16, 2011, 125 Stat. 350; Pub. L. 112–102, title III, §302, Mar. 30, 2012, 126 Stat. 275; Pub. L. 112–140, title III, §302, June 29, 2012, 126 Stat. 396; Pub. L. 112–141, div. B, §20007, div. G, title III, §113002, July 6, 2012, 126 Stat. 652, 983; Pub. L. 114–94, div. A, title III, §3004, Dec. 4, 2015, 129 Stat. 1450; Pub. L. 115–31, div. K, title I, §165, May 5, 2017, 131 Stat. 749.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5307(a)(1)	49 App.:1607a(j)(1) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (last sentence); added

		Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(b)(1), (2), 327(b), 101 Stat. 227, 238.
5307(a)(2)	49 App.:1607a(m)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(h), (i), (m)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145, 2147; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Oct. 6, 1992, Pub. L. 102–388, §503(2), 106 Stat. 1567.
5307(b)(1)	49 App.:1607a(j)(1) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (1st sentence); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(b)(3), 327(b), 101 Stat. 227, 238.
5307(b)(2)	49 App.:1607a(j)(1) (2d sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (2d sentence); added Dec. 18, 1991, Pub. L. 102–240, §3013(h)(1), 105 Stat. 2107.
5307(b)(3)	49 App.:1607a(j)(1) (3d, 4th sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (3d, 4th sentences); added Apr. 2, 1987, Pub. L. 100–17, §308, 101 Stat. 226.
5307(b)(4)	49 App.:1607a(j)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(2); added Apr. 2, 1987, Pub. L. 100–17, §309(b)(4), 101 Stat. 227.
5307(b)(5)	49 App.:1607a(j)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(3); added Dec. 18, 1991, Pub. L. 102–240, §3013(h)(2), 105 Stat. 2107.
5307(c)	49 App.:1607a(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(f); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(g), 105 Stat. 2107.
5307(d)(1)	49 App.:1607a(e)(2) (1st, last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(2); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §§312(a), 327(b), 101 Stat. 228, 238; Dec. 18, 1991, Pub. L. 102–240, §3013(d), 105 Stat. 2106.
	49 App.:1607a(e)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 202, §9(e)(3); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17,

		§327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(f), 105 Stat. 2106.
5307(d)(2)	49 App.:1607a(e)(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(5); added Apr. 2, 1987, Pub. L. 100–17, §312(f)(1), 101 Stat. 229.
5307(e)	49 App.:1607a(k)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(c), (d), (f), 312(b)(1), 327(b), 101 Stat. 227, 228, 238.
5307(f)	49 App.:1607a (note).	Nov. 21, 1989, Pub. L. 101–164, §334(c), 103 Stat. 1098.
5307(g)	49 App.:1607a(p).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(p); added Apr. 2, 1987, Pub. L. 100–17, §306(b), 101 Stat. 225.
5307(h)	49 App.:1607a(e)(6).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(6); added Dec. 18, 1991, Pub. L. 102–240, §3013(e), 105 Stat. 2106.
5307(i)	49 App.:1607a(g).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(g); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, §§312(f)(2), 327(b), 101 Stat. 229, 238.
5307(j)	49 App.:1607a(e)(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(4); added Apr. 2, 1987, Pub. L. 100–17, §312(b)(2), 101 Stat. 228.
5307(k)	49 App.:1607a(e)(2) (2d, 3d sentences).	
5307(*l*)	49 App.:1607a(i).	
5307(m)	49 App.:1607a(r).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(r); added Dec. 18, 1991, Pub. L. 102–240, §3013(j), 105 Stat. 2107.
5307(n)(1)	49 App.:1607a(h).	
5307(n)(2)	49 App.:1607a(e)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(c), 105 Stat. 2106.

In subsection (a)(2)(A), the word "required" is omitted as surplus. The word "apportion" is substituted for "dispense" for consistency in this chapter. The word "appropriated" is omitted for clarity.

In subsection (a)(2)(B), the word "authority" is substituted for "agency" for consistency in the revised title and with other titles of the United States Code. The words "by lease, contract, or otherwise" are omitted as surplus.

In subsection (b)(1), the words "by operation or lease or otherwise" are omitted as surplus.

In subsection (b)(3), the words "the Secretary prescribes" are added for clarity. The text of 49 App.:1607a(j)(1) (4th sentence) is omitted as executed.

In subsection (b)(4), the words "(whether by employees of the grant recipient or by contract)" are omitted as surplus.

In subsection (c)(1), the words "of funds" are omitted as surplus. The words "to the recipient" are added for clarity. The words "with such funds" are omitted as surplus.

In subsection (c)(3), the words "as appropriate" are omitted as surplus.

In subsection (c)(5), the words "and shall, if deemed appropriate by the recipient, modify the proposed program of projects" are omitted as surplus.

In subsection (d)(1)(B), the words "through operation or lease or otherwise" are omitted as surplus.

In subsection (d)(1)(D), the words "ensure that elderly and handicapped individuals . . . will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this chapter not more than 50 percent of the peak hour fare" are substituted for 49 App.:1607a(e)(3)(C) and the words "will give the rate required by section 1604(m) of this Appendix" for clarity and consistency in the revised title. The word "duly" is omitted as surplus.

In subsection (d)(1)(J)(ii), the words "has decided" are added for clarity to correct an error in the source provisions being restated.

In subsection (e), the words "at its option", "public", "the amount of any", "by such system", "Any public or private", "solely", and "available in" are omitted as surplus.

In subsection (f), the word "authority" is substituted for "agency or instrumentality" for consistency in the revised title and with other titles of the Code.

In subsection (f)(1), the words "is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services" are omitted as surplus because a State that is a designated recipient has that responsibility. The words "of UMTA funds", "combined total permissible", and "regardless of whether the amount for any particular urbanized area is exceeded" are omitted as surplus.

In subsection (f)(2), the word "Secretary" is substituted for "UMTA" [subsequently changed to "FTA" because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2088)] because of 49:102(b) and 107(a). The words "This provision shall take effect with the fiscal year 1990 section 9 apportionment" are omitted as obsolete.

In subsection (g)(2), before clause (A), the word "applies" is substituted for "is sought beyond the currently authorized funds for such recipient" to eliminate unnecessary words. In clause (A), the words "of funds" are omitted as surplus.

In subsection (g)(3), the words "Subject to the provisions of this paragraph", "the Federal share of which the Secretary is authorized to pay under this subsection", and "actually" are omitted as surplus.

In subsection (i)(1)(A), before clause (i), the words "necessary or" are omitted as surplus. In clause (ii), the words "required by law" are substituted for "which is consistent with the applicable requirements of this chapter and other applicable laws" to eliminate unnecessary words.

In subsection (i)(1)(B), the words "Comptroller General" are substituted for "General Accounting Office" because of 31:702(b).

In subsection (i)(2), the words "In addition to the reviews and audits described in paragraph (1)" and "perform a" are omitted as surplus.

Subsection (i)(3) is substituted for 49 App.:1607a(g)(3) to eliminate unnecessary words.

In subsection (l), the words "Administrator for Federal Procurement Policy" are substituted for "Office of Federal Procurement Policy" because of 41:404(b). The words "Such approval shall be binding until withdrawn" are omitted as surplus.

In subsection (n)(1), the words "available under section 5336 of this title" are substituted for "available under this subsection" for clarity.

In subsection (n)(2), the references to sections 5302(a)(8) and 5318 are added for clarity. The source provisions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The reference to 49 App.:1604(k)(3) is omitted as obsolete. The words "condition, limitation, or other" and "for programs of projects" are omitted as surplus.

PUB. L. 103–429, §6(7)(A)

This amends 49:5307(d)(1)(D) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 797).

PUB. L. 103–429, §6(7)(B)

This makes a clarifying amendment to 49:5307(d)(1)(E)(iii).

PUB. L. 104–287

This amends 49:5307(a)(2) to delete an obsolete provision.

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(1)(D)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles II and XVIII of such Act are classified generally to subchapters II (§401 et seq.) and XVIII (§1395 et seq.) respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2017—Subsec. (a)(2), (3). Pub. L. 115–31 added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

"(A) for public transportation systems that operate 75 or fewer buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 75 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

"(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses in fixed route service or demand response service, excluding ADA complementary paratransit service, during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

"(3) EXCEPTION TO THE SPECIAL RULE.—Notwithstanding paragraph (2), if a public transportation system described in such paragraph executes a written agreement with 1 or more other public transportation systems within the urbanized area to allocate funds for the purposes described in the paragraph by a method other than by measuring vehicle revenue hours, each public transportation system that is a party to the written agreement may follow the terms of the written agreement without regard to measured vehicle revenue hours referred to in the paragraph."

2015—Subsec. (a)(2). Pub. L. 114–94, §3004(1)(A), inserted "or demand response service, excluding ADA complementary paratransit service," before "during peak" in subpars. (A) and (B).

Subsec. (a)(3). Pub. L. 114–94, §3004(1)(B), added par. (3).

Subsec. (c)(1)(C). Pub. L. 114–94, §3004(2)(A), inserted "in accordance with the recipient's transit asset management plan" after "equipment and facilities".

Subsec. (c)(1)(K). Pub. L. 114–94, §3004(2)(B), substituted "Census, will submit an annual report listing projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in section 5302; and" for "Census—

"(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

"(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and".

2012—Pub. L. 112–141, §20007, amended section generally. Prior to amendment, section related to urbanized area formula grants and consisted of subsecs. (a) to (l).

Subsec. (b)(2). Pub. L. 112–141, §113002(1), substituted "SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2012" for "SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012" in heading.

Pub. L. 112–140, §§1(c), 302(1), temporarily substituted "ENDING ON JULY 6, 2012" for "ENDING ON JUNE 30, 2012" in heading. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §302(1), substituted "SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012" for " SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012" in heading.

Subsec. (b)(2)(A). Pub. L. 112–141, §113002(2), substituted "2012," for "2011 and the period beginning on

October 1, 2011, and ending on June 30, 2012," in introductory provisions.

Pub. L. 112–140, §§1(c), 302(2), temporarily substituted "ending on July 6, 2012," for "ending on June 30, 2012," in introductory provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §302(2), substituted "2011 and the period beginning on October 1, 2011, and ending on June 30, 2012," for "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," in introductory provisions.

Subsec. (b)(2)(E). Pub. L. 112–141, §113002(3), substituted "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2012" for "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012" in heading and "2012" for "2011 and during the period beginning on October 1, 2011, and ending on June 30, 2012" in introductory provisions.

Pub. L. 112–140, §§1(c), 302(3), temporarily substituted "ENDING ON JULY 6, 2012" for "ENDING ON JUNE 30, 2012" in heading and "ending on July 6, 2012" for "ending on June 30, 2012" in introductory provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §302(3), substituted "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012" for " MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012" in heading and "2011 and during the period beginning on October 1, 2011, and ending on June 30, 2012" for "2011 and during the period beginning on October 1, 2011, and ending on March 31, 2012" in introductory provisions.

2011—Subsec. (b)(2). Pub. L. 112–30, §132(1), substituted "SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012" for "SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011" in heading.

Pub. L. 112–5, §302(1), substituted "SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2011" for " SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2010, AND THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING MARCH 4, 2011" in heading.

Subsec. (b)(2)(A). Pub. L. 112–30, §132(2), substituted "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," for "2011," in introductory provisions.

Pub. L. 112–5, §302(2), substituted "2011," for "2010, and the period beginning October 1, 2010, and ending March 4, 2011," in introductory provisions.

Subsec. (b)(2)(E). Pub. L. 112–30, §132(3), substituted "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012" for "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011" in heading and "2011 and during the period beginning on October 1, 2011, and ending on March 31, 2012" for "2011" in introductory provisions.

Pub. L. 112–5, §302(3), substituted "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2011" for "MAXIMUM AMOUNTS IN FISCAL YEARS 2008 THROUGH 2010 AND DURING THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING MARCH 4, 2011" in heading and "In each of fiscal years 2008 through 2011" for "In fiscal years 2008 through 2010, and during the period beginning October 1, 2010, and ending March 4, 2011," in introductory provisions.

2010—Subsec. (b)(2). Pub. L. 111–322, §2302(1), substituted "MARCH 4, 2011" for "DECEMBER 31, 2010" in heading.

Pub. L. 111–147, §432(1), substituted "2010, AND THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010" for "2009" in heading.

Subsec. (b)(2)(A). Pub. L. 111–322, §2302(2), substituted "March 4, 2011" for "December 31, 2010" in introductory provisions.

Pub. L. 111–147, §432(2), substituted "2010, and the period beginning October 1, 2010, and ending December 31, 2010," for "2009," in introductory provisions.

Subsec. (b)(2)(E). Pub. L. 111–322, §2302(3), substituted "MARCH 4, 2011" for "DECEMBER 31, 2010" in heading and "March 4, 2011" for "December 31, 2010" in introductory provisions.

Pub. L. 111–147, §432(3), substituted "THROUGH 2010 AND DURING THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010" for "AND 2009" in heading and "through 2010, and during the period beginning October 1, 2010, and ending December 31, 2010," for "and 2009" in introductory provisions.

2008—Subsec. (b)(2). Pub. L. 110–244, §201(c)(1), substituted "2009" for "2007" in heading.

Subsec. (b)(2)(A). Pub. L. 110–244, §201(c)(2), in introductory provisions, substituted "2009" for "2007" and "public" for "mass".

Subsec. (b)(2)(E). Pub. L. 110–244, §201(c)(3), added subpar. (E).

Subsec. (b)(3). Pub. L. 110–244, §201(c)(4), substituted "section 5303(k)" for "section 5305(a)" in introductory provisions.

2005—Subsec. (a)(1). Pub. L. 109–59, §3009(b)(1), substituted "means—" for "means", designated part of existing provisions as subpar. (A), and added subpar. (B).

Subsec. (a)(2)(A). Pub. L. 109–59, §3009(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "a person designated, consistent with the planning process under sections 5303–5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of mass transportation to receive and apportion amounts under section 5336 of this title that are attributable to transportation management areas established under section 5305(a) of this title; or".

Subsec. (a)(2)(B). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (b)(1). Pub. L. 109–59, §3009(c)(1), added par. (1) and struck out former par. (1) which read as follows: "The Secretary of Transportation may make grants under this section for capital projects and to finance the planning and improvement costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment. The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000."

Subsec. (b)(2). Pub. L. 109–59, §3009(c)(2), added par. (2) and struck out former par. (2) which related to special rule for fiscal years 2003 and 2004 and for the period of Oct. 1, 2004, through July 30, 2005.

Pub. L. 109–40, §7(m)(1), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading.

Pub. L. 109–37, §7(m)(1), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading.

Pub. L. 109–35, §7(m)(1), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading.

Pub. L. 109–20, §7(m)(1), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading.

Pub. L. 109–14, §7(m)(1), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading.

Subsec. (b)(2)(A). Pub. L. 109–40, §7(m)(2), substituted "July 30, 2005" for "July 27, 2005" in introductory provisions.

Pub. L. 109–37, §7(m)(2), substituted "July 27, 2005" for "July 21, 2005" in introductory provisions.

Pub. L. 109–35, §7(m)(2), substituted "July 21, 2005" for "July 19, 2005" in introductory provisions.

Pub. L. 109–20, §7(m)(2), substituted "July 19, 2005" for "June 30, 2005" in introductory provisions.

Pub. L. 109–14, §7(m)(2), substituted "June 30, 2005" for "May 31, 2005" in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (b)(4). Pub. L. 109–59, §3009(c)(3), struck out par. (4) which read as follows: "A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section."

Subsec. (c)(5). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (d)(1)(A). Pub. L. 109–59, §3009(d)(1), inserted ", including safety and security aspects of the program" before semicolon at end.

Subsec. (d)(1)(E)(iv). Pub. L. 109–59, §3009(d)(2), added cl. (iv).

Subsec. (d)(1)(H). Pub. L. 109–59, §3009(d)(3), substituted "section 5301(a), section 5301(d), and sections 5303 through 5306" for "sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title".

Subsec. (d)(1)(J)(i). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

Subsec. (d)(1)(K). Pub. L. 109–59, §3009(d)(4), (5), added subpar. (K).

Subsec. (e). Pub. L. 109–59, §3009(e), reenacted heading without change and amended text of subsec. (e) generally. Prior to amendment, text read as follows: "A grant of the Government for a capital project (including associated capital maintenance items) under this section is for 80 percent of the net project cost of the project. A recipient may provide additional local matching amounts. A grant for operating expenses may not be more than 50 percent of the net project cost of the project. The remainder of the net project cost shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation (excluding revenues derived from the sale of advertising and concessions that are more than the amount of those revenues in the fiscal year that ended September 30, 1985). Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital."

Subsec. (f)(1). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (g)(4). Pub. L. 109–59, §3009(f), struck out par. (4) which read as follows: "The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (3) of this subsection."

Subsecs. (h), (i). Pub. L. 109–59, §3009(a), redesignated subsecs. (i) and (l) as (h) and (i), respectively, and struck out heading and text of former subsec. (h). Text read as follows: "The Secretary shall prescribe streamlined administrative procedures for complying with the certification requirement under subsection (d)(1)(B) and (C) of this section for track and signal equipment used in existing operations."

Subsec. (j). Pub. L. 109–59, §3009(a), redesignated subsec. (m) as (j) and struck out heading and text of former subsec. (j). Text read as follows: "A recipient (including a person receiving amounts from a chief executive officer of a State under this section) shall submit annually to the Secretary a report on the revenues the recipient derives from the sale of advertising and concessions."

Subsec. (k). Pub. L. 109–59, §3009(g), reenacted heading without change and amended text of subsec. (k) generally. Prior to amendment, text read as follows:

"(1) Section 1001 of title 18 applies to a certificate or submission under this section. The Secretary may end a grant under this section and seek reimbursement, directly or by offsetting amounts available under section 5336 of this title, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a certification or submission.

"(2) Sections 5302, 5318, 5319, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section."

Pub. L. 109–59, §3009(a), redesignated subsec. (n) as (k) and struck out heading and text of former subsec. (k). Text read as follows:

"(1) IN GENERAL.—One percent of the funds apportioned to urbanized areas with a population of at least 200,000 under section 5336 for a fiscal year shall be made available for transit enhancement activities in accordance with section 5302(a)(15).

"(2) PERIOD OF AVAILABILITY.—Funds apportioned under paragraph (1) shall be available for obligation for 3 years following the fiscal year in which the funds are apportioned. Funds that are not obligated at the end of such period shall be reapportioned under the urbanized area formula program of section 5336.

"(3) REPORT.—A recipient of funds apportioned under paragraph (1) shall submit, as part of the recipient's annual certification to the Secretary, a report listing the projects carried out during the preceding fiscal year with those funds."

Subsec. (l). Pub. L. 109–59, §3009(h), added subsec. (l).

Pub. L. 109–59, §3009(a)(2), redesignated subsec. (l) as (i).

Subsecs. (m), (n). Pub. L. 109–59, §3009(a)(2), redesignated subsecs. (m) and (n) as (j) and (k), respectively.

2004—Subsec. (b)(2). Pub. L. 108–310 inserted "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004" in heading and directed the insertion of "and for the period of October 1, 2004, through May 31, 2005" after "2004," in subpar. (A), which was executed by making the insertion after "2004" in introductory provisions of subpar. (A), to reflect the probable intent of Congress.

Pub. L. 108–280 substituted "FISCAL YEARS 2003 AND 2004" for "FISCAL YEAR 2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31, 2004" in heading and "fiscal years 2003 and 2004" for "fiscal year 2003, and for the period of October 1, 2003, through July 31, 2004" in introductory provisions of subpar. (A).

Pub. L. 108–263 substituted "JULY 31, 2004" for "JUNE 30, 2004" in heading and "July 31, 2004" for "June 30, 2004" in introductory provisions of subpar. (A).

Pub. L. 108–224 substituted "JUNE 30, 2004" for "APRIL 30, 2004" in heading and "June 30, 2004" for "April 30, 2004" in introductory provisions of subpar. (A).

Pub. L. 108–202 substituted "APRIL 30, 2004" for "FEBRUARY 29, 2004" in heading and "April 30, 2004" for "February 29, 2004" in introductory provisions of subpar. (A).

2003—Subsec. (b)(2). Pub. L. 108–88, §8(n)(1), inserted "and for the period of October 1, 2003, through February 29, 2004" after "2003" in heading.

Subsec. (b)(2)(A). Pub. L. 108–88, §8(n)(2), inserted "and for the period of October 1, 2003, through February 29, 2004" after "2003," and added cl. (iv).

Subsec. (b)(2)(B). Pub. L. 108–88, §8(n)(3), inserted at end "Each portion of an area not designated as an urbanized area under the 1990 Federal decennial census and eligible to receive funds under subparagraph (A)(iv) shall receive an amount of funds made available to carry out this section that is no less than the amount the portion of the area received under section 5311 in fiscal year 2002."

2002—Subsec. (b)(1). Pub. L. 107–232, §1(1), struck out at end "The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000."

Subsec. (b)(2) to (4). Pub. L. 107–232, §1(2)–(4), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and realigned margins of par. (3)(C), as redesignated.

1998—Pub. L. 105–178, §3007(a)(1), substituted "Urbanized area formula grants" for "Block grants" in section catchline.

Subsec. (a). Pub. L. 105–178, §3007(b)(1), substituted "In this section, the following definitions apply:" for "In this section—" in introductory provisions.

Subsec. (a)(1). Pub. L. 105–178, §3007(b)(2), inserted "ASSOCIATED CAPITAL MAINTENANCE ITEMS.—The term" after "(1)".

Subsec. (a)(2). Pub. L. 105–178, §3007(b)(3), inserted "DESIGNATED RECIPIENT.—The term" after "(2)".

Subsec. (b)(1). Pub. L. 105–178, §3007(h)(1), as added by Pub. L. 105–206, §9009(e), inserted at end "The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000."

Pub. L. 105–178, §3007(c)(1), substituted "and improvement costs of equipment" for ", improvement, and operating costs of equipment" and inserted at end "The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000."

Subsec. (b)(2)(A). Pub. L. 105–178, §3007(c)(2)(A), inserted ", in writing," after "approved".

Subsec. (b)(2)(C). Pub. L. 105–178, §3007(c)(2)(B)–(4), added subpar. (C).

Subsec. (b)(3), (4). Pub. L. 105–178, §3007(c)(5), (6), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "A grant for a capital project under this section also is available to finance the leasing of equipment and facilities for use in mass transportation, subject to regulations the Secretary prescribes limiting the grant to leasing arrangements that are more cost effective than acquisition or construction."

Subsec. (b)(5). Pub. L. 105–178, §3007(c)(5), struck out par. (5) which read as follows: "Amounts under this section are available for a highway project under title 23 only if amounts used for the State or local share of the project are eligible to finance either a highway or mass transportation project."

Subsec. (g)(3). Pub. L. 105–178, §3007(d), substituted "the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms." for "the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part."

Subsec. (i)(2). Pub. L. 105–178, §3007(e), inserted at end "To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews."

Subsec. (k). Pub. L. 105–178, §3007(f), amended heading and text of subsec. (k) generally. Prior to amendment, text read as follows: "A certification under subsection (d) of this section and any additional certification required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2) of this title."

Subsec. (k)(3). Pub. L. 105–178, §3007(h)(2), as added by Pub. L. 105–206, §9009(e), inserted "preceding" before "fiscal year".

Subsec. (n)(2). Pub. L. 105–178, §3007(g), inserted "5319," after "5318,".

1996—Subsec. (a)(2). Pub. L. 104–287 substituted "title; or" for "title;" in subpar. (A) and "transportation." for "transportation; or" in subpar. (B) and struck out subpar. (C) which read as follows: "a recipient designated under section 5(b)(1) of the Federal Transit Act not later than January 5, 1983."

1994—Subsec. (d)(1)(D). Pub. L. 103–429, §6(7)(A), substituted "section" for "chapter".

Subsec. (d)(1)(E)(iii). Pub. L. 103–429, §6(7)(B), substituted "Buy America" for "Buy-American".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note

under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 20007 of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as a note under section 101 of Title 23, Highways.

Amendment by section 113002 of Pub. L. 112–141 effective July 1, 2012, see section 114001 of Pub. L. 112–141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

PILOT PROGRAM FOR COOPERATIVE PROCUREMENT OF MAJOR CAPITAL EQUIPMENT

Pub. L. 108–447, div. H, title I, §167, Dec. 8, 2004, 118 Stat. 3228, required the Secretary to continue the pilot program authorized under section 166 of Pub. L. 108–199, increased the program to 5 pilot projects, and required reports on the results of the projects.

Pub. L. 108–199, div. F, title I, §166, Jan. 23, 2004, 118 Stat. 309, required the Secretary to establish a pilot program consisting of 3 pilot projects related to cooperative procurement of major capital equipment and required reports on the results of the projects.

LOCAL SHARE

Pub. L. 105–178, title III, §3011, June 9, 1998, 112 Stat. 357, as amended by Pub. L. 108–202, §9(u), Feb. 29, 2004, 118 Stat. 489; Pub. L. 108–224, §7(u), Apr. 30, 2004, 118 Stat. 637; Pub. L. 108–263, §7(u), June 30, 2004, 118 Stat. 708; Pub. L. 108–280, §7(u), July 30, 2004, 118 Stat. 886; Pub. L. 108–310, §8(u), Sept. 30, 2004, 118 Stat. 1158; Pub. L. 109–14, §7(t), May 31, 2005, 119 Stat. 334; Pub. L. 109–20, §7(s), July 1, 2005, 119 Stat. 356; Pub. L. 109–35, §7(s), July 20, 2005, 119 Stat. 389; Pub. L. 109–37, §7(s), July 22, 2005, 119 Stat. 404; Pub. L. 109–40, §7(s), July 28, 2005, 119 Stat. 421, allowed recipients of assistance under section 5307 or 5309 of this title to use proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project for fiscal years 1999 to 2004 and from Oct. 1, 2004, to July 30, 2005.

PILOT PROGRAM FOR INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND

Pub. L. 105–178, title III, §3021, June 9, 1998, 112 Stat. 363; as amended by Pub. L. 105–206, title IX, §9009(m), July 22, 1998, 112 Stat. 857; Pub. L. 105–277, div. A, §101(g) [title III, §354], Oct. 21, 1998, 112 Stat. 2681–439, 2681–476; Pub. L. 106–69, title III, §323, Oct. 9, 1999, 113 Stat. 1020, required the Secretary of Transportation to establish a pilot program to determine the benefits of using funds from the Mass Transit Account of the Highway Trust Fund for intercity passenger rail and required a report evaluating the program to be submitted no later than Oct. 1, 2002.

CONTINUATION OF OPERATING ASSISTANCE TO CERTAIN LARGER URBANIZED AREAS

Pub. L. 105–178, title III, §3027(c), June 9, 1998, 112 Stat. 366; as amended by Pub. L. 105–206, title IX, §9009(o)(1), July 22, 1998, 112 Stat. 858; Pub. L. 105–277, div. A, §101(g) [title III, §360], Oct. 21, 1998, 112 Stat. 2681–439, 2681–477; Pub. L. 106–31, title VI, §6004, May 21, 1999, 113 Stat. 113; Pub. L. 106–346, §101(a) [title III, §341], Oct. 23, 2000, 114 Stat. 1356, 1356A–32; Pub. L. 108–199, div. F, title I,

§176, Jan. 23, 2004, 118 Stat. 311, authorized the Secretary of Transportation to continue helping to finance mass transportation operating costs in certain urban areas for the period beginning on June 9, 1998, and ending no later than 3 years after that date.

[§5308. Repealed. Pub. L. 112–141, div. B, §20002(a), July 6, 2012, 126 Stat. 622]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 800; Pub. L. 105–178, title III, §3008(a), (c), June 9, 1998, 112 Stat. 348; Pub. L. 105–206, title IX, §9009(f), July 22, 1998, 112 Stat. 855; Pub. L. 109–59, title III, §3010(a), Aug. 10, 2005, 119 Stat. 1572, related to a grant program for clean fuel buses.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM

Pub. L. 109–59, title III, §3045, Aug. 10, 2005, 119 Stat. 1705, which provided for the establishment of a national fuel cell bus technology development program, was repealed by Pub. L. 112–141, div. B, §20002(c)(4), July 6, 2012, 126 Stat. 622.

§5309. Fixed guideway capital investment grants

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) APPLICANT.—The term "applicant" means a State or local governmental authority that applies for a grant under this section.

(2) CORE CAPACITY IMPROVEMENT PROJECT.—The term "core capacity improvement project" means a substantial corridor-based capital investment in an existing fixed guideway system that increases the capacity of a corridor by not less than 10 percent. The term does not include project elements designed to maintain a state of good repair of the existing fixed guideway system.

(3) CORRIDOR-BASED BUS RAPID TRANSIT PROJECT.—The term "corridor-based bus rapid transit project" means a small start project utilizing buses in which the project represents a substantial investment in a defined corridor as demonstrated by features that emulate the services provided by rail fixed guideway public transportation systems, including defined stations; traffic signal priority for public transportation vehicles; short headway bidirectional services for a substantial part of weekdays; and any other features the Secretary may determine support a long-term corridor investment, but the majority of which does not operate in a separated right-of-way dedicated for public transportation use during peak periods.

(4) FIXED GUIDEWAY BUS RAPID TRANSIT PROJECT.—The term "fixed guideway bus rapid transit project" means a bus capital project—

(A) in which the majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods;

(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

(i) defined stations;

(ii) traffic signal priority for public transportation vehicles;

(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway

public transportation systems.

(5) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term "new fixed guideway capital project" means—

(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

(B) a fixed guideway bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

(6) SMALL START PROJECT.—The term "small start project" means a new fixed guideway capital project or corridor-based bus rapid transit project for which—

(A) the Federal assistance provided or to be provided under this section is less than $150,000,000; and

(B) the total estimated net capital cost is less than $400,000,000.

(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

(1) new fixed guideway capital projects or small start projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock associated with corridor improvements increasing capacity, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate to increase the capacity of an existing fixed guideway system corridor by at least 10 percent. Core capacity improvement projects do not include elements to improve general station facilities or parking, or acquisition of rolling stock alone.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that—

(A) the project is part of an approved transportation plan required under sections 5303 and 5304;

(B) the applicant has, or will have—

(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

(ii) satisfactory continuing control over the use of the equipment or facilities; and

(iii) the technical and financial capacity to maintain new and existing equipment and facilities; and

(C) the applicant has made progress toward meeting the performance targets in section 5326(c)(2).

(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(c)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new fixed guideway capital project, or core capacity improvement project, if—

(A) the applicant achieved budget, cost, and ridership outcomes for the project that are

consistent with or better than projections; and

(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

(d) NEW FIXED GUIDEWAY GRANTS.—

(1) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the new fixed guideway capital project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

(I) a reasonable plan for completing the activities required under this paragraph; and

(II) an estimated time period within which the applicant will complete such activities.

(2) ENGINEERING PHASE.—

(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) is adopted into the metropolitan transportation plan required under section 5303;

(iii) is justified based on a comprehensive review of the project's mobility improvements, the project's environmental benefits, congestion relief associated with the project, economic

development effects associated with the project, policies and land use patterns of the project that support public transportation, and the project's cost-effectiveness as measured by cost per rider; and

(iv) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

(ii) population density and current public transportation ridership in the transportation corridor.

(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

(1) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the core capacity improvement project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

(I) a reasonable plan for completing the activities required under this paragraph; and

(II) an estimated time period within which the applicant will complete such activities.

(2) ENGINEERING PHASE.—

(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

(ii) is adopted into the metropolitan transportation plan required under section 5303;
(iii) is in a corridor that is—
(I) at or over capacity; or
(II) projected to be at or over capacity within the next 10 years, without regard to any temporary measures employed by the applicant expected to increase short-term capacity within the next 10 years;

(iv) is justified based on a comprehensive review of the project's mobility improvements, the project's environmental benefits, congestion relief associated with the project, economic development effects associated with the project, the capacity needs of the corridor, and the project's cost-effectiveness as measured by cost per rider; and
(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—
(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;
(ii) whether the project will increase capacity at least 10 percent in a corridor;
(iii) whether the project will improve interconnectivity among existing systems; and
(iv) whether the project will improve environmental outcomes.

(f) FINANCING SOURCES.—
(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—
(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;
(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and
(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—
(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;
(B) existing grant commitments;
(C) the degree to which financing sources are dedicated to the proposed purposes;
(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose;
(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project; and
(F) private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private partnership strategies.

(g) PROJECT ADVANCEMENT AND RATINGS.—
(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity

improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

(A) the project meets the applicable requirements under this section; and

(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

(2) RATINGS.—

(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), and the degree of local financial commitment; and

(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a "medium" rating in order to advance the project from one phase to another.

(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

(A) the share of the cost of the project to be provided under this section does not exceed 50 percent of the total cost of the project;

(B) the applicant requests the use of the warrants;

(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public

Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

(7) PROJECT RE-ENTRY.—In carrying out ratings and evaluations under this subsection, the Secretary shall provide full and fair consideration to projects that seek an updated rating after a period of inactivity following an earlier rating and evaluation.

(8) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

(h) SMALL START PROJECTS.—

(1) IN GENERAL.—A small start project shall be subject to the requirements of this subsection.

(2) PROJECT DEVELOPMENT PHASE.—

(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new small starts project shall enter into the project development phase when—

(i) the applicant—

(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

(ii) the Secretary—

(I) responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient; and

(II) provides concurrent notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of whether the small starts project is entering the project development phase.

(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

(3) SELECTION CRITERIA.—The Secretary may provide Federal assistance for a small start project under this subsection only if the Secretary determines that the project—

(A) has been adopted as the locally preferred alternative as part of the metropolitan transportation plan required under section 5303;

(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (4); and

(C) is supported by an acceptable degree of local financial commitment.

(4) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making a determination for a small start project under paragraph (3)(B), the Secretary shall analyze,

evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative): mobility improvements, environmental benefits, congestion relief, economic development effects associated with the project, policies and land use patterns that support public transportation and cost-effectiveness as measured by cost per rider.

(5) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (3)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

(6) RATINGS.—

(A) IN GENERAL.—In carrying out paragraphs (4) and (5) for a small start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

(B) OPTIONAL EARLY RATING.—At the request of the project sponsor, the Secretary shall evaluate and rate the project in accordance with paragraphs (4) and (5) and subparagraph (A) of this paragraph upon completion of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) GRANTS AND EXPEDITED GRANT AGREEMENTS.—

(A) IN GENERAL.—The Secretary, to the maximum extent practicable, shall provide Federal assistance under this subsection in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute an expedited grant agreement in order to include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

(B) TERMS OF EXPEDITED GRANT AGREEMENTS.—In executing an expedited grant agreement under this subsection, the Secretary may include in the agreement terms similar to those established under subsection (k)(2).

(C) NOTICE OF PROPOSED GRANTS AND EXPEDITED GRANT AGREEMENTS.—At least 10 days before making a grant award or entering into a grant agreement for a project under this subsection, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed grant or expedited grant agreement, as well as the evaluations and ratings for the project.

(i) PROGRAMS OF INTERRELATED PROJECTS.—

(1) FUTURE BUNDLING.—

(A) DEFINITION.—In this paragraph, the term "future bundling request" means a letter described in subparagraph (B) that requests future funding for additional projects.

(B) REQUEST.—When an applicant submits a letter to the Secretary requesting entry of a project into the project development phase under subsection (d)(1)(A)(i)(I), (e)(1)(A)(i)(I), or (h)(2)(A)(i)(I), the applicant may include a description of other projects for consideration for future funding under this section. An applicant shall include in the request the amount of funding requested under this section for each additional project and the estimated capital cost of each project.

(C) READINESS.—Other projects included in the request shall be ready to enter the project development phase under subsection (d)(1)(A), (e)(1)(A), or (h)(2)(A), within 5 years of the initial project submitted as part of the request.

(D) PLANNING.—Projects in the future bundling request shall be included in the metropolitan transportation plan in accordance with section 5303(i).

(E) PROJECT SPONSOR.—The applicant that submits a future bundling request shall be the

project sponsor for each project included in the request.

(F) PROGRAM AND PROJECT SHARE.—A future bundling request submitted under this paragraph shall include a proposed share of each of the request's projects that is consistent with the requirements of subsections (k)(2)(C)(ii) or (h)(7), as applicable.

(G) BENEFITS.—The bundling of projects under this subsection—

(i) shall enhance, or increase the capacity of—

(I) the total transportation system of the applicant; or

(II) the transportation system of the region the applicant serves (which, in the case of a State whose request addresses a single region, means that region); and

(ii) shall—

(I) streamline procurements for the applicant; or

(II) enable time or cost savings for the projects.

(H) EVALUATION.—Each project submitted for consideration for funding in a future bundling request shall be subject to the applicable evaluation criteria under this section for the project type, including demonstrating the availability of local resources to recapitalize, maintain, and operate the overall existing and proposed public transportation system pursuant to subsection (f)(1)(C).

(I) LETTER OF INTENT.—

(i) IN GENERAL.—Upon entering into a grant agreement for the initial project for which an applicant submits a future bundling request, the Secretary may issue a letter of intent to the applicant that announces an intention to obligate, for 1 or more additional projects included in the request, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the additional project or projects in the future bundling. Such letter may include a condition that the project or projects must meet the evaluation criteria in this subsection before a grant agreement can be executed.

(ii) AMOUNT.—The amount that the Secretary announces an intention to obligate for an additional project in the future bundling request through a letter of intent issued under clause (i) shall be sufficient to complete at least an operable segment of the project.

(iii) TREATMENT.—The issuance of a letter of intent under clause (i) shall not be deemed to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31 or an administrative commitment.

(2) IMMEDIATE BUNDLING.—

(A) DEFINITION.—In this paragraph, the term "immediate bundling request" means a letter described in subparagraph (B) that requests immediate funding for multiple projects.

(B) REQUEST.—An applicant may submit a letter to the Secretary requesting entry of multiple projects into the project development phase under subsection (d)(1)(A)(i)(I), (e)(1)(A)(i)(I), or (h)(2)(A)(i)(I), for consideration for funding under this section. An applicant shall include in the request the amount of funding requested under this section for each additional project and the estimated capital cost of each project.

(C) READINESS.—Projects included in the request must be ready to enter the project development phase under subsection (d)(1)(A), (e)(1)(A), or (h)(2)(A) at the same time.

(D) PLANNING.—Projects in the bundle shall be included in the metropolitan transportation plan in accordance with section 5303(i).

(E) PROJECT SPONSOR.—The applicant that submits an immediate bundling request shall be the project sponsor for each project included in the request.

(F) PROGRAM AND PROJECT SHARE.—An immediate bundling request submitted under this subsection shall include a proposed share of each of the request's projects that is consistent with the requirements of subsections (k)(2)(C)(ii) or (h)(7), as applicable.

(G) BENEFITS.—The bundling of projects under this subsection—

(i) shall enhance, or increase the capacity of—
(I) the total transportation system of the applicant; or
(II) the transportation system of the region the applicant serves (which, in the case of a State whose request addresses a single region, means that region); and

(ii) shall—
(I) streamline procurements for the applicant; or
(II) enable time or cost savings for the projects.

(H) EVALUATION.—A project submitted for consideration for immediate funding in an immediate bundling request shall be subject to the applicable evaluation criteria under this section for the project type, including demonstrating the availability of local resources to recapitalize, maintain, and operate the overall existing and proposed public transportation system pursuant to subsection (f)(1)(C).

(I) LETTER OF INTENT OR SINGLE GRANT AGREEMENT.—
(i) IN GENERAL.—Upon entering into a grant agreement for the initial project for which an applicant submits a request, the Secretary may issue a letter of intent or single, combined grant agreement to the applicant.
(ii) LETTER OF INTENT.—
(I) IN GENERAL.—A letter of intent announces an intention to obligate, for 1 or more additional projects included in the request, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the additional project or projects. Such letter may include a condition that the project or projects must meet the evaluation criteria in this subsection before a grant agreement can be executed.
(II) AMOUNT.—The amount that the Secretary announces an intention to obligate for an additional project in a letter of intent issued under clause (i) shall be sufficient to complete at least an operable segment of the project.
(III) TREATMENT.—The issuance of a letter of intent under clause (i) shall not be deemed to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31 or an administrative commitment.

(3) EVALUATION CRITERIA.—When the Secretary issues rules or policy guidance under this section, the Secretary may request comment from the public regarding potential changes to the evaluation criteria for project justification and local financial commitment under subsections (d), (e), (f), and (h) for the purposes of streamlining the evaluation process for projects included in a future bundling request or an immediate bundling request, including changes to enable simultaneous evaluation of multiple projects under 1 or more evaluation criteria. Notwithstanding paragraphs (1)(H) and (2)(H), such criteria may be utilized for projects included in a future bundling request or an immediate bundling request under this subsection upon promulgation of the applicable rule or policy guidance.

(4) GRANT AGREEMENTS.—
(A) NEW START AND CORE CAPACITY IMPROVEMENT PROJECTS.—A new start project or core capacity improvement project in an immediate bundling request or future bundling request shall be carried out through a full funding grant agreement or expedited grant agreement pursuant to subsection (k)(2).
(B) SMALL START.—A small start project shall be carried out through a grant agreement pursuant to subsection (h)(7).
(C) REQUIREMENT.—A combined grant agreement described in paragraph (2)(I)(i) shall—
(i) include only projects in an immediate future bundling request that are ready to receive a grant agreement under this section,
(ii) be carried out through a full funding grant agreement or expedited grant agreement pursuant to subsection (k)(2) for the included projects, if a project seeking assistance under

the combined grant agreement is a new start project or core capacity improvement project; and

(iii) be carried out through a grant agreement pursuant to subsection (h)(7) for the included projects, if the projects seeking assistance under the combined grant agreement consist entirely of small start projects.

(D) SAVINGS PROVISION.—The use of a combined grant agreement shall not waive or amend applicable evaluation criteria under this section for projects included in the combined grant agreement.

(j) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, approved entry into final design, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

(k) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

(1) LETTERS OF INTENT.—

(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for a capital project under this section, the amount shall be sufficient to complete at least an operable segment.

(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31 or an administrative commitment.

(2) FULL FUNDING GRANT AGREEMENTS.—

(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (i), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (i)(3)(B), as applicable.

(C) TERMS.—A full funding grant agreement shall—

(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

(ii) establish the maximum amount of Federal financial assistance for the project;

(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the law of the United States.

(D) SPECIAL FINANCIAL RULES.—

(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new fixed guideway capital project shall be sufficient to complete at least an operable segment.

(E) INFORMATION COLLECTION AND ANALYSIS PLAN.—

(i) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

(ii) CONTENTS OF PLAN.—The plan submitted under clause (i) shall provide for—

(I) collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

(II) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

(III) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

(IV) analysis of the consistency of predicted project characteristics with actual outcomes.

(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

(3) EARLY SYSTEMS WORK AGREEMENTS.—

(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

(i) a full funding grant agreement for the project will be made; and

(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

(B) CONTENTS.—

(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the early systems work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

(4) LIMITATION ON AMOUNTS.—

(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

(5) NOTIFICATION TO CONGRESS.—Not later than 15 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(l) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

(1) IN GENERAL.—

(A) ESTIMATION OF NET CAPITAL PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost.

(B) GRANTS.—

(i) GRANT FOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—A grant for a new fixed guideway capital project shall not exceed 80 percent of the net capital project cost.

(ii) FULL FUNDING GRANT AGREEMENT FOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—A full funding grant agreement for a new fixed guideway capital project shall not include a share of more than 60 percent from the funds made available under this section.

(iii) GRANT FOR CORE CAPACITY IMPROVEMENT PROJECT.—A grant for a core capacity improvement project shall not exceed 80 percent of the net capital project cost of the

incremental cost to increase the capacity in the corridor.

(iv) GRANT FOR SMALL START PROJECT.—A grant for a small start project shall not exceed 80 percent of the net capital project costs.

(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (i) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time the project was approved for advancement into the engineering phase; and

(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into the engineering phase.

(4) REMAINING COSTS.—The remainder of the net capital project costs shall be provided—

(A) in cash from non-Government sources;

(B) from revenues from the sale of advertising and concessions; or

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

(8) SPECIAL RULE FOR FIXED GUIDEWAY BUS RAPID TRANSIT PROJECTS.—For up to three fixed-guideway bus rapid transit projects each fiscal year the Secretary shall—

(A) establish a Government share of at least 80 percent; and

(B) not lower the project's rating for degree of local financial commitment for purposes of subsections (d)(2)(A)(v) or (h)(3)(C) as a result of the Government share specified in this paragraph.

(m) UNDERTAKING PROJECTS IN ADVANCE.—

(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

(2) FINANCING COSTS.—

(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(n) AVAILABILITY OF AMOUNTS.—

(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 4 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 4-fiscal-year period may be used by the Secretary for any purpose under this section.

(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

(o) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

(B) evaluations and ratings, as required under subsections (d), (e), and (i), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

(2) BIENNIAL GAO REVIEW.—The Comptroller General of the United States shall—

(A) conduct a biennial review that—

(i) assesses—

(I) the processes and procedures for evaluating, rating, and recommending all new fixed guideway capital projects and core capacity improvement projects for grant agreements under this section and section 3005(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5309 note; Public Law 114–94); and

(II) the Secretary's implementation of such processes and procedures;

(ii) includes, with respect to projects that entered into revenue service since the previous biennial review—

(I) a description and analysis of the impacts of the projects on public transportation services and public transportation ridership;

(II) a description and analysis of the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods of, or innovative financing for, the projects; and

(III) an identification of the reasons for any differences between predicted and actual outcomes for the projects; and

(iii) in conducting the review under clause (ii), incorporates information from the plans submitted by applicants under subsection (k)(2)(E)(i); and

(B) report to Congress on the results of such review by May 31 of the applicable year.

(p) SPECIAL RULE.—For the purposes of calculating the cost effectiveness of a project described in subsection (d) or (e), the Secretary shall not reduce or eliminate the capital costs of art and non-functional landscaping elements from the annualized capital cost calculation.

(q) JOINT PUBLIC TRANSPORTATION AND INTERCITY PASSENGER RAIL PROJECTS.—

(1) IN GENERAL.—The Secretary may make grants for new fixed guideway capital projects and core capacity improvement projects that provide both public transportation and intercity passenger rail service.

(2) ELIGIBLE COSTS.—Eligible costs for a project under this subsection shall be limited to the net capital costs of the public transportation costs attributable to the project based on projected use of the new segment or expanded capacity of the project corridor, not including project elements designed to achieve or maintain a state of good repair, as determined by the Secretary under paragraph (4).

(3) PROJECT JUSTIFICATION AND LOCAL FINANCIAL COMMITMENT.—A project under this subsection shall be evaluated for project justification and local financial commitment under subsections (d), (e), (f), and (h), as applicable to the project, based on—

(A) the net capital costs of the public transportation costs attributable to the project as determined under paragraph (4); and

(B) the share of funds dedicated to the project from sources other than this section included in the unified finance plan for the project.

(4) CALCULATION OF NET CAPITAL PROJECT COST.—The Secretary shall estimate the net capital costs of a project under this subsection based on—

(A) engineering studies;

(B) studies of economic feasibility;

(C) the expected use of equipment or facilities; and

(D) the public transportation costs attributable to the project.

(5) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

(A) GOVERNMENT SHARE.—The Government share shall not exceed 80 percent of the net capital cost attributable to the public transportation costs of a project under this subsection as determined under paragraph (4).

(B) NON-GOVERNMENT SHARE.—The remainder of the net capital cost attributable to the public transportation costs of a project under this subsection shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(r) CAPITAL INVESTMENT GRANT DASHBOARD.—

(1) IN GENERAL.—The Secretary shall make publicly available in an easily identifiable location on the website of the Department of Transportation a dashboard containing the following information for each project seeking a grant agreement under this section:

(A) Project name.

(B) Project sponsor.

(C) City or urbanized area and State in which the project will be located.

(D) Project type.

(E) Project mode.

(F) Project length and number of stops, including length of exclusive bus rapid transit lanes, if applicable.

(G) Anticipated total project cost.

(H) Anticipated share of project costs to be sought under this section.

(I) Date of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(J) Date on which the project entered the project development phase.

(K) Date on which the project entered the engineering phase, if applicable.

(L) Date on which a Letter of No Prejudice was requested, and date on which a Letter of No Prejudice was issued or denied, if applicable.

(M) Date of the applicant's most recent project ratings, including date of request for updated ratings, if applicable.

(N) Status of the project sponsor in securing non-Federal matching funds.

(O) Date on which a project grant agreement is anticipated to be executed.

(2) UPDATES.—The Secretary shall update the information provided under paragraph (1) not less frequently than monthly.

(3) PROJECT PROFILES.—The Secretary shall continue to make profiles for projects that have applied for or are receiving assistance under this section publicly available in an easily identifiable location on the website of the Department of Transportation, in the same manner as the Secretary did as of the day before the date of enactment of this subsection.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 800; Pub. L. 104–287, §5(9), (12), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 102–240, title III, §3049(a), as added Pub. L. 105–130, §8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105–178, title III, §3009(a), (c)–(h)(1), (3)(D), (i)–(k), June 9, 1998, 112 Stat. 352–357; Pub. L. 105–206, title IX, §9009(g), (h)(3), July 22, 1998, 112 Stat. 855, 856; Pub. L. 106–69, title III, §347, Oct. 9, 1999, 113 Stat. 1024; Pub. L. 106–346, §101(a) [title III, §380], Oct. 23, 2000, 114 Stat. 1356, 1356A–42; Pub. L. 106–554, §1(a)(4) [div. A, §1101], Dec. 21, 2000, 114 Stat. 2763, 2763A–201; Pub. L. 108–88, §8(a), Sept. 30, 2003, 117 Stat. 1121; Pub. L. 108–202, §9(a), Feb. 29, 2004, 118 Stat. 484; Pub. L. 108–224, §7(a), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, §7(a), June 30, 2004, 118 Stat. 704; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–280, §7(a), July 30, 2004, 118 Stat. 882; Pub. L. 108–310, §8(a), Sept. 30, 2004, 118 Stat. 1154; Pub. L. 109–14, §7(a), May 31, 2005, 119 Stat. 330; Pub. L. 109–20, §7(a), July 1, 2005, 119 Stat. 352; Pub. L. 109–35, §7(a), July 20, 2005, 119 Stat. 386; Pub. L. 109–37, §7(a), July 22, 2005, 119 Stat. 401; Pub. L. 109–40, §7(a), July 28, 2005, 119 Stat. 417; Pub. L. 109–59, title III, §3011(a), Aug. 10, 2005, 119 Stat. 1573; Pub. L. 110–244, title II, §201(d), June 6, 2008, 122 Stat. 1610; Pub. L. 111–147, title IV, §433, Mar. 18, 2010, 124 Stat. 88; Pub. L. 111–322, title II, §2303, Dec. 22, 2010, 124 Stat. 3527; Pub. L. 112–5, title III, §303, Mar. 4, 2011, 125 Stat. 18; Pub. L. 112–30, title I, §133, Sept. 16, 2011, 125 Stat. 350; Pub. L. 112–102, title III, §303, Mar. 30, 2012, 126 Stat. 275; Pub. L. 112–140, title III, §303, June 29, 2012, 126 Stat. 396; Pub. L. 112–141, div. B, §20008(a), div. G, title III, §113003, July 6, 2012, 126 Stat. 656, 984; Pub. L. 114–94, div. A, title III, §3005(a), Dec. 4, 2015, 129 Stat. 1450; Pub. L. 117–58, div. C, §30005(a), Nov. 15, 2021, 135 Stat. 894.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5309(a) (1)–(5)	49 App.:1602(a)(1)(A).	July 9, 1964, Pub. L. 88–365, §3(a)(1)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974,

		Pub. L. 93–503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2735; Jan. 6, 1983, Pub. L. 97–424, §313, 96 Stat. 2152.
	49 App.:1602(a)(1)(B), (C), (D) (1st, 3d sentences).	July 9, 1964, Pub. L. 88–365, §3(a)(1)(B)–(D), (2)(B), (3), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2735, 2736.
5309(a)(6)	49 App.:1602(a)(1)(E).	July 9, 1964, Pub. L. 88–365, §3(a)(1)(E), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2736; restated Dec. 18, 1991, Pub. L. 102–240, §3006(a), 105 Stat. 2089.
5309(a)(7)	49 App.:1602(a)(1)(F).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(a)(1)(F); added Dec. 18, 1991, Pub. L. 102–240, §3006(b), 105 Stat. 2089.
5309(b)(1)	49 App.:1602(b) (1st sentence).	July 9, 1964, Pub. L. 88–365, §3(b), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 963; Nov. 6, 1978, Pub. L. 95–599, §302(b), 92 Stat. 2737.
5309(b)(2)	49 App.:1602(a)(2)(B).	
5309(b)(3)	49 App.:1602(b) (8th, last sentences).	
5309(b)(4), (5)	49 App.:1602(b) (2d–6th sentences).	
5309(c)	49 App.:1602(a)(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(a)(5); added Jan. 6, 1983, Pub. L. 97–424, §304(b), 96 Stat. 2149.
5309(d)	49 App.:1602(a)(2)(A).	July 9, 1964, Pub. L. 88–365, §3(a)(2)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88

		Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2736; Jan. 6, 1983, Pub. L. 97–424, §304(a), 96 Stat. 2149; restated Apr. 2, 1987, Pub. L. 100–17, §309(e), 101 Stat. 227.
	49 App.:1602(a)(3).	
5309(e)(1)	49 App.:1602 (note).	Apr. 2, 1987, Pub. L. 100–17, §303(b), 101 Stat. 223.
5309(e) (2)–(7)	49 App.:1602(i).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(i); added Apr. 2, 1987, Pub. L. 100–17, §303(a), 101 Stat. 223; restated Dec. 18, 1991, Pub. L. 102–240, §3010, 105 Stat. 2093.
5309(f)(1)	49 App.:1602(a)(1)(D) (last sentence).	
5309(f)(2)	49 App.:1602(a)(1)(D) (2d sentence).	
5309(g)	49 App.:1602(a)(4).	July 9, 1964, Pub. L. 88–365, §3(a)(4), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2736; Jan. 6, 1983, Pub. L. 97–424, §305, 96 Stat. 2150; Apr. 2, 1987, Pub. L. 100–17, §302, 101 Stat. 223; Dec. 18, 1991, Pub. L. 102–240, §3007, 105 Stat. 2090.
5309(h)	49 App.:1603(a).	July 9, 1964, Pub. L. 88–365, §4(a), 78 Stat. 304; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §704(a), 82 Stat. 535; Oct. 15, 1970, Pub. L. 91–453, §3(a), 84 Stat. 965; Aug. 13, 1973, Pub. L. 93–87, §301(a), 87 Stat. 295; Nov. 26, 1974, Pub. L. 93–503, §103(b), 88 Stat. 1571; Nov. 6, 1978, Pub. L. 95–599, §303(b), 92 Stat. 2737; Jan. 6, 1983, Pub. L. 97–424, §302(b), 96 Stat. 2141; Dec. 18, 1991, Pub. L. 102–240, §3006(f), (g), 105 Stat. 2089.
5309(i)	49 App.:1602(c) (2d, last sentences).	July 9, 1964, Pub. L. 88–365, §3(c), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 964.
5309(j)	49 App.:1602(b) (7th sentence).	
5309(k)	49 App.:1602(c) (1st sentence).	

5309(*l*)	49 App.:1603(d).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(d); added Dec. 18, 1991, Pub. L. 102–240, §3006(h)(2), 105 Stat. 2090.
5309(m)(1)	49 App.:1602(k)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(1); added Apr. 2, 1987, Pub. L. 100–17, §305, 101 Stat. 224; restated Dec. 18, 1991, Pub. L. 102–240, §3006(d)(1), 105 Stat. 2089.
5309(m)(2)	49 App.:1602(k)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(3); added Dec. 18, 1991, Pub. L. 102–240, §3006(d)(2), 105 Stat. 2089.
5309(m)(3)	49 App.:1602(j).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(j); added Apr. 2, 1987, Pub. L. 100–17, §304, 101 Stat. 223.
5309(m)(4)	49 App.:1602(k)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(2); added Apr. 2, 1987, Pub. L. 100–17, §305, 101 Stat. 224.
5309(n)	49 App.:1602(*l*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(*l*); added Apr. 2, 1987, Pub. L. 100–17, §306(a), 101 Stat. 224; Dec. 18, 1991, Pub. L. 102–240, §3006(e), 105 Stat. 2089.
5309(*o*)	49 App.:1602(n).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(n); added Oct. 6, 1992, Pub. L. 102–388, §502(d), 106 Stat. 1566.

In subsection (a), before clause (1), the words "in accordance with the provisions of this chapter" are omitted as surplus. The words "and on such terms and conditions as the Secretary may prescribe" and 49 App.:1602(a)(1)(D) (3d sentence) are omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words "(directly, through the purchase of securities or equipment trust certificates, or otherwise)" and "and agencies thereof" are omitted as surplus. In clause (1), the word "detailed" is omitted as surplus. In clause (2), the words "capital projects" are substituted for "the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service" for clarity and consistency in this section. The words "Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real" are omitted as surplus. The text of 49 App.:1602(a)(1)(B) (last sentence) is omitted as obsolete because former 49 App.:1604(a)(4) is executed and is not included in this restatement. In clause (3), the words "the capital costs of" are added for clarity and consistency in this section. The words "highway and" are omitted as surplus.

In subsection (b)(1), the word "finance" is omitted as surplus.

In subsection (b)(2), the words "for real property acquisition" are omitted as surplus. The words "for an approved project" are added for clarity and consistency. The words "which shall be in lieu of the determination required by subparagraph (A)", "real", and "connection with" are omitted as surplus.

In subsection (b)(3), the word "comprehensive" is omitted as surplus. The words "by the project" are added for clarity. The words "a period of" and "longer" are omitted as surplus.

In subsection (b)(4), the words "a period not exceeding" and "Each agreement shall provide that" are omitted as surplus. The words "shall be made within the 10-year period" are substituted for "shall not be later than 10 years following the fiscal year in which the agreement is made" to eliminate unnecessary words. The words "if any, over the original cost of the real property" are omitted as surplus. The words "deposit in" are substituted for "credit to" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(5), the word "actual" is omitted as surplus. The words "deposited in" are substituted for "credited to" for consistency in the revised title and with other titles of the Code.

In subsection (c), before clause (1), the words "grant or loan" are substituted for "assistance" for consistency in the revised section. In clause (1), the words "rail carrier" are substituted for "railroad" for consistency in the revised title and with other titles of the Code.

In subsection (d), before clause (1), the words "Except as provided in subsections (b)(2) and (e) of this section" are added for clarity. In clause (1), the words "through operation or lease or otherwise" are omitted as surplus.

In subsection (e)(2), before clause (A), the word "existing" is added for clarity and consistency.

In subsection (e)(6)(C), the words "Part A of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1915)" are substituted for "the Federal-Aid Highway Act of 1991" because the Federal-Aid Highway Act of 1991 was title I of H.R. 1531, that was not enacted into law but contained predecessor provisions to Part A of title I of H.R. 2950, enacted into law as the Intermodal Surface Transportation Efficiency Act of 1991.

In subsection (f)(1), the words "or entity" are omitted as surplus.

In subsection (f)(2), before clause (A), the words "for a project under subsection (a)(5) of this section" are added for clarity. In clause (B), the words "whether publicly or privately owned" are omitted as surplus.

In subsection (g)(1)(A), the words "The letter shall be regarded as an intention to obligate" are omitted as surplus.

In subsection (g)(1)(D), the words "pursuant to such a letter of intent" are omitted as surplus.

In subsection (g)(2)(A)(i), the words "and conditions" are omitted as being included in "terms".

In subsection (g)(4), the word "issued" is omitted as surplus. The text of 49 App.:1602(a)(4)(E) (3d sentence) is omitted as executed. The text of 49 App.:1602(a)(4)(E) (4th and last sentences) is omitted as obsolete.

In subsection (h), the words "nature and extent of" are omitted as surplus. The words "net project cost" are substituted for "what portion of the cost of a project to be assisted under section 1602 of this Appendix cannot be reasonably financed from revenues—which portion shall hereinafter be called 'net project cost' " because of the definition of "net project cost" in section 5302(a) of the revised title. The words "Except as provided in paragraph (2) of this subsection" are added for clarity. The words "Such remainder may be provided in whole or in part from other than public sources and any public or private", "solely", and "at any time" are omitted as surplus. The words "shall be deemed" are omitted as unnecessary since the text is a statement of a legal conclusion.

In subsection (i), before clause (1), the words "Except for a loan under subsection (b) of this section" are added for clarity. The words "made under this section" and "at a rate" are omitted as surplus. In clause (1), the word "market" is omitted as surplus. In clause (2), the words "under the program" are omitted as surplus.

In subsection (j), the words "loan and interest" are substituted for "principal and accrued interest on the loan then outstanding" to eliminate unnecessary words.

In subsection (m)(1)(B) and (3), the word "existing" is added for clarity and consistency.

In subsection (m)(1), before clause (A), the words "Subject to paragraph (3)" are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (m)(3), before clause (A), the words "Not later than 30 days after April 2, 1987" are omitted as executed. The words "prepare and" are omitted as surplus. The text of 49 App.:1602(j)(1) is omitted as obsolete because 49 App.:1602(k)(1) was restated by section 3006(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2089) and clause (D) was not carried forward.

In subsection (m)(4), the text of 49 App.:1602(k)(2)(B) is omitted as expired.

In subsection (n)(2), the words "Subject to the provisions of this paragraph", "the Federal share of which the Secretary is authorized to pay under this subsection", and "actually" are omitted as surplus.

PUB. L. 104–287, §5(12)(A)

This amends 49:5309(a) to clarify the restatement of 49 App.:1602(a)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 800).

PUB. L. 104–287, §5(12)(B)

This amends 49:5309(e)(4)(B) to correct an erroneous cross-reference.

PUB. L. 104–287, §5(12)(C)

This amends 49:5309(m)(1)(A) to make a conforming amendment.

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (d)(1)(A)(i)(II), (B), (2)(A), (e)(1)(A)(i)(II), (B), (2)(A), (h)(2)(A)(i)(II), (B), (6)(B), (i)(2), (k)(3)(A), and (r)(1)(I), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsecs. (g)(5)(A), (6), (8), (j), and (l)(7) is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

The date of enactment of this subsection, referred to in subsec. (r)(3), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

CODIFICATION

Pub. L. 111–322, §2303(4)–(7), which directed amendment of subpars. (B) to (E) of subsec. (m) of this section without specifying the paragraph to be amended, was executed to subpars. (B) to (E) of par. (7) of subsec. (m), to reflect the probable intent of Congress. See 2010 Amendment notes below.

AMENDMENTS

2021—Subsec. (a)(6), (7). Pub. L. 117–58, §30005(a)(1), struck out par. (6), which defined "program of interrelated projects", redesignated former par. (7) as (6), and in par. (6), substituted "$150,000,000" for "$100,000,000" in subpar. (A) and "$400,000,000" for "$300,000,000" in subpar. (B).

Subsec. (c)(1)(C). Pub. L. 117–58, §30005(a)(2), added subpar. (C).

Subsec. (e)(2)(A)(iii)(II). Pub. L. 117–58, §30005(a)(3), substituted "the next 10 years, without regard to any temporary measures employed by the applicant expected to increase short-term capacity within the next 10 years" for "the next 5 years".

Subsec. (g)(3)(A). Pub. L. 117–58, §30005(a)(4)(A), substituted "exceed 50 percent" for "exceed—

"(i) $100,000,000; or

"(ii) 50 percent".

Subsec. (g)(7), (8). Pub. L. 117–58, §30005(a)(4)(B), (C), added par. (7) and redesignated former par. (7) as (8).

Subsec. (i). Pub. L. 117–58, §30005(a)(5), added pars. (1) to (4) and struck out former pars. (1) to (8), which related to programs of interrelated projects.

Subsec. (k)(2)(E). Pub. L. 117–58, §30005(a)(6)(A), substituted "Information collection and analysis plan" for "Before and after study" in heading, struck out cl. (i), which set out study requirements, redesignated cl. (ii) as (i) and substituted "Submission of plan" for "Information collection and analysis plan" in cl. heading, redesignated subcl. (II) of cl. (i) as cl. (ii), redesignated items (aa) to (dd) as subcls. (I) to (IV), respectively, substituted "clause (i)" for "subclause (I)" in introductory provisions of cl. (ii), and realigned margins.

Subsec. (k)(5). Pub. L. 117–58, §30005(a)(6)(B), substituted "Not later than 15" for "At least 30".

Subsec. (o)(2). Pub. L. 117–58, §30005(a)(7)(A), (B), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text read as follows: "Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (k)(2)(E)."

Subsec. (o)(2)(A). Pub. L. 117–58, §30005(a)(7)(C)(i)(I)–(III), substituted "that" for "of" in introductory provisions, inserted "(i) assesses—", redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, and realigned margins.

Subsec. (o)(2)(A)(i)(I). Pub. L. 117–58, §30005(a)(7)(C)(i)(IV)(aa), substituted "all new fixed guideway capital projects and core capacity improvement projects for grant agreements under this section and section 3005(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5309 note; Public Law 114–94)" for "new fixed guideway capital projects and core capacity improvement projects".

Subsec. (o)(2)(A)(ii). Pub. L. 117–58, §30005(a)(7)(C)(i)(IV)(bb), (V), added cl. (ii).

Subsec. (o)(2)(B). Pub. L. 117–58, §30005(a)(7)(C)(ii), substituted "the applicable year" for "each year".

Subsec. (o)(3). Pub. L. 117–58, §30005(a)(7)(B), redesignated par. (3) as (2).

Subsec. (r). Pub. L. 117–58, §30005(a)(8), added subsec. (r).

2015—Subsec. (a)(3). Pub. L. 114–94, §3005(a)(1)(A), struck out "and weekend days" after "substantial part of weekdays".

Subsec. (a)(6)(A). Pub. L. 114–94, §3005(a)(1)(B)(i), inserted ", small start projects," after "new fixed guideway capital projects".

Subsec. (a)(6)(B). Pub. L. 114–94, §3005(a)(1)(B)(ii), added subpar. (B) and struck out former subpar. (B),

which read as follows: "1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects."

Subsec. (a)(7)(A). Pub. L. 114–94, §3005(a)(1)(C)(i), substituted "$100,000,000" for "$75,000,000".

Subsec. (a)(7)(B). Pub. L. 114–94, §3005(a)(1)(C)(ii), substituted "$300,000,000" for "$250,000,000".

Subsec. (d)(1)(B). Pub. L. 114–94, §3005(a)(2)(A), struck out ", policies and land use patterns that promote public transportation," after "project justification".

Subsec. (d)(2)(A)(iii) to (v). Pub. L. 114–94, §3005(a)(2)(B), inserted "and" after semicolon in cl. (iii), redesignated cl. (v) as (iv), and struck out former cl. (iv), which read as follows: "is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and".

Subsec. (g)(2)(A)(i). Pub. L. 114–94, §3005(a)(3), struck out "the policies and land use patterns that support public transportation," after "subsection (d)(2)(A)(iii),".

Subsec. (h)(6). Pub. L. 114–94, §3005(a)(4), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (i)(1). Pub. L. 114–94, §3005(a)(5)(A), substituted "subsection (d), (e), or (h)" for "subsection (d) or (e)".

Subsec. (i)(2). Pub. L. 114–94, §3005(a)(5)(B)(i), inserted "new fixed guideway capital project or core capacity improvement" after "federally funded" in introductory provisions.

Subsec. (i)(2)(D). Pub. L. 114–94, §3005(a)(5)(B)(ii), added subpar. (D) and struck out former subpar. (D), which read as follows: "the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;".

Subsec. (i)(2)(F). Pub. L. 114–94, §3005(a)(5)(B)(iii), inserted "or subsection (h)(5), as applicable" after "subsection (f)".

Subsec. (i)(3)(A). Pub. L. 114–94, §3005(a)(5)(C), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements."

Subsec. (l)(1). Pub. L. 114–94, §3005(a)(6)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost. A grant for a fixed guideway project or small start project shall not exceed 80 percent of the net capital project cost. A grant for a core capacity project shall not exceed 80 percent of the net capital project cost of the incremental cost of increasing the capacity in the corridor."

Subsec. (l)(4). Pub. L. 114–94, §3005(a)(6)(B), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital."

Subsec. (n). Pub. L. 114–94, §3005(a)(7), added subsec. (n) and struck out former subsec. (n), which related to availability of amounts for a new fixed guideway capital project.

Subsecs. (p), (q). Pub. L. 114–94, §3005(a)(8), added subsecs. (p) and (q).

2012—Pub. L. 112–141, §20008(a), amended section generally. Prior to amendment, section related to capital investment grants and consisted of subsecs. (a) to (m).

Subsec. (m)(2). Pub. L. 112–141, §113003(1)(A), (B), substituted "FISCAL YEARS 2006 THROUGH 2012" for "FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012" in heading and "2012" for "2011 and the period beginning on October 1, 2011, and ending on June 30, 2012," in introductory provisions.

Pub. L. 112–140, §§1(c), 303(1)(A), (B), temporarily substituted "ENDING ON JULY 6, 2012" for " ENDING ON JUNE 30, 2012" in heading and "ending on July 6, 2012," for "ending on June 30, 2012," in introductory provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(1)(A), (B), substituted "FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON JUNE 30, 2012" for "FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012" in heading and "2011 and the period beginning on October 1, 2011, and ending on June 30, 2012," for "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," in introductory provisions.

Subsec. (m)(2)(A)(i). Pub. L. 112–141, §113003(1)(C), substituted "2012" for "2011 and $150,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 303(1)(C), temporarily substituted "2011 and $152,000,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "2011 and $150,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(1)(C), substituted "2011 and $150,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "2011 and $100,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(6)(B). Pub. L. 112–141, §113003(2)(A), substituted "2012" for "2011 and $11,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 303(2)(A), temporarily substituted "2011 and $11,400,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012," for "2011 and $11,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(2)(A), substituted "2011 and $11,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," for "2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(6)(C). Pub. L. 112–141, §113003(2)(B), substituted "through 2012" for "though 2011 and $3,750,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 303(2)(B), temporarily substituted "through 2011 and $3,800,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012," for "though 2011 and $3,750,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(2)(B), substituted "2011 and $3,750,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," for "2011 and $2,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(7)(A). Pub. L. 112–141, §113003(3)(A)(i), in introductory provisions, substituted "2012" for "2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," and inserted "each fiscal year" before colon at end.

Pub. L. 112–140, §§1(c), 303(3)(A)(i), temporarily substituted "2011 and $7,600,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012," for "2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," and "shall be set aside:" for "shall be set aside for:" in introductory provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(A)(i), substituted "2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," for "2011 and $5,000,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," in introductory provisions.

Subsec. (m)(7)(A)(i), (ii). Pub. L. 112–141, §113003(3)(A)(ii), (iii), struck out "for each fiscal year and $1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," after "$2,500,000".

Pub. L. 112–140, §§1(c), 303(3)(a)(ii), (iii), temporarily substituted "$1,900,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(A)(ii), (iii), substituted "for each fiscal year and $1,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(7)(A)(iii) to (vi). Pub. L. 112–141, §113003(3)(A)(iv)–(vii), struck out "for each fiscal year and $750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," after "$1,000,000".

Pub. L. 112–140, §§1(c), 303(3)(A)(iv)–(vii), temporarily substituted "$760,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(A)(iv)–(vii), substituted "for each fiscal year and $750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(7)(A)(vii). Pub. L. 112–141, §113003(3)(A)(viii), struck out "for each fiscal year and $487,500 for the period beginning on October 1, 2011, and ending on June 30, 2012," after "$650,000".

Pub. L. 112–140, §§1(c), 303(3)(A)(viii), temporarily substituted "$494,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$487,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(A)(viii), substituted "for each fiscal year and $487,500 for the period beginning

on October 1, 2011, and ending on June 30, 2012," for "for each fiscal year and $325,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(7)(A)(viii). Pub. L. 112–141, §113003(3)(A)(ix), struck out "for each fiscal year and $262,500 for the period beginning on October 1, 2011, and ending on June 30, 2012," after "$350,000".

Pub. L. 112–140, §§1(c), 303(3)(A)(ix), temporarily substituted "$266,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$262,500 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(A)(ix), substituted "for each fiscal year and $262,500 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "for each fiscal year and $175,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(7)(B)(vii). Pub. L. 112–141, §113003(3)(B), added cl. (vii) and struck out former cl. (vii) which read as follows: "$10,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012."

Pub. L. 112–140, §§1(c), 303(3)(B), temporarily added cl. (vii), which set aside $10,260,000 for the period beginning on October 1, 2011, and ending on July 6, 2012, and temporarily struck out former cl. (vii) which read as follows: "$10,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012." See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(B), added cl. (vii) and struck out former cl. (vii) which read as follows: "$6,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012."

Subsec. (m)(7)(C). Pub. L. 112–141, §113003(3)(C), struck out "and during the period beginning on October 1, 2011, and ending on June 30, 2012," after "each fiscal year".

Pub. L. 112–140, §§1(c), 303(3)(C), temporarily substituted "ending on July 6, 2012," for "ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(C), substituted "and during the period beginning on October 1, 2011, and ending on June 30, 2012," for "and during the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(7)(D). Pub. L. 112–141, §113003(3)(D), struck out "and not less than $26,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," after "each fiscal year".

Pub. L. 112–140, §§1(c), 303(3)(D), temporarily substituted "and not less than $26,600,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012," for "and not less than $26,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(D), substituted "and not less than $26,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," for "and not less than $17,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (m)(7)(E). Pub. L. 112–141, §113003(3)(E), struck out "and $2,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," after "each fiscal year".

Pub. L. 112–140, §§1(c), 303(3)(E), temporarily substituted "and $2,280,000 shall be available for the period beginning on October 1, 2011, and ending on July 6, 2012," for "and $2,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §303(3)(E), substituted "and $2,250,000 shall be available for the period beginning on October 1, 2011, and ending on June 30, 2012," for "and $1,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012,".

2011—Subsec. (m)(2). Pub. L. 112–30, §133(1)(A), (B), substituted "FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012" for "FISCAL YEARS 2006 THROUGH 2011" in heading and "2011 and the period beginning on October 1, 2011, and ending on March 31, 2012," for "2011" in introductory provisions.

Pub. L. 112–5, §303(1)(A), (B), substituted "FISCAL YEARS 2006 THROUGH 2011" for "FISCAL YEARS 2006 THROUGH 2010 AND OCTOBER 1, 2010, THROUGH MARCH 4, 2011" in heading and "2011" for "2010, and during the period beginning October 1, 2010, and ending March 4, 2011," in introductory provisions.

Subsec. (m)(2)(A)(i). Pub. L. 112–30, §133(1)(C), substituted "2011 and $100,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "2011".

Pub. L. 112–5, §303(1)(C), substituted "2011" for "2010, and $84,931,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (m)(6)(B). Pub. L. 112–30, §133(2)(A), substituted "2011 and $7,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," for "2011".

Pub. L. 112–5, §303(2)(A), substituted "2011" for "2010, and $6,369,000 shall be available for the period

beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (m)(6)(C). Pub. L. 112–30, §133(2)(B), substituted "2011 and $2,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," for "2011".

Pub. L. 112–5, §303(2)(B), substituted "2011" for "2010, and $2,123,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (m)(7)(A). Pub. L. 112–30, §133(3)(A)(i), substituted "2011 and $5,000,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," for "2011" and struck out "each fiscal year" before colon.

Pub. L. 112–5, §303(3)(A)(i)–(iii), struck out cl. (i) designation and heading, substituted "$10,000,000 shall be available in each of fiscal years 2006 through 2011" for "$10,000,000 shall be available in each of fiscal years 2006 through 2010" in introductory provisions, redesignated subcls. (I) to (VIII) of former cl. (i) as cls. (i) to (viii), respectively, struck out former cl. (ii) which provided a special rule for Oct. 1, 2010, through Mar. 4, 2011, and realigned margins.

Subsec. (m)(7)(A)(i), (ii). Pub. L. 112–30, §133(3)(A)(ii), (iii), substituted "$2,500,000 for each fiscal year and $1,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "$2,500,000".

Subsec. (m)(7)(A)(iii). Pub. L. 112–30, §133(3)(A)(iv), substituted "$1,000,000 for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "$1,000,000".

Subsec. (m)(7)(A)(iv). Pub. L. 112–30, §133(3)(A)(v), substituted "$1,000,000 for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "$1,000,000".

Pub. L. 112–5, §303(3)(A)(iv), inserted a period at the end.

Subsec. (m)(7)(A)(v), (vi). Pub. L. 112–30, §133(3)(A)(vi), (vii), substituted "$1,000,000 for each fiscal year and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "$1,000,000".

Subsec. (m)(7)(A)(vii). Pub. L. 112–30, §133(3)(A)(viii), substituted "$650,000 for each fiscal year and $325,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "$650,000".

Subsec. (m)(7)(A)(viii). Pub. L. 112–30, §133(3)(A)(ix), substituted "$350,000 for each fiscal year and $175,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "$350,000".

Subsec. (m)(7)(B). Pub. L. 112–5, §303(3)(B)(i), struck out "$5,732,000 for the period beginning October 1, 2010 and ending March 4, 2011" after cl. (v).

Subsec. (m)(7)(B)(vi). Pub. L. 112–5, §303(3)(B)(ii), added cl. (vi).

Subsec. (m)(7)(B)(vii). Pub. L. 112–30, §133(3)(B), added cl. (vii).

Subsec. (m)(7)(C). Pub. L. 112–30, §133(3)(C), substituted "fiscal year and during the period beginning on October 1, 2011, and ending on March 31, 2012," for "fiscal year".

Pub. L. 112–5, §303(3)(C), struck out ", and during the period beginning October 1, 2010, and ending March 4, 2011," after "year".

Subsec. (m)(7)(D). Pub. L. 112–30, §133(3)(D), substituted "fiscal year and not less than $17,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," for "fiscal year".

Pub. L. 112–5, §303(3)(D), struck out ", and not less than $14,863,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011," after "year".

Subsec. (m)(7)(E). Pub. L. 112–30, §133(3)(E), substituted "fiscal year and $1,500,000 shall be available for the period beginning on October 1, 2011, and ending on March 31, 2012," for "fiscal year".

Pub. L. 112–5, §303(3)(E), struck out ", and $1,273,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011," after "year".

2010—Subsec. (m)(2). Pub. L. 111–322, §2303(1)(A), (B), substituted "MARCH 4, 2011" for " DECEMBER 31, 2010" in heading and "March 4, 2011" for "December 31, 2010" in introductory provisions.

Pub. L. 111–147, §433(1)(A), (B), substituted "2010 AND OCTOBER 1, 2010, THROUGH DECEMBER 31, 2010" for "2009" in heading and "2010, and during the period beginning October 1, 2010, and ending December 31, 2010," for "2009" in introductory provisions.

Subsec. (m)(2)(A)(i). Pub. L. 111–322, §2303(1)(C), substituted "$84,931,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010".

Pub. L. 111–147, §433(1)(C), substituted "2010, and $50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010," for "2009".

Subsec. (m)(6)(B). Pub. L. 111–322, §2303(2)(A), which directed substitution of "$6,369,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011" for "$3,750,000 shall be

available for the period beginning October 1, 2010 and ending December 31, 2010", was executed by making the substitution for "$3,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010", to reflect the probable intent of Congress.

Pub. L. 111–147, §433(2)(A), substituted "2010, and $3,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010," for "2009".

Subsec. (m)(6)(C). Pub. L. 111–322, §2303(2)(B), substituted "$2,123,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011" for "$1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §433(2)(B), substituted "2010, and $1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010," for "2009".

Subsec. (m)(7)(A). Pub. L. 111–147, §433(3)(A), inserted cl. (i) designation and heading, substituted "$10,000,000 shall be available in each of fiscal years 2006 through 2010" for "$10,000,000 shall be available in each of fiscal years 2006 through 2009" in introductory provisions, redesignated former cls. (i) to (viii) as subcls. (I) to (VIII), respectively, of cl. (i), and added cl. (ii).

Subsec. (m)(7)(A)(ii). Pub. L. 111–322, §2303(3)(A)(iii), substituted "155/365ths" for "25 percent".

Pub. L. 111–322, §2303(3)(A)(ii), which directed substitution of "$4,246,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011" for "$2,500,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010", was executed by making the substitution for "$2,500,000 shall be available in the period beginning October 1, 2010, and ending December 31, 2010", to reflect the probable intent of Congress.

Pub. L. 111–322, §2303(3)(A)(i), substituted "MARCH 4, 2011" for "DECEMBER 31, 2010" in heading.

Subsec. (m)(7)(B). Pub. L. 111–322, §2303(4), which directed general amendment of cl. (vi), was executed by substituting "$5,732,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "(vi) $3,375,000 for the period beginning October 1, 2010, and ending December 31, 2010." See Codification note above.

Subsec. (m)(7)(B)(v). Pub. L. 111–147, §433(3)(B), added cl. (v).

Subsec. (m)(7)(B)(vi). Pub. L. 111–147, §433(3)(B), added cl. (vi).

Subsec. (m)(7)(C). Pub. L. 111–322, §2303(5), substituted "March 4, 2011" for "December 31, 2010". See Codification note above.

Pub. L. 111–147, §433(3)(C), inserted ", and during the period beginning October 1, 2010, and ending December 31, 2010," after "fiscal year".

Subsec. (m)(7)(D). Pub. L. 111–322, §2303(6), substituted "$14,863,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011" for "$8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010". See Codification note above.

Pub. L. 111–147, §433(3)(D), inserted ", and not less than $8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010," after "year".

Subsec. (m)(7)(E). Pub. L. 111–322, §2303(7), substituted "$1,273,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011" for "$750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010". See Codification note above.

Pub. L. 111–147, §433(3)(E), inserted ", and $750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010," after "year".

2008—Subsec. (d)(5)(B). Pub. L. 110–244, §201(d)(1), substituted "this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating." for "regulation."

Subsec. (e)(6)(B). Pub. L. 110–244, §201(d)(2), substituted "subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating." for "subsection."

Subsec. (m)(2)(A). Pub. L. 110–244, §201(d)(3), substituted "CAPITAL" for "MAJOR CAPITAL" in heading.

Subsec. (m)(7)(B). Pub. L. 110–244, §201(d)(4), substituted "section 3045" for "section 3039" in introductory provisions.

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (p) providing for grants and loans to assist State and local governmental authorities in financing capital projects related to fixed guideway systems, capital projects needed for an efficient and coordinated mass transportation system, the capital costs of coordinating mass transportation with other transportation, the introduction of new technology, and mass transportation projects to meet the special needs of elderly individuals and individuals with disabilities.

Subsec. (m)(1). Pub. L. 109–40, §7(a)(1), substituted "July 30, 2005" for "July 27, 2005" in introductory

provisions.

Pub. L. 109–37, §7(a)(1), substituted "July 27, 2005" for "July 21, 2005" in introductory provisions.

Pub. L. 109–35, §7(a)(1), substituted "July 21, 2005" for "July 19, 2005" in introductory provisions.

Pub. L. 109–20, §7(a)(1), substituted "July 19, 2005" for "June 30, 2005" in introductory provisions.

Pub. L. 109–14, §7(a)(1), substituted "June 30, 2005" for "May 31, 2005" in introductory provisions.

Subsec. (m)(2)(B)(iii). Pub. L. 109–40, §7(a)(2), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading and "July 30, 2005" for "July 27, 2005" and "$8,550,000" for "$8,547,000" in text.

Pub. L. 109–37, §7(a)(2), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading and "July 27, 2005" for "July 21, 2005" and "$8,547,000" for "$8,424,000" in text.

Pub. L. 109–35, §7(a)(2), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading and "July 21, 2005" for "July 19, 2005" and "$8,424,000" for "$8,320,000" in text.

Pub. L. 109–20, §7(a)(2), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading and "July 19, 2005" for "June 30, 2005" and "$8,320,000" for "$7,800,000" in text.

Pub. L. 109–14, §7(a)(2), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading and "June 30, 2005" for "May 31, 2005" and "$7,800,000" for "$6,933,333" in text.

Subsec. (m)(3)(B). Pub. L. 109–40, §7(a)(3), substituted "$2,470,000" for "$2,465,754" and "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(a)(3), substituted "$2,465,754" for "$2,430,000" and "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(a)(3), substituted "$2,430,000" for "$2,400,000" and "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(a)(3), substituted "$2,400,000" for "$2,250,000" and "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(a)(3), substituted "$2,250,000" for "$2,000,000" and "June 30, 2005" for "May 31, 2005".

Subsec. (m)(3)(C). Pub. L. 109–40, §7(a)(4), substituted "$41,506,850" for "$41,095,900" and "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(a)(4), substituted "$41,095,900" for "$40,500,000" and "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(a)(4), substituted "$40,500,000" for "$40,000,000" and "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(a)(4), substituted "$40,000,000" for "$37,500,000" and "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(a)(4), substituted "$37,500,000" for "$33,333,333" and "June 30, 2005" for "May 31, 2005".

2004—Subsec. (m)(1). Pub. L. 108–310, §8(a)(1), inserted "and for the period of October 1, 2004, through May 31, 2005" after "2004" in introductory provisions.

Pub. L. 108–280, §7(a)(1)(A), struck out "2003 and for the period of October 1, 2003, through July 31," before "2004" in introductory provisions.

Pub. L. 108–263, §7(a)(1)(A), substituted "July 31, 2004" for "June 30, 2004" in introductory provisions.

Pub. L. 108–224, §7(a)(1)(A), substituted "June 30, 2004" for "April 30, 2004" in introductory provisions.

Pub. L. 108–202, §9(a)(1)(A), substituted "April 30, 2004" for "February 29, 2004" in introductory provisions.

Subsec. (m)(1)(A). Pub. L. 108–280, §7(a)(1)(B), substituted ", except for fiscal year 2004 during which $1,206,506,000 will be available" for ", except for the period beginning on October 1, 2003, and ending on July 31, 2004, during which $999,489,679 will be available".

Pub. L. 108–263, §7(a)(1)(A), (B), substituted "July 31, 2004" for "June 30, 2004" and "$999,489,679" for "$899,540,711".

Pub. L. 108–224, §7(a)(1)(B), substituted "June 30, 2004, during which $899,540,711 will be available" for "April 30, 2004, during which $699,642,775 will be available".

Pub. L. 108–202, §9(a)(1)(B), inserted ", except for the period beginning on October 1, 2003, and ending on April 30, 2004, during which $699,642,775 will be available" after "modernization".

Subsec. (m)(1)(B). Pub. L. 108–280, §7(a)(1)(C), substituted ", except for fiscal year 2004 during which $1,323,794,000 will be available" for ", except for the period beginning on October 1, 2003, and ending on July 31, 2004, during which $1,096,653,013 will be available".

Pub. L. 108–263, §7(a)(1)(A), (C), substituted "July 31, 2004" for "June 30, 2004" and "$1,096,653,013" for "$986,987,712".

Pub. L. 108–224, §7(a)(1)(C), substituted "June 30, 2004, during which $986,987,712 will be available" for

"April 30, 2004, during which $767,657,109 will be available".

Pub. L. 108–202, §9(a)(1)(C), inserted ", except for the period beginning on October 1, 2003, and ending on April 30, 2004, during which $767,657,109 will be available" before the semicolon.

Subsec. (m)(1)(C). Pub. L. 108–280, §7(a)(1)(D), substituted ", except for fiscal year 2004 during which $607,200,000 will be available" for ", except for the period beginning on October 1, 2003, and ending on July 31, 2004, during which $503,014,600 will be available".

Pub. L. 108–263, §7(a)(1)(A), (D), substituted "July 31, 2004" for "June 30, 2004" and "$503,014,600" for "$452,713,140".

Pub. L. 108–224, §7(a)(1)(D), which directed the amendment of subpar. (C) without providing closing quotation marks designating the provisions to be inserted, was executed by substituting "2003, and ending on June 30, 2004, during which $452,713,140 will be available" for "2003 and ending on April 30, 2004, during which $352,110,220 will be available", to reflect the probable intent of Congress.

Pub. L. 108–202, §9(a)(1)(D), inserted ", except for the period beginning on October 1, 2003 and ending on April 30, 2004, during which $352,110,220 will be available" after "facilities".

Subsec. (m)(2)(B)(i). Pub. L. 108–280, §7(a)(2)(A), substituted "2004" for "2003".

Subsec. (m)(2)(B)(iii). Pub. L. 108–310, §8(a)(2), added cl. (iii).

Pub. L. 108–280, §7(a)(2)(B), struck out heading and text of cl. (iii). Text read as follows: "Of the amounts made available under paragraph (1)(B), $8,615,533 shall be available for the period beginning on October 1, 2003, and ending on July 31, 2004, for capital projects described in clause (i)."

Pub. L. 108–263, §7(a)(2), inserted cl. (iii) and struck out heading and text of former cl. (iii). Prior to amendment, text read as follows: "Of the amounts made available under paragraph (1)(B), $7,753,980 shall be available for the period beginning on October 1, 2003, and ending on June 30, 2004, for capital projects described in clause (i)."

Pub. L. 108–224, §7(a)(2), amended heading and text of cl. (iii) generally. Prior to amendment, text read as follows: "Of the amounts made available under paragraph (1)(B), $6,066,667 shall be available for the period beginning on October 1, 2003, and ending on April 30, 2004, for capital projects described in clause (i)."

Pub. L. 108–202, §9(a)(2), amended heading and text of cl. (iii) generally. Prior to amendment, text read as follows: "Of the amounts made available under paragraph (1)(B), $4,333,333 shall be available for the period of October 1, 2003, through February 29, 2004, for capital projects described in clause (i)."

Subsec. (m)(3)(B). Pub. L. 108–310, §8(a)(3), inserted "(and $2,000,000 shall be available for the period October 1, 2004, through May 31, 2005)" after "2004".

Pub. L. 108–280, §7(a)(3), substituted "2004" for "2003 (and $2,485,250 shall be available for the period October 1, 2003, through July 31, 2004)".

Pub. L. 108–263, §7(a)(3), substituted "$2,485,250" for "$2,236,725" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(a)(3), substituted "$2,236,725" for "$1,750,000" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(a)(3), substituted "$1,750,000" for "$1,250,000" and "April 30, 2004" for "February 29, 2004".

Subsec. (m)(3)(C). Pub. L. 108–310, §8(a)(4), inserted ", and $33,333,333 shall be available for the period October 1, 2004, through May 31, 2005," after "2004)".

Pub. L. 108–280, §7(a)(4), substituted "1999 through 2004" for "1999 through 2003", "$50,000,000" for "$41,420,833", and "fiscal year 2004" for "the period October 1, 2003, through July 31, 2004".

Pub. L. 108–263, §7(a)(4), substituted "$41,420,833" for "$37,278,750" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(a)(4), substituted "$37,278,750" for "$28,994,583" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(a)(4), substituted "$28,994,583 shall be transferred to and administered under section 5309 for buses and bus facilities" for "$20,833,334 shall be available" and "April 30, 2004" for "February 29, 2004".

Subsec. (o)(3). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in introductory provisions.

2003—Subsec. (m)(1). Pub. L. 108–88, §8(a)(1), inserted "and for the period of October 1, 2003, through February 29, 2004" after "2003".

Subsec. (m)(2)(B). Pub. L. 108–88, §8(a)(2), added cl. (iii).

Subsec. (m)(3)(B). Pub. L. 108–88, §8(a)(3), inserted "(and $1,250,000 shall be available for the period October 1, 2003, through February 29, 2004)" after "2003".

Subsec. (m)(3)(C). Pub. L. 108–88, §8(a)(4), inserted "(and $20,833,334 shall be available for the period

October 1, 2003, through February 29, 2004)" after "2003".

2000—Subsec. (g)(4). Pub. L. 106–346 designated existing provisions as subpar. (A) and added subpars. (B) to (G).

Subsec. (g)(4)(D)(2). Pub. L. 106–554 struck out "light" before "rail extension".

1999—Subsec. (g)(1)(B). Pub. L. 106–69 inserted "and the House and Senate Committees on Appropriations" after "Committee on Banking, Housing, and Urban Affairs of the Senate".

1998—Pub. L. 105–178, §3009(a), substituted "Capital investment" for "Discretionary" in section catchline.

Subsec. (a)(1)(E) to (H). Pub. L. 105–178, §3009(c), added subpars. (E) and (F), redesignated former subpars. (F) and (G) as (G) and (H), respectively, and struck out former subpar. (E) which read as follows: "transportation projects that enhance urban economic development or incorporate private investment, including commercial and residential development, because the projects—

"(i) enhance the effectiveness of a mass transportation project and are related physically or functionally to that mass transportation project; or

"(ii) establish new or enhanced coordination between mass transportation and other transportation;".

Subsec. (c). Pub. L. 105–178, §3009(d), amended subsec. (c) generally, substituting "[Reserved.]" for former heading and text which read as follows:

"(c) CONSIDERATION OF DECREASED COMMUTER RAIL TRANSPORTATION.—The Secretary of Transportation shall consider the adverse effect of decreased commuter rail transportation when deciding whether to approve a grant or loan under this section to acquire a rail line and all related facilities—

"(1) owned by a rail carrier subject to reorganization under title 11; and

"(2) used to provide commuter rail transportation."

Subsec. (e). Pub. L. 105–178, §3009(k)(1), as added by Pub. L. 105–206, §9009(g), in par. (3)(C), substituted "suburban sprawl" for "urban sprawl", and in par. (6), substituted "or 'not recommended', based" for "or not 'recommended', based" in second sentence and inserted "of the" before "criteria established" in last sentence.

Pub. L. 105–178, §3009(e), reenacted heading without change and amended text of subsec. (e) generally. Prior to amendment, subsec. (e) related to, in par. (1), applicability of subsection to projects, in par. (2), approval of grants or loans for capital projects, in par. (3), criteria for making approval decisions, in par. (4), issuance of guidelines on evaluation of alternatives, project justification, and degree of local financial commitment, in par. (5), advancement of project from alternatives analysis to preliminary engineering, in par. (6), exemptions from requirements of subsection, and in par. (7), requirement of full financing agreement.

Subsec. (f). Pub. L. 105–178, §3009(h)(1), amended subsec. (f) generally, substituting "[Reserved.]" for former heading and text which read as follows:

"(f) REQUIRED PAYMENTS AND ELIGIBLE COSTS OF PROJECTS THAT ENHANCE URBAN ECONOMIC DEVELOPMENT OR INCORPORATE PRIVATE INVESTMENT.—(1) Each grant or loan under subsection (a)(5) of this section shall require that a person making an agreement to occupy space in a facility pay a reasonable share of the costs of the facility through rental payments and other means.

"(2) Eligible costs for a project under subsection (a)(5) of this section—

"(A) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; but

"(B) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation."

Subsec. (g). Pub. L. 105–178, §3009(f)(1), substituted "Funding" for "Financing" in heading.

Subsec. (g)(1)(B). Pub. L. 105–178, §3009(f)(3), substituted "At least 60 days" for "At least 30 days" and "letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project" for "issuance of the letter" and inserted "or entering into a full funding grant agreement" after "subparagraph (A) of this paragraph".

Subsec. (g)(2)(A), (B), (3)(A)(i). Pub. L. 105–178, §3009(f)(2), substituted "full funding" for "full financing".

Subsec. (g)(4). Pub. L. 105–178, §3009(k)(2), as added by Pub. L. 105–206, §9009(g), substituted "5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems" for "5338(a) of this title to carry out this section or an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003".

Pub. L. 105–178, §3009(f)(2), (4), substituted "full funding" for "full financing" before "grant agreements" in two places and "an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003" for "50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund (including amounts received from taxes and interest earned that are more than amounts previously obligated)".

Subsec. (m). Pub. L. 105–178, §3009(k)(3), as added by Pub. L. 105–206, §9009(g), substituted "5338(b)" for "5338" in introductory provisions of par. (1), added par. (2) and struck out former par. (2) relating to limitation on amounts available for activities other than final design and construction, redesignated par. (4) as (3)(C), added pars. (3)(D) and (4), and struck out par. (5) relating to funding for ferry boat systems.

Pub. L. 105–178, §3009(g), reenacted heading without change and amended text of subsec. (m) generally, substituting provisions allocating amounts for fiscal years 1998 to 2003 for provisions allocating amounts for each fiscal year ending Sept. 30 from 1993 to 1997 and for period of Oct. 1, 1997 to Mar. 31, 1998.

Subsec. (n)(2). Pub. L. 105–178, §3009(h)(3)(D), as added by Pub. L. 105–206, §9009(h)(3), substituted "in a manner satisfactory" for "in a way satisfactory".

Subsec. (o). Pub. L. 105–178, §3009(i), added subsec. (o) relating to reports.

Subsec. (p). Pub. L. 105–178, §3009(j), added subsec. (p).

1997—Subsec. (m)(1). Pub. L. 102–240, §3049(a), as added by Pub. L. 105–130, inserted ", and for the period of October 1, 1997, through March 31, 1998" after "1997".

1996—Subsec. (a). Pub. L. 104–287, §5(12)(A), designated existing provisions as par. (1), redesignated former pars. (1) to (7) as subpars. (A) to (G) of par. (1), respectively, and former subpars. (A) and (B) of par. (5) as subcls. (i) and (ii) of subpar. (E), respectively, and added par. (2).

Subsec. (e)(4)(B). Pub. L. 104–287, §5(12)(B), substituted "paragraph (2)" for "paragraph (1)(B)".

Subsec. (g)(1)(B). Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (m)(1)(A). Pub. L. 104–287, §5(12)(C), inserted "rail" before "fixed guideway modernization".

Subsec. (m)(3). Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 20008(a) of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as a note under section 101 of Title 23, Highways.

Amendment by section 113003 of Pub. L. 112–141 effective July 1, 2012, see section 114001 of Pub. L. 112–141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 5(12) of Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM

Pub. L. 114–94, div. A, title III, §3005(b), Dec. 4, 2015, 129 Stat. 1454, as amended by Pub. L. 117–58, div. C, §30005(b), Nov. 15, 2021, 135 Stat. 900, provided that:

"(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

"(A) APPLICANT.—The term 'applicant' means a State or local governmental authority that applies for a grant under this subsection.

"(B) CAPITAL PROJECT; FIXED GUIDEWAY; LOCAL GOVERNMENTAL AUTHORITY; PUBLIC TRANSPORTATION; STATE; STATE OF GOOD REPAIR.—The terms 'capital project', 'fixed guideway', 'local governmental authority', 'public transportation', 'State', and 'state of good repair' have the meanings given those terms in section 5302 of title 49, United States Code.

"(C) CORE CAPACITY IMPROVEMENT PROJECT.—The term 'core capacity improvement project'—

"(i) means a substantial corridor-based capital investment in an existing fixed guideway system that increases the capacity of a corridor by not less than 10 percent; and

"(ii) may include project elements designed to aid the existing fixed guideway system in making substantial progress towards achieving a state of good repair.

"(D) CORRIDOR-BASED BUS RAPID TRANSIT PROJECT.—The term 'corridor-based bus rapid transit project' means a small start project utilizing buses in which the project represents a substantial investment in a defined corridor as demonstrated by features that emulate the services provided by rail fixed guideway public transportation systems—

"(i) including—

"(I) defined stations;

"(II) traffic signal priority for public transportation vehicles;

"(III) short headway bidirectional services for a substantial part of weekdays; and

"(IV) any other features the Secretary may determine support a long-term corridor investment; and

"(ii) the majority of which does not operate in a separated right-of-way dedicated for public transportation use during peak periods.

"(E) ELIGIBLE PROJECT.—The term 'eligible project' means a new fixed guideway capital project, a small start project, or a core capacity improvement project that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of this Act [Dec. 4, 2015].

"(F) FIXED GUIDEWAY BUS RAPID TRANSIT PROJECT.—The term 'fixed guideway bus rapid transit project' means a bus capital project—

"(i) in which the majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods;

"(ii) that represents a substantial investment in a single route in a defined corridor or subarea; and

"(iii) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

"(I) defined stations;

"(II) traffic signal priority for public transportation vehicles;

"(III) short headway bidirectional services for a substantial part of weekdays and weekend days; and

"(IV) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

"(G) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term 'new fixed guideway capital project' means—

"(i) a fixed guideway capital project that is a minimum operable segment or extension to an existing fixed guideway system; or

"(ii) a fixed guideway bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

"(H) RECIPIENT.—The term 'recipient' means a recipient of funding under chapter 53 of title 49, United States Code.

"(I) SMALL START PROJECT.—The term 'small start project' means a new fixed guideway capital project, a fixed guideway bus rapid transit project, or a corridor-based bus rapid transit project for which—

"(i) the Federal assistance provided or to be provided under this subsection is less than $150,000,000; and

"(ii) the total estimated net capital cost is less than $400,000,000.

"(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to States and local governmental authorities to assist in financing—

"(A) new fixed guideway capital projects or small start projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and

relocation, for projects in the advanced stages of planning and design; and

"(B) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock associated with corridor improvements increasing capacity, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate to increase the capacity of an existing fixed guideway system corridor by not less than 10 percent. Core capacity improvement projects do not include elements to improve general station facilities or parking, or acquisition of rolling stock alone.

"(3) GRANT REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may make not more than 8 grants under this subsection for eligible projects if the Secretary determines that—

"(i) the eligible project is part of an approved transportation plan required under sections 5303 and 5304 of title 49, United States Code;

"(ii) the applicant has, or will have—

"(I) the legal, financial, and technical capacity to carry out the eligible project, including the safety and security aspects of the eligible project;

"(II) satisfactory continuing control over the use of the equipment or facilities;

"(III) the technical and financial capacity to maintain new and existing equipment and facilities; and

"(IV) advisors providing guidance to the applicant on the terms and structure of the project that are independent from investors in the project;

"(iii) the eligible project is supported, or will be supported, in part, through a public-private partnership, provided such support is determined by local policies, criteria, and decisionmaking under section 5306(a) of title 49, United States Code;

"(iv) the eligible project is justified based on findings presented by the project sponsor to the Secretary, including—

"(I) mobility improvements attributable to the project;

"(II) environmental benefits associated with the project;

"(III) congestion relief associated with the project;

"(IV) economic development effects derived as a result of the project; and

"(V) estimated ridership projections;

"(v) the eligible project is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources); and

"(vi) the eligible project will be operated and maintained by employees of an existing provider of fixed guideway or bus rapid transit public transportation in the service area of the project, or if none exists, by employees of an existing public transportation provider in the service area.

"(B) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(c)(1) of title 49, United States Code, shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this paragraph.

"(C) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed not less than 1 new fixed guideway capital project, small start project, or core capacity improvement project, if—

"(i) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

"(ii) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

"(D) FINANCIAL COMMITMENT.—

"(i) REQUIREMENTS.—In determining whether an eligible project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subparagraph (A)(v), the Secretary shall require that—

"(I) each proposed source of capital and operating financing is stable, reliable, and available within the proposed eligible project timetable; and

"(II) resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary, without degradation to the existing level of public transportation services.

"(ii) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of financing under clause (i), the Secretary shall consider—

"(I) the reliability of the forecasting methods used to estimate costs and revenues made by the applicant and the contractors to the applicant;

"(II) existing grant commitments;

"(III) the degree to which financing sources are dedicated to the proposed eligible project;

"(IV) any debt obligation that exists or is proposed by the applicant, for the proposed eligible project or other public transportation purpose; and

"(V) private contributions to the eligible project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private partnership strategies.

"(E) LABOR STANDARDS.—The requirements under section 5333 of title 49, United States Code, shall apply to each recipient of a grant under this subsection.

"(4) PROJECT ADVANCEMENT.—An applicant that desires a grant under this subsection and meets the requirements of paragraph (3) shall submit to the Secretary, and the Secretary shall approve for advancement, a grant request that contains—

"(A) identification of an eligible project;

"(B) a schedule and finance plan for the construction and operation of the eligible project;

"(C) an analysis of the efficiencies of the proposed eligible project development and delivery methods and innovative financing arrangement for the eligible project, including any documents related to the—

"(i) public-private partnership required under paragraph (3)(A)(iii); and

"(ii) project justification required under paragraph (3)(A)(iv); and

"(D) a certification that the existing public transportation system of the applicant or, in the event that the applicant does not operate a public transportation system, the public transportation system to which the proposed project will be attached, is in a state of good repair.

"(5) WRITTEN NOTICE FROM THE SECRETARY.—

"(A) IN GENERAL.—Not later than 120 days after the date on which the Secretary receives a grant request of an applicant under paragraph (4), the Secretary shall provide written notice to the applicant—

"(i) of approval of the grant request; or

"(ii) if the grant request does not meet the requirements under paragraph (4), of disapproval of the grant request, including a detailed explanation of the reasons for the disapproval.

"(B) CONCURRENT NOTICE.—The Secretary shall provide concurrent notice of an approval or disapproval of a grant request under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(6) WAIVER.—The Secretary may grant a waiver to an applicant that does not comply with paragraph (4)(D) if—

"(A) the eligible project meets the definition of a core capacity improvement project; and

"(B) the Secretary certifies that the eligible project will allow the applicant to make substantial progress in achieving a state of good repair.

"(7) SELECTION CRITERIA.—The Secretary may enter into a full funding grant agreement with an applicant under this subsection for an eligible project for which an application has been submitted and approved for advancement by the Secretary under paragraph (4), only if the applicant has completed the planning and activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(8) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—

"(A) LETTERS OF INTENT.—

"(i) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for an eligible project under this subsection, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the eligible project. When a letter is issued for an eligible project under this subsection, the amount shall be sufficient to complete at least an operable segment.

"(ii) TREATMENT.—The issuance of a letter under clause (i) is deemed not to be an obligation under section 1108(c), 1501, or 1502(a) of title 31, United States Code, or an administrative commitment.

"(B) FULL FUNDING GRANT AGREEMENTS.—

"(i) IN GENERAL.—Except as provided in clause (v), an eligible project shall be carried out under this subsection through a full funding grant agreement.

"(ii) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the requirements of this subparagraph, with each applicant receiving assistance for an eligible project that

has received a written notice of approval under paragraph (5)(A)(i).

"(iii) TERMS.—A full funding grant agreement shall—

"(I) establish the terms of participation by the Federal Government in the eligible project;

"(II) establish the maximum amount of Federal financial assistance for the eligible project;

"(III) include the period of time for completing construction of the eligible project, consistent with the terms of the public-private partnership agreement, even if that period extends beyond the period of an authorization; and

"(IV) make timely and efficient management of the eligible project easier according to the law of the United States.

"(iv) SPECIAL FINANCIAL RULES.—

"(I) IN GENERAL.—A full funding grant agreement under this subparagraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this subparagraph, to obligate an additional amount from future available budget authority specified in law.

"(II) STATEMENT OF CONTINGENT COMMITMENT.—A full funding grant agreement shall state that the contingent commitment is not an obligation of the Federal Government.

"(III) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the eligible project within a reasonable time are a cost of carrying out the eligible project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the eligible project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(IV) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this subparagraph for a new fixed guideway capital project, core capacity improvement project, or small start project shall be sufficient to complete at least an operable segment.

"(v) EXCEPTION.—

"(I) IN GENERAL.—The Secretary, to the maximum extent practicable, shall provide Federal assistance under this subsection for a small start project in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute an expedited grant agreement in order to include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(II) TERMS OF EXPEDITED GRANT AGREEMENTS.—In executing an expedited grant agreement under this clause, the Secretary may include in the agreement terms similar to those established under clause (iii).

"(C) LIMITATION ON AMOUNTS.—

"(i) IN GENERAL.—The Secretary may enter into full funding grant agreements under this paragraph for eligible projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

"(ii) APPROPRIATION REQUIRED.—An obligation may be made under this paragraph only when amounts are appropriated for obligation.

"(D) NOTIFICATION TO CONGRESS.—

"(i) IN GENERAL.—Not later than 15 days before the date on which the Secretary issues a letter of intent or enters into a full funding grant agreement for an eligible project under this paragraph, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter of intent or full funding grant agreement.

"(ii) CONTENTS.—The written notification under clause (i) shall include a copy of the proposed letter of intent or full funding grant agreement for the eligible project.

"(9) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

"(A) IN GENERAL.—A grant for an eligible project shall not exceed 25 percent of the net capital project cost.

"(B) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

"(C) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 75 percent of the net capital project cost.

"(D) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to subparagraph (A), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Federal Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Federal Government is made at the same time.

"(E) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out an eligible project for reasons within the control of the applicant, the applicant shall repay all Federal funds awarded for the eligible project from all Federal funding sources, for all eligible project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law.

"(F) CREDITING OF FUNDS RECEIVED.—Any funds received by the Federal Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

"(10) AVAILABILITY OF AMOUNTS.—

"(A) IN GENERAL.—An amount made available for an eligible project shall remain available to that eligible project for 4 fiscal years, including the fiscal year in which the amount is made available. Any amounts that are unobligated to the eligible project at the end of the 4-fiscal-year period may be used by the Secretary for any purpose under this subsection.

"(B) USE OF DEOBLIGATED AMOUNTS.—An amount available under this subsection that is deobligated may be used for any purpose under this subsection.

"(11) ANNUAL REPORT ON EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes a proposed amount to be available to finance grants for anticipated projects under this subsection.

"(12) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) require the privatization of the operation or maintenance of any project for which an applicant seeks funding under this subsection;

"(B) revise the determinations by local policies, criteria, and decisionmaking under section 5306(a) of title 49, United States Code;

"(C) alter the requirements for locally developed, coordinated, and implemented transportation plans under sections 5303 and 5304 of title 49, United States Code; or

"(D) alter the eligibilities or priorities for assistance under this subsection or section 5309 of title 49, United States Code."

DEVELOPMENT OF IMPLEMENTATION GUIDANCE

Pub. L. 113–235, div. K, title I, §167, Dec. 16, 2014, 128 Stat. 2720, provided that: "In developing guidance implementing 49 U.S.C. 5309(i) Program of Interrelated Projects, the Secretary shall consider projects eligible under section 5309(h) Small Starts Projects, including streetcars."

PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY

Pub. L. 112–141, div. B, §20008(b), July 6, 2012, 126 Stat. 674, which related to a pilot program for expedited project delivery, was repealed by Pub. L. 114–94, div. A, title III, §3030(a), Dec. 4, 2015, 129 Stat. 1496.

NON-NEW STARTS SHARE OF PUBLIC TRANSPORTATION ELEMENT OF INTERSTATE MULTI-MODAL PROJECTS

Pub. L. 111–117, div. A, title I, §173, Dec. 16, 2009, 123 Stat. 3066, provided that the rating under former subsec. (d) of this section of the non-New Starts share of the public transportation element of certain interstate multi-modal projects would be based on the percentage of non-New Starts funds in the unified finance plan.

TRANSIT TUNNELS

Pub. L. 110–244, title II, §201(p), June 6, 2008, 122 Stat. 1615, required the Secretary of Transportation to analyze the various benefits of transit tunnels.

PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM

Pub. L. 109–59, title III, §3011(c), Aug. 10, 2005, 119 Stat. 1588, as amended by Pub. L. 111–147, title IV, §437(b)(1), Mar. 18, 2010, 124 Stat. 92; Pub. L. 111–322, title II, §2307(b)(1), Dec. 22, 2010, 124 Stat. 3530;

Pub. L. 112–5, title III, §307(b)(1), Mar. 4, 2011, 125 Stat. 21; Pub. L. 112–30, title I, §137(b)(1), Sept. 16, 2011, 125 Stat. 354; Pub. L. 112–102, title III, §307(b)(1), Mar. 30, 2012, 126 Stat. 280; Pub. L. 112–140, title III, §307(b)(1), June 29, 2012, 126 Stat. 401; Pub. L. 112–141, div. G, title III, §113007(b)(1), July 6, 2012, 126 Stat. 987, which provided for the establishment and implementation of a pilot program to demonstrate the advantages and disadvantages of public-private partnerships for certain new fixed guideway capital projects, was repealed by Pub. L. 112–141, div. B, §20002(c)(2), July 6, 2012, 126 Stat. 622.

REPORT TO CONGRESS ON USE OF FUNDS UNDER PUB. L. 105–178

Pub. L. 105–200, title IV, §403(b), July 16, 1998, 112 Stat. 670, required the Secretary of Transportation to submit a report, no later than 2 years after July 16, 1998, on the use of funds made available under section 3037 of Pub. L. 105–178.

DOLLAR VALUE OF MOBILITY IMPROVEMENTS

Pub. L. 105–178, title III, §3010, June 9, 1998, 112 Stat. 357, as amended by Pub. L. 105–206, title IX, §9009(i), July 22, 1998, 112 Stat. 856, prohibited the consideration of the dollar value of mobility improvements in performing certain duties of the Secretary and required the Comptroller General to study and report on the dollar value of mobility improvements no later than Jan. 1, 2000.

JOB ACCESS AND REVERSE COMMUTE GRANTS

Pub. L. 105–178, title III, §3037, June 9, 1998, 112 Stat. 387, as amended by Pub. L. 105–206, title IX, §9009(w), July 22, 1998, 112 Stat. 862; Pub. L. 108–88, §8(l), Sept. 30, 2003, 117 Stat. 1124; Pub. L. 108–202, §9(l), Feb. 29, 2004, 118 Stat. 488; Pub. L. 108–224, §7(l), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, §7(l), June 30, 2004, 118 Stat. 707; Pub. L. 108–280, §7(l), July 30, 2004, 118 Stat. 884; Pub. L. 108–310, §8(l), Sept. 30, 2004, 118 Stat. 1157; Pub. L. 109–14, §7(k), May 31, 2005, 119 Stat. 333; Pub. L. 109–20, §7(k), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, §7(k), July 20, 2005, 119 Stat. 388; Pub. L. 109–37, §7(k), July 22, 2005, 119 Stat. 403; Pub. L. 109–40, §7(k), July 28, 2005, 119 Stat. 420, which authorized the Secretary of Transportation to make access to jobs grants and reverse commute grants to assist qualified entities in financing eligible projects, was repealed by Pub. L. 109–59, title III, §3018(c), Aug. 10, 2005, 119 Stat. 1605, effective Oct. 1, 2005.

ENCOURAGEMENT OF ADVERSELY AFFECTED INDUSTRIES TO COMPETE FOR CONTRACTS

Pub. L. 91–453, §10, Oct. 15, 1970, 84 Stat. 968, as amended by Pub. L. 102–240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088, encouraged industries adversely affected by reductions in Federal Government spending to compete for contracts under former sections 5309 and 5312 of this title.

§5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) RECIPIENT.—The term "recipient" means—

(A) a designated recipient or a State that receives a grant under this section directly; or

(B) a State or local governmental entity that operates a public transportation service.

(2) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, a private nonprofit organization, or an operator of public transportation that receives a grant under this section indirectly through a recipient.

(b) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section to recipients for—

(A) public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(C) public transportation projects that improve access to fixed route service and decrease

reliance by individuals with disabilities on complementary paratransit; and

(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

(2) LIMITATIONS FOR CAPITAL PROJECTS.—

(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

(i) a private nonprofit organization; or

(ii) a State or local governmental authority that—

(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

(II) certifies that there are no private nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

(3) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

(5) COORDINATION.—

(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

(B) OTHER FEDERAL AGENCIES AND NONPROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(ii) participate in the planning for the transportation services described in clause (i).

(6) PROGRAM OF PROJECTS.—

(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

(c) APPORTIONMENT AND TRANSFERS.—

(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this

section as follows:

(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

(C) RURAL AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of seniors and individuals with disabilities in rural areas in each State; bears to

(ii) the number of seniors and individuals with disabilities in rural areas in all States.

(2) AREAS SERVED BY PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B)—

(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

(d) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance

may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

(B) may be derived from amounts appropriated or otherwise made available—

(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

(ii) to carry out the Federal lands highways program under section 204 [1] of title 23.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

(e) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

(2) CERTIFICATION REQUIREMENTS.—

(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

(1) the recipient in possession of the facility or equipment consents to the transfer; and
(2) the facility or equipment will continue to be used as required under this section.

(h) PERFORMANCE MEASURES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives making recommendations on the establishment of performance measures for grants under this section. Such report shall be developed in consultation with national nonprofit organizations that provide technical assistance and advocacy on issues related to transportation services for seniors and individuals with disabilities.

(2) MEASURES.—The performance measures to be considered in the report under paragraph (1) shall require the collection of quantitative and qualitative information, as available, concerning—

(A) modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities;
(B) ridership;
(C) accessibility improvements; and
(D) other measures, as the Secretary determines is appropriate.

(i) BEST PRACTICES.—The Secretary shall collect from, review, and disseminate to public transportation agencies—

(1) innovative practices;
(2) program models;
(3) new service delivery options;
(4) findings from activities under subsection (h); and
(5) transit cooperative research program reports.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 807; Pub. L. 105–178, title III, §3013(a), June 9, 1998, 112 Stat. 359; Pub. L. 109–59, title III, §§3002(b)(2), 3012(a), Aug. 10, 2005, 119 Stat. 1544, 1589; Pub. L. 112–141, div. B, §20009, July 6, 2012, 126 Stat. 675; Pub. L. 114–94, div. A, title III, §3006(a), Dec. 4, 2015, 129 Stat. 1462.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5310(a)	49 App.:1612(b) (1st sentence words before cl. (1)), cls. (1) (words before 3d comma), (2) (words before "with such grants").	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(b) (1st sentence); added Oct. 15, 1970, Pub. L. 91–453, §8, 84 Stat. 967; restated Aug. 13, 1973, Pub. L. 93–87, §301(g), 87 Stat. 295; Dec. 18, 1991, Pub. L. 102–240, §3021(1)– (4), 105 Stat. 2110.
5310(b)	49 App.:1612(c)(2), (3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(c); added Dec. 18, 1991, Pub. L. 102–240, §3021(6), 105 Stat. 2110; Oct. 6, 1992, Pub. L. 102–388, §502(k), 106 Stat. 1567.
5310(c)	49 App.:1612(c)(1).	
5310(d)	49 App.:1612(b) (1st sentence cl. (3)).	
5310(e)	49 App.:1612(b) (1st sentence	

	cls. (1) (words after 3d comma), (2) (words after "service under this subsection")).	
5310(f)	49 App.:1612(e).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(e); added Jan. 6, 1983, Pub. L. 97–424, §317(c), 96 Stat. 2153; Apr. 2, 1987, Pub. L. 100–17, §327(a)(4), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3021(1), (5), 105 Stat. 2110.
5310(g)	49 App.:1612(c)(4).	
5310(h)	49 App.:1612(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(f); added Apr. 2, 1987, Pub. L. 100–17, §321, 101 Stat. 235; restated Dec. 18, 1991, Pub. L. 102–240, §3021(5), (7), 105 Stat. 2110, 2111.
5310(i)	49 App.:1614(g) (related to 1612(b)).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(g) (related to §16(b)); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2750; restated Dec. 18, 1991, Pub. L. 102–240, §3022, 105 Stat. 2111.
5310(j)	49 App.:1604b.	Nov. 26, 1974, Pub. L. 93–503, §108, 88 Stat. 1572.

In this section, the words "governmental authorities" are substituted for "public bodies" because of section 5302(a) of the revised title.

In subsection (a), before clause (1), the words "In addition to the grants and loans otherwise provided for under this chapter" are omitted as surplus. In clauses (1) and (2), the words "the specific purpose of" are omitted as surplus. In clause (1), the words "or agencies thereof" are omitted as surplus.

In subsection (b), the words "for expenditure", "to the States", and "amounts of a" are omitted as surplus.

In subsection (d), the words "A recipient of amounts under this section" are added for clarity to correct an error in the source provisions. The words "under a contract, lease, or other arrangement" are omitted as surplus.

In subsection (e), the words "terms, conditions . . . and provisions" are omitted as surplus.

In subsection (e)(1), the words "and is deemed" are substituted for "and being considered for the purposes of all other laws" for consistency in the revised title and with other titles of the United States Code.

In subsection (e)(2), the words "insofar as may be appropriate" and "necessary or . . . for purposes of this paragraph" are omitted as surplus.

In subsection (f), the words "any applicable" are omitted as surplus. The words "prescribe regulations establishing" are substituted for "not later than ninety days after January 6, 1983, publish in the Federal Register for public comment, proposed regulations and, not later than one hundred and eighty days after January 6, 1983, promulgate final regulations, establishing" to eliminate unnecessary and executed words. Section 3021(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2110) is applied to 49 App.:1612(e) to carry out the apparent intent of Congress.

In subsection (g), the words "not later than 60 days following December 18, 1991" are omitted as obsolete. The words "and agencies" are omitted as surplus.

In subsection (j), the words "elderly individuals and individuals with disabilities" are substituted for "elderly and handicapped persons" for consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(1)(B), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Section 204 of title 23, referred to in subsec. (d)(3)(B)(ii), was repealed and a new section 204 was enacted by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473, 489. As enacted by Pub. L. 112–141, section 204 relates to the Federal lands access program.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsec. (h)(1), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94, §3006(a)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The term 'recipient' means a designated recipient or a State that receives a grant under this section directly."

Subsec. (i). Pub. L. 114–94, §3006(a)(2), added subsec. (i).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to formula grants for special needs of elderly individuals and individuals with disabilities.

2005—Pub. L. 109–59, §3012(a), amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (j) relating to formula grants and loans for special needs of elderly individuals and individuals with disabilities.

Subsec. (h). Pub. L. 109–59, §3002(b)(2), substituted "Public" for "Mass".

1998—Pub. L. 105–178 substituted "Formula grants" for "Grants" in section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

PILOT PROGRAM FOR INNOVATIVE COORDINATED ACCESS AND MOBILITY

Pub. L. 114–94, div. A, title III, §3006(b), Dec. 4, 2015, 129 Stat. 1462, provided that:

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'eligible project' has the meaning given the term 'capital project' in section 5302 of title 49, United States Code; and

"(B) the term 'eligible recipient' means a recipient or subrecipient, as those terms are defined in section 5310 of title 49, United States Code.

"(2) GENERAL AUTHORITY.—The Secretary [of Transportation] may make grants under this subsection to eligible recipients to assist in financing innovative projects for the transportation disadvantaged that improve the coordination of transportation services and nonemergency medical transportation services, including—

"(A) the deployment of coordination technology;

"(B) projects that create or increase access to community One-Call/One-Click Centers; and

"(C) such other projects as determined appropriate by the Secretary.

"(3) APPLICATION.—An eligible recipient shall submit to the Secretary an application that, at a minimum, contains—

"(A) a detailed description of the eligible project;

"(B) an identification of all eligible project partners and their specific role in the eligible project, including—

"(i) private entities engaged in the coordination of nonemergency medical transportation services for the transportation disadvantaged; or

"(ii) nonprofit entities engaged in the coordination of nonemergency medical transportation services for the transportation disadvantaged;

"(C) a description of how the eligible project would—

"(i) improve local coordination or access to coordinated transportation services;
"(ii) reduce duplication of service, if applicable; and
"(iii) provide innovative solutions in the State or community; and
"(D) specific performance measures the eligible project will use to quantify actual outcomes against expected outcomes.
"(4) REPORT.—The Secretary shall make publicly available an annual report on the pilot program carried out under this subsection for each fiscal year, not later than December 31 of the calendar year in which that fiscal year ends. The report shall include a detailed description of the activities carried out under the pilot program, and an evaluation of the program, including an evaluation of the performance measures described in paragraph (3)(D).
"(5) GOVERNMENT SHARE OF COSTS.—
"(A) IN GENERAL.—The Government share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.
"(B) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an eligible project carried out under this subsection may be derived from in-kind contributions.
"(6) RULE OF CONSTRUCTION.—For purposes of this subsection, nonemergency medical transportation services shall be limited to services eligible under Federal programs other than programs authorized under chapter 53 of title 49, United States Code."

ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM

Pub. L. 109–59, title III, §3012(b), Aug. 10, 2005, 119 Stat. 1591, as amended by Pub. L. 111–147, title IV, §437(c), Mar. 18, 2010, 124 Stat. 92; Pub. L. 111–322, title II, §2307(c), Dec. 22, 2010, 124 Stat. 3530; Pub. L. 112–5, title III, §307(c), Mar. 4, 2011, 125 Stat. 21; Pub. L. 112–30, title I, §137(c), Sept. 16, 2011, 125 Stat. 354; Pub. L. 112–102, title III, §307(c), Mar. 30, 2012, 126 Stat. 280; Pub. L. 112–140, title III, §307(c), June 29, 2012, 126 Stat. 401; Pub. L. 112–141, div. G, title III, §113007(c), July 6, 2012, 126 Stat. 987, which established a pilot program for certain States to carry out projects for public transportation of elderly individuals and individuals with disabilities, was repealed by Pub. L. 112–141, div. B, §20002(c)(3), July 6, 2012, 126 Stat. 622.

OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM

Pub. L. 105–178, title III, §3038, June 9, 1998, 112 Stat. 392, as amended by Pub. L. 105–206, title IX, §9009(x), July 22, 1998, 112 Stat. 862; Pub. L. 106–346, §101(a) [title III, §336], Oct. 23, 2000, 114 Stat. 1356, 1356A–31; Pub. L. 108–88, §8(m), Sept. 30, 2003, 117 Stat. 1125; Pub. L. 108–202, §9(m), Feb. 29, 2004, 118 Stat. 488; Pub. L. 108–224, §7(m), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, §7(m), June 30, 2004, 118 Stat. 707; Pub. L. 108–280, §7(m), July 30, 2004, 118 Stat. 885; Pub. L. 108–310, §8(m), Sept. 30, 2004, 118 Stat. 1158; Pub. L. 109–14, §7(l), May 31, 2005, 119 Stat. 333; Pub. L. 109–20, §7(l), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, §7(l), July 20, 2005, 119 Stat. 388; Pub. L. 109–37, §7(l), July 22, 2005, 119 Stat. 403; Pub. L. 109–40, §7(l), July 28, 2005, 119 Stat. 420; Pub. L. 109–59, title III, §3039(a), Aug. 10, 2005, 119 Stat. 1638, which provided for grants to over-the-road bus operators to finance costs associated with bus accessibility for persons with disabilities, was repealed by Pub. L. 112–141, div. B, §20002(b), July 6, 2012, 126 Stat. 622.

[1] *See References in Text note below.*

§5311. Formula grants for rural areas

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:
(1) RECIPIENT.—The term "recipient" means a State or Indian tribe that receives a Federal transit program grant directly from the Government.
(2) SUBRECIPIENT.—The term "subrecipient" means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

(b) GENERAL AUTHORITY.—
(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in rural areas for—

(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of rural areas in the State;

(B) public transportation capital projects;

(C) operating costs of equipment and facilities for use in public transportation;

(D) job access and reverse commute projects; and

(E) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

(2) STATE PROGRAM.—

(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in rural areas.

(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(F) to make grants and contracts for transportation research, technical assistance, training, and related support services in rural areas.

(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out competitively selected projects of a national scope, with the remaining balance provided to the States.

(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

(A) total annual revenue;

(B) sources of revenue;

(C) total annual operating costs;

(D) total annual capital costs;

(E) fleet size and type, and related facilities;

(F) vehicle revenue miles; and

(G) ridership.

(c) APPORTIONMENTS.—

(1) IN GENERAL.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) to carry out this section—

(A) an amount equal to 5 percent shall be available to carry out paragraph (2); and

(B) 3 percent shall be available to carry out paragraph (3).

(2) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—For each fiscal year, the amounts made available under paragraph (1)(A) shall be apportioned for grants to Indian tribes for

any purpose eligible under this section, under such terms and conditions as may be established by the Secretary, of which—

(A) 20 percent shall be distributed by the Secretary on a competitive basis; and

(B) 80 percent shall be apportioned as formula grants as provided in subsection (j).

(3) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

(A) DEFINITIONS.—In this paragraph—

(i) the term "Appalachian region" has the same meaning as in section 14102 of title 40; and

(ii) the term "eligible recipient" means a State that participates in a program established under subtitle IV of title 40.

(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

(4) REMAINING AMOUNTS.—

(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

(ii) LAND AREA.—

(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of rural areas in that State and divided by the population of all rural areas in the United States, as shown by the most recent decennial census of population.

(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the

land area in rural areas in that State and divided by the land area in all rural areas in the United States, as shown by the most recent decennial census of population.

(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in rural areas in that State and divided by the vehicle revenue miles in all rural areas in the United States, as determined by national transit database reporting.

(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in rural areas in that State and divided by the number of low-income individuals in all rural areas in the United States, as shown by the Bureau of the Census.

(v) MAXIMUM APPORTIONMENT.—No State shall receive—

(I) more than 5 percent of the amount apportioned under clause (ii); or

(II) more than 5 percent of the amount apportioned under clause (iii).

(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in a rural area.

(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 10 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to a rural area.

(f) INTERCITY BUS TRANSPORTATION.—

(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

(A) planning and marketing for intercity bus transportation;

(B) capital grants for intercity bus facilities;

(C) joint-use facilities;

(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

(g) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—

(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

(2) OPERATING ASSISTANCE.—

(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the

project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

(3) REMAINDER.—The remainder of net project costs—

(A) may be provided in cash from non-Government sources;

(B) may be provided from revenues from the sale of advertising and concessions;

(C) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

(D) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation;

(E) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 [1] of title 23; and

(F) in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service, including all operating and capital costs of such service whether or not offset by revenue from such service, as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), if the private operator agrees in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(h) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(i) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

(j) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

(1) APPORTIONMENT.—

(A) IN GENERAL.—Of the amounts described in subsection (c)(2)(B)—

(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands (American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands, as defined by the Bureau of the Census) on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

(B) LIMITATION.—No recipient shall receive more than $300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than $300,000 in a fiscal year according to the formula specified in that clause.

(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term "low-income individual" means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

(E) ALLOCATION BETWEEN MULTIPLE INDIAN TRIBES.—If more than 1 Indian tribe provides public transportation service on tribal lands in a single Tribal Statistical Area, and the Indian tribes do not determine how to allocate the funds apportioned under clause (iii) of subparagraph (A) between the Indian tribes, the Secretary shall allocate the funds so that each Indian tribe shall receive an amount equal to the total amount apportioned under such clause (iii) multiplied by the ratio of the number of annual unlinked passenger trips provided by each Indian tribe, as reported to the National Transit Database, to the total unlinked passenger trips provided by all Indian tribes in the Tribal Statistical Area.

(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 809; Pub. L. 105–178, title III, §3014(a), June 9, 1998, 112 Stat. 359; Pub. L. 109–59, title III, §§3002(b)(4), 3013(a)–(h), Aug. 10, 2005, 119 Stat. 1545, 1593–1596; Pub. L. 110–244, title II, §201(e), June 6, 2008, 122 Stat. 1610; Pub. L. 111–147, title IV, §434, Mar. 18, 2010, 124 Stat. 89; Pub. L. 111–322, title II, §2304, Dec. 22, 2010, 124 Stat. 3527; Pub. L. 112–5, title III, §304, Mar. 4, 2011, 125 Stat. 19; Pub. L. 112–30, title I, §134, Sept. 16, 2011, 125 Stat. 351; Pub. L. 112–102, title III, §304, Mar. 30, 2012, 126 Stat. 277; Pub. L. 112–140, title III, §304, June 29, 2012, 126 Stat. 398; Pub. L. 112–141, div. B, §20010, div. G, title III, §113004, July 6, 2012, 126 Stat. 680, 985; Pub. L. 113–159, title I, §1201, Aug. 8, 2014, 128 Stat. 1845; Pub. L. 114–21, title I, §1201, May 29, 2015, 129 Stat. 222; Pub. L. 114–41, title I, §1201, July 31, 2015, 129 Stat. 450; Pub. L. 114–73, title I, §1201, Oct. 29, 2015, 129 Stat. 572; Pub. L. 114–87, title I, §1201, Nov. 20, 2015, 129 Stat. 681; Pub. L. 114–94, div. A, title III, §3007, Dec. 4, 2015, 129 Stat. 1464; Pub. L. 117–58, div. C, §30006, Nov. 15, 2021, 135 Stat. 900.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

5311(a)	49 App.:1614(c) (3d sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(b), (c) (2d, 3d sentences), (d), (e) (1st–4th sentences), (f); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2749, 2750.
5311(b)(1)	49 App.:1614(b) (1st sentence 18th–last words, 2d, last sentences), (c) (2d sentence words between 1st and 2d commas).	
5311(b)(2)	49 App.:1614(h).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(h); added Apr. 2, 1987, Pub. L. 100–17, §323, 101 Stat. 235.
5311(c)	49 App.:1614(a) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97–424, §316(a), 96 Stat. 2153.
	49 App.:1614(a) (2d sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(a) (2d sentence); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2748; Dec. 18, 1991, Pub. L. 102–240, §3024, 105 Stat. 2112.
	49 App.:1614(c) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(c) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2749; Jan. 6, 1983, Pub. L. 97–424, §316(b), 96 Stat. 2153.
5311(d)	49 App.:1614(b) (1st sentence 1st–17th words), (c) (2d sentence words before 1st and after 2d commas).	
5311(e)(1)	49 App.:1614(d).	
5311(e)(2)	49 App.:1614(c) (4th sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(c) (4th sentence); added Apr. 2, 1987, Pub. L. 100–17, §322, 101 Stat. 235.
5311(f)	49 App.:1614(i).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(i); added Dec. 18, 1991, Pub. L. 102–240, §3023, 105 Stat. 2111.
5311(g)(1)	49 App.:1614(e) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(e) (last sentence); added Dec. 19, 1985, Pub. L. 99–190, §326, 99 Stat. 1289.
5311(g)(2)	49 App.:1614(e) (1st–4th sentences).	
5311(h)	49 App.:1614(c) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(c) (last sentence); added Oct. 6, 1992, Pub. L. 102–388, §502(*l*), 106 Stat. 1567.
5311(i)	49 App.:1614(g) (related to this	July 9, 1964, Pub. L. 88–365, 78 Stat.

	section).	302, §18(g) (related to this section); added Nov. 6, 1978, Pub. L. 95–599, §313(a), 92 Stat. 2750; restated Dec. 18, 1991, Pub. L. 102–240, §3022, 105 Stat. 2111.
5311(j)	49 App.:1614(f).	

In subsection (a), the words "Eligible" and "and agencies thereof" are omitted as surplus.

In subsection (b)(1), the words "The Secretary of Transportation may make grants" are added for clarity and consistency in this chapter. The word "equitable" is omitted as being included in "fair".

In subsection (b)(2), the words "establish and" are omitted as executed. The word "direct" is omitted as surplus.

In subsection (c), the words "for expenditure in each fiscal year" are omitted as surplus. The words "so that" are substituted for "Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which" to eliminate unnecessary words. The words "will be entitled to" and "as designated by the Bureau of the Census" are omitted as surplus. The words "United States" are substituted for "all the States" for consistency in the revised title and with other titles of the Code. The words "available", "a period of", and "the close of" are omitted as surplus.

In subsection (d), the words "included in a program under subsection (b) of this section" are substituted for 49 App.:1614(b) (1st–17th words) and "which are appropriate for areas other than urbanized areas" to eliminate unnecessary words. The words "for assistance" are added for clarity.

In subsection (e)(1), the words "of funds under this section. Such technical assistance" and "(public and private)" are omitted as surplus.

In subsections (e)(2) and (g)(2), the word "grant" is substituted for "share" for consistency in this chapter.

In subsection (f), the text of 49 App.:1614(i)(3) is omitted as obsolete.

In subsection (f)(1), before clause (A), the words "Subject to paragraph (2)" are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (g)(2), the words "under this chapter", "as defined by the Secretary", "Any public or private", "solely", and "available in" are omitted as surplus.

Subsection (h) is substituted for 49 App.:1614(c) (last sentence) for clarity and consistency in this chapter and to eliminate unnecessary words.

In subsection (j)(1), the text of 49 App.:1614(f) (1st sentence) is omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words "in carrying out projects" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 204 of title 23, referred to in subsec. (g)(3)(E), was repealed and a new section 204 was enacted by Pub. L. 112–141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473, 489. As enacted by Pub. L. 112–141, section 204 relates to the Federal lands access program.

AMENDMENTS

2021—Subsec. (c). Pub. L. 117–58, §30006(1), added pars. (1) and (2), struck out former par. (1) which related to public transportation on Indian reservations, and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (j)(1)(A). Pub. L. 117–58, §30006(2), substituted "subsection (c)(2)(B)" for "subsection (c)(1)(B)" in introductory provisions.

2015—Subsec. (b)(3)(B). Pub. L. 114–94, §3007(b)(1), substituted "5338(a)(2)(F)" for "5338(a)(2)(E)".

Subsec. (c)(1). Pub. L. 114–94, §3007(b)(2)(A), substituted "5338(a)(2)(F)" for "5338(a)(2)(E)" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 114–94, §3007(a)(1), added subpar. (A) and struck out former subpar. (A), which read as follows: "$5,000,000 for each fiscal year ending before October 1, 2015, and $887,978 for the period beginning on October 1, 2015, and ending on December 4, 2015, shall be distributed on a competitive basis by the Secretary."

Pub. L. 114–87, §1201(1), substituted "and $887,978 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1201(1), substituted "and $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1201(1), substituted "for each fiscal year ending before October 1, 2015, and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "for each fiscal year ending before October 1, 2014, and $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1201(1), substituted "and $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (c)(1)(B). Pub. L. 114–94, §3007(a)(1), added subpar. (B) and struck out former subpar. (B), which read as follows: "$25,000,000 for each fiscal year ending before October 1, 2015, and $4,439,891 for the period beginning on October 1, 2015, and ending on December 4, 2015, shall be apportioned as formula grants, as provided in subsection (j)."

Pub. L. 114–87, §1201(2), substituted "and $4,439,891 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $3,483,607 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1201(2), substituted "and $3,483,607 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $1,980,874 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1201(2), substituted "for each fiscal year ending before October 1, 2015, and $1,980,874 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "for each fiscal year ending before October 1, 2014, and $20,821,918 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1201(2), substituted "and $20,821,918 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $16,643,836 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (c)(2)(C). Pub. L. 114–94, §3007(b)(2)(B), substituted "5338(a)(2)(F)" for "5338(a)(2)(E)".

Subsec. (c)(3)(A). Pub. L. 114–94, §3007(b)(2)(C), substituted "5338(a)(2)(F)" for "5338(a)(2)(E)".

Subsec. (g)(3). Pub. L. 114–94, §3007(a)(2), added subpars. (A) and (B), redesignated former subpars. (A) to (D) as (C) to (F), respectively, and in subpar. (F), inserted ", including all operating and capital costs of such service whether or not offset by revenue from such service," after "the costs of a private operator for the unsubsidized segment of intercity bus service".

Subsec. (j)(1)(A)(iii). Pub. L. 114–94, §3007(a)(3)(A), substituted "(American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands, as defined by the Bureau of the Census)" for "(as defined by the Bureau of the Census)".

Subsec. (j)(1)(E). Pub. L. 114–94, §3007(a)(3)(B), added subpar. (E).

2014—Subsec. (c)(1)(A). Pub. L. 113–159, §1201(1), inserted "for each fiscal year ending before October 1, 2014, and $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015," before "shall be distributed".

Subsec. (c)(1)(B). Pub. L. 113–159, §1201(2), inserted "for each fiscal year ending before October 1, 2014, and $16,643,836 for the period beginning on October 1, 2014, and ending on May 31, 2015," before "shall be apportioned".

2012—Pub. L. 112–141, §20010, amended section generally. Prior to amendment, section related to formula grants for other than urbanized areas.

Subsec. (c)(1)(G). Pub. L. 112–141, §113004, amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "$11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012."

Pub. L. 112–140, §§1(c), 304, temporarily amended subpar. (G) generally, apportioning $11,400,000 for the period beginning on October 1, 2011, and ending on July 6, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102 amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "$7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012."

2011—Subsec. (c)(1)(F). Pub. L. 112–5 amended subpar. (F) generally. Prior to amendment, text read as follows: "$6,369,000 for the period beginning October 1, 2010 and ending March 4, 2011."

Subsec. (c)(1)(G). Pub. L. 112–30 added subpar. (G).

2010—Subsec. (c)(1)(E). Pub. L. 111–147 added subpar. (E).

Subsec. (c)(1)(F). Pub. L. 111–322 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "$3,750,000 for the period beginning October 1, 2010, and ending December 31, 2010."

Pub. L. 111–147 added subpar. (F).

2008—Subsec. (g)(1)(A). Pub. L. 110–244, §201(e)(1), (2), substituted "for a capital project or project administrative expenses" for "for any purpose other than operating assistance" and struck out "capital" after "net".

Subsec. (g)(1)(B). Pub. L. 110–244, §201(e)(2), struck out "capital" after "net".

Subsec. (i)(1). Pub. L. 110–244, §201(e)(3), substituted "Section 5333(b) applies" for "Sections 5323(a)(1)(D) and 5333(b) of this title apply".

2005—Subsec. (a). Pub. L. 109–59, §3013(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "In this section, 'recipient' includes a State authority, a local governmental authority, a nonprofit organization, and an operator of mass transportation service."

Subsec. (b). Pub. L. 109–59, §3013(b), reenacted heading without change and amended text of subsec. (b) generally. Prior to amendment, text read as follows:

"(1) The Secretary of Transportation may make grants for transportation projects that are included in a State program of mass transportation service projects (including service agreements with private providers of mass transportation service) for areas other than urbanized areas. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of mass transportation service assisted under this section with transportation service assisted by other United States Government sources.

"(2) The Secretary of Transportation shall carry out a rural transportation assistance program in nonurbanized areas. In carrying out this paragraph, the Secretary may make grants and contracts for transportation research, technical assistance, training, and related support services in nonurbanized areas."

Subsec. (c). Pub. L. 109–59, §3013(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: "The Secretary of Transportation shall apportion amounts made available under section 5338(a) of this title so that the chief executive officer of each State receives an amount equal to the total amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent of the following: the latest Government census, the population estimate the Secretary of Commerce prepares after the 4th year after the date the latest census is published, or the population estimate the Secretary of Commerce prepares after the 8th year after the date the latest census is published. The amount may be obligated by the chief executive officer for 2 years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year."

Subsec. (e). Pub. L. 109–59, §3013(d), inserted ", Planning," after "Administration" in heading and in text struck out "(1)" before "The Secretary", substituted "subrecipient" for "recipient", and struck out par. (2) which read as follows: "Except as provided in this section, a State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses."

Subsec. (e)(1). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in two places.

Subsec. (f)(1). Pub. L. 109–59, §3013(e)(1), inserted heading, struck out "after September 30, 1993," after "in each fiscal year" in introductory provisions and realigned margins of subpars. (A) to (D).

Subsec. (f)(1)(E). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (f)(2). Pub. L. 109–59, §3013(e)(2), inserted heading and substituted "Secretary, after consultation with affected intercity bus service providers," for "Secretary of Transportation".

Subsec. (g). Pub. L. 109–59, §3013(f), substituted "Government" for "Government's" in heading and amended text generally. Prior to amendment, text read as follows:

"(1) In this subsection, 'amounts of the Government or revenues' do not include amounts received under a service agreement with a State or local social service agency or a private social service organization.

"(2) A grant of the Government for a capital project under this section may not be more than 80 percent of the net cost of the project, as determined by the Secretary of Transportation. A grant to pay a subsidy for operating expenses may not be more than 50 percent of the net cost of the operating expense project. At least 50 percent of the remainder shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation. Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital."

Subsec. (h). Pub. L. 109–59, §3013(g), redesignated subsec. (i) as (h) and struck out heading and text of former subsec. (h). Text read as follows: "An amount made available under this section may be used for

operating assistance."

Subsec. (i). Pub. L. 109–59, §3013(g)(2), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Subsec. (i)(1). Pub. L. 109–59, §3013(h), which directed amendment of subsec. (j)(1) by substituting "if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees" for "but the Secretary of Labor may waive the application of section 5333(b)", was executed by making the substitution in subsec. (i)(1) to reflect the probable intent of Congress and the redesignation of subsec. (j) as (i) by Pub. L. 109–59, §3013(g)(2). See above.

Subsec. (j). Pub. L. 109–59, §3013(g)(2), redesignated subsec. (j) as (i).

1998—Pub. L. 105–178, §3014(a)(1), substituted "Formula grants" for "Financial assistance" in section catchline.

Subsec. (f)(1). Pub. L. 105–178, §3014(a)(2), struck out "10 percent of the amount made available in the fiscal year ending September 30, 1993, and" before "15 percent of the amount" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 20010 of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out a note under section 101 of Title 23, Highways.

Amendment by section 113004 of Pub. L. 112–141 effective July 1, 2012, see section 114001 of Pub. L. 112–141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a note under section 101 of Title 23, Highways.

[1] *See References in Text note below.*

§5312. Public transportation innovation

(a) IN GENERAL.—The Secretary shall provide assistance for projects and activities to advance innovative public transportation research and development in accordance with the requirements of this section.

(b) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

(A) departments, agencies, and instrumentalities of the Government, including Federal laboratories;

(B) State and local governmental entities;

(C) providers of public transportation;

(D) private or non-profit organizations;

(E) institutions of higher education; and

(F) technical and community colleges.

(3) APPLICATION.—

(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the

Secretary.

(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

(i) a statement of purpose detailing the need being addressed;

(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

(4) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF ADVANCED DIGITAL CONSTRUCTION MANAGEMENT SYSTEMS.—

(A) IN GENERAL.—The Secretary shall establish and implement a program under this subsection to promote, implement, deploy, demonstrate, showcase, support, and document the application of advanced digital construction management systems, practices, performance, and benefits.

(B) GOALS.—The goals of the accelerated implementation and deployment of advanced digital construction management systems program established under subparagraph (A) shall include—

(i) accelerated adoption of advanced digital systems applied throughout the lifecycle of transportation infrastructure (including through the planning, design and engineering, construction, operations, and maintenance phases) that—

(I) maximize interoperability with other systems, products, tools, or applications;

(II) boost productivity;

(III) manage complexity;

(IV) reduce project delays and cost overruns;

(V) enhance safety and quality; and

(VI) reduce total costs for the entire lifecycle of transportation infrastructure assets;

(ii) more timely and productive information-sharing among stakeholders through reduced reliance on paper to manage construction processes and deliverables such as blueprints, design drawings, procurement and supply-chain orders, equipment logs, daily progress reports, and punch lists;

(iii) deployment of digital management systems that enable and leverage the use of digital technologies on construction sites by contractors, such as state-of-the-art automated and connected machinery and optimized routing software that allows construction workers to perform tasks faster, safer, more accurately, and with minimal supervision;

(iv) the development and deployment of best practices for use in digital construction management;

(v) increased technology adoption and deployment by States, local governmental authorities, and designated recipients that enables project sponsors—

(I) to integrate the adoption of digital management systems and technologies in contracts; and

(II) to weigh the cost of digitization and technology in setting project budgets;

(vi) technology training and workforce development to build the capabilities of project managers and sponsors that enables States, local governmental authorities, or designated recipients—

(I) to better manage projects using advanced construction management technologies; and

(II) to properly measure and reward technology adoption across projects;

(vii) development of guidance to assist States, local governmental authorities, and designated recipients in updating regulations to allow project sponsors and contractors—

(I) to report data relating to the project in digital formats; and
(II) to fully capture the efficiencies and benefits of advanced digital construction management systems and related technologies;

(viii) reduction in the environmental footprint of construction projects using advanced digital construction management systems resulting from elimination of congestion through more efficient projects; and
(ix) enhanced worker and pedestrian safety resulting from increased transparency.

(C) PUBLICATION.—The reporting requirements for the accelerated implementation and deployment of advanced digital construction management systems program established under section 503(c)(5) of title 23 shall include data and analysis collected under this section.

(c) RESEARCH.—
(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (b)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.
(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—
(A) providing more effective and efficient public transportation service, including services to—
(i) seniors;
(ii) individuals with disabilities; and
(iii) low-income individuals;

(B) mobility management and improvements and travel management systems;
(C) data and communication system advancements;
(D) system capacity, including—
(i) train control;
(ii) capacity improvements; and
(iii) performance management;

(E) capital and operating efficiencies;
(F) planning and forecasting modeling and simulation;
(G) advanced vehicle design;
(H) advancements in vehicle technology;
(I) asset maintenance and repair systems advancement;
(J) construction and project management;
(K) alternative fuels;
(L) the environment and energy efficiency;
(M) safety improvements; or
(N) any other area that the Secretary determines is important to advance the interests of public transportation.

(d) INNOVATION AND DEVELOPMENT.—
(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (b)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.
(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project

that receives assistance under paragraph (1) shall focus on—

(A) the development of public transportation research projects that received assistance under subsection (c) that the Secretary determines were successful;

(B) planning and forecasting modeling and simulation;

(C) capital and operating efficiencies;

(D) advanced vehicle design;

(E) advancements in vehicle technology;

(F) the environment and energy efficiency;

(G) system capacity, including train control and capacity improvements; or

(H) any other area that the Secretary determines is important to advance the interests of public transportation.

(e) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

(2) PARTICIPANTS.—An entity described in this paragraph is—

(A) an entity described in subsection (b)(2); or

(B) a consortium of entities described in subsection (b)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

(3) PROJECT ELIGIBILITY.—A demonstration, deployment, or evaluation project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

(A) the deployment of research and technology development resulting from private efforts or Federally funded efforts;

(B) the implementation of research and technology development to advance the interests of public transportation; or

(C) the deployment of low or no emission vehicles, zero emission vehicles, or associated advanced technology.

(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

(5) PROHIBITION.—The Secretary may not make grants under this subsection for the demonstration, deployment, or evaluation of a vehicle that is in revenue service unless the Secretary determines that the project makes significant technological advancements in the vehicle.

(6) DEFINITIONS.—In this subsection—

(A) the term "direct carbon emissions" means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency;

(B) the term "low or no emission vehicle" means—

(i) a passenger vehicle used to provide public transportation that the Secretary determines sufficiently reduces energy consumption or harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

(ii) a zero emission vehicle used to provide public transportation; and

(C) the term "zero emission vehicle" means a low or no emission vehicle that produces no carbon or particulate matter.

(f) ANNUAL REPORT ON RESEARCH.—

(1) IN GENERAL.—Not later than the first Monday in February of each year, the Secretary shall make available to the public on the Web site of the Department of Transportation, a report that includes—

(A) a description of each project that received assistance under this section during the preceding fiscal year;

(B) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (e)(4) for the preceding fiscal year; and

(C) a strategic research roadmap proposal for allocations of amounts for assistance under this section for the current and subsequent fiscal year, including anticipated work areas, proposed demonstrations and strategic partnership opportunities;

(2) UPDATES.—Not less than every 3 months, the Secretary shall update on the Web site of the Department of Transportation the information described in paragraph (1)(C) to reflect any changes to the Secretary's plans to make assistance available under this section.

(3) LONG-TERM RESEARCH PLANS.—The Secretary is encouraged to develop long-term research plans and shall identify in the annual report under paragraph (1) and in updates under paragraph (2) allocations of amounts for assistance and notices of funding opportunities to execute long-term strategic research roadmap plans.

(g) GOVERNMENT SHARE OF COSTS.—

(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.

(h) LOW OR NO EMISSION VEHICLE COMPONENT ASSESSMENT.—

(1) DEFINITIONS.—In this subsection—

(A) the term "covered institution of higher education" means an institution of higher education with which the Secretary enters into a contract or cooperative agreement, or to which the Secretary makes a grant, under paragraph (2)(B) to operate a facility selected under paragraph (2)(A);

(B) the terms "direct carbon emissions" and "low or no emission vehicle" have the meanings given those terms in subsection (e)(6);

(C) the term "institution of higher education" has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

(D) the term "low or no emission vehicle component" means an item that is separately installed in and removable from a low or no emission vehicle.

(2) ASSESSING LOW OR NO EMISSION VEHICLE COMPONENTS.—

(A) IN GENERAL.—The Secretary shall competitively select at least 1 facility—

(i) to conduct testing, evaluation, and analysis of low or no emission vehicle components intended for use in low or no emission vehicles; and

(ii) to conduct directed technology research.

(B) TESTING, EVALUATION, AND ANALYSIS.—

(i) IN GENERAL.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, at least 1 institution of higher education to operate and maintain a

facility to conduct testing, evaluation, and analysis of low or no emission vehicle components, and new and emerging technology components, intended for use in low or no emission vehicles.

(ii) REQUIREMENTS.—An institution of higher education described in clause (i) shall have—

(I) capacity to carry out transportation-related advanced component and vehicle evaluation;

(II) laboratories capable of testing and evaluation; and

(III) direct access to or a partnership with a testing facility capable of emulating real-world circumstances in order to test low or no emission vehicle components installed on the intended vehicle.

(C) FEES.—A covered institution of higher education shall establish and collect fees, which shall be approved by the Secretary, for the assessment of low or no emission vehicle components at the applicable facility selected under subparagraph (A).

(D) AVAILABILITY OF AMOUNTS TO PAY FOR ASSESSMENT.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to an institution of higher education under which—

(i) the Secretary shall pay 50 percent of the cost of assessing a low or no emission vehicle component at the applicable facility selected under subparagraph (A) from amounts made available to carry out this section; and

(ii) the remaining 50 percent of such cost shall be paid from amounts recovered through the fees established and collected pursuant to subparagraph (C).

(E) VOLUNTARY TESTING.—A manufacturer of a low or no emission vehicle component is not required to assess the low or no emission vehicle component at a facility selected under subparagraph (A).

(F) COMPLIANCE WITH SECTION 5318.—Notwithstanding whether a low or no emission vehicle component is assessed at a facility selected under subparagraph (A), each new bus model shall comply with the requirements under section 5318.

(G) SEPARATE FACILITY.—A facility selected under subparagraph (A) shall be separate and distinct from the facility operated and maintained under section 5318.

(H) CAPITAL EQUIPMENT AND DIRECTED RESEARCH.—A facility operated and maintained under subparagraph (A) may use funds made available under this subsection for—

(i) acquisition of equipment and capital projects related to testing low or no emission vehicle components; or

(ii) research related to advanced vehicle technologies that provides advancements to the entire public transportation industry.

(I) COST SHARE.—The cost share for activities described in subparagraph (H) shall be subject to the terms in subsection (g).

(3) LOW OR NO EMISSION VEHICLE COMPONENT PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2015, and annually thereafter, the Secretary shall issue a report on low or no emission vehicle component assessments conducted at each facility selected under paragraph (2)(A), which shall include information related to the maintainability, reliability, performance, structural integrity, efficiency, and noise of those low or no emission vehicle components, as applicable.

(4) PUBLIC AVAILABILITY OF ASSESSMENTS.—Each assessment conducted at a facility selected under paragraph (2)(A) shall be made publicly available, including to affected industries.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require—

(A) a low or no emission vehicle component to be tested at a facility selected under paragraph (2)(A); or

(B) the development or disclosure of a privately funded component assessment.

(i) TRANSIT COOPERATIVE RESEARCH PROGRAM.—

(1) IN GENERAL.—The amounts made available under section 5338(a)(2)(G)(ii) are available for a public transportation cooperative research program.

(2) INDEPENDENT GOVERNING BOARD.—

(A) ESTABLISHMENT.—The Secretary shall establish an independent governing board for the program under this subsection.

(B) RECOMMENDATIONS.—The board shall recommend public transportation research, development, and technology transfer activities the Secretary considers appropriate.

(3) FEDERAL ASSISTANCE.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary considers appropriate.

(4) GOVERNMENT SHARE OF COSTS.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this subsection, the Secretary shall establish a Government share consistent with that benefit.

(5) LIMITATION ON APPLICABILITY.—Subsections (f) and (g) shall not apply to activities carried out under this subsection.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 811; Pub. L. 105–178, title III, §3015(a), June 9, 1998, 112 Stat. 359; Pub. L. 109–59, title III, §§3002(b)(4), 3014(a)–(e)(1), Aug. 10, 2005, 119 Stat. 1545, 1596, 1597; Pub. L. 110–244, title II, §201(f), June 6, 2008, 122 Stat. 1610; Pub. L. 112–141, div. B, §20011, July 6, 2012, 126 Stat. 686; Pub. L. 114–94, div. A, title III, §3008(a), (b), Dec. 4, 2015, 129 Stat. 1465, 1468; Pub. L. 117–58, div. C, §30007(a), (c), Nov. 15, 2021, 135 Stat. 900, 902.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5312(a)	49 App.:1605(a).	July 9, 1964, Pub. L. 88–365, §6(a), 78 Stat. 305; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §13(b), 84 Stat. 969.
	49 App.:1605(d).	July 9, 1964, Pub. L. 88–365, §6(d), 78 Stat. 305; Sept. 8, 1966, Pub. L. 89–562, §3, 80 Stat. 717; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5312(b)(1)	49 App.:1607c(a) (1st, 2d sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(a); added Sept. 8, 1966, Pub. L. 89–562, §2(a)(2), 80 Stat. 716.
5312(b)(2)	49 App.:1607c(a) (3d sentence).	
5312(b)(3)	49 App.:1607c(a) (last sentence).	
5312(c)(1)	49 App.:1607b (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §10; added Sept. 8, 1966, Pub. L. 89–562, §2(a)(2), 80 Stat. 716; restated Nov. 6, 1978, Pub. L. 95–599, §306, 92 Stat. 2744.
5312(c)(2)	49 App.:1603(c) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(c) (1st sentence); added

		Nov. 6, 1978, Pub. L. 95–599, §303(e), 92 Stat. 2739; Apr. 2, 1987, Pub. L. 100–17, §320, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102–240, §3006(h)(1), 105 Stat. 2090.
5312(c)(3)	49 App.:1607b (2d–last sentences).	

In subsections (a) and (b)(1), the words "(or the Secretary of Housing and Urban Development when required by section 5334(i) of this title)" are added for clarity.

In subsection (a), the word "working" is omitted as surplus. The words "departments, agencies, and instrumentalities of the United States Government" are substituted for "other Federal departments and agencies" for consistency in the revised title and with other titles of the United States Code. The words "all phases of", "(including the development, testing, and demonstration of new facilities, equipment, techniques, and methods)", "In carrying out the provisions of this section", "or data as he deems", "public or private", and "contained . . . section 1701d–3 of title 12 or . . . other provision of" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "public and private", "assist in establishing or carrying on comprehensive research in the problems of transportation in urban areas. Such grants shall be used to", and "and qualified" are omitted as surplus. In clause (A), the words "or both" are omitted as surplus.

In subsection (b)(3), the word "appropriate" is added for clarity.

In subsection (c)(1), the words "and agencies thereof" are omitted as surplus.

In subsection (c)(3), before clause (A), the words "public or private training" and "the sum of" are omitted as surplus. In clause (B), the words "in connection with the fellowship" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2015, referred to in subsec. (h)(3), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2021—Subsec. (b)(4). Pub. L. 117–58, §30007(c), added par. (4).

Subsecs. (f), (g). Pub. L. 117–58, §30007(a)(1), added subsec. (f) and struck out subsec. (g) relating to annual reports on research.

Subsec. (g)(1). Pub. L. 117–58, §30007(a)(2), substituted ", except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share." for period at end.

Subsec. (h)(2)(A). Pub. L. 117–58, §30007(a)(3)(A)(i), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "The Secretary shall competitively select at least one facility to conduct testing, evaluation, and analysis of low or no emission vehicle components intended for use in low or no emission vehicles."

Subsec. (h)(2)(B). Pub. L. 117–58, §30007(a)(3)(A)(ii), added subpar. (B) and struck out former subpar. (B), which related to operation and maintenance of facilities to conduct testing, evaluation, and analysis of low or no emission vehicle components.

Subsec. (h)(2)(H), (I). Pub. L. 117–58, §30007(a)(3)(A)(iii), added subpars. (H) and (I).

Subsec. (h)(3). Pub. L. 117–58, §30007(a)(3)(B), inserted ", as applicable" before period at end.

2015—Pub. L. 114–94, §3008(a)(1), substituted "Public transportation innovation" for "Research, development, demonstration, and deployment projects" in section catchline.

Subsecs. (a), (b). Pub. L. 114–94, §3008(a)(2), (3), added subsec. (a) and redesignated former subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 114–94, §3008(a)(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 114–94, §3008(b)(1), substituted "subsection (b)(2)" for "subsection (a)(2)".

Subsec. (d). Pub. L. 114–94, §3008(a)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 114–94, §3008(b)(2)(A), substituted "subsection (b)(2)" for "subsection (a)(2)".

Subsec. (d)(2)(A). Pub. L. 114–94, §3008(b)(2)(B), substituted "subsection (c)" for "subsection (b)".

Subsec. (e). Pub. L. 114–94, §3008(a)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated

(f).

Subsec. (e)(2). Pub. L. 114–94, §3008(b)(3), substituted "subsection (b)(2)" for "subsection (a)(2)" in subpars. (A) and (B).

Subsec. (e)(3). Pub. L. 114–94, §3008(a)(4)(A)(i), inserted "demonstration, deployment, or evaluation" before "project that" in introductory provisions.

Subsec. (e)(3)(C). Pub. L. 114–94, §3008(a)(4)(A)(ii)–(iv), added subpar. (C).

Subsec. (e)(5), (6). Pub. L. 114–94, §3008(a)(4)(B), added pars. (5) and (6) and struck out former par. (5), which related to low or no emission vehicle deployment.

Subsec. (f). Pub. L. 114–94, §3008(a)(6)(A), redesignated subsec. (f) relating to annual report on research as (g).

Pub. L. 114–94, §3008(a)(2), redesignated subsec. (e) relating to annual report on research as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 114–94, §3008(a)(6)(A), redesignated subsec. (f) relating to annual report on research as (g), inserted heading and introductory provisions, and struck out former heading and introductory provisions. Prior to amendment, text read as follows: "Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—".

Pub. L. 114–94, §3008(a)(2), redesignated subsec. (f) relating to government share of costs as (g).

Subsec. (g)(1). Pub. L. 114–94, §3008(a)(6)(B), struck out "and" at end.

Subsec. (g)(2). Pub. L. 114–94, §3008(b)(4), which directed substitution of "subsection (e)(4)" for "subsection (d)(4)" in subsec. (f)(2), was executed to par. (2) of subsec. (g) relating to annual report on research, to reflect the probable intent of Congress.

Pub. L. 114–94, §3008(a)(6)(C), substituted a period for "; and".

Subsec. (g)(3). Pub. L. 114–94, §3008(a)(6)(D), struck out par. (3) which read as follows: "a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year."

Subsec. (h). Pub. L. 114–94, §3008(a)(5), added subsec. (h).

Subsec. (i). Pub. L. 114–94, §3008(a)(7), added subsec. (i).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to research, development, demonstration, and deployment projects and consisted of subsecs. (a) to (c).

2008—Subsec. (c). Pub. L. 110–244 substituted "Public Transportation" for "Mass Transportation" in heading.

2005—Pub. L. 109–59, §3014(e)(1), substituted "deployment" for "training" in section catchline.

Subsec. (a). Pub. L. 109–59, §3014(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the United States Government) for, research, development, and demonstration projects related to urban mass transportation that the Secretary decides will help reduce urban transportation needs, improve mass transportation service, or help mass transportation service meet the total urban transportation needs at a minimum cost. The Secretary may request and receive appropriate information from any source. This subsection does not limit the authority of the Secretary under another law."

Subsec. (b). Pub. L. 109–59, §3014(b), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to grants to nonprofit institutions of higher learning for research, investigations, and training.

Subsec. (c). Pub. L. 109–59, §3014(b), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to grants to States, local governmental authorities, and operators of mass transportation systems for training fellowships and grants to State and local governmental authorities for projects that would use innovative techniques and methods in managing and providing mass transportation.

Subsec. (c)(2). Pub. L. 109–59, §3014(c), substituted "public or private" for "public and private".

Subsec. (c)(3). Pub. L. 109–59, §3014(d), struck out "shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and" after "Such revenues".

Subsec. (d). Pub. L. 109–59, §3014(b), redesignated subsec. (d) as (b).

Subsec. (d)(1)(A), (2). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

Subsec. (e). Pub. L. 109–59, §3014(b), redesignated subsec. (e) as (c).

Subsec. (e)(1). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

1998—Subsecs. (d), (e). Pub. L. 105–178 added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

LOW OR NO EMISSION VEHICLE COMPONENT ASSESSMENT

Pub. L. 117–58, div. C, §30007(b), Nov. 15, 2021, 135 Stat. 902, provided that:

"(1) IN GENERAL.—Institutions of higher education selected to operate and maintain a facility to conduct testing, evaluation, and analysis of low or no emission vehicle components pursuant to section 5312(h) of title 49, United States Code, shall not carry out testing for a new bus model under section 5318 of that title.

"(2) USE OF FUNDS.—Funds made available to institutions of higher education described in paragraph (1) for testing under section 5318 of title 49, United States Code, may be used for eligible activities under section 5312(h) of that title."

[§5313. Repealed. Pub. L. 114–94, div. A, title III, §3030(b), Dec. 4, 2015, 129 Stat. 1496]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 812; Pub. L. 105–178, title III, §3029(b)(4), (5), June 9, 1998, 112 Stat. 372; Pub. L. 109–59, title III, §§3002(b)(4), 3015(a), (b)(1), Aug. 10, 2005, 119 Stat. 1545, 1597; Pub. L. 112–141, div. B, §20030(b), July 6, 2012, 126 Stat. 730, related to transit cooperative research program.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§5314. Technical assistance and workforce development

(a) TECHNICAL ASSISTANCE AND STANDARDS.—

(1) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

(A) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

(i) more effectively and efficiently provide public transportation service;

(ii) administer funds received under this chapter in compliance with Federal law; and

(iii) improve public transportation.

(B) ELIGIBLE ACTIVITIES.—The activities carried out under subparagraph (A) may include—

(i) technical assistance; and

(ii) the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for safety, fare

collection, intelligent transportation systems, accessibility, procurement, security, asset management to maintain a state of good repair, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

(2) TECHNICAL ASSISTANCE.—The Secretary, through a competitive bid process, may enter into contracts, cooperative agreements, and other agreements with national nonprofit organizations that have the appropriate demonstrated capacity to provide public-transportation-related technical assistance under this subsection. The Secretary may enter into such contracts, cooperative agreements, and other agreements to assist providers of public transportation to—

(A) comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act;

(B) comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through technical assistance, training, and support services related to complying with such requirements;

(C) meet the transportation needs of elderly individuals;

(D) increase transit ridership in coordination with metropolitan planning organizations and other entities through development around public transportation stations through technical assistance and the development of tools, guidance, and analysis related to market-based development around transit stations;

(E) address transportation equity with regard to the effect that transportation planning, investment, and operations have for low-income and minority individuals;

(F) facilitate best practices to promote bus driver safety;

(G) meet the requirements of sections 5323(j) and 5323(m);

(H) assist with the development and deployment of low or no emission vehicles (as defined in section 5339(c)(1)) or low or no emission vehicle components (as defined in section 5312(h)(1)); and

(I) any other technical assistance activity that the Secretary determines is necessary to advance the interests of public transportation.

(3) ANNUAL REPORT ON TECHNICAL ASSISTANCE.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report that includes—

(A) a description of each project that received assistance under this subsection during the preceding fiscal year;

(B) an evaluation of the activities carried out by each organization that received assistance under this subsection during the preceding fiscal year;

(C) a proposal for allocations of amounts for assistance under this subsection for the subsequent fiscal year; and

(D) measurable outcomes and impacts of the programs funded under subsections (b) and (c).

(4) GOVERNMENT SHARE OF COSTS.—

(A) IN GENERAL.—The Government share of the cost of an activity carried out using a grant under this subsection may not exceed 80 percent.

(B) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity carried out using a grant under this subsection may be derived from in-kind contributions.

(b) HUMAN RESOURCES AND TRAINING.—

(1) IN GENERAL.—The Secretary may undertake, or make grants and contracts for, programs

that address human resource needs as they apply to public transportation activities. A program may include—

(A) an employment training program;

(B) an outreach program to increase employment for veterans, females, individuals with a disability, minorities (including American Indians or Alaska Natives, Asian, Black or African Americans, native Hawaiians or other Pacific Islanders, and Hispanics) in public transportation activities;

(C) research on public transportation personnel and training needs;

(D) training and assistance for veteran and minority business opportunities; and

(E) consensus-based national training standards and certifications in partnership with industry stakeholders.

(2) INNOVATIVE PUBLIC TRANSPORTATION FRONTLINE WORKFORCE DEVELOPMENT PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under paragraph (1).

(B) ELIGIBLE PROGRAMS.—A program eligible for assistance under paragraph (1) shall—

(i) develop apprenticeships, on-the-job training, and instructional training for public transportation maintenance and operations occupations;

(ii) build local, regional, and statewide public transportation training partnerships with local public transportation operators, labor union organizations, workforce development boards, and State workforce agencies to identify and address workforce skill gaps;

(iii) improve safety, security, and emergency preparedness in local public transportation systems through improved safety culture and workforce communication with first responders and the riding public; and

(iv) address current or projected workforce shortages by developing partnerships with high schools, community colleges, and other community organizations.

(C) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

(i) are geographically diverse;

(ii) address the workforce and human resources needs of large public transportation providers;

(iii) address the workforce and human resources needs of small public transportation providers;

(iv) address the workforce and human resources needs of urban public transportation providers;

(v) address the workforce and human resources needs of rural public transportation providers;

(vi) advance training related to maintenance of low or no emission vehicles and facilities used in public transportation;

(vii) target areas with high rates of unemployment;

(viii) advance opportunities for minorities, women, veterans, individuals with disabilities, low-income populations, and other underserved populations; and

(ix) address in-demand industry sector or occupation, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(D) PROGRAM OUTCOMES.—A recipient of assistance under this subsection shall demonstrate outcomes for any program that includes skills training, on-the-job training, and work-based learning, including—

(i) the impact on reducing public transportation workforce shortages in the area served;

(ii) the diversity of training participants;

(iii) the number of participants obtaining certifications or credentials required for specific types of employment;

(iv) employment outcomes, including job placement, job retention, and wages, using performance metrics established in consultation with the Secretary and the Secretary of Labor and consistent with metrics used by programs under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.); and

(v) to the extent practical, evidence that the program did not preclude workers who are participating in skills training, on-the-job training, and work-based learning from being referred to, or hired on, projects funded under this chapter without regard to the length of time of their participation in the program.

(E) REPORT TO CONGRESS.—The Secretary shall make publicly available a report on the Frontline Workforce Development Program for each fiscal year, not later than December 31 of the calendar year in which that fiscal year ends. The report shall include a detailed description of activities carried out under this paragraph, an evaluation of the program, and policy recommendations to improve program effectiveness.

(3) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under paragraph (1) or (2) shall be 50 percent.

(4) AVAILABILITY OF AMOUNTS.—Not more than 0.5 percent of amounts made available to a recipient under sections 5307, 5337, and 5339 is available for expenditures by the recipient, with the approval of the Secretary, to pay not more than 80 percent of the cost of eligible activities under this subsection.

(c) NATIONAL TRANSIT INSTITUTE.—

(1) ESTABLISHMENT.—The Secretary shall establish a national transit institute and award grants to a public 4-year degree-granting institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), in order to carry out the duties of the institute.

(2) DUTIES.—

(A) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under paragraph (1) shall develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

(B) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under subparagraph (A) may include courses in recent developments, techniques, and procedures related to—

(i) intermodal and public transportation planning;

(ii) management;

(iii) environmental factors;

(iv) acquisition and joint use rights-of-way;

(v) engineering and architectural design;

(vi) procurement strategies for public transportation systems;

(vii) turnkey approaches to delivering public transportation systems;

(viii) new technologies;

(ix) emission reduction technologies;

(x) ways to make public transportation accessible to individuals with disabilities;

(xi) construction, construction management, insurance, and risk management;

(xii) maintenance;

(xiii) contract administration;

(xiv) inspection;

(xv) innovative finance;
(xvi) workplace safety; and
(xvii) public transportation security.

(3) PROVISION FOR EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this subsection shall be provided—

(A) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

(B) when the education and training are paid under paragraph (4), by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

(4) AVAILABILITY OF AMOUNTS.—

(A) IN GENERAL.—Not more than 0.5 percent of amounts made available to a recipient under sections 5307, 5337, and 5339 is available for expenditures by the recipient, with the approval of the Secretary, to pay not more than 80 percent of the cost of eligible activities under this subsection.

(B) EXISTING PROGRAMS.—A recipient may use amounts made available under subparagraph (A) to carry out existing local education and training programs for public transportation employees supported by the Secretary, the Department of Labor, or the Department of Education.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 812; Pub. L. 105–178, title III, §§3016, 3029(b)(6), June 9, 1998, 112 Stat. 361, 372; Pub. L. 109–59, title III, §§3002(b)(4), 3016(a), (b), Aug. 10, 2005, 119 Stat. 1545, 1598, 1599; Pub. L. 110–244, title II, §201(g), June 6, 2008, 122 Stat. 1610; Pub. L. 112–141, div. B, §20012, July 6, 2012, 126 Stat. 690; Pub. L. 114–94, div. A, title III, §3009(a), Dec. 4, 2015, 129 Stat. 1469.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5314(a)	49 App.:1622(b) (1)–(7).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §26(b)(1)–(8) (related to this subsection); added Dec. 18, 1991, Pub. L. 102–240, §3030, 105 Stat. 2118.
5314(b)	49 App.:1622(b)(8) (related to this subsection).	

In subsection (a)(2), the word "subsection" in the source provision is translated as if it were "paragraph" to reflect the apparent intent of Congress.

In subsection (a)(3), the words "conditions, requirements, and provisions" are omitted as being included in "terms".

In subsection (a)(4)(C), the word "section" in the source provision is translated as if it were "paragraph" to reflect the apparent intent of Congress.

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(2)(A), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(2)(D)(iv), is Pub. L. 113–128,

July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

AMENDMENTS

2015—Pub. L. 114–94 amended section generally, substituting provisions relating to technical assistance and workforce development for provisions relating to technical assistance and standards development.

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to national research programs.

2008—Subsec. (a)(3). Pub. L. 110–244, which directed substitution of "section 5333(b)" for "section 5323(a)(1)(D)" in subsec. (a)(3) of section 5314, without specifying the Code title to be amended, was executed by making the substitution in subsec. (a)(3) of this section, to reflect the probable intent of Congress.

2005—Pub. L. 109–59, §3016(a)(1), struck out "planning and" before "research" in section catchline.

Subsec. (a)(1). Pub. L. 109–59, §3016(a)(2), substituted "section 5338(d)" for "subsections (d) and (h)(7) of section 5338 of this title" and ", contracts, cooperative agreements, or other agreements" for "and contracts" and struck out "5303–5306," before "5312," and "5317," before "and 5322".

Subsec. (a)(2). Pub. L. 109–59, §3016(a)(3), substituted "The Secretary shall" for "Of the amounts made available under paragraph (1) of this subsection, the Secretary shall make available at least $3,000,000 to".

Pub. L. 109–59, §3002(b)(4), substituted "public transportation-related" for "mass transportation-related" and "public transportation" for "mass transportation".

Subsec. (a)(4)(A). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (a)(4)(B), (C). Pub. L. 109–59, §3016(a)(4), (5), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "The Secretary shall establish an Industry Technical Panel composed of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in identifying priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution."

Subsec. (a)(6). Pub. L. 109–59, §3016(a)(6), added par. (6).

Subsec. (b). Pub. L. 109–59, §3016(a)(7), substituted ", contract, cooperative agreement, or other agreement under subsection (a) or section 5312," for "or contract financed under subsection (a) of this section,".

Subsec. (c). Pub. L. 109–59, §3016(b), added subsec. (c).

1998—Subsec. (a)(1). Pub. L. 105–178, §3029(b)(6), substituted "subsections (d) and (h)(7) of section 5338" for "section 5338(g)(4)".

Subsec. (a)(2). Pub. L. 105–178, §3016, substituted "$3,000,000" for "$2,000,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5315. Private sector participation

(a) GENERAL PURPOSES.—In the interest of fulfilling the general purposes of this chapter under section 5301(b), the Secretary shall—

(1) better coordinate public and private sector-provided public transportation services;

(2) promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects; and

(3) promote transparency and public understanding of public-private partnerships affecting public transportation.

(b) ACTIONS TO PROMOTE BETTER COORDINATION BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF PUBLIC TRANSPORTATION.—The Secretary shall—

(1) provide technical assistance to recipients of Federal transit grant assistance, at the request of a recipient, on practices and methods to best utilize private providers of public transportation; and

(2) educate recipients of Federal transit grant assistance on laws and regulations under this chapter that impact private providers of public transportation.

(c) ACTIONS TO PROVIDE TECHNICAL ASSISTANCE FOR ALTERNATIVE PROJECT DELIVERY METHODS.—Upon request by a sponsor of a new fixed guideway capital project, the Secretary shall—

(1) identify best practices for public-private partnerships models in the United States and in other countries;

(2) develop standard public-private partnership transaction model contracts; and

(3) perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter—

(1) the eligibilities, requirements, or priorities for assistance provided under this chapter; or

(2) the requirements of section 5306(a).

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 813; Pub. L. 104–287, §5(13), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §3017(a), June 9, 1998, 112 Stat. 361; Pub. L. 105–206, title IX, §9009(l), July 22, 1998, 112 Stat. 857; Pub. L. 109–59, title III, §3017, Aug. 10, 2005, 119 Stat. 1600; Pub. L. 112–141, div. B, §20013(a), July 6, 2012, 126 Stat. 692; Pub. L. 114–94, div. A, title III, §3010(a), Dec. 4, 2015, 129 Stat. 1474.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5315(a)	49 App.:1625(a) (1st–3d sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §29(a)–(c); added Dec. 18, 1991, Pub. L. 102–240, §6022, 105 Stat. 2185.
5315(b)	49 App.:1625(a) (last sentence).	
5315(c)	49 App.:1625(c).	
5315(d)	49 App.:1625(b).	

In subsection (a), before clause (1), the word "conduct" is substituted for "administer" for consistency in this section.

In subsection (d), the word "department" is omitted for consistency in this section.

PUB. L. 104–287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (d). Pub. L. 114–94 added subsec. (d).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to national transit institute.

2005—Subsecs. (a), (b). Pub. L. 109–59, §3017(a), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which related to establishment and duties of a national transit institute in subsec. (a) and

delegation to the institute of the authority of the Secretary to develop and conduct educational and training programs related to mass transportation in subsec. (b).

Subsec. (d). Pub. L. 109–59, §3017(b), struck out "mass" after "public" in two places.

1998—Pub. L. 105–178, §3017(a)(1), as amended by Pub. L. 105–206 substituted "transit" for "mass transportation" in section catchline.

Subsec. (a). Pub. L. 105–178, §3017(a)(2)(A), as amended by Pub. L. 105–206 substituted "national transit institute" for "national mass transportation institute" in introductory provisions.

Subsec. (a)(5). Pub. L. 105–178, §3017(a)(2)(B), as amended by Pub. L. 105–206 inserted "and architectural design" before semicolon at end.

Subsec. (a)(7). Pub. L. 105–178, §3017(a)(2)(C), as amended by Pub. L. 105–206 substituted "delivering" for "carrying out".

Subsec. (a)(11). Pub. L. 105–178, §3017(a)(2)(D), as amended by Pub. L. 105–206 inserted ", construction management, insurance, and risk management" before semicolon at end.

Subsec. (a)(15), (16). Pub. L. 105–178, §3017(a)(2)(E)–(G), as amended by Pub. L. 105–206 added pars. (15) and (16).

1996—Subsec. (d). Pub. L. 104–287 substituted "sections 5307 and 5309" for "sections 5304 and 5306".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

PUBLIC-PRIVATE PARTNERSHIP PROCEDURES AND APPROACHES

Pub. L. 112–141, div. B, §20013(b), July 6, 2012, 126 Stat. 692, provided that:

"(1) IDENTIFY IMPEDIMENTS.—The Secretary shall—

"(A) except as provided in paragraph (6), identify any provisions of chapter 53 of title 49, United States Code, and any regulations or practices thereunder, that impede greater use of public-private partnerships and private investment in public transportation capital projects; and

"(B) develop and implement on a project basis procedures and approaches that—

"(i) address such impediments in a manner similar to the Special Experimental Project Number 15 of the Federal Highway Administration (commonly referred to as 'SEP-15'); and

"(ii) protect the public interest and any public investment in public transportation capital projects that involve public-private partnerships or private investment in public transportation capital projects.

"(2) TRANSPARENCY.—The Secretary shall develop guidance to promote greater transparency and public access to public-private partnership agreements involving recipients of Federal assistance under chapter 53 of title 49, United States Code, including—

"(A) any conflict of interest involving any party involved in the public-private partnership;

"(B) tax and financing aspects related to a public-private partnership agreement;

"(C) changes in the workforce and wages, benefits, or rules as a result of a public-private partnership;

"(D) estimates of the revenue or savings the public-private partnership will produce for the private entity and public entity;

"(E) any impacts on other developments and transportation modes as a result of non-compete clauses contained in public-private partnership agreements; and

"(F) any other issues the Secretary believes will increase transparency of public-private partnership agreements and protect the public interest.

"(3) ASSESSMENT.—In developing and implementing the guidance under paragraph (2), the Secretary shall encourage project sponsors to conduct assessments to determine whether use of a public-private partnership represents a better public and financial benefit than a similar transaction using public funding or public project delivery.

"(4) REPORT.—Not later than 4 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary shall submit to Congress a report on the status of the procedures, approaches, and guidance developed and implemented under paragraphs (1) and (2).

"(5) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue rules to carry out the procedures and approaches developed under paragraph (1).

"(6) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to allow the Secretary to waive any requirement under—

"(A) section 5333 of title 49, United States Code;

"(B) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

"(C) any other provision of Federal law."

[§§5316, 5317. Repealed. Pub. L. 112–141, div. B, §20002(a), July 6, 2012, 126 Stat. 622]

Section 5316, added Pub. L. 109–59, title III, §3018(a), Aug. 10, 2005, 119 Stat. 1601, related to job access and reverse commute formula grants.

A prior section 5316, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 814; Pub. L. 104–59, title III, §338(c)(5), Nov. 28, 1995, 109 Stat. 605, related to university research institutes, prior to repeal by Pub. L. 105–178, title V, §5110(c), June 9, 1998, 112 Stat. 444.

Section 5317, added Pub. L. 109–59, title III, §3019(a), Aug. 10, 2005, 119 Stat. 1605, related to the New Freedom grant program to assist individuals with disabilities with public transportation.

A prior section 5317, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 815; Pub. L. 104–287, §5(14), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §3029(b)(7), June 9, 1998, 112 Stat. 372, related to transportation centers, prior to repeal by Pub. L. 105–178, title V, §5110(c), June 9, 1998, 112 Stat. 444.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5318. Bus testing facility

(a) FACILITY.—The Secretary shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

(b) OPERATION AND MAINTENANCE.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, a qualified person or organization to operate and maintain the facility. The contract, cooperative agreement, or grant may provide for the testing of rail cars and other public transportation vehicles at the facility.

(c) FEES.—The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, the operator of the facility under which the Secretary shall pay 80 percent of the cost of testing a vehicle at the facility from amounts available to carry out this section. The entity having the vehicle tested shall pay 20 percent of the cost.

(e) ACQUIRING NEW BUS MODELS.—

(1) IN GENERAL.—Amounts appropriated or otherwise made available under this chapter may be obligated or expended to acquire a new bus model only if—

(A) a bus of that model has been tested at a facility authorized under subsection (a); and

(B) the bus tested under subparagraph (A) met—

(i) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

(ii) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).

(2) BUS TEST "PASS/FAIL" STANDARD.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule under subparagraph (B)(i). The final rule issued under paragraph [1] (B)(i) shall include a bus model scoring system that results in a weighted, aggregate score that uses the testing categories under subsection (a) and considers the relative importance of each such testing category. The final rule issued under subparagraph (B)(i) shall establish a "pass/fail" standard that uses the aggregate score described in the preceding sentence. Amounts appropriated or otherwise made available under this chapter may be obligated or expended to acquire a new bus model only if the new bus model has received a passing aggregate test score. The Secretary shall work with the bus testing facility, bus manufacturers, and transit agencies to develop the bus model scoring system under this paragraph. A passing aggregate test score under the rule issued under subparagraph (B)(i) indicates only that amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model and shall not be interpreted as a warranty or guarantee that the new bus model will meet a purchaser's specific requirements.

(f) CAPITAL EQUIPMENT.—A facility operated and maintained under this section may use funds made available under this section for the acquisition of equipment and capital projects related to testing new bus models.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 817; Pub. L. 103–429, §6(8), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 105–178, title III, §§3018, 3029(b)(8), June 9, 1998, 112 Stat. 361, 372; Pub. L. 109–59, title III, §§3002(b)(4), 3020, Aug. 10, 2005, 119 Stat. 1545, 1608; Pub. L. 112–141, div. B, §20014, July 6, 2012, 126 Stat. 694; Pub. L. 117–58, div. C, §30008, Nov. 15, 2021, 135 Stat. 903.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5318(a)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, §317(b)(1), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, §6021(b), 105 Stat. 2184.
5318(b)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, §317(b)(2), 101 Stat. 233.
5318(c)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, §317(b)(3), 101 Stat. 233.
5318(d)	49 App.:1602(m) (2d–last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(m) (2d–last sentences); added Dec. 18, 1991, Pub. L. 102–240, §3009, 105 Stat. 2093.
5318(e)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, §317(b)(5), 101 Stat. 233; Dec. 18,

	1991, Pub. L. 102–240, §6021(c), 105 Stat. 2184.
49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, 101 Stat. 132, §317(b)(6); added Dec. 18, 1991, Pub. L. 102–240, §6021(d), 105 Stat. 2184.

In subsection (c), the words "Under the contract entered into under paragraph (2)" are omitted as surplus.

In subsection (d), the words "to the operator of the facility" are omitted as surplus.

In subsection (e), the text of section 317(b)(5) of the Surface Transportation and Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 132) is omitted as obsolete. The words "operating and maintaining the facility" are substituted for "described in paragraph (3)" for clarity.

PUB. L. 103–429

This amends 49:5318(e) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsec. (e)(2), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

AMENDMENTS

2021—Subsec. (f). Pub. L. 117–58 added subsec. (f).

2012—Pub. L. 112–141 added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a)."

2005—Subsec. (a). Pub. L. 109–59, §3020(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Transportation shall establish one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise. The facility shall be established by renovating a facility built with assistance of the United States Government to train rail personnel."

Subsec. (b). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (d). Pub. L. 109–59, §3020(b), substituted "to carry out this section" for "under section 5309(m)(1)(C) of this title".

Subsec. (e). Pub. L. 109–59, §3020(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "The Secretary has a bus testing revolving loan fund consisting of amounts authorized for the fund under section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987. The Secretary shall make available as repayable advances from the fund to the person operating and maintaining the facility amounts to operate and maintain the facility."

1998—Subsec. (b). Pub. L. 105–178, §3018(a), substituted "enter into a contract or cooperative agreement with, or make a grant to," for "make a contract with" and inserted "or organization" after "qualified person", ", cooperative agreement, or grant" after "The contract", and "mass transportation" after "and other".

Subsec. (d). Pub. L. 105–178, §§3018(b), 3029(b)(8), substituted "enter into a contract or cooperative agreement with, or make a grant to," for "make a contract with" and "5309(m)(1)(C) of this title" for "5338(j)(5) of this title".

1994—Subsec. (e). Pub. L. 103–429 inserted "Uniform" before "Relocation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

[1] *So in original. Probably should be "subparagraph".*

[§5319. Repealed. Pub. L. 114–94, div. A, title III, §3030(c), Dec. 4, 2015, 129 Stat. 1497]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 818; Pub. L. 105–178, title III, §3019, June 9, 1998, 112 Stat. 362; Pub. L. 109–59, title III, §3002(b)(4), Aug. 10, 2005, 119 Stat. 1545; Pub. L. 110–244, title II, §201(h), June 6, 2008, 122 Stat. 1610; Pub. L. 112–141, div. B, §20030(c), July 6, 2012, 126 Stat. 730, made certain bicycle facilities eligible for assistance under sections 5307, 5309, and 5311 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

[§5320. Repealed. Pub. L. 112–141, div. B, §20002(a), July 6, 2012, 126 Stat. 622]

Section, added Pub. L. 109–59, title III, §3021(a), Aug. 10, 2005, 119 Stat. 1608; amended Pub. L. 110–244, title II, §201(i), June 6, 2008, 122 Stat. 1610, related to alternative transportation in parks and public lands.

A prior section 5320, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 818; Pub. L. 103–429, §6(9), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 105–178, title III, §3009(h)(3)(A), June 9, 1998, 112 Stat. 356; Pub. L. 105–206, title IX, §9009(h)(1), July 22, 1998, 112 Stat. 856, related to construction of a suspended light rail system technology pilot project, prior to repeal by Pub. L. 109–59, title III, §3021(a), Aug. 10, 2005, 119 Stat. 1608.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5321. Crime prevention and security

The Secretary of Transportation may make capital grants from amounts available under section 5338 of this title to public transportation systems for crime prevention and security. This chapter does not prevent the financing of a project under this section when a local governmental authority other than the grant applicant has law enforcement responsibilities.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 820; Pub. L. 109–59, title III, §3002(b)(4), Aug. 10, 2005, 119 Stat. 1545.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5321	49 App.:1620.	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §24; added Apr. 2, 1987, Pub. L. 100–17, §325, 101 Stat. 237.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59 substituted "public transportation" for "mass transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 109–59, title III, §3028(c), Aug. 10, 2005, 119 Stat. 1624, required the Secretaries of Transportation and Homeland Security to issue jointly final regulations to establish the characteristics of and requirements for public transportation security grants not later than 180 days after Aug. 10, 2005.

PUBLIC TRANSPORTATION SECURITY

Pub. L. 109–59, title III, §3028(b), Aug. 10, 2005, 119 Stat. 1624, provided that:

"(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall execute an annex to the memorandum of understanding between the Secretary and the Secretary of Homeland Security, dated September 28, 2004, to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

"(2) CONTENTS.—The annex to be executed under paragraph (1) shall—

"(A) establish a process to develop security standards for public transportation agencies;

"(B) create a method of direct coordination with public transportation agencies on security matters;

"(C) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security; and

"(D) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security."

[§5322. Repealed. Pub. L. 114–94, div. A, title III, §3030(d), Dec. 4, 2015, 129 Stat. 1497]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 820; Pub. L. 109–59, title III, §§3002(b)(4), 3022, Aug. 10, 2005, 119 Stat. 1545, 1614; Pub. L. 112–141, div. B, §20015, July 6, 2012, 126 Stat. 695, provided for programs that address human resource needs in public transportation activities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§5323. General provisions

(a) INTERESTS IN PROPERTY.—

(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

(C) just compensation under State or local law will be paid to the company for its franchise or property.

(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

(1) COOPERATION AND CONSULTATION.—The Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) VIOLATIONS.—

(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(4)(J) from amounts made available to the recipient under section 5309.

(f) SCHOOLBUS TRANSPORTATION.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses;

(2) pay incremental costs of incorporating art or non-functional landscaping into facilities, including the costs of an artist on the design team; or

(3) support a procurement that uses an exclusionary or discriminatory specification.

(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—

(1) ACQUIRING VEHICLES AND VEHICLE-RELATED EQUIPMENT OR FACILITIES.—

(A) VEHICLES.—A grant for a project to be assisted under this chapter that involves acquiring vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the Clean Air Act is for 85 percent of the net project cost.

(B) VEHICLE-RELATED EQUIPMENT OR FACILITIES.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

(2) COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.—

(A) LOCAL MATCHING SHARE.—The local matching share provided by a recipient of assistance for a capital project under this chapter may include any amounts expended by a provider of public transportation by vanpool for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

(B) USE OF REVENUES.—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

(C) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term "private provider of public transportation by vanpool" means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term "commuter highway vehicle or vanpool vehicle" means any vehicle—

(I) the seating capacity of which is at least 6 adults (not including the driver); and

(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

(j) BUY AMERICA.—

(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) when procuring rolling stock (including train control, communication, traction power equipment, and rolling stock prototypes) under this chapter—

(i) the cost of components and subcomponents produced in the United States—

(I) for fiscal years 2016 and 2017, is more than 60 percent of the cost of all components of the rolling stock;

(II) for fiscal years 2018 and 2019, is more than 65 percent of the cost of all components of the rolling stock; and

(III) for fiscal year 2020 and each fiscal year thereafter, is more than 70 percent of the cost of all components of the rolling stock; and

(ii) final assembly of the rolling stock has occurred in the United States; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

(ii) provide the public with a reasonable period of time for notice and comment.

(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

(5) ROLLING STOCK FRAMES OR CAR SHELLS.—In carrying out paragraph (2)(C) in the

case of a rolling stock procurement receiving assistance under this chapter in which the average cost of a rolling stock vehicle in the procurement is more than $300,000, if rolling stock frames or car shells are not produced in the United States, the Secretary shall include in the calculation of the domestic content of the rolling stock the cost of steel or iron that is produced in the United States and used in the rolling stock frames or car shells.

(6) CERTIFICATION OF DOMESTIC SUPPLY AND DISCLOSURE.—

(A) CERTIFICATION OF DOMESTIC SUPPLY.—If the Secretary denies an application for a waiver under paragraph (2), the Secretary shall provide to the applicant a written certification that—

(i) the steel, iron, or manufactured goods, as applicable, (referred to in this subparagraph as the "item") is produced in the United States in a sufficient and reasonably available amount;

(ii) the item produced in the United States is of a satisfactory quality; and

(iii) includes a list of known manufacturers in the United States from which the item can be obtained.

(B) DISCLOSURE.—The Secretary shall disclose the waiver denial and the written certification to the public in an easily identifiable location on the website of the Department of Transportation.

(7) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(8) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2015 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a "Made in America" label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

(9) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(10) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(11) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(12) STEEL AND IRON.—For purposes of this subsection, steel and iron meeting the

requirements of section 661.5(b) of title 49, Code of Federal Regulations may be considered produced in the United States.

(13) DEFINITION OF SMALL PURCHASE.—For purposes of determining whether a purchase qualifies for a general public interest waiver under paragraph (2)(A) of this subsection, including under any regulation promulgated under that paragraph, the term "small purchase" means a purchase of not more than $150,000.

(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(2) be included in the planning for those services.

(l) RELATIONSHIP TO OTHER LAWS.—

(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES .—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving rural areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

(1) the incidental use does not interfere with the recipient's public transportation operations;

(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

(4) private entities pay all applicable excise taxes on fuel.

(q) CORRIDOR PRESERVATION.—

(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law.

(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

(r) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—A recipient of assistance under this chapter may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes. In determining reasonable access, capacity requirements of the recipient of assistance and the extent to which access would be detrimental to existing public transportation services must be considered.

(s) VALUE CAPTURE REVENUE ELIGIBLE FOR LOCAL SHARE.—Notwithstanding any other provision of law, a recipient of assistance under this chapter may use the revenue generated from value capture financing mechanisms as local matching funds for capital projects and operating costs eligible under this chapter.

(t) SPECIAL CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—If, in a fiscal year, the Secretary is prohibited by law from enforcing regulations related to charter bus service under part 604 of title 49, Code of Federal Regulations, for any transit agency that during fiscal year 2008 was both initially granted a 60-day period to come into compliance with such part 604, and then was subsequently granted an exception from such part—

(1) the transit agency shall be precluded from receiving its allocation of urbanized area formula grant funds for such fiscal year; and

(2) any amounts withheld pursuant to paragraph (1) shall be added to the amount that the Secretary may apportion under section 5336 in the following fiscal year.

(u) LIMITATION ON CERTAIN ROLLING STOCK PROCUREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (5), financial assistance made available under this chapter shall not be used in awarding a contract or subcontract to an entity on or after the date of enactment of this subsection for the procurement of rolling stock for use in public transportation if the manufacturer of the rolling stock—

(A) is incorporated in or has manufacturing facilities in the United States; and

(B) is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that—

(i) is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;

(ii) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and

(iii) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(2) EXCEPTION.—For purposes of paragraph (1), the term "otherwise related legally or financially" does not include—

(A) a minority relationship or investment; or

(B) relationship with or investment in a subsidiary, joint venture, or other entity based in a country described in paragraph (1)(B) that does not export rolling stock or components of rolling stock for use in the United States.

(3) INTERNATIONAL AGREEMENTS.—This subsection shall be applied in a manner consistent with the obligations of the United States under international agreements.

(4) CERTIFICATION FOR RAIL ROLLING STOCK.—

(A) IN GENERAL.—Except as provided in paragraph (5), as a condition of financial assistance made available in a fiscal year under section 5337, a recipient that operates rail fixed guideway service shall certify in that fiscal year that the recipient will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in paragraph (1).

(B) SEPARATE CERTIFICATION.—The certification required under this paragraph shall be in addition to any certification the Secretary establishes to ensure compliance with the requirements of paragraph (1).

(5) SPECIAL RULES.—

(A) PARTIES TO EXECUTED CONTRACTS.—This subsection, including the certification requirement under paragraph (4), shall not apply to the award of any contract or subcontract made by a public transportation agency with a rail rolling stock manufacturer described in paragraph (1) if the manufacturer and the public transportation agency have executed a contract for rail rolling stock before the date of enactment of this subsection.

(B) ROLLING STOCK.—Except as provided in subparagraph (C) and for a contract or subcontract that is not described in subparagraph (A), this subsection, including the certification requirement under paragraph (4), shall not apply to the award of a contract or subcontract made by a public transportation agency with any rolling stock manufacturer for the 2-year period beginning on or after the date of enactment of this subsection.

(C) EXCEPTION.—Subparagraph (B) shall not apply to the award of a contract or subcontract made by the Washington Metropolitan Area Transit Authority.

(v) CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.—

(1) CERTIFICATION.—As a condition of financial assistance made available under this chapter, a recipient that operates a rail fixed guideway public transportation system shall certify that the recipient has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks.

(2) COMPLIANCE.—For the process required under paragraph (1), a recipient of assistance under this chapter shall—

(A) utilize the approach described by the voluntary standards and best practices developed under section 2(c)(15) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)(15)), as applicable;

(B) identify hardware and software that the recipient determines should undergo third-party testing and analysis to mitigate cybersecurity risks, such as hardware or software for rail rolling stock under proposed procurements; and

(C) utilize the approach described in any voluntary standards and best practices for rail fixed guideway public transportation systems developed under the authority of the Secretary of Homeland Security, as applicable.

(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority of—

(A) the Secretary of Homeland Security to publish or ensure compliance with requirements or standards concerning cybersecurity for rail fixed guideway public transportation systems; or

(B) the Secretary of Transportation under section 5329 to address cybersecurity issues as those issues relate to the safety of rail fixed guideway public transportation systems.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 821; Pub. L. 103–429, §6(10), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, §5(15), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §3020, June 9, 1998, 112 Stat. 362; Pub. L. 109–59, title III, §§3002(b)(4), 3023(a)–(i)(3), (j)–(m), Aug. 10,

2005, 119 Stat. 1545, 1615–1619; Pub. L. 110–244, title II, §201(j), June 6, 2008, 122 Stat. 1611; Pub. L. 112–141, div. B, §20016, July 6, 2012, 126 Stat. 697; Pub. L. 114–94, div. A, title III, §3011, Dec. 4, 2015, 129 Stat. 1474; Pub. L. 116–92, div. F, title LXXVI, §7613, Dec. 20, 2019, 133 Stat. 2314; Pub. L. 117–58, div. C, §§30001(b)(2), 30010, Nov. 15, 2021, 135 Stat. 890, 904.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5323(a)(1)	49 App.:1602(e).	July 9, 1964, Pub. L. 88–365, §3(e), 78 Stat. 303; Sept. 8, 1966, Pub. L. 89–562, §2(b)(1), 80 Stat. 716; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(1), 84 Stat. 962; Nov. 6, 1978, Pub. L. 95–599, §302(c), 92 Stat. 2737.
5323(a)(2)	49 App.:1608(e).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(e), (g); added Nov. 6, 1978, Pub. L. 95–599, §308(d), 92 Stat. 2747.
5323(b)	49 App.:1602(d).	July 9, 1964, Pub. L. 88–365, §3(d), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 964.
5323(c)	49 App.:1608(h)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(h)(1); added Apr. 2, 1987, Pub. L. 100–17, §317(a), 101 Stat. 233.
5323(d)	49 App.:1602(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(f); added Jan. 4, 1974, Pub. L. 93–650, §1(a), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, §813(a), 88 Stat. 737; Nov. 26, 1974, Pub. L. 93–503, §109(b), 88 Stat. 1573.
5323(e)	49 App.:1608(g).	
5323(f)	49 App.:1602(g).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(g); added Nov. 26, 1974, Pub. L. 93–503, §109(a), 88 Stat. 1572.
5323(g)	49 App.:1602a.	Aug. 13, 1973, Pub. L. 93–87, §164, 87 Stat. 281; Jan. 4, 1974, Pub. L. 93–650, §1(b), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, §813(b), 88 Stat. 737.
5323(h)	49 App.:1602(a)(2)(C).	July 9, 1964, Pub. L. 88–365, §3(a)(2)(C), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88

		Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2736.
5323(i)	49 App.:1608(m).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(m); added Dec. 18, 1991, Pub. L. 102–240, §3020, 105 Stat. 2110.
5323(j)(1)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(a) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2136; Mar. 9, 1984, Pub. L. 98–229, §10, 98 Stat. 57; Dec. 18, 1991, Pub. L. 102–240, §1048(a), 105 Stat. 1999.
5323(j)(2)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(b) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137; Apr. 2, 1987, Pub. L. 100–17, §§133(a)(6), 337(a)(1), (b), (c), 101 Stat. 171, 241.
5323(j)(3)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(c) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.
5323(j)(4)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(g) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 2000.
5323(j)(5)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(f) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 1999.
5323(j)(6)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(d) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.
5323(j)(7)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(e) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 1999.
5323(k)	49 App.:1607(q).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(q); added Oct. 6, 1992, Pub. L. 102–388, §502(i), 106 Stat. 1566.

In subsection (a)(1), before clause (A), the words "directly or indirectly", "any facilities or other", "reconstructing", and "for the purpose of providing by contract or otherwise" are omitted as surplus. In clause (C), the words "and adequate", "acquisition of", and "applicable" are omitted as surplus. In clause (D), the words "the requirements of" are omitted as surplus.

In subsection (a)(2), the words "may not use" are substituted for "None of the provisions of this chapter shall be construed to authorize" to eliminate unnecessary words. The words "the purpose of financing" are

omitted as surplus.

In subsections (b)(1), (c), and (e), the words "except section 5307" are added for clarity because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

In subsection (b)(1), before clause (A), the word "reconstruction" is omitted as surplus. In clause (B), the words "in the matter" are omitted as surplus. In clause (C), the word "environmental" is substituted for "and its impact on the environment" to eliminate unnecessary words. In clause (D), the word "comprehensive" is omitted as surplus.

In subsection (b)(2), the word "description" is substituted for "statement" for clarity.

In subsections (d)–(f) and (h), the word "Federal" is omitted as surplus.

In subsections (d) and (f), the word "provide" is substituted for "engage in", and the word "transportation" is substituted for "operations", for consistency.

In subsection (d)(1), the words "with the Secretary", "and equitable", and "publicly and privately owned" are omitted as surplus.

In subsection (d)(2), the words "alleged", "take appropriate action to", "and conditions", and "for mass transportation facilities and equipment" are omitted as surplus.

In subsection (e), the words "This subsection shall apply to" and "which is acquiring such buses" are omitted as surplus. The words "occurring on or after November 6, 1978" are omitted as executed. The words "In the case of" are omitted as surplus. The words "may include" are substituted for "the Secretary shall permit . . . to provide in advertising for bids for" to eliminate unnecessary words.

In subsection (f)(1), before clause (A), the words "for use in providing public", "to any applicant for such assistance", and "and the Secretary" are omitted as surplus. The word "agrees" is substituted for "shall have first entered into an agreement that such applicant" to eliminate unnecessary words. In clause (A), the words "with respect to operation of a schoolbus program" are omitted as surplus.

Subsection (g) is substituted for 49 App.:1602a to eliminate unnecessary words.

In subsection (j), the word "goods" is substituted for "products" for consistency.

In subsection (j)(1), the words "Notwithstanding any other provision of law" are omitted as surplus.

In subsection (j)(2), before clause (A), the words "The Secretary of Transportation may waive" are substituted for "shall not apply" for clarity. In clause (B), the words "steel, iron, and goods" are substituted for "materials and products" for consistency. In clause (C), before subclause (i), the words "bus and other" are omitted as surplus. In subclauses (i) and (ii), the words "rolling stock" are substituted for "vehicle or equipment" for consistency. In clause (D), the word "contract" is omitted as surplus.

In subsection (j)(4), before clause (A), the words "The Secretary of Transportation may not make a waiver under" are substituted for "shall not apply" for clarity. The words "government of a foreign country" are substituted for "foreign country", and the word "Government" is added, for consistency in the revised title and with other titles of the United States Code.

In subsection (j)(5), before clause (A), the words "the debarment, suspension, and ineligibility procedures in" are omitted as surplus. The words "department, agency, or instrumentality of the Government" are substituted for "Federal agency" for consistency in the revised title and with other titles of the Code. In clause (A), the word "produced" is substituted for "made" for consistency.

In subsection (k), the word "statewide" is omitted as surplus.

PUB. L. 103–429, §6(10)(A)

This makes a clarifying amendment to the catchline for 49:5323(j).

PUB. L. 103–429, §6(10)(B)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5323(*l*)	49 App.:1608(j).	July 9, 1964, Pub. L. 88–365, §12(j), as added Apr. 2, 1987, Pub. L. 100–17, §319, 101 Stat. 234.

The word "review" is substituted for "audit" for clarity. The words "buses and other" are omitted as surplus.

PUB. L. 104–287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

EDITORIAL NOTES

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (b), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (i)(1), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (i)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsec. (j)(3)(B), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

The Federal Public Transportation Act of 2015, referred to in subsec. (j)(8), is title III of div. A of Pub. L. 114–94, Dec. 4, 2015, 129 Stat. 1446. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 5101 of this title and Tables.

The date of enactment of this subsection, referred to in subsec. (u)(1), (5), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

AMENDMENTS

2021—Subsec. (e)(3). Pub. L. 117–58, §30001(b)(2), substituted "section 5302(4)(J)" for "section 5302(3)(J)".

Subsec. (u)(2). Pub. L. 117–58, §30010, added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "For purposes of paragraph (1), the term 'otherwise related legally or financially' does not include a minority relationship or investment."

2019—Subsecs. (u), (v). Pub. L. 116–92 added subsecs. (u) and (v).

2015—Subsec. (h)(2), (3). Pub. L. 114–94, §3011(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (j)(2)(C). Pub. L. 114–94, §3011(2)(A), added subpar. (C) and struck out former subpar. (C), which read as follows: "when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

"(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

"(ii) final assembly of the rolling stock has occurred in the United States; or".

Subsec. (j)(5) to (11). Pub. L. 114–94, §3011(2)(B)–(D), added pars. (5) and (6), redesignated former pars. (5) to (9) as pars. (7) to (11), respectively, and in par. (8), substituted "Federal Public Transportation Act of 2015" for "Federal Public Transportation Act of 2012".

Subsec. (j)(12), (13). Pub. L. 114–94, §3011(2)(E), added pars. (12) and (13).

Subsec. (q)(1). Pub. L. 114–94, §3011(3), struck out at end "The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate."

Subsecs. (s), (t). Pub. L. 114–94, §3011(4), added subsecs. (s) and (t).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to general provisions on assistance.

2008—Subsec. (n). Pub. L. 110–244 substituted "section 5336(d)(2)" for "section 5336(e)(2)".

2005—Subsec. (a)(1). Pub. L. 109–59, §3023(a)(1), inserted heading and text of par. (1) and struck out former par. (1) which authorized use of financial assistance provided under this chapter for certain purposes only if the Secretary finds the assistance is essential to a program of projects required under sections 5303–5306 of this title, the Secretary finds that the program, to the maximum extent feasible, provides for the participation of private companies, just compensation will be paid to the company for its franchise or property, and the Secretary of Labor certifies that the assistance complies with section 5333(b) of this title.

Subsec. (a)(2). Pub. L. 109–59, §3023(a)(2), inserted heading.

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (b). Pub. L. 109–59, §3023(b), reenacted heading without change and amended text of subsec. (b)

generally, substituting provisions relating to general requirements, notice, and application requirements, consisting of pars. (1) to (3), for provisions relating to application requirements and notice, consisting of pars. (1) and (2).

Subsec. (c). Pub. L. 109–59, §3023(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: "Amounts appropriated or made available under this chapter after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5318 of this title."

Subsec. (d)(1). Pub. L. 109–59, §3023(d)(1), inserted heading.

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in two places.

Subsec. (d)(2). Pub. L. 109–59, §3023(d)(2), inserted heading and text of par. (2) and struck out former par. (2) which read as follows: "On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement."

Subsec. (e). Pub. L. 109–59, §3023(e), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter may include passenger seat functional specifications that are at least equal to performance specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs."

Subsec. (f). Pub. L. 109–59, §3023(f), in par. (1) inserted heading and realigned margins, added par. (2), and struck out former par. (2) which read as follows: "An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter."

Subsec. (f)(1). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in two places in introductory provisions.

Subsec. (g). Pub. L. 109–59, §3023(g), substituted "133 and 142" for "103(e)(4) and 142(a) or (c)" in two places.

Subsec. (i). Pub. L. 109–59, §3023(h), substituted "Government's" for "Government" in subsec. heading, designated existing provisions as par. (1), inserted par. heading, inserted "or facilities" after "equipment" wherever appearing, and added par. (2).

Subsec. (j)(3) to (5). Pub. L. 109–59, §3023(i)(1), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively. Former par. (5) redesignated (6).

Subsec. (j)(6). Pub. L. 109–59, §3023(i)(1)(A), (2), redesignated par. (5) as (6) and substituted "Federal Public Transportation Act of 2005" for "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" in introductory provisions. Former par. (6) redesignated (7).

Subsec. (j)(7), (8). Pub. L. 109–59, §3023(i)(1)(A), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (j)(9). Pub. L. 109–59, §3023(i)(3), added par. (9).

Subsec. (l). Pub. L. 109–59, §3023(j), amended heading and text of subsec. (l) generally. Prior to amendment, text read as follows: "The planning and programming requirements of section 135 of title 23 apply to a grant made under sections 5307–5311 of this title."

Subsec. (m). Pub. L. 109–59, §3023(k), inserted at end "Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations."

Subsec. (o). Pub. L. 109–59, §3023(l), substituted "chapter 6 (other than section 609) of title 23" for "the Transportation Infrastructure Finance and Innovation Act of 1998".

Subsec. (p). Pub. L. 109–59, §3023(m), added subsec. (p).

1998—Subsec. (d). Pub. L. 105–178, §3020(a), substituted "Condition on Charter Bus Transportation Service" for "Buying and Operating Buses" in heading.

Subsec. (i). Pub. L. 105–178, §3020(c), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: "A Government grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Clean Air Act (42 U.S.C. 7401 et seq.) or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is for 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, may determine the costs attributable to that equipment."

Subsec. (j)(7). Pub. L. 105–178, §3020(b), inserted heading and amended text of par. (7) generally. Prior to amendment, text read as follows: "Not later than January 1, 1995, the Secretary of Transportation shall submit to Congress a report on purchases from foreign entities waived under paragraph (2) of this subsection in the fiscal years ending September 30, 1992, and September 30, 1993. The report shall indicate the dollar value of items for which waivers were granted."

Subsecs. (k) to (m). Pub. L. 105–178, §3020(d), added subsec. (k) and redesignated former subsecs. (k) and (l) as (l) and (m), respectively.

Subsec. (n). Pub. L. 105–178, §3020(e), added subsec. (n).

Subsec. (o). Pub. L. 105–178, §3020(f), added subsec. (o).

1996—Subsecs. (b)(1), (c), (e). Pub. L. 104–287 struck out "(except section 5307)" after "under this chapter".

1994—Subsec. (j). Pub. L. 103–429, §6(10)(A), substituted "America" for "American" in heading.

Subsec. (l). Pub. L. 103–429, §6(10)(B), added subsec. (l).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

RULEMAKING

Pub. L. 109–59, title III, §3023(i)(5), Aug. 10, 2005, 119 Stat. 1618, required the Secretary of Transportation to issue a final rule on implementation of the Buy America requirements of former subsec. (j) of this section no later than 180 days after Aug. 10, 2005.

FINAL ASSEMBLY OF BUSES

Pub. L. 105–178, title III, §3035, June 9, 1998, 112 Stat. 387, required certain buses manufactured after Sept. 1, 1999, to conform with the Federal Transit Administration Guidance on Buy America Requirements, dated March 18, 1997.

§5324. Public transportation emergency relief program

(a) DEFINITION.—In this section the following definitions shall apply:

(1) ELIGIBLE OPERATING COSTS.—The term "eligible operating costs" means costs relating to—

(A) evacuation services;

(B) rescue operations;

(C) temporary public transportation service; or

(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

(2) EMERGENCY.—The term "emergency" means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(b) GENERAL AUTHORITY.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

(c) COORDINATION OF EMERGENCY FUNDS.—

(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available under this chapter.

(2) NO EFFECT ON OTHER GOVERNMENT ACTIVITY.—The provision of funds under this section shall not affect the ability of any other agency of the Government, including the Federal Emergency Management Agency, or a State agency, a local governmental entity, organization, or person, to provide any other funds otherwise authorized by law.

(3) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

(d) GRANT REQUIREMENTS.—A grant awarded under this section or under section 5307 or 5311 that is made to address an emergency defined under subsection (a)(2) shall be—

(1) subject to the terms and conditions the Secretary determines are necessary; and

(2) made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(e) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under—

(A) paragraph (2); or

(B) section 5307 or 5311, in the case of a grant made available under section 5307 or 5311, respectively, to address an emergency.

(f) INSURANCE.—Before receiving a grant under this section following an emergency, an applicant shall—

(1) submit to the Secretary documentation demonstrating proof of insurance required under Federal law for all structures related to the grant application; and

(2) certify to the Secretary that the applicant has insurance required under State law for all structures related to the grant application.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 824; Pub. L. 109–59, title III, §3024(a), Aug. 10, 2005, 119 Stat. 1619; Pub. L. 112–141, div. B, §20017(a), July 6, 2012, 126 Stat. 703; Pub. L. 117–58, div. C, §30011, Nov. 15, 2021, 135 Stat. 904.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5324(a)	49 App.:1606(a).	July 9, 1964, Pub. L. 88–365, §7(a), 78 Stat. 305; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5324(b)(1)	49 App.:1610(a) (last sentence).	July 9, 1964, Pub. L. 88–365, §14(a) (last sentence)–(c), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, §6, 84 Stat. 966.
5324(b)(2)	49 App.:1610(b).	
5324(b)(3)	49 App.:1610(c).	
5324(c)	49 App.:1608(d).	July 9, 1964, Pub. L. 88–365, §12(d), 78 Stat. 307; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95–599, §308(c), 92 Stat. 2747.

In subsection (a), before clause (1), the word "provided" is substituted for "extended" for clarity. The words "to any project" are omitted as surplus. In clause (2), the words "available . . . displaced" are omitted as surplus.

In subsection (b)(1), the words "Health and Human Services" are substituted for "Health, Education, and Welfare" in section 14(a) (last sentence) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 308) [subsequently changed to the Federal Transit Act by section 3003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)] because of 20:3508(b).

In subsection (b)(2), before clause (A), the words "In carrying out section 5306 of this title" are added for clarity and consistency with subsections (b)(3) and (c) of this section. The word "detailed" is omitted as surplus. In clause (B), the words "should the proposal be implemented" are omitted as surplus. In clause (D), the words "which may be involved in the proposed project should it be implemented" are omitted as surplus.

In subsection (b)(3)(A), before clause (i), the word "financial" is added for clarity. The words "full and complete" are omitted as surplus. In clause (ii), the word "fair" is omitted as surplus. In clause (iii), the word "either" is omitted as surplus.

In subsection (b)(3)(B), the words "before the State or local agency pursuant to section 1602(d) of this Appendix" and "before the State or local public agency . . . to permit him" are omitted as surplus.

In subsection (c), the words "The Secretary of Transportation may not" are substituted for "None of the provisions of this chapter shall be construed to authorize the Secretary to" to eliminate unnecessary words. The words "in any manner . . . mode of" and "rates, fares, tolls, rentals, or other . . . fixed or prescribed . . . by any local public or private transit agency" are omitted as surplus. The words "However, the Secretary may" are substituted for "but nothing in this subsection shall prevent the Secretary from taking such actions as may be necessary to" to eliminate unnecessary words. The words "local governmental authority, corporation, or association" are substituted for "agency or agencies" for consistency with sections 5309 and 5310 of the revised title.

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(2), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (f). Pub. L. 117–58 added subsec. (f).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to special provisions for capital projects.

2005—Pub. L. 109–59 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to requirements of a relocation program for families displaced by a project, consideration of economic, social, and environmental interests, and prohibition against regulating the operation of a mass transportation system for which a grant is made under section 5309 and regulating any charge for the system after a grant is made.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

MEMORANDUM OF AGREEMENT

Pub. L. 112–141, div. B, §20017(b), July 6, 2012, 126 Stat. 705, provided that:

"(1) PURPOSES.—The purposes of this subsection are—

"(A) to improve coordination between the Department of Transportation and the Department of Homeland Security; and

"(B) to expedite the provision of Federal assistance for public transportation systems for activities relating to a major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (referred to in this subsection as a 'major disaster or emergency').

"(2) AGREEMENT.—Not later than 180 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary of Transportation and the Secretary of Homeland Security shall enter into a memorandum of agreement to coordinate the roles and responsibilities of the Department of Transportation and the Department of Homeland Security in providing assistance for public transportation, including the provision of public transportation services and the repair and restoration of public transportation systems in areas for which the President has declared a major disaster or emergency.

"(3) CONTENTS OF AGREEMENT.—The memorandum of agreement required under paragraph (2) shall—

"(A) provide for improved coordination and expeditious use of public transportation, as appropriate, in response to and recovery from a major disaster or emergency;

"(B) establish procedures to address—

"(i) issues that have contributed to delays in the reimbursement of eligible transportation-related expenses relating to a major disaster or emergency;

"(ii) any challenges identified in the review under paragraph (4); and

"(iii) the coordination of assistance for public transportation provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] and section 5324 of title 49, United States Code, as amended by this Act, as appropriate; and

"(C) provide for the development and distribution of clear guidelines for State, local, and tribal governments, including public transportation systems, relating to—

"(i) assistance available for public transportation systems for activities relating to a major disaster or emergency—

"(I) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

"(II) under section 5324 of title 49, United States Code, as amended by this Act; and

"(III) from other sources, including other Federal agencies; and

"(ii) reimbursement procedures that speed the process of—

"(I) applying for assistance under the Robert T. Stafford Disaster Relief and Emergency

Assistance Act and section 5324 of title 49, United States Code, as amended by this Act; and

"(II) distributing assistance for public transportation systems under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5324 of title 49, United States Code, as amended by this Act.

"(4) AFTER ACTION REVIEW.—Before entering into a memorandum of agreement under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security (acting through the Administrator of the Federal Emergency Management Agency), in consultation with State, local, and tribal governments (including public transportation systems) that have experienced a major disaster or emergency, shall review after action reports relating to major disasters, emergencies, and exercises, to identify areas where coordination between the Department of Transportation and the Department of Homeland Security and the provision of public transportation services should be improved.

"(5) FACTORS FOR DECLARATIONS OF MAJOR DISASTERS AND EMERGENCIES.—The Administrator of the Federal Emergency Management Agency shall make available to State, local, and tribal governments, including public transportation systems, a description of the factors that the President considers in declaring a major disaster or emergency, including any pre-disaster emergency declaration policies.

"(6) BRIEFINGS.—

"(A) INITIAL BRIEFING.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the memorandum of agreement required under paragraph (2).

"(B) QUARTERLY BRIEFINGS.—Each quarter of the 1-year period beginning on the date on which the Secretary of Transportation and the Secretary of Homeland Security enter into the memorandum of agreement required under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of the memorandum of agreement."

§5325. Contract requirements

(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

(1) PROCEDURES FOR AWARDING CONTRACT.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement of a State adopted before August 10, 2005.

(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

(A) PERFORMANCE OF AUDITS.—Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of the Federal Acquisition Regulation, or any successor thereto.

(B) INDIRECT COST RATES.—A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

(C) APPLICATION OF RATES.—After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

(D) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by

the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

(d) DESIGN-BUILD PROJECTS.—

(1) TERM DEFINED.—In this subsection, the term "design-build project"—

(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system, or an operable segment of such system, that meets specific performance criteria; and

(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

(e) MULTIYEAR ROLLING STOCK.—

(1) CONTRACTS.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for—

(A) not more than 5 years after the date of the original contract for bus procurements; and

(B) not more than 7 years after the date of the original contract for rail procurements,

provided that such option does not allow for significant changes or alterations to the rolling stock.

(2) COOPERATION AMONG RECIPIENTS.—The Secretary shall allow recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

(f) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

(1) based on—

(A) initial capital costs; or

(B) performance, standardization, life cycle costs, and other factors; or

(2) with a party selected through a competitive procurement process.

(g) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

(h) GRANT PROHIBITION.—A grant awarded under this chapter or the Federal Public Transportation Act of 2015 may not be used to support a procurement that uses an exclusionary or discriminatory specification.

(i) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

(j) AWARDS TO RESPONSIBLE CONTRACTORS.—

(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

(A) the integrity of the contractor;

(B) the contractor's compliance with public policy;

(C) the contractor's past performance; and

(D) the contractor's financial and technical resources.

(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 825; Pub. L. 104–287, §5(16), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §3022, June 9, 1998, 112 Stat. 363; Pub. L. 105–206, title IX, §9009(n), July 22, 1998, 112 Stat. 857; Pub. L. 107–217, §3(n)(2), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 109–59, title III, §3025(a), Aug. 10, 2005, 119 Stat. 1620; Pub. L. 110–244, title II, §201(k), June 6, 2008, 122 Stat. 1611; Pub. L. 112–141, div. B, §§20018, 20030(d), July 6, 2012, 126 Stat. 706, 730; Pub. L. 114–94, div. A, title III, §3030(e), Dec. 4, 2015, 129 Stat. 1497.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5325(a)	49 App.:1608(b)(1).	July 9, 1964, Pub. L. 88–365, §12(b)(1), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95–599, §308(a)(1), 92 Stat. 2745.
5325(b)	49 App.:1608(b)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(b)(2); added Nov. 6, 1978, Pub. L. 95–599, §308(a)(2), 92 Stat. 2745; restated Jan. 6, 1983, Pub. L. 97–424, §308, 96 Stat. 2151.
5325(c)	49 App.:1608(b)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(b)(3); added Apr. 2, 1987, Pub. L. 100–17, §315(a), 101 Stat. 232.
5325(d)	49 App.:1608(b)(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(b)(4); added Apr. 2, 1987, Pub. L. 100–17, §316, 101 Stat. 232.

In subsection (a), the words "reconstruction", "in furtherance of the purposes", "by applicants", "procedures as defined by the Secretary", "of the contracting parties", and "the operations or activities under" are omitted as surplus. The words "shall be made available to" are substituted for "shall . . . have access to", and the words "an officer or employee of the Secretary or Comptroller General" are substituted for "any of their duly authorized representatives", for consistency in the revised title and with other titles of the United States Code.

Subsection (b) is substituted for 49 App.:1608(b)(2) for clarity. The text of 49 App.:1608(b)(2) (last sentence) is omitted as executed.

PUB. L. 104–287

This amends the catchline for 49:5325(d) to make a clarifying amendment.

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Public Transportation Act of 2015, referred to in subsec. (h), is title III of Pub. L. 114–94, Dec. 4, 2015, 129 Stat. 1446. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 5101 of this title and Tables.

AMENDMENTS

2015—Subsec. (e)(2). Pub. L. 114–94, §3030(e)(1), struck out "at least two" after "allow".

Subsec. (h). Pub. L. 114–94, §3030(e)(2), substituted "Federal Public Transportation Act of 2015" for "Federal Public Transportation Act of 2012".

2012—Subsec. (b)(2)(A). Pub. L. 112–141, §20030(d), substituted "the Federal Acquisition Regulation, or any successor thereto" for "title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)".

Subsec. (e)(1). Pub. L. 112–141, §20018(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract."

Subsec. (h). Pub. L. 112–141, §20018(2), substituted "Federal Public Transportation Act of 2012" for "Federal Public Transportation Act of 2005".

Subsec. (j)(2)(C). Pub. L. 112–141, §20018(3), struck out ", including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2)" after "past performance".

Subsec. (k). Pub. L. 112–141, §20018(4), added subsec. (k).

2008—Subsec. (b)(1). Pub. L. 110–244, §201(k)(1), inserted "adopted before August 10, 2005" before period at end.

Subsec. (b)(2), (3). Pub. L. 110–244, §201(k)(2), (3), redesignated par. (3) as (2) and struck out former par. (2). Text read as follows: "Paragraph (1) does not apply to the extent a State has adopted by law, before the date of enactment of the Federal Public Transportation Act of 2005, an equivalent State qualifications-based requirement for contracting for architectural, engineering, and design services."

2005—Pub. L. 109–59 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to noncompetitive bidding in subsec. (a), procedures for award of architectural, engineering, and design contracts in subsec. (b), and efficient procurement in subsec. (c).

2002—Subsec. (b). Pub. L. 107–217 substituted "chapter 11 of title 40" for "title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

1998—Subsec. (b). Pub. L. 105–178, §3022(b), as added by Pub. L. 105–206, inserted "or requirement" after "A contract" and "When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23, United States Code." before "This subsection does not apply".

Pub. L. 105–178, §3022(a)(1), (2), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: "A recipient of financial assistance of the United States Government under this chapter may make a contract to expend that assistance to acquire rolling stock—

"(1) based on—

"(A) initial capital costs; or

"(B) performance, standardization, life cycle costs, and other factors; or

"(2) with a party selected through a competitive procurement process."

Subsec. (c). Pub. L. 105–178, §3022(a)(1), (3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "A recipient of a grant under section 5307 of this title procuring an associated capital maintenance item under section 5307(b) may make a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

"(1) the manufacturer or supplier is the only source for the item; and

"(2) the price of the item is no more than the price similar customers pay for the item."

Subsec. (d). Pub. L. 105–178, §3022(a)(2), redesignated subsec. (d) as (b).

1996—Subsec. (d). Pub. L. 104–287 substituted "ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS" for "MANAGEMENT, ARCHITECTURAL, AND ENGINEERING CONTRACTS" in heading.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

INNOVATIVE PROCUREMENT

Pub. L. 114–94, div. A, title III, §3019, Dec. 4, 2015, 129 Stat. 1488, provided that:

"(a) DEFINITION.—In this section, the term 'grantee' means a recipient or subrecipient of assistance under chapter 53 of title 49, United States Code.

"(b) COOPERATIVE PROCUREMENT.—

"(1) DEFINITIONS; GENERAL RULES.—

"(A) DEFINITIONS.—In this subsection—

"(i) the term 'cooperative procurement contract' means a contract—

"(I) entered into between a State government or eligible nonprofit entity and 1 or more vendors; and

"(II) under which the vendors agree to provide an option to purchase rolling stock and related equipment to multiple participants;

"(ii) the term 'eligible nonprofit entity' means—

"(I) a nonprofit cooperative purchasing organization that is not a grantee; or

"(II) a consortium of entities described in subclause (I);

"(iii) the terms 'lead nonprofit entity' and 'lead procurement agency' mean an eligible nonprofit entity or a State government, respectively, that acts in an administrative capacity on behalf of each participant in a cooperative procurement contract;

"(iv) the term 'participant' means a grantee that participates in a cooperative procurement contract; and

"(v) the term 'participate' means to purchase rolling stock and related equipment under a cooperative procurement contract using assistance provided under chapter 53 of title 49, United States Code.

"(B) GENERAL RULES.—

"(i) PROCUREMENT NOT LIMITED TO INTRASTATE PARTICIPANTS.—A grantee may participate in a cooperative procurement contract without regard to whether the grantee is located in the same State as the parties to the contract.

"(ii) VOLUNTARY PARTICIPATION.—Participation by grantees in a cooperative procurement contract shall be voluntary.

"(iii) CONTRACT TERMS.—The lead procurement agency or lead nonprofit entity for a cooperative procurement contract shall develop the terms of the contract.

"(iv) DURATION.—A cooperative procurement contract—

"(I) subject to subclauses (II) and (III), may be for an initial term of not more than 2 years;

"(II) may include not more than 3 optional extensions for terms of not more than 1 year each; and

"(III) may be in effect for a total period of not more than 5 years, including each extension authorized under subclause (II).

"(v) ADMINISTRATIVE EXPENSES.—A lead procurement agency or lead nonprofit entity, as applicable, that enters into a cooperative procurement contract—

"(I) may charge the participants in the contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than 1 percent of the total value of the contract; and

"(II) with respect to the cost described in subclause (I), may incorporate the cost into the price of the contract or directly charge the participants for the cost, but not both.

"(2) STATE COOPERATIVE PROCUREMENT SCHEDULES.—

"(A) AUTHORITY.—A State government may enter into a cooperative procurement contract with 1 or more vendors if—

"(i) the vendors agree to provide an option to purchase rolling stock and related equipment to the State government and any other participant; and

"(ii) the State government acts throughout the term of the contract as the lead procurement agency.

"(B) APPLICABILITY OF POLICIES AND PROCEDURES.—In procuring rolling stock and related equipment under a cooperative procurement contract under this subsection, a State government shall comply with the policies and procedures that apply to procurement by the State government when using non-Federal funds, to the extent that the policies and procedures are in conformance with applicable Federal law.

"(3) PILOT PROGRAM FOR NONPROFIT COOPERATIVE PROCUREMENTS.—

"(A) ESTABLISHMENT.—The Secretary [of Transportation] shall establish and carry out a pilot program to demonstrate the effectiveness of cooperative procurement contracts administered by eligible nonprofit entities.

"(B) DESIGNATION.—In carrying out the program under this paragraph, the Secretary shall designate not less than 3 eligible nonprofit entities to enter into a cooperative procurement contract under which the eligible nonprofit entity acts throughout the term of the contract as the lead nonprofit entity.

"(C) NOTICE OF INTENT TO PARTICIPATE.—At a time determined appropriate by the lead nonprofit entity, each participant in a cooperative procurement contract under this paragraph shall submit to the lead nonprofit entity a nonbinding notice of intent to participate.

"(4) JOINT PROCUREMENT CLEARINGHOUSE.—

"(A) IN GENERAL.—The Secretary shall establish a clearinghouse for the purpose of allowing grantees to aggregate planned rolling stock purchases and identify joint procurement participants.

"(B) NONPROFIT CONSULTATION.—In establishing the clearinghouse under subparagraph (A), the Secretary may consult with nonprofit entities with expertise in public transportation or procurement, and other stakeholders as the Secretary determines appropriate.

"(C) INFORMATION ON PROCUREMENTS.—The clearinghouse may include information on bus size, engine type, floor type, and any other attributes necessary to identify joint procurement participants.

"(D) LIMITATIONS.—

"(i) ACCESS.—The clearinghouse shall only be accessible to the Federal Transit Administration, a nonprofit entity coordinating for such clearinghouse with the Secretary, and grantees.

"(ii) PARTICIPATION.—No grantee shall be required to submit procurement information to the database.

"(c) LEASING ARRANGEMENTS.—

"(1) CAPITAL LEASE DEFINED.—

"(A) IN GENERAL.—In this subsection, the term 'capital lease' means any agreement under which a grantee acquires the right to use rolling stock or related equipment for a specified period of time, in exchange for a periodic payment.

"(B) MAINTENANCE.—A capital lease may require that the lessor provide maintenance of the rolling stock or related equipment covered by the lease.

"(2) PROGRAM TO SUPPORT INNOVATIVE LEASING ARRANGEMENTS.—

"(A) AUTHORITY.—A grantee may use assistance provided under chapter 53 of title 49, United States Code, to enter into a capital lease if—

"(i) the rolling stock or related equipment covered under the lease is eligible for capital assistance under such chapter; and

"(ii) there is or will be no Federal interest in the rolling stock or related equipment covered under the lease as of the date on which the lease takes effect.

"(B) GRANTEE REQUIREMENTS.—A grantee that enters into a capital lease shall—

"(i) maintain an inventory of the rolling stock or related equipment acquired under the lease; and

"(ii) maintain on the accounting records of the grantee the liability of the grantee under the lease.

"(C) ELIGIBLE LEASE COSTS.—The costs for which a grantee may use assistance under chapter 53 of title 49, United States Code, with respect to a capital lease, include—

"(i) the cost of the rolling stock or related equipment;

"(ii) associated financing costs, including interest, legal fees, and financial advisor fees;

"(iii) ancillary costs such as delivery and installation charges; and

"(iv) maintenance costs.

"(D) TERMS.—A grantee shall negotiate the terms of any lease agreement that the grantee enters into.

"(E) APPLICABILITY OF PROCUREMENT REQUIREMENTS.—

"(i) LEASE REQUIREMENTS.—Part 639 of title 49, Code of Federal Regulations, or any successor regulation, and implementing guidance applicable to leasing shall not apply to a capital lease.

"(ii) BUY AMERICA.—The requirements under section 5323(j) of title 49, United States Code, shall apply to a capital lease.

"(3) CAPITAL LEASING OF CERTAIN ZERO EMISSION VEHICLE COMPONENTS.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'removable power source'—

"(I) means a power source that is separately installed in, and removable from, a zero emission vehicle; and

"(II) may include a battery, a fuel cell, an ultra-capacitor, or other advanced power source used in a zero emission vehicle; and

"(ii) the term 'zero emission vehicle' has the meaning given the term in section 5339(c) of title 49, United States Code.

"(B) LEASED POWER SOURCES.—Notwithstanding any other provision of law, for purposes of this subsection, the cost of a removable power source that is necessary for the operation of a zero emission vehicle shall not be treated as part of the cost of the vehicle if the removable power source is acquired using a capital lease.

"(C) ELIGIBLE CAPITAL LEASE.—A grantee may acquire a removable power source by itself through a capital lease.

"(D) PROCUREMENT REGULATIONS.—For purposes of this section, a removable power source shall be subject to section 200.88 of title 2, Code of Federal Regulations.

"(4) REPORTING REQUIREMENT.—Not later than 3 years after the date on which a grantee enters into a capital lease under this subsection, the grantee shall submit to the Secretary a report that contains—

"(A) an evaluation of the overall costs and benefits of leasing rolling stock; and

"(B) a comparison of the expected short-term and long-term maintenance costs of leasing versus buying rolling stock.

"(5) REPORT.—The Secretary shall make publicly available an annual report on this subsection for each fiscal year, not later than December 31 of the calendar year in which that fiscal year ends. The report shall include a detailed description of the activities carried out under this subsection, and evaluation of the program including the evaluation of the data reported in paragraph (4).

"(d) BUY AMERICA.—The requirements of section 5323(j) of title 49, United States Code, shall apply to all procurements under this section."

§5326. Transit asset management

(a) DEFINITIONS.—In this section the following definitions shall apply:

(1) CAPITAL ASSET.—The term "capital asset" includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

(2) TRANSIT ASSET MANAGEMENT PLAN.—The term "transit asset management plan" means a plan developed by a recipient of funding under this chapter that—

(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

(B) the recipient certifies complies with the rule issued under this section.

(3) TRANSIT ASSET MANAGEMENT SYSTEM.—The term "transit asset management system" means a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The Secretary shall establish and implement a national transit asset management system, which shall include—

(1) a definition of the term "state of good repair" that includes objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities;

(2) a requirement that recipients and subrecipients of Federal financial assistance under this chapter develop a transit asset management plan;

(3) a requirement that each designated recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

(4) an analytical process or decision support tool for use by public transportation systems that—

(A) allows for the estimation of capital investment needs of such systems over time; and

(B) assists with asset investment prioritization by such systems; and

(5) technical assistance to recipients of Federal financial assistance under this chapter.

(c) PERFORMANCE MEASURES AND TARGETS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based on the state of good repair standards established under subsection (b)(1).

(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

(3) REPORTS.—Each designated recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

(B) the performance targets established by the recipient for the subsequent fiscal year.

(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).

(Added Pub. L. 112–141, div. B, §20019, July 6, 2012, 126 Stat. 707.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsecs. (c)(1) and (d), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

CODIFICATION

Pub. L. 112–141, div. B, §20019, July 6, 2012, 126 Stat. 707, which directed that section 5326 of this title be amended generally, was executed by adding a new section 5326 to reflect the probable intent of Congress. A prior section 5326 was repealed by Pub. L. 109–59, title III, §3025(b), Aug. 10, 2005, 119 Stat. 1622.

PRIOR PROVISIONS

A prior section 5326, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103–429, §6(11), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 105–178, title III, §3023(a), (b), June 9, 1998, 112 Stat. 364, related to turnkey system projects, acquisition of rolling stock, and procurement of associated capital maintenance items, prior to repeal by Pub. L. 109–59, title III, §3025(b), Aug. 10, 2005, 119 Stat. 1622.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5327. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts;

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary quarterly; and

(13) safety and security management.

(b) PLAN APPROVAL.—(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(f) [1] with access to the construction sites and records of the recipient when reasonably necessary.

(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this

section. The regulations shall include—

(1) a definition of "major capital project" for section 5338(f) [1] that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle;

(2) a requirement that oversight—

(A) begin during the project development phase of a project, unless the Secretary finds it more appropriate to begin the oversight during another phase of the project, to maximize the transportation benefits and cost savings associated with project management oversight; and

(B) be limited to quarterly reviews of compliance by the recipient with the project management plan approved under subsection (b) unless the Secretary finds that the recipient requires more frequent oversight because the recipient has failed to meet the requirements of such plan and the project may be at risk of going over budget or becoming behind schedule; and

(3) a process for recipients that the Secretary has found require more frequent oversight to return to quarterly reviews for purposes of paragraph (2)(B).

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103–429, §6(12), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, §5(17), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §3024, June 9, 1998, 112 Stat. 364; Pub. L. 109–59, title III, §3026, Aug. 10, 2005, 119 Stat. 1622; Pub. L. 112–141, div. B, §20020, July 6, 2012, 126 Stat. 708; Pub. L. 114–94, div. A, title III, §3012, Dec. 4, 2015, 129 Stat. 1475.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5327(a)	49 App.:1619(d), (e).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §23(b)–(g); added Apr. 2, 1987, Pub. L. 100–17, §324, 101 Stat. 236.
5327(b)	49 App.:1619(g).	
5327(c)(1)	49 App.:1619(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §23(a); added Apr. 2, 1987, Pub. L. 100–17, §324, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102–240, §3027, 105 Stat. 2115.
5327(c)(2)	49 App.:1619(h).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §23(h); added Nov. 21, 1989, Pub. L. 101–164, §340, 103 Stat. 1099.
5327(c)(3)	49 App.:1619(b).	
5327(d)	49 App.:1619(c).	
5327(e)	49 App.:1619(f).	

In subsection (a), before clause (1), the words "as required in each case by the Secretary" are omitted as surplus. In clause (11), the words "such items as" and "where applicable" are omitted as surplus.

In subsection (c)(1), the words "Beginning October 1, 1987" are omitted as executed. The words "with any person" are omitted as surplus.

In subsection (c)(2), the words "In addition to the purposes provided for under subsection (a) of this section" and "with any person" are omitted as surplus. The cross-reference to paragraph (1) is not changed. The cross-reference in 49 App.:1619(h), the source provision being restated in this subsection, is no longer correct, but is apparently still meant to apply to funds made available under 49 App.:1619(a).

In subsection (e), before clause (1), the text of 49 App.:1619(f) (2d sentence) is omitted as executed. In clause (1), The words "vehicles or other" and "the performance of" are omitted as surplus.

This amends 49:5327(c)(1) to correct an erroneous cross-reference.

PUB. L. 104–287

This amends 49:5327(c) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5338, referred to in subsecs. (c) and (d)(1), was amended generally by Pub. L. 117–58, div. C, §30017, Nov. 15, 2021, 135 Stat. 912. As amended, section 5338 no longer contains a subsec. (f). Provisions relating to oversight, formerly contained in section 5338(f), can be found elsewhere in section 5338.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114–94, §3012(1), which directed substitution of section "5338(f)" for "section 5338(i)", was executed by substituting "section 5338(f)" for "section 5338(i)", to reflect the probable intent of Congress.

Subsec. (d)(1). Pub. L. 114–94, §3012(2)(A)(i), which directed substitution of section 5338(f) for "section 5338(i)" without placing quotation marks around the language to be substituted, was executed by substituting "section 5338(f)" for "section 5338(i)", to reflect the probable intent of Congress.

Subsec. (d)(2), (3). Pub. L. 114–94, §3012(2)(A)(ii), (B), added pars. (2) and (3) and struck out former par. (2), which read as follows: "a requirement that oversight begin during the project development phase of a project, unless the Secretary finds it more appropriate to begin the oversight during another phase of the project, to maximize the transportation benefits and cost savings associated with project management oversight."

2012—Subsec. (a). Pub. L. 112–141, §20020(1)(A), in introductory provisions, substituted "Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan" for "United States Government financial assistance for a major capital project under this chapter or the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320), a recipient must prepare and carry out a project management plan approved by the Secretary of Transportation".

Subsec. (a)(12). Pub. L. 112–141, §20020(1)(B), substituted "quarterly" for "each month".

Subsec. (c). Pub. L. 112–141, §20020(2), (3), added subsec. (c) and struck out former subsec. (c) which related to limitations.

Subsec. (d). Pub. L. 112–141, §20020(2), (4), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to access to sites and records.

Subsec. (d)(1). Pub. L. 112–141, §20020(5)(A), substituted "section 5338(i)" for "subsection (c) of this section".

Subsec. (d)(2). Pub. L. 112–141, §20020(5)(B), substituted "project development phase" for "preliminary engineering stage" and "another phase" for "another stage".

Subsec. (e). Pub. L. 112–141, §20020(4), redesignated subsec. (e) as (d).

Subsec. (f). Pub. L. 112–141, §20020(2), struck out subsec. (f). Text read as follows: "A recipient of financial assistance for a project under this chapter with an estimated total cost of $1,000,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project."

2005—Subsec. (a)(13). Pub. L. 109–59, §3026(a), added par. (13).

Subsec. (c). Pub. L. 109–59, §3026(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) specified limitations on use of available amounts for certain purposes.

1998—Subsec. (c)(2). Pub. L. 105–178, §3024(a), substituted "enter into contracts" for "make contracts" and inserted "and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section" before period at end of first sentence.

Subsec. (f). Pub. L. 105–178, §3024(b), added subsec. (f).

1996—Subsec. (c)(1). Pub. L. 104–287 substituted "to carry out a major project under section 5309" for "to carry out a major project under section 5307".

1994—Subsec. (c)(1). Pub. L. 103–429 substituted "section 5307, 5309, 5311, or 103(e)(4) or that Act" for "section 5307, 5309, 5311, or 103(e)(4) of that Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

FINANCING OF OVERSIGHT ACTIVITIES

Pub. L. 107–87, title III, §319, Dec. 18, 2001, 115 Stat. 858, provided that: "Beginning in fiscal year 2002 and thereafter, the Secretary may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327."

[1] *See References in Text note below.*

[§5328. Repealed. Pub. L. 112–141, div. B, §20002(a), July 6, 2012, 126 Stat. 622]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 828; Pub. L. 104–205, title III, §336, Sept. 30, 1996, 110 Stat. 2974; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–178, title III, §3009(h)(2), (3)(B), (C), June 9, 1998, 112 Stat. 356; Pub. L. 105–206, title IX, §9009(h)(2), (3), July 22, 1998, 112 Stat. 856; Pub. L. 109–59, title III, §3027, Aug. 10, 2005, 119 Stat. 1623, related to project review and advancement by the Secretary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5329. Public transportation safety program

(a) DEFINITION.—In this section, the term "recipient" means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

(A) safety performance criteria for all modes of public transportation, or, in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, safety performance measures, including measures related to the risk reduction program under subsection (d)(1)(I), for all modes of public transportation;

(B) the definition of the term "state of good repair" established under section 5326(b);

(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

(ii) to the extent practicable, take into consideration—

(I) relevant recommendations of the National Transportation Safety Board;

(II) recommendations of, and best practices standards developed by, the public transportation industry; and

(III) innovations in driver assistance technologies and driver protection infrastructure, where appropriate, and a reduction in visibility impairments that contribute to pedestrian fatalities;

(D) in consultation with the Secretary of Health and Human Services, precautionary and reactive actions required to ensure public and personnel safety and health during an emergency (as defined in section 5324(a));

(E) minimum safety standards to ensure the safe operation of public transportation systems that—

(i) are not related to performance standards for public transportation vehicles developed under subparagraph (C); and

(ii) to the extent practicable, take into consideration—

(I) relevant recommendations of the National Transportation Safety Board;

(II) best practices standards developed by the public transportation industry;

(III) any minimum safety standards or performance criteria being implemented across the public transportation industry;

(IV) relevant recommendations from the report under section 3020 of the Federal Public Transportation Act of 2015; and

(V) any additional information that the Secretary determines necessary and appropriate;

(F) a public transportation safety certification training program, as described in subsection (c); and

(G) consideration, where appropriate, of performance-based and risk-based methodologies.

(3) PLAN UPDATES.—The Secretary shall update the national public transportation safety plan under paragraph (1) as necessary with respect to recipients receiving assistance under section 5307 that serve an urbanized area with a population of 200,000 or more.

(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

(1) IN GENERAL.—Each recipient or State, as described in paragraph (3), shall certify that the recipient or State has established a comprehensive agency safety plan that includes, at a minimum—

(A) a requirement that the board of directors (or equivalent entity) of the recipient approve, or, in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under paragraph (5), followed by the board of directors (or equivalent entity) of the recipient approve, the agency safety plan and any updates to the agency safety plan;

(B) for each recipient serving an urbanized area with a population of fewer than 200,000, a requirement that the agency safety plan be developed in cooperation with frontline employee

representatives;

(C) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

(D) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions, and consistent with guidelines of the Centers for Disease Control and Prevention or a State health authority, minimize exposure to infectious diseases;

(E) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

(F) performance targets based on—

(i) the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2); or

(ii) in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, safety performance measures established under the national public transportation safety plan, as described in subsection (b)(2)(A);

(G) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient;

(H) a comprehensive staff training program for—

(i) the operations personnel and personnel directly responsible for safety of the recipient that includes—

(I) the completion of a safety training program; and

(II) continuing safety education and training; or

(ii) in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, the operations and maintenance personnel and personnel directly responsible for safety of the recipient that includes—

(I) the completion of a safety training program;

(II) continuing safety education and training; and

(III) de-escalation training; and

(I) in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, a risk reduction program for transit operations to improve safety by reducing the number and rates of accidents, injuries, and assaults on transit workers based on data submitted to the national transit database under section 5335, including—

(i) a reduction of vehicular and pedestrian accidents involving buses that includes measures to reduce visibility impairments for bus operators that contribute to accidents, including retrofits to buses in revenue service and specifications for future procurements that reduce visibility impairments; and

(ii) the mitigation of assaults on transit workers, including the deployment of assault mitigation infrastructure and technology on buses, including barriers to restrict the unwanted entry of individuals and objects into the workstations of bus operators when a risk analysis performed by the safety committee of the recipient established under paragraph (5) determines that such barriers or other measures would reduce assaults on transit workers and injuries to transit workers.

(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

(3) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN DRAFTING AND CERTIFICATION.—

(A) SECTION 5311.—For a recipient receiving assistance under section 5311, a State safety plan may be drafted and certified by the recipient or a State.

(B) SECTION 5307.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule designating recipients of assistance under section 5307 that are small public transportation providers or systems that may have their State safety plans drafted or certified by a State.

(4) RISK REDUCTION PERFORMANCE TARGETS.—

(A) IN GENERAL.—The safety committee of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more established under paragraph (5) shall establish performance targets for the risk reduction program required under paragraph (1)(I) using a 3-year rolling average of the data submitted by the recipient to the national transit database under section 5335.

(B) SAFETY SET ASIDE.—A recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more shall allocate not less than 0.75 percent of those funds to safety-related projects eligible under section 5307.

(C) FAILURE TO MEET PERFORMANCE TARGETS.—A recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more that does not meet the performance targets established under subparagraph (A) shall allocate the amount made available in subparagraph (B) in the following fiscal year to projects described in subparagraph (D).

(D) ELIGIBLE PROJECTS.—Funds set aside under subparagraph (C) shall be used for projects that are reasonably likely to assist the recipient in meeting the performance targets established in subparagraph (A), including modifications to rolling stock and de-escalation training.

(5) SAFETY COMMITTEE.—

(A) IN GENERAL.—For purposes of this subsection, the safety committee of a recipient shall—

(i) be convened by a joint labor-management process;

(ii) consist of an equal number of—

(I) frontline employee representatives, selected by a labor organization representing the plurality of the frontline workforce employed by the recipient or, if applicable, a contractor to the recipient, to the extent frontline employees are represented by labor organizations; and

(II) management representatives; and

(iii) have, at a minimum, responsibility for—

(I) identifying and recommending risk-based mitigations or strategies necessary to reduce the likelihood and severity of consequences identified through the agency's safety risk assessment;

(II) identifying mitigations or strategies that may be ineffective, inappropriate, or were not implemented as intended; and

(III) identifying safety deficiencies for purposes of continuous improvement.

(B) APPLICABILITY.—This paragraph applies only to a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more.

(e) STATE SAFETY OVERSIGHT PROGRAM.—

(1) APPLICABILITY.—This subsection applies only to eligible States.

(2) DEFINITION.—In this subsection, the term "eligible State" means a State that has—

(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

(B) adopts and enforces Federal and relevant State laws on rail fixed guideway public transportation safety;

(C) establishes a State safety oversight agency;

(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

(4) STATE SAFETY OVERSIGHT AGENCY.—

(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

(i) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

(ii) does not directly provide public transportation services in an area with a rail fixed guideway public transportation system subject to the requirements of this section;

(iii) does not employ any individual who is also responsible for the administration of rail fixed guideway public transportation programs subject to the requirements of this section;

(iv) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

(v) has investigative, inspection, and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

(vi) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

(vii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

(I) the Federal Transit Administration;

(II) the Governor of the eligible State; and

(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

(5) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

(6) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to eligible States to develop or carry out State safety oversight programs under this subsection. Grant funds may be used for program operational and administrative expenses, including employee training activities.

(B) APPORTIONMENT.—

(i) FORMULA.—The amount made available for State safety oversight under section 5336(h) shall be apportioned among eligible States under a formula to be established by the Secretary. Such formula shall take into account fixed guideway vehicle revenue miles, fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway systems not subject to regulation by the Federal Railroad Administration within each eligible State.

(ii) ADMINISTRATIVE REQUIREMENTS.—Grant funds apportioned to States under this paragraph shall be subject to uniform administrative requirements for grants and cooperative agreements to State and local governments under part 18 of title 49, Code of Federal Regulations, and shall be subject to the requirements of this chapter as the Secretary determines appropriate.

(C) GOVERNMENT SHARE.—

(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

(I) any Federal funds;

(II) any funds received from a public transportation agency; or

(III) any revenues earned by a public transportation agency.

(iv) SAFETY TRAINING PROGRAM.—Recipients of funds made available to carry out sections 5307 and 5311 may use not more than 0.5 percent of their formula funds to pay not more than 80 percent of the cost of participation in the public transportation safety certification training program established under subsection (c), by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

(7) CERTIFICATION PROCESS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall determine whether or not each State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

(B) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall issue a certification to each eligible State that the Secretary determines under subparagraph (A) adequately meets the requirements of this subsection, and shall issue a denial of certification to each eligible State that the Secretary determines under subparagraph (A) does not adequately meet the requirements of this subsection.

(C) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection and denies certification, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

(D) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to certify the program, the Secretary—

(i) shall notify the Governor of the eligible State of such denial of certification and failure to adequately modify the program, and shall request that the Governor take all possible actions to correct deficiencies in the program to ensure the certification of the program; and

(ii) may—

(I) withhold funds available under paragraph (6) in an amount determined by the Secretary;

(II) withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title, until the State safety oversight program has been certified; or

(III) require fixed guideway public transportation systems under such State safety oversight program to provide up to 100 percent of Federal assistance made available under this chapter only for safety-related improvements on such systems, until the State safety oversight program has been certified.

(8) FEDERAL SAFETY MANAGEMENT.—

(A) IN GENERAL.—If the Secretary determines that a State safety oversight program is not being carried out in accordance with this section, has become inadequate to ensure the enforcement of Federal safety regulation, or is incapable of providing adequate safety oversight consistent with the prevention of substantial risk of death, or personal injury, the Secretary shall administer the State safety oversight program until the eligible State develops a State safety oversight program certified by the Secretary in accordance with this subsection.

(B) TEMPORARY FEDERAL OVERSIGHT.—In making a determination under subparagraph (A), the Secretary shall—

(i) transmit to the eligible State and affected recipient or recipients, a written explanation of the determination or subsequent finding, including any intention to withhold funding under this section, the amount of funds proposed to be withheld, and if applicable, a formal notice of a withdrawal of State safety oversight program approval; and

(ii) require the State to submit a State safety oversight program or modification for certification by the Secretary that meets the requirements of this subsection.

(C) FAILURE TO CORRECT.—If the Secretary determines in accordance with subparagraph (A), that a State safety oversight program or modification required pursuant to subparagraph (B)(ii), submitted by a State is not sufficient, the Secretary may—

(i) withhold funds available under paragraph (6) in an amount determined by the Secretary;

(ii) beginning 1 year after the date of the determination, withhold not more than 5 percent of the amount required to be appropriated for use in a State or an urbanized area in the State under section 5307, until the State safety oversight program or modification has been

certified; and

(iii) use any other authorities authorized under this chapter considered necessary and appropriate.

(D) ADMINISTRATIVE AND OVERSIGHT ACTIVITIES.—To carry out administrative and oversight activities authorized by this paragraph, the Secretary may use grant funds apportioned to an eligible State, under paragraph (6), to develop or carry out a State safety oversight program.

(9) EVALUATION OF PROGRAM AND ANNUAL REPORT.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, and shall submit on or before July 1 of each year to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on—

(A) the amount of funds apportioned to each eligible State; and

(B) the certification status of each State safety oversight program, including what steps a State program that has been denied certification must take in order to be certified.

(10) FEDERAL OVERSIGHT.—The Secretary shall—

(A) oversee the implementation of each State safety oversight program under this subsection;

(B) audit the operations of each State safety oversight agency at least once triennially; and

(C) issue rules to carry out this subsection.

(11) EFFECTIVENESS OF ENFORCEMENT AUTHORITIES AND PRACTICES.—The Secretary shall develop and disseminate to State safety oversight agencies the process and methodology that the Secretary will use to monitor the effectiveness of the enforcement authorities and practices of State safety oversight agencies.

(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient or the public transportation industry generally;

(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

(B) the Attorney General—

(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

(7) issue rules to carry out this section.

(g) ENFORCEMENT ACTIONS.—

(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with respect to the safety of the public transportation system, including—

(A) issuing directives;

(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

(C) imposing more frequent reporting requirements;

(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects; and

(E) withholding not more than 25 percent of financial assistance under section 5307.

(2) USE OR WITHHOLDING OF FUNDS.—

(A) IN GENERAL.—The Secretary may require the use of funds or withhold funds in accordance with paragraph (1)(D) or (1)(E) only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

(B) NOTICE.—Before withholding funds from a recipient, the Secretary shall provide to the recipient—

(i) written notice of a violation and the amount proposed to be withheld; and

(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

(h) RESTRICTIONS AND PROHIBITIONS.—

(1) RESTRICTIONS AND PROHIBITIONS.—The Secretary shall issue restrictions and prohibitions by whatever means are determined necessary and appropriate, without regard to section 5334(c), if, through testing, inspection, investigation, audit, or research carried out under this chapter, the Secretary determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, exist such that there is a substantial risk of death or personal injury.

(2) NOTICE.—The notice of restriction or prohibition shall describe the condition or practice, the subsequent risk and the standards and procedures required to address the restriction or prohibition.

(3) CONTINUED AUTHORITY.—Nothing in this subsection shall be construed as limiting the Secretary's authority to maintain a restriction or prohibition for as long as is necessary to ensure that the risk has been substantially addressed.

(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

(j) ACTIONS UNDER STATE LAW.—

(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

(A) a Federal standard of care established by a regulation or order issued by the Secretary under this section; or

(B) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary.

(2) EFFECTIVE DATE.—This subsection shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

(3) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

(k) INSPECTIONS.—

(1) INSPECTION ACCESS.—

(A) IN GENERAL.—A State safety oversight program shall provide the State safety oversight agency established by the program with the authority and capability to enter the facilities of each rail fixed guideway public transportation system that the State safety oversight agency oversees to inspect infrastructure, equipment, records, personnel, and data, including the data that the rail fixed guideway public transportation agency collects when identifying and evaluating safety risks.

(B) POLICIES AND PROCEDURES.—A State safety oversight agency, in consultation with each rail fixed guideway public transportation agency that the State safety oversight agency oversees, shall establish policies and procedures regarding the access of the State safety oversight agency to conduct inspections of the rail fixed guideway public transportation system, including access for inspections that occur without advance notice to the rail fixed guideway public transportation agency.

(2) DATA COLLECTION.—

(A) IN GENERAL.—A rail fixed guideway public transportation agency shall provide the applicable State safety oversight agency with the data that the rail fixed guideway public transportation agency collects when identifying and evaluating safety risks, in accordance with subparagraph (B).

(B) POLICIES AND PROCEDURES.—A State safety oversight agency, in consultation with each rail fixed guideway public transportation agency that the State safety oversight agency oversees, shall establish policies and procedures for collecting data described in subparagraph (A) from a rail fixed guideway public transportation agency, including with respect to frequency of collection, that is commensurate with the size and complexity of the rail fixed guideway public transportation system.

(3) INCORPORATION.—Policies and procedures established under this subsection shall be incorporated into—

(A) the State safety oversight program standard adopted by a State safety oversight agency under section 674.27 of title 49, Code of Federal Regulations (or any successor regulation); and

(B) the public transportation agency safety plan established by a rail fixed guideway public transportation agency under subsection (d).

(4) ASSESSMENT BY SECRETARY.—In assessing the capability of a State safety oversight agency to conduct inspections as required under paragraph (1), the Secretary shall ensure that—

(A) the inspection practices of the State safety oversight agency are commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems that the State safety oversight agency oversees;

(B) the inspection program of the State safety oversight agency is risk-based; and

(C) the State safety oversight agency has sufficient resources to conduct the inspections.

(5) SPECIAL DIRECTIVE.—The Secretary shall issue a special directive to each State safety oversight agency on the development and implementation of risk-based inspection programs under this subsection.

(6) ENFORCEMENT.—The Secretary may use any authority under this section, including any

enforcement action authorized under subsection (g), to ensure the compliance of a State safety oversight agency or State safety oversight program with this subsection.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 830; Pub. L. 109–59, title III, §3028(a), Aug. 10, 2005, 119 Stat. 1624; Pub. L. 112–141, div. B, §20021(a), July 6, 2012, 126 Stat. 709; Pub. L. 114–94, div. A, title III, §3013, Dec. 4, 2015, 129 Stat. 1476; Pub. L. 117–58, div. C, §30012(a), Nov. 15, 2021, 135 Stat. 904.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5329(a)	49 App.:1618(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §22(a); added Jan. 6, 1983, Pub. L. 97–424, §318(b), 96 Stat. 2154; Dec. 18, 1991, Pub. L. 102–240, §3026(1), 105 Stat. 2114.
5329(b)	49 App.:1618(b).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §22(b); added Dec. 18, 1991, Pub. L. 102–240, §3026(2), 105 Stat. 2114.

In subsection (a), the words "manner of" are omitted as surplus. The word "how" is substituted for "the means which might best be employed" to eliminate unnecessary words. The words "or eliminating" and "from the local public body" are omitted as surplus. The words "a plan is approved and carried out" are substituted for "he approves such plan and the local public body implements such plan" to eliminate unnecessary words.

In subsection (b)(1) and (2), the words "a description of" are added for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3020 of the Federal Public Transportation Act of 2015, referred to in subsec. (b)(2)(D)(ii)(IV), is section 3020 of Pub. L. 114–94, Dec. 4, 2015, 129 Stat. 1491, which is not classified to the Code.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsecs. (d)(2), (3)(B), (e)(7)(A), (j)(2), and (k), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

AMENDMENTS

2021—Subsec. (b)(2)(A). Pub. L. 117–58, §30012(a)(1)(A)(i), inserted ", or, in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, safety performance measures, including measures related to the risk reduction program under subsection (d)(1)(I), for all modes of public transportation" after "public transportation".

Subsec. (b)(2)(C)(ii)(III). Pub. L. 117–58, §30012(a)(1)(A)(ii), added subcl. (III).

Subsec. (b)(2)(D) to (G). Pub. L. 117–58, §30012(a)(1)(A)(iii)–(vii), added subpars. (D) and (G), and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (b)(3). Pub. L. 117–58, §30012(a)(1)(B), added par. (3).

Subsec. (c). Pub. L. 117–58, §30012(a)(2), struck out par. (1) designation and heading and par. (2). Prior to amendment, text of par. (2) read as follows: "Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection."

Subsec. (d)(1). Pub. L. 117–58, §30012(a)(3)(A)(i), substituted "Each recipient" for "Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient" in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 117–58, §30012(a)(3)(A)(ii), inserted ", or, in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under paragraph (5), followed by the board of directors (or

equivalent entity) of the recipient approve," after "recipient approve".

Subsec. (d)(1)(B) to (H). Pub. L. 117–58, §30012(a)(3)(A)(iii)–(viii), added subpar. (B) and redesignated former subpars. (B) to (G) as (C) to (H), respectively; in subpar. (D), inserted ", and consistent with guidelines of the Centers for Disease Control and Prevention or a State health authority, minimize exposure to infectious diseases" before semicolon at end; added subpar. (F) and struck out former subpar. (F), which related to perforamce targets; and added subpars. (H) and (I) and struck out former subpar. (H), which related to comprehensive staff training programs.

Subsec. (d)(4), (5). Pub. L. 117–58, §30012(a)(3)(B), added pars. (4) and (5).

Subsec. (e)(4)(A)(v). Pub. L. 117–58, §30012(a)(4)(A), inserted ", inspection," after "investigative".

Subsec. (e)(11). Pub. L. 117–58, §30012(a)(4)(B), added par. (11).

Subsec. (k). Pub. L. 117–58, §30012(a)(5), added subsec. (k) and struck out former subsec. (k). Prior to amendment, text read as follows: "Not later than 3 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

"(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

"(2) describes the effect on public transportation safety of activities carried out using grants under this section."

2015—Subsec. (b)(2)(D), (E). Pub. L. 114–94, §3013(1), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (e)(8) to (10). Pub. L. 114–94, §3013(2), added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

Subsec. (f)(2). Pub. L. 114–94, §3013(3), which directed insertion of "or the public transportation industry generally" after "recipients", was executed by making the insertion after "recipient", to reflect the probable intent of Congress.

Subsec. (g)(1). Pub. L. 114–94, §3013(4)(A), substituted "a recipient" for "an eligible State, as defined in subsection (e)," in introductory provisions.

Subsec. (g)(1)(E). Pub. L. 114–94, §3013(4)(B)–(D), added subpar. (E).

Subsec. (g)(2)(A). Pub. L. 114–94, §3013(5), inserted "or withhold funds" after "use of funds" and "or (1)(E)" after "paragraph (1)(D)".

Subsec. (h). Pub. L. 114–94, §3013(6), added subsec. (h) and struck out former subsec. (h), which related to cost-benefit analysis.

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to investigations of safety hazards and security risks.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to investigations of safety hazards and security risks for provisions relating to investigation of safety hazards.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–58, div. C, §30012(b)(2), Nov. 15, 2021, 135 Stat. 909, provided that: "Section 5329(k) of title 49, United States Code (as amended by subsection (a)), shall apply with respect to a State safety oversight agency on and after the date that is 2 years after the date on which the Secretary of Transportation issues the special directive to the State safety oversight agency under paragraph (5) of that section 5329(k)." [The Federal Transit Administration issued 31 special directives under subsec. (k)(5) of this section on Oct. 21, 2022. See 89 F.R. 83977.]

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

SPECIAL DIRECTIVE ON RISK-BASED INSPECTION PROGRAMS

Pub. L. 117–58, div. C, §30012(b)(1), Nov. 15, 2021, 135 Stat. 909, provided that: "Not later than 1 year

after the date of enactment of this Act [Nov. 15, 2021], the Secretary of Transportation shall issue each special directive required under section 5329(k)(5) of title 49, United States Code (as added by subsection (a))."

NO EFFECT ON INITIAL CERTIFICATION PROCESS

Pub. L. 117–58, div. C, §30012(c), Nov. 15, 2021, 135 Stat. 909, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note under this section] or the amendments made by this section affects the requirements for initial approval of a State safety oversight program, including the initial deadline, under section 5329(e)(3) of title 49, United States Code."

IMPROVED PUBLIC TRANSPORTATION SAFETY MEASURES

Pub. L. 114–94, div. A, title III, §3022, Dec. 4, 2015, 129 Stat. 1493, provided that:

"(a) REQUIREMENTS.—Not later than 90 days after publication of the report required in section 3020, the Secretary [of Transportation] shall issue a notice of proposed rulemaking on protecting public transportation operators from the risk of assault.

"(b) CONSIDERATION.—In the proposed rulemaking, the Secretary shall consider—

"(1) different safety needs of drivers of different modes;

"(2) differences in operating environments;

"(3) the use of technology to mitigate driver assault risks;

"(4) existing experience, from both agencies and operators that already are using or testing driver assault mitigation infrastructure; and

"(5) the impact of the rule on future rolling stock procurements and vehicles currently in revenue service.

"(c) SAVINGS CLAUSE.—Nothing in this section may be construed as prohibiting the Secretary from issuing different comprehensive worker protections, including standards for mitigating assaults."

[§5330. Repealed. Pub. L. 112–141, div. B, §20030(e), July 6, 2012, 126 Stat. 731]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 831; Pub. L. 109–59, title III, §§3002(b)(4), 3029(a), Aug. 10, 2005, 119 Stat. 1545, 1625, related to State safety oversight of certain rail fixed guideway public transportation systems.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 112–141, div. B, §20030(e), July 6, 2012, 126 Stat. 731, provided that the repeal of this section is effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of this title. Such effective date is Apr. 15, 2016, see 81 F.R. 14230.

§5331. Alcohol and controlled substances testing

(a) DEFINITIONS.—In this section—

(1) "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) whose use the Secretary decides has a risk to transportation safety.

(2) "person" includes any entity organized or existing under the laws of the United States, a State, territory, or possession of the United States, or a foreign country.

(3) "public transportation" means any form of public transportation, except a form the Secretary decides is covered adequately, for employee alcohol and controlled substances testing purposes, under section 20140 or 31306 of this title or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.

(b) TESTING PROGRAM FOR PUBLIC TRANSPORTATION EMPLOYEES.—(1)(A) In the interest of public transportation safety, the Secretary shall prescribe regulations that establish a

program requiring public transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title to conduct preemployment, reasonable suspicion, random, and post-accident testing of public transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such operations to conduct preemployment testing of such employees for the use of alcohol.

(B) When the Secretary considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of public transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary—

(A) shall require that post-accident testing of such a public transportation employee be conducted when loss of human life occurs in an accident involving public transportation; and

(B) may require that post-accident testing of such a public transportation employee be conducted when bodily injury or significant property damage occurs in any other serious accident involving public transportation.

(c) DISQUALIFICATIONS FOR USE.—(1) When the Secretary considers it appropriate, the Secretary shall require disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) of this section who is found—

(A) to have used or been impaired by alcohol when on duty; or

(B) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or regulation.

(2) This section does not supersede any penalty applicable to a public transportation employee under another law.

(d) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an

opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e) REHABILITATION.—The Secretary shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of any public transportation employee referred to in subsection (b)(1) of this section who is found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent a public transportation operation from establishing a program under this section in cooperation with another public transportation operation.

(f) RELATIONSHIP TO OTHER LAWS, REGULATIONS, STANDARDS, AND ORDERS .—(1) A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(2) In prescribing regulations under this section, the Secretary—

(A) shall establish only requirements that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(g) CONDITIONS ON FEDERAL ASSISTANCE.—

(1) INELIGIBILITY FOR ASSISTANCE.—A person that receives funds under this chapter is not eligible for financial assistance under section 5307, 5309, or 5311 of this title if the person is required, under regulations the Secretary prescribes under this section, to establish a program of alcohol and controlled substances testing and does not establish the program in accordance with this section.

(2) ADDITIONAL REMEDIES.—If the Secretary determines that a person that receives funds under this chapter is not in compliance with regulations prescribed under this section, the Secretary may bar the person from receiving Federal transit assistance in an amount the Secretary considers appropriate.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 832; Pub. L. 103–429, §6(13), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–59, title III, §342(a), Nov. 28, 1995, 109 Stat. 608; Pub. L. 109–59, title III, §§3002(b)(3), (4), 3030, Aug. 10, 2005, 119 Stat. 1545, 1625; Pub. L. 112–141, div. B, §§20022, 20030(f), July 6, 2012, 126 Stat. 717, 731.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5331(a)	49 App.:1618a(a).	Oct. 28, 1991, Pub. L. 102–143, §6, 105 Stat. 962.
5331(b)	49 App.:1618a(b).	

5331(c)	49 App.:1618a(f).	
5331(d)	49 App.:1618a(d).	
5331(e)	49 App.:1618a(c).	
5331(f)	49 App.:1618a(e).	
5331(g)	49 App.:1618a(g).	

In subsection (a), before clause (1), the text of 49 App.:1618a(a)(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In clause (3), the words "controlled substances" are substituted for "drug" for consistency in this section.

In subsection (b)(1)(B), the word "also" is omitted as surplus.

In subsection (b)(2)(B), the words "may require" are substituted for "as determined by the Secretary" for clarity and to eliminate unnecessary words.

In subsection (d), the word "samples" is omitted as surplus.

In subsection (d)(2), before subclause (A), the word "subsequent" is omitted as surplus.

In subsection (d)(3), the words "of any individual" are omitted as surplus.

In subsection (d)(4), the words "by any individual" are omitted as surplus.

In subsection (d)(5), the word "tested" is substituted for "assayed" for consistency. The words "2d confirmation test" are substituted for "independent test" for clarity and consistency.

In subsection (d)(6), the word "Secretary" is substituted for "Department" for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), the word "prescribe" is substituted for "adopt" for consistency in the revised title and with other titles of the Code. The word "rule" is omitted as being synonymous with "regulation". The word "ordinance" is omitted as being included in "law" and "regulation". The words "whether the provisions apply specifically to mass transportation employees, or to the general public" are omitted as surplus.

In subsection (f)(3), the word "prevent" is substituted for "restrict the discretion of" to eliminate unnecessary words.

In subsection (g) the words "in accordance with such regulations" are omitted as surplus.

PUB. L. 103–429

This amends 49:5331(a)(3) to correct an erroneous cross-reference.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141, §20030(f), substituted "Secretary" for "Secretary of Transportation" wherever appearing.

Subsec. (g). Pub. L. 112–141, §20022, added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "A person is not eligible for financial assistance under section 5307, 5309, or 5311 of this title if the person is required, under regulations the Secretary of Transportation prescribes under this section, to establish a program of alcohol and controlled substances testing and does not establish the program."

2005—Subsec. (a)(3). Pub. L. 109–59, §3030(a), substituted "section 20140 or 31306 of this title or section 2303a, 7101(i), or 7302(e) of title 46" for "section 20140 or 31306 of this title" and inserted at end "The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.".

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in two places.

Subsec. (b). Pub. L. 109–59, §3002(b)(3), substituted "Public" for "Mass" in heading.

Subsec. (b)(1)(A). Pub. L. 109–59, §3030(b), struck out "or section 103(e)(4) of title 23" after "5311 of this title".

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

Subsecs. (b)(1)(B), (2), (c)(2), (e). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

Subsec. (f)(3). Pub. L. 109–59, §3030(c), struck out par. (3) which read as follows: "This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by mass

transportation employees."

Subsec. (g). Pub. L. 109–59, §3030(b), struck out "or section 103(e)(4) of title 23" after "5311 of this title".

1995—Subsec. (b)(1)(A). Pub. L. 104–59 added subpar. (A) and struck out former subpar. (A) which read as follows: "In the interest of mass transportation safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation."

1994—Subsec. (a)(3). Pub. L. 103–429 substituted "section 20140 or 31306" for "subchapter III of chapter 201 or section 31306".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§5332. Nondiscrimination

(a) DEFINITION.—In this section, "person" includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) PROHIBITIONS.—A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, religion, national origin, sex, disability, or age.

(c) COMPLIANCE.—(1) The Secretary shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) AUTHORITY OF SECRETARY FOR NONCOMPLIANCE.—If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(4) take any other action provided by law.

(e) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) APPLICATION AND RELATIONSHIP TO OTHER LAWS.—This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42

U.S.C. 2000d et seq.).

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 834; Pub. L. 112–141, div. B, §§20023(a), 20030(g), July 6, 2012, 126 Stat. 717, 731.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5332(a)	49 App.:1615(a)(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §19; added Nov. 6, 1978, Pub. L. 95–599, §314, 92 Stat. 2750.
5332(b)	49 App.:1615(a)(1) (1st sentence).	
5332(c)	49 App.:1615(a)(2), (3)(A).	
5332(d)	49 App.:1615(a)(3)(B).	
5332(e)	49 App.:1615(a)(4).	
5332(f)	49 App.:1615(a)(1) (last sentence).	

In subsection (a), the words "the term" and "one or more" are omitted as surplus. The words "partnerships, associations, corporations" and "mutual companies, joint-stock companies" are omitted because of 1:1.

In subsection (b), the word "receiving" is substituted for "funded in whole or in part through" to eliminate unnecessary words.

In subsection (c)(2), the words "directly or indirectly", "issued", and "necessary" are omitted as surplus.

In subsection (d), before clause (1), the words "does not" are substituted for "fails or refuses to" to eliminate unnecessary words. The words "period of" and "pursuant to paragraph (a) of this subsection" are omitted as surplus. In clause (2), the word "appropriate" is omitted as surplus. In clause (3), the words "proceed under" are substituted for "exercise the powers and functions provided by" to eliminate unnecessary words.

In subsection (e), before clause (1), the words "in any appropriate district court of the United States" and "including injunctive relief" are omitted as surplus.

In subsection (f), the words "considered to be" and "and not in lieu of" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (d)(3) and (f), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–141, §20023(a)(1), substituted "religion" for "creed" and inserted "disability," after "sex,".

Subsec. (c)(1). Pub. L. 112–141, §20030(g), struck out "of Transportation" after "Secretary".

Subsec. (d)(3). Pub. L. 112–141, §20023(a)(2), substituted "or" for "and".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141 through 3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307–5312, 5316,[1] 5318, 5323(a)(1), 5323(b), 5323(d), 5328,[1] 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5316,[1] 5318, 5323(a)(1), 5323(b), 5323(d), 5328,[1] 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV–90–X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104–88, title III, §308(e), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105–178, title III, §3029(b)(9), June 9, 1998, 112 Stat. 372; Pub. L. 107–217, §3(n)(3), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 109–59, title III, §§3002(b)(4), 3031, Aug. 10, 2005, 119 Stat. 1545, 1625; Pub. L. 112–141, div. B, §20030(h), July 6, 2012, 126 Stat. 731.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5333(a)	49 App.:1609(a), (b).	July 9, 1964, Pub. L. 88–365, §13, 78 Stat. 307; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), (b)(2), 80 Stat. 715, 716; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5333(b)	49 App.:1609(c).	

In subsection (a), the words "take such action as may be necessary to", "the performance of", "the assistance of", and "at rates" are omitted as surplus. The word "same" is added for clarity. The words "duties and powers" are substituted for "authority and functions" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the reference to sections 5307, 5308, 5310, and 5311 of the revised title is added for clarity because of 49 App.:1607a(e)(1), 1607a–2(a), 1612(b), and 1614(f), restated as sections 5307(n)(2), 5308(b)(1), 5310(a), and 5311(i) of the revised title. The reference to section 5312 is added for clarity because it is intended that 49 App.:1609(c) cover research, development, training, and demonstration projects. The words "terms and conditions of the protective" are omitted as surplus.

In subsection (b)(2), before clause (A), the words "without being limited to" are omitted as being included in "include". The words "such provisions as may be necessary for" are omitted as surplus. In clause (C), the word "individual" is omitted as surplus.

In subsection (b)(3), the words "section 11347 of this title" are substituted for and coextensive with "section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended" in section 13(c) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 307) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1466).

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan No. 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 5316 and 5328 of this title, referred to in subsec. (b)(1), were repealed by Pub. L. 112–141, div. B, §20002(a), July 6, 2012, 126 Stat. 622.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141 substituted "sections 3141 through 3144" for "sections 3141–3144".

2005—Subsec. (b)(1). Pub. L. 109–59, §3031(1), substituted "5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)" for "5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)" in two places.

Subsec. (b)(2)(D). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (b)(4), (5). Pub. L. 109–59, §3031(2), added pars. (4) and (5).

2002—Subsec. (a). Pub. L. 107–217 substituted "sections 3141–3144, 3146, and 3147 of title 40" for "the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)".

1998—Subsec. (b)(1). Pub. L. 105–178 substituted "5338(b)" for "5338(j)(5)" in two places.

1995—Subsec. (b)(3). Pub. L. 104–88 substituted "11326" for "11347".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

[1] *See References in Text note below.*

§5334. Administrative provisions

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project that receives Federal financial assistance under this chapter

(except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter;

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter;

(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote public transportation and credit amounts collected to the appropriation concerned; and

(11) issue regulations as necessary to carry out the purposes of this chapter.

(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States as described in section 5329, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter. The Secretary may not regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.

(c) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives on the day the agenda is published.

(2) Except for emergency regulations, the Secretary shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(4) The Secretary shall comply with this subsection when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(d) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts for audit under chapter 35 of title 31.

(e) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury.

Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(f) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(g) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary may deal with property acquired under paragraph (3) or (4) of subsection (a) in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(h) TRANSFER OF ASSETS NO LONGER NEEDED.—

(1) IN GENERAL.—If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which such asset was acquired, the Secretary may authorize the recipient to transfer such asset to—

(A) a local governmental authority to be used for a public purpose with no further obligation to the Government if the Secretary decides—

(i) the asset will remain in public use for at least 5 years after the date the asset is transferred;

(ii) there is no purpose eligible for assistance under this chapter for which the asset should be used;

(iii) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(iv) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land; or

(B) a local governmental authority, nonprofit organization, or other third party entity to be used for the purpose of transit-oriented development with no further obligation to the Government if the Secretary decides—

(i) the asset is a necessary component of a proposed transit-oriented development project;

(ii) the transit-oriented development project will increase transit ridership;

(iii) at least 40 percent of the housing units offered in the transit-oriented development, including housing units owned by nongovernmental entities, are legally binding affordability restricted to tenants with incomes at or below 60 percent of the area median income and owners with incomes at or below 60 percent [1] the area median income, which shall include at least 20 percent of such housing units offered restricted to tenants with incomes at or below 30 percent of the area median income and owners with incomes at or below 30 percent the area median income;

(iv) the asset will remain in use as described in this section for at least 30 years after the date the asset is transferred; and

(v) with respect to a transfer to a third party entity—

(I) a local government authority or nonprofit organization is unable to receive the property;

(II) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(III) the third party has demonstrated a satisfactory history of construction or operating an affordable housing development.

(2) A decision under paragraph (1) must be in writing and include the reason for the decision.

(3) This subsection is in addition to any other law related to using and disposing of a facility or equipment under an assistance agreement.

(4) PROCEEDS FROM THE SALE OF TRANSIT ASSETS.—

(A) IN GENERAL.—When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for public transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

(B) REIMBURSEMENT.—

(i) FAIR MARKET VALUE OF LESS THAN $5,000.—With respect to rolling stock and equipment with a unit fair market value of $5,000 or less per unit and unused supplies with a total aggregate fair market value of $5,000 or less that was purchased using Federal financial assistance under this chapter, the rolling stock, equipment, and supplies may be retained, sold, or otherwise disposed of at the end of the service life of the rolling stock, equipment, or supplies without any obligation to reimburse the Federal Transit Administration.

(ii) FAIR MARKET VALUE OF MORE THAN $5,000.—

(I) IN GENERAL.—With respect to rolling stock and equipment with a unit fair market value of more than $5,000 per unit and unused supplies with a total aggregate fair market value of more than $5,000 that was purchased using Federal financial assistance under this chapter, the rolling stock, equipment, and supplies may be retained or sold at the end of the service life of the rolling stock, equipment, or supplies.

(II) REIMBURSEMENT REQUIRED.—If rolling stock, equipment, or supplies described in subclause (I) is sold, of the proceeds from the sale—

(aa) the recipient shall retain an amount equal to the sum of—

(AA) $5,000; and

(BB) of the remaining proceeds, a percentage of the amount equal to the non-Federal share expended by the recipient in making the original purchase; and

(bb) any amounts remaining after application of item (aa) shall be returned to the Federal Transit Administration.

(iii) ROLLING STOCK AND EQUIPMENT RETAINED.—Rolling stock, equipment, or supplies described in clause (i) or (ii) that is retained by a recipient under those clauses may be used by the recipient for other public transportation projects or programs with no obligation to reimburse the Federal Transit Administration, and no approval of the Secretary to retain that rolling stock, equipment, or supplies is required.

(C) USE.—The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

(D) RELATIONSHIP TO OTHER AUTHORITY.—The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.

(i) TRANSFER OF AMOUNTS AND NON-GOVERNMENT SHARE.—(1) Amounts made available for a public transportation project under title 23 may be transferred to and administered by the Secretary under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for public transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(j) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business

days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(k) AGENCY STATEMENTS.—

(1) IN GENERAL.—The Administrator of the Federal Transit Administration shall follow applicable rulemaking procedures under section 553 of title 5 before the Federal Transit Administration issues a statement that imposes a binding obligation on recipients of Federal assistance under this chapter.

(2) BINDING OBLIGATION DEFINED.—In this subsection, the term "binding obligation" means a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 836; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104–316, title I, §127(a), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–178, title III, §§3023(c), 3025(a), (b)(1), (c), June 9, 1998, 112 Stat. 364, 365; Pub. L. 109–59, title III, §§3002(b)(4), 3032, Aug. 10, 2005, 119 Stat. 1545, 1626; Pub. L. 111–350, §5(o)(3), Jan. 4, 2011, 124 Stat. 3853; Pub. L. 112–141, div. B, §§20024, 20030(i), July 6, 2012, 126 Stat. 718, 731; Pub. L. 117–58, div. C, §30013, Nov. 15, 2021, 135 Stat. 909; Pub. L. 117–81, div. F, title LXVI, §6609, Dec. 27, 2021, 135 Stat. 2446.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5334(a)	49 App.:1608(a) (1st sentence related to 12:1749a(c) (1)–(3) (1st sentence), (4)–(8), (10)).	July 9, 1964, Pub. L. 88–365, §12(a), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5334(b)	49 App.:1608(i)(1), (2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(i)(1), (2); added Apr. 2, 1987, Pub. L. 100–17, §318(a), 101 Stat. 233.
	49 App.:1608(i)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(i)(3); added Dec. 18, 1991, Pub. L. 102–240, §3017, 105 Stat. 2108.
5334(c)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (less proviso)).	
5334(d)	49 App.:1608(a) (1st sentence related to 12:1749a(b), last sentence).	
5334(e)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (proviso)).	
5334(f)	49 App.:1608(a) (1st sentence related to 12:1749a(c)(3) (last sentence)).	
5334(g)	49 App.:1608(k).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(k); added Dec. 18, 1991,

		Pub. L. 102–240, §3018, 105 Stat. 2108.
5334(h)	49 App.:1607(k).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(k); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102–388, §502(a), 106 Stat. 1566.
5334(i)	49 App.:1608 (note) (related to authority and functions reserved to Secretary of Housing and Urban Development).	Reorg. Plan No. 2 of 1968, eff. June 30, 1968, §1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development), 82 Stat. 1369.
5334(j)(1)	49 App.:1608(a) (1st sentence related to 12:1749a(e)).	
5334(j)(2)	49 App.:1608(a) (1st sentence related to 12:1749a(d)).	

In subsections (c)–(f), and (j), the relevant substantive provisions of 12:1749a are substituted for "shall . . . have the functions, powers, and duties set forth in section 1749a of title 12, except subsections (c)(2) and (f) of such section" for clarity. The reference to subsection (c)(2) is omitted as obsolete because section 201(d)(1) of the Housing and Community Development Technical Amendments Act of 1984 (Public Law 98–479, 98 Stat. 2228) repealed 12:1749a(c)(2). The words "(in addition to any authority otherwise vested in him)" are omitted as surplus.

In subsection (a), the text of 49 App.:1608(a) (1st sentence related to 12:1749a(c)(8)) is omitted as obsolete. Before clause (1), the words "carrying out this chapter" are substituted for "the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter" to eliminate unnecessary words. In clause (1), the words "(except terms the Secretary of Labor prescribes under section 5333(b) of this title)" are added for clarity because 49 App.:1608(a) only applies to the Secretary of Transportation and does not supersede the responsibility of the Secretary of Labor. In clause (3), the word "civil" is added for clarity. The words "contract, or other" are omitted as surplus. In clause (4), the words "bid for and . . . at any foreclosure or any other sale" are omitted as surplus. In clause (6), the words "at public or private sale", "real or personal", and "upon such terms as he may fix" are omitted as surplus. Clause (8) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(c)(7)) to eliminate unnecessary words. In clause (9), the word "provisions" is omitted as surplus. The words "carry out this chapter" are substituted for "assure that the purposes of this subchapter will be achieved" to eliminate unnecessary words.

In subsection (b), the words "regulatory" and "regulatory proceeding" are substituted for "rulemaking" for consistency in the revised title and because "rule" and "regulation" are synonymous.

In subsection (b)(1), the words "Federal Transit Administration" are substituted for "Urban Mass Transportation Administration" because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2088). The words "also" and "required by the first sentence of this paragraph" are omitted as surplus.

In subsection (c), before clause (1), the words "In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter . . . notwithstanding the provisions of any other law" are omitted as surplus. In clause (1), the words "prepare . . . and" and "for wholly owned Government corporations" are omitted as surplus.

Subsection (d) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(b) and last sentence) to eliminate unnecessary words.

In subsection (e), the words "such . . . as the making of loans" are omitted as surplus. The words "under this chapter" are added for clarity. The word "related" is substituted for "in connection with such financial transactions" to eliminate unnecessary words. The words "approved by the Secretary" are omitted as surplus. The word "binding" is substituted for "final and conclusive" to eliminate unnecessary words. The words "and employees" are added for consistency in the revised title and with other titles of the United States Code.

In subsection (f), before clause (1), the words "in any way" are substituted for "complete, administer,

remodel and convert, dispose of, lease and otherwise" to eliminate unnecessary words. In clause (1), the words "civil or criminal" are omitted as surplus. In clause (2), the words "political subdivision of a State" are substituted for "local" for consistency.

In subsection (g)(1), before clause (A), the words "facilities and equipment and other", "(including land)", and "first" are omitted as surplus.

In subsection (g)(3), the words "and not in lieu of" are omitted as surplus.

Subsection (i) is substituted for section 1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development) of Reorganization Plan No. 2 of 1968 to eliminate unnecessary words. The reference to 49 App.:1602(c)(1) is translated as a reference to 49 App.:1602(e)(1) because section 2(1) of the Urban Mass Transportation Assistance Act of 1970 (Public Law 91–453, 84 Stat. 962) redesignated subsection (c) as subsection (e). The references to 49 App.:1603(a) (1st sentence), 1604, and 1607c(b) and former 49 App.:1607a are omitted as obsolete because of section 103(a) of the National Mass Transportation Act of 1974 (Public Law 93–503, 88 Stat. 1567) and sections 303(b), 305(a), and 307 of the Federal Public Transportation Act of 1978 (Public Law 95–599, 92 Stat. 2737, 2743, 2747). Reference to 49 App.:1607c(c) is omitted because it was enacted after the Reorganization Plan and was not intended to be within the scope of the Plan.

Subsection (j)(1) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(e)) to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (h)(4)(D), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

AMENDMENTS

2021—Subsec. (h)(1). Pub. L. 117–81 amended par. (1) generally. Prior to amendment, par. (1) related to authorization by Secretary of assets no longer needed.

Subsec. (h)(4)(B) to (D). Pub. L. 117–58 added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

2012—Subsec. (a)(1). Pub. L. 112–141, §20024(1), substituted "that receives Federal financial assistance under this chapter" for "under sections 5307 and 5309–5311 of this title".

Subsec. (b)(1). Pub. L. 112–141, §20024(2), inserted "or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States as described in section 5329," after "emergency," and substituted "chapter. The Secretary may not" for "chapter, nor may the Secretary".

Subsec. (c)(1). Pub. L. 112–141, §20030(i)(1), substituted "Secretary shall prepare" for "Secretary of Transportation shall prepare" and "Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives" for "Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate".

Subsec. (c)(2). Pub. L. 112–141, §20030(i)(1)(A), substituted "Secretary shall give" for "Secretary of Transportation shall give".

Subsec. (c)(4). Pub. L. 112–141, §§20030(i)(1)(A), 20024(3), substituted "Secretary shall comply" for "Secretary of Transportation shall comply" and "subsection" for "section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)".

Subsec. (d). Pub. L. 112–141, §20030(i)(2), struck out "of Transportation" after "Secretary" in introductory provisions.

Subsec. (e). Pub. L. 112–141, §20030(i)(3), struck out "of Transportation" after "The Secretary".

Subsec. (f). Pub. L. 112–141, §20030(i)(4), struck out "of Transportation" after "Secretary".

Subsec. (g). Pub. L. 112–141, §20030(i)(5), in introductory provisions, struck out "of Transportation" after "Secretary".and substituted "paragraph (3) or (4) of subsection (a)" for "subsection (a)(3) or (4) of this section".

Subsec. (h)(1). Pub. L. 112–141, §20030(i)(6)(A), struck out "of Transportation" after "acquired, the Secretary" in introductory provisions.

Subsec. (h)(2). Pub. L. 112–141, §20030(i)(6)(B), struck out "of this section" after "paragraph (1)".

Subsec. (h)(3). Pub. L. 112–141, §20024(4), substituted "any other" for "another".

Subsec. (i)(1). Pub. L. 112–141, §§20024(5), 20030(i)(7), substituted "title 23 may" for "title 23 shall" and "Secretary under this chapter" for "Secretary of Transportation under this chapter".

Subsec. (j). Pub. L. 112–141, §20030(i)(8), which directed substitution of "Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives" for "Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives" in subsec. (j) as redesignated by section 20025 of Pub. L. 112–141, was executed to subsec. (j) as redesignated by section 20024 of Pub. L. 112–141, to reflect the probable intent of Congress.

Pub. L. 112–141, §20024(6), (7), redesignated subsec. (k) as (j) and struck out former subsec. (j). Prior to amendment, text read as follows:

"(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

"(2) Section 6101(b) to (d) of title 41 applies to a contract for more than $1,000 for services or supplies related to property acquired under this chapter."

Subsecs. (k), (l). Pub. L. 112–141, §20024(7), redesignated subsecs. (k) and (l) as (j) and (k), respectively.

2011—Subsec. (j)(2). Pub. L. 111–350 substituted "Section 6101(b) to (d) of title 41" for "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

2005—Subsec. (a)(10). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (a)(11). Pub. L. 109–59, §3032(1), added par. (11).

Subsec. (b). Pub. L. 109–59, §3032(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 109–59, §3032(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(4). Pub. L. 109–59, §3032(5), added par. (4) and struck out former par. (4) which read as follows: "The Secretary of Transportation shall comply with this section (except subsections (h) and (i)) and sections 5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact."

Subsecs. (d) to (f). Pub. L. 109–59, §3032(3), redesignated subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, §3032(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1), (4)(A). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (h). Pub. L. 109–59, §3032(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" in pars. (1) and (2).

Subsec. (i). Pub. L. 109–59, §3032(2), (3), redesignated subsec. (h) as (i) and struck out heading and text of former subsec. (i). Text read as follows: "The Secretary of Housing and Urban Development shall—

"(1) carry out section 5312(a) and (b)(1) of this title related to—

"(A) urban transportation systems and planned development of urban areas; and

"(B) the role of transportation planning in overall urban planning; and

"(2) advise and assist the Secretary of Transportation in making findings under section 5323(a)(1)(A) of this title."

Subsecs. (k), (l). Pub. L. 109–59, §3032(6), added subsecs. (k) and (l).

1998—Pub. L. 105–178, §3025(b)(1), inserted "provisions" after "Administrative" in section catchline.

Subsec. (a)(10). Pub. L. 105–178, §3025(a), added par. (10).

Subsec. (b)(4). Pub. L. 105–178, §3023(c), substituted "5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d)" for "5323(a)(2), (c) and (e), 5324(c), and 5325 of this title".

Subsec. (g)(4). Pub. L. 105–178, §3025(c), added par. (4).

1996—Subsec. (b)(1). Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (c)(2). Pub. L. 104–316 substituted "for" for "the Comptroller General shall".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[1] *So in original. Probably should be followed by "of".*

§5335. National transit database

(a) NATIONAL TRANSIT DATABASE.—To help meet the needs of individual public transportation systems, the United States Government, State and local governments, and the public for information on which to base public transportation service planning, the Secretary shall maintain a reporting system, using uniform categories to accumulate public transportation financial, operating, geographic service area coverage, and asset condition information and using a uniform system of accounts. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311 only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(c) DATA REQUIRED TO BE REPORTED.—Each recipient of a grant under this chapter shall report to the Secretary, for inclusion in the national transit database under this section—

(1) any information relating to a transit asset inventory or condition assessment conducted by the recipient;

(2) any data on assaults on transit workers of the recipients; and

(3) any data on fatalities that result from an impact with a bus.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 838; Pub. L. 104–287, §5(9), (18), Oct. 11, 1996, 110 Stat. 3389, 3390; Pub. L. 104–316, title I, §127(b), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–178, title III, §3026, June 9, 1998, 112 Stat. 365; Pub. L. 109–59, title III, §§3002(b)(4), 3033(a), Aug. 10, 2005, 119 Stat. 1545, 1627; Pub. L. 112–141, div. B, §§20025(a), 20030(j), July 6, 2012, 126 Stat. 718, 731; Pub. L. 117–58, div. C, §30014, Nov. 15, 2021, 135 Stat. 910.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5335(a)	49 App.:1608(j).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(j); added Apr. 2, 1987, Pub. L. 100–17, §319, 101 Stat. 234.
	49 App.:1611(a).	July 9, 1964, Pub. L. 88–365, §15(a), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91–453, §7, 84 Stat. 967; restated Nov. 26, 1974, Pub. L. 93–503, §111, 88 Stat. 1573.
	49 App.:1611(b).	July 9, 1964, Pub. L. 88–365, §15(b), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91–453, §7, 84 Stat. 967; restated Nov. 26, 1974, Pub. L. 93–503, §111, 88 Stat. 1573; Jan. 6, 1983, Pub. L. 97–424, §304(c), 96 Stat. 2150.
5335(b)	49 App.:1603(b)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(b)(1); added Nov. 6, 1978,

		Pub. L. 95–599, §303(e), 92 Stat. 2738; restated Apr. 2, 1987, Pub. L. 100–17, §307, 101 Stat. 226; Dec. 18, 1991, Pub. L. 102–240, §3006(h)(1), 105 Stat. 2090.
5335(c)	49 App.:1623(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §27; added Dec. 18, 1991, Pub. L. 102–240, §3028, 105 Stat. 2115.
5335(d)	49 App.:1623(b).	

In subsection (a), the text of 49 App.:1608(j) is omitted as superseded by 31:ch. 75.

In subsection (a)(1), the words "by January 10, 1977" are omitted as executed. The word "maintain" is substituted for "develop, test, and prescribe" for clarity. The text of 49 App.:1611(a) (3d and 4th sentences) is omitted as executed. The words "or data as he deems" and "public or private" are omitted as surplus.

In subsection (a)(2), the words "After July 1, 1978" are omitted as executed. The reference to 49 App.:1604 is omitted as obsolete. The words "for such grant", "or organization", "each . . . both", and "prescribed under subsection (a) of this section" are omitted as surplus.

In subsection (b)(1), the words "commitments, and reservations" are omitted as surplus.

In subsection (b)(2) and (3), the words "uncommitted, and unreserved" are omitted as surplus.

In subsection (b)(3) and (5), the words "last day" are substituted for "close" for consistency.

In subsection (b)(4), the words "a listing of" are omitted as surplus.

In subsection (b)(5), the words "a status report on all" are omitted as surplus.

In subsection (b)(6), the words "a status report on", "a letter of credit or other", and "already" are omitted as surplus.

In subsection (d), before clause (1), the words "the transferability provisions of" are omitted as surplus.

PUB. L. 104–287, §5(18)

This amends 49:5335(d)(2)(B) to amend an erroneous cross-reference.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §30014(1), inserted "geographic service area coverage," after "operating," in first sentence.

Subsec. (c). Pub. L. 117–58, §30014(2), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to a transit asset inventory or condition assessment conducted by the recipient."

2012—Subsec. (a). Pub. L. 112–141, §§20025(a)(1), 20030(j), struck out "of Transportation" after "the Secretary" and substituted "public transportation financial, operating, and asset condition information" for "public transportation financial and operating information".

Subsec. (c). Pub. L. 112–141, §20025(a)(2), added subsec. (c).

2005—Pub. L. 109–59, §3033(a), substituted "National transit database" for "Reports and audits" in section catchline, redesignated pars. (1) and (2) of subsec. (a) as subsecs. (a) and (b), respectively, inserted subsec. (b) heading, substituted "The Secretary may award a grant under section 5307 or 5311" for "The Secretary may make a grant under section 5307 of this title" in subsec. (b), and struck out former subsec. (b) which related to submission of a report in January- 1993, on carrying out former section 5307(b)(5) of this title.

Subsec. (a)(1). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation" wherever appearing.

1998—Subsec. (a). Pub. L. 105–178, §3026(a)(1), substituted "National Transit Database" for "Reporting System and Uniform System of Accounts and Records" in heading.

Subsec. (a)(1). Pub. L. 105–178, §3026(a)(2), substituted "using uniform categories" for "by uniform categories," and "and using a uniform system of accounts" for "and a uniform system of accounts and records".

Subsecs. (b) to (d). Pub. L. 105–178, §3026(b), redesignated subsec. (d) as (b) and struck out former subsecs. (b) and (c) which related to quarterly reports and biennial needs report, respectively.

1996—Subsec. (b). Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public

Works and Transportation" in introductory provisions.

Subsec. (c). Pub. L. 104–316 struck out "and in January of every 2d year after 1993" after "In January 1993" in introductory provisions.

Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation" in introductory provisions.

Subsec. (d). Pub. L. 104–316 struck out "and in January of every 2d year after 1993" after "In January 1993" in introductory provisions.

Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation" in introductory provisions.

Subsec. (d)(2)(B). Pub. L. 104–287, §5(18), substituted "Americans with Disabilities Act" for "Americans With Disabilities Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

DATA ACCURACY AND RELIABILITY

Pub. L. 112–141, div. B, §20025(b), July 6, 2012, 126 Stat. 718, provided that: "The Secretary [of Transportation] shall—

"(1) develop and implement appropriate internal control activities to ensure that public transportation safety incident data is reported accurately and reliably by public transportation systems and State safety oversight agencies to the State Safety Oversight Rail Accident Database; and

"(2) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives within 1 year of enactment of the Federal Public Transportation Act of 2012 [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways] on the steps taken to improve the accuracy and reliability of public transportation safety incident data reported to the State Safety Oversight Rail Accident Database."

§5336. Apportionment of appropriations for formula grants

(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(5) to carry out section 5307—

(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, "fixed guideway vehicle revenue miles" and "fixed guideway directional route miles" include passenger ferry operations directly or under contract by the designated recipient.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount

equal to—

(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

(E) For purposes of subparagraph (A) and section 5337(c)(3), the Secretary shall deem to be attributable to an urbanized area not less than 27 percent of the fixed guideway vehicle revenue miles or fixed guideway directional route miles in the public transportation system of a recipient that are located outside the urbanized area for which the recipient receives funds, in addition to the fixed guideway vehicle revenue miles or fixed guideway directional route miles of the recipient that are located inside the urbanized area.

(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

(d) DATE OF APPORTIONMENT.—The Secretary shall—

(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient.

(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3).[1] The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

(2) The Governor of a State may transfer any part of the State's apportionment under section 5311(c)(3)[1] to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The Governor of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to

amounts transferred under this subsection.

(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

(1) $30,000,000 shall be set aside each fiscal year to carry out section 5307(h);

(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

(3) of amounts not apportioned under paragraphs (1) and (2), 3 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i);

(4) 0.75 percent shall be apportioned to eligible States for State safety oversight program grants in accordance with section 5329(e)(6); and

(5) any amount not apportioned under paragraphs (1), (2), (3), and (4) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ELIGIBLE AREA.—The term "eligible area" means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

(B) PERFORMANCE CATEGORY.—The term "performance category" means each of the following:

(i) Passenger miles traveled per vehicle revenue mile.

(ii) Passenger miles traveled per vehicle revenue hour.

(iii) Vehicle revenue miles per capita.

(iv) Vehicle revenue hours per capita.

(v) Passenger miles traveled per capita.

(vi) Passengers per capita.

(2) APPORTIONMENT.—

(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

(A) the number of eligible low-income individuals in each such urbanized area; bears to

(B) the number of eligible low-income individuals in all such urbanized areas.

(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

(A) the number of eligible low-income individuals in each such urbanized area; bears to

(B) the number of eligible low-income individuals in all such urbanized areas.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 840; Pub. L. 104–287, §5(19), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §§3027(a), (b), 3029(b)(10), (11), June 9, 1998, 112 Stat. 366, 373; Pub. L. 109–59, title III, §§3002(b)(4), 3034, Aug. 10, 2005, 119 Stat. 1545, 1627; Pub. L. 110–244, title II, §201(l), June 6, 2008, 122 Stat. 1611; Pub. L. 112–141, div. B, §20026, July 6, 2012, 126 Stat. 719; Pub. L. 113–159, title I, §1202, Aug. 8, 2014, 128 Stat. 1845; Pub. L. 114–21, title I, §1202, May 29, 2015, 129 Stat. 223; Pub. L. 114–41, title I, §1202, July 31, 2015, 129 Stat. 450; Pub. L. 114–73, title I, §1202, Oct. 29, 2015, 129 Stat. 573; Pub. L. 114–87, title I, §1202, Nov. 20, 2015, 129 Stat. 682; Pub. L. 114–94, div. A, title III, §3014, Dec. 4, 2015, 129 Stat. 1478; Pub. L. 117–58, div. C, §§30001(b)(3), 30015(a), (b)(1), Nov. 15, 2021, 135 Stat. 890, 910.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5336(a)(1)	49 App.:1607a(a)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(a); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2141; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(a), 105 Stat. 2106.
	49 App.:1607a(d).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(b)(1)–(3), (c)–(e)(1), (m)(2); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2141, 2147; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238.
5336(a)(2)	49 App.:1607a(a)(2).	
5336(b)(1)	49 App.:1607a(b)(2) (last sentence).	
5336(b)(2)(A)	49 App.:1607a(b)(1), (2) (1st sentence).	
5336(b)(2)(B)	49 App.:1607a(b)(3) (1st sentence).	
5336(b)(2)(C)	49 App.:1607a(b)(2) (2d sentence), (3) (last sentence).	
5336(b)(2)(D)	49 App.:1607a(b)(2) (3d sentence).	
5336(b)(2)(E)	49 App.:1607a(b)(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(b)(4); added Dec. 18, 1991, Pub. L. 102–240, §3013(b), 105 Stat. 2106.
5336(c)(1)	49 App.:1607a(c)(1), (2), (d) (last sentence).	
5336(c)(2)	49 App.:1607a(c)(3).	
5336(d)(1)	49 App.:1607a (k)(2)(A).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(2)(A); added Jan. 6, 1983,

		Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§312(c)(1), (2), 327(b), 101 Stat. 228, 238.
5336(d)(2)	49 App.:1607a (k)(2)(B).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(2)(B); added Apr. 2, 1987, Pub. L. 100–17, §312(c)(3), 101 Stat. 228; Dec. 18, 1991, Pub. L. 102–240, §3013(i), 105 Stat. 2107.
	49 App.:1607a (k)(2)(C).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(2)(C); added Apr. 2, 1987, Pub. L. 100–17, §312(c)(3), 101 Stat. 228.
5336(e)	49 App.:1607a(q).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(q); added Apr. 2, 1987, Pub. L. 100–17, §312(e), 101 Stat. 229.
5336(f)	49 App.:1607a(m)(2).	
5336(g)	49 App.:1607a(n).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(n); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100–17, §§312(d), 327(b), 101 Stat. 229, 238.
5336(h)	49 App.:1607a(t).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(t); added Dec. 18, 1991, Pub. L. 102–240, §3013(k), 105 Stat. 2108.
5336(i)	49 App.:1607a(*o*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(*o*); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100–17, §§311, 327(b), 101 Stat. 228, 238.
5336(j)	49 App.:1607a(e)(1).	
5336(k)	49 App.:1607a(s).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(s); added Dec. 18, 1991, Pub. L. 102–240, §3013(j), 105 Stat. 2108.

In this section, the word "apportioned" is substituted for "available", "shall be available for expenditure", "made available", and "made available for expenditure" for clarity and consistency in this chapter.

In subsection (a)(1), before subclause (A), the words "the sum of" are omitted as surplus.

In subsection (b)(2)(D), the word "provided" is omitted as surplus. The words "is deemed" are substituted for "as if . . . were" for consistency in the revised title and with other titles of the United States Code. The words "directly or indirectly" are omitted as surplus.

In subsection (c)(1)(B), before clause (i), the words "of at least 200,000" are added for clarity.

In subsection (d)(1)(D), the words "Notwithstanding the preceding sentence" and "each fiscal year" are omitted as surplus.

In subsection (d)(2), the words "Beginning on October 1, 1991" are omitted as executed. The words "paragraph (1) of this subsection" are substituted for "under this section that may be used for operating assistance by urbanized areas" to eliminate unnecessary words. The words "(if any)" are omitted as surplus. The words "Secretary of Labor" are substituted for "Department of Labor" because of 29:551. The text of 49 App.:1607a(k)(2)(B) (2d sentence) is omitted as executed. The text of 49 App.:1607a(k)(2)(B) (last sentence) is omitted as surplus.

In subsection (e)(1), the words "under section 5338(f) of this title" are added for clarity. The words "in accordance with the provisions of this section" are omitted as surplus.

In subsection (e)(2), the words "established by the preceding sentence" are omitted as surplus.

In subsection (g)(1) and (2), the word "part" is substituted for "amount" for clarity.

In subsection (g)(4), the words "including areas of 200,000 or more population" are omitted as surplus.

In subsection (h), the words "in each fiscal year beginning after September 30, 1991" are omitted as obsolete.

In subsection (i), the words "the close of" are omitted as surplus.

In subsection (j), the references to sections 5302(a)(8) and 5318 are added for clarity. The source provisions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The words "condition, limitation, or other" and "for programs of projects" are omitted as surplus.

In subsection (k), the text of 49 App.:1607a(s)(1) is omitted as obsolete.

PUB. L. 104–287

This amends 49:5336(b)(2) to clarify the restatement of 49 App.:1607a(b) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 840).

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5311(c)(3), referred to in subsec. (f)(1), (2), was redesignated section 5311(c)(4) by Pub. L. 117–58, div. C, §30006(1)(A), Nov. 15, 2021, 135 Stat. 900.

AMENDMENTS

2021—Subsec. (e). Pub. L. 117–58, §30001(b)(3), struck out ", as defined in section 5302(4)" after "designated recipient".

Subsec. (h)(3). Pub. L. 117–58, §30015(a), substituted "paragraphs (1) and (2), 3 percent" for "paragraphs (1) and (2)—

"(A) for fiscal years 2016 through 2018, 1.5 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

"(B) for fiscal years 2019 and 2020, 2 percent".

Subsec. (h)(4). Pub. L. 117–58, §30015(b)(1), substituted "0.75 percent" for "0.5 percent".

2015—Subsec. (a). Pub. L. 114–94, §3014(1), substituted "subsection (h)(5)" for "subsection (h)(4)" in introductory provisions.

Subsec. (b)(2)(E). Pub. L. 114–94, §3014(2), substituted "27 percent" for "22.27 percent".

Subsec. (h)(1). Pub. L. 114–94, §3014(3)(A), added par. (1) and struck out former par. (1), which read as follows: "$30,000,000 for each fiscal year ending before October 1, 2015, and $5,327,869 for the period beginning on October 1, 2015, and ending on December 4, 2015, shall be set aside to carry out section 5307(h);".

Pub. L. 114–87 substituted "and $5,327,869 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $4,180,328 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73 substituted "and $4,180,328 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $2,377,049 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41 substituted "for each fiscal year ending before October 1, 2015, and $2,377,049 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "for each fiscal year ending before October 1, 2014, and $24,986,301 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21 substituted "and $24,986,301 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $19,972,603 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (h)(3). Pub. L. 114–94, §3014(3)(B), added par. (3) and struck out former par. (3), which read as follows: "of amounts not apportioned under paragraphs (1) and (2), 1.5 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i);".

2014—Subsec. (h)(1). Pub. L. 113–159 inserted "for each fiscal year ending before October 1, 2014, and $19,972,603 for the period beginning on October 1, 2014, and ending on May 31, 2015," before "shall be set aside".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to apportionment

of appropriations for formula grants and consisted of subsecs. (a) to (k).

2008—Subsec. (a). Pub. L. 110–244, §201(l)(1)(A), in introductory provisions, substituted "Of the amount apportioned under subsection (i)(2) to carry out section 5307—" for "Of the amount apportioned under subsection (i)(2)—".

Subsec. (a)(2). Pub. L. 110–244, §201(l)(2), amended Pub. L. 109–59, §3034(d)(2). See 2005 Amendment note below.

Subsec. (c). Pub. L. 110–244, §201(l)(1)(C), redesignated subsec. (c) relating to study on incentives in formula programs as (k).

Subsec. (d)(1). Pub. L. 110–244, §201(l)(1)(B), substituted "subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338" for "subsections (a) and (h)(2) of section 5338".

Subsec. (k). Pub. L. 110–244, §201(l)(1)(C), redesignated subsec. (c) relating to study on incentives in formula programs as (k).

2005—Subsec. (a). Pub. L. 109–59, §3034(d)(1), which directed amendment of subsec. (a) by substituting "to carry out section 5307" for "of this title", could not be executed because of prior amendment by Pub. L. 109–59, §3034(a)(4). See below.

Pub. L. 109–59, §3034(a)(4), substituted "Of the amount apportioned under subsection (i)(2)" for "Of the amount made available or appropriated under section 5338(a) of this title" in introductory provisions.

Subsec. (a)(2). Pub. L. 109–59, §3034(d)(2), as amended by Pub. L. 110–244, §201(l)(2), inserted before period at end ", except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations".

Subsec. (b)(1). Pub. L. 109–59, §3034(d)(3), inserted "and, beginning in fiscal year 2006, 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations" before period at end.

Subsec. (c). Pub. L. 109–59, §3034(c), added at end of section subsec. (c) relating to study on incentives in formula programs.

Subsecs. (d) to (f). Pub. L. 109–59, §3034(a)(1), (2), redesignated subsecs. (e) to (g) as (d) to (f), respectively, and struck out former subsec. (d) which read as follows: "[Reserved.]".

Subsec. (g). Pub. L. 109–59, §3034(a)(2), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(1). Pub. L. 109–59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (h). Pub. L. 109–59, §3034(d)(4), substituted "a grant made with funds apportioned under" for "a grant made under" in two places.

Pub. L. 109–59, §3034(a)(1), (2), redesignated subsec. (j) as (h) and struck out heading and text of former subsec. (h). Text read as follows: "If sufficient amounts are available, the Secretary of Transportation shall change apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund to ensure that each recipient receives from the general fund at least as much operating assistance made available each fiscal year under this section as the recipient is eligible to receive."

Subsec. (i). Pub. L. 109–59, §3034(a)(3), added subsec. (i). Former subsec. (i) redesignated (g).

Subsec. (j). Pub. L. 109–59, §3034(b), added subsec. (j). Former subsec. (j) redesignated (h).

Subsec. (k). Pub. L. 109–59, §3034(a)(1), struck out heading and text of subsec. (k). Text read as follows: "An area designated an urbanized area under the 1980 census and not designated an urbanized area under the 1990 census for the fiscal year ending September 30, 1993, is eligible to receive—

"(1) 50 percent of the amount the area would have received if the area had been an urbanized area as defined by section 5302(a)(13) of this title; and

"(2) an amount equal to 50 percent of the amount that the State in which the area is located would have received if the area had been an area other than an urbanized area."

1998—Pub. L. 105–178, §3027(a), substituted "formula grants" for "block grants" in section catchline.

Subsec. (a). Pub. L. 105–178, §3029(b)(10), substituted "5338(a) of this title" for "5338(f) of this title" in introductory provisions.

Subsec. (d). Pub. L. 105–178, §3027(b), amended subsec. (d) generally, substituting "[Reserved.]" for former provisions relating to operating assistance.

Subsec. (e)(1). Pub. L. 105–178, §3029(b)(11), substituted "subsections (a) and (h)(2) of section 5338" for "section 5338(f)".

1996—Subsec. (b)(2)(A), (B). Pub. L. 104–287, §5(19)(A), inserted at end "An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph."

Subsec. (b)(2)(C) to (E). Pub. L. 104–287, §5(19)(B), (C), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: "An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total

amount apportioned under this subsection."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–58, div. C, §30015(b)(2), Nov. 15, 2021, 135 Stat. 910, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to fiscal year 2022 and each fiscal year thereafter."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 201(l)(2) of Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

URBANIZED AREA FORMULA STUDY

Pub. L. 105–178, title III, §3033, June 9, 1998, 112 Stat. 386, required the Secretary of Transportation to conduct a study on the success of the formula used to apportion funds to urbanized areas and to submit a report no later than Dec. 31, 1999.

[1] *See References in Text note below.*

§5337. State of good repair grants

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) FIXED GUIDEWAY.—The term "fixed guideway" means a public transportation facility—

(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

(B) using rail;

(C) using a fixed catenary system;

(D) for a passenger ferry system; or

(E) for a bus rapid transit system.

(2) STATE.—The term "State" means the 50 States, the District of Columbia, and Puerto Rico.

(3) STATE OF GOOD REPAIR.—The term "state of good repair" has the meaning given that term by the Secretary, by rule, under section 5326(b).

(4) TRANSIT ASSET MANAGEMENT PLAN.—The term "transit asset management plan" means a plan developed by a recipient of funding under this chapter that—

(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

(b) GENERAL AUTHORITY.—

(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

(A) rolling stock;
(B) track;
(C) line equipment and structures;
(D) signals and communications;
(E) power equipment and substations;
(F) passenger stations and terminals;
(G) security equipment and systems;
(H) maintenance facilities and equipment;
(I) operational support equipment, including computer hardware and software;
(J) development and implementation of a transit asset management plan; and
(K) other replacement and rehabilitation projects the Secretary determines appropriate.

(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(K),[1] 97.15 percent shall be apportioned to recipients in accordance with this subsection.

(2) AREA SHARE.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with the provisions of section 5336(b)(1) and using the definition of the term "fixed guideway" under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

(C) RECIPIENT.—For purposes of this paragraph, the term "recipient" means an entity that received funding under this section, as in effect for fiscal year 2011.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

(4) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area

under this subsection in the previous fiscal year.

(B) SPECIAL RULE FOR FISCAL YEAR 2013.—In fiscal year 2013, the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term "fixed guideway" under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

(6) RECEIVING APPORTIONMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this subsection shall be apportioned to the designated recipient for the urbanized area in which the system operates.

(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(d) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

(1) DEFINITION.—For purposes of this subsection, the term "high intensity motorbus" means public transportation that is provided on a facility with access for other high-occupancy vehicles.

(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(K),[1] 2.85 percent shall be apportioned to urbanized areas for high intensity motorbus vehicle state of good repair in accordance with this subsection.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—The amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus vehicle revenue miles attributable to all areas.

(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus directional route miles attributable to all areas.

(4) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of high intensity motorbus vehicle revenue miles or high intensity motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of high intensity motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(5) USE OF FUNDS.—Amounts apportioned under this subsection may be used for any project that is an eligible project under subsection (b)(1).

(e) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(2) REMAINING COSTS.—The remainder of the net project cost shall be provided—

(A) in cash from non-Government sources;

(B) from revenues derived from the sale of advertising and concessions; or

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) COMPETITIVE GRANTS FOR RAIL VEHICLE REPLACEMENT.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to assist State and local governmental authorities in financing capital projects for the replacement of rail rolling stock.

(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (b).

(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make not more than 3 new awards to eligible projects under this subsection on a competitive basis each fiscal year.

(4) CONSIDERATION.—In awarding grants under this subsection, the Secretary shall consider—

(A) the size of the rail system of the applicant;

(B) the amount of funds available to the applicant under this subsection;

(C) the age and condition of the rail rolling stock of the applicant that has exceeded or will exceed the useful service life of the rail rolling stock in the 5-year period following the grant; and

(D) whether the applicant has identified replacement of the rail vehicles as a priority in the investment prioritization portion of the transit asset management plan of the recipient pursuant to part 625 of title 49, Code of Federal Regulations (or successor regulations).

(5) MAXIMUM SHARE OF COMPETITIVE GRANT ASSISTANCE.—The amount of grant assistance provided by the Secretary under this subsection, as a share of eligible project costs, shall be not more than 50 percent.

(6) GOVERNMENT SHARE OF COST.—The Government share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.

(7) MULTI-YEAR GRANT AGREEMENTS.—

(A) IN GENERAL.—An eligible project for which a grant is provided under this subsection may be carried out through a multi-year grant agreement in accordance with this paragraph.

(B) REQUIREMENTS.—A multi-year grant agreement under this paragraph shall—

(i) establish the terms of participation by the Federal Government in the project; and

(ii) establish the maximum amount of Federal financial assistance for the project that may be provided through grant payments to be provided in not more than 3 consecutive fiscal years.

(C) FINANCIAL RULES.—A multi-year grant agreement under this paragraph—

(i) shall obligate an amount of available budget authority specified in law; and

(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(D) STATEMENT OF CONTINGENT COMMITMENT.—A multi-year agreement under this paragraph shall state that the contingent commitment is not an obligation of the Federal Government.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 844; Pub. L. 103–429, §6(14), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 102–240, title III, §3049(b), as added Pub. L. 105–130, §8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105–178, title III, §§3028, 3029(b)(12), June 9, 1998, 112 Stat. 366, 373; Pub. L. 105–206, title IX, §9009(p), July 22, 1998, 112 Stat. 858; Pub. L. 108–88, §8(b)(2), Sept. 30, 2003, 117 Stat. 1121; Pub. L. 109–59, title III, §3035(a), Aug. 10, 2005, 119 Stat. 1629; Pub. L. 110–244, title II, §201(m), June 6, 2008, 122 Stat. 1611; Pub. L. 111–147, title IV, §435, Mar. 18, 2010, 124 Stat. 89; Pub. L. 111–322, title II, §2305, Dec. 22, 2010, 124 Stat. 3528; Pub. L. 112–5, title III, §305, Mar. 4, 2011, 125 Stat. 19; Pub. L. 112–30, title I, §135, Sept. 16, 2011, 125 Stat. 352; Pub. L. 112–102, title III, §305, Mar. 30, 2012, 126 Stat. 277; Pub. L. 112–140, title III, §305, June 29, 2012, 126 Stat. 398; Pub. L. 112–141, div. B, §20027, div. G, title III, §113005, July 6, 2012, 126 Stat. 723, 985; Pub. L. 114–94, div. A, title III, §3015, Dec. 4, 2015, 129 Stat. 1478; Pub. L. 117–58, div. C, §30016, Nov. 15, 2021, 135 Stat. 911.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5337(a)	49 App.:1602(h) (1)–(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(h)(1)–(6); added Aug. 22, 1974, Pub. L. 93–503, §110, 88 Stat. 1573; Nov. 6, 1978, Pub. L. 95–599, §302(d), 92 Stat. 2737; restated Dec. 18, 1991, Pub. L. 102–240, §3008, 105 Stat. 2091.
5337(b)	49 App.:1602(h)(5).	
5337(c)	49 App.:1602(h)(6).	
5337(d)	49 App.:1602(h)(7).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(h)(7); added Oct. 6, 1992, Pub. L. 102–388, §502(c), 106 Stat. 1566.

In subsection (a), the words "for expenditure" are omitted for consistency in this chapter. Before clause (1), the reference to fiscal year 1992 is omitted as obsolete.

In subsection (c), the words "Notwithstanding any other provision of law" are omitted as surplus. The word "paragraph" in the source provision is translated as it were "subsection" to reflect the apparent intent of Congress.

In subsection (d)(1), the words "for obligation", "a period of", and "the close of" are omitted as surplus.

PUB. L. 103–429

This amends 49:5337(a)(4) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5338, referred to in subsecs. (c)(1) and (d)(2), was amended generally by Pub. L. 117–58, div. C, §30017, Nov. 15, 2021, 135 Stat. 912. As amended, section 5338(a)(2)(K) no longer relates to allocations of funds to carry out this section, but such provision can be found elsewhere in section 5338.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsec. (c)(2)(B), (4)(B), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

Section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 366), referred to in subsec. (c)(6)(B), amended generally subsec. (a) of this section. See 1998 Amendment note below.

AMENDMENTS

2021—Subsec. (f). Pub. L. 117–58 added subsec. (f).

2015—Subsec. (c)(1). Pub. L. 114–94, §3015(b)(1), substituted "5338(a)(2)(K)" for "5338(a)(2)(I)".

Subsec. (c)(2)(B). Pub. L. 114–94, §3015(a)(1), inserted "the provisions of" before "section 5336(b)(1)".

Subsec. (d)(2). Pub. L. 114–94, §3015(a)(2)(A), (b)(2), substituted "5338(a)(2)(K)" for "5338(a)(2)(I)" and inserted "vehicle" after "motorbus".

Subsec. (d)(5). Pub. L. 114–94, §3015(a)(2)(B), added par. (5).

Subsec. (e). Pub. L. 114–94, §3015(a)(3), added subsec. (e).

2012—Pub. L. 112–141, §20027, amended section generally. Prior to amendment, section related to apportionment based on fixed guideway factors.

Subsec. (g). Pub. L. 112–141, §113005, struck out subsec. (g). Text read as follows: "The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning on October 1, 2011, and ending on June 30, 2012, in accordance with subsection (a), except that the Secretary shall apportion 75 percent of each dollar amount specified in subsection (a)."

Pub. L. 112–140, §§1(c), 305, temporarily amended subsec. (g) generally, enacting similar provisions but directing the Secretary to apportion 76 percent of each dollar amount specified in subsec. (a) for the period beginning on Oct. 1, 2011, and ending on July 6, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102 amended subsec. (g) generally. Prior to amendment, text read as follows: "The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning on October 1, 2011, and ending on March 31, 2012, in accordance with subsection (a), except that the Secretary shall apportion 50 percent of each dollar amount specified in subsection (a)."

2011—Subsec. (a). Pub. L. 112–30, §135(1), substituted "2012" for "2011" in introductory provisions.

Pub. L. 112–5, §305(1), substituted "2011" for "2010" in introductory provisions.

Subsec. (g). Pub. L. 112–30, §135(2), added subsec. (g).

Pub. L. 112–5, §305(2), struck out subsec. (g). Text read as follows: "The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending March 4, 2011, in accordance with subsection (a), except that the Secretary shall apportion 155/365ths of each dollar amount specified in subsection (a)."

2010—Subsec. (a). Pub. L. 111–147, §435(1), substituted "2010" for "2009" in introductory provisions.

Subsec. (g). Pub. L. 111–322 amended subsec. (g) generally. Prior to amendment, text read as follows: "The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending December 31, 2010, in accordance with subsection (a), except that the Secretary shall apportion 25 percent of each dollar amount specified in subsection (a)."

Pub. L. 111–147, §435(2), added subsec. (g).

2008—Subsec. (a). Pub. L. 110–244 substituted "for each of fiscal years 2005 through 2009" for "for each of fiscal years 1998 through 2003" in introductory provisions.

2005—Pub. L. 109–59, §3035(a)(1), substituted "Apportionment based on fixed guideway factors" for "Apportionment of appropriations for fixed guideway modernization" in section catchline.

Subsec. (f). Pub. L. 109–59, §3035(a)(2), added subsec. (f).

2003—Subsec. (e). Pub. L. 108–88 struck out subsec. (e) relating to special rule.

1998—Subsec. (a). Pub. L. 105–178, §3028(c), as added by Pub. L. 105–206, in par. (2)(B), substituted "(e)(1)" for "(e)", in par. (3)(D), substituted "(2)(B)" for "(2)(B)(ii)" and "(e)(1)" for "(e)", in par. (4), substituted "(e)(1)" for "(e)", and in pars. (5) to (7), substituted "(e)(2)" for "(e)" wherever appearing.

Pub. L. 105–178, §3028(a), amended heading and text of subsec. (a) generally, substituting provisions relating to distribution for fiscal years 1998 through 2003 for provisions relating to percentage distribution for fiscal years ending Sept. 30, 1993–1997 and for period of Oct. 1, 1997 through Mar. 31, 1998.

Subsec. (e). Pub. L. 105–178, §3028(b), added subsec. (e) relating to route segments to be included in apportionment formulas.

Subsec. (e)(1). Pub. L. 105–178, §3029(b)(12), which directed substitution of "subsections (b) and (h)(4) of section 5338" for "section 5338(f)", could not be executed because "section 5338(f)" does not appear in text.

1997—Subsec. (a). Pub. L. 102–240, §3049(b)(1), as added by Pub. L. 105–130, inserted "and for the period of October 1, 1997, through March 31, 1998," after "1997," in introductory provisions.

Subsec. (e). Pub. L. 102–240, §3049(b)(2), as added by Pub. L. 105–130, added subsec. (e).

1994—Subsec. (a)(4). Pub. L. 103–429 substituted "section 5336(b)(2)(A) of this title" for "section 5336(B)(2)(A)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 20027 of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as a note under section 101 of Title 23, Highways.

Amendment by section 113005 of Pub. L. 112–141 effective July 1, 2012, see section 114001 of Pub. L. 112–141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SPECIAL RULE FOR PARTIAL FISCAL YEAR FUNDING

Pub. L. 108–310, §8(b), Sept. 30, 2004, 118 Stat. 1154, provided for pro rata apportionment for fixed guideway modernization to reflect partial fiscal year 2005 funding.

Pub. L. 108–88, §8(b)(1), Sept. 30, 2003, 117 Stat. 1121, as amended by Pub. L. 108–202, §9(b), Feb. 29, 2004, 118 Stat. 485; Pub. L. 108–224, §7(b), Apr. 30, 2004, 118 Stat. 633; Pub. L. 108–263, §7(b), June 30, 2004, 118 Stat. 704, which directed the Secretary of Transportation to determine the amount that each urbanized area would be apportioned for fixed guideway modernization under section 5337 of this title on a pro rata basis reflecting partial fiscal year 2004 funding made available under section 5338 of this title, was repealed by Pub. L. 108–280, §7(b), July 30, 2004, 118 Stat. 882.

[1] *See References in Text note below.*

§5338. Authorizations

(a) GRANTS.—

(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5312, 5314, 5318, 5335, 5337, 5339, and 5340, section 20005(b) of the Federal Public Transportation Act of 2012 (49 U.S.C. 5303 note; Public Law 112–141), and section 3006(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5310 note; Public Law 114–94)—

(A) $13,355,000,000 for fiscal year 2022;
(B) $13,634,000,000 for fiscal year 2023;
(C) $13,990,000,000 for fiscal year 2024;
(D) $14,279,000,000 for fiscal year 2025; and
(E) $14,642,000,000 for fiscal year 2026.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

(A) $184,647,343 for fiscal year 2022, $188,504,820 for fiscal year 2023, $193,426,906 for fiscal year 2024, $197,422,644 for fiscal year 2025, and $202,441,512 for fiscal year 2026 shall be available to carry out section 5305;

(B) $13,157,184 for fiscal year 2022, $13,432,051 for fiscal year 2023, $13,782,778 for fiscal year 2024, $14,067,497 for fiscal year 2025, and $14,425,121 for fiscal year 2026 shall be

available to carry out section 20005(b) of the Federal Public Transportation Act of 2012 (49 U.S.C. 5303 note; Public Law 112–141);

(C) $6,408,288,249 for fiscal year 2022, $6,542,164,133 for fiscal year 2023, $6,712,987,840 for fiscal year 2024, $6,851,662,142 for fiscal year 2025, and $7,025,844,743 for fiscal year 2026 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

(D) $371,247,094 for fiscal year 2022, $379,002,836 for fiscal year 2023, $388,899,052 for fiscal year 2024, $396,932,778 for fiscal year 2025, and $407,023,583 for fiscal year 2026 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

(E) $4,605,014 for fiscal year 2022, $4,701,218 for fiscal year 2023, $4,823,972 for fiscal year 2024, $4,923,624 for fiscal year 2025, and $5,048,792 for fiscal year 2026 shall be available for the pilot program for innovative coordinated access and mobility under section 3006(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5310 note; Public Law 114–94);

(F) $875,289,555 for fiscal year 2022, $893,575,275 for fiscal year 2023, $916,907,591 for fiscal year 2024, $935,848,712 for fiscal year 2025, and $959,639,810 for fiscal year 2026 shall be available to provide financial assistance for rural areas under section 5311;

(G) $36,840,115 for fiscal year 2022, $37,609,743 for fiscal year 2023, $38,591,779 for fiscal year 2024, $39,388,993 for fiscal year 2025, and $40,390,337 for fiscal year 2026 shall be available to carry out section 5312, of which—

(i) $5,000,000 for fiscal year 2022, $5,104,455 for fiscal year 2023, $5,237,739 for fiscal year 2024, $5,345,938 for fiscal year 2025, and $5,481,842 for fiscal year 2026 shall be available to carry out section 5312(h); and

(ii) $6,578,592 for fiscal year 2022, $6,716,026 for fiscal year 2023, $6,891,389 for fiscal year 2024, $7,033,749 for fiscal year 2025, and $7,212,560 for fiscal year 2026 shall be available to carry out section 5312(i);

(H) $11,841,465 for fiscal year 2022, $12,088,846 for fiscal year 2023, $12,404,500 for fiscal year 2024, $12,660,748 for fiscal year 2025, and $12,982,608 for fiscal year 2026 shall be available to carry out section 5314, of which $6,578,592 for fiscal year 2022, $6,716,026 for fiscal year 2023, $6,891,389 for fiscal year 2024, $7,033,749 for fiscal year 2025, and $7,212,560 for fiscal year 2026 shall be available for the national transit institute under section 5314(c);

(I) $5,000,000 for fiscal year 2022, $5,104,455 for fiscal year 2023, $5,237,739 for fiscal year 2024, $5,345,938 for fiscal year 2025, and $5,481,842 for fiscal year 2026 shall be available for bus testing under section 5318;

(J) $131,000,000 for fiscal year 2022, $134,930,000 for fiscal year 2023, $138,977,900 for fiscal year 2024, $143,147,237 for fiscal year 2025, and $147,441,654 for fiscal year 2026 shall be available to carry out section 5334;

(K) $5,262,874 for fiscal year 2022, $5,372,820 for fiscal year 2023, $5,513,111 for fiscal year 2024, $5,626,999 for fiscal year 2025, and $5,770,048 for fiscal year 2026 shall be available to carry out section 5335;

(L) $3,515,528,226 for fiscal year 2022, $3,587,778,037 for fiscal year 2023, $3,680,934,484 for fiscal year 2024, $3,755,675,417 for fiscal year 2025, and $3,850,496,668 for fiscal year 2026 shall be available to carry out section 5337, of which $300,000,000 for each of fiscal years 2022 through 2026 shall be available to carry out section 5337(f);

(M) $603,992,657 for fiscal year 2022, $616,610,699 for fiscal year 2023, $632,711,140 for fiscal year 2024, $645,781,441 for fiscal year 2025, and $662,198,464 for fiscal year 2026 shall be available for the bus and buses facilities program under section 5339(a);

(N) $447,257,433 for fiscal year 2022, $456,601,111 for fiscal year 2023, $468,523,511 for fiscal year 2024, $478,202,088 for fiscal year 2025, and $490,358,916 for fiscal year 2026 shall be available for buses and bus facilities competitive grants under section 5339(b) and no or low

emission grants under section 5339(c), of which $71,561,189 for fiscal year 2022, $73,056,178 for fiscal year 2023, $74,963,762 for fiscal year 2024, $76,512,334 for fiscal year 2025, and $78,457,427 for fiscal year 2026 shall be available to carry out section 5339(c); and

(O) $741,042,792 for fiscal year 2022, $756,523,956 for fiscal year 2023, $776,277,698 for fiscal year 2024, $792,313,742 for fiscal year 2025, and $812,455,901 for fiscal year 2026, to carry out section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311, of which—

(i) $392,752,680 for fiscal year 2022, $400,957,696 for fiscal year 2023, $411,427,180 for fiscal year 2024, $419,926,283 for fiscal year 2025, and $430,601,628 for fiscal year 2026 shall be for growing States under section 5340(c); and

(ii) $348,290,112 for fiscal year 2022, $355,566,259 for fiscal year 2023, $364,850,518 for fiscal year 2024, $372,387,459 for fiscal year 2025, and $381,854,274 for fiscal year 2026 shall be for high density States under section 5340(d).

(b) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309 of this title and section 3005(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5309 note; Public Law 114–94), $3,000,000,000 for each of fiscal years 2022 through 2026.

(c) OVERSIGHT.—

(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

(A) 0.5 percent of amounts made available to carry out section 5305.

(B) 0.75 percent of amounts made available to carry out section 5307.

(C) 1 percent of amounts made available to carry out section 5309.

(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).[1]

(E) 0.5 percent of amounts made available to carry out section 5310.

(F) 0.5 percent of amounts made available to carry out section 5311.

(G) 1 percent of amounts made available to carry out section 5337, of which not less than 0.25 percent of amounts made available for this subparagraph shall be available to carry out section 5329.

(H) 0.75 percent of amounts made available to carry out section 5339.

(2) ACTIVITIES.—The activities described in this paragraph are as follows:

(A) Activities to oversee the construction of a major capital project.

(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

(D) Activities to carry out section 5334.

(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—

(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by

the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

(e) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 845; Pub. L. 104–287, §5(20), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 102–240, §3049(c), as added Pub. L. 105–130, §8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105–178, title III, §3029(a), (c), June 9, 1998, 112 Stat. 368; Pub. L. 105–206, title IX, §9009(q), July 22, 1998, 112 Stat. 858; Pub. L. 108–88, §8(c), (e)–(g), (i), (k), Sept. 30, 2003, 117 Stat. 1121–1124; Pub. L. 108–202, §9(c), (e)–(g), (i), (k), Feb. 29, 2004, 118 Stat. 485–487; Pub. L. 108–224, §7(c), (e)–(g), (i), (k), Apr. 30, 2004, 118 Stat. 633–636; Pub. L. 108–263, §7(c), (e)–(g), (i), (k), June 30, 2004, 118 Stat. 704–707; Pub. L. 108–280, §7(c), (e)–(g), (i), (k), July 30, 2004, 118 Stat. 882–884; Pub. L. 108–310, §8(c), (e)–(g), (i), (k), Sept. 30, 2004, 118 Stat. 1154–1157; Pub. L. 109–14, §7(b), (d)–(f), (h), (j), May 31, 2005, 119 Stat. 331–333; Pub. L. 109–20, §7(b), (d)–(f), (h), (j), July 1, 2005, 119 Stat. 353–355; Pub. L. 109–35, §7(b), (d)–(f), (h), (j), July 20, 2005, 119 Stat. 386–388; Pub. L. 109–37, §7(b), (d)–(f), (h), (j), July 22, 2005, 119 Stat. 401–403; Pub. L. 109–40, §7(b), (d)–(f), (h), (j), July 28, 2005, 119 Stat. 417–419; Pub. L. 109–42, §5(a), July 30, 2005, 119 Stat. 436; Pub. L. 109–59, title III, §3036, Aug. 10, 2005, 119 Stat. 1629; Pub. L. 110–244, title II, §201(n), June 6, 2008, 122 Stat. 1611; Pub. L. 111–147, title IV, §436, Mar. 18, 2010, 124 Stat. 90; Pub. L. 111–322, title II, §2306, Dec. 22, 2010, 124 Stat. 3528; Pub. L. 112–5, title III, §306, Mar. 4, 2011, 125 Stat. 19; Pub. L. 112–30, title I, §136, Sept. 16, 2011, 125 Stat. 352; Pub. L. 112–102, title III, §306, Mar. 30, 2012, 126 Stat. 278; Pub. L. 112–140, title III, §306, June 29, 2012, 126 Stat. 398; Pub. L. 112–141, div. B, §20028, div. G, title III, §113006, July 6, 2012, 126 Stat. 726, 985; Pub. L. 113–159, title I, §1203, Aug. 8, 2014, 128 Stat. 1845; Pub. L. 114–21, title I, §1203, May 29, 2015, 129 Stat. 223; Pub. L. 114–41, title I, §1203, July 31, 2015, 129 Stat. 450; Pub. L. 114–73, title I, §1203, Oct. 29, 2015, 129 Stat. 573; Pub. L. 114–87, title I, §1203, Nov. 20, 2015, 129 Stat. 682; Pub. L. 114–94, div. A, title III, §3016, Dec. 4, 2015, 129 Stat. 1479; Pub. L. 117–58, div. C, §30017, Nov. 15, 2021, 135 Stat. 912.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5338(a)	49 App.:1617(a) (less availability).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §21; added Jan. 6, 1983, Pub. L. 97–424, §302(a), 96 Stat. 2140; Apr. 2, 1987, Pub. L. 100–17, §328, 101 Stat. 238; restated Dec. 18, 1991, Pub. L. 102–240, §3025, 105 Stat. 2112; Oct. 6, 1992, Pub. L. 102–388, §502(m)–(q), 106 Stat. 1567.
5338(b)	49 App.:1617(b) (less availability).	
5338(c)	49 App.:1625(d) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §29(d); added Dec. 18, 1991, Pub. L. 102–240, §6022, 105 Stat. 2185.
5338(d)	49 App.:1607c(c)(6).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(c)(6); added Dec. 18, 1991, Pub. L. 102–240, §6024, 105 Stat.

		2189; Sept. 23, 1992, Pub. L. 102–368, §801, 106 Stat. 1131.
5338(e)(1)	49 App.:1607c(b) (8)(B)(iii), (13) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(b) (8)(B)(iii), (10)(C), (13); added Dec. 18, 1991, Pub. L. 102–240, §6023, 105 Stat. 2186, 2187, 2188.
5338(e)(2)	49 App.:1607c(b) (1)(C).	
5338(f)	49 App.:1617(g).	
5338(g)–(i)	49 App.:1617(c) (less availability), (d) (less availability), (e).	
5338(j)(1)	49 App.:1612(b) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(b) (last sentence); added Oct. 15, 1970, Pub. L. 91–453, §8, 84 Stat. 968; Aug. 13, 1973, Pub. L. 93–87, §301(g), 87 Stat. 296; restated Nov. 6, 1978, Pub. L. 95–599, §311(a), 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97–424, §317(a), 96 Stat. 2153.
5338(j)(2)	49 App.:1612(d).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(d); added Oct. 15, 1970, Pub. L. 91–453, §8, 84 Stat. 968; Dec. 18, 1991, Pub. L. 102–240, §3021(5), 105 Stat. 2110.
5338(j)(3)	49 App.:1603(c) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(c) (last sentence); added Nov. 6, 1978, Pub. L. 95–599, §303(e), 92 Stat. 2739; Dec. 18, 1991, Pub. L. 102–240, §3006(h)(1), 105 Stat. 2090.
5338(j)(4)	49 App.:1617(f) (less availability).	
5338(j)(5)	49 App.:1602(m) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(m) (1st sentence); added Dec. 18, 1991, Pub. L. 102–240, §3009, 105 Stat. 2093.
5338(k)	49 App.:1607c(b)(13) (last sentence). 49 App.:1617(b)(4). 49 App.:1625(d) (last sentence).	
5338(*l*)(1)	49 App.:1614(a) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(a) (last sentence); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2749.
5338(*l*)(2)	49 App.:1617(a)–(d), (f) (as (a)–(d), (f) relate to availability).	
5338(*l*)(3)	49 App.:1607a–2(c).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9B(c); added Apr. 2, 1987, Pub. L. 100–17, §313, 101 Stat. 229.

In this section, references to fiscal year 1992 are omitted as obsolete.

In subsections (a)(1) and (b)(1), before each clause (A), the word "only" is omitted as surplus.

In subsection (a)(1), before clause (A), the words "for the Secretary of Transportation" are added or clarity and consistency.

In subsections (a)(2) and (b)(2), before each clause (A), and (d), before clause (1), the words "to the Secretary" are added for clarity and consistency.

In subsections (b)(1), before clause (A), and (e)(1), the words "for the Secretary" are added for clarity and consistency.

In subsection (d), the text of 49 App.:1607c(c)(6) (last sentence) is omitted as obsolete.

In subsection (e)(1), the word "section" in the source provision is translated as if it were "subsection" to reflect the apparent intent of Congress.

In subsection (h)(3), the words "relating to university transportation centers" are omitted as surplus.

In subsection (j)(2), the words "set aside and" and "exclusively" are omitted as surplus. The word "mass" is added for consistency in this chapter.

In subsection (k)(1), the words "Notwithstanding any other provision of law" in 49 App.:1607c(b)(13) (last sentence) and 1625(d) (last sentence) are omitted as surplus. The words "financed with" are added for clarity.

In subsection (k)(2), the words "that is financed with" are added for clarity.

In subsection (l)(3)(A), the words "for obligation by the recipient", "a period of", and "the close of" are omitted as surplus.

PUB. L. 104–287

This amends 49:5338(g)(2) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 20005(b) of the Federal Public Transportation Act of 2012, referred to in subsec. (a)(1), (2)(B), is section 20005(b) of Pub. L. 112–141, which is set out as a note under section 5303 of this title.

Section 3006(b) of the Federal Public Transportation Act of 2015, referred to in subsec. (a)(1), (2)(E), is section 3006(b) of Pub. L. 114–94, which is set out as a note under section 5310 of this title.

Section 3005(b) of the Federal Public Transportation Act of 2015, referred to in subsec. (b), is section 3005(b) of Pub. L. 114–94, which is set out as a note under section 5309 of this title.

Section 601 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (c)(1)(D), is section 601 of div. B of Pub. L. 110–432, Oct. 16, 2008, 122 Stat. 4968, which is not classified to the Code.

AMENDMENTS

2021—Pub. L. 117–58 amended section generally, substituting provisions relating to fiscal years 2022 to 2026 for provisions relating to fiscal years 2016 to 2020.

2015—Pub. L. 114–94 amended section generally, substituting provisions relating to fiscal years 2016 to 2020 for provisions relating to fiscal years 2013 to 2015.

Subsec. (a)(1). Pub. L. 114–87, §1203(a)(1), substituted "and $1,526,434,426 for the period beginning on October 1, 2015, and ending on December 4, 2015" for "and $1,197,663,934 for the period beginning on October 1, 2015, and ending on November 20, 2015".

Pub. L. 114–73, §1203(a)(1), substituted "and $1,197,663,934 for the period beginning on October 1, 2015, and ending on November 20, 2015" for "and $681,024,590 for the period beginning on October 1, 2015, and ending on October 29, 2015".

Pub. L. 114–41, §1203(a)(1), substituted "$8,595,000,000 for fiscal year 2015, and $681,024,590 for the period beginning on October 1, 2015, and ending on October 29, 2015" for "and $7,158,575,342 for the period beginning on October 1, 2014, and ending on July 31, 2015".

Pub. L. 114–21, §1203(a)(1), substituted "and $7,158,575,342 for the period beginning on October 1, 2014, and ending on July 31, 2015" for "and $5,722,150,685 for the period beginning on October 1, 2014, and ending on May 31, 2015".

Subsec. (a)(2)(A). Pub. L. 114–87, §1203(a)(2)(A), substituted "and $22,874,317 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $17,947,541 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(A), substituted "and $17,947,541 for the period beginning on October 1, 2015,

and ending on November 20, 2015," for "and $10,205,464 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(A), substituted "$128,800,000 for fiscal 2015, and $10,205,464 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $107,274,521 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(A), substituted "and $107,274,521 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $85,749,041 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(B). Pub. L. 114–87, §1203(a)(2)(B), substituted "and $1,775,956 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $1,393,443 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(B), substituted "and $1,393,443 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $792,350 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(B), substituted "for each of fiscal years 2013 through 2015 and $792,350 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "for each of fiscal years 2013 and 2014 and $8,328,767 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(B), substituted "and $8,328,767 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $6,657,534 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(C). Pub. L. 114–87, §1203(a)(2)(C), substituted "and $791,836,749 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $621,287,295 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(C), substituted "and $621,287,295 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $353,281,011 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(C), substituted "$4,458,650,000 for fiscal year 2015, and $353,281,011 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $3,713,505,753 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(C), substituted "and $3,713,505,753 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $2,968,361,507 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(D). Pub. L. 114–87, §1203(a)(2)(D), substituted "and $45,872,951 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $35,992,623 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(D), substituted "and $35,992,623 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $20,466,393 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(D), substituted "$258,300,000 for fiscal year 2015, and $20,466,393 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $215,132,055 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(D), substituted "and $215,132,055 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $171,964,110 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(E). Pub. L. 114–87, §1203(a)(2)(E), substituted "and $107,942,623 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $84,693,443 for the period beginning on October 1, 2015, and ending on November 20, 2015,", "and $5,327,869 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $4,180,328 for the period beginning on October 1, 2015, and ending on November 20, 2015,", and "and $3,551,913 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $2,786,885 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(E), substituted "and $84,693,443 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $48,159,016 for the period beginning on October 1, 2015, and ending on October 29, 2015,", "and $4,180,328 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $2,377,049 for the period beginning on October 1, 2015, and ending on October 29, 2015,", and "and $2,786,885 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $1,584,699 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(E), substituted "$607,800,000 for fiscal year 2015, and $48,159,016 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $506,222,466 for the period beginning on October 1, 2014, and ending on July 31, 2015,", "$30,000,000 for fiscal year 2015, and $2,377,049 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $24,986,301 for the period beginning on October 1, 2014, and ending on July 31, 2015,", and "$20,000,000 for fiscal year 2015, and $1,584,699 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $16,657,534 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(E), substituted "and $506,222,466 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $404,644,932 for the period beginning on October 1, 2014, and ending on May 31, 2015,", "and $24,986,301 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $19,972,603 for the period beginning on October 1, 2014, and ending on May 31, 2015,", and "and $16,657,534 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $13,315,068 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(F). Pub. L. 114–87, §1203(a)(2)(F), substituted "and $532,787 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $418,033 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(F), substituted "and $418,033 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $237,705 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(F), substituted "each of fiscal years 2013 through 2015 and $237,705 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of fiscal years 2013 and 2014 and $2,498,630 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(F), substituted "and $2,498,630 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $1,997,260 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(G). Pub. L. 114–87, §1203(a)(2)(G), substituted "and $887,978 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(G), substituted "and $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(G), substituted "each of fiscal years 2013 through 2015 and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of fiscal years 2013 and 2014 and $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(G), substituted "and $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(H). Pub. L. 114–87, §1203(a)(2)(H), substituted "and $683,743 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $536,475 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(H), substituted "and $536,475 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $305,055 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(H), substituted "each of fiscal years 2013 through 2015 and $305,055 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of fiscal years 2013 and 2014 and $3,206,575 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(H), substituted "and $3,206,575 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $2,563,151 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(I). Pub. L. 114–87, §1203(a)(2)(I), substituted "and $384,654,372 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $301,805,738 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(I), substituted "and $301,805,738 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $171,615,027 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(I), substituted "$2,165,900,000 for fiscal year 2015, and $171,615,027 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $1,803,927,671 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(I), substituted "and $1,803,927,671 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $1,441,955,342 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(J). Pub. L. 114–87, §1203(a)(2)(J), substituted "and $75,975,410 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $59,611,475 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(J), substituted "and $59,611,475 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $33,896,721 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(J), substituted "$427,800,000 for fiscal year 2015, and $33,896,721 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $356,304,658 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(J), substituted "and $356,304,658 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $284,809,315 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (a)(2)(K). Pub. L. 114–87, §1203(a)(2)(K), substituted "and $93,397,541 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $73,281,148 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(a)(2)(K), substituted "and $73,281,148 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $41,669,672 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(a)(2)(K), substituted "$525,900,000 for fiscal year 2015, and $41,669,672 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "and $438,009,863 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(a)(2)(K), substituted "and $438,009,863 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $350,119,726 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (b). Pub. L. 114–87, §1203(b), substituted "and $12,431,694 for the period beginning on October 1, 2015, and ending on December 4, 2015" for "and $9,754,098 for the period beginning on October 1, 2015, and ending on November 20, 2015".

Pub. L. 114–73, §1203(b), substituted "and $9,754,098 for the period beginning on October 1, 2015, and ending on November 20, 2015" for "and $5,546,448 for the period beginning on October 1, 2015, and ending on October 29, 2015".

Pub. L. 114–41, §1203(b), substituted "$70,000,000 for fiscal year 2015, and $5,546,448 for the period beginning on October 1, 2015, and ending on October 29, 2015" for "and $58,301,370 for the period beginning on October 1, 2014, and ending on July 31, 2015".

Pub. L. 114–21, §1203(b), substituted "and $58,301,370 for the period beginning on October 1, 2014, and ending on July 31, 2015" for "and $46,602,740 for the period beginning on October 1, 2014, and ending on May 31, 2015".

Subsec. (c). Pub. L. 114–87, §1203(c), substituted "and $1,243,169 for the period beginning on October 1, 2015, and ending on December 4, 2015" for "and $975,410 for the period beginning on October 1, 2015, and ending on November 20, 2015".

Pub. L. 114–73, §1203(c), substituted "and $975,410 for the period beginning on October 1, 2015, and ending on November 20, 2015" for "and $554,645 for the period beginning on October 1, 2015, and ending on October 29, 2015".

Pub. L. 114–41, §1203(c), substituted "$7,000,000 for fiscal year 2015, and $554,645 for the period beginning on October 1, 2015, and ending on October 29, 2015" for "and $5,830,137 for the period beginning on October 1, 2014, and ending on July 31, 2015".

Pub. L. 114–21, §1203(c), substituted "and $5,830,137 for the period beginning on October 1, 2014, and ending on July 31, 2015" for "and $4,660,274 for the period beginning on October 1, 2014, and ending on May 31, 2015".

Subsec. (d). Pub. L. 114–87, §1203(d), substituted "and $1,243,169 for the period beginning on October 1, 2015, and ending on December 4, 2015" for "and $975,410 for the period beginning on October 1, 2015, and ending on November 20, 2015".

Pub. L. 114–73, §1203(d), substituted "and $975,410 for the period beginning on October 1, 2015, and ending on November 20, 2015" for "and $554,645 for the period beginning on October 1, 2015, and ending on October 29, 2015".

Pub. L. 114–41, §1203(d), substituted "$7,000,000 for fiscal year 2015, and $554,645 for the period

beginning on October 1, 2015, and ending on October 29, 2015" for "and $5,830,137 for the period beginning on October 1, 2014, and ending on July 31, 2015".

Pub. L. 114–21, §1203(d), substituted "and $5,830,137 for the period beginning on October 1, 2014, and ending on July 31, 2015" for "and $4,660,274 for the period beginning on October 1, 2014, and ending on May 31, 2015".

Subsec. (e). Pub. L. 114–87, §1203(e), substituted "and $887,978 for the period beginning on October 1, 2015, and ending on December 4, 2015" for "and $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015".

Pub. L. 114–73, §1203(e), substituted "and $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015" for "and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015".

Pub. L. 114–41, §1203(e), substituted "$5,000,000 for fiscal year 2015, and $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015" for "and $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015".

Pub. L. 114–21, §1203(e), substituted "and $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015" for "and $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015".

Subsec. (g). Pub. L. 114–87, §1203(f), substituted "and $338,674,863 for the period beginning on October 1, 2015, and ending on December 4, 2015" for "and $265,729,508 for the period beginning on October 1, 2015, and ending on November 20, 2015".

Pub. L. 114–73, §1203(f), substituted "and $265,729,508 for the period beginning on October 1, 2015, and ending on November 20, 2015" for "and $151,101,093 for the period beginning on October 1, 2015, and ending on October 29, 2015".

Pub. L. 114–41, §1203(f), substituted "$1,907,000,000 for fiscal year 2015, and $151,101,093 for the period beginning on October 1, 2015, and ending on October 29, 2015" for "and $1,558,295,890 for the period beginning on October 1, 2014, and ending on July 31, 2015".

Pub. L. 114–21, §1203(f), substituted "and $1,558,295,890 for the period beginning on October 1, 2014, and ending on July 31, 2015" for "and $1,269,591,781 for the period beginning on October 1, 2014, and ending on May 31, 2015".

Subsec. (h)(1). Pub. L. 114–87, §1203(g)(1), substituted "and $18,469,945 for the period beginning on October 1, 2015, and ending on December 4, 2015" for "and $14,491,803 for the period beginning on October 1, 2015, and ending on November 20, 2015".

Pub. L. 114–73, §1203(g)(1), substituted "and $14,491,803 for the period beginning on October 1, 2015, and ending on November 20, 2015" for "and $8,240,437 for the period beginning on October 1, 2015, and ending on October 29, 2015".

Pub. L. 114–41, §1203(g)(1), substituted "$104,000,000 for fiscal year 2015, and $8,240,437 for the period beginning on October 1, 2015, and ending on October 29, 2015" for "and $86,619,178 for the period beginning on October 1, 2014, and ending on July 31, 2015".

Pub. L. 114–21, §1203(g)(1), substituted "and $86,619,178 for the period beginning on October 1, 2014, and ending on July 31, 2015" for "and $69,238,356 for the period beginning on October 1, 2014, and ending on May 31, 2015".

Subsec. (h)(2). Pub. L. 114–87, §1203(g)(2), substituted "and not less than $887,978 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and not less than $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(g)(2), substituted "and not less than $696,721 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and not less than $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(g)(2), substituted "each of fiscal years 2013 through 2015 and not less than $396,175 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of fiscal years 2013 and 2014 and not less than $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(g)(2), substituted "and not less than $4,164,384 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and not less than $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (h)(3). Pub. L. 114–87, §1203(g)(3), substituted "and not less than $177,596 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and not less than $139,344 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1203(g)(3), substituted "and not less than $139,344 for the period beginning on October

1, 2015, and ending on November 20, 2015," for "and not less than $79,235 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1203(g)(3), substituted "each of fiscal years 2013 through 2015 and not less than $79,235 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of fiscal years 2013 and 2014 and not less than $832,877 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1203(g)(3), substituted "and not less than $832,877 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and not less than $665,753 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

2014—Subsec. (a)(1). Pub. L. 113–159, §1203(a)(1), substituted ", $8,595,000,000 for fiscal year 2014, and $5,722,150,685 for the period beginning on October 1, 2014, and ending on May 31, 2015" for "and $8,595,000,000 for fiscal year 2014".

Subsec. (a)(2)(A). Pub. L. 113–159, §1203(a)(2)(A), substituted ", $128,800,000 for fiscal year 2014, and $85,749,041 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $128,800,000 for fiscal year 2014".

Subsec. (a)(2)(B). Pub. L. 113–159, §1203(a)(2)(B), inserted "and $6,657,534 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "2014".

Subsec. (a)(2)(C). Pub. L. 113–159, §1203(a)(2)(C), substituted ", $4,458,650,000 for fiscal year 2014, and $2,968,361,507 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $4,458,650,000 for fiscal year 2014".

Subsec. (a)(2)(D). Pub. L. 113–159, §1203(a)(2)(D), substituted ", $258,300,000 for fiscal year 2014, and $171,964,110 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $258,300,000 for fiscal year 2014".

Subsec. (a)(2)(E). Pub. L. 113–159, §1203(a)(2)(E), substituted ", $607,800,000 for fiscal year 2014, and $404,644,932 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $607,800,000 for fiscal year 2014", ", $30,000,000 for fiscal year 2014, and $19,972,603 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $30,000,000 for fiscal year 2014", and ", $20,000,000 for fiscal year 2014, and $13,315,068 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $20,000,000 for fiscal year 2014".

Subsec. (a)(2)(F). Pub. L. 113–159, §1203(a)(2)(F), inserted "and $1,997,260 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "2014".

Subsec. (a)(2)(G). Pub. L. 113–159, §1203(a)(2)(G), inserted "and $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "2014".

Subsec. (a)(2)(H). Pub. L. 113–159, §1203(a)(2)(H), inserted "and $2,563,151 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "2014".

Subsec. (a)(2)(I). Pub. L. 113–159, §1203(a)(2)(I), substituted ", $2,165,900,000 for fiscal year 2014, and $1,441,955,342 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $2,165,900,000 for fiscal year 2014".

Subsec. (a)(2)(J). Pub. L. 113–159, §1203(a)(2)(J), substituted ", $427,800,000 for fiscal year 2014, and $284,809,315 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $427,800,000 for fiscal year 2014".

Subsec. (a)(2)(K). Pub. L. 113–159, §1203(a)(2)(K), substituted ", $525,900,000 for fiscal year 2014, and $350,119,726 for the period beginning on October 1, 2014, and ending on May 31, 2015," for "and $525,900,000 for fiscal year 2014".

Subsec. (b). Pub. L. 113–159, §1203(b), substituted ", $70,000,000 for fiscal year 2014, and $46,602,740 for the period beginning on October 1, 2014, and ending on May 31, 2015" for "and $70,000,000 for fiscal year 2014".

Subsec. (c). Pub. L. 113–159, §1203(c), substituted ", $7,000,000 for fiscal year 2014, and $4,660,274 for the period beginning on October 1, 2014, and ending on May 31, 2015" for "and $7,000,000 for fiscal year 2014".

Subsec. (d). Pub. L. 113–159, §1203(d), substituted ", $7,000,000 for fiscal year 2014, and $4,660,274 for the period beginning on October 1, 2014, and ending on May 31, 2015" for "and $7,000,000 for fiscal year 2014".

Subsec. (e). Pub. L. 113–159, §1203(e), substituted ", $5,000,000 for fiscal year 2014, and $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015" for "and $5,000,000 for fiscal year 2014".

Subsec. (g). Pub. L. 113–159, §1203(f), substituted ", $1,907,000,000 for fiscal year 2014, and $1,269,591,781 for the period beginning on October 1, 2014, and ending on May 31, 2015" for "and

$1,907,000,000 for fiscal year 2014".

Subsec. (h)(1). Pub. L. 113–159, §1203(g)(1), substituted ", $104,000,000 for fiscal year 2014, and $69,238,356 for the period beginning on October 1, 2014, and ending on May 31, 2015" for "and $104,000,000 for fiscal year 2014".

Subsec. (h)(2). Pub. L. 113–159, §1203(g)(2), inserted "for each of fiscal years 2013 and 2014 and not less than $3,328,767 for the period beginning on October 1, 2014, and ending on May 31, 2015," before "shall be available".

Subsec. (h)(3). Pub. L. 113–159, §1203(g)(3), inserted "for each of fiscal years 2013 and 2014 and not less than $665,753 for the period beginning on October 1, 2014, and ending on May 31, 2015," before "shall be available".

2012—Pub. L. 112–141, §20028, amended section generally. Prior to amendment, section related to authorizations and consisted of subsecs. (a) to (g).

Subsec. (b)(1)(G). Pub. L. 112–141, §113006(a)(1), added subpar. (G) and struck out former subpar. (G) which read as follows: "$6,270,423,750 for the period beginning on October 1, 2011, and ending on June 30, 2012."

Pub. L. 112–140, §§1(c), 306(a)(1), temporarily added subpar. (G), which made available $6,354,029,400 for the period beginning on Oct. 1, 2011, and ending on July 6, 2012, and struck out former subpar. (G) which read as follows: "$6,270,423,750 for the period beginning on October 1, 2011, and ending on June 30, 2012." See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(1), added subpar. (G) and struck out former subpar. (G) which read as follows: "$4,180,282,500 for the period beginning on October 1, 2011, and ending on March 31, 2012."

Subsec. (b)(2)(A). Pub. L. 112–141, §113006(a)(2)(A), substituted "and $113,500,000 for each of fiscal years 2009 through 2012" for "$113,500,000 for each of fiscal years 2009 through 2011, and $85,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(A), temporarily substituted "$86,260,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$85,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(A), substituted "$113,500,000 for each of fiscal years 2009 through 2011, and $85,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$113,500,000 for each of fiscal years 2009 and 2010, $113,500,000 for fiscal year 2011, and $56,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(B). Pub. L. 112–141, §113006(a)(2)(B), substituted "and $4,160,365,000 for each of fiscal years 2009 through 2012" for "$4,160,365,000 for each of fiscal years 2009 through 2011, and $3,120,273,750 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(B), temporarily substituted "$3,161,877,400 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$3,120,273,750 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(B), substituted "$4,160,365,000 for each of fiscal years 2009 through 2011, and $3,120,273,750 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$4,160,365,000 for each of fiscal years 2009 and 2010, $4,160,365,000 for fiscal year 2011, and $2,080,182,500 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(C). Pub. L. 112–141, §113006(a)(2)(C), substituted "and $51,500,000 for each of fiscal years 2009 through 2012" for "$51,500,000 for each of fiscal years 2009 through 2011, and $38,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(C), temporarily substituted "$39,140,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$38,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(C), substituted "$51,500,000 for each of fiscal years 2009 through 2011, and $38,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$51,500,000 for each of fiscal years 2009 and 2010, $51,500,000 for fiscal year 2011, and $25,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(D). Pub. L. 112–141, §113006(a)(2)(D), substituted "and $1,666,500,000 for each of fiscal years 2009 through 2012" for "$1,666,500,000 for each of fiscal years 2009 through 2011, and $1,249,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(D), temporarily substituted "$1,266,540,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$1,249,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(D), substituted "$1,666,500,000 for each of fiscal years 2009 through 2011,

and $1,249,875,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$1,666,500,000 for each of fiscal years 2009 and 2010, $1,666,500,000 for fiscal year 2011, and $833,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(E). Pub. L. 112–141, §113006(a)(2)(E), substituted "and $984,000,000 for each of fiscal years 2009 through 2012" for "$984,000,000 for each of fiscal years 2009 through 2011, and $738,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(E), temporarily substituted "$747,840,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$738,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(E), substituted "$984,000,000 for each of fiscal years 2009 through 2011, and $738,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$984,000,000 for each of fiscal years 2009 and 2010, $984,000,000 for fiscal year 2011, and $492,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(F). Pub. L. 112–141, §113006(a)(2)(F), substituted "and $133,500,000 for each of fiscal years 2009 through 2012" for "$133,500,000 for each of fiscal years 2009 through 2011, and $100,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(F), temporarily substituted "$101,460,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$100,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(F), substituted "$133,500,000 for each of fiscal years 2009 through 2011, and $100,125,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$133,500,000 for each of fiscal years 2009 and 2010, $133,500,000 for fiscal year 2011, and $66,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(G). Pub. L. 112–141, §113006(a)(2)(G), substituted "and $465,000,000 for each of fiscal years 2009 through 2012" for "$465,000,000 for each of fiscal years 2009 through 2011, and $348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(G), temporarily substituted "$353,400,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(G), substituted "$465,000,000 for each of fiscal years 2009 through 2011, and $348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$465,000,000 for each of fiscal years 2009 and 2010, $465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(H). Pub. L. 112–141, §113006(a)(2)(H), substituted "and $164,500,000 for each of fiscal years 2009 through 2012" for "$164,500,000 for each of fiscal years 2009 through 2011, and $123,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(H), temporarily substituted "$125,020,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$123,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(H), substituted "$164,500,000 for each of fiscal years 2009 through 2011, and $123,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$164,500,000 for each of fiscal years 2009 and 2010, $164,500,000 for fiscal year 2011, and $82,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(I). Pub. L. 112–141, §113006(a)(2)(I), substituted "and $92,500,000 for each of fiscal years 2009 through 2012" for "$92,500,000 for each of fiscal years 2009 through 2011, and $69,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(I), temporarily substituted "$70,300,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$69,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(I), substituted "$92,500,000 for each of fiscal years 2009 through 2011, and $69,375,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$92,500,000 for each of fiscal years 2009 and 2010, $92,500,000 for fiscal year 2011, and $46,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(J). Pub. L. 112–141, §113006(a)(2)(J), substituted "and $26,900,000 for each of fiscal years 2009 through 2012" for "$26,900,000 for each of fiscal years 2009 through 2011, and $20,175,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(J), temporarily substituted "$20,444,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$20,175,000 for the period beginning on October 1, 2011,

and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(J), substituted "$26,900,000 for each of fiscal years 2009 through 2011, and $20,175,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$26,900,000 for each of fiscal years 2009 and 2010, $26,900,000 for fiscal year 2011, and $13,450,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(K). Pub. L. 112–141, §113006(a)(2)(K), substituted "for each of fiscal years 2006 through 2012" for "for each of fiscal years 2006 through 2011 and $2,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(K), temporarily substituted "$2,660,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$2,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(K), substituted "for each of fiscal years 2006 through 2011 and $2,625,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "in fiscal year 2006; $3,500,000 in fiscal year 2007; $3,500,000 in fiscal year 2008; $3,500,000 for each of fiscal years 2009 and 2010, $3,500,000 for fiscal year 2011, and $1,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(L). Pub. L. 112–141, §113006(a)(2)(L), substituted "for each of fiscal years 2006 through 2012" for "for each of fiscal years 2006 through 2011 and $18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(L), temporarily substituted "$19,000,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(L), substituted "for each of fiscal years 2006 through 2011 and $18,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "in fiscal year 2006; $25,000,000 in fiscal year 2007; $25,000,000 in fiscal year 2008; $25,000,000 for each of fiscal years 2009 and 2010, $25,000,000 for fiscal year 2011, and $12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(M). Pub. L. 112–141, §113006(a)(2)(M), substituted "and $465,000,000 for each of fiscal years 2009 through 2012" for "$465,000,000 for each of fiscal years 2009 through 2011, and $348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(M), temporarily substituted "$353,400,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(M), substituted "$465,000,000 for each of fiscal years 2009 through 2011, and $348,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$465,000,000 for each of fiscal years 2009 and 2010, $465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (b)(2)(N). Pub. L. 112–141, §113006(a)(2)(N), substituted "and $8,800,000 for each of fiscal years 2009 through 2012" for "$8,800,000 for each of fiscal years 2009 through 2011, and $6,600,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 306(a)(2)(N), temporarily substituted "$6,688,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "$6,600,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(a)(2)(N), substituted "$8,800,000 for each of fiscal years 2009 through 2011, and $6,600,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "$8,800,000 for each of fiscal years 2009 and 2010, $8,800,000 for fiscal year 2011, and $4,400,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (c)(7). Pub. L. 112–141, §113006(b), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$1,466,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012."

Pub. L. 112–140, §§1(c), 306(b), temporarily amended par. (7) generally, authorizing $1,485,800,000 for the period beginning on Oct. 1, 2011, and ending on July 6, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(b), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$800,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012."

Subsec. (d)(1). Pub. L. 112–141, §113006(c)(1), substituted "through 2011, and $44,000,000 for fiscal year 2012," for "through 2011, and $33,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," in introductory provisions.

Pub. L. 112–140, §§1(c), 306(c)(1), temporarily substituted "2011, and $33,440,000 for the period

beginning on October 1, 2011, and ending on July 6, 2012," for "2011, and $33,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," in introductory provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(c)(1), substituted "through 2011, and $33,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "and 2010, $69,750,000 for fiscal year 2011, and $29,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," in introductory provisions.

Subsec. (d)(3). Pub. L. 112–141, §113006(c)(2), added par. (3) and struck out former par. (3) which related to additional authorizations for research and the university centers program from Oct. 1, 2011, to June 30, 2012.

Pub. L. 112–140, §§1(c), 306(c)(2), temporarily added par. (3) which related to additional authorizations for research and the university centers program from Oct. 1, 2011, to July 6, 2012, and temporarily struck out former par. (3) which related to additional authorizations for research and the university centers program from Oct. 1, 2011, to June 30, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(c)(2), added par. (3) and struck out former par. (3) which related to additional authorizations for research and the university centers program from Oct. 1, 2011, to Mar. 31, 2012.

Subsec. (e)(7). Pub. L. 112–141, §113006(d), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$74,034,750 for the period beginning on October 1, 2011, and ending on June 30, 2012."

Pub. L. 112–140, §§1(c), 306(d), temporarily amended par. (7) generally, authorizing $75,021,880 for the period beginning on Oct. 1, 2011, and ending on July 6, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §306(d), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$49,455,500 for the period beginning on October 1, 2011, and ending on March 31, 2012."

2011—Subsec. (b)(1)(F). Pub. L. 112–5, §306(a)(1), added subpar. (F) and struck out former subpar. (F) which read as follows: "$3,550,376,000 for the period beginning October 1, 2010, and ending March 4, 2011."

Subsec. (b)(1)(G). Pub. L. 112–30, §136(a)(1), added subpar. (G).

Subsec. (b)(2)(A). Pub. L. 112–30, §136(a)(2)(A), substituted "$113,500,000 for fiscal year 2011, and $56,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $113,500,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(A), substituted "$113,500,000 for fiscal year 2011" for "$48,198,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(B). Pub. L. 112–30, §136(a)(2)(B), substituted "$4,160,365,000 for fiscal year 2011, and $2,080,182,500 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $4,160,365,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(B), substituted "$4,160,365,000 for fiscal year 2011" for "$1,766,730,000 for the period beginning October 1, 2010, and ending March 4, 2011,".

Subsec. (b)(2)(C). Pub. L. 112–30, §136(a)(2)(C), substituted "$51,500,000 for fiscal year 2011, and $25,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $51,500,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(C), substituted "$51,500,000 for fiscal year 2011" for "$21,869,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(D). Pub. L. 112–30, §136(a)(2)(D), substituted "$1,666,500,000 for fiscal year 2011, and $833,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $1,666,500,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(D), substituted "$1,666,500,000 for fiscal year 2011" for "$707,691,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(E). Pub. L. 112–30, §136(a)(2)(E), substituted "$984,000,000 for fiscal year 2011, and $492,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $984,000,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(E), substituted "$984,000,000 for fiscal year 2011" for "$417,863,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(F). Pub. L. 112–30, §136(a)(2)(F), substituted "$133,500,000 for fiscal year 2011, and $66,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $133,500,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(F), substituted "$133,500,000 for fiscal year 2011" for "$56,691,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(G). Pub. L. 112–30, §136(a)(2)(G), substituted "$465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and

$465,000,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(G), substituted "$465,000,000 for fiscal year 2011" for "$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(H). Pub. L. 112–30, §136(a)(2)(H), substituted "$164,500,000 for fiscal year 2011, and $82,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $164,500,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(H), substituted "$164,500,000 for fiscal year 2011" for "$69,856,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(I). Pub. L. 112–30, §136(a)(2)(I), substituted "$92,500,000 for fiscal year 2011, and $46,250,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $92,500,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(I), substituted "$92,500,000 for fiscal year 2011" for "$39,280,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(J). Pub. L. 112–30, §136(a)(2)(J), substituted "$26,900,000 for fiscal year 2011, and $13,450,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $26,900,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(J), substituted "$26,900,000 for fiscal year 2011" for "$11,423,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(K). Pub. L. 112–30, §136(a)(2)(K), substituted "$3,500,000 for fiscal year 2011, and $1,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $3,500,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(K), substituted "$3,500,000 for fiscal year 2011" for "$1,486,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(L). Pub. L. 112–30, §136(a)(2)(L), substituted "$25,000,000 for fiscal year 2011, and $12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $25,000,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(L), substituted "$25,000,000 for fiscal year 2011" for "$10,616,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(M). Pub. L. 112–30, §136(a)(2)(M), substituted "$465,000,000 for fiscal year 2011, and $232,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $465,000,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(M), substituted "$465,000,000 for fiscal year 2011" for "$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (b)(2)(N). Pub. L. 112–30, §136(a)(2)(N), substituted "$8,800,000 for fiscal year 2011, and $4,400,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $8,800,000 for fiscal year 2011".

Pub. L. 112–5, §306(a)(2)(N), substituted "$8,800,000 for fiscal year 2011" for "$3,736,000 for the period beginning October 1, 2010 and ending March 4, 2011,".

Subsec. (c)(6). Pub. L. 112–5, §306(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "$849,315,000 for the period of October 1, 2010 through March 4, 2011."

Subsec. (c)(7). Pub. L. 112–30, §136(b), added par. (7).

Subsec. (d)(1). Pub. L. 112–30, §136(c)(1), in introductory provisions, substituted "$69,750,000 for fiscal year 2011, and $29,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "and $69,750,000 for fiscal year 2011".

Pub. L. 112–5, §306(c)(1)(A), substituted "$69,750,000 for fiscal year 2011" for "$29,619,000 for the period beginning October 1, 2010 and ending March 4, 2011," in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 112–5, §306(c)(1)(B), substituted "each of fiscal years 2009, 2010, and 2011" for "fiscal year 2009".

Subsec. (d)(2)(A). Pub. L. 112–30, §136(c)(2), substituted "2012" for "2011" wherever appearing.

Subsec. (d)(2)(A)(i) to (iii). Pub. L. 112–5, §306(c)(2)(A), substituted "2011" for "2009".

Subsec. (d)(2)(A)(v) to (viii). Pub. L. 112–5, §306(c)(2)(B), substituted "through 2011" for "and 2009".

Subsec. (d)(3). Pub. L. 112–30, §136(c)(3), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2010, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under paragraph (2) for the project or activity for fiscal year 2011, or any subsequent fiscal year."

Pub. L. 112–5, §306(c)(3), added par. (3) and struck out former par. (3) which provided additional authorizations for certain activities and projects.

Subsec. (e)(6). Pub. L. 112–5, §306(d), amended par. (6) generally. Prior to amendment, text read as follows: "$42,003,000 for the period of October 1, 2010 through March 4, 2011."

Subsec. (e)(7). Pub. L. 112–30, §136(d), added par. (7).

2010—Subsec. (b)(1)(E). Pub. L. 111–147, §436(a)(1), added subpar. (E).

Subsec. (b)(1)(F). Pub. L. 111–322, §2306(a)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "$2,090,141,250 for the period beginning October 1, 2010, and ending December 31, 2010."

Pub. L. 111–147, §436(a)(1), added subpar. (F).

Subsec. (b)(2)(A). Pub. L. 111–322, §2306(a)(2)(A), substituted "$48,198,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(A), substituted "$113,500,000 for each of fiscal years 2009 and 2010, and $28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010," for "and $113,500,000 for fiscal year 2009".

Subsec. (b)(2)(B). Pub. L. 111–322, §2306(a)(2)(B), substituted "$1,766,730,000 for the period beginning October 1, 2010, and ending March 4, 2011" for "$1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(B), substituted "$4,160,365,000 for each of fiscal years 2009 and 2010, and $1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010," for "and $4,160,365,000 for fiscal year 2009".

Subsec. (b)(2)(C). Pub. L. 111–322, §2306(a)(2)(C), substituted "$21,869,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(C), substituted "$51,500,000 for each of fiscal years 2009 and 2010, and $12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010," for "and $51,500,000 for fiscal year 2009".

Subsec. (b)(2)(D). Pub. L. 111–322, §2306(a)(2)(D), substituted "$707,691,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(D), substituted "$1,666,500,000 for each of fiscal years 2009 and 2010, and $416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $1,666,500,000 for fiscal year 2009".

Subsec. (b)(2)(E). Pub. L. 111–322, §2306(a)(2)(E), substituted "$417,863,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(E), substituted "$984,000,000 for each of fiscal years 2009 and 2010, and $246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $984,000,000 for fiscal year 2009".

Subsec. (b)(2)(F). Pub. L. 111–322, §2306(a)(2)(F), substituted "$56,691,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(F), substituted "$133,500,000 for each of fiscal years 2009 and 2010, and $33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $133,500,000 for fiscal year 2009".

Subsec. (b)(2)(G). Pub. L. 111–322, §2306(a)(2)(G), substituted "$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(G), substituted "$465,000,000 for each of fiscal years 2009 and 2010, and $116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $465,000,000 for fiscal year 2009".

Subsec. (b)(2)(H). Pub. L. 111–322, §2306(a)(2)(H), substituted "$69,856,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(H), substituted "$164,500,000 for each of fiscal years 2009 and 2010, and $41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $164,500,000 for fiscal year 2009".

Subsec. (b)(2)(I). Pub. L. 111–322, §2306(a)(2)(I), substituted "$39,280,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$23,125,000 for the period beginning October 1, 2010 and

ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(I), substituted "$92,500,000 for each of fiscal years 2009 and 2010, and $23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $92,500,000 for fiscal year 2009".

Subsec. (b)(2)(J). Pub. L. 111–322, §2306(a)(2)(J), substituted "$11,423,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(J), substituted "$26,900,000 for each of fiscal years 2009 and 2010, and $6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $26,900,000 for fiscal year 2009".

Subsec. (b)(2)(K). Pub. L. 111–322, §2306(a)(2)(K), substituted "$1,486,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$875,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(K), which directed substitution of "$3,500,000 for each of fiscal years 2009 and 2010, and $875,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $3,500,000 for fiscal year 2009", was executed by making the substitution for "and $3,500,000 in fiscal year 2009", to reflect the probable intent of Congress.

Subsec. (b)(2)(L). Pub. L. 111–322, §2306(a)(2)(L), "$10,616,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(L), which directed substitution of "$25,000,000 for each of fiscal years 2009 and 2010, and $6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $25,000,000 for fiscal year 2009", was executed by making the substitution for "and $25,000,000 in fiscal year 2009", to reflect the probable intent of Congress.

Subsec. (b)(2)(M). Pub. L. 111–322, §2306(a)(2)(M), substituted "$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(M), substituted "$465,000,000 for each of fiscal years 2009 and 2010, and $116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $465,000,000 for fiscal year 2009".

Subsec. (b)(2)(N). Pub. L. 111–322, §2306(a)(2)(N), substituted "$3,736,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010".

Pub. L. 111–147, §436(a)(2)(N), substituted "$8,800,000 for each of fiscal years 2009 and 2010, and $2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010," for "and $8,800,000 for fiscal year 2009".

Subsec. (c)(5). Pub. L. 111–147, §436(b), added par. (5).

Subsec. (c)(6). Pub. L. 111–322, §2306(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "$500,000,000 for the period of October 1, 2010 through December 31, 2010."

Pub. L. 111–147, §436(b), added par. (6).

Subsec. (d)(1). Pub. L. 111–322, §2306(c)(1), substituted "$29,619,000 for the period beginning October 1, 2010 and ending March 4, 2011" for "$17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010" in introductory provisions.

Pub. L. 111–147, §436(c)(1), substituted "$69,750,000 for each of fiscal years 2009 and 2010, and $17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010" for "and $69,750,000 for fiscal year 2009" in introductory provisions.

Subsec. (d)(3). Pub. L. 111–147, §436(c)(2), added par. (3).

Subsec. (d)(3)(A)(ii). Pub. L. 111–322, §2306(c)(2), amended cl. (ii) generally. Prior to amendment, text read as follows: "Of amounts authorized to be appropriated for the period beginning October 1, 2010, through December 31, 2010, under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 25 percent of the amount allocated for fiscal year 2009 under each such subparagraph."

Subsec. (d)(3)(B)(ii). Pub. L. 111–322, §2306(c)(3), amended cl. (ii) generally. Prior to amendment, text read as follows: "Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning October 1, 2010, and ending December 31, 2010, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 25 percent of the amount allocated for fiscal year 2009 under each such clause."

Subsec. (d)(3)(B)(iii). Pub. L. 111–322, §2306(c)(4), substituted "2011" for "2010" and "2010" for "2009".

Subsec. (e)(5). Pub. L. 111–147, §436(d), added par. (5).

Subsec. (e)(6). Pub. L. 111–322, §2306(d), amended par. (6) generally. Prior to amendment, text read as follows: "$24,727,750 for the period beginning October 1, 2010, and ending December 31, 2010."

Pub. L. 111–147, §436(d), added par. (6).

2008—Subsec. (d)(1)(B). Pub. L. 110–244 substituted "section 5315(b)(2)(P)" for "section 5315(a)(16)".

2005—Pub. L. 109–59 amended section generally. Prior to amendment, section authorized appropriations and availability of funds to carry out sections 5303 to 5305, 5307 to 5315, 5322, and 5334 of this title for periods ranging from fiscal year 1998 to August 14, 2004.

Subsec. (a)(2). Pub. L. 109–40, §7(b)(1), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading.

Pub. L. 109–37, §7(b)(1), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading.

Pub. L. 109–35, §7(b)(1), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading.

Pub. L. 109–20, §7(b)(1), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading.

Pub. L. 109–14, §7(b)(1), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading.

Subsec. (a)(2)(A)(vii). Pub. L. 109–40, §7(b)(2), substituted "$2,796,817,658" for "$2,795,000,000" and "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(b)(2), substituted "$2,795,000,000" for "$2,793,483,000" and "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(b)(2), substituted "$2,793,483,000" for "$2,675,300,000" and "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(b)(2), substituted "$2,675,300,000" for "$2,545,785,000" and "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(b)(2), substituted "$2,545,785,000" for "$2,201,760,000" and "June 30, 2005" for "May 31, 2005".

Subsec. (a)(2)(B)(vii). Pub. L. 109–40, §7(b)(3), substituted "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(b)(3), substituted "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(b)(3), substituted "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(b)(3), substituted "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(b)(3), substituted "June 30, 2005" for "May 31, 2005".

Subsec. (a)(2)(C). Pub. L. 109–40, §7(b)(4), substituted "July 30, 2005" for "July 27, 2005" in introductory provisions.

Pub. L. 109–37, §7(b)(4), substituted "July 27, 2005" for "July 21, 2005" in introductory provisions.

Pub. L. 109–35, §7(b)(4), substituted "July 21, 2005" for "July 19, 2005" in introductory provisions.

Pub. L. 109–20, §7(b)(4), substituted "July 19, 2005" for "June 30, 2005" in introductory provisions.

Pub. L. 109–14, §7(b)(4), substituted "June 30, 2005" for "May 31, 2005" in introductory provisions.

Subsec. (b)(2). Pub. L. 109–40, §7(d)(1), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading.

Pub. L. 109–37, §7(d)(1), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading.

Pub. L. 109–35, §7(d)(1), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading.

Pub. L. 109–20, §7(d)(1), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading.

Pub. L. 109–14, §7(d)(1), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading.

Subsec. (b)(2)(A)(vii). Pub. L. 109–40, §7(d)(2), substituted "$2,336,442,169" for "$2,309,000,366" and "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(d)(2), substituted "$2,309,000,366" for "$2,263,265,142" and "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(d)(2), substituted "$2,263,265,142" for "$2,235,820,000" and "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(d)(2), substituted "$2,235,820,000" for "$2,012,985,000" and "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(d)(2), substituted "$2,012,985,000" for "$1,740,960,000" and "June 30, 2005" for "May 31, 2005".

Subsec. (b)(2)(B)(vii). Pub. L. 109–40, §7(d)(3), substituted "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(d)(3), substituted "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(d)(3), substituted "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(d)(3), substituted "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(d)(3), substituted "June 30, 2005" for "May 31, 2005".

Subsec. (c)(2). Pub. L. 109–40, §7(e)(1), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading.

Pub. L. 109–37, §7(e)(1), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading.

Pub. L. 109–35, §7(e)(1), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading.

Pub. L. 109–20, §7(e)(1), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading.

Pub. L. 109–14, §7(e)(1), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading.

Subsec. (c)(2)(A)(vii). Pub. L. 109–40, §7(e)(2), substituted "$50,146,668" for "$49,546,681" and "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(e)(2), substituted "$49,546,681" for "$48,546,727" and "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(e)(2), substituted "$48,546,727" for "$47,946,667" and "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(e)(2), substituted "$47,946,667" for "$48,346,668" and "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(e)(2), substituted "$48,346,668" for "$41,813,334" and "June 30, 2005" for "May 31, 2005".

Subsec. (c)(2)(B)(vii). Pub. L. 109–40, §7(e)(3), substituted "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(e)(3), substituted "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(e)(3), substituted "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(e)(3), substituted "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(e)(3), substituted "June 30, 2005" for "May 31, 2005".

Subsec. (d)(2). Pub. L. 109–40, §7(f)(1), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading.

Pub. L. 109–37, §7(f)(1), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading.

Pub. L. 109–35, §7(f)(1), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading.

Pub. L. 109–20, §7(f)(1), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading.

Pub. L. 109–14, §7(f)(1), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading.

Subsec. (d)(2)(A)(vii). Pub. L. 109–40, §7(f)(2), substituted "$39,950,343" for "$39,554,804" and "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(f)(2), substituted "$39,554,804" for "$37,385,434" and "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(f)(2), substituted "$37,385,434" for "$36,933,334" and "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(f)(2), substituted "$36,933,334" for "$32,683,333" and "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(f)(2), substituted "$32,683,333" for "$28,266,667" and "June 30, 2005" for "May 31, 2005".

Subsec. (d)(2)(B)(vii). Pub. L. 109–40, §7(f)(3), substituted "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(f)(3), substituted "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(f)(3), substituted "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(f)(3), substituted "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(f)(3), substituted "June 30, 2005" for "May 31, 2005".

Subsec. (d)(2)(C). Pub. L. 109–40, §7(f)(4), substituted "July 30, 2005" for "July 27, 2005" in introductory provisions.

Pub. L. 109–37, §7(f)(4), substituted "July 27, 2005" for "July 21, 2005" in introductory provisions.

Pub. L. 109–35, §7(f)(4), substituted "July 21, 2005" for "July 19, 2005" in introductory provisions.

Pub. L. 109–20, §7(f)(4), substituted "July 19, 2005" for "June 30, 2005" in introductory provisions.

Pub. L. 109–14, §7(f)(4), substituted "June 30, 2005" for "May 31, 2005" in introductory provisions.

Subsec. (e)(2). Pub. L. 109–40, §7(h)(1), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading.

Pub. L. 109–37, §7(h)(1), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading.

Pub. L. 109–35, §7(h)(1), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading.

Pub. L. 109–20, §7(h)(1), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading.

Pub. L. 109–14, §7(h)(1), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading.

Subsec. (e)(2)(A). Pub. L. 109–40, §7(h)(2), substituted "$4,180,822" for "$4,131,508" and "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(h)(2), substituted "$4,131,508" for "$4,060,000" and "July 27, 2005" for "July 21, 2005".

Pub. L. 109–35, §7(h)(2), substituted "$4,060,000" for "$4,000,000" and "July 21, 2005" for "July 19, 2005".

Pub. L. 109–20, §7(h)(2), substituted "$4,000,000" for "$3,700,000" and "July 19, 2005" for "June 30, 2005".

Pub. L. 109–14, §7(h)(2), substituted "$3,700,000" for "$3,200,000" and "June 30, 2005" for "May 31, 2005".

Subsec. (e)(2)(B). Pub. L. 109–40, §7(h)(3), substituted "July 30, 2005" for "July 27, 2005".

Pub. L. 109–37, §7(h)(3), substituted "July 27, 2005" for "July 21, 2005".
Pub. L. 109–35, §7(h)(3), substituted "July 21, 2005" for "July 19, 2005".
Pub. L. 109–20, §7(h)(3), substituted "July 19, 2005" for "June 30, 2005".
Pub. L. 109–14, §7(h)(3), substituted "June 30, 2005" for "May 31, 2005".
Subsec. (e)(2)(C)(i), (iii). Pub. L. 109–40, §7(h)(4), substituted "July 30, 2005" for "July 27, 2005" in introductory provisions of cl. (i) and in cl. (iii).
Pub. L. 109–37, §7(h)(4), substituted "July 27, 2005" for "July 21, 2005" in introductory provisions of cl. (i) and in cl. (iii).
Pub. L. 109–35, §7(h)(4), substituted "July 21, 2005" for "July 19, 2005" in introductory provisions of cl. (i) and in cl. (iii).
Pub. L. 109–20, §7(h)(4), substituted "July 19, 2005" for "June 30, 2005" in introductory provisions of cl. (i) and in cl. (iii).
Pub. L. 109–14, §7(h)(4), substituted "June 30, 2005" for "May 31, 2005" in introductory provisions of cl. (i) and in cl. (iii).
Subsec. (f)(2). Pub. L. 109–42, §5(a)(1), substituted "AUGUST 14" for "JULY 30" in heading.
Pub. L. 109–40, §7(j)(1), substituted "JULY 30, 2005" for "JULY 27, 2005" in heading.
Pub. L. 109–37, §7(j)(1), substituted "JULY 27, 2005" for "JULY 21, 2005" in heading.
Pub. L. 109–35, §7(j)(1), substituted "JULY 21, 2005" for "JULY 19, 2005" in heading.
Pub. L. 109–20, §7(j)(1), substituted "JULY 19, 2005" for "JUNE 30, 2005" in heading.
Pub. L. 109–14, §7(j)(1), substituted "JUNE 30, 2005" for "MAY 31, 2005" in heading.
Subsec. (f)(2)(A)(vii). Pub. L. 109–42, §5(a)(2), substituted "$57,650,686" for "$54,350,686" and "August 14" for "July 30".
Pub. L. 109–40, §7(j)(2), substituted "$54,350,686" for "$53,709,604" and "July 30, 2005" for "July 27, 2005".
Pub. L. 109–37, §7(j)(2), substituted "$53,709,604" for "$52,780,000" and "July 27, 2005" for "July 21, 2005".
Pub. L. 109–35, §7(j)(2), substituted "$52,780,000" for "$52,000,000" and "July 21, 2005" for "July 19, 2005".
Pub. L. 109–20, §7(j)(2), substituted "$52,000,000" for "$48,100,000" and "July 19, 2005" for "June 30, 2005".
Pub. L. 109–14, §7(j)(2), substituted "$48,100,000" for "$41,600,000" and "June 30, 2005" for "May 31, 2005".
Subsec. (f)(2)(B)(vii). Pub. L. 109–42, §5(a)(3), substituted "August 14" for "July 30".
Pub. L. 109–40, §7(j)(3), substituted "July 30, 2005" for "July 27, 2005".
Pub. L. 109–37, §7(j)(3), substituted "July 27, 2005" for "July 21, 2005".
Pub. L. 109–35, §7(j)(3), substituted "July 21, 2005" for "July 19, 2005".
Pub. L. 109–20, §7(j)(3), substituted "July 19, 2005" for "June 30, 2005".
Pub. L. 109–14, §7(j)(3), substituted "June 30, 2005" for "May 31, 2005".

2004—Subsec. (a)(2). Pub. L. 108–310, §8(c)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "THROUGH 2004" in heading.
Pub. L. 108–280, §7(c)(1), struck out "2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31," before "2004" in heading.
Pub. L. 108–263, §7(c)(1), substituted "JULY 31, 2004" for "JUNE 30, 2004" in heading.
Pub. L. 108–224, §7(c)(1), substituted "JUNE 30, 2004" for "APRIL 30, 2004" in heading.
Pub. L. 108–202, §9(c)(1), substituted "APRIL 30, 2004" for "FEBRUARY 29, 2004" in heading.
Subsec. (a)(2)(A)(vi). Pub. L. 108–280, §7(c)(2), added cl. (vi) and struck out former cl. (vi) which read: "$2,544,233,267 for the period of October 1, 2003, through July 31, 2004."
Pub. L. 108–263, §7(c)(2), substituted "$2,544,233,267" for "$2,289,809,940" and "July 31, 2004" for "June 30, 2004".
Pub. L. 108–224, §7(c)(2), substituted "$2,289,809,940" for "$1,780,963,287" and "June 30, 2004" for "April 30, 2004".
Pub. L. 108–202, §9(c)(2), substituted "$1,780,963,287" for "$1,292,948,344" and "April 30, 2004" for "February 29, 2004".
Subsec. (a)(2)(A)(vii). Pub. L. 108–310, §8(c)(2)–(4), added cl. (vii).
Subsec. (a)(2)(B)(vi). Pub. L. 108–280, §7(c)(3), added cl. (vi) and struck out former cl. (vi) which read: "$636,058,317 for the period of October 1, 2003, through July 31, 2004."
Pub. L. 108–263, §7(c)(3), substituted "$636,058,317" for "$572,452,485" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(c)(3), substituted "$572,452,485" for "$445,240,822" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(c)(3), substituted "$445,240,822" for "$323,459,169" and "April 30, 2004" for "February 29, 2004".

Subsec. (a)(2)(B)(vii). Pub. L. 108–310, §8(c)(2), (3), (5), added cl. (vii).

Subsec. (a)(2)(C). Pub. L. 108–310, §8(c)(6), substituted "2005 (other than for the period of October 1, 2004, through May 31, 2005)" for "2003" in introductory provisions.

Pub. L. 108–280, §7(c)(4), substituted "each of fiscal years 1999 through 2003" for "a fiscal year (other than for the period of October 1, 2003, through July 31, 2004)" in introductory provisions.

Pub. L. 108–263, §7(c)(4), substituted "July 31, 2004" for "June 30, 2004" in introductory provisions.

Pub. L. 108–224, §7(c)(4), substituted "June 30, 2004" for "April 30, 2004" in introductory provisions.

Pub. L. 108–202, §9(c)(4), substituted "April 30, 2004" for "February 29, 2004" in introductory provisions.

Subsec. (b)(2). Pub. L. 108–310, §8(e)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "THROUGH 2004" in heading.

Pub. L. 108–280, §7(e)(1), struck out "2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31," before "2004" in heading.

Pub. L. 108–263, §7(e)(1), substituted "JULY 31, 2004" for "JUNE 30, 2004" in heading.

Pub. L. 108–224, §7(e)(1), substituted "JUNE 30, 2004" for "APRIL 30, 2004" in heading.

Pub. L. 108–202, §9(e)(1), substituted "APRIL 30, 2004" for "FEBRUARY 29, 2004" in heading.

Subsec. (b)(2)(A)(vi). Pub. L. 108–280, §7(e)(2), added cl. (vi) and struck out former cl. (vi) which read: "$2,079,325,834 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(e)(2), substituted "$2,079,325,834" for "$1,871,393,250" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(e)(2), substituted "$1,871,393,250" for "$1,819,410,104" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(e)(2), substituted "$1,819,410,104" for "$1,022,503,342" and "April 30, 2004" for "February 29, 2004".

Subsec. (b)(2)(A)(vii). Pub. L. 108–310, §8(e)(2)–(4), added cl. (vii).

Subsec. (b)(2)(B)(vi). Pub. L. 108–280, §7(e)(3), added cl. (vi) and struck out former cl. (vi) which read: "$519,831,458 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(e)(3), substituted "$519,831,458" for "$467,848,313" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(e)(3), substituted "$467,848,313" for "$363,882,021" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(e)(3), substituted "$363,882,021" for "$255,801,669" and "April 30, 2004" for "February 29, 2004".

Subsec. (b)(2)(B)(vii). Pub. L. 108–310, §8(e)(2), (3), (5), added cl. (vii).

Subsec. (c)(2). Pub. L. 108–310, §8(f)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "THROUGH 2004" in heading. See Codification note above.

Pub. L. 108–280, §7(f)(1), struck out "2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31," before "2004" in heading.

Pub. L. 108–263, §7(f)(1), substituted "JULY 31, 2004" for "JUNE 30, 2004" in heading.

Pub. L. 108–224, §7(f)(1), substituted "JUNE 30, 2004" for "APRIL 30, 2004" in heading.

Pub. L. 108–202, §9(f)(1), substituted "APRIL 30, 2004" for "FEBRUARY 29, 2004" in heading.

Subsec. (c)(2)(A)(vi). Pub. L. 108–280, §7(f)(2), added cl. (vi) and struck out former cl. (vi) which read: "$48,545,217 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(f)(2), substituted "$48,545,217" for "$43,690,695" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(f)(2), substituted "$43,690,695" for "$33,981,652" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(f)(2), substituted "$33,981,652" for "$24,636,667" and "April 30, 2004" for "February 29, 2004".

Subsec. (c)(2)(A)(vii). Pub. L. 108–310, §8(f)(2)–(4), added cl. (vii). See Codification note above.

Subsec. (c)(2)(B)(vi). Pub. L. 108–280, §7(f)(3), added cl. (vi) and struck out former cl. (vi) which read: "$11,929,200 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(f)(3), substituted "$11,929,200" for "$10,736,280" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(f)(3), substituted "$10,736,280" for "$8,350,440" and "June 30, 2004" for "April 30,

2004".

Pub. L. 108–202, §9(f)(3), substituted "$8,350,440" for "$6,100,000" and "April 30, 2004" for "February 29, 2004".

Subsec. (c)(2)(B)(vii). Pub. L. 108–310, §8(f)(2), (3), (5), added cl. (vii). See Codification note above.

Subsec. (c)(2)(C). Pub. L. 108–310, §8(f)(6), inserted "or any portion of a fiscal year" after "for a fiscal year" in introductory provisions. See Codification note above.

Pub. L. 108–280, §7(f)(4), struck out "or any portion of a fiscal year" after "for a fiscal year" in introductory provisions.

Subsec. (d)(2). Pub. L. 108–310, §8(g)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "THROUGH 2004" in heading.

Pub. L. 108–280, §7(g)(1), struck out "2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31," before "2004" in heading.

Pub. L. 108–263, §7(g)(1), substituted "JULY 31, 2004" for "JUNE 30, 2004" in heading.

Pub. L. 108–224, §7(g)(1), substituted "JUNE 30, 2004" for "APRIL 30, 2004" in heading.

Pub. L. 108–202, §9(g)(1), substituted "APRIL 30, 2004" for "FEBRUARY 29, 2004" in heading.

Subsec. (d)(2)(A)(vi). Pub. L. 108–280, §7(g)(2), added cl. (vi) and struck out former cl. (vi) which read: "$34,959,183 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(g)(2), substituted "$34,959,183" for "$31,463,265" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(g)(2), substituted "$31,463,265" for "$24,471,428" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(g)(2), substituted "$24,471,428" for "$16,536,667" and "April 30, 2004" for "February 29, 2004".

Subsec. (d)(2)(A)(vii). Pub. L. 108–310, §8(g)(2)–(4), added cl. (vii).

Subsec. (d)(2)(B)(vi). Pub. L. 108–280, §7(g)(3), added cl. (vi) and struck out former cl. (vi) which read: "$8,946,900 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(g)(3), substituted "$8,946,900" for "$8,052,210" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(g)(3), substituted "$8,052,210" for "$6,262,830" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(g)(3), substituted "$6,262,830" for "$4,095,000" and "April 30, 2004" for "February 29, 2004".

Subsec. (d)(2)(B)(vii). Pub. L. 108–310, §8(g)(2), (3), (5), added cl. (vii).

Subsec. (d)(2)(C). Pub. L. 108–310, §8(g)(6), inserted "(other than for the period of October 1, 2004, through May 31, 2005)" after "a fiscal year" in introductory provisions.

Pub. L. 108–280, §7(g)(4), struck out "(other than for the period of October 1, 2003, through July 31, 2004)" after "a fiscal year".

Pub. L. 108–263, §7(g)(4), substituted "July 31, 2004" for "June 30, 2004" in introductory provisions.

Pub. L. 108–224, §7(g)(4), substituted "June 30, 2004" for "April 30, 2004" in introductory provisions.

Pub. L. 108–202, §9(g)(4), substituted "April 30, 2004" for "February 29, 2004" in introductory provisions.

Subsec. (e)(2). Pub. L. 108–310, §8(i)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004" in heading.

Pub. L. 108–280, §7(i)(1), struck out "2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31," before "2004" in heading.

Pub. L. 108–263, §7(i)(1), substituted "JULY 31, 2004" for "JUNE 30, 2004" in heading.

Pub. L. 108–224, §7(i)(1), substituted "JUNE 30, 2004" for "APRIL 30, 2004" in heading.

Pub. L. 108–202, §9(i)(1), substituted "APRIL 30, 2004" for "FEBRUARY 29, 2004" in heading.

Subsec. (e)(2)(A). Pub. L. 108–310, §8(i)(2), inserted "and $3,200,000 for the period of October 1, 2004, through May 31, 2005" after "2004".

Pub. L. 108–280, §7(i)(2), struck out "2003 and $3,976,400 for the period of October 1, 2003, through July 31," before "2004".

Pub. L. 108–263, §7(i)(2), substituted "$3,976,400" for "$3,578,760" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(i)(2), substituted "$3,578,760" for "$2,783,480" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(i)(2), substituted "$2,783,480" for "$2,020,833" and "April 30, 2004" for "February 29, 2004".

Subsec. (e)(2)(B). Pub. L. 108–310, §8(i)(3), inserted "and $800,000 for the period of October 1, 2004,

through May 31, 2005" after "2004".

Pub. L. 108–280, §7(i)(3), struck out "2003 and $994,100 for the period of October 1, 2003, through July 31," before "2004".

Pub. L. 108–263, §7(i)(3), substituted "$994,100" for "$894,690" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(i)(3), substituted "$894,690" for "$695,870" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(i)(3), substituted "$695,870" for "$505,833" and "April 30, 2004" for "February 29, 2004".

Subsec. (e)(2)(C)(i), (iii). Pub. L. 108–310, §8(i)(4), inserted "(other than for the period of October 1, 2004, through May 31, 2005)" after "fiscal year".

Pub. L. 108–280, §7(i)(4), struck out "(other than for the period of October 1, 2003, through July 31, 2004)" after "fiscal year".

Pub. L. 108–263, §7(i)(4), substituted "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(i)(4), substituted "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(i)(4), substituted "April 30, 2004" for "February 29, 2004".

Subsec. (f)(2). Pub. L. 108–310, §8(k)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004" in heading.

Pub. L. 108–280, §7(k)(1), struck out "2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH JULY 31," before "2004" in heading.

Pub. L. 108–263, §7(k)(1), substituted "JULY 31, 2004" for "JUNE 30, 2004" in heading.

Pub. L. 108–224, §7(k)(1), substituted "JUNE 30, 2004" for "APRIL 30, 2004" in heading.

Pub. L. 108–202, §9(k)(1), substituted "APRIL 30, 2004" for "FEBRUARY 29, 2004" in heading.

Subsec. (f)(2)(A)(vi). Pub. L. 108–280, §7(k)(2), added cl. (vi) and struck out former cl. (vi) which read: "$50,036,366 for the period of October, 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(k)(2), substituted "$50,036,366" for "$45,032,730" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(k)(2), substituted "$45,032,730" for "$35,025,457" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(k)(2), substituted "$35,025,457" for "$24,585,834" and "April 30, 2004" for "February 29, 2004".

Subsec. (f)(2)(A)(vii). Pub. L. 108–310, §8(k)(2)–(4), added cl. (vii).

Subsec. (f)(2)(B)(vi). Pub. L. 108–280, §7(k)(3), added cl. (vi) and struck out former cl. (vi) which read: "$12,509,093 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263, §7(k)(3), substituted "$12,509,093" for "$11,258,183" and "July 31, 2004" for "June 30, 2004".

Pub. L. 108–224, §7(k)(3), substituted "$11,258,183" for "$8,756,364" and "June 30, 2004" for "April 30, 2004".

Pub. L. 108–202, §9(k)(3), substituted "$8,756,364" for "$6,150,833" and "April 30, 2004" for "February 29, 2004".

Subsec. (f)(2)(B)(vii). Pub. L. 108–310, §8(k)(2), (3), (5), added cl. (vii).

2003—Subsec. (a)(2). Pub. L. 108–88, §8(c)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004" after "2003" in heading.

Subsec. (a)(2)(A)(vi). Pub. L. 108–88, §8(c)(2)–(4), added cl. (vi).

Subsec. (a)(2)(B)(vi). Pub. L. 108–88, §8(c)(2), (3), (5), added cl. (vi).

Subsec. (a)(2)(C). Pub. L. 108–88, §8(c)(6), inserted "(other than for the period of October 1, 2003, through February 29, 2004)" after "a fiscal year" in introductory provisions.

Subsec. (b)(2). Pub. L. 108–88, §8(e)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004" after "2003" in heading.

Subsec. (b)(2)(A)(vi). Pub. L. 108–88, §8(e)(2)–(4), added cl. (vi).

Subsec. (b)(2)(B)(vi). Pub. L. 108–88, §8(e)(2), (3), (5), added cl. (vi).

Subsec. (c)(2). Pub. L. 108–88, §8(f), which directed the amendment of section 5338(c)(2) by inserting " AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004" after "2003" in heading, by adding cl. (vi) to subpars. (A) and (B), and by inserting "or any portion of a fiscal year" after "fiscal year" in introductory provisions of subpar. (C), without specifying that title 49 of the United States Code was to be amended, was executed by making the amendments to this section, to reflect the probable intent of Congress.

Subsec. (d)(2). Pub. L. 108–88, §8(g)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004" after "2003" in heading.

Subsec. (d)(2)(A)(vi). Pub. L. 108–88, §8(g)(2)–(4), added cl. (vi).

Subsec. (d)(2)(B)(vi). Pub. L. 108–88, §8(g)(2), (3), (5), added cl. (vi).

Subsec. (d)(2)(C). Pub. L. 108–88, §8(g)(6), inserted "(other than for the period of October 1, 2003, through February 29, 2004)" after "a fiscal year" in introductory provisions.

Subsec. (e)(2). Pub. L. 108–88, §8(i)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004" after "2003" in heading.

Subsec. (e)(2)(A). Pub. L. 108–88, §8(i)(2), inserted "and $2,020,833 for the period of October 1, 2003, through February 29, 2004" after "2003".

Subsec. (e)(2)(B). Pub. L. 108–88, §8(i)(3), inserted "and $505,833 for the period of October 1, 2003, through February 29, 2004" after "2003".

Subsec. (e)(2)(C)(i), (iii). Pub. L. 108–88, §8(i)(4), inserted "(other than for the period of October 1, 2003, through February 29, 2004)" after "fiscal year".

Subsec. (f)(2). Pub. L. 108–88, §8(k)(1), inserted "AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH FEBRUARY 29, 2004" after "2003" in heading.

Subsec. (f)(2)(A)(vi). Pub. L. 108–88, §8(k)(2)–(4), added cl. (vi).

Subsec. (f)(2)(B)(vi). Pub. L. 108–88, §8(k)(2), (3), (5), added cl. (vi).

1998—Pub. L. 105–178, §3029(a), reenacted section catchline without change and amended text generally, substituting provisions relating to authorizations for Federal transit programs for fiscal years 1998 to 2003 for provisions relating to authorizations for Federal transit programs for fiscal years ending Sept. 30, 1993 to 1997 and for period from Oct. 1, 1997 to Mar. 31, 1998.

Subsec. (c)(2)(A). Pub. L. 105–178, §3029(c)(1)–(5), as added by Pub. L. 105–206, substituted "$42,200,000" for "$43,200,000", "$48,400,000" for "$46,400,000", "$50,200,000" for "$51,200,000", "$53,800,000" for "$52,800,000", and "$58,600,000" for "$57,600,000" in cls. (i) to (v), respectively.

Subsec. (d)(2)(C)(iii). Pub. L. 105–178, §3029(c)(6), as added by Pub. L. 105–206, inserted ", including not more than $1,000,000 shall be available to carry out section 5315(a)(16)" before semicolon.

Subsec. (e)(1). Pub. L. 105–178, §3029(c)(7)(A), (B), as added by Pub. L. 105–206, substituted "Subject to paragraph (2)(C), there are" for "There are" and "5505" for "5317(b)".

Subsec. (e)(2)(A). Pub. L. 105–178, §3029(c)(7)(A), (C)(i), as added by Pub. L. 105–206, substituted "Subject to subparagraph (C), there shall" for "There shall" and "5505" for "5317(b)".

Subsec. (e)(2)(B). Pub. L. 105–178, §3029(c)(7)(A), (C)(ii), as added by Pub. L. 105–206, substituted "Subject to subparagraph (C), in addition" for "In addition" and "5505" for "5317(b)".

Subsec. (e)(2)(C). Pub. L. 105–178, §3029(c)(7)(C)(iii), as added by Pub. L. 105–206, added subpar. (C).

Subsec. (e)(3). Pub. L. 105–178, §3029(c)(7)(D), as added by Pub. L. 105–206, added par. (3).

Subsec. (g)(2). Pub. L. 105–178, §3029(c)(8), as added by Pub. L. 105–206, substituted "(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B)," for "(c)(2)(B), (d)(2)(B), (e)(2)(B), (f)(2)(B),".

Subsec. (h). Pub. L. 105–178, §3029(c)(9), as added by Pub. L. 105–206, inserted "under the Transportation Discretionary Spending Guarantee for the Mass Transit Category" after "subsections (a) through (f)" in introductory provisions.

Subsec. (h)(5)(A) to (E). Pub. L. 105–178, §3029(c)(10), as added by Pub. L. 105–206, added subpars. (A) to (E) and struck out former subpars. (A) to (E) which read as follows:

"(A) for fiscal year 1999, $600,000,000;

"(B) for fiscal year 2000, $610,000,000;

"(C) for fiscal year 2001, $620,000,000;

"(D) for fiscal year 2002, $630,000,000; and

"(E) for fiscal year 2003, $630,000,000;".

1997—Subsec. (a)(1)(F). Pub. L. 102–240, §3049(c)(1)(A), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (a)(2)(F). Pub. L. 102–240, §3049(c)(1)(B), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (b)(1)(F). Pub. L. 102–240, §3049(c)(2), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (c). Pub. L. 102–240, §3049(c)(3), as added by Pub. L. 105–130, inserted "and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998," after "1997,".

Subsec. (e). Pub. L. 102–240, §3049(c)(4), as added by Pub. L. 105–130, inserted "and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998," after "1997,".

Subsec. (h)(3). Pub. L. 102–240, §3049(c)(5), as added by Pub. L. 105–130, inserted before period at end "and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998".

Subsec. (j)(5)(D). Pub. L. 102–240, §3049(c)(6), as added by Pub. L. 105–130, added subpar. (D).

Subsec. (k). Pub. L. 102–240, §3049(c)(7), as added by Pub. L. 105–130, substituted "(e), or (m) of this section" for "or (e) of this section".

Subsec. (m). Pub. L. 102–240, §3049(c)(8), as added by Pub. L. 105–130, added subsec. (m).

1996—Subsec. (g)(2). Pub. L. 104–287 substituted "section 5311(b)(2)" for "section 5308(b)(2)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 20028 of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as a note under section 101 of Title 23, Highways.

Amendment by section 113006 of Pub. L. 112–141 effective July 1, 2012, see section 114001 of Pub. L. 112–141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

OBLIGATION CEILING

Pub. L. 114–94, div. A, title III, §3018, Dec. 4, 2015, 129 Stat. 1487, provided that: "Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by subsection (a) of section 5338 of title 49, United States Code, and section 3028 of the Federal Public Transportation Act of 2015 [section 3028 of Pub. L. 114–94, 129 Stat. 1495] shall not exceed—

"(1) $9,347,604,639 in fiscal year 2016;
"(2) $9,733,706,043 in fiscal year 2017;
"(3) $9,733,353,407 in fiscal year 2018;
"(4) $9,939,380,030 in fiscal year 2019; and
"(5) $10,150,348,462 in fiscal year 2020."

ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS

Pub. L. 109–59, title III, §3046, Aug. 10, 2005, 119 Stat. 1706, as amended by Pub. L. 110–244, title II, §201(o)(6), June 6, 2008, 122 Stat. 1615; Pub. L. 111–147, title IV, §437(f), Mar. 18, 2010, 124 Stat. 93; Pub. L. 111–322, title II, §2307(f), Dec. 22, 2010, 124 Stat. 3530; Pub. L. 112–5, title III, §307(f), Mar. 4, 2011, 125 Stat. 21; Pub. L. 112–30, title I, §137(f), Sept. 16, 2011, 125 Stat. 355; Pub. L. 112–102, title III, §307(f), Mar. 30, 2012, 126 Stat. 281; Pub. L. 112–140, title III, §307(f), June 29, 2012, 126 Stat. 402; Pub. L. 112–141, div. G, title III, §113007(f), July 6, 2012, 126 Stat. 988, which allocated amounts appropriated pursuant to former subsec. (d) of this section for various national research and technology programs, was repealed by Pub. L. 112–141, div. B, §20002(c)(5), July 6, 2012, 126 Stat. 622.

ADJUSTMENTS FOR SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Pub. L. 105–178, title III, §3041, June 9, 1998, 112 Stat. 394, provided that the Secretary of Transportation ensure that the total apportionments and allocations made to a designated grant recipient under this section for fiscal year 1998 be reduced by the amount apportioned to such designated recipient pursuant to section 8 of Pub. L. 105–130 (amending sections 5309, 5337, and 5338 of this title) and in making the apportionments, the Secretary adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 1998 to reflect the method of apportioning funds in former section 5337(a) of this title.

TRAINING AND CURRICULUM DEVELOPMENT

Pub. L. 105–178, title III, §3015(d), as added by Pub. L. 105–206, title IX, §9009(k)(2), July 22, 1998, 112 Stat. 857, and amended by Pub. L. 108–88, §8(j)(3), Sept. 30, 2003, 117 Stat. 1124; Pub. L. 108–202, §9(j)(2), Feb. 29, 2004, 118 Stat. 487; Pub. L. 108–224, §7(j)(2), Apr. 30, 2004, 118 Stat. 636; Pub. L. 108–263, §7(j)(2), June 30, 2004, 118 Stat. 707; Pub. L. 108–280, §7(j)(2), July 30, 2004, 118 Stat. 884; Pub. L. 108–310, §8(j)(3), Sept. 30, 2004, 118 Stat. 1157; Pub. L. 109–14, §7(i)(2), May 31, 2005, 119 Stat. 332; Pub. L. 109–20, §7(i)(2), July 1, 2005, 119 Stat. 355; Pub. L. 109–35, §7(i)(2), July 20, 2005, 119 Stat. 388; Pub. L. 109–37, §7(i)(2), July 22, 2005, 119 Stat. 403; Pub. L. 109–40, §7(i)(2), July 28, 2005, 119 Stat. 419, specified how funds made available by former subsec. (e)(2)(C)(iii) of this section could be used by certain institutions for transportation research, training, and curriculum development.

PROGRAMS OF FEDERAL TRANSIT ADMINISTRATION; LIMITATION ON OBLIGATIONS

Pub. L. 109–115, div. A, title I, §140, Nov. 30, 2005, 119 Stat. 2420, which provided that the limitations on obligations for the programs of the Federal Transit Administration were not to apply to any authority under this section previously made available for obligation, or to any other authority previously made available for obligation, was from the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. H, title I, §160, Dec. 8, 2004, 118 Stat. 3227.

Pub. L. 108–199, div. F, title I, §160, Jan. 23, 2004, 118 Stat. 308.

Pub. L. 108–7, div. I, title III, §309, Feb. 20, 2003, 117 Stat. 407.

Pub. L. 107–87, title III, §309, Dec. 18, 2001, 115 Stat. 855.

Pub. L. 106–346, §101(a) [title III, §311], Oct. 23, 2000, 114 Stat. 1356, 1356A–27.

Pub. L. 106–69, title III, §311, Oct. 9, 1999, 113 Stat. 1018.

Pub. L. 105–277, div. A, §101(g) [title III, §311], Oct. 21, 1998, 112 Stat. 2681–439, 2681–467.

Pub. L. 105–66, title III, §311, Oct. 27, 1997, 111 Stat. 1443.

Pub. L. 104–205, title III, §311, Sept. 30, 1996, 110 Stat. 2971.

Pub. L. 104–50, title III, §312, Nov. 15, 1995, 109 Stat. 455.

Pub. L. 103–331, title III, §313, Sept. 30, 1994, 108 Stat. 2490.

Pub. L. 103–122, title III, §313, Oct. 27, 1993, 107 Stat. 1221.

Pub. L. 102–388, title III, §313, Oct. 6, 1992, 106 Stat. 1546.

Pub. L. 102–143, title III, §313, Oct. 28, 1991, 105 Stat. 941, as amended by Pub. L. 102–240, title III, §§3003(b), 3004(b), Dec. 18, 1991, 105 Stat. 2088.

Pub. L. 101–516, title III, §313, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101–164, title III, §314, Nov. 21, 1989, 103 Stat. 1094.

Pub. L. 100–457, title III, §314, Sept. 30, 1988, 102 Stat. 2148.

Pub. L. 100–202, §101(l) [title III, §314], Dec. 22, 1987, 101 Stat. 1329–358, 1329–379.

Pub. L. 99–500, §101(l) [H.R. 5205, title III, §317], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, §101(l) [H.R. 5205, title III, §317], Oct. 30, 1986, 100 Stat. 3341–308.

Pub. L. 99–190, §101(e) [title III, §322], Dec. 19, 1985, 99 Stat. 1267, 1287.

[1] So in original. Should be "122 Stat. 4968)." See References in Text note below.

§5339. Grants for buses and bus facilities

(a) FORMULA GRANTS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "low or no emission vehicle" has the meaning given that term in subsection (c)(1);

(B) the term "State" means a State of the United States; and

(C) the term "territory" means the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands.

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to assist eligible recipients described in paragraph (4)(A) in financing capital projects—

(A) to replace, rehabilitate, and purchase buses and related equipment, including technological changes or innovations to modify low or no emission vehicles or facilities; and

(B) to construct bus-related facilities.

(3) GRANT REQUIREMENTS.—The requirements of—

(A) section 5307 shall apply to recipients of grants made in urbanized areas under this subsection; and

(B) section 5311 shall apply to recipients of grants made in rural areas under this subsection.

(4) ELIGIBLE RECIPIENTS.—

(A) RECIPIENTS.—Eligible recipients under this subsection are—

(i) designated recipients that allocate funds to fixed route bus operators; or

(ii) State or local governmental entities that operate fixed route bus service.

(B) SUBRECIPIENTS.—A recipient that receives a grant under this subsection may allocate amounts of the grant to subrecipients that are public agencies or private nonprofit organizations engaged in public transportation.

(5) DISTRIBUTION OF GRANT FUNDS.—Funds allocated under section 5338(a)(2)(L) [1] shall be distributed as follows:

(A) NATIONAL DISTRIBUTION.—$206,000,000 each fiscal year shall be allocated to all States and territories, with each State receiving $4,000,000 for each such fiscal year and each territory receiving $1,000,000 for each such fiscal year.

(B) DISTRIBUTION USING POPULATION AND SERVICE FACTORS.—The remainder of the funds not otherwise distributed under subparagraph (A) shall be allocated pursuant to the formula set forth in section 5336 other than subsection (b).

(6) TRANSFERS OF APPORTIONMENTS.—

(A) TRANSFER FLEXIBILITY FOR NATIONAL DISTRIBUTION FUNDS.—The Governor of a State may transfer any part of the State's apportionment under paragraph (5)(A) to supplement amounts apportioned to the State under section 5311(c) or amounts apportioned to urbanized areas under subsections (a) and (c) of section 5336.

(B) TRANSFER FLEXIBILITY FOR POPULATION AND SERVICE FACTORS FUNDS .—The Governor of a State may expend in an urbanized area with a population of less than 200,000 any amounts apportioned under paragraph (5)(B) that are not allocated to designated recipients in urbanized areas with a population of 200,000 or more.

(7) GOVERNMENT SHARE OF COSTS.—

(A) CAPITAL PROJECTS.—A grant for a capital project under this subsection shall be for 80 percent of the net capital costs of the project. A recipient of a grant under this subsection may provide additional local matching amounts.

(B) REMAINING COSTS.—The remainder of the net project cost shall be provided—

(i) in cash from non-Government sources other than revenues from providing public transportation services;

(ii) from revenues derived from the sale of advertising and concessions;

(iii) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

(iv) from amounts received under a service agreement with a State or local social service agency or private social service organization; or

(v) from revenues generated from value capture financing mechanisms.

(8) PERIOD OF AVAILABILITY TO RECIPIENTS.—Amounts made available under this subsection may be obligated by a recipient for 3 fiscal years after the fiscal year in which the

amount is apportioned. Not later than 30 days after the end of the 3-fiscal-year period described in the preceding sentence, any amount that is not obligated on the last day of such period shall be added to the amount that may be apportioned under this subsection in the next fiscal year.

(9) PILOT PROGRAM FOR COST-EFFECTIVE CAPITAL INVESTMENT.—

(A) IN GENERAL.—For each of fiscal years 2016 through 2020, the Secretary shall carry out a pilot program under which an eligible recipient (as described in paragraph (4)) in an urbanized area with population of not less than 200,000 and not more than 999,999 may elect to participate in a State pool in accordance with this paragraph.

(B) PURPOSE OF STATE POOLS.—The purpose of a State pool shall be to allow for transfers of formula grant funds made available under this subsection among the designated recipients participating in the State pool in a manner that supports the transit asset management plans of the designated recipients under section 5326.

(C) REQUESTS FOR PARTICIPATION.—A State, and eligible recipients in the State described in subparagraph (A), may submit to the Secretary a request for participation in the program under procedures to be established by the Secretary. An eligible recipient for a multistate area may participate in only 1 State pool.

(D) ALLOCATIONS TO PARTICIPATING STATES.—For each fiscal year, the Secretary shall allocate to each State participating in the program the total amount of funds that otherwise would be allocated to the urbanized areas of the eligible recipients participating in the State's pool for that fiscal year pursuant to the formulas referred to in paragraph (5).

(E) ALLOCATIONS TO ELIGIBLE RECIPIENTS IN STATE POOLS.—A State shall distribute the amount that is allocated to the State for a fiscal year under subparagraph (D) among the eligible recipients participating in the State's pool in a manner that supports the transit asset management plans of the recipients under section 5326.

(F) ALLOCATION PLANS.—A State participating in the program shall develop an allocation plan for the period of fiscal years 2016 through 2020 to ensure that an eligible recipient participating in the State's pool receives under the program an amount of funds that equals the amount of funds that would have otherwise been available to the eligible recipient for that period pursuant to the formulas referred to in paragraph (5).

(G) GRANTS.—The Secretary shall make grants under this subsection for a fiscal year to an eligible recipient participating in a State pool following notification by the State of the allocation amount determined under subparagraph (E).

(10) MAXIMIZING USE OF FUNDS.—

(A) IN GENERAL.—Eligible recipients and subrecipients under this subsection should, to the extent practicable, seek to utilize the procurement tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94).

(B) WRITTEN EXPLANATION.—If an eligible recipient or subrecipient under this subsection purchases less than 5 buses through a standalone procurement, the eligible recipient or subrecipient shall provide to the Secretary a written explanation regarding why the tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94) were not utilized.

(b) BUSES AND BUS FACILITIES COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to eligible recipients (as described in subsection (a)(4)) to assist in the financing of buses and bus facilities capital projects, including—

(A) replacing, rehabilitating, purchasing, or leasing buses or related equipment; and

(B) rehabilitating, purchasing, constructing, or leasing bus-related facilities.

(2) GRANT CONSIDERATIONS.—In making grants under this subsection, the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

(3) STATEWIDE APPLICATIONS.—A State may submit a statewide application on behalf of

a public agency or private nonprofit organization engaged in public transportation in rural areas or other areas for which the State allocates funds. The submission of a statewide application shall not preclude the submission and consideration of any application under this subsection from other eligible recipients (as described in subsection (a)(4)) in an urbanized area in a State.

(4) REQUIREMENTS FOR THE SECRETARY.—The Secretary shall—

(A) disclose all metrics and evaluation procedures to be used in considering grant applications under this subsection upon issuance of the notice of funding availability in the Federal Register; and

(B) publish a summary of final scores for selected projects, metrics, and other evaluations used in awarding grants under this subsection in the Federal Register.

(5) RURAL PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B), not less than 15 percent of the amounts made available under this subsection in a fiscal year shall be distributed to projects in rural areas.

(B) UNUTILIZED AMOUNTS.—The Secretary may use less than 15 percent of the amounts made available under this subsection in a fiscal year for the projects described in subparagraph (A) if the Secretary cannot meet the requirement of that subparagraph due to insufficient eligible applications.

(6) GRANT REQUIREMENTS.—

(A) IN GENERAL.—A grant under this subsection shall be subject to the requirements of—

(i) section 5307 for eligible recipients of grants made in urbanized areas; and

(ii) section 5311 for eligible recipients of grants made in rural areas.

(B) GOVERNMENT SHARE OF COSTS.—The Government share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.

(7) AVAILABILITY OF FUNDS.—Any amounts made available to carry out this subsection—

(A) shall remain available for 3 fiscal years after the fiscal year for which the amount is made available; and

(B) that remain unobligated at the end of the period described in subparagraph (A) shall be added to the amount made available to an eligible project in the following fiscal year.

(8) LIMITATION.—Of the amounts made available under this subsection, not more than 10 percent may be awarded to a single grantee.

(9) COMPETITIVE PROCESS.—The Secretary shall—

(A) not later than 30 days after the date on which amounts are made available for obligation under this subsection for a full fiscal year, solicit grant applications for eligible projects on a competitive basis; and

(B) award a grant under this subsection based on the solicitation under subparagraph (A) not later than the earlier of—

(i) 75 days after the date on which the solicitation expires; or

(ii) the end of the fiscal year in which the Secretary solicited the grant applications.

(10) CONTINUED USE OF PARTNERSHIPS.—

(A) IN GENERAL.—An eligible recipient of a grant under this subsection may submit an application in partnership with other entities, including a transit vehicle manufacturer that intends to participate in the implementation of a project under this subsection and subsection (c).

(B) COMPETITIVE PROCUREMENT.—Projects awarded with partnerships under this subsection shall be considered to satisfy the requirement for a competitive procurement under section 5325.

(11) MAXIMIZING USE OF FUNDS.—

(A) IN GENERAL.—Eligible recipients under this subsection should, to the extent practicable, seek to utilize the procurement tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94).

(B) WRITTEN EXPLANATION.—If an eligible recipient under this subsection purchases less than 5 buses through a standalone procurement, the eligible recipient shall provide to the Secretary a written explanation regarding why the tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94) were not utilized.

(c) LOW OR NO EMISSION GRANTS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "direct carbon emissions" means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency;

(B) the term "eligible project" means a project or program of projects in an eligible area for—

(i) acquiring low or no emission vehicles;

(ii) leasing low or no emission vehicles;

(iii) acquiring low or no emission vehicles with a leased power source;

(iv) constructing facilities and related equipment for low or no emission vehicles;

(v) leasing facilities and related equipment for low or no emission vehicles;

(vi) constructing new public transportation facilities to accommodate low or no emission vehicles; or

(vii) rehabilitating or improving existing public transportation facilities to accommodate low or no emission vehicles;

(C) the term "leased power source" means a removable power source, as defined in subsection (c)(3) of section 3019 of the Federal Public Transportation Act of 2015 that is made available through a capital lease under such section;

(D) the term "low or no emission bus" means a bus that is a low or no emission vehicle;

(E) the term "low or no emission vehicle" means—

(i) a passenger vehicle used to provide public transportation that the Secretary determines sufficiently reduces energy consumption or harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or

(ii) a zero emission vehicle used to provide public transportation;

(F) the term "recipient" means a designated recipient, a local governmental authority, or a State that receives a grant under this subsection for an eligible project; and

(G) the term "zero emission vehicle" means a low or no emission vehicle that produces no carbon or particulate matter.

(2) GENERAL AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this subsection.

(3) GRANT REQUIREMENTS.—

(A) IN GENERAL.—A grant under this subsection shall be subject to—

(i) with respect to eligible recipients in urbanized areas, section 5307; and

(ii) with respect to eligible recipients in rural areas, section 5311.

(B) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to eligible projects carried out under this subsection, unless the recipient requests a lower grant percentage.

(C) COMBINATION OF FUNDING SOURCES.—

(i) COMBINATION PERMITTED.—An eligible project carried out under this subsection may receive funding under section 5307 or any other provision of law.

(ii) GOVERNMENT SHARE.—Nothing in this subparagraph shall be construed to alter the Government share required under paragraph (7), section 5307, or any other provision of law.

(D) FLEET TRANSITION PLAN.—In awarding grants under this subsection or under subsection (b) for projects related to zero emission vehicles, the Secretary shall require the applicant to submit a zero emission transition plan, which, at a minimum—

(i) demonstrates a long-term fleet management plan with a strategy for how the applicant intends to use the current application and future acquisitions;

(ii) addresses the availability of current and future resources to meet costs;

(iii) considers policy and legislation impacting technologies;

(iv) includes an evaluation of existing and future facilities and their relationship to the technology transition;

(v) describes the partnership of the applicant with the utility or alternative fuel provider of the applicant; and

(vi) examines the impact of the transition on the applicant's current workforce by identifying skill gaps, training needs, and retraining needs of the existing workers of the applicant to operate and maintain zero emission vehicles and related infrastructure and avoids the displacement of the existing workforce.

(4) COMPETITIVE PROCESS.—The Secretary shall—

(A) not later than 30 days after the date on which amounts are made available for obligation under this subsection for a full fiscal year, solicit grant applications for eligible projects on a competitive basis; and

(B) award a grant under this subsection based on the solicitation under subparagraph (A) not later than the earlier of—

(i) 75 days after the date on which the solicitation expires; or

(ii) the end of the fiscal year in which the Secretary solicited the grant applications.

(5) CONSIDERATION.—In awarding grants under this subsection, the Secretary—

(A) shall consider eligible projects relating to the acquisition or leasing of low or no emission buses or bus facilities that make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other low or no emission buses; and

(B) shall, for no less than 25 percent of the funds made available to carry out this subsection, only consider eligible projects related to the acquisition of low or no emission buses or bus facilities other than zero emission vehicles and related facilities.

(6) AVAILABILITY OF FUNDS.—Any amounts made available to carry out this subsection—

(A) shall remain available to an eligible project for 3 fiscal years after the fiscal year for which the amount is made available; and

(B) that remain unobligated at the end of the period described in subparagraph (A) shall be added to the amount made available to an eligible project in the following fiscal year.

(7) GOVERNMENT SHARE OF COSTS.—

(A) IN GENERAL.—The Federal share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of an eligible project carried out under this subsection may be derived from in-kind contributions.

(8) CONTINUED USE OF PARTNERSHIPS.—

(A) IN GENERAL.—A recipient of a grant under this subsection may submit an application in partnership with other entities, including a transit vehicle manufacturer, that intends to

participate in the implementation of an eligible project under this subsection.

(B) COMPETITIVE PROCUREMENT.—Eligible projects awarded with partnerships under this subsection shall be considered to satisfy the requirement for a competitive procurement under section 5325.

(d) WORKFORCE DEVELOPMENT TRAINING ACTIVITIES.—5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) shall be used by recipients to fund workforce development training, as described in section 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce under subsection (c)(3)(D), unless the recipient certifies a smaller percentage is necessary to carry out that plan.

(Added Pub. L. 108–7, div. I, title III, §356, Feb. 20, 2003, 117 Stat. 421; amended Pub. L. 109–59, title III, §3037(a), Aug. 10, 2005, 119 Stat. 1635; Pub. L. 112–141, div. B, §20029(a), July 6, 2012, 126 Stat. 729; Pub. L. 113–159, title I, §1204, Aug. 8, 2014, 128 Stat. 1847; Pub. L. 114–21, title I, §1204, May 29, 2015, 129 Stat. 225; Pub. L. 114–41, title I, §1204, July 31, 2015, 129 Stat. 452; Pub. L. 114–73, title I, §1204, Oct. 29, 2015, 129 Stat. 575; Pub. L. 114–87, title I, §1204, Nov. 20, 2015, 129 Stat. 684; Pub. L. 114–94, div. A, title III, §3017(a), Dec. 4, 2015, 129 Stat. 1482; Pub. L. 117–58, div. C, §30018, Nov. 15, 2021, 135 Stat. 915.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5338, referred to in subsec. (a)(5), was amended generally by Pub. L. 117–58, div. C, §30017, Nov. 15, 2021, 135 Stat. 912. As amended, section 5338(a)(2)(L) no longer relates to allocations of funds to carry out subsec. (a) of this section, but such provision can be found elsewhere in section 5338.

Section 3019 of the Federal Public Transportation Act of 2015, referred to in subsec. (c)(1)(C), is section 3019 of Pub. L. 114–94, which is set out as a note under section 5325 of this title.

AMENDMENTS

2021—Subsec. (a)(5)(A). Pub. L. 117–58, §30018(1)(A), substituted "$206,000,000 each fiscal year" for "$90,500,000 for each of fiscal years 2016 through 2020", "$4,000,000" for "$1,750,000", and "$1,000,000" for "$500,000".

Subsec. (a)(10). Pub. L. 117–58, §30018(1)(B), added par. (10).

Subsec. (b)(5). Pub. L. 117–58, §30018(2)(A), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "Not less than 10 percent of the amounts made available under this subsection in a fiscal year shall be distributed to projects in rural areas."

Subsec. (b)(9) to (11). Pub. L. 117–58, §30018(2)(B), added pars. (9) to (11).

Subsec. (c)(3)(A). Pub. L. 117–58, §30018(3)(A)(i), amended subpar. (A) generally. Prior to amendment, text read as follows: "A grant under this subsection shall be subject to the requirements of section 5307."

Subsec. (c)(3)(D). Pub. L. 117–58, §30018(3)(A)(ii), added subpar. (D).

Subsec. (c)(5). Pub. L. 117–58, §30018(3)(B), added par. (5) and struck out former par. (5), which required the Secretary to consider only certain eligible projects relating to the acquisition or leasing of low or no emission buses or bus facilities.

Subsec. (c)(8). Pub. L. 117–58, §30018(3)(C), added par. (8).

Subsec. (d). Pub. L. 117–58, §30018(4), added subsec. (d).

2015—Pub. L. 114–94 amended section generally, substituting provisions relating to grants for buses and bus facilities for provisions relating to bus and bus facilities formula grants.

Subsec. (d)(1). Pub. L. 114–87 substituted "and $11,632,514 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and $9,127,049 for the period beginning on October 1, 2015, and ending on November 20, 2015,", "$221,994 for such period" for "$174,180 for such period", and "$88,798 for such period" for "$69,672 for such period".

Pub. L. 114–73 substituted "and $9,127,049 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and $5,189,891 for the period beginning on October 1, 2015, and ending on October 29, 2015,", "$174,180 for such period" for "$99,044 for such period", and "$69,672 for such period" for "$39,617 for such period".

Pub. L. 114–41 substituted "each of fiscal years 2013 through 2015 and $5,189,891 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of fiscal years 2013 and 2014 and $54,553,425 for the period beginning on October 1, 2014, and ending on July 31, 2015,", "$99,044 for such period" for "$1,041,096 for such period", and "$39,617 for such period" for "$416,438 for such period".

Pub. L. 114–21 substituted "and $54,553,425 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and $43,606,849 for the period beginning on October 1, 2014, and ending on May 31, 2015,", "$1,041,096 for such period" for "$832,192 for such period", and "$416,438 for such period" for "$332,877 for such period".

2014—Subsec. (d)(1). Pub. L. 113–159 inserted "for each of fiscal years 2013 and 2014 and $43,606,849 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "$65,500,000", "for each such fiscal year and $832,192 for such period" after "$1,250,000", and "for each such fiscal year and $332,877 for such period" after "$500,000".

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to alternatives analysis program.

2005—Pub. L. 109–59 inserted section catchline and amended text generally. Prior to amendment, text read as follows: "Effective for funds not yet expended on the effective date of this section, the Federal share for funds under this chapter for a grantee named in section 603(14) of Public Law 97–468 shall be the same as the Federal share under 23 U.S.C. section 120(b) for Federal aid highway funds apportioned to the State in which it operates."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[1] *See References in Text note below.*

§5340. Apportionments based on growing States and high density States formula factors

(a) DEFINITION.—In this section, the term "State" shall mean each of the 50 States of the United States.

(b) ALLOCATION.—The Secretary shall apportion the amounts made available under section 5338(b)(2)(N) [1] in accordance with subsection (c) and subsection (d).

(c) GROWING STATE APPORTIONMENTS.—

(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment

under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

(A) the total land area of the State (in square miles); multiplied by

(B) 370; multiplied by

(C)(i) the population of the State in urbanized areas; divided by

(ii) the total population of the State.

(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

(Added Pub. L. 109–59, title III, §3038(a), Aug. 10, 2005, 119 Stat. 1636; amended Pub. L. 114–94, div. A, title III, §3030(f), Dec. 4, 2015, 129 Stat. 1497.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5338, referred to in subsec. (b), was amended generally by Pub. L. 117–58, div. C, §30017, Nov. 15, 2021, 135 Stat. 912. As amended, section 5338(a)(2)(N), which was probably intended instead of the reference in the original to "section 5338(b)(2)(N)", no longer relates to allocations of funds to carry out this section, but such provision can be found elsewhere in section 5338.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "Of the amounts made available for each fiscal year under section

5338(b)(2)(M), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (d)."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

[1] So in original. Probably should have been "section 5338(a)(2)(N)" in original. See References in Text note below.

CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

Sec.
5501. National Intermodal Transportation System policy.
[5502. Repealed.]
[5503. Repealed.]
5504. Model intermodal transportation plans.
5505. University transportation centers program.
5506. Advanced transportation research initiative.
5507. Transportation workforce outreach program.

SUBCHAPTER II—TERMINALS

5561. Definition.
5562. Assistance projects.
5563. Conversion of certain rail passenger terminals.
5564. Interim preservation of certain rail passenger terminals.
5565. Encouraging the development of plans for converting certain rail passenger terminals.
5566. Records and audits.
5567. Preference for preserving buildings of historic or architectural significance.
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EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title V, §§25013(b), 25020(c)(2), 25021(b), Nov. 15, 2021, 135 Stat. 869, 878, which directed amendment of analysis for subchapter I of this chapter by striking out item 5502 "Intermodal Transportation Advisory Board" and adding items 5506 and 5507 at the end, was executed to analysis for this chapter to reflect the probable intent of Congress.

2015—Pub. L. 114–94, div. A, title VI, §6015(b), Dec. 4, 2015, 129 Stat. 1571, struck out item 5503 "Office of Intermodalism".

2012—Pub. L. 112–141, div. E, title II, §§52009(b), 52010(b), July 6, 2012, 126 Stat. 887, added item 5505, struck out former item 5505 "National university transportation centers", and struck out item 5506 "University transportation research".

2005—Pub. L. 109–59, title V, §§5401(c), 5402(c), Aug. 10, 2005, 119 Stat. 1815, 1820, substituted "National university transportation centers" for "University transportation research" in item 5505 and "University transportation research" for "Advanced vehicle technologies program" in item 5506.

1998—Pub. L. 105–178, title V, §§5110(b), 5111(b), June 9, 1998, 112 Stat. 444, 445, added items 5505 and 5506.

SUBCHAPTER I—GENERAL

§5501. National Intermodal Transportation System policy

(a) GENERAL.—It is the policy of the United States Government to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the United States to compete in the global economy, and will move individuals and property in an energy efficient way.

(b) SYSTEM CHARACTERISTICS.—(1) The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the United States' preeminent position in international commerce.

(2) The National Intermodal Transportation System shall include a National Highway System consisting of the Dwight D. Eisenhower System of Interstate and Defense Highways and those principal arterial roads that are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

(3) The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States.

(4) The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to commerce.

(5) The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion, and other aspects of the quality of life in the United States.

(6) The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Dwight D. Eisenhower System of Interstate and Defense Highways must be confronted and stopped.

(7) The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems", and other new technologies, wherever feasible and economical, with benefit cost estimates given special emphasis on safety considerations and techniques for cost allocation.

(8) When appropriate, the National Intermodal Transportation System will be financed, as regards Government apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help carry out national goals related to mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals.

(9) The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the United States for the 21st century.

(c) DISTRIBUTION AND POSTING.—The Secretary of Transportation shall distribute copies of the policy in subsections (a) and (b) of this section to each employee of the Department of Transportation and ensure that the policy is posted in all offices of the Department.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 848.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5501	49:101 (note).	Dec. 18, 1991, Pub. L. 102–240, §2,

		105 Stat. 1914.

In this section, the words "Dwight D. Eisenhower System of Interstate and Defense Highways" are substituted for "National System of Interstate and Defense Highways" because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

[§5502. Repealed. Pub. L. 117–58, div. B, title V, §25021(a), Nov. 15, 2021, 135 Stat. 878]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 849; Pub. L. 109–59, title IV, §4145(a), Aug. 10, 2005, 119 Stat. 1749, related to Intermodal Transportation Advisory Board.

[§5503. Repealed. Pub. L. 114–94, div. A, title VI, §6015(a), Dec. 4, 2015, 129 Stat. 1571]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 850; Pub. L. 105–178, title V, §5109(b), June 9, 1998, 112 Stat. 440; Pub. L. 108–426, §4(c), Nov. 30, 2004, 118 Stat. 2425; Pub. L. 109–59, title IV, §4149, Aug. 10, 2005, 119 Stat. 1750; Pub. L. 110–244, title III, §301(k), June 6, 2008, 122 Stat. 1616; Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 574, related to the Office of Intermodalism.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§5504. Model intermodal transportation plans

(a) GRANTS.—The Secretary of Transportation shall make grants to States to develop model State intermodal transportation plans that are consistent with the policy set forth in section 302(e) of this title. The model plans shall include systems for collecting data related to intermodal transportation.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section that represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) PLAN SUBMISSION.—As a condition to a State receiving a grant under this section, the Secretary shall require that the State provide assurances that the State will submit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of the grant.

(d) GRANT AMOUNTS.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, $3,000,000 to make grants under this section. The total amount that a State may receive in grants under this section may not be more than $500,000.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 850.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5504	49:301 (note).	Dec. 18, 1991, Pub. L. 102–240, §5003, 105 Stat. 2159.

§5505. University transportation centers program

(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation, acting through the Assistant Secretary for Research and Technology (referred to in this section as the "Secretary"), shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

(B) to provide for a critical multimodal transportation knowledge base outside of the Department of Transportation; and

(C) to address critical workforce needs and educate the next generation of transportation leaders with respect to the matters described in subparagraphs (A) through (G) of section 6503(c)(1).

(b) COMPETITIVE SELECTION PROCESS.—

(1) APPLICATIONS.—To receive a grant under this section, a consortium of nonprofit institutions of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

(2) RESTRICTION.—

(A) LIMITATION.—A lead institution of a consortium of nonprofit institutions of higher education, as applicable, may only receive 1 grant per fiscal year as a lead institution under this section, except as provided in subparagraph (B).

(B) EXCEPTION FOR CONSORTIUM MEMBERS THAT ARE NOT LEAD INSTITUTIONS.—Subparagraph (A) shall not apply to a nonprofit institution of higher education that is a member of a consortium of nonprofit institutions of higher education but not the lead institution of such consortium.

(3) COORDINATION.—The Secretary shall solicit grant applications for national transportation centers, regional transportation centers, and Tier 1 university transportation centers with identical advertisement schedules and deadlines.

(4) GENERAL SELECTION CRITERIA.—

(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities described in subparagraphs (A) through (G) of section 6503(c)(1).

(B) CRITERIA.—The Secretary, in consultation with the heads of the modal administrations of the Department of Transportation, as appropriate, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

(I) degree-granting programs or programs that provide other industry-recognized credentials; and

(II) outreach activities to attract new entrants into the transportation field, including women and underrepresented populations;

(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

(5) TRANSPARENCY.—

(A) IN GENERAL.—The Secretary shall provide to each applicant, upon request, any materials, including copies of reviews (with any information that would identify a reviewer redacted), used in the evaluation process of the proposal of the applicant.

(B) REPORTS.—The Secretary shall make available to the public on a website of the Department of Transportation a report describing the overall review process under paragraph (4) that includes—

(i) specific criteria of evaluation used in the review;

(ii) descriptions of the review process; and

(iii) explanations of the selected awards.

(6) OUTSIDE STAKEHOLDERS.—The Secretary shall, to the maximum extent practicable, consult external stakeholders, including the Transportation Research Board of the National Research Council of the National Academies, to evaluate and competitively review all proposals.

(c) GRANTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

(2) NATIONAL TRANSPORTATION CENTERS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide grants to 5 consortia that the Secretary determines best meet the criteria described in subsection (b)(4).

(B) RESTRICTIONS.—

(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall be not greater than $4,000,000 and not less than $2,000,000 per recipient.

(ii) FOCUSED RESEARCH.—A consortium receiving a grant under this paragraph shall focus research on 1 of the transportation issue areas specified in section 6503(c).

(C) MATCHING REQUIREMENT.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

(3) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center

shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled "Standard Federal Regions" and dated April 1974 (circular A–105).

(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 consortia on the basis of—

(i) the criteria described in subsection (b)(4);

(ii) the location of the lead center within the Federal region to be served; and

(iii) whether the consortium of institutions demonstrates that the consortium has a well-established, nationally recognized program in transportation research and education, as evidenced by—

(I) recent expenditures by the institution in highway or public transportation research;

(II) a historical track record of awarding graduate degrees in professional fields closely related to highways and public transportation; and

(III) an experienced faculty who specialize in professional fields closely related to highways and public transportation.

(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall be not greater than $3,000,000 and not less than $1,500,000 per recipient.

(D) MATCHING REQUIREMENTS.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

(E) FOCUSED RESEARCH.—

(i) IN GENERAL.—A regional university transportation center receiving a grant under this paragraph shall carry out research focusing on 1 or more of the matters described in subparagraphs (A) through (G) of section 6503(c)(1).

(ii) FOCUSED OBJECTIVES.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under this paragraph for the purpose of furthering the objectives described in subsection (a)(2) in the field of comprehensive transportation safety, congestion, connected vehicles, connected infrastructure, and autonomous vehicles, including the cybersecurity implications of technologies relating to connected vehicles, connected infrastructure, and autonomous vehicles.

(4) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

(A) IN GENERAL.—The Secretary shall provide grants of not greater than $2,000,000 and not less than $1,000,000 to not more than 20 recipients to carry out this paragraph.

(B) MATCHING REQUIREMENT.—

(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

(I) section 504(b) of title 23; or

(II) section 505 of title 23.

(C) FOCUSED RESEARCH.—In awarding grants under this section, consideration shall be given to minority institutions, as defined by section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research.

(d) PROGRAM COORDINATION.—

(1) IN GENERAL.—The Secretary shall—

(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

(B) disseminate the results of that research through the establishment and operation of a publicly accessible online information clearinghouse.

(2) REVIEW AND EVALUATION.—Not less frequently than biennially, and consistent with the plan developed under section 6503, the Secretary shall—

(A) review and evaluate the programs carried out under this section by grant recipients; and

(B) make available to the public on a website of the Department of Transportation a report describing that review and evaluation.

(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2022 through 2026, the Secretary shall expend not more than 1 and a half percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section.

(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are authorized.

(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.

(Added and amended Pub. L. 105–178, title V, §5110(a), (d), June 9, 1998, 112 Stat. 441; Pub. L. 105–206, title IX, §9011(d), July 22, 1998, 112 Stat. 863; Pub. L. 109–59, title V, §5401(a), Aug. 10, 2005, 119 Stat. 1814; Pub. L. 112–141, div. E, title II, §52009(a), July 6, 2012, 126 Stat. 882; Pub. L. 114–94, div. A, title VI, §6016, Dec. 4, 2015, 129 Stat. 1571; Pub. L. 117–58, div. B, title V, §25017, Nov. 15, 2021, 135 Stat. 873.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(1), probably means the date of enactment of Pub. L. 114–94, which amended this section generally and was approved Dec. 4, 2015.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §25017(1)(A), inserted "of Transportation, acting through the Assistant Secretary for Research and Technology (referred to in this section as the 'Secretary')," after "The Secretary".

Subsec. (a)(2)(B). Pub. L. 117–58, §25017(1)(B)(i), inserted "multimodal" after "critical".

Subsec. (a)(2)(C). Pub. L. 117–58, §25017(1)(B)(ii), inserted "with respect to the matters described in subparagraphs (A) through (G) of section 6503(c)(1)" after "transportation leaders".

Subsec. (b)(2)(A). Pub. L. 117–58, §25017(2)(A), substituted "as a lead institution under this section, except as provided in subparagraph (B)" for "for each of the transportation centers described under paragraphs (2), (3), and (4) of subsection (c)".

Subsec. (b)(4)(A). Pub. L. 117–58, §25017(2)(B)(i), substituted "described in subparagraphs (A) through (G) of section 6503(c)(1)" for "identified in chapter 65".

Subsec. (b)(4)(B). Pub. L. 117–58, §25017(2)(B)(ii), substituted "the heads of the modal administrations of the Department of Transportation," for "the Assistant Secretary for Research and Technology and the Administrator of the Federal Highway Administration and other modal administrations" in introductory provisions.

Subsec. (b)(5)(B). Pub. L. 117–58, §25017(2)(C), substituted "make available to the public on a website of the Department of Transportation" for "submit to the Committees on Transportation and Infrastructure and

Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate" in introductory provisions.

Subsec. (c)(3)(E). Pub. L. 117–58, §25017(3), added cl. (i), designated existing provisions as cl. (ii) and inserted heading, and inserted ", including the cybersecurity implications of technologies relating to connected vehicles, connected infrastructure, and autonomous vehicles" after "autonomous vehicles".

Subsec. (d)(2). Pub. L. 117–58, §25017(4)(A)(i), (ii), substituted "Review" for "Annual review" in heading and "biennially" for "annually" in introductory provisions.

Subsec. (d)(2)(B). Pub. L. 117–58, §25017(4)(A)(iii), substituted "make available to the public on a website of the Department of Transportation" for "submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate".

Subsec. (d)(3). Pub. L. 117–58, §25017(4)(B), substituted "2022 through 2026" for "2016 through 2020".

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to the university transportation centers program.

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to national university transportation centers.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to national university transportation centers for provisions relating to university transportation research.

1998—Subsec. (g)(2). Pub. L. 105–178, §5110(d)(1), as added by Pub. L. 105–206, substituted "section 508 of title 23, United States Code," for "section 5506,".

Subsec. (i). Pub. L. 105–178, §5110(d)(2), as added by Pub. L. 105–206, inserted "Subject to section 5338(e):" before par. (1) and substituted "institutions or groups of institutions" for "institutions" wherever appearing.

Subsec. (j)(4)(B). Pub. L. 105–178, §5110(d)(3), as added by Pub. L. 105–206, substituted "on behalf of a consortium which may also include West Virginia University Institute of Technology, the College of West Virginia, and Bluefield State College" for "on behalf of a consortium of West Virginia colleges and universities".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

§5506. Advanced transportation research initiative

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means—

(1) a State agency;

(2) a local government agency;

(3) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), including a university transportation center established under section 5505;

(4) a nonprofit organization, including a nonprofit research organization; and

(5) a private sector organization working in collaboration with an entity described in any of paragraphs (1) through (4).

(b) PILOT PROGRAM.—The Secretary of Transportation (referred to in this section as the "Secretary") shall establish an advanced transportation research pilot program under which the Secretary—

(1) shall establish a process for eligible entities to submit to the Secretary unsolicited research proposals; and

(2) may enter into arrangements with 1 or more eligible entities to fund research proposed under paragraph (1), in accordance with this section.

(c) ELIGIBLE RESEARCH.—The Secretary may enter into an arrangement with an eligible entity under this section to fund research that—

(1) addresses—

(A) a research need identified by—

(i) the Secretary; or

(ii) the Administrator of a modal administration of the Department of Transportation; or

(B) an issue that the Secretary determines to be important; and

(2) is not duplicative of—

(A) any other Federal research project; or

(B) any project for which funding is provided by another Federal agency.

(d) PROJECT REVIEW.—The Secretary shall—

(1) review each research proposal submitted under the pilot program established under subsection (b); and

(2)(A) if funding is denied for the research proposal—

(i) provide to the eligible entity that submitted the proposal a written notice of the denial that, as applicable—

(I) explains why the research proposal was not selected, including whether the research proposal fails to cover an area of need; and

(II) recommends that the research proposal be submitted to another research program; and

(ii) if the Secretary recommends that the research proposal be submitted to another research program under clause (i)(II), provide guidance and direction to—

(I) the eligible entity; and

(II) the proposed research program office; or

(B) if the research proposal is selected for funding—

(i) provide to the eligible entity that submitted the proposal a written notice of the selection; and

(ii) seek to enter into an arrangement with the eligible entity to provide funding for the proposed research.

(e) COORDINATION.—

(1) IN GENERAL.—The Secretary shall ensure that the activities carried out under subsection (c) are coordinated with, and do not duplicate the efforts of, programs of the Department of Transportation and other Federal agencies.

(2) INTRAAGENCY COORDINATION.—The Secretary shall coordinate the research carried out under this section with—

(A) the research, education, and technology transfer activities carried out by grant recipients under section 5505; and

(B) the research, development, demonstration, and commercial application activities of other relevant programs of the Department of Transportation, including all modal administrations of the Department.

(3) INTERAGENCY COLLABORATION.—The Secretary shall coordinate, as appropriate, regarding fundamental research with the potential for application in the transportation sector with—

(A) the Director of the Office of Science and Technology Policy;
(B) the Director of the National Science Foundation;
(C) the Secretary of Energy;
(D) the Director of the National Institute of Standards and Technology;
(E) the Secretary of Homeland Security;
(F) the Administrator of the National Oceanic and Atmospheric Administration;
(G) the Secretary of Defense; and
(H) the heads of other appropriate Federal agencies, as determined by the Secretary.

(f) REVIEW, EVALUATION, AND REPORT.—Not less frequently than biennially, in accordance with the plan developed under section 6503, the Secretary shall—

(1) review and evaluate the pilot program established under subsection (b), including the research carried out under that pilot program; and

(2) make public on a website of the Department of Transportation a report describing the review and evaluation under paragraph (1).

(g) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section shall not exceed 80 percent.

(2) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners (including personnel, travel, facility, and hardware development costs) shall be credited toward the non-Federal share of the cost of an activity carried out under this section.

(h) LIMITATION ON CERTAIN EXPENSES.—Of any amounts made available to carry out this section for a fiscal year, the Secretary may use not more than 1.5 percent for coordination, evaluation, and oversight activities under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for each of fiscal years 2022 through 2026.

(Added Pub. L. 117–58, div. B, title V, §25013(a), Nov. 15, 2021, 135 Stat. 867.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5506, added Pub. L. 105–178, title V, §5111(a), June 9, 1998, 112 Stat. 444; amended Pub. L. 109–59, title V, §5402(a), Aug. 10, 2005, 119 Stat. 1815; Pub. L. 110–244, title I, §§111(g)(3), 116, June 6, 2008, 122 Stat. 1605, 1607, related to grants for university transportation research, prior to repeal by Pub. L. 112–141, div. E, title II, §52010(a), July 6, 2012, 126 Stat. 887, effective Oct. 1, 2012.

§5507. Transportation workforce outreach program

(a) IN GENERAL.—The Secretary of Transportation (referred to in this section as the "Secretary") shall establish and administer a transportation workforce outreach program, under which the Secretary shall carry out a series of public service announcement campaigns during each of fiscal years 2022 through 2026.

(b) PURPOSES.—The purpose of the campaigns carried out under the program under this section shall be—

(1) to increase awareness of career opportunities in the transportation sector, including aviation pilots, safety inspectors, mechanics and technicians, air traffic controllers, flight attendants, truck and bus drivers, engineers, transit workers, railroad workers, and other transportation

professionals; and

(2) to target awareness of professional opportunities in the transportation sector to diverse segments of the population, including with respect to race, sex, ethnicity, ability (including physical and mental ability), veteran status, and socioeconomic status.

(c) ADVERTISING.—The Secretary may use, or authorize the use of, amounts made available to carry out the program under this section for the development, production, and use of broadcast, digital, and print media advertising and outreach in carrying out a campaign under this section.

(d) FUNDING.—The Secretary may use to carry out this section any amounts otherwise made available to the Secretary, not to exceed $5,000,000, for each of fiscal years 2022 through 2026.

(Added Pub. L. 117–58, div. B, title V, §25020(c)(1), Nov. 15, 2021, 135 Stat. 877.)

SUBCHAPTER II—TERMINALS

§5561. Definition

In this chapter, "civic and cultural activities" includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5561	49 App.:1653(i)(10).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(10); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.

In this chapter, both sections 6 and 15 of the Amtrak Improvement Act (Public Law 93–496, 88 Stat. 1528, 1533) are listed as source credits for the addition of section 4(i) to the Department of Transportation Act (Public Law 89–670, 80 Stat. 931). This is done to conform to the probable intent of Congress as evidenced by the directory language of section 15 of the Act of October 28, 1974.

In this section, the words "for community groups, convention visitors and others" are omitted as unnecessary.

§5562. Assistance projects

(a) REQUIREMENTS TO PROVIDE ASSISTANCE.—The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(1) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(2) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(3) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(4) encourage State and local governments, local and regional transportation authorities,

common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(b) EFFECT ON ELIGIBILITY.—This chapter does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(c) ACQUIRING SPACE.—The Secretary may acquire space under subsection (a)(3) of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5562(a)	49 App.:1653(i)(1).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(1); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1528, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(1), (2), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.
5562(b)	49 App.:1653(i)(11).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(11); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.
5562(c)	49 App.:1653(i)(4).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(4); added Feb. 5, 1976, Pub. L. 94–210, §707(4), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.

In subsection (a)(3), the words "but only if" are substituted for "unless . . . would not" for consistency.

In subsection (a)(4), the word "encourage" is substituted for "stimulating" for clarity.

In subsection (b), the words "This chapter does not affect" are substituted for "Nothing in this subsection shall be construed to invalidate" for clarity and consistency. The words "rail passenger terminal" are substituted for "station", and the word "law" is substituted for "statute", for consistency.

§5563. Conversion of certain rail passenger terminals

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 5562(a)(1) of this title only if—

(1) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—

(A) motorbus transportation;

(B) mass transit (rail or rubber tire); and

(C) airline ticket offices and passenger terminals providing direct transportation to area airports;

(2) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;

(3) the architectural integrity of the terminal will be preserved;

(4) to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—

(A) the Advisory Council on Historic Preservation;

(B) the Chairman of the National Endowment for the Arts; or

(C) consultants retained under subsection (b) of this section; and

(5) the terminal and the conversion project meet other criteria prescribed by the Secretary of Transportation after consultation with the Council and Chairman.

(b) ARCHITECTURAL INTEGRITY.—The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (a)(3) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Council and Chairman shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (a)(4) of this section.

(c) GOVERNMENT'S SHARE OF COSTS.—The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5563(a), (b)	49 App.:1653(i)(2) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(2); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1528, 1533; May 26, 1975, Pub. L. 94–25, §13, 89 Stat. 93; Oct. 5, 1978, Pub. L. 95–421, §14, 92 Stat. 929.
5563(c)	49 App.:1653(i)(2) (last sentence).	

In subsection (a), before clause (1), the words "to convert a rail passenger terminal to an intermodal transportation terminal under section 5562(a)(1) of this title" are substituted for "for the purpose set forth in paragraph (1)(A) of this subsection" for clarity and because of the restatement. In clause (5), the word "prescribed" is substituted for "develop and promulgate" for consistency in the revised title and with other titles of the United States Code.

Subsection (b) is substituted for "and such judgment is concurred in by consultants recommended by the Chairman of the National Endowment of [sic] the Arts and the Advisory Council on Historic Preservation and retained for this purpose by the Secretary" for clarity and consistency in the revised title.

§5564. Interim preservation of certain rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—Subject to subsection (b) of this section, the Secretary of Transportation may make a grant of financial assistance to a responsible person (including a governmental authority) to preserve a rail passenger terminal under section 5562(a)(2) of this title. To receive assistance under this section, the person must be qualified, prepared, committed, and authorized by law to maintain (and prevent the demolition, dismantling, or further deterioration of) the terminal until plans for its reuse are prepared.

(b) GRANT REQUIREMENTS.—The Secretary of Transportation may make a grant of financial assistance under this section only if—

(1) the Secretary decides the rail passenger terminal has a reasonable likelihood of being converted to, or conditioned for reuse as, an intermodal transportation terminal, a civic or cultural activities center, or both; and

(2) planning activity directed toward conversion or reuse has begun and is proceeding in a competent way.

(c) MAXIMIZING PRESERVATION OF TERMINALS.—(1) Amounts appropriated to carry out this section and section 5562(a)(2) of this title shall be expended in the way most likely to maximize the preservation of rail passenger terminals that are—

(A) reasonably capable of conversion to intermodal transportation terminals;

(B) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(C) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of maintaining the terminal for an interim period of not more than 5 years.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 852.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5564(a)	49 App.:1653(i)(3) (1st sentence words before proviso).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(3); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1529, 1533; Oct. 5, 1978, Pub. L. 95–421, §14, 92 Stat. 929.
5564(b)	49 App.:1653(i)(3) (1st sentence proviso).	
5564(c)	49 App.:1653(i)(3) (2d, last sentences).	

In subsection (a), the words "Subject to subsection (b) of this section" are added for clarity. The word "authority" is substituted for "entity" for consistency in the revised title. The words "in accordance with regulations" and "applicable" are omitted as surplus.

In subsection (b), the words before clause (1) are substituted for "*Provided*, That" for clarity and consistency in the revised title.

In subsection (c)(2), the words "The Secretary of Transportation may not make a grant" are substituted for "The amount of the Federal share of any grant . . . shall not exceed" for clarity and consistency in this chapter.

§5565. Encouraging the development of plans for converting certain rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—The Secretary of Transportation may make a grant of financial assistance to a qualified person (including a governmental authority) to encourage the development of plans for converting a rail passenger terminal under section 5562(a)(4) of this title. To receive assistance under this section, the person must—

(1) be prepared to develop practicable plans that meet zoning, land use, and other requirements of the applicable State and local jurisdictions in which the terminal is located;

(2) incorporate into the designs and plans proposed for converting the terminal, features that

reasonably appear likely to attract private investors willing to carry out the planned conversion and its subsequent maintenance and operation; and

(3) complete the designs and plans for the conversion within the period of time prescribed by the Secretary.

(b) PREFERENCE.—In making a grant under this section, the Secretary of Transportation shall give preferential consideration to an applicant whose completed designs and plans will be carried out within 3 years after their completion.

(c) MAXIMIZING CONVERSION AND CONTINUED PUBLIC USE.—(1) Amounts appropriated to carry out this section and section 5562(a)(4) of this title shall be expended in the way most likely to maximize the conversion and continued public use of rail passenger terminals that are—

(A) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(B) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 853; Pub. L. 103–429, §6(15), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5565(a)	49 App.:1653(i)(5) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(5); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1529, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(3), 90 Stat. 125; Oct. 5, 1978, Pub. L. 95–421, §14, 92 Stat. 929; Sept. 29, 1979, Pub. L. 96–73, §128, 93 Stat. 553; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.
5565(b)	49 App.:1653(i)(5) (2d sentence).	
5565(c)	49 App.:1653(i)(5) (3d, last sentences).	

In subsection (a), before clause (1), the word "authority" is substituted for "entity" for consistency in the revised title. The words "in accordance with regulations" are omitted as unnecessary because of 49:322(a). In clause (1), the words "as well as requirements . . . under this subsection" are omitted as unnecessary because of the restatement. In clause (2), the words "into an intermodal transportation terminal, a civic or cultural center, or both" are omitted as unnecessary. In clause (3), the word "prescribed" is substituted for "establishes" as being more appropriate.

In subsection (b), the words "carried out" are substituted for "implemented and effectuated" for consistency in the revised title.

In subsection (c)(2), the words "The Secretary of Transportation may not make a grant" are substituted for "The amount of the Federal share of any grant . . . shall not exceed" for clarity and consistency in this chapter. The word "undertaking" is omitted as being included in "project".

This amends 49:5565 to correct an erroneous section catchline.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–429 inserted "certain" after "converting" in section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§5566. Records and audits

(a) RECORD REQUIREMENTS.—Each recipient of financial assistance under this chapter shall keep records required by the Secretary of Transportation. The records shall disclose—

(1) the amount, and disposition by the recipient, of the proceeds of the assistance;

(2) the total cost of the project for which the assistance was given or used;

(3) the amount of that part of the cost of the project supplied by other sources; and

(4) any other records that will make an effective audit easier.

(b) AUDITS AND INSPECTIONS.—For 3 years after a project is completed, the Secretary and the Comptroller General may audit and inspect records of a recipient that the Secretary or Comptroller General decides may be related or pertinent to the financial assistance.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 853.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5566(a)	49 App.:1653(i)(8) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(8); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.
5566(b)	49 App.:1653(i)(8) (last sentence).	

In this section, the word "undertaking" is omitted as being included in "project".

In subsection (a), before clause (1), the word "fully" is omitted as surplus.

In subsection (b), the words "the expiration of" and "of the United States" are omitted as surplus. The words "or any of their duly authorized representatives" are omitted as unnecessary because of 49:322(b) and 31:711(2). The words "may audit and inspect" are substituted for "shall have access for the purpose of audit and examination" for consistency in the revised title and with other titles of the United States Code. The word "recipient" is substituted for "such receipts" to correct an error in the underlying source provisions.

§5567. Preference for preserving buildings of historic or architectural significance

Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve

buildings of historic or architectural significance.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5567	49 App.:1653(i)(7).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(7); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.

The word "Amtrak" is substituted for "The National Railroad Passenger Corporation" for consistency in the revised title. The words "rail passenger terminal" are substituted for "station" for consistency in this chapter. The word "or" is substituted for "and" for consistency with the source provisions being restated in section 5562(a)(3) of the revised title.

§5568. Authorization of appropriations

(a) GENERAL.—The following amounts may be appropriated to the Secretary of Transportation:

(1) not more than $15,000,000 to carry out section 5562(a)(1) and (3) of this title.

(2) not more than $2,500,000 to carry out section 5562(a)(2) of this title.

(3) not more than $2,500,000 to carry out section 5562(a)(4) of this title.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated to carry out this chapter remain available until expended.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5568	49 App.:1653(i)(9).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(9); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1530, 1533; restated Feb. 5, 1976, Pub. L. 94–210, §707(3), (5), 90 Stat. 125; Oct. 19, 1976, Pub. L. 94–555, §219(a), 90 Stat. 2629; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.

In subsection (a), before clause (1), the words "to the Secretary of Transportation" are added for clarity and consistency in this chapter.

In subsection (b), the words "to carry out" are substituted for "for the purpose set forth . . . in" for consistency in the revised title and with other titles of the United States Code.

CHAPTER 57—SANITARY FOOD TRANSPORTATION

Sec.

5701. Food transportation safety inspections.

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–244, title III, §302(g), June 6, 2008, 122 Stat. 1618, substituted "transportation" for "Transportation" in item 5701.

2005—Pub. L. 109–59, title VII, §7203, Aug. 10, 2005, 119 Stat. 1913, reenacted chapter heading without change and amended table of sections generally, substituting item 5701 for former items 5701 "Findings", 5702 "Definitions", 5703 "General regulation", 5704 "Tank trucks, rail tank cars, and cargo tanks", 5705 "Motor and rail transportation of nonfood products", 5706 "Dedicated vehicles", 5707 "Waiver authority", 5708 "Food transportation inspections", 5709 "Consultation", 5710 "Administrative", 5711 "Enforcement and penalties", 5712 "Relationship to other laws", 5713 "Application of sections 5711 and 5712", and 5714 "Coordination procedures".

§5701. Food transportation safety inspections

(a) INSPECTION PROCEDURES.—

(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

(A) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act;

(B) a carcass, part of a carcass, meat, meat food product, or animal subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

(C) poultry products or poultry subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a).

(2) TRAINING.—

(A) IN GENERAL.—The Secretary of Transportation shall develop and carry out a training program to conduct enforcement of this chapter and regulations prescribed under this chapter or compatible State laws and regulations.

(B) CONDUCT.—In carrying out this paragraph, the Secretary of Transportation shall train inspectors, including Department of Transportation personnel, State employees described under subsection (c), or personnel paid with funds authorized under sections 31102 and 31104, in the recognition of adulteration problems associated with the transportation of cosmetics, devices, drugs, food, and food additives and in the procedures for obtaining assistance of the appropriate departments, agencies, and instrumentalities of the Government and State authorities to support the enforcement.

(3) APPLICABILITY.—The procedures established under paragraph (1) shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104.

(Added Pub. L. 109–59, title VII, §7203, Aug. 10, 2005, 119 Stat. 1913.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 416 of the Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a)(1)(A), is classified to section 350e of Title 21, Food and Drugs.

PRIOR PROVISIONS

Prior sections 5701 to 5714 were omitted in the general amendment of this chapter by Pub. L. 109–59, §7203.

Section 5701, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 854, related to findings.

Section 5702, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 854, defined terms.

Section 5703, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 855, directed Secretary to prescribe regulations.

Section 5704, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 856, related to prohibited use of tank trucks, rail tank cars, and cargo tanks.

Section 5705, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 857, related to prohibited motor and rail transportation of nonfood products.

Section 5706, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 857, related to dedication of vehicles to transport asbestos, extremely dangerous products, or refuse.

Section 5707, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 857, related to waiver of provisions.

Section 5708, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 858, related to food transportation inspections. See section 5701 of this title.

Section 5709, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 858, related to consultation with Secretaries of Agriculture and Health and Human Services and Administrator of the Environmental Protection Agency.

Section 5710, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 858, related to duties and powers of Secretary.

Section 5711, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 858, related to enforcement and penalties.

Section 5712, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 859, related to relationship to other laws.

Section 5713, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 859, related to application of sections 5711 and 5712.

Section 5714, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 859, related to coordination between departments, agencies, and instrumentalities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2005, see section 7204 of Pub. L. 109–59, set out as an Effective Date of 2005 Amendment note under section 331 of Title 21, Food and Drugs.

CHAPTER 59—INTERMODAL SAFE CONTAINER TRANSPORTATION

Sec.

5901. Definitions.
5902. Notifications and certifications.
5903. Prohibitions.
5904. State enforcement.
5905. Liens.
5906. Perishable agricultural commodities.
5907. Effective date.
5908. Relationship to other laws.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–291, title II, §§208(b), 209(b), Oct. 11, 1996, 110 Stat. 3457, 3458, substituted "Effective date" for "Regulations and effective date" in item 5907 and added item 5908.

§5901. Definitions

In this chapter—

(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.

(2) "beneficial owner" means a person not having title to property but having ownership rights in the property, including a trustee of property in transit from an overseas place of origin that is domiciled or doing business in the United States, except that a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of property.

(3) "carrier" means—

(A) a motor carrier, water carrier, and rail carrier providing transportation of property in commerce; and

(B) an ocean common carrier (as defined in section 40102 of title 46) providing transportation of property in commerce.

(4) "container" has the meaning given the term "freight container" by the International Standards Organization in Series 1, Freight Containers, 3d Edition (reference number ISO668–1979(E)), including successive revisions, and similar containers that are used in providing transportation in interstate commerce.

(5) "first carrier" means the first carrier transporting a loaded container or trailer in intermodal transportation.

(6) "gross cargo weight" means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.

(7) "intermodal transportation" means the successive transportation of a loaded container or trailer from its place of origin to its place of destination by more than one mode of transportation in interstate or foreign commerce, whether under a single bill of lading or under separate bills of lading.

(8) "trailer" means a nonpower, property-carrying, trailing unit that is designed for use in combination with a truck tractor.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 859; Pub. L. 104–291, title II, §203, Oct. 11, 1996, 110 Stat. 3453; Pub. L. 109–304, §17(h)(2), Oct. 6, 2006, 120 Stat. 1709.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5901(1)	49:501(a)(1).	
5901(2)	49:501(a)(4).	
5901(3)	49:501(a)(5).	
5901(4)	49:501(a)(6).	
5901(5)	49:501(a)(7).	
5901(6)	49:501(a)(8).	
5901(7)	49:501(a)(9).	

This chapter restates 49:508 and the relevant definitions in 49:501 because the subject matter more appropriately belongs in subtitle III of title 49. The text of 49:501(a)(1) is restated to incorporate the definitions in 49:10102. The terms defined in 49:501(a)(2) and (3) are not used in this chapter.

In clause (2), the word "including" is substituted for "For purposes of this paragraph . . . shall be treated as a beneficial owner of such property" for consistency and to eliminate unnecessary words. The words "is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of

property" are substituted for "providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this paragraph, solely by reason of providing or arranging for such transportation" to eliminate unnecessary words.

In clause (3)(A), the words "(as such terms are defined in section 10102 of this title)" are omitted as unnecessary because of clause (1) of this section.

In clause (7), the words "property-carrying" are substituted for "cargo carrying" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2006—Par. (3)(B). Pub. L. 109–304 substituted "section 40102 of title 46" for "section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)".

1996—Par. (1). Pub. L. 104–291, §203(1), added par. (1) and struck out former par. (1) which read as follows: "the definitions in section 10102 of this title apply."

Pars. (6) to (8). Pub. L. 104–291, §203(2), (3), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

§5902. Notifications and certifications

(a) PRIOR NOTIFICATION.—If the first carrier to which any loaded container or trailer having a projected gross cargo weight of more than 29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a notification of the gross cargo weight and a reasonable description of the contents of the container or trailer before the tendering of the container or trailer. The notification may be transmitted electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.

(b) CERTIFICATION.—

(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

(A) the actual gross cargo weight;

(B) a reasonable description of the contents of the container or trailer;

(C) the identity of the certifying party;

(D) the container or trailer number; and

(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

(5) USE OF "FREIGHT ALL KINDS" TERM.—The term "Freight All Kinds" or "FAK" may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked "INTERMODAL CERTIFICATION".

(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.

(c) FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator shall forward the certification provided under subsection (b) of this section to a subsequent carrier transporting the container or trailer in intermodal transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required. The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification. If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.

(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.

(e) NONAPPLICATION.—(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

(A) performs the highway portion of the intermodal movement; or

(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.

(2) Subsections (a) and (b) of this section and section 5903(c) of this title do not apply to a carrier when the carrier is transferring a loaded container or trailer to another carrier during intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the first carrier.

(3) A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is deemed not to be a person tendering a loaded container or trailer to a first carrier under this section, unless the carrier, agent, broker, customs broker, freight forwarder, warehouser, or terminal operator assumes legal responsibility for loading property into the container or trailer.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 860; Pub. L. 104–291, title II, §204, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5902(a)	49:508(a)(1).	
5902(b)	49:508(a)(2).	
5902(c)	49:508(b).	
5902(d)(1)	49:508(e).	
5902(d)(2)	49:508(a)(4).	

In subsection (c), the words "shall forward" are substituted for "It shall be a violation of this section for . . . to fail to forward" for clarity. The words "may not be construed as" are substituted for "shall not constitute, or in any way be construed as" to eliminate unnecessary words.

In subsection (d)(2), the words "is deemed not to be" are substituted for "shall not be considered to be" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, §204(a)(4), (5), substituted "electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier." for "electronically."

Pub. L. 104–291, §204(a)(3), inserted "before the tendering of the container or trailer" after "contents of the container or trailer".

Pub. L. 104–291, §204(a)(2), substituted "29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a" for "10,000 pounds (including packing material and pallets), the person shall give the carrier a written".

Pub. L. 104–291, §204(a)(1), substituted "If the first carrier to which any" for "Before a person tenders to a first carrier for intermodal transportation a".

Subsec. (b). Pub. L. 104–291, §204(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Not later than when a person tenders to a first carrier for intermodal transportation a container or trailer to which subsection (a) of this section applies or a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (including packing material and pallets), the person shall certify to the carrier in writing the actual gross cargo weight and a reasonable description of the contents of the container or trailer."

Subsec. (c). Pub. L. 104–291, §204(c)(2), inserted at end "If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure."

Pub. L. 104–291, §204(c)(1), substituted "transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required." for "transportation."

Subsec. (d). Pub. L. 104–291, §204(d), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104–291, §204(d), (e), redesignated subsec. (d) as (e), added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and adjusted margin of par. (2).

§5903. Prohibitions

(a) PROVIDING ERRONEOUS INFORMATION.—A person, To [1] whom section 5902(b) applies, tendering a loaded container or trailer may not provide erroneous information in a

certification required by section 5902(b) of this title.

(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.

(c) UNLAWFUL COERCION.—(1) A person may not coerce or attempt to coerce a person participating in intermodal transportation to transport a loaded container or trailer having an actual gross cargo weight of more than 29,000 pounds before the certification required by section 5902(b) of this title is provided.

(2) A person, knowing that the weight of a loaded container or trailer or the weight of a tractor-trailer combination carrying the container or trailer is more than the weight allowed by applicable State law, may not coerce or attempt to coerce a carrier to transport the container or trailer or to operate the tractor-trailer combination in violation of that State law.

(d) NOTICE TO LEASED OPERATORS.—

(1) IN GENERAL.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of section 5902(b) would result in a violation of applicable State gross vehicle weight laws, then—

(A) the motor carrier shall give notice to the operator of a vehicle which is leased by the vehicle operator to a motor carrier that transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier under section 5902(b);

(B) the notice shall be provided to the operator prior to the operator being tendered the container or trailer;

(C) the notice required by this subsection shall be in writing, but may be transmitted electronically; and

(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator.

(2) REIMBURSEMENT.—If the operator of a leased vehicle transporting a container or trailer subject to this chapter is fined because of a violation of a State's gross vehicle weight laws or regulations and the lessee motor carrier cannot establish that it tendered to the operator the notice required by paragraph (1) of this subsection, then the operator shall be entitled to reimbursement from the motor carrier in the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 860; Pub. L. 104–291, title II, §205, Oct. 11, 1996, 110 Stat. 3456.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5903(a)	49:508(a)(3) (related to violations).	
5903(b)	49:508(d).	
5903(c)	49:508(c).	

In this section, the words "may not" are substituted for "it shall be a violation" and "It shall be unlawful" for consistency in the revised title.

In subsection (a), the words "After the date on which the Secretary of Transportation issues final regulations to enforce this section" are omitted because of section 5907(b) of the revised title. The words "to fail to

comply with paragraph (1) or (2)" are omitted as unnecessary because the failure to comply with an affirmative duty is a violation without the need to say so specifically. The word "false" is omitted as included in "erroneous". The word "written" is omitted as surplus.

In subsection (b), the words "(as such term is defined in section 10102 of this title)" are omitted as unnecessary because of section 5901(1) of the revised title. The word "transport" is substituted for "provide transportation of" for consistency and to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, §205(1), inserted ", To whom section 5902(b) applies," after "person".

Subsec. (b). Pub. L. 104–291, §205(2), added subsec. (b) and struck out former subsec. (b) which read as follows:

"(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—A motor carrier may not transport a loaded container or trailer to which section 5902(b) of this title applies before receiving the certification required by section 5902(b)."

Subsec. (c). Pub. L. 104–291, §205(3), substituted "29,000 pounds" for "10,000 pounds (including packing materials and pallets)".

Subsec. (d). Pub. L. 104–291, §205(4), added subsec. (d).

[1] *So in original. Probably should not be capitalized.*

§5904. State enforcement

(a) GENERAL.—A State may enact a law to permit the State or a political subdivision of the State—

(1) to impose a fine or penalty, for a violation of a State highway weight law or regulation by a tractor-trailer combination carrying a loaded container or trailer for which a certification is required by section 5902(b) of this title, against the person tendering the loaded container or trailer to the first carrier if the violation results from the person's having provided erroneous information in the certification in violation of section 5903(a) of this title; and

(2) to impound the container or trailer until the fine or penalty has been paid by the owner or beneficial owner of the contents of the container or trailer or the person tendering the loaded container or trailer to the first carrier.

(b) LIMITATION.—This chapter does not require a person tendering a loaded container or trailer to a first carrier to ensure that the first carrier or any other carrier involved in the intermodal transportation will comply with any State highway weight law or regulation, other than as required by this chapter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 861.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5904(a)	49:508(f).	
5904(b)	49:508(h).	

In subsection (a)(1), the words "false" and "written" are omitted as surplus and for consistency with section 5903(a) of the revised title.

In subsection (b), the words "does not require" are substituted for "shall not be construed as creating any obligation or responsibility for" to eliminate unnecessary words. The words "State highway weight law or regulation" are substituted for "State statutes or regulations prescribing weight limitations for highway transportation" for consistency with subsection (a) of this section and to eliminate unnecessary words.

§5905. Liens

(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a) of this title;

(2) the failure of the party required to provide the certification to the first carrier to provide it;

(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or (c),

then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.

(b) LIMITATIONS.—(1) A lien under this section does not authorize a person to dispose of the contents of a loaded container or trailer until the person who tendered the container or trailer to the first carrier, or the owner or beneficial owner of the contents, is given a reasonable opportunity to establish responsibility for the bond, fine, penalty, cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.

(2) In this section, an owner or beneficial owner of the contents of a container or trailer or a person tendering a container or trailer to the first carrier is deemed not to be a person involved in the intermodal transportation of the container or trailer.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 861; Pub. L. 104–291, title II, §206, Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5905(a)	49:508(g)(1).	
5905(b)	49:508(g)(2)(A), (B).	

In this section, the word "expenses" is omitted as surplus.

In subsection (a), the words "false" and "written" are omitted as surplus and for consistency with section 5903(a) of the revised title.

In subsection (b)(1), the word "establish" is substituted for "determine" for consistency in the revised title.

In subsection (b)(2), the words "is deemed not to be" are substituted for "shall not be treated as" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, §206(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

"(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required under State law to post a bond or pay any fine, penalty, cost, or interest resulting from providing erroneous information in the certification to the first carrier in violation of section 5903(a) of this title, the person has a lien against the contents equal to

the amount of the bond, fine, penalty, cost, or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents or from the person responsible for making the certification."

Subsec. (b)(1). Pub. L. 104–291, §206(3), substituted "cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section." for "cost, or interest."

Pub. L. 104–291, §206(2), inserted ", or the owner or beneficial owner of the contents," after "first carrier".

§5906. Perishable agricultural commodities

Section 5905 of this title does not apply to a container or trailer the contents of which are perishable agricultural commodities (as defined in the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.)).

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 861; Pub. L. 104–291, title II, §207, Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5906	49:508(g)(2)(C).	

EDITORIAL NOTES

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, 1930, referred to in text, is act June 10, 1930, ch. 436, 46 Stat. 531, which is classified generally to chapter 20A (§499a et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 499a(a) of Title 7 and Tables.

AMENDMENTS

1996—Pub. L. 104–291 substituted "Section 5905 of this title does" for "Sections 5904(a)(2) and 5905 of this title do".

§5907. Effective date

This chapter shall take effect 180 days after the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 862; Pub. L. 104–291, title II, §208(a), Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5907(a)	49:508 (note).	Oct. 28, 1992, Pub. L. 102–548, §2(d), 106 Stat. 3649.
5907(b)	49:508(a)(3) (related to effective date).	

In subsection (a), the words "shall initiate a proceeding to issue regulations . . . within 180 days after the date of enactment of this Act" are omitted as executed.

Subsection (b) is substituted for the source provision and made applicable to the entire chapter for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996, referred to in text, is the date of enactment of Pub. L. 104–291, which was approved Oct. 11, 1996.

AMENDMENTS

1996—Pub. L. 104–291 substituted "Effective date" for "Regulations and effective date" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) REGULATIONS.—Not later than July 25, 1993, the Secretary of Transportation shall prescribe final regulations to enforce this chapter. The Secretary may establish by regulation exemptions to the regulations that are in the public interest and consistent with the purposes of this chapter.

"(b) EFFECTIVE DATE.—This chapter is effective on the date final regulations to enforce this chapter are prescribed."

§5908. Relationship to other laws

Nothing in this chapter affects—

(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.

(Added Pub. L. 104–291, title II, §209(a), Oct. 11, 1996, 110 Stat. 3458.)

CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

Sec.

6101. Purposes.
6102. Definitions.
6103. Minimum standards for State one-call notification programs.
6104. Compliance with minimum standards.
6105. Implementation of best practices guidelines.
6106. Grants to States.
6107. Funding.
6108. Relationship to State laws.
6109. Public education and awareness.

EDITORIAL NOTES

AMENDMENTS

2016—Pub. L. 114–183, §2(c)(2), June 22, 2016, 130 Stat. 516, substituted "Funding" for "Authorization of appropriations" in item 6107.

2006—Pub. L. 109–468, §3(b), Dec. 29, 2006, 120 Stat. 3490, added item 6109.

2002—Pub. L. 107–355, §2(c)(2), Dec. 17, 2002, 116 Stat. 2986, substituted "Implementation of best practices guidelines" for "Review of one-call system best practices" in item 6105.

§6101. Purposes

The purposes of this chapter are—

(1) to enhance public safety;

(2) to protect the environment;

(3) to minimize risks to excavators; and

(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the voluntary adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 478.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

CONGRESSIONAL FINDINGS

Pub. L. 105–178, title VII, §7301, June 9, 1998, 112 Stat. 477, provided that: "Congress finds that—

"(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power, and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

"(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate or untimely marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

"(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs."

§6102. Definitions

In this chapter, the following definitions apply:

(1) ONE-CALL NOTIFICATION SYSTEM.—The term "one-call notification system" means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term "State one-call notification program" means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

(3) STATE.—The term "State" means a State, the District of Columbia, and Puerto Rico.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 478.)

§6103. Minimum standards for State one-call notification programs

(a) MINIMUM STANDARDS.—

(1) IN GENERAL.—In order to qualify for a grant under section 6106, a State one-call notification program, at a minimum, shall provide for—

(A) appropriate participation by all underground facility operators, including all government operators;

(B) appropriate participation by all excavators, including all government and contract excavators; and

(C) flexible and effective enforcement under State law with respect to participation in, and

use of, one-call notification systems.

(2) EXEMPTIONS PROHIBITED.—In order to qualify for a grant under section 6106, a State one-call notification program may not exempt municipalities, State agencies, or their contractors from the one-call notification system requirements of the program.

(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

(1) damage to types of underground facilities; and

(2) activities of types of excavators.

(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for and document—

(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

(4) equitable relief; and

(5) citation of violations.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 479; amended Pub. L. 107–355, §2(a), Dec. 17, 2002, 116 Stat. 2985; Pub. L. 112–90, §3(a), Jan. 3, 2012, 125 Stat. 1906.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–90, §3(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

"(1) appropriate participation by all underground facility operators, including all government operators;

"(2) appropriate participation by all excavators, including all government and contract excavators; and

"(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems."

2002—Subsec. (a)(1). Pub. L. 107–355, §2(a)(1)(A), inserted ", including all government operators" before semicolon at end.

Subsec. (a)(2). Pub. L. 107–355, §2(a)(1)(B), inserted ", including all government and contract excavators" before semicolon.

Subsec. (c). Pub. L. 107–355, §2(a)(2), substituted "provide for and document" for "provide for" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–90, §3(c), Jan. 3, 2012, 125 Stat. 1906, provided that: "The amendments made by this section [amending this section and section 60134 of this title] shall take effect 2 years after the date of enactment of this Act [Jan. 3, 2012]."

§6104. Compliance with minimum standards

(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall submit to the Secretary a grant application under subsection (b). The State shall submit the application not later than 2 years after the date of enactment of this chapter.

(b) APPLICATION.—

(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for the implementation of the program and the record of compliance and enforcement under the program.

(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

(4) The Secretary shall prescribe the form and manner of filing an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

(c) ALTERNATIVE PROGRAM.—A State is eligible to receive a grant under section 6106 if the State maintains an alternative one-call notification program that provides protection for public safety, excavators, and the environment that is equivalent to, or greater than, protection provided under a program that meets the minimum standards set forth in section 6103.

(d) REPORT.—The Secretary shall include the following information in reports submitted under section 60124 of this title—

(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

(2) an analysis by the Secretary of the overall effectiveness of each State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

(3) the impact of each State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

(4) areas where improvements are needed in one-call notification systems in operation in each State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 479; amended Pub. L. 107–355, §2(b), Dec. 17, 2002, 116 Stat. 2985.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this chapter, referred to in subsec. (a), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–355 substituted "The Secretary shall" for "Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to" in introductory provisions.

§6105. Implementation of best practices guidelines

(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled "Common Ground", as periodically updated.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2003 through 2006. Such sums shall remain available until expended.

(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 480; amended Pub. L. 107–355, §2(c)(1), Dec. 17, 2002, 116 Stat. 2985.)

EDITORIAL NOTES

AMENDMENTS

2002—Pub. L. 107–355 amended section generally. Prior to amendment, section related to study of existing one-call systems, purpose and considerations of study, report by Secretary within one year of June 9, 1998, and discretion of Secretary as to whether to carry out study.

§6106. Grants to States

(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

(1) the overall quality and effectiveness of one-call notification systems in the State;

(2) communications systems linking one-call notification systems;

(3) location capabilities, including training personnel and developing and using location technology;

(4) record retention and recording capabilities for one-call notification systems;

(5) public information and education;

(6) participation in one-call notification systems; or

(7) compliance and enforcement under the State one-call notification program.

(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section, the

Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of this chapter.

(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 482.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (b), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

§6107. Funding

Of the amounts made available under section 60125(a)(1), the Secretary shall expend $1,058,000 for each of fiscal years 2021 through 2023 to carry out section 6106.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 482; amended Pub. L. 107–355, §2(d), Dec. 17, 2002, 116 Stat. 2986; Pub. L. 109–468, §18(d), Dec. 29, 2006, 120 Stat. 3498; Pub. L. 112–90, §32(c), Jan. 3, 2012, 125 Stat. 1922; Pub. L. 114–183, §2(c)(1), June 22, 2016, 130 Stat. 516; Pub. L. 116–260, div. R, title I, §101(c), Dec. 27, 2020, 134 Stat. 2213.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 substituted "$1,058,000 for each of fiscal years 2021 through 2023" for "$1,058,000 for each of fiscal years 2016 through 2019".

2016—Pub. L. 114–183 amended section generally. Prior to amendment, text read as follows:

"(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 $1,000,000 for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.

"(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 for fiscal years 2012 through 2015."

2012—Subsecs. (a), (b). Pub. L. 112–90, §32(c)(1), (2), substituted "2012 through 2015." for "2007 through 2010."

Subsec. (c). Pub. L. 112–90, §32(c)(3), struck out subsec. (c). Text read as follows: "Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title."

2006—Subsecs. (a), (b). Pub. L. 109–468 substituted "fiscal years 2007 through 2010" for "fiscal years 2003 through 2006".

2002—Subsec. (a). Pub. L. 107–355, §2(d)(1), substituted "$1,000,000 for each of fiscal years 2003 through 2006" for "$1,000,000 for fiscal year 2000 and $5,000,000 for fiscal year 2001" in first sentence.

Subsec. (b). Pub. L. 107–355, §2(d)(2), substituted "for fiscal years 2003 through 2006" for "for fiscal years 1999, 2000, and 2001".

§6108. Relationship to State laws

Nothing in this chapter preempts State law or shall impose a new requirement on any State or mandate revisions to a one-call system.

(Added Pub. L. 105–178, title VII, §7302(a), June 9, 1998, 112 Stat. 482.)

§6109. Public education and awareness

(a) GRANT AUTHORITY.—The Secretary shall make a grant to an appropriate entity for promoting public education and awareness with respect to the 811 national excavation damage prevention phone number.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $1,000,000 for the period beginning October 1, 2006, and ending September 30, 2008, to carry out this section.

(Added Pub. L. 109–468, §3(a), Dec. 29, 2006, 120 Stat. 3489.)

CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

Sec.

6301. Definitions.
6302. Bureau of Transportation Statistics.
6303. Intermodal transportation database.
6304. National Transportation Library.
6305. Advisory council on transportation statistics.
6306. Transportation statistical collection, analysis, and dissemination.
6307. Furnishing of information, data, or reports by Federal agencies.
6308. Proceeds of data product sales.
6309. National transportation atlas database.
6310. Limitations on statutory construction.
6311. Research and development grants.
6312. Transportation statistics annual report.
6313. Mandatory response authority for freight data collection.
6314. Port performance freight statistics program.

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94, div. A, title VI, §6018(c), Dec. 4, 2015, 129 Stat. 1577, added item 6314.

§6301. Definitions

In this chapter, the following definitions apply:

(1) BUREAU.—The term "Bureau" means the Bureau of Transportation Statistics established by section 6302(a).

(2) DEPARTMENT.—The term "Department" means the Department of Transportation.

(3) DIRECTOR.—The term "Director" means the Director of the Bureau.

(4) LIBRARY.—The term "Library" means the National Transportation Library established by section 6304(a).

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 887.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

CONSTRUCTION

Pub. L. 112–141, div. E, title II, §52011(b), July 6, 2012, 126 Stat. 895, provided that: "If the provisions of section 111 of title 49, United States Code, are transferred to chapter 63 of that title, the following rules of

construction apply:

"(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a chapter 63 provision is deemed to have been enacted on the date of enactment of the corresponding section 111 provision [section 111 of this title was enacted Dec. 18, 1991].

"(2) A reference to a section 111 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding chapter 63 provision.

"(3) A regulation, order, or other administrative action in effect under a section 111 provision continues in effect under the corresponding chapter 63 provision.

"(4) An action taken or an offense committed under a section 111 provision is deemed to have been taken or committed under the corresponding chapter 63 provision."

§6302. Bureau of Transportation Statistics

(a) IN GENERAL.—There shall be within the Department of Transportation the Bureau of Transportation Statistics.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

(3) DUTIES.—

(A) IN GENERAL.—The Director shall—

(i) serve as the senior advisor to the Secretary on data and statistics; and

(ii) be responsible for carrying out the duties described in subparagraph (B).

(B) DUTIES.—The Director shall—

(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decisionmaking by—

(I) the Federal Government;

(II) State and local governments;

(III) metropolitan planning organizations;

(IV) transportation-related associations;

(V) the private sector, including the freight community; and

(VI) the public;

(ii) establish on behalf of the Secretary a program—

(I) to effectively integrate safety data across modes; and

(II) to address gaps in existing safety data programs of the Department;

(iii) work with the operating administrations of the Department—

(I) to establish and implement the data programs of the Bureau; and

(II) to improve the coordination of information collection efforts with other Federal agencies;

(iv) continually improve surveys and data collection methods of the Department to improve the accuracy and utility of transportation statistics;

(v) encourage the standardization of data, data collection methods, and data management and storage technologies for data collected by—

(I) the Bureau;

(II) the operating administrations of the Department;

(III) State and local governments;

(IV) metropolitan planning organizations; and

(V) private sector entities;

(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

(I) transportation safety across all modes and intermodally;

(II) the state of good repair of United States transportation infrastructure;

(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6309;

(IV) economic efficiency across the entire transportation sector;

(V) employment in the transportation sector;

(VI) the effects of the transportation system, including advanced technologies and automation, on global and domestic economic competitiveness;

(VII) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

(VIII) transportation-related variables that influence the domestic economy and global competitiveness;

(IX) economic costs and impacts for passenger travel and freight movement;

(X) intermodal and multimodal passenger movement;

(XI) intermodal and multimodal freight movement; and

(XII) consequences of transportation for the human and natural environment;

(vii) build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities;

(viii) issue guidelines for the collection of information by the Department that the Director determines necessary to develop transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that such information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department;

(ix) review and report to the Secretary on the sources and reliability of—

(I) the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285); and

(II) at the request of the Secretary, any other data collected or statistical information published by the heads of the operating administrations of the Department; and

(x) ensure that the statistics published under this section are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

(c) ACCESS TO FEDERAL DATA.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency upon written request and subject to any statutory or regulatory restrictions.

(d) INDEPENDENCE OF BUREAU.—

(1) IN GENERAL.—The Director shall not be required—

(A) to obtain the approval of any other officer or employee of the Department with respect to the collection or analysis of any information; or

(B) prior to publication, to obtain the approval of any other officer or employee of the United States Government with respect to the substance of any statistical technical reports or press releases lawfully prepared by the Director.

(2) BUDGET AUTHORITY.—The Director shall have a significant role in the disposition and

allocation of the authorized budget of the Bureau, including—

(A) all hiring, grants, cooperative agreements, and contracts awarded by the Bureau to carry out this section; and

(B) the disposition and allocation of amounts paid to the Bureau for cost-reimbursable projects.

(3) EXCEPTIONS.—The Secretary shall direct external support functions, such as the coordination of activities involving multiple modal administrations.

(4) INFORMATION TECHNOLOGY.—The Department Chief Information Officer shall consult with the Director to ensure decisions related to information technology guarantee the protection of the confidentiality of information provided solely for statistical purposes, in accordance with section 3572 of title 44.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 887; amended Pub. L. 114–94, div. A, title I, §1446(b), title VI, §§6011(d)(2), 6017, Dec. 4, 2015, 129 Stat. 1438, 1570, 1575; Pub. L. 115–435, title III, §302(c)(3)(A), Jan. 14, 2019, 132 Stat. 5553; Pub. L. 117–58, div. B, title V, §25004(b), Nov. 15, 2021, 135 Stat. 839.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order 12906, referred to in subsec. (b)(3)(B)(vii), is Ex. Ord. No. 12906, Apr. 11, 1994, 59 F.R. 17671, which is set out as a note under section 1457 of Title 43, Public Lands.

The Government Performance and Results Act of 1993, referred to in subsec. (b)(3)(B)(ix)(I), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

AMENDMENTS

2021—Subsec. (b)(3)(B)(vi)(V) to (XII). Pub. L. 117–58 added subcls. (V) and (VI), redesignated former subcls. (VI) to (XI) as (VII) to (XII), respectively, and struck out former subcl. (V) which read as follows: "the effects of the transportation system on global and domestic economic competitiveness;".

2019—Subsec. (d)(4). Pub. L. 115–435 substituted "section 3572 of title 44." for "the Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note; Public Law 107–347)."

2015—Subsec. (a). Pub. L. 114–94, §6011(d)(2), added subsec. (a) and struck out former subsec. (a) which related to establishment of the Bureau of Transportation Statistics.

Subsec. (b)(3)(B)(vi)(III). Pub. L. 114–94, §1446(b), substituted "6309" for "6310".

Subsec. (d). Pub. L. 114–94, §6017, added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 115–435 effective 180 days after Jan. 14, 2019, see section 403 of Pub. L. 115–435, set out as a note under section 306 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

TRANSITIONAL AND SAVINGS PROVISIONS

For transitional and savings provisions related to the amendment of this section and other provisions of law

by title III of Pub. L. 115–435, see section 302(d) of Pub. L. 115–435, set out as a note under section 3561 of Title 44, Public Printing and Documents.

BUREAU OF TRANSPORTATION STATISTICS

Pub. L. 118–63, title V, §511, May 16, 2024, 138 Stat. 1194, provided that:

"(a) RULEMAKING.—Not later than 60 days after the date of enactment of this Act [May 16, 2024], the Director of the Bureau of Transportation Statistics shall initiate a rulemaking to revise section 234.4 of title 14, Code of Federal Regulations, to create a new 'cause of delay' category (or categories) that identifies and tracks information on delays and cancellations of air carriers (as defined in section 40102 of title 49, United States Code) that are due to instructions from the FAA [Federal Aviation Administration] Air Traffic Control System and to make any other changes necessary to carry out this section.

"(b) AIR CARRIER CODE.—The following causes shall not be included within the Air Carrier code specified in section 234.4 of title 14, Code of Federal Regulations, for cancelled and delayed flights:

"(1) Aircraft cleaning necessitated by the death of a passenger.

"(2) Aircraft damage caused by extreme weather, foreign object debris, or sabotage.

"(3) A baggage or cargo loading delay caused by an outage of a bag system not controlled by a carrier or its contractor.

"(4) Cybersecurity attacks (provided that the air carrier is in compliance with applicable cybersecurity regulations).

"(5) A shutdown or system failure of government systems that directly affects the ability of an air carrier to safely conduct flights and is unexpected.

"(6) Overheated brakes due to a safety incident resulting in the use of emergency procedures.

"(7) Unscheduled maintenance, including in response to an airworthiness directive, manifesting outside a scheduled maintenance program that cannot be deferred or must be addressed before flight.

"(8) An emergency that required medical attention through no fault of the carrier.

"(9) The removal of an unruly passenger.

"(10) An airport closure due to the presence of volcanic ash, wind, or wind shear.

"(c) FAMILY SEATING COMPLAINTS.—

"(1) IN GENERAL.—The Director of the Bureau of Transportation Statistics shall update the reporting framework of the Bureau to create a new category to identify and track information on complaints related to family seating.

"(2) SUNSET.—The requirements in paragraph (1) shall cease to be effective on the date on which the rulemaking required by section 513 [of Pub. L. 118–63, 49 U.S.C. 42301 note prec.] is effective.

"(d) AIR TRAVEL CONSUMER REPORT.—

"(1) ATCSCC DELAYS.—The Secretary [of Transportation] shall include information on delays and cancellations that are due to instructions from the FAA Air Traffic Control System Command Center in the Air Travel Consumer Report issued by the Office of Aviation Consumer Protection of the Department of Transportation.

"(2) FAMILY SEATING COMPLAINTS.—The Secretary shall include information on complaints related to family seating—

"(A) in the Air Travel Consumer Report issued by the Office of Aviation Consumer Protection of the Department of Transportation; and

"(B) on the family seating dashboard required by subsection (a)(2).

"(3) SUNSET.—The requirements in paragraph (2) shall cease to be effective on the date on which the rulemaking required by section 513 is effective."

FEDERAL SUPPORT FOR LOCAL DECISIONMAKING

Pub. L. 117–58, div. B, title V, §25003, Nov. 15, 2021, 135 Stat. 838, provided that:

"(a) LOCAL OUTREACH.—To determine the data analysis tools needed to assist local communities in making infrastructure decisions, the Director of the Bureau of Transportation Statistics shall perform outreach to planning and infrastructure decision-making officials in units of local government and other units of government, including a geographically diverse group of individuals from—

"(1) States;

"(2) political subdivisions of States;

"(3) cities;

"(4) metropolitan planning organizations;

"(5) regional transportation planning organizations; and

"(6) federally recognized Indian Tribes.

"(b) WORK PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], based on the outreach performed under subsection (a), the Director of the Bureau of Transportation Statistics shall submit to the Secretary [of Transportation] a work plan for reviewing and updating existing data analysis tools and developing any additional data analysis tools needed to assist local communities with making infrastructure investment decisions.

"(2) CONTENTS.—Based on the needs identified pursuant to the outreach performed under subsection (a), the work plan submitted under paragraph (1) shall include—

"(A) a description of the data analysis tools identified that would benefit infrastructure decision-making by local governments and address the goals described in subsection (c);

"(B) a review of the datasets that local governments need to effectively use the data analysis tools described in subparagraph (A);

"(C) an identification of existing or proposed data analysis tools that use publicly available data;

"(D) the estimated cost of obtaining each dataset described in subparagraph (B);

"(E) the estimated cost to develop the data analysis tools described in subparagraph (A);

"(F) a prioritization for the development of data analysis tools described in subparagraph (A); and

"(G) a determination as to whether it would be appropriate for the Federal Government to develop the data analysis tools described in subparagraph (A).

"(c) GOALS.—

"(1) IN GENERAL.—A data analysis tool created pursuant to the work plan submitted under subsection (b)(1) shall be developed to help inform local communities in making infrastructure investments.

"(2) SPECIFIC ISSUES.—A data analysis tool created pursuant to the work plan submitted under subsection (b)(1) shall be intended to help units of local government and other units of government address 1 or more of the following:

"(A) Improving maintenance of existing assets.

"(B) Rebuilding infrastructure to a state of good repair.

"(C) Creating economic development through infrastructure development.

"(D) Establishing freight plans and infrastructure that connects the community to supply chains.

"(E) Increasing options for communities that lack access to affordable transportation to improve access to jobs, affordable housing, schools, medical services, foods and other essential community services.

"(F) Reducing congestion.

"(G) Improving community resilience to extreme weather events.

"(H) Any other subject, as the Director determines to be necessary.

"(d) IMPLEMENTATION.—Subject to the availability of appropriations, the Secretary shall develop data analysis tools and purchase datasets as prioritized in the work plan.

"(e) COORDINATION.—The Director of the Bureau of Transportation Statistics may utilize existing working groups or advisory committees to perform the local outreach required under subsection (a)."

OFFICE OF AIRLINE INFORMATION

Pub. L. 106–181, title I, §103(b), Apr. 5, 2000, 114 Stat. 67, provided that: "There is authorized to be appropriated from the Airport and Airway Trust Fund to the Secretary [of Transportation] $4,000,000 for fiscal years beginning after September 30, 2000, to fund the activities of the Office of Airline Information in the Bureau of Transportation Statistics of the Department of Transportation."

§6303. Intermodal transportation database

(a) IN GENERAL.—In consultation with the Under Secretary Transportation for Policy, the Assistant Secretaries of the Department, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

(b) USE.—The database established under this section shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

(c) CONTENTS.—The database established under this section shall include—

(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation, intermodal combinations, and relevant classification;

(2) information on the volumes and patterns of movement of people, including local,

interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes), intermodal combinations, and relevant classification;

(3) information on the location and connectivity of transportation facilities and services; and

(4) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 890.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6304. National Transportation Library

(a) PURPOSE AND ESTABLISHMENT.—To support the information management and decisionmaking needs of transportation officials at the Federal, State, and local levels, there is established in the Bureau a National Transportation Library which shall—

(1) be headed by an individual who is highly qualified in library and information science;

(2) acquire, preserve, and manage transportation information and information products and services for use by the Department, other Federal agencies, and the general public;

(3) provide reference and research assistance;

(4) serve as a central depository for research results and technical publications of the Department;

(5) provide a central clearinghouse for transportation data and information of the Federal Government;

(6) serve as coordinator and policy lead for transportation information access;

(7) provide transportation information and information products and services to—

(A) the Department;

(B) other Federal agencies;

(C) public and private organizations; and

(D) individuals, within the United States and internationally;

(8) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, with the goal of developing a comprehensive transportation information and knowledge network that supports the activities described in section 6302(b)(3)(B)(vi); and

(9) engage in such other activities as the Director determines to be necessary and as the resources of the Library permit.

(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a), to improve the ability of the transportation community to share information and the ability of the Director to make statistics and other information readily accessible as required under section 6302(b)(3)(B)(x).

(c) AGREEMENTS.—

(1) IN GENERAL.—To carry out this section, the Director may enter into agreements with, award grants to, and receive amounts from, any—

(A) State or local government;

(B) organization;

(C) business; or

(D) individual.

(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to the Department's strategic goals, knowledge networking, and national and international cooperation, by entering into contracts or other agreements or awarding grants for the conduct of such activities.

(3) AMOUNTS.—Any amounts received by the Library as payment for library products and services or other activities shall be made available to the Director to carry out this section, deposited in the Office of the Assistant Secretary for Research and Technology of the Department of Transportation's general fund account, and remain available until expended.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 890; amended Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 574.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Office of the Assistant Secretary for Research and Technology of the Department of Transportation's" substituted for "Research and Innovative Technology Administration's" in subsec. (c)(3) on authority of title I of div. L of Pub. L. 113–76, set out in part as a Transfer of Duties and Powers note under former section 112 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6305. Advisory council on transportation statistics

(a) IN GENERAL.—The Director shall establish and consult with an advisory council on transportation statistics.

(b) FUNCTION.—The advisory council established under this section shall advise the Director on—

(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The advisory council shall be composed of not fewer than 9 and not more than 11 members appointed by the Director.

(2) SELECTION.—In selecting members for the advisory council, the Director shall appoint individuals who—

(A) are not officers or employees of the United States;

(B) possess expertise in—

(i) transportation data collection, analysis, or application;

(ii) economics; or

(iii) transportation safety; and

(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

(d) TERMS OF APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the advisory council shall be appointed to staggered terms not to exceed 3 years.

(2) ADDITIONAL TERMS.—A member may be renominated for 1 additional 3-year term.

(3) CURRENT MEMBERS.—A member serving on an advisory council on transportation statistics on the day before the date of enactment of the Transportation Research and Innovative Technology Act of 2012 shall serve until the end of the appointed term of the member.

(e) APPLICABILITY OF CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 shall apply to the advisory council established under this section, except that section 1013 of title 5 shall not apply.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 891; amended Pub. L. 117–286, §4(a)(304), Dec. 27, 2022, 136 Stat. 4339.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Transportation Research and Innovative Technology Act of 2012, referred to in subsec. (d)(3), is the date of enactment of div. E of Pub. L. 112–141, which was approved July 6, 2012.

AMENDMENTS

2022—Subsec. (e). Pub. L. 117–286 substituted "Chapter 10 of Title 5" for "Federal Advisory Committee Act" in heading and "Chapter 10 of title 5 shall apply to the advisory council established under this section, except that section 1013 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory council established under this section, except that section 14 of that Act" in text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

TERMINATION OF ADVISORY COUNCIL ON TRANSPORTATION STATISTICS

Advisory Council on Transportation Statistics terminated Oct. 5, 2018, see section 418(g) of Pub. L. 115–254, set out as a note preceding section 42301 of this title.

ADVISORY COUNCIL ON TRANSPORTATION STATISTICS

Pub. L. 102–240, title VI, §6007, Dec. 18, 1991, 105 Stat. 2174, required the Director to establish an Advisory Council on Transportation Statistics composed of not more than 6 members to provide advice on the quality of transportation statistics and analysis.

§6306. Transportation statistical collection, analysis, and dissemination

To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

(1) use the services, equipment, records, personnel, information, and facilities of other Federal agencies, or State, local, and private agencies and instrumentalities, subject to the conditions that the applicable agency or instrumentality consents to that use and with or without reimbursement for such use;

(2) enter into agreements with the agencies and instrumentalities described in paragraph (1) for purposes of data collection and analysis;

(3) confer and cooperate with foreign governments, international organizations, and State, municipal, and other local agencies;

(4) request such information, data, and reports from any Federal agency as the Director determines necessary to carry out this chapter;

(5) encourage replication, coordination, and sharing of information among transportation agencies regarding information systems, information policy, and data; and

(6) confer and cooperate with Federal statistical agencies as the Director determines necessary

to carry out this chapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 892.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6307. Furnishing of information, data, or reports by Federal agencies

(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

(b) PROHIBITION ON CERTAIN DISCLOSURES.—

(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) or section 6314(b) can be identified;

(B) use the information provided under section 6302(b)(3)(B) or section 6314(b) for a nonstatistical purpose; or

(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B) or section 6314(b).

(2) COPIES OF REPORTS.—

(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) or section 6314(b) with the Bureau or retained by an individual respondent.

(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

(i) shall be immune from legal process; and

(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—The Director shall be provided access to any transportation and transportation-related information in the possession of any Federal agency, except—

(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

(2) information that the agency possessing the information determines could not be disclosed

without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 892; amended Pub. L. 114–94, div. A, title VI, §6018(b), Dec. 4, 2015, 129 Stat. 1577.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 inserted "or section 6314(b)" after "section 6302(b)(3)(B)" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6308. Proceeds of data product sales

Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products for necessary expenses incurred may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for those expenses.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 893.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6309. National transportation atlas database

(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

(1) transportation networks;

(2) flows of people, goods, vehicles, and craft over the transportation networks; and

(3) social, economic, and environmental conditions that affect or are affected by the transportation networks.

(b) INTERMODAL NETWORK ANALYSIS.—The databases referred to in subsection (a) shall be capable of supporting intermodal network analysis.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 894.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6310. Limitations on statutory construction

Nothing in this chapter—

(1) authorizes the Bureau to require any other Federal agency to collect data; or

(2) alters or diminishes the authority of any other officer of the Department to collect and disseminate data independently.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 894.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6311. Research and development grants

The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);

(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

(3) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

(4) development of electronic clearinghouses of transportation data and related information, as part of the Library; and

(5) development and improvement of methods for sharing geographic data, in support of the database under section 6310 [1] and the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order).

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 894.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order 12906, referred to in par. (5), is Ex. Ord. No. 12906, Apr. 11, 1994, 59 F.R. 17671, which is set out as a note under section 1457 of Title 43, Public Lands.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[1] So in original. Probably should be "section 6309".

§6312. Transportation statistics annual report

The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

(1) information on the progress of the Director in carrying out the duties described in section 6302(b)(3)(B);

(2) documentation of the methods used to obtain and ensure the quality of the statistics presented in the report; and

(3) any recommendations of the Director for improving transportation statistical information.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 894.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6313. Mandatory response authority for freight data collection

(a) FREIGHT DATA COLLECTION.—

(1) IN GENERAL.—An owner, official, agent, person in charge, or assistant to the person in charge of a freight corporation, company, business, institution, establishment, or organization described in paragraph (2) shall be fined in accordance with subsection (b) if that individual neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau to submit data under section 6302(b)(3)(B)—

(A) to answer completely and correctly to the best knowledge of that individual all questions relating to the corporation, company, business, institution, establishment, or other organization; or

(B) to make available records or statistics in the official custody of the individual.

(2) DESCRIPTION OF ENTITIES.—A freight corporation, company, business, institution, establishment, or organization referred to in paragraph (1) is a corporation, company, business, institution, establishment, or organization that—

(A) receives Federal funds relating to the freight program; and

(B) has consented to be subject to a fine under this subsection on—

(i) refusal to supply any data requested; or

(ii) failure to respond to a written request.

(b) FINES.—

(1) IN GENERAL.—Subject to paragraph (2), an individual described in subsection (a) shall be fined not more than $500.

(2) WILLFUL ACTIONS.—If an individual willfully gives a false answer to a question described in subsection (a)(1), the individual shall be fined not more than $10,000.

(Added Pub. L. 112–141, div. E, title II, §52011(a), July 6, 2012, 126 Stat. 895.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§6314. Port performance freight statistics program

(a) IN GENERAL.—The Director shall establish, on behalf of the Secretary, a port performance statistics program to provide nationally consistent measures of performance of, at a minimum—

(1) the Nation's top 25 ports by tonnage;

(2) the Nation's top 25 ports by 20-foot equivalent unit; and
(3) the Nation's top 25 ports by dry bulk.

(b) REPORTS.—
(1) PORT CAPACITY AND THROUGHPUT.—Not later than January 15 of each year, the Director shall submit an annual report to Congress that includes statistics on capacity and throughput at the ports described in subsection (a).
(2) PORT PERFORMANCE MEASURES.—The Director shall collect port performance measures for each of the United States ports referred to in subsection (a) that—
(A) receives Federal assistance; or
(B) is subject to Federal regulation to submit necessary information to the Bureau that includes statistics on capacity and throughput as applicable to the specific configuration of the port.

(c) RECOMMENDATIONS.—
(1) IN GENERAL.—The Director shall obtain recommendations for—
(A) port performance measures, including specifications and data measurements to be used in the program established under subsection (a); and
(B) a process for the Department to collect timely and consistent data, including identifying safeguards to protect proprietary information described in subsection (b)(2).

(2) WORKING GROUP.—Not later than 60 days after the date of the enactment of the Transportation for Tomorrow Act of 2015, the Director shall commission a working group composed of—
(A) operating administrations of the Department;
(B) the Coast Guard;
(C) the Federal Maritime Commission;
(D) U.S. Customs and Border Protection;
(E) the Marine Transportation System National Advisory Council;
(F) the Army Corps of Engineers;
(G) the Great Lakes St. Lawrence Seaway Development Corporation;
(H) the Bureau of Labor Statistics;
(I) the Maritime Advisory Committee for Occupational Safety and Health;
(J) the Advisory Committee on Supply Chain Competitiveness;
(K) 1 representative from the rail industry;
(L) 1 representative from the trucking industry;
(M) 1 representative from the maritime shipping industry;
(N) 1 representative from a labor organization for each industry described in subparagraphs (K) through (M);
(O) 1 representative from the International Longshoremen's Association;
(P) 1 representative from the International Longshore and Warehouse Union;
(Q) 1 representative from a port authority;
(R) 1 representative from a terminal operator;
(S) representatives of the National Freight Advisory Committee of the Department; and
(T) representatives of the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine.

(3) RECOMMENDATIONS.—Not later than 1 year after the date of the enactment of the Transportation for Tomorrow Act of 2015, the working group commissioned under paragraph (2) shall submit its recommendations to the Director.

(d) ACCESS TO DATA.—The Director shall ensure that—
(1) the statistics compiled under this section—

(A) are readily accessible to the public; and
(B) are consistent with applicable security constraints and confidentiality interests; and

(2) the data acquired, regardless of source, shall be protected in accordance with section 3572 of title 44.

(Added Pub. L. 114–94, div. A, title VI, §6018(a), Dec. 4, 2015, 129 Stat. 1576; amended Pub. L. 115–435, title III, §302(c)(3)(B), Jan. 14, 2019, 132 Stat. 5553; Pub. L. 116–260, div. AA, title V, §512(c)(7)(A)(ii), Dec. 27, 2020, 134 Stat. 2757.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Transportation for Tomorrow Act of 2015, referred to in subsec. (c)(2), (3), is the date of enactment of title VI of div. A of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2020—Subsec. (c)(2)(G). Pub. L. 116–260 substituted "Great Lakes St. Lawrence Seaway Development Corporation" for "Saint Lawrence Seaway Development Corporation".

2019—Subsec. (d)(2). Pub. L. 115–435 substituted "section 3572 of title 44." for "the Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note; Public Law 107–347)."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 115–435 effective 180 days after Jan. 14, 2019, see section 403 of Pub. L. 115–435, set out as a note under section 306 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

TRANSITIONAL AND SAVINGS PROVISIONS

For transitional and savings provisions related to the amendment of this section and other provisions of law by title III of Pub. L. 115–435, see section 302(d) of Pub. L. 115–435, set out as a note under section 3561 of Title 44, Public Printing and Documents.

CHAPTER 65—RESEARCH PLANNING

Sec.

6501. Annual modal research plans.
6502. Consolidated research database.
6503. Transportation research and development 5-year strategic plan.
6504. Incorporation of Department of Transportation research.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title V, §25016(b), Nov. 15, 2021, 135 Stat. 873, added item 6504.

§6501. Annual modal research plans

(a) MODAL PLANS REQUIRED.—

(1) IN GENERAL.—Not later than June 1 of each year, the head of each modal administration and joint program office of the Department of Transportation shall prepare and submit to the Assistant Secretary for Research and Technology of the Department of Transportation (referred to

in this chapter as the "Assistant Secretary")—

(A) a comprehensive annual modal research plan for the following fiscal year; and

(B) a detailed outlook for the fiscal year thereafter.

(2) REQUIREMENTS.—Each plan under paragraph (1) shall include—

(A) a general description of the strategic goals of the Department that are addressed by the research programs being carried out by the Assistant Secretary or modal administration, as applicable;

(B) a description of each proposed research program, as described in the budget request submitted by the Secretary of Transportation to the President under section 1108 of title 31 for the following fiscal year, including—

(i) the major objectives of the program; and

(ii) the requested amount of funding for each program and area;

(C) a list of activities the Assistant Secretary or modal administration plans to carry out under the research programs described in subparagraph (B);

(D) an assessment of the potential impact of the research programs described in subparagraph (B), including—

(i) potential outputs, outcomes, and impacts on technologies and practices used by entities subject to the jurisdiction of the modal administration;

(ii) potential effects on applicable regulations of the modal administration, including the modification or modernization of those regulations;

(iii) potential economic or societal impacts; and

(iv) progress made toward achieving strategic goals of—

(I) the applicable modal administration; or

(II) the Department of Transportation;

(E) a description of potential partnerships to be established to conduct the research program, including partnerships with—

(i) institutions of higher education; and

(ii) private sector entities; and

(F) such other requirements as the Assistant Secretary considers to be necessary.

(3) RELATIONSHIP TO STRATEGIC PLAN.—Each plan prepared or submitted under paragraph (1), after the plan required in 2016, shall be consistent with the strategic plan developed under section 6503.

(b) REVIEW.—

(1) IN GENERAL.—Not later than September 1 of each year, the Assistant Secretary, for each plan and outlook submitted by the head of a modal administration or joint program office pursuant to subsection (a), shall—

(A) review the scope of the research; and

(B)(i) approve the plan and outlook; or

(ii) request that the plan and outlook be—

(I) revised in accordance with such suggestions as the Assistant Secretary shall include to ensure conformity with the criteria described in paragraph (2); and

(II) resubmitted to the Assistant Secretary for approval.

(2) CRITERIA.—In conducting a review under paragraph (1)(A), the Assistant Secretary shall, with respect to the modal research plan that is the subject of the review—

(A) take into consideration whether—

(i) the plan contains research objectives that are consistent with the strategic research and

policy objectives of the Department of Transportation included in the strategic plan required under section 6503; and

(ii) the research programs described in the plan have the potential to benefit the safety, mobility, and efficiency of the United States transportation system;

(B) identify and evaluate any potential opportunities for collaboration between or among modal administrations with respect to particular research programs described in the plan;

(C) identify and evaluate whether other modal administrations may be better suited to carry out the research programs described in the plan;

(D) assess whether any projects described in the plan are—

(i) duplicative across modal administrations; or

(ii) unnecessary; and

(E) take into consideration such other criteria as the Assistant Secretary determines to be necessary.

(3) PUBLICATIONS.—Not later than January 30 of each year, the Secretary shall publish on a public website each plan and outlook that has been approved under paragraph (1)(B)(i).

(4) REJECTION OF DUPLICATIVE RESEARCH EFFORTS.—The Assistant Secretary may not approve any plan submitted by the head of a modal administration or joint program office pursuant to subsection (a) if any of the projects described in the plan duplicate significant aspects of research efforts of any other modal administration.

(5) SAVINGS CLAUSE.—Nothing in this subsection limits the ability of the head of a modal administration to comply with applicable law.

(c) FUNDING LIMITATIONS.—No funds may be expended by the Department of Transportation on research that has been determined by the Assistant Secretary under subsection (b)(4) to be duplicative unless—

(1) the research is required by an Act of Congress;

(2) the research was part of a contract that was funded before the date of enactment of this chapter;

(3) the research updates previously commissioned research; or

(4) the Assistant Secretary certifies to Congress that such research is necessary, and provides justification for such certification.

(d) CERTIFICATION.—

(1) IN GENERAL.—The Secretary shall annually certify to Congress that—

(A) each modal research plan has been reviewed; and

(B) there is no duplication of study for research directed, commissioned, or conducted by the Department of Transportation.

(2) CORRECTIVE ACTION PLAN.—If the Secretary, after submitting a certification under paragraph (1), identifies duplication of research within the Department of Transportation, the Secretary shall—

(A) notify Congress of the duplicative research; and

(B) submit to Congress a corrective action plan to eliminate the duplicative research.

(Added Pub. L. 114–94, div. A, title VI, §6019(b)(1), Dec. 4, 2015, 129 Stat. 1578; amended Pub. L. 117–58, div. B, title V, §25015(a), Nov. 15, 2021, 135 Stat. 870.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (c)(2), is the date of enactment of Pub. L.

114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §25015(a)(1)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "Not later than May 1 of each year, the head of each modal administration and joint program office of the Department of Transportation shall submit to the Assistant Secretary for Research and Technology of the Department of Transportation (referred to in this chapter as the 'Assistant Secretary') a comprehensive annual modal research plan for the upcoming fiscal year and a detailed outlook for the following fiscal year."

Subsec. (a)(2). Pub. L. 117–58, §25015(a)(1)(D), added par. (2). Former par. (2) redesignated (3).

Pub. L. 117–58, §25015(a)(1)(B), inserted "prepared or" before "submitted".

Subsec. (a)(3). Pub. L. 117–58, §25015(a)(1)(C), redesignated par. (2) as (3).

Subsec. (b)(1). Pub. L. 117–58, §25015(a)(2)(A)(i), inserted "by the head of a modal administration or joint program office" after "submitted" in introductory provisions.

Subsec. (b)(1)(B)(ii). Pub. L. 117–58, §25015(a)(2)(A)(ii), added cl. (ii) and struck out former cl. (ii) which read as follows: "request that the plan and outlook be revised and resubmitted for approval."

Subsec. (b)(2) to (4). Pub. L. 117–58, §25015(a)(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b)(5). Pub. L. 117–58, §25015(a)(2)(D), added par. (5).

Subsec. (c). Pub. L. 117–58, §25015(a)(3), which directed amendment without providing closing quotation marks designating the provisions to be inserted, was executed by substituting "subsection (b)(4)" for "subsection (b)(3)" in introductory provisions, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

FINDINGS

Pub. L. 114–94, div. A, title VI, §6019(a), Dec. 4, 2015, 129 Stat. 1577, provided that: "Congress finds that—

"(1) Federal transportation research planning—

"(A) should be coordinated by the Office of the Secretary [of Transportation]; and

"(B) should be, to the extent practicable, multimodal and not occur solely within the sub-agencies of the Department [of Transportation];

"(2) managing a multimodal research portfolio within the Office of the Secretary will—

"(A) help identify opportunities in which research could be applied across modes; and

"(B) prevent duplication of efforts and waste of limited Federal resources;

"(3) the Assistant Secretary for Research and Technology at the Department of Transportation will—

"(A) give stakeholders a formal opportunity to address concerns;

"(B) ensure unbiased research; and

"(C) improve the overall research products of the Department; and

"(4) increasing transparency of transportation research and development efforts will—

"(A) build stakeholder confidence in the final product; and

"(B) lead to the improved implementation of research findings."

§6502. Consolidated research database

(a) RESEARCH ABSTRACT DATABASE.—

(1) SUBMISSION.—Not later than September 1 of each year, the head of each modal administration and joint program office of the Department of Transportation shall submit to the Assistant Secretary, for review and public posting, a description of each proposed research project to be carried out during the following fiscal year, including—

(A) proposed funding for any new projects; and

(B) proposed additional funding for any existing projects.

(2) PUBLICATION.—Not less frequently than annually, after receiving the descriptions under paragraph (1), the Assistant Secretary shall publish on a public website a comprehensive database including a description of all research projects conducted by the Department of Transportation, including research funded through university transportation centers under section 5505.

(3) CONTENTS.—The database published under paragraph (2) shall—

(A) be delimited by research project; and

(B) include a description of, with respect to each research project—

(i) research objectives;

(ii) the progress made with respect to the project, including whether the project is ongoing or complete;

(iii) any outcomes of the project, including potential implications for policy, regulations, or guidance issued by a modal administration or the Department of Transportation;

(iv) any findings of the project;

(v) the amount of funds allocated for the project; and

(vi) such other information as the Assistant Secretary determines to be necessary to address Departmental priorities and statutory mandates;

(C) identify research projects with multimodal applications;

(D) specify how relevant modal administrations have assisted, will contribute to, or plan to use the findings from the research projects identified under paragraph (1);

(E) identify areas in which more than 1 modal administration is conducting research on a similar subject or a subject that has a bearing on more than 1 mode;

(F) indicate how the findings of research are being disseminated to improve the efficiency, effectiveness, and safety of transportation systems; and

(G) describe the public and stakeholder input to the research plans submitted under section 6501(a)(1).

(b) FUNDING REPORT.—In conjunction with each of the annual budget requests submitted by the President under section 1105 of title 31, the Secretary shall annually publish on a public website and submit to the appropriate committees of Congress a report that describes—

(1) the amount spent in the last full fiscal year on transportation research and development with specific descriptions of projects funded at $5,000,000 or more; and

(2) the amount proposed in the current budget for transportation research and development with specific descriptions of projects funded at $5,000,000 or more.

(c) PERFORMANCE PLANS AND REPORTS.—In the plans and reports submitted under sections 1115 and 1116 of title 31, the Secretary shall include—

(1) a summary of the Federal transportation research and development activities for the previous fiscal year in each topic area;

(2) the amount spent in each topic area;

(3) a description of the extent to which the research and development is meeting the expectations described in section 6503(c)(1); and

(4) any amendments to the strategic plan developed under section 6503.

(Added Pub. L. 114–94, div. A, title VI, §6019(b)(1), Dec. 4, 2015, 129 Stat. 1579; amended Pub. L. 117–58, div. B, title V, §25015(b), Nov. 15, 2021, 135 Stat. 871.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58 inserted subsec. (a) heading and added pars. (1) and (2) and heading, introductory provisions, and subpars. (A) and (B) of par. (3), and struck out former subsec. (a) heading, former par. (1), which related to publication of research abstract database in general, and former par. (2)

heading and subpars. (A) and (B), which related to contents of database. Subpars. (C) to (G) of former par. (2) effectively redesignated subpars. (C) to (G) of par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§6503. Transportation research and development 5-year strategic plan

(a) IN GENERAL.—Not later than 180 days after the date of publication of the Department of Transportation Strategic Plan and not less frequently than once every 5 years thereafter, the Secretary shall develop a 5-year transportation research and development strategic plan to guide future Federal transportation research and development activities.

(b) CONSISTENCY.—Each strategic plan developed under subsection (a) shall be consistent with—

(1) section 306 of title 5;

(2) sections 1115 and 1116 of title 31; and

(3) any other research and development plan within the Department of Transportation.

(c) CONTENTS.—Each strategic plandeveloped under subsection (a) shall—

(1) describe how the plan furthers the primary purposes of the transportation research and development program, which shall include—

(A) improving mobility of people and goods;

(B) reducing congestion;

(C) promoting safety;

(D) improving the durability and extending the life of transportation infrastructure;

(E) preserving the environment;

(F) preserving the existing transportation system; and

(G) reducing transportation cybersecurity risks;

(2) for each of the purposes referred to in paragraph (1), list the primary proposed research and development activities that the Department of Transportation intends to pursue to accomplish that purpose, which may include—

(A) fundamental research pertaining to the applied physical and natural sciences;

(B) applied science and research;

(C) technology development research; and

(D) social science research; and

(3) for each research and development activity—

(A) identify the anticipated annual funding levels for the period covered by the strategic plan; and

(B) describe the research findings the Department expects to discover at the end of the period covered by the strategic plan.

(d) CONSIDERATIONS.—The Secretary shall ensure that each strategic plan developed under this section—

(1) reflects input from a wide range of external stakeholders;

(2) includes and integrates the research and development programs of all of the modal administrations of the Department of Transportation, including aviation, transit, rail, and maritime and joint programs;

(3) takes into account research and development by other Federal, State, local, private sector,

and nonprofit institutions;

(4) not later than December 31, 2021, and not less frequently than once every 5 years thereafter, is published on a public website; and

(5) takes into account how research and development by other Federal, State, private sector, and nonprofit institutions—

(A) contributes to the achievement of the purposes identified under subsection (c)(1); and

(B) avoids unnecessary duplication of those efforts.

(Added Pub. L. 114–94, div. A, title VI, §6019(b)(1), Dec. 4, 2015, 129 Stat. 1580; amended Pub. L. 117–58, div. B, title V, §25014, Nov. 15, 2021, 135 Stat. 869.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §25014(1), substituted "Not later than 180 days after the date of publication of the Department of Transportation Strategic Plan and not less frequently than once every 5 years thereafter, the Secretary" for "The Secretary".

Subsec. (b). Pub. L. 117–58, §25014(2), substituted "Each strategic" for "The strategic" in introductory provisions.

Subsec. (c). Pub. L. 117–58, §25014(3)(A), substituted "Each strategic" for "The strategic" in introductory provisions.

Subsec. (c)(1)(G). Pub. L. 117–58, §25014(3)(B), added subpar. (G).

Subsec. (d). Pub. L. 117–58, §25014(4)(A), substituted "each strategic" for "the strategic" in introductory provisions.

Subsec. (d)(4). Pub. L. 117–58, §25014(4)(B), substituted "2021, and not less frequently than once every 5 years thereafter" for "2016".

Subsec. (e). Pub. L. 117–58, §25014(5), struck out subsec. (e). Prior to amendment, text read as follows: "Not later than 2 ½ years after the date of enactment of this chapter, the Secretary may publish on a public website an interim report that—

"(1) provides an assessment of the 5-year research and development strategic plan of the Department of Transportation described in this section; and

"(2) includes a description of the extent to which the research and development is or is not successfully meeting the purposes described under subsection (c)(1)."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§6504. Incorporation of Department of Transportation research

(a) REVIEW.—Not later than December 31, 2021, and not less frequently than once every 5 years thereafter, in concurrence with the applicable strategic plan under section 6503, the Secretary of Transportation shall—

(1) conduct a review of research conducted by the Department of Transportation; and

(2) to the maximum extent practicable and appropriate, identify modifications to laws, regulations, guidance, and other policy documents to incorporate any innovations resulting from the research described in paragraph (1) that have the potential to improve the safety or efficiency of the United States transportation system.

(b) REQUIREMENTS.—In conducting a review under subsection (a), the Secretary of Transportation shall—

(1) identify any innovative practices, materials, or technologies that have demonstrable benefits to the transportation system;

(2) determine whether the practices, materials, or technologies described in paragraph (1) require any statutory or regulatory modifications for adoption; and

(3)(A) if modifications are determined to be required under paragraph (2), develop—

(i) a proposal for those modifications; and

(ii) a description of the manner in which any such regulatory modifications would be—

(I) incorporated into the Unified Regulatory Agenda; or

(II) adopted into existing regulations as soon as practicable; or

(B) if modifications are determined not to be required under paragraph (2), develop a description of the means by which the practices, materials, or technologies described in paragraph (1) will otherwise be incorporated into Department of Transportation or modal administration policy or guidance, including as part of the Technology Transfer Program of the Office of the Assistant Secretary for Research and Technology.

(c) REPORT.—On completion of each review under subsection (a), the Secretary of Transportation shall submit to the appropriate committees of Congress a report describing, with respect to the period covered by the report—

(1) each new practice, material, or technology identified under subsection (b)(1); and

(2) any statutory or regulatory modification for the adoption of such a practice, material, or technology that—

(A) is determined to be required under subsection (b)(2); or

(B) was otherwise made during that period.

(Added Pub. L. 117–58, div. B, title V, §25016(a), Nov. 15, 2021, 135 Stat. 872.)

CHAPTER 67—MULTIMODAL INFRASTRUCTURE INVESTMENTS

Sec.

6701. National infrastructure project assistance.
6702. Local and regional project assistance.
6703. National culvert removal, replacement, and restoration grant program.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title I, §21203(b), Nov. 15, 2021, 135 Stat. 677, added item 6703.

§6701. National infrastructure project assistance

(a) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term "Department" means the Department of Transportation.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State or a group of States;

(B) a metropolitan planning organization;

(C) a unit of local government;

(D) a political subdivision of a State;

(E) a special purpose district or public authority with a transportation function, including a port authority;

(F) a Tribal government or a consortium of Tribal governments;

(G) a partnership between Amtrak and 1 or more entities described in subparagraphs (A) through (F); and

(H) a group of entities described in any of subparagraphs (A) through (G).

(3) PROGRAM.—The term "program" means the program established by subsection (b).

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.
(5) STATE.—The term "State" means—
(A) any of the several States;
(B) the District of Columbia;
(C) the Commonwealth of Puerto Rico;
(D) the Commonwealth of the Northern Mariana Islands;
(E) the United States Virgin Islands;
(F) Guam;
(G) American Samoa; and
(H) any other territory or possession of the United States.

(b) ESTABLISHMENT.—There is established a program under which the Secretary shall provide to eligible entities grants, on a competitive basis pursuant to single-year or multiyear grant agreements, for projects described in subsection (d).
(c) APPLICATIONS.—
(1) IN GENERAL.—To be eligible for a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.
(2) PLAN FOR DATA COLLECTION.—An application under paragraph (1) shall include a plan for data collection and analysis described in subsection (g).

(d) ELIGIBLE PROJECTS.—The Secretary may provide a grant under the program only for a project—
(1) that is—
(A) a highway or bridge project carried out on—
(i) the National Multimodal Freight Network established under section 70103;
(ii) the National Highway Freight Network established under section 167 of title 23; or
(iii) the National Highway System (as defined in section 101(a) of title 23);

(B) a freight intermodal (including public ports) or freight rail project that provides a public benefit;
(C) a railway-highway grade separation or elimination project;
(D) an intercity passenger rail project;
(E) a public transportation project that is—
(i) eligible for assistance under chapter 53; and
(ii) part of a project described in any of subparagraphs (A) through (D); or

(F) a grouping, combination, or program of interrelated, connected, or dependent projects of any of the projects described in subparagraphs (A) through (E); and

(2) the eligible project costs of which are—
(A) reasonably anticipated to equal or exceed $500,000,000; or
(B) for any project funded by the set-aside under subsection (m)(2)—
(i) more than $100,000,000; but
(ii) less than $500,000,000.

(e) GEOGRAPHICAL DISTRIBUTION.—In providing grants under this section, the Secretary shall ensure among grant recipients—
(1) geographical diversity; and
(2) a balance between rural and urban communities.

(f) PROJECT EVALUATION AND SELECTION.—
(1) REQUIREMENTS.—The Secretary may select a project described in subsection (d) to

receive a grant under the program only if the Secretary determines that—

(A) the project is likely to generate national or regional economic, mobility, or safety benefits;

(B) the project is in need of significant Federal funding;

(C) the project will be cost-effective;

(D) with respect to related non-Federal financial commitments, 1 or more stable and dependable sources of funding and financing are available—

(i) to construct, operate, and maintain the project; and

(ii) to cover cost increases; and

(E) the applicant has, or will have, sufficient legal, financial, and technical capacity to carry out the project.

(2) EVALUATION CRITERIA.—In awarding a grant under the program, the Secretary shall evaluate—

(A) the extent to which a project supports achieving a state of good repair for each existing asset to be improved by the project;

(B) the level of benefits a project is expected to generate, including—

(i) the costs avoided by the prevention of closure or reduced use of the asset to be improved by the project;

(ii) reductions in maintenance costs over the life of the applicable asset;

(iii) safety benefits, including the reduction of serious injuries and fatalities and related costs;

(iv) improved person or freight throughput, including improved mobility and reliability; and

(v) environmental benefits and health impacts, such as—

(I) reductions in greenhouse gas emissions;

(II) air quality benefits;

(III) preventing stormwater runoff that would be a detriment to aquatic species; and

(IV) improved infrastructure resilience;

(C) the benefits of the project, as compared to the costs of the project;

(D) the number of persons or volume of freight, as applicable, supported by the project; and

(E) national and regional economic benefits of the project, including with respect to short- and long-term job access, growth, or creation.

(3) ADDITIONAL CONSIDERATIONS.—In selecting projects to receive grants under the program, the Secretary shall take into consideration—

(A) contributions to geographical diversity among grant recipients, including a balance between the needs of rural and urban communities;

(B) whether multiple States would benefit from a project;

(C) whether, and the degree to which, a project uses—

(i) construction materials or approaches that have—

(I) demonstrated reductions in greenhouse gas emissions; or

(II) reduced the need for maintenance of other projects; or

(ii) technologies that will allow for future connectivity and automation;

(D) whether a project would benefit—

(i) a historically disadvantaged community or population; or

(ii) an area of persistent poverty;

(E) whether a project benefits users of multiple modes of transportation, including—

(i) pedestrians;
(ii) bicyclists; and
(iii) users of nonvehicular rail and public transportation, including intercity and commuter rail; and

(F) whether a project improves connectivity between modes of transportation moving persons or goods nationally or regionally.

(4) RATINGS.—
(A) IN GENERAL.—In evaluating applications for a grant under the program, the Secretary shall assign the project proposed in the application a rating described in subparagraph (B), based on the information contained in the applicable notice published under paragraph (5).
(B) RATINGS.—
(i) HIGHLY RECOMMENDED.—The Secretary shall assign a rating of "highly recommended" to projects that, in the determination of the Secretary—
(I) are exemplary projects of national or regional significance; and
(II) would provide significant public benefit, as determined based on the applicable criteria described in this subsection, if funded under the program.

(ii) RECOMMENDED.—The Secretary shall assign a rating of "recommended" to projects that, in the determination of the Secretary—
(I) are of national or regional significance; and
(II) would provide public benefit, as determined based on the applicable criteria described in this subsection, if funded under the program.

(iii) NOT RECOMMENDED.—The Secretary shall assign a rating of "not recommended" to projects that, in the determination of the Secretary, should not receive a grant under the program, based on the applicable criteria described in this subsection.

(C) TECHNICAL ASSISTANCE.—
(i) IN GENERAL.—On request of an eligible entity that submitted an application under subsection (c) for a project that is not selected to receive a grant under the program, the Secretary shall provide to the eligible entity technical assistance and briefings relating to the project.
(ii) TREATMENT.—Technical assistance provided under this subparagraph shall not be considered a guarantee of future selection of the applicable project under the program.

(5) PUBLICATION OF PROJECT EVALUATION AND SELECTION CRITERIA.—Not later than 90 days after the date of enactment of this chapter, the Secretary shall publish and make publicly available on the website of the Department a notice that contains a detailed explanation of—
(A) the method by which the Secretary will determine whether a project satisfies the applicable requirements described in paragraph (1);
(B) any additional ratings the Secretary may assign to determine the means by which a project addresses the selection criteria and additional considerations described in paragraphs (2) and (3); and
(C) the means by which the project requirements and ratings referred to in subparagraphs (A) and (B) will be used to assign an overall rating for the project under paragraph (4).

(6) PROJECT SELECTION PRIORITY.—In awarding grants under the program, the Secretary shall give priority to projects to which the Secretary has assigned a rating of "highly recommended" under paragraph (4)(B)(i).

(g) DATA COLLECTION AND ANALYSIS.—

(1) PLAN.—

(A) IN GENERAL.—An eligible entity seeking a grant under the program shall submit to the Secretary, together with the grant application, a plan for the collection and analysis of data to identify in accordance with the framework established under paragraph (2)—

(i) the impacts of the project; and

(ii) the accuracy of any forecast prepared during the development phase of the project and included in the grant application.

(B) CONTENTS.—A plan under subparagraph (A) shall include—

(i) an approach to measuring—

(I) the criteria described in subsection (f)(2); and

(II) if applicable, the additional requirements described in subsection (f)(3);

(ii) an approach for analyzing the consistency of predicted project characteristics with actual outcomes; and

(iii) any other elements that the Secretary determines to be necessary.

(2) FRAMEWORK.—The Secretary may publish a standardized framework for the contents of the plans under paragraph (1), which may include, as appropriate—

(A) standardized forecasting and measurement approaches;

(B) data storage system requirements; and

(C) any other requirements the Secretary determines to be necessary to carry out this section.

(3) MULTIYEAR GRANT AGREEMENTS.—The Secretary shall require an eligible entity, as a condition of receiving funding pursuant to a multiyear grant agreement under the program, to collect additional data to measure the impacts of the project and to accurately track improvements made by the project, in accordance with a plan described in paragraph (1).

(4) REPORTS.—

(A) PROJECT BASELINE.—Before the date of completion of a project for which a grant is provided under the program, the eligible entity carrying out the project shall submit to the Secretary a report providing baseline data for the purpose of analyzing the long-term impact of the project in accordance with the framework established under paragraph (2).

(B) UPDATED REPORT.—Not later than 6 years after the date of completion of a project for which a grant is provided under the program, the eligible entity carrying out the project shall submit to the Secretary a report that compares the baseline data included in the report under subparagraph (A) to project data collected during the period—

(i) beginning on the date that is 5 years after the date of completion of the project; and

(ii) ending on the date on which the updated report is submitted.

(h) ELIGIBLE PROJECT COSTS.—

(1) IN GENERAL.—An eligible entity may use a grant provided under the program for—

(A) development-phase activities and costs, including planning, feasibility analysis, revenue forecasting, alternatives analysis, data collection and analysis, environmental review and activities to support environmental review, preliminary engineering and design work, and other preconstruction activities, including the preparation of a data collection and post-construction analysis plan under subsection (g); and

(B) construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to that land), environmental mitigation (including projects to replace or rehabilitate culverts or reduce stormwater runoff for the purpose of improving habitat for aquatic species), construction contingencies, acquisition of equipment, protection, and operational improvements directly relating to the project.

(2) INTEREST AND OTHER FINANCING COSTS.—The interest and other financing costs of carrying out any part of a project under a multiyear grant agreement within a reasonable period of time shall be considered to be an eligible project cost only if the applicable eligible entity certifies to the Secretary that the eligible entity has demonstrated reasonable diligence in seeking the most favorable financing terms.

(i) COST SHARING.—

(1) IN GENERAL.—The total amount awarded for a project under the program may not exceed 60 percent of the total eligible project costs described in subsection (h).

(2) MAXIMUM FEDERAL INVOLVEMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), Federal assistance other than a grant awarded under the program may be provided for a project for which a grant is awarded under the program.

(B) LIMITATION.—The total amount of Federal assistance provided for a project for which a grant is awarded under the program shall not exceed 80 percent of the total cost of the project.

(C) NON-FEDERAL SHARE.—Secured loans or financing provided under section 603 of title 23 or section 22402 of this title and repaid with local funds or revenues shall be considered to be part of the local share of the cost of a project.

(3) APPLICATION TO MULTIYEAR AGREEMENTS.—Notwithstanding any other provision of this title, in any case in which amounts are provided under the program pursuant to a multiyear agreement, the disbursed Federal share of the cost of the project may exceed the limitations described in paragraphs (1) and (2)(B) for 1 or more years if the total amount of the Federal share of the cost of the project, once completed, does not exceed those limitations.

(j) GRANT AGREEMENTS.—

(1) IN GENERAL.—A project for which an eligible entity receives a multiyear grant under the program shall be carried out in accordance with this subsection.

(2) TERMS.—A multiyear grant agreement under this subsection shall—

(A) establish the terms of Federal participation in the applicable project;

(B) establish the maximum amount of Federal financial assistance for the project;

(C) establish a schedule of anticipated Federal obligations for the project that provides for obligation of the full grant amount;

(D) describe the period of time for completing the project, regardless of whether that period extends beyond the period of an authorization; and

(E) facilitate timely and efficient management of the applicable project by the eligible entity carrying out the project, in accordance with applicable law.

(3) SPECIAL RULES.—

(A) IN GENERAL.—A multiyear grant agreement under this subsection—

(i) shall provide for the obligation of an amount of available budget authority specified in law;

(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law; and

(iii) shall provide that any funds disbursed under the program for the project before the completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may only cover costs associated with development-phase activities described in subsection (h)(1)(A).

(B) CONTINGENT COMMITMENT.—A contingent commitment under this paragraph is not an obligation of the Federal Government, including for purposes of section 1501 of title 31.

(4) SINGLE-YEAR GRANTS.—The Secretary may only provide to an eligible entity a full grant under the program in a single year if all reviews required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the applicable project have been completed before the receipt of any program funds.

(k) CONGRESSIONAL NOTIFICATION.—

(1) IN GENERAL.—Not later than 30 days before the date on which the Secretary publishes the selection of projects to receive grants under the program, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice that includes—

(A) a list of all project applications reviewed by the Secretary as part of the selection process;

(B) the rating assigned to each project under subsection (f)(4);

(C) an evaluation and justification with respect to each project for which the Secretary will—

(i) provide a grant under the program; and

(ii) enter into a multiyear grant agreement under the program;

(D) a description of the means by which the Secretary anticipates allocating among selected projects the amounts made available to the Secretary to carry out the program; and

(E) anticipated funding levels required for the 3 fiscal years beginning after the date of submission of the notice for projects selected for grants under the program, based on information available to the Secretary as of that date.

(2) CONGRESSIONAL DISAPPROVAL.—The Secretary may not provide a grant or any other obligation or commitment to fund a project under the program if a joint resolution is enacted disapproving funding for the project before the last day of the 30-day period described in paragraph (1).

(l) REPORTS.—

(1) TRANSPARENCY.—Not later than 60 days after the date on which the grants are announced under the program, the Secretary shall publish on the website of the Department a report that includes—

(A) a list of all project applications reviewed by the Secretary as part of the selection process under the program;

(B) the rating assigned to each project under subsection (f)(4); and

(C) a description of each project for which a grant has been provided under the program.

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under the program.

(B) REPORT.—Not later than 18 months after the date on which the initial grants are awarded for projects under the program, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, as applicable—

(i) the adequacy and fairness of the process by which the projects were selected; and

(ii) the justification and criteria used for the selection of the projects.

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out the program $2,000,000,000 for each of fiscal years 2022 through 2026.

(2) OTHER PROJECTS.—Of the amounts made available under paragraph (1), 50 percent shall be set aside for projects that have a project cost of—

(A) more than $100,000,000; but

(B) less than $500,000,000.

(3) ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out the program for each fiscal year, the Secretary may reserve not more than 2 percent for the costs of—

(A) administering and overseeing the program; and

(B) hiring personnel for the program, including personnel dedicated to processing permitting and environmental review issues.

(4) TRANSFER OF AUTHORITY.—The Secretary may transfer any portion of the amounts reserved under paragraph (3) for a fiscal year to the Administrator of any of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, or the Maritime Administration to award and oversee grants in accordance with this section.

(n) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—Each project that receives a grant under this chapter shall achieve compliance with the applicable requirements of—

(A) subchapter IV of chapter 31 of title 40;

(B) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) MODAL REQUIREMENTS.—The Secretary shall, with respect to a project funded by a grant under this section, apply—

(A) the requirements of title 23 to a highway, road, or bridge project;

(B) the requirements of chapter 53 to a transit project; and

(C) the requirements of section 22905 to a rail project.

(3) MULTIMODAL PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, if an eligible project is a multimodal project, the Secretary shall—

(i) determine the predominant modal component of the project; and

(ii) apply the applicable requirements described in paragraph (2) of the predominant modal component to the project.

(B) EXCEPTIONS.—

(i) PASSENGER OR FREIGHT RAIL COMPONENT.—The requirements of section 22905 shall apply to any passenger or freight rail component of a project.

(ii) PUBLIC TRANSPORTATION COMPONENT.—The requirements of section 5333 shall apply to any public transportation component of a project.

(Added Pub. L. 117–58, div. B, title I, §21201, Nov. 15, 2021, 135 Stat. 663.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (f)(5), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

The National Environmental Policy Act of 1969, referred to in subsecs. (j)(3)(A)(iii), (4), and (n)(1)(C), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (n)(1)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§6702. Local and regional project assistance

(a) DEFINITIONS.—In this section:

(1) AREA OF PERSISTENT POVERTY.—The term "area of persistent poverty" means—

(A) any county (or equivalent jurisdiction) in which, during the 30-year period ending on the date of enactment of this chapter, 20 percent or more of the population continually lived in poverty, as measured by—

(i) the 1990 decennial census;

(ii) the 2000 decennial census; and

(iii) the most recent annual small area income and poverty estimate of the Bureau of the Census;

(B) any census tract with a poverty rate of not less than 20 percent, as measured by the 5-year data series available from the American Community Survey of the Bureau of the Census for the period of 2014 through 2018; and

(C) any territory or possession of the United States.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State;

(B) the District of Columbia;

(C) any territory or possession of the United States;

(D) a unit of local government;

(E) a public agency or publicly chartered authority established by 1 or more States;

(F) a special purpose district or public authority with a transportation function, including a port authority;

(G) a federally recognized Indian Tribe or a consortium of such Indian Tribes;

(H) a transit agency; and

(I) a multi-State or multijurisdictional group of entities described in any of subparagraphs (A) through (H).

(3) ELIGIBLE PROJECT.—The term "eligible project" means—

(A) a highway or bridge project eligible for assistance under title 23;

(B) a public transportation project eligible for assistance under chapter 53;

(C) a passenger rail or freight rail transportation project eligible for assistance under this title;

(D) a port infrastructure investment, including—

(i) inland port infrastructure; and

(ii) a land port-of-entry;

(E) the surface transportation components of an airport project eligible for assistance under part B of subtitle VII;

(F) a project for investment in a surface transportation facility located on Tribal land, the title or maintenance responsibility of which is vested in the Federal Government;

(G) a project to replace or rehabilitate a culvert or prevent stormwater runoff for the purpose of improving habitat for aquatic species that will advance the goal of the program described in subsection (b)(2); and

(H) any other surface transportation infrastructure project that the Secretary considers to be necessary to advance the goal of the program.

(4) PROGRAM.—The term "program" means the Local and Regional Project Assistance Program established under subsection (b)(1).

(5) RURAL AREA.—The term "rural area" means an area that is located outside of an urbanized area.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(7) URBANIZED AREA.—The term "urbanized area" means an area with a population of more than 200,000 residents, based on the most recent decennial census.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the "Local and Regional Project Assistance Program", to provide for capital investments in surface transportation infrastructure.

(2) GOAL.—The goal of the program shall be to fund eligible projects that will have a significant local or regional impact and improve transportation infrastructure.

(c) GRANTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary may make grants to eligible entities, on a competitive basis, in accordance with this section.

(2) AMOUNT.—Except as otherwise provided in this section, each grant made under the program shall be in an amount equal to—

(A) not less than $5,000,000 for an urbanized area;

(B) not less than $1,000,000 for a rural area; and

(C) not more than $25,000,000.

(3) LIMITATION.—Not more than 15 percent of the funds made available to carry out the program for a fiscal year may be awarded to eligible projects in a single State during that fiscal year.

(d) SELECTION OF ELIGIBLE PROJECTS.—

(1) NOTICE OF FUNDING OPPORTUNITY.—Not later than 60 days after the date on which funds are made available to carry out the program, the Secretary shall publish a notice of funding opportunity for the funds.

(2) APPLICATIONS.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application—

(A) in such form and containing such information as the Secretary considers to be appropriate; and

(B) by such date as the Secretary may establish, subject to the condition that the date shall be not later than 90 days after the date on which the Secretary issues the solicitation under paragraph (1).

(3) PRIMARY SELECTION CRITERIA.—In awarding grants under the program, the Secretary shall evaluate the extent to which a project—

(A) improves safety;

(B) improves environmental sustainability;

(C) improves the quality of life of rural areas or urbanized areas;

(D) increases economic competitiveness and opportunity, including increasing tourism opportunities;

(E) contributes to a state of good repair; and

(F) improves mobility and community connectivity.

(4) ADDITIONAL SELECTION CRITERIA.—In selecting projects to receive grants under the program, the Secretary shall take into consideration the extent to which—

(A) the project sponsors collaborated with other public and private entities;

(B) the project adopts innovative technologies or techniques, including—

(i) innovative technology;

(ii) innovative project delivery techniques; and

(iii) innovative project financing;

(C) the project has demonstrated readiness; and
(D) the project is cost effective.

(5) TRANSPARENCY.—
(A) IN GENERAL.—The Secretary, shall evaluate, through a methodology that is discernible and transparent to the public, the means by which each application submitted under paragraph (2) addresses the criteria under paragraphs (3) and (4) or otherwise established by the Secretary.
(B) PUBLICATION.—The methodology under subparagraph (A) shall be published by the Secretary as part of the notice of funding opportunity under the program.

(6) AWARDS.—Not later than 270 days after the date on which amounts are made available to provide grants under the program for a fiscal year, the Secretary shall announce the selection by the Secretary of eligible projects to receive the grants in accordance with this section.
(7) TECHNICAL ASSISTANCE.—
(A) IN GENERAL.—On request of an eligible entity that submitted an application under paragraph (2) for a project that is not selected to receive a grant under the program, the Secretary shall provide to the eligible entity technical assistance and briefings relating to the project.
(B) TREATMENT.—Technical assistance provided under this paragraph shall not be considered a guarantee of future selection of the applicable project under the program.

(e) FEDERAL SHARE.—
(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of an eligible project carried out using a grant provided under the program shall not exceed 80 percent.
(2) EXCEPTION.—The Federal share of the cost of an eligible project carried out in a rural area, a historically disadvantaged community, or an area of persistent poverty using a grant under this subsection may exceed 80 percent, at the discretion of the Secretary.
(3) TREATMENT OF OTHER FEDERAL FUNDS.—Amounts provided under any of the following programs shall be considered to be a part of the non-Federal share for purposes of this subsection:
(A) The tribal transportation program under section 202 of title 23.
(B) The Federal lands transportation program under section 203 of title 23.
(C) The TIFIA program (as defined in section 601(a) of title 23).
(D) The Railroad Rehabilitation and Improvement Financing Program under chapter 224.

(f) OTHER CONSIDERATIONS.—
(1) IN GENERAL.—Of the total amount made available to carry out the program for each fiscal year—
(A) not more than 50 percent shall be allocated for eligible projects located in rural areas; and
(B) not more than 50 percent shall be allocated for eligible projects located in urbanized areas.

(2) HISTORICALLY DISADVANTAGED COMMUNITIES AND AREAS OF PERSISTENT POVERTY.—Of the total amount made available to carry out the program for each fiscal year, not less than 1 percent shall be awarded for projects in historically disadvantaged communities or areas of persistent poverty.
(3) MULTIMODAL AND GEOGRAPHICAL CONSIDERATIONS.—In selecting projects to receive grants under the program, the Secretary shall take into consideration geographical and modal diversity.

(g) PROJECT PLANNING.—
(1) IN GENERAL.—Of the amounts made available to carry out the program for each fiscal year, not less than 5 percent shall be made available for the planning, preparation, or design of

eligible projects.

(2) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Subparagraphs (A) and (B) of subsection (c)(2) shall not apply with respect to amounts made available for planning, preparation, or design under paragraph (1).

(h) TRANSFER OF AUTHORITY.—Of the amounts made available to carry out the program for each fiscal year, the Secretary may transfer not more than 2 percent for a fiscal year to the Administrator of any of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, or the Maritime Administration to award and oversee grants and credit assistance in accordance with this section.

(i) CREDIT PROGRAM COSTS.—

(1) IN GENERAL.—Subject to paragraph (2), at the request of an eligible entity, the Secretary may use a grant provided to the eligible entity under the program to pay the subsidy or credit risk premium, and the administrative costs, of an eligible project that is eligible for Federal credit assistance under—

(A) chapter 224; or

(B) chapter 6 of title 23.

(2) LIMITATION.—Not more than 20 percent of the funds made available to carry out the program for a fiscal year may be used to carry out paragraph (1).

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000,000 for each of fiscal years 2022 through 2026, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.

(k) REPORTS.—

(1) ANNUAL REPORT.—The Secretary shall make available on the website of the Department of Transportation at the end of each fiscal year an annual report that describes each eligible project for which a grant was provided under the program during that fiscal year.

(2) COMPTROLLER GENERAL.—Not later than 1 year after the date on which the initial grants are awarded for eligible projects under the program, the Comptroller General of the United States shall—

(A) review the administration of the program, including—

(i) the solicitation process; and

(ii) the selection process, including—

(I) the adequacy and fairness of the process; and

(II) the selection criteria; and

(B) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the findings of the review under subparagraph (A), including recommendations for improving the administration of the program, if any.

(Added Pub. L. 117–58, div. B, title I, §21202(a), Nov. 15, 2021, 135 Stat. 671; amended Pub. L. 117–146, §21(a), June 16, 2022, 136 Stat. 1284.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (a)(1)(A), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2022—Subsec. (g). Pub. L. 117–146 designated existing provisions as par. (1), inserted heading, and added par. (2).

§6703. National culvert removal, replacement, and restoration grant program

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the United States Fish and Wildlife Service.

(2) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(3) PROGRAM.—The term "program" means the annual competitive grant program established under subsection (b).

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) UNDERSECRETARY.—The term "Undersecretary" means the Undersecretary of Commerce for Oceans and Atmosphere.

(b) ESTABLISHMENT.—The Secretary, in consultation with the Undersecretary, shall establish an annual competitive grant program to award grants to eligible entities for projects for the replacement, removal, and repair of culverts or weirs that—

(1) would meaningfully improve or restore fish passage for anadromous fish; and

(2) with respect to weirs, may include—

(A) infrastructure to facilitate fish passage around or over the weir; and

(B) weir improvements.

(c) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under the program is—

(1) a State;

(2) a unit of local government; or

(3) an Indian Tribe.

(d) GRANT SELECTION PROCESS.—The Secretary, in consultation with the Undersecretary and the Director, shall establish a process for determining criteria for awarding grants under the program, subject to subsection (e).

(e) PRIORITIZATION.—The Secretary, in consultation with the Undersecretary and the Director, shall establish procedures to prioritize awarding grants under the program to—

(1) projects that would improve fish passage for—

(A) anadromous fish stocks listed as an endangered species or a threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533);

(B) anadromous fish stocks identified by the Undersecretary or the Director that could reasonably become listed as an endangered species or a threatened species under that section;

(C) anadromous fish stocks identified by the Undersecretary or the Director as prey for endangered species, threatened species, or protected species, including Southern resident orcas (Orcinus orcas); or

(D) anadromous fish stocks identified by the Undersecretary or the Director as climate resilient stocks; and

(2) projects that would open up more than 200 meters of upstream habitat before the end of the natural habitat.

(f) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant to a State or a unit of local government under the program shall be not more than 80 percent.

(g) TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Undersecretary and the Director, shall develop a process to provide technical assistance to Indian Tribes and underserved communities to assist in the project design and grant process and procedures.

(h) ADMINISTRATIVE EXPENSES.—Of the amounts made available for each fiscal year to carry out the program, the Secretary, the Undersecretary, and the Director may use not more than 2 percent to pay the administrative expenses necessary to carry out this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $800,000,000 for each of fiscal years 2022 through 2026.

(Added Pub. L. 117–58, div. B, title I, §21203(a), Nov. 15, 2021, 135 Stat. 676.)

SUBTITLE IV—INTERSTATE TRANSPORTATION

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PRIOR PROVISIONS

A prior subtitle IV, consisting of chapters 101 to 119, related to interstate commerce, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102, §2(5), Nov. 20, 1997, 111 Stat. 2204, struck out "AND TARIFFS" after "RATES" in item for chapter 155.

PART A—RAIL

CHAPTER 101—GENERAL PROVISIONS

Sec.
10101. Rail transportation policy.
10102. Definitions.

§10101. Rail transportation policy

In regulating the railroad industry, it is the policy of the United States Government—

(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Board;

(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

(7) to reduce regulatory barriers to entry into and exit from the industry;

(8) to operate transportation facilities and equipment without detriment to the public health and safety;

(9) to encourage honest and efficient management of railroads;

(10) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

(11) to encourage fair wages and safe and suitable working conditions in the railroad industry;

(12) to prohibit predatory pricing and practices, to avoid undue concentrations of market power, and to prohibit unlawful discrimination;

(13) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information;

(14) to encourage and promote energy conservation; and

(15) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 805.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 10101 and 10101a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10101, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1337; Pub. L. 96–296, §4, July 1, 1980, 94 Stat. 793; Pub. L. 96–448, title I, §101(b), Oct. 14, 1980, 94 Stat. 1898; Pub. L. 97–261, §5, Sept. 20, 1982, 96 Stat. 1103; Pub. L. 103–311, title II, §204, Aug. 26, 1994, 108 Stat. 1683, related to transportation policy. See sections 13101 and 15101 of this title.

Section 10101a, added Pub. L. 96–448, title I, §101(a), Oct. 14, 1980, 94 Stat. 1897, related to rail transportation policy.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–432, div. A, title VI, §601, Oct. 16, 2008, 122 Stat. 4900, provided that: "This title [enacting sections 10908 to 10910 of this title and amending section 10501 of this title] may be cited as the 'Clean Railroads Act of 2008'."

Pub. L. 110–291, §1, July 30, 2008, 122 Stat. 2915, provided that: "This Act [amending sections 13102, 13902, and 13905 of this title and enacting provisions set out as notes under section 13902 of this title] may be cited as the 'Over-the-Road Bus Transportation Accessibility Act of 2007'."

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–59, title IV, §4201, Aug. 10, 2005, 119 Stat. 1751, provided that: "This subtitle [subtitle B (§§4201–4216) of title IV of Pub. L. 109–59, enacting sections 14710, 14711, and 14915 of this title, amending sections 13102, 13707, 13902, 14104, 14501, 14706, 14708, and 14901 of this title, and enacting provisions set out as notes under sections 13102, 14701, 14706, and 14710 of this title] may be cited as the 'Household Goods Mover Oversight Enforcement and Reform Act of 2005'[.]"

Pub. L. 109–59, title IV, §4301, Aug. 10, 2005, 119 Stat. 1761, provided that: "This subtitle [subtitle C (§§4301–4308) of title IV of Pub. L. 109–59, enacting sections 14504a and 14506 of this title, amending sections 13902, 13905, 13906, 13908, 31102, and 31103 of this title, repealing section 14504 of this title, and enacting provisions set out as notes under sections 13902 and 14504 of this title] may be cited as the 'Unified Carrier Registration Act of 2005'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–298, §1, Nov. 26, 2002, 116 Stat. 2342, provided that: "This Act [amending sections 13102, 13506, 14501, and 31138 of this title] may be cited as the 'Real Interstate Driver Equity Act of 2002'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–521, §1, Oct. 22, 1986, 100 Stat. 2993, provided that: "This Act [see Tables for classification] may be cited as the 'Surface Freight Forwarder Deregulation Act of 1986'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–261, §1, Sept. 20, 1982, 96 Stat. 1102, provided: "That this Act [see Tables for classification] may be cited as the 'Bus Regulatory Reform Act of 1982'."

SHORT TITLE OF 1980 AMENDMENTS

Pub. L. 96–454, §1, Oct. 15, 1980, 94 Stat. 2011, provided: "That this Act [see Tables for classification] may be cited as the 'Household Goods Transportation Act of 1980'."

Pub. L. 96–448, §1, Oct. 14, 1980, 94 Stat. 1895, provided that: "This Act [see Tables for classification] may be cited as the 'Staggers Rail Act of 1980'."

Pub. L. 96–296, §1, July 1, 1980, 94 Stat. 793, provided: "That this Act [see Tables for classification] may be cited as the 'Motor Carrier Act of 1980'."

§10102. Definitions

In this part—

(1) "Board" means the Surface Transportation Board;

(2) "car service" includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier;

(3) "control", when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

(4) "person", in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

(5) "rail carrier" means a person providing common carrier railroad transportation for

compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation;

(6) "railroad" includes—

(A) a bridge, car float, lighter, ferry, and intermodal equipment used by or in connection with a railroad;

(B) the road used by a rail carrier and owned by it or operated under an agreement; and

(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation;

(7) "rate" means a rate or charge for transportation;

(8) "State" means a State of the United States and the District of Columbia;

(9) "transportation" includes—

(A) a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property; and

(10) "United States" means the States of the United States and the District of Columbia.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 806.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 10102 and 10103 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10102, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1338; Pub. L. 96–296, §10(a)(1), July 1, 1980, 94 Stat. 799; Pub. L. 96–454, §3(a), Oct. 15, 1980, 94 Stat. 2011; Pub. L. 97–261, §6(d)(1), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99–521, §4, Oct. 22, 1986, 100 Stat. 2993; Pub. L. 103–272, §5(m)(13), July 5, 1994, 108 Stat. 1377; Pub. L. 103–311, title II, §§205(b), 206(f), Aug. 26, 1994, 108 Stat. 1683, 1686, defined terms used in this subtitle. See sections 10102, 13102, and 15102 of this title.

Section 10103, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1340; Pub. L. 96–448, title II, §214(c)(2), Oct. 14, 1980, 94 Stat. 1915, provided that the remedies under this subtitle were cumulative. See sections 10501, 13103, and 15103 of this title.

A prior chapter 103, consisting of sections 10301 to 10311, 10321, 10322, 10324, 10326 to 10330, 10341 to 10344, 10361 to 10364, and 10381 to 10388, was omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a). See chapter 7 of this title.

Section 10301, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1341; Pub. L. 97–253, title V, §502(b), (e), (h)(1), Sept. 8, 1982, 96 Stat. 806, related to organization, membership, administration, seal, and expenses of Interstate Commerce Commission.

Section 10302, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to divisions of Commission.

Section 10303, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to Secretary and public records of Commission.

Section 10304, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to employee boards of Commission.

Section 10305, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to delegation of authority by Commission.

Section 10306, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343, related to conduct of Commission proceedings.

Section 10307, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343, related to offices and sessions of Commission.

Section 10308, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343, related to admission to practice before Commission.

Section 10309, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1344; Pub. L. 103–437, §18, Nov. 2, 1994, 108 Stat. 4596, related to access to Commission records by congressional committees.

Section 10310, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1344, related to reports of official Commission

actions.

Section 10311, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1345, required Commission to submit annual report to Congress.

Section 10321, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1345; Pub. L. 97–261, §24, Sept. 20, 1982, 96 Stat. 1124; Pub. L. 103–272, §4(j)(12), July 5, 1994, 108 Stat. 1368, related to powers of Commission.

Section 10322, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1346; Pub. L. 96–296, §25(a), July 1, 1980, 94 Stat. 816; Pub. L. 96–454, §5(b), Oct. 15, 1980, 94 Stat. 2014; Pub. L. 97–261, §§6(e), 16(c), 17(b), 28(a), Sept. 20, 1982, 96 Stat. 1107, 1117, 1119, 1128; Pub. L. 98–554, title II, §226(c)(1), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 103–272, §5(m)(14), July 5, 1994, 108 Stat. 1377, related to Commission action and appellate procedure in non-rail proceedings.

A prior section 10323, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1346, related to rehearing, reargument, and reconsideration in nonrail proceedings, prior to repeal by Pub. L. 96–296, §25(b), July 1, 1980, 94 Stat. 818.

Section 10324, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1347; Pub. L. 96–258, §1(1), June 3, 1980, 94 Stat. 425; Pub. L. 96–296, §25(c), July 1, 1980, 94 Stat. 818, related to taking effect, duration, and modification of Commission actions.

A prior section 10325, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1347, provided for judicial review in nonrail proceedings, prior to repeal by Pub. L. 96–296, §25(d), July 1, 1980, 94 Stat. 818.

Section 10326, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1348, related to limitations in rulemaking proceedings related to rail carriers.

Section 10327, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1348; Pub. L. 96–258, §1(2), June 3, 1980, 94 Stat. 425; Pub. L. 96–296, §25(e), July 1, 1980, 94 Stat. 818; Pub. L. 97–375, title I, §113, Dec. 21, 1982, 96 Stat. 1821; Pub. L. 104–66, title II, §2101, Dec. 21, 1995, 109 Stat. 730, related to Commission action and appellate procedure in rail carrier proceedings.

Section 10328, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1350; Pub. L. 97–261, §28(b), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 99–521, §5(a), Oct. 22, 1986, 100 Stat. 2994, related to intervention in Commission proceedings.

Section 10329, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1351; Pub. L. 99–521, §5(b), Oct. 22, 1986, 100 Stat. 2994, related to service of notice in Commission proceedings.

Section 10330, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1352, related to service of process in court proceedings.

Section 10341, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1352, authorized Commission to refer matters to joint boards.

Section 10342, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1353, related to establishment and membership of joint boards.

Section 10343, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1353, related to powers of joint boards.

Section 10344, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1354; Pub. L. 96–296, §36, July 1, 1980, 94 Stat. 826, related to administration and proceedings of joint boards.

Section 10361, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1355, related to Rail Services Planning Office.

Section 10362, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1355; Pub. L. 98–216, §2(5)–(7), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–509, title IV, §4033(c)(7), Oct. 21, 1986, 100 Stat. 1909; Pub. L. 103–272, §4(j)(13), July 5, 1994, 108 Stat. 1368, related to duties of Rail Services Planning Office.

Section 10363, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1356; Pub. L. 103–272, §4(j)(14), July 5, 1994, 108 Stat. 1369, related to appointment and duties of Director of Rail Services Planning Office.

Section 10364, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1356; Pub. L. 103–272, §5(m)(15), July 5, 1994, 108 Stat. 1377, related to powers of and assistance to Director.

Section 10381, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357, related to Office of Rail Public Counsel.

Section 10382, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357; Pub. L. 96–258, §1(3), June 3, 1980, 94 Stat. 425, related to duties and standing of Office of Rail Public Counsel.

Section 10383, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357; Pub. L. 103–272, §4(j)(14), July 5, 1994, 108 Stat. 1369, related to duties and appointment of Director of Office of Rail Public Counsel.

Section 10384, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358, related to staff of Office of Rail Public Counsel.

Section 10385, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358; Pub. L. 103–272, §5(m)(15), July 5, 1994, 108 Stat. 1377, related to powers of Office of Rail Public Counsel.

Section 10386, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358, related to reports concerning activities of Office of Rail Public Counsel.

Section 10387, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358, related to budget requests and estimates of Office of Rail Public Counsel.

Section 10388, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358; Pub. L. 96–73, title III, §301, Sept. 29, 1979, 93 Stat. 557, authorized appropriations for Office of Rail Public Counsel for fiscal year ending Sept. 30, 1980.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 105—JURISDICTION

Sec.
10501. General jurisdiction.
10502. Authority to exempt rail carrier transportation.

§10501. General jurisdiction

(a)(1) Subject to this chapter, the Board has jurisdiction over transportation by rail carrier that is—

(A) only by railroad; or

(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment.

(2) Jurisdiction under paragraph (1) applies only to transportation in the United States between a place in—

(A) a State and a place in the same or another State as part of the interstate rail network;

(B) a State and a place in a territory or possession of the United States;

(C) a territory or possession of the United States and a place in another such territory or possession;

(D) a territory or possession of the United States and another place in the same territory or possession;

(E) the United States and another place in the United States through a foreign country; or

(F) the United States and a place in a foreign country.

(b) The jurisdiction of the Board over—

(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and

(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

(c)(1) In this subsection—

(A) the term "local governmental authority"—

(i) has the same meaning given that term by section 5302 of this title; and

(ii) includes a person or entity that contracts with the local governmental authority to provide transportation services; and

(B) the term "public transportation" means transportation services described in section 5302 of this title that are provided by rail.

(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over—

(A) public transportation provided by a local government authority; or

(B) a solid waste rail transfer facility as defined in section 10908 of this title, except as provided under sections 10908 and 10909 of this title.

(3)(A) Notwithstanding paragraph (2) of this subsection, a local governmental authority, described in paragraph (2), is subject to applicable laws of the United States related to—

(i) safety;

(ii) the representation of employees for collective bargaining; and

(iii) employment, retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.

(B) The Board has jurisdiction under sections 11102 and 11103 of this title over transportation provided by a local governmental authority only if the Board finds that such governmental authority meets all of the standards and requirements for being a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission that were in effect immediately before January 1, 1996. The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 807; amended Pub. L. 104–287, §5(21), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 110–432, div. A, title VI, §602, Oct. 16, 2008, 122 Stat. 4900; Pub. L. 114–94, div. A, title III, §3030(g), Dec. 4, 2015, 129 Stat. 1497.)

EDITORIAL NOTES

REFERENCES IN TEXT

The ICC Termination Act of 1995, referred to in subsec. (c)(3)(B), is Pub. L. 104–88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

The Railway Labor Act, referred to in subsec. (c)(3)(B), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (c)(3)(B), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Retirement Tax Act, referred to in subsec. (c)(3)(B), is act Aug. 16, 1954, ch. 736, §§3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, which is classified generally to chapter 22 (§3201 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3233 of Title 26 and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (c)(3)(B), is act June 25, 1938, ch. 680, 52 Stat. 1094, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10501 and 10504 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10501, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1359; Pub. L. 96–448, title II, §214(c)(3)–(5), Oct. 14, 1980, 94 Stat. 1915; Pub. L. 103–272, §4(j)(15), July 5, 1994, 108 Stat. 1369, related to jurisdiction of the Interstate Commerce Commission, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10501 and 15301 of this title.

AMENDMENTS

2015—Subsec. (c)(1)(A)(i). Pub. L. 114–94, §3030(g)(1)(A), substituted "section 5302" for "section

5302(a)".

Subsec. (c)(1)(B). Pub. L. 114–94, §3030(g)(1)(B), substituted "public transportation" for "mass transportation" and "section 5302" for "section 5302(a)".

Subsec. (c)(2)(A). Pub. L. 114–94, §3030(g)(2), substituted "public transportation" for " mass transportation".

2008—Subsec. (c)(2). Pub. L. 110–432 amended par. (2) generally. Prior to amendment, text read as follows: "Except as provided in paragraph (3), the Board does not have jurisdiction under this part over mass transportation provided by a local governmental authority."

1996—Subsec. (c)(3)(B). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of the ICC Termination Act of 1995".

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10502. Authority to exempt rail carrier transportation

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the Board, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Board finds that the application in whole or in part of a provision of this part—

(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

(2) either—

(A) the transaction or service is of limited scope; or

(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

(b) The Board may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Board shall, within 90 days after receipt of any such application, determine whether to begin an appropriate proceeding. If the Board decides not to begin a class exemption proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of an application under this subsection shall be completed within 9 months after it is begun.

(c) The Board may specify the period of time during which an exemption granted under this section is effective.

(d) The Board may revoke an exemption, to the extent it specifies, when it finds that application in whole or in part of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title. The Board shall, within 90 days after receipt of a request for revocation under this subsection, determine whether to begin an appropriate proceeding. If the Board decides not to begin a proceeding to revoke a class exemption, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of a request under this subsection shall be completed within 9 months after it is begun.

(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11706 of this title. Nothing in this subsection or section 11706 of this title shall

prevent rail carriers from offering alternative terms nor give the Board the authority to require any specific level of rates or services based upon the provisions of section 11706 of this title.

(f) The Board may exercise its authority under this section to exempt transportation that is provided by a rail carrier as part of a continuous intermodal movement.

(g) The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 808.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10505 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10502 to 10505, 10521 to 10531, 10541 to 10544, and 10561, were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10502, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360, related to Interstate Commerce Commission jurisdiction over express carrier transportation.

Section 10503, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360, related to railroad and water transportation connections and rates. See section 10703 of this title.

Section 10504, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360; Pub. L. 97–449, §4(b)(4), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 103–272, §4(j)(16), July 5, 1994, 108 Stat. 1369, related to jurisdiction of Commission over mass transportation provided by local governments. See section 10501 of this title.

Section 10505, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1361; Pub. L. 96–448, title II, §213, Oct. 14, 1980, 94 Stat. 1912; Pub. L. 103–311, title II, §205(a), (c)(1), Aug. 26, 1994, 108 Stat. 1683, 1684, related to authority of Commission to exempt rail carrier and motor carrier transportation. See sections 10502 and 13541 of this title.

Section 10521, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1361; Pub. L. 96–296, §31(b), July 1, 1980, 94 Stat. 824; Pub. L. 97–261, §6(f), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99–521, §6(a), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103–305, title VI, §601(b)(2)(C), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–311, title II, §211(b)(1), Aug. 26, 1994, 108 Stat. 1689, related to jurisdiction of Commission over motor carrier transportation. See section 13501 of this title.

Section 10522, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1362, related to exempt transportation between Alaska and other States. See section 13502 of this title.

Section 10523, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1362; Pub. L. 99–521, §6(b), Oct. 22, 1986, 100 Stat. 2994, related to exempt motor vehicle transportation in terminal areas. See section 13503 of this title.

Section 10524, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1363; Pub. L. 96–296, §9, July 1, 1980, 94 Stat. 798, related to Commission jurisdiction over transportation furthering a primary business. See section 13505 of this title.

Section 10525, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1363; Pub. L. 96–258, §1(4), June 3, 1980, 94 Stat. 425; Pub. L. 97–261, §30, Sept. 20, 1982, 96 Stat. 1128, related to exempt motor carrier transportation entirely in one State. See section 13504 of this title.

Section 10526, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1364; Pub. L. 96–258, §1(5), June 3, 1980, 94 Stat. 425; Pub. L. 96–296, §§7, 21(a), 24(a), July 1, 1980, 94 Stat. 797, 812, 814; Pub. L. 96–454, §11(a), Oct. 15, 1980, 94 Stat. 2023; Pub. L. 97–261, §14(d), Sept. 20, 1982, 96 Stat. 1114; Pub. L. 97–377, §152, Dec. 21, 1982, 96 Stat. 1918; Pub. L. 97–449, §5(g)(1), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 98–216, §2(8), Feb. 14, 1984, 98 Stat. 5; Pub. L. 98–554, title II, §227(c), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 103–272, §4(j)(17), July 5, 1994, 108 Stat. 1369, related to miscellaneous motor carrier transportation exemptions. See section 13506 of this title.

Section 10527, added Pub. L. 96–296, §16(a), July 1, 1980, 94 Stat. 810; amended Pub. L. 103–272, §5(m)(16), July 5, 1994, 108 Stat. 1377, related to written contracts pertaining to certain interstate movements by motor vehicle.

Section 10528, added Pub. L. 96–296, §21(b)(1), July 1, 1980, 94 Stat. 812; amended Pub. L. 96–454, §11(b), Oct. 15, 1980, 94 Stat. 2023; Pub. L. 103–272, §5(m)(17), July 5, 1994, 108 Stat. 1377, related to mixed loads of regulated and unregulated property. See section 13507 of this title.

Section 10529, added Pub. L. 96–296, §24(b)(1), July 1, 1980, 94 Stat. 814; amended Pub. L. 103–272, §5(m)(18), July 5, 1994, 108 Stat. 1377, related to authority of Commission over cooperative associations. See section 13508 of this title.

Section 10530, added Pub. L. 98–554, title II, §226(a)(1), Oct. 30, 1984, 98 Stat. 2848; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–690, title IX, §9111(a)–(f), Nov. 18, 1988, 102 Stat. 4531–4533; Pub. L. 103–272, §4(j)(18), (o), July 5, 1994, 108 Stat. 1369, 1371, related to certificates of registration for certain foreign carriers. See section 13902 of this title.

Section 10531, added Pub. L. 103–272, §3(1), July 5, 1994, 108 Stat. 1360, related to mass transportation exemption from Commission jurisdiction.

Section 10541, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1365, related to jurisdiction of Commission over transportation by water carriers. See section 13521 of this title.

Section 10542, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1366; Pub. L. 98–89, §3(b), Aug. 26, 1983, 97 Stat. 599; Pub. L. 98–216, §2(9), (10), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(19), July 5, 1994, 108 Stat. 1377, related to exemption of transportation by water carriers of commodities in bulk from Commission jurisdiction.

Section 10543, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1367, related to exemption of certain incidental water transportation from jurisdiction of Commission.

Section 10544, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1368; Pub. L. 96–258, §1(6), June 3, 1980, 94 Stat. 425; Pub. L. 97–449, §5(g)(2), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–216, §2(11), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(19), July 5, 1994, 108 Stat. 1377, related to exemption of certain miscellaneous water carrier transportation from Commission jurisdiction.

Section 10561, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1369; Pub. L. 99–521, §6(c), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103–272, §5(m)(20), July 5, 1994, 108 Stat. 1377, related to jurisdiction of Commission over services of household goods freight forwarders. See section 13531 of this title.

A prior section 10562, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1369; Pub. L. 97–449, §5(g)(3), Jan. 12, 1983, 96 Stat. 2443, related to exempt freight forwarder service, prior to repeal by Pub. L. 99–521, §§6(d)(1), 15, Oct. 22, 1986, 100 Stat. 2994, 2999, effective 60 days after Oct. 22, 1986.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 107—RATES

SUBCHAPTER I—GENERAL AUTHORITY

Sec.
10701. Standards for rates, classifications, through routes, rules, and practices.
10702. Authority for rail carriers to establish rates, classifications, rules, and practices.
10703. Authority for rail carriers to establish through routes.
10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Board.
10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Board.
10706. Rate agreements: exemption from antitrust laws.
10707. Determination of market dominance in rail rate proceedings.
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10709. Contracts.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

10721. Government traffic.
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SUBCHAPTER III—LIMITATIONS

10741. Prohibitions against discrimination by rail carriers.
10742. Facilities for interchange of traffic.
10743. Liability for payment of rates.
10744. Continuous carriage of freight.
10745. Transportation services or facilities furnished by shipper.

10746. Demurrage charges.
10747. Designation of certain routes by shippers.

SUBCHAPTER I—GENERAL AUTHORITY

§10701. Standards for rates, classifications, through routes, rules, and practices

(a) A through route established by a rail carrier must be reasonable. Divisions of joint rates by rail carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may not discriminate in its rates against a connecting line of another rail carrier providing transportation subject to the jurisdiction of the Board under this part or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

(c) Except as provided in subsection (d) of this section and unless a rate is prohibited by a provision of this part, a rail carrier providing transportation subject to the jurisdiction of the Board under this part may establish any rate for transportation or other service provided by the rail carrier.

(d)(1) If the Board determines, under section 10707 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

(2) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Board shall give due consideration to—

(A) the amount of traffic which is transported at revenues which do not contribute to going concern value and the efforts made to minimize such traffic;

(B) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

(C) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues,

recognizing the policy of this part that rail carriers shall earn adequate revenues, as established by the Board under section 10704(a)(2) of this title.

(3) The Board shall maintain 1 or more simplified and expedited methods for determining the reasonableness of challenged rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 809; amended Pub. L. 104–287, §5(22), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 114–110, §11(a), Dec. 18, 2015, 129 Stat. 2233.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 10701 and 10701a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10701, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1371; Pub. L. 96–296, §13(a), July 1, 1980, 94 Stat. 803; Pub. L. 96–448, title II, §201(b)(1), (2), Oct. 14, 1980, 94 Stat. 1899, 1900; Pub. L. 97–261, §9(a), Sept. 20, 1982, 96 Stat. 1109; Pub. L. 103–180, §2(a), (b), (g), Dec. 3, 1993, 107 Stat. 2044, 2047, 2049, related to standards for rates, classifications, through routes, rules, and practices. See sections 10701, 13701, 13709, and 15501 of this title.

Section 10701a, added Pub. L. 96–448, title II, §201(a), Oct. 14, 1980, 94 Stat. 1898; amended Pub. L. 103–272, §4(j)(19), July 5, 1994, 108 Stat. 1369, related to standards for rates for rail carriers. See section 10701 of this title.

AMENDMENTS

2015—Subsec. (d)(3). Pub. L. 114–110 amended par. (3) generally. Prior to amendment, text read as follows: "The Board shall, within one year after January 1, 1996, complete the pending Interstate Commerce

Commission non-coal rate guidelines proceeding to establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case."

1996—Subsec. (d)(3). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of this paragraph".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10702. Authority for rail carriers to establish rates, classifications, rules, and practices

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall establish reasonable—

(1) rates, to the extent required by section 10707, divisions of joint rates, and classifications for transportation and service it may provide under this part; and

(2) rules and practices on matters related to that transportation or service.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10702, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1372; Pub. L. 103–180, §6(a), Dec. 3, 1993, 107 Stat. 2050; Pub. L. 103–311, title II, §206(a), Aug. 26, 1994, 108 Stat. 1684, related to authority for carriers to establish rates, classifications, rules, and practices, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10702 and 15502 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10703. Authority for rail carriers to establish through routes

Rail carriers providing transportation subject to the jurisdiction of the Board under this part shall establish through routes (including physical connections) with each other and with water carriers providing transportation subject to chapter 137, shall establish rates and classifications applicable to those routes, and shall establish rules for their operation and provide—

(1) reasonable facilities for operating the through route; and

(2) reasonable compensation to persons entitled to compensation for services related to the through route.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10703, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1372; Pub. L. 96–296, §22(a), (h), July 1, 1980, 94 Stat. 812, 814; Pub. L. 97–449, §5(g)(5), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–216, §2(11), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–521, §7(a), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103–272, §5(m)(21), July 5, 1994, 108 Stat. 1377, related to authority for carriers to establish through routes, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10703 and 13705 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

(a)(1) When the Board, after a full hearing, decides that a rate charged or collected by a rail carrier for transportation subject to the jurisdiction of the Board under this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the maximum rate, classification, rule, or practice to be followed. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

(2) The Board shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, for the infrastructure and investment needed to meet the present and future demand for rail services and to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Board shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

(3) On the basis of the standards and procedures described in paragraph (2), the Board shall annually determine which rail carriers are earning adequate revenues.

(b) The Board may begin a proceeding under this section only on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Board.

(c) In a proceeding to challenge the reasonableness of a rate, the Board shall make its determination as to the reasonableness of the challenged rate—

(1) within 9 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation; or

(2) within 6 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to section 10701(d)(3).

(d)(1) The Board shall maintain procedures to ensure the expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding

delay in the discovery and evidentiary phases of such proceedings and exemption or revocation proceedings, including appropriate sanctions for such delay, and for ensuring prompt disposition of motions and interlocutory administrative appeals.

(2)(A) Except as provided under subparagraph (B), in a stand-alone cost rate challenge, the Board shall comply with the following timeline:

(i) Discovery shall be completed not later than 150 days after the date on which the challenge is initiated.

(ii) The development of the evidentiary record shall be completed not later than 155 days after the date on which discovery is completed under clause (i).

(iii) The closing brief shall be submitted not later than 60 days after the date on which the development of the evidentiary record is completed under clause (ii).

(iv) A final Board decision shall be issued not later than 180 days after the date on which the evidentiary record is completed under clause (ii).

(B) The Board may extend a timeline under subparagraph (A) after a request from any party or in the interest of due process.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810; amended Pub. L. 104–287, §5(23), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 114–110, §§11(b), 16, Dec. 18, 2015, 129 Stat. 2233, 2238.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10704, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1373; Pub. L. 96–296, §13(b), July 1, 1980, 94 Stat. 803; Pub. L. 96–448, title II, §205(b), Oct. 14, 1980, 94 Stat. 1906; Pub. L. 97–261, §9(b), Sept. 20, 1982, 96 Stat. 1109; Pub. L. 99–521, §7(b), Oct. 22, 1986, 100 Stat. 2994, related to authority and criteria for rates, classifications, rules, and practices prescribed by Interstate Commerce Commission, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10704, 13701, and 15503 of this title.

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114–110, §16, inserted "for the infrastructure and investment needed to meet the present and future demand for rail services and" after "management," in introductory provisions.

Subsec. (d). Pub. L. 114–110, §11(b), designated existing provisions as par. (1), substituted "The Board shall maintain procedures to ensure the expeditious handling of challenges to the reasonableness of railroad rates." for "Within 9 months after January 1, 1996, the Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates.", and added par. (2).

1996—Subsec. (d). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of the ICC Termination Act of 1995".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Board

(a)(1) The Board may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates, the division of joint rates, and the conditions under which those routes must be operated, for a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(2) The Board may require a rail carrier to include in a through route substantially less than the

entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

(A) required under section 10741, 10742, or 11102 of this title;

(B) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

(C) the Board decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation.

The Board shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

(b) The Board shall prescribe the division of joint rates to be received by a rail carrier providing transportation subject to its jurisdiction under this part when it decides that a division of joint rates established by the participating carriers under section 10703 of this title, or under a decision of the Board under subsection (a) of this section, does or will violate section 10701 of this title.

(c) If a division of a joint rate prescribed under a decision of the Board is later found to violate section 10701 of this title, the Board may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Board decides is justified. The Board may make a decision under this subsection effective as part of its original decision.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 811.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 10705 and 10705a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10705, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1375; Pub. L. 96–296, §22(b)–(g), July 1, 1980, 94 Stat. 813; Pub. L. 96–448, title II, §218, Oct. 14, 1980, 94 Stat. 1925; Pub. L. 97–449, §5(g)(4), Jan. 12, 1983, 96 Stat. 2443, related to authority for through routes, joint classifications, rates, and divisions prescribed by Interstate Commerce Commission. See sections 10705 and 13701 of this title.

Section 10705a, added Pub. L. 96–448, title II, §217(a)(1), Oct. 14, 1980, 94 Stat. 1916; amended Pub. L. 103–272, §4(j)(20), July 5, 1994, 108 Stat. 1369, related to joint rate surcharges and cancellations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10706. Rate agreements: exemption from antitrust laws

(a)(1) In this subsection—

(A) the term "affiliate" means a person controlling, controlled by, or under common control or ownership with another person and "ownership" refers to equity holdings in a business entity of at least 5 percent;

(B) the term "single-line rate" refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier; and

(C) the term "practicably participates in the movement" shall have such meaning as the Board shall by regulation prescribe.

(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Board under this part

that is a party to an agreement of at least 2 rail carriers that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, publication, or establishment of them, shall apply to the Board for approval of that agreement under this subsection. The Board shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Board approves the agreement, it may be made and carried out under its terms and under the conditions required by the Board, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Board may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

(B) The Board may approve an agreement under subparagraph (A) of this paragraph only when the rail carriers applying for approval file a verified statement with the Board. Each statement must specify for each rail carrier that is a party to the agreement—

(i) the name of the carrier;

(ii) the mailing address and telephone number of its headquarter's office; and

(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, except that for purposes of general rate increases and broad changes in rates, classifications, rules, and practices only, if the Board finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in the movement; or

(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. If the Board finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.

(B)(i) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more rail carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such rail carrier and one or more other rail carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

(II) concerned an interline movement of the rail carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of subclause (I) or (II) are satisfied before allowing the introduction of any such evidence.

(C) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Board and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.

(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Board approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Board may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Board may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.

(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Board under this part, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Board for approval of that agreement under this paragraph. The Board shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Board approves the agreement, it may be made and carried out under its terms and under the terms required by the Board, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Board shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

(B) If the Board approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Board. The Board shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Board.

(C) Nothing in this paragraph shall be construed to change the law in effect prior to October 1, 1980, with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.

(b) The Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Board may inspect a record maintained under this section.

(c) The Board may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest and subsection (a). The Board shall postpone the effective date of a change of an agreement under

this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

(d) The Board may begin a proceeding under this section on its own initiative or on application. Action of the Board under this section—

(1) approving an agreement;
(2) denying, ending, or changing approval;
(3) prescribing the conditions on which approval is granted; or
(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a) of this section.

(e)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Board on—

(A) possible anticompetitive features of—
(i) agreements approved or submitted for approval under subsection (a) of this section; and
(ii) an organization operating under those agreements; and

(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this part and of the transportation policy of section 10101 of this title.

(2) Reports received by the Board under this subsection shall be published and made available to the public under section 552(a) of title 5.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 812; amended Pub. L. 104–287, §5(24), Oct. 11, 1996, 110 Stat. 3390.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Sherman Act, referred to in subsec. (a)(2)(A), (4), is act July 2, 1890, ch. 647, 26 Stat. 209, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in subsec. (a)(2)(A), (4), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15 and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (a)(2)(A), (4), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Wilson Tariff Act, referred to in subsec. (a)(2)(A), (4), are sections 73 and 74 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, which enacted sections 8 and 9, respectively, of Title 15.

Act of June 19, 1936, referred to in subsec. (a)(2)(A), (4), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Anti-discrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15 and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 10706, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1377; Pub. L. 96–258, §1(7), June 3, 1980, 94 Stat. 426; Pub. L. 96–296, §14(a), (c), (d), July 1, 1980, 94 Stat. 803, 808; Pub. L. 96–448, title II, §219(a)–(e), 224(b), Oct. 14, 1980, 94 Stat. 1926–1929; Pub. L. 97–261, §10(a)–(d), Sept. 20, 1982, 96 Stat. 1109, 1110; Pub. L. 98–216, §2(12), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–521, §7(c), Oct. 22, 1986, 100 Stat. 2995, related to exemption from antitrust laws of rate agreements, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10706 and 13703 of this title.

AMENDMENTS

1996—Subsec. (a)(5)(C). Pub. L. 104–287 substituted "October 1, 1980," for "the effective date of the Staggers Rail Act of 1980".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10707. Determination of market dominance in rail rate proceedings

(a) In this section, "market dominance" means an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.

(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Board under this part is challenged as being unreasonably high, the Board shall determine whether the rail carrier proposing the rate has market dominance over the transportation to which the rate applies. The Board may make that determination on its own initiative or on complaint. A finding by the Board that the rail carrier does not have market dominance is determinative in a proceeding under this part related to that rate or transportation unless changed or set aside by the Board or set aside by a court of competent jurisdiction.

(c) When the Board finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum.

(d)(1)(A) In making a determination under this section, the Board shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

(B) For purposes of this section, variable costs for a rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Uniform Rail Costing System cost finding methodology (or an alternative methodology adopted by the Board in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates, with adjustments specified by the Board. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with this paragraph, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Board shall prescribe.

(2) A finding by the Board that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

(A) such rail carrier has or does not have market dominance over such transportation; or

(B) the proposed rate exceeds or does not exceed a reasonable maximum.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 815.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10709 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10707 and 10707a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10707, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1380; Pub. L. 96–448, title II, §207, Oct. 14, 1980, 94 Stat. 1907; Pub. L. 103–272, §4(j)(21), July 5, 1994, 108 Stat. 1369, related to investigation and suspension

of new rail carrier rates, classifications, rules, and practices.

Section 10707a, added Pub. L. 96–448, title II, §203(a), Oct. 14, 1980, 94 Stat. 1901; amended Pub. L. 103–272, §4(j)(22), July 5, 1994, 108 Stat. 1369, related to zone of rail carrier flexibility.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10708. Rail cost adjustment factor

(a) The Board shall, as often as practicable, but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Board, with appropriate adjustments to reflect the change in composition of railroad costs, including the quality and mix of material and labor) and the denominator of which is the same index for the fourth quarter of every fifth year, beginning with the fourth quarter of 1992.

(b) The rail cost adjustment factor published by the Board under subsection (a) of this section shall take into account changes in railroad productivity. The Board shall also publish a similar index that does not take into account changes in railroad productivity.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 816.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10712 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10708, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1382; Pub. L. 96–296, §11, July 1, 1980, 94 Stat. 801; Pub. L. 97–261, §§11, 12(a), Sept. 20, 1982, 96 Stat. 1112, 1113; Pub. L. 99–521, §7(d), Oct. 22, 1986, 100 Stat. 2995, related to investigation and suspension of new nonrail carrier rates, classifications, rules, and practices, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10709. Contracts

(a) One or more rail carriers providing transportation subject to the jurisdiction of the Board under this part may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

(b) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

(c)(1) A contract that is authorized by this section, and transportation under such contract, shall not be subject to this part, and may not be subsequently challenged before the Board or in any court on the grounds that such contract violates a provision of this part.

(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree. This section does not confer original jurisdiction on the district courts of the United States based on section 1331 or 1337 of title 28, United States Code.

(d)(1) A summary of each contract for the transportation of agricultural products (including grain, as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof) entered into under this section shall be filed with the Board, containing such nonconfidential information as the Board prescribes. The Board shall publish special rules for such contracts in order to ensure that the essential terms of the contract are available to the general public.

(2) Documents, papers, and records (and any copies thereof) relating to a contract described in subsection (a) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

(e) Any lawful contract between a rail carrier and one or more purchasers of rail service that was in effect on October 1, 1980, shall be considered a contract authorized by this section.

(f) A rail carrier that enters into a contract as authorized by this section remains subject to the common carrier obligation set forth in section 11101, with respect to rail transportation not provided under such a contract.

(g)(1) No later than 30 days after the date of filing of a summary of a contract under this section, the Board may, on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

(2)(A) A complaint may be filed under this subsection—

(i) by a shipper on the grounds that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting rail carrier or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

(B) In addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper of agricultural commodities on the grounds that such shipper individually will be harmed because—

(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

(ii) the proposed contract constitutes a destructive competitive practice under this part.

In making a determination under clause (ii) of this subparagraph, the Board shall consider the difference between contract rates and published single car rates.

(C) For purposes of this paragraph, the term "unreasonable discrimination" has the same meaning as such term has under section 10741 of this title.

(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Board may establish, the Board shall determine whether the contract that is the subject of such proceeding is in violation of this section.

(B) If the Board determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a rail carrier, the Board shall, subject to the provisions of this section, order such rail carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 817; amended Pub. L. 104–287, §5(24), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 114–110, §11(d), Dec. 18, 2015, 129 Stat. 2234.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10713 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10709 to 10713 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10709, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1382; Pub. L. 96–448, title II, §202, Oct. 14, 1980, 94 Stat. 1900, related to determination of market dominance in rail carrier rate proceedings. See section 10707 of this title.

Section 10710, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383, related to elimination of discrimination against recyclable materials.

Section 10711, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383, related to effect of former sections 10701(a), (b), 10707, 10709, 10727, and 10728 of this title on rail rates and practices.

Section 10712, added Pub. L. 96–448, title II, §206(a), Oct. 14, 1980, 94 Stat. 1906, related to inflation-based rate increases.

Section 10713, added Pub. L. 96–448, title II, §208(a), Oct. 14, 1980, 94 Stat. 1908; amended Pub. L. 97–468, title V, §502, Jan. 14, 1983, 96 Stat. 2552; Pub. L. 99–509, title IV, §4051, Oct. 21, 1986, 100 Stat. 1910, related to contracts between rail carriers and purchasers of rail services. See section 10709 of this title.

AMENDMENTS

2015—Subsec. (h). Pub. L. 114–110 struck out subsec. (h) which related to certain contracts for the transportation of agricultural commodities.

1996—Subsec. (e). Pub. L. 104–287 substituted "October 1, 1980," for "the effective date of the Staggers Rail Act of 1980".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

§10721. Government traffic

A rail carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 6101(b) to (d) of title 41 does not apply when transportation for the United States Government can be obtained from a rail carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819; amended Pub. L. 111–350, §5(o)(4), Jan. 4, 2011, 124 Stat. 3853.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10721, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383; Pub. L. 96–454, §10(b), Oct. 15, 1980, 94 Stat. 2022; Pub. L. 103–272, §5(m)(22), July 5, 1994, 108 Stat. 1378, related to Government traffic, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10721, 13712, and 15504 of this title.

AMENDMENTS

2011—Pub. L. 111–350 substituted "Section 6101(b) to (d) of title 41" for "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10722. Car utilization

In order to encourage more efficient use of freight cars, notwithstanding any other provision of this part, rail carriers shall be permitted to establish premium charges for special services or special levels of services not otherwise applicable to the movement. The Board shall facilitate development of such charges so as to increase the utilization of equipment.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10734 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10722 to 10726 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10722, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1384; Pub. L. 97–261, §29(a), (b), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 99–521, §7(e), Oct. 22, 1986, 100 Stat. 2995, related to special passenger rates.

Section 10723, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1385; Pub. L. 97–261, §29(c), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 102–54, §13(s), June 13, 1991, 105 Stat. 282; Pub. L. 102–240, title IV, §4011, Dec. 18, 1991, 105 Stat. 2156, related to transportation for charitable purposes.

Section 10724, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1386, related to rates for emergency transportation.

Section 10725, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1387; Pub. L. 99–521, §7(f), Oct. 22, 1986, 100 Stat. 2995, related to special freight forwarder rates.

Section 10726, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1387; Pub. L. 96–448, title II, §220, Oct. 14, 1980, 94 Stat. 1928, related to long and short haul transportation.

A prior section 10727, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1388, authorized the Interstate Commerce Commission to maintain standards and procedures to permit seasonal, regional, or peak-period demand rates and required the Commission to submit an annual report to Congress on implementation of those rates and recommendations for additional legislation needed to make it easier to establish those rates, prior to repeal by Pub. L. 96–448, title II, §209, title VII, §710(a), Oct. 14, 1980, 94 Stat. 1910, 1966, effective Oct. 1, 1980.

A prior section 10728, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1388, related to separate rates for distinct rail services, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10729, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389, authorized rail carrier to establish rate, classification, rule, or practice requiring total capital investment of at least $1,000,000 to implement upon notice to Interstate Commerce Commission and opportunity for Commission proceeding and final decision within 180 days after notice and provided that Commission could not suspend or set aside any rate that became final for period of five years but could revise rate to level equal to variable costs of providing transportation when Commission found level then in effect reduced going concern of carrier, prior to repeal by Pub. L. 96–448, title II, §210(a), title VII, §710(a), Oct. 14, 1980, 94 Stat. 1910, 1966, effective Oct. 1, 1980.

Prior sections 10730 to 10735 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10730, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389; Pub. L. 96–296, §12, July 1, 1980, 94 Stat. 802; Pub. L. 96–448, title II, §211(a), (b), Oct. 14, 1980, 94 Stat. 1911; Pub. L. 99–521, §7(g), Oct. 22, 1986, 100 Stat. 2995, related to rates and liability based on value.

Section 10731, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389; Pub. L. 96–448, title II, §204, Oct. 14, 1980, 94 Stat. 1905; Pub. L. 103–272, §4(j)(23), July 5, 1994, 108 Stat. 1369, related to investigation of discriminatory rail rates for transportation of recyclable or recycled materials.

Section 10732, added Pub. L. 96–296, §8(a), July 1, 1980, 94 Stat. 798; amended Pub. L. 100–690, title IX, §9113, Nov. 18, 1988, 102 Stat. 4535, related to food and grocery transportation. See section 13713 of this title.

Section 10733, added Pub. L. 96–296, §32(a), July 1, 1980, 94 Stat. 824, related to rates for transportation of recyclable materials.

Section 10734, added Pub. L. 96–448, title II, §225(a), Oct. 14, 1980, 94 Stat. 1930, related to car utilization. See section 10722 of this title.

Another prior section 10734 was renumbered section 10735 of this title.

Section 10735, added Pub. L. 96–454, §4(a), Oct. 15, 1980, 94 Stat. 2012, §10734; renumbered §10735, Pub. L. 98–554, title II, §227(b)(1), Oct. 30, 1984, 98 Stat. 2852; amended Pub. L. 103–272, §5(m)(23), July 5, 1994, 108 Stat. 1378, related to household goods rates, estimates, and guarantees of service. See section 13704 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER III—LIMITATIONS

§10741. Prohibitions against discrimination by rail carriers

(a)(1) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

(2) For purposes of this section, a rail carrier engages in unreasonable discrimination when it charges or receives from a person a different compensation for a service rendered, or to be rendered, in transportation the rail carrier may perform under this part than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances.

(b) This section shall not apply to—

(1) contracts described in section 10709 of this title;

(2) rail rates applicable to different routes; or

(3) discrimination against the traffic of another carrier providing transportation by any mode.

(c) Differences between rates, classifications, rules, and practices of rail carriers do not constitute a violation of this section if such differences result from different services provided by rail carriers.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10741, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1390; Pub. L. 96–296, §33(d), July 1, 1980, 94 Stat. 825; Pub. L. 96–448, title II, §212, Oct. 14, 1980, 94 Stat. 1912; Pub. L. 99–521, §7(h), Oct. 22, 1986, 100 Stat. 2995, related to prohibitions against discrimination by common carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10741 and 15505 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10742. Facilities for interchange of traffic

A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier or of a water carrier providing transportation subject to chapter 137.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10742, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391, related to facilities for interchange of traffic, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10742 and 15506 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10743. Liability for payment of rates

(a)(1) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this subsection when the transportation is provided by a rail carrier under this part. When the shipper or consignor instructs the rail carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(A) of the agency and absence of beneficial title; and

(B) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(2) When the consignee is liable only for rates billed at the time of delivery under paragraph (1) of this subsection, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner, is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the rail carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the rail carrier, and a reconsignor or diverter giving a rail carrier, erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(b) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor, named in the bill of lading as consignee, is determined under this subsection when the transportation is provided by a rail carrier under this part. When the shipper or consignor gives written notice, before delivery of the property, to the line-haul rail carrier that is to make ultimate delivery—

(1) to deliver the property to another party identified by the shipper or consignor as the beneficial owner of the property; and

(2) that delivery is to be made to that party on payment of all applicable transportation rates;

that party is liable for the rates billed at the time of delivery and for additional rates that may be

found to be due after delivery if that party does not pay the rates required to be paid under paragraph (2) of this subsection on delivery. However, if the party gives written notice to the delivering rail carrier before delivery that the party is not the beneficial owner of the property and gives the rail carrier the name and address of the beneficial owner, then the party is not liable for those additional rates. A shipper, consignor, or party to whom delivery is made that gives the delivering rail carrier erroneous information about the identity of the beneficial owner, is liable for the additional rates regardless of the bill of lading or contract under which the property was transported. This subsection does not apply to a prepaid shipment of property.

(c)(1) A rail carrier may bring an action to enforce liability under subsection (a) of this section. That rail carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the consignee, or the beneficial owner named by the consignee or agent, under that section.

(2) A rail carrier may bring an action to enforce liability under subsection (b) of this section. That carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the shipper, consignor, or other party under that section.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10744 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10743, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391; Pub. L. 99–521, §7(i), Oct. 22, 1986, 100 Stat. 2995, related to payment of rates, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 13707 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10744. Continuous carriage of freight

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those rail carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10745 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10744, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391, related to liability for payment of rates, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10743 and 13706 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10745. Transportation services or facilities furnished by shipper

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Board may prescribe the maximum reasonable charge or allowance a rail carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Board may begin a proceeding under this section on its own initiative or on application.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10747 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10745, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1392, related to continuous carriage of freight, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10744 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10746. Demurrage charges

A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

(1) freight car use and distribution; and

(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10750 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10746, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation of commodities manufactured or produced by rail carrier, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10747. Designation of certain routes by shippers

(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Board under this part, the person may direct the rail carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A rail carrier may be directed to transport property over a particular through route when—

(A) there are at least 2 through routes over which the property could be transported;

(B) a through rate has been established for transportation over each of those through routes; and

(C) the rail carrier is a party to those routes and rates.

(2) A rail carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions. When the property is delivered to a connecting rail carrier, that rail carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding rail carrier or consignee according to the instructions.

(b) The Board may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10763 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10747 to 10751, 10761 to 10767, and 10781 to 10786 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10747, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation services or facilities furnished by shippers. See section 10745 of this title.

Section 10748, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation of livestock by rail carrier.

Section 10749, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393; Pub. L. 96–296, §10(c), July 1, 1980, 94 Stat. 800; Pub. L. 97–468, title VI, §615(b)(3), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 98–216, §2(13), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–521, §7(j)(1), (2), Oct. 22, 1986, 100 Stat. 2995; Pub. L. 103–272, §4(j)(24), July 5, 1994, 108 Stat. 1369, related to exchange of services and limitation on use of common carriers by household goods freight forwarders.

Section 10750, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394, related to demurrage charges. See section 10746 of this title.

Section 10751, added Pub. L. 96–296, §33(a), July 1, 1980, 94 Stat. 824; amended Pub. L. 96–448, title II, §215(a), Oct. 14, 1980, 94 Stat. 1915; Pub. L. 103–272, §4(j)(25), July 5, 1994, 108 Stat. 1369, related to business entertainment expenses. See section 14901 of this title.

Section 10761, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394; Pub. L. 96–296, §33(c), July 1, 1980, 94 Stat. 825; Pub. L. 103–311, title II, §206(b), Aug. 26, 1994, 108 Stat. 1684, related to prohibition of transportation without tariff. See section 13702 of this title.

Section 10762, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394; Pub. L. 96–296, §5(c), July 1, 1980, 94 Stat. 796; Pub. L. 96–448, title II, §216, Oct. 14, 1980, 94 Stat. 1915; Pub. L. 97–261, §12(b), Sept. 20, 1982, 96 Stat. 1113; Pub. L. 99–521, §7(k), Oct. 22, 1986, 100 Stat. 2995; Pub. L. 103–180, §5, Dec. 3, 1993, 107 Stat. 2050; Pub. L. 103–311, title II, §206(c)–(e), Aug. 26, 1994, 108 Stat. 1684, 1685, related to general tariff requirements. See sections 13702 and 13710 of this title.

Section 10763, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1396, related to designation of certain routes by

shippers or Interstate Commerce Commission. See section 10747 of this title.

Section 10764, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1397, related to arrangements between carriers and required copies of arrangements to be filed with Commission.

Section 10765, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1397, related to water transportation under arrangements with certain other carriers.

Section 10766, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398; Pub. L. 96–296, §10(d), July 1, 1980, 94 Stat. 801; Pub. L. 99–521, §7(l), Oct. 22, 1986, 100 Stat. 2995, related to freight forwarder traffic agreements.

Section 10767, added Pub. L. 103–180, §7(a), Dec. 3, 1993, 107 Stat. 2051, related to billing and collecting practices. See section 13708 of this title.

Section 10781, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398, related to investigations and reports by Commission on value of carrier property.

Section 10782, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1399, related to requirements for establishing value.

Section 10783, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400, related to cooperation and assistance of carriers.

Section 10784, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400; Pub. L. 96–258, §1(8), June 3, 1980, 94 Stat. 426, related to revision of property valuations.

Section 10785, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401, related to finality of valuations, notices, protests, and review.

Section 10786, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401, related to applicability of sections 10781 to 10786 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 109—LICENSING

Sec.

10901. Authorizing construction and operation of railroad lines.
10902. Short line purchases by Class II and Class III rail carriers.
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EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–432, div. A, title VI, §§603(b), 604(b), 605(b), Oct. 16, 2008, 122 Stat. 4903, 4905, added items 10908 to 10910.

§10901. Authorizing construction and operation of railroad lines

(a) A person may—

(1) construct an extension to any of its railroad lines;

(2) construct an additional railroad line;

(3) provide transportation over, or by means of, an extended or additional railroad line; or

(4) in the case of a person other than a rail carrier, acquire a railroad line or acquire or operate an extended or additional railroad line,

only if the Board issues a certificate authorizing such activity under subsection (c).

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice, including notice to the Governor of any affected State, of the beginning of such proceeding.

(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

(d)(1) When a certificate has been issued by the Board under this section authorizing the construction or extension of a railroad line, no other rail carrier may block any construction or extension authorized by such certificate by refusing to permit the carrier to cross its property if—

(A) the construction does not unreasonably interfere with the operation of the crossed line;

(B) the operation does not materially interfere with the operation of the crossed line; and

(C) the owner of the crossing line compensates the owner of the crossed line.

(2) If the parties are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Board for determination. The Board shall make a determination under this paragraph within 120 days after the dispute is submitted for determination.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 822.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10901, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1402; Pub. L. 96–448, title II, §221, Oct. 14, 1980, 94 Stat. 1928, related to authorizing construction and operation of railroad lines, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10902. Short line purchases by Class II and Class III rail carriers

(a) A Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Board under this part may acquire or operate an extended or additional rail line under this section only if the Board issues a certificate authorizing such activity under subsection (c).

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice of the beginning of such proceeding.

(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

(d) The Board shall require any Class II rail carrier which receives a certificate under subsection (c) of this section to provide a fair and equitable arrangement for the protection of the interests of employees who may be affected thereby. The arrangement shall consist exclusively of one year of severance pay, which shall not exceed the amount of earnings from railroad employment of the

employee during the 12-month period immediately preceding the date on which the application for such certificate is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of the employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction to which the certificate applies. The parties may agree to terms other than as provided in this subsection. The Board shall not require such an arrangement from a Class III rail carrier which receives a certificate under subsection (c) of this section.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 823.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10902, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1403, related to authorizing action by rail carriers to provide adequate, efficient, and safe facilities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10903. Filing and procedure for application to abandon or discontinue

(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Board under this part who intends to—

(A) abandon any part of its railroad lines; or

(B) discontinue the operation of all rail transportation over any part of its railroad lines,

must file an application relating thereto with the Board. An abandonment or discontinuance may be carried out only as authorized under this chapter.

(2) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part files an application, the application shall include—

(A) an accurate and understandable summary of the rail carrier's reasons for the proposed abandonment or discontinuance;

(B) a statement indicating that each interested person is entitled to make recommendations to the Board on the future of the rail line; and

(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10904 of this title, (ii) a statement that the rail carrier will promptly provide to each interested party an estimate of the annual subsidy and minimum purchase price, calculated in accordance with section 10904 of this title, and (iii) the name and business address of the person who is authorized to discuss the subsidy or sale terms for the rail carrier.

(3) The rail carrier shall—

(A) send by certified mail notice of the application to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Board) of the railroad line during the 12 months preceding the filing of the application; and

(E) attach to the application filed with the Board an affidavit certifying the manner in which subparagraphs (A) through (D) of this paragraph have been satisfied, and certifying that subparagraphs (A) through (D) have been satisfied within the most recent 30 days prior to the date the application is filed.

(b)(1) Except as provided in subsection (d), abandonment and discontinuance may occur as provided in section 10904.

(2) The Board shall require as a condition of any abandonment or discontinuance under this section provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under sections 11326(a) and 24706(c) [1] of this title before May 31, 1998.

(c)(1) In this subsection, the term "potentially subject to abandonment" has the meaning given the term in regulations of the Board. The regulations may include standards that vary by region of the United States and by railroad or group of railroads.

(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the rail carrier. The rail carrier shall submit to the Board and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

(B) identify each railroad line for which the rail carrier plans to file an application to abandon or discontinue under subsection (a) of this section.

(d) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may—

(1) abandon any part of its railroad lines; or

(2) discontinue the operation of all rail transportation over any part of its railroad lines;

only if the Board finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance. In making the finding, the Board shall consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development.

(e) Subject to this section and sections 10904 and 10905 of this title, if the Board—

(1) finds public convenience and necessity, it shall—

(A) approve the application as filed; or

(B) approve the application with modifications and require compliance with conditions that the Board finds are required by public convenience and necessity; or

(2) fails to find public convenience and necessity, it shall deny the application.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 823; amended Pub. L. 112–141, div. C, title II, §32932(b), July 6, 2012, 126 Stat. 829.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 24706(c) of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 105–134, title I, §142(a), Dec. 2, 1997, 111 Stat. 2576, effective 180 days after Dec. 2, 1997.

PRIOR PROVISIONS

A prior section 10903, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1403; Pub. L. 96–448, title IV, §402(a), Oct. 14, 1980, 94 Stat. 1941; Pub. L. 98–216, §2(14), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(24), July 5, 1994, 108 Stat. 1378, related to authorizing abandonment and discontinuance of railroad lines and rail transportation.

AMENDMENTS

2012—Subsec. (b)(2). Pub. L. 112–141 substituted "24706(c) of this title before May 31, 1998" for "24706(c) of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

RAILROAD BRANCHLINE ABANDONMENTS BY BURLINGTON NORTHERN RAILROAD IN NORTH DAKOTA

Pub. L. 97–102, title IV, §402, Dec. 23, 1981, 95 Stat. 1465, as amended by Pub. L. 102–143, title III, §343, Oct. 28, 1991, 105 Stat. 948, provided that: "Notwithstanding any other provision of law or of this Act, none of the funds provided in this or any other Act shall hereafter be used by the Interstate Commerce Commission to approve railroad branchline abandonments in the State of North Dakota by the entity generally known as the Burlington Northern Railroad, or its agents or assignees, in excess of a total of 350 miles, except that exempt abandonments and discontinuances that are effectuated pursuant to section 1152.50 of title 49 of the Code of Federal Regulations after the date of enactment of the Department of Transportation and Related Agencies Appropriations Act, 1992 [Oct. 28, 1991], shall not apply toward such 350-mile limit: *Provided*, That this section shall be in lieu of section 311 (amendment numbered 93) as set forth in the conference report and the joint explanatory statement of the committee of conference on the Department of Transportation and Related Agencies Appropriations Act, 1982 (H.R. 4209), filed in the House of Representatives on November 13, 1981 (H. Rept. No. 97–331)." [Section 311 of H.R. 4209 is section 311 of Pub. L. 97–102, title III, Dec. 23, 1981, 95 Stat. 1460, which is not classified to the Code.] Similar provisions were contained in Pub. L. 97–92, title IV, §115, Dec. 15, 1981, 95 Stat. 1196.

[Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title, and section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 1301 of this title.]

[1] *See References in Text note below.*

§10904. Offers of financial assistance to avoid abandonment and discontinuance

(a) In this section—

(1) the term "avoidable cost" means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

(A) working capital and required capital expenditure;

(B) expenditures to eliminate deferred maintenance;

(C) the current cost of freight cars, locomotives, and other equipment; and

(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes; and

(2) the term "reasonable return" means—

(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Board; and

(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Board.

(b) Any rail carrier which has filed an application for abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Board—

(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

(4) any other information that the Board considers necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

(c) Within 4 months after an application is filed under section 10903, any person may offer to subsidize or purchase the railroad line that is the subject of such application. Such offer shall be filed concurrently with the Board. If the offer to subsidize or purchase is less than the carrier's estimate stated pursuant to subsection (b)(1), the offer shall explain the basis of the disparity, and the manner in which the offer is calculated.

(d)(1) Unless the Board, within 15 days after the expiration of the 4-month period described in subsection (c), finds that one or more financially responsible persons (including a governmental authority) have offered financial assistance regarding that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued, abandonment or discontinuance may be carried out in accordance with section 10903.

(2) If the Board finds that such an offer or offers of financial assistance has been made within such period, abandonment or discontinuance shall be postponed until—

(A) the carrier and a financially responsible person have reached agreement on a transaction for subsidy or sale of the line; or

(B) the conditions and amount of compensation are established under subsection (f).

(e) Except as provided in subsection (f)(3), if the rail carrier and a financially responsible person (including a governmental authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Board establish the conditions and amount of compensation.

(f)(1) Whenever the Board is requested to establish the conditions and amount of compensation under this section—

(A) the Board shall render its decision within 30 days;

(B) for proposed sales, the Board shall determine the price and other terms of sale, except that in no case shall the Board set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services); and

(C) for proposed subsidies, the Board shall establish the compensation as the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line.

(2) The decision of the Board shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Board's decision. In such a case, the abandonment or discontinuance may be carried out immediately, unless other offers are being considered pursuant to paragraph (3) of this subsection.

(3) If a rail carrier receives more than one offer to subsidize or purchase, it shall select the offeror with whom it wishes to transact business, and complete the subsidy or sale agreement, or request that the Board establish the conditions and amount of compensation before the 40th day after the expiration of the 4-month period described in subsection (c). If no agreement on subsidy or sale is reached within such 40-day period and the Board has not been requested to establish the conditions and amount of compensation, any other offeror whose offer was made within the 4-month period described in subsection (c) may request that the Board establish the conditions and amount of compensation. If the Board has established the conditions and amount of compensation, and the original offer has been withdrawn, any other offeror whose offer was made within the 4-month period described in subsection (c) may accept the Board's decision within 20 days after such decision, and the Board shall require the carrier to enter into a subsidy or sale agreement with such offeror, if such subsidy or sale agreement incorporates the Board's decision.

(4)(A) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the rail carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

(B) No subsidy arrangement approved under this section shall remain in effect for more than one year, unless otherwise mutually agreed by the parties.

(g) Upon abandonment of a railroad line under this chapter, the obligation of the rail carrier abandoning the line to provide transportation on that line, as required by section 11101(a), is extinguished.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 825.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10905 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10904, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1404; Pub. L. 96–448, title IV, §402(b), Oct. 14, 1980, 94 Stat. 1941; Pub. L. 98–216, §2(4), Feb. 14, 1984, 98 Stat. 5, related to filing and procedure for applications to abandon or discontinue railroad lines or rail transportation, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10903 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10905. Offering abandoned rail properties for sale for public purposes

When the Board approves an application to abandon or discontinue under section 10903, the Board shall find whether the rail properties that are involved in the proposed abandonment or discontinuance are appropriate for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Board finds that the rail properties proposed to be abandoned are appropriate for public purposes and not required for continued rail operations, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Board. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 827.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10906 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10905, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1405; Pub. L. 96–448, title IV, §402(c), Oct. 14, 1980, 94 Stat. 1942; Pub. L. 103–272, §4(j)(26), July 5, 1994, 108 Stat. 1369, related to offers of financial assistance to avoid abandonment and discontinuance, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10904 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10906. Exception

Notwithstanding section 10901 and subchapter II of chapter 113 of this title, and without the approval of the Board, a rail carrier providing transportation subject to the jurisdiction of the Board under this part may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The Board does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 827.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10907 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10906, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1406, related to offering abandoned rail properties for sale for public purposes, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10905 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10907. Railroad development

(a) In this section, the term "financially responsible person" means a person who—

(1) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired; and

(2) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years.

Such term includes a governmental authority but does not include a Class I or Class II rail carrier.

(b)(1) When the Board finds that—

(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

(ii) a railroad line is on a system diagram map as required under section 10903 of this title, but the rail carrier owning such line has not filed an application to abandon such line under section 10903 of this title before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section; and

(B) an application to purchase such line has been filed by a financially responsible person,

the Board shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater.

(c)(1) For purposes of this section, the Board may determine that the public convenience and necessity require or permit the sale of a railroad line if the Board determines, after a hearing on the record, that—

(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Board finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Board shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Board shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Board shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

(e) The Board shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Board for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Board shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this part, except that such a person may not be exempt from the provisions of chapter 107 of this title with respect to transportation under a joint rate.

(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to October 1, 1980, and was subsequently purchased by a financially responsible person.

(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to

such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 828.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10907 to 10910 and 10921 to 10936 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10907, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1407, related to rail carriers entering into arrangements for joint use or ownership of spur, industrial, team, switching, or side tracks, and deprived Interstate Commerce Commission of authority over such tracks when located in one State or over certain electric railways. See sections 10102, 10501, and 10906 of this title.

Section 10908, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1407, related to discontinuing or changing interstate train or ferry transportation subject to State law.

Section 10909, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1408, related to discontinuing or changing train or ferry transportation in one State.

Section 10910, added Pub. L. 96–448, title IV, §401(a), Oct. 14, 1980, 94 Stat. 1939; amended Pub. L. 97–468, title V, §506(a), Jan. 14, 1983, 96 Stat. 2553; Pub. L. 103–272, §4(j)(27), July 5, 1994, 108 Stat. 1369, related to railroad development. See section 10907 of this title.

Section 10921, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1409, related to requirement for certificate, permit, or license. See section 13901 of this title.

Section 10922, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1409; Pub. L. 96–296, §§5(a), 6, 34(a), July 1, 1980, 94 Stat. 794, 796, 825; Pub. L. 96–454, §10(a), Oct. 15, 1980, 94 Stat. 2021; Pub. L. 97–261, §§6(a)–(c), (g), 7, 8, Sept. 20, 1982, 96 Stat. 1103, 1107, 1108; Pub. L. 98–554, title II, §§225(a), (b), 226(b), Oct. 30, 1984, 98 Stat. 2847, 2848, 2850; Pub. L. 100–17, title III, §§339, 340(a), Apr. 2, 1987, 101 Stat. 243, 245; Pub. L. 100–690, title IX, §9111(g), Nov. 18, 1988, 102 Stat. 4533; Pub. L. 102–240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088; Pub. L. 103–272, §5(m)(25), July 5, 1994, 108 Stat. 1378; Pub. L. 103–311, title II, §207, Aug. 26, 1994, 108 Stat. 1686; Pub. L. 103–429, §7(a)(4)(D), Oct. 31, 1994, 108 Stat. 4389, related to certificates of motor and water common carriers. See section 13902 of this title.

Section 10923, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1410; Pub. L. 96–258, §1(9), June 3, 1980, 94 Stat. 426; Pub. L. 96–296, §§10(a)(2), (3), 34(b), July 1, 1980, 94 Stat. 799, 800, 825; Pub. L. 97–261, §13(a), Sept. 20, 1982, 96 Stat. 1114; Pub. L. 99–521, §8(a)(1), (2), Oct. 22, 1986, 100 Stat. 2996; Pub. L. 103–311, title II, §208, Aug. 26, 1994, 108 Stat. 1687, related to permits of motor and water contract carriers and household goods freight forwarders. See section 13903 of this title.

Section 10924, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1412; Pub. L. 96–296, §17(a), July 1, 1980, 94 Stat. 810; Pub. L. 97–261, §14(a)–(c), Sept. 20, 1982, 96 Stat. 1114; Pub. L. 103–272, §4(j)(28), July 5, 1994, 108 Stat. 1370, related to licenses of motor carrier brokers. See section 13904 of this title.

Section 10925, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1412; Pub. L. 96–296, §§10(e), 17(b), July 1, 1980, 94 Stat. 801, 811; Pub. L. 97–261, §§13(b), 22, Sept. 20, 1982, 96 Stat. 1114, 1123; Pub. L. 97–449, §5(g)(6), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 99–521, §8(b), Oct. 22, 1986, 100 Stat. 2996; Pub. L. 103–311, title II, §209, Aug. 26, 1994, 108 Stat. 1688, related to effective periods of certificates, permits, and licenses. See section 13905 of this title.

Section 10926, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1413; Pub. L. 99–521, §8(c), Oct. 22, 1986, 100 Stat. 2996, related to transfers of certificates and permits.

Section 10927, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1413; Pub. L. 96–296, §29, July 1, 1980, 94 Stat. 820; Pub. L. 97–261, §18(h), Sept. 20, 1982, 96 Stat. 1121; Pub. L. 98–554, title II, §226(c)(2), (3), Oct. 30,

1984, 98 Stat. 2851; Pub. L. 99–521, §8(d), Oct. 22, 1986, 100 Stat. 2996; Pub. L. 100–690, title IX, §9111(h), Nov. 18, 1988, 102 Stat. 4534; Pub. L. 103–272, §5(m)(26), July 5, 1994, 108 Stat. 1378, related to security of motor carriers, brokers, and freight forwarders. See section 13906 of this title.

Section 10928, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1414; Pub. L. 96–296, §23, July 1, 1980, 94 Stat. 814; Pub. L. 97–261, §15, Sept. 20, 1982, 96 Stat. 1114, related to temporary authority for motor and water carriers.

Section 10929, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1415, related to temporary authority for previously exempt water transportation.

Section 10930, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1415; Pub. L. 96–296, §10(b), July 1, 1980, 94 Stat. 800; Pub. L. 99–521, §8(e), Oct. 22, 1986, 100 Stat. 2996, related to limitations on certificates and permits.

Section 10931, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1416, related to motor common carriers providing transportation entirely in one State.

Section 10932, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1417, related to motor carrier savings provisions.

Section 10933, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1418; Pub. L. 99–521, §8(f)(1), (2), Oct. 22, 1986, 100 Stat. 2996, 2997, related to authorizing abandonment of household goods freight forwarder service.

Section 10934, added Pub. L. 96–454, §5(a)(1), Oct. 15, 1980, 94 Stat. 2013; amended Pub. L. 98–554, title II, §227(a)(2), Oct. 30, 1984, 98 Stat. 2852, related to household goods agents. See section 13907 of this title.

Section 10935, added Pub. L. 97–261, §16(a), Sept. 20, 1982, 96 Stat. 1115; amended Pub. L. 103–272, §5(m)(27), July 5, 1994, 108 Stat. 1378, related to discontinuing bus transportation in one State.

Section 10936, added Pub. L. 103–311, title II, §211(a), Aug. 26, 1994, 108 Stat. 1689, related to limitation on State regulation of intrastate passengers by bus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§10908. Regulation of solid waste rail transfer facilities

(a) IN GENERAL.—Each solid waste rail transfer facility shall be subject to and shall comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, including laws governing solid waste, to the same extent as required for any similar solid waste management facility, as defined in section 1004(29) of the Solid Waste Disposal Act (42 U.S.C. 6903(29)) [1] that is not owned or operated by or on behalf of a rail carrier, except as provided for in section 10909 of this chapter.

(b) EXISTING FACILITIES.—

(1) STATE LAWS AND STANDARDS.—Not later than 90 days after the date of enactment of the Clean Railroads Act of 2008, a solid waste rail transfer facility operating as of such date of enactment shall comply with all Federal and State requirements pursuant to subsection (a) other than those provisions requiring permits.

(2) PERMIT REQUIREMENTS.—

(A) STATE NON-SITING PERMITS.—Any solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a permit required pursuant to subsection (a), other than a siting permit for the facility, as of the date of enactment of the Clean Railroads Act of 2008 shall not be required to possess any such permits in order to operate the facility—

(i) if, within 180 days after such date of enactment, the solid waste rail transfer facility has submitted, in good faith, a complete application for all permits, except siting permits, required pursuant to subsection (a) to the appropriate permitting agency authorized to grant such permits; and

(ii) until the permitting agency has either approved or denied the solid waste rail transfer

facility's application for each permit.

(B) SITING PERMITS AND REQUIREMENTS.—A solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a State siting permit required pursuant to subsection (a) as of such date of enactment shall not be required to possess any siting permit to continue to operate or comply with any State land use requirements. The Governor of a State in which the facility is located, or his or her designee, may petition the Board to require the facility to apply for a land-use exemption pursuant to section 10909 of this chapter. The Board shall accept the petition, and the facility shall be required to have a Board-issued land-use exemption in order to continue to operate, pursuant to section 10909 of this chapter.

(c) COMMON CARRIER OBLIGATION.—No prospective or current rail carrier customer may demand solid waste rail transfer service from a rail carrier at a solid waste rail transfer facility that does not already possess the necessary Federal land-use exemption and State permits at the location where service is requested.

(d) NON-WASTE COMMODITIES.—Nothing in this section or section 10909 of this chapter shall affect a rail carrier's ability to conduct transportation-related activities with respect to commodities other than solid waste.

(e) DEFINITIONS.—

(1) IN GENERAL.—In this section:

(A) COMMERCIAL AND RETAIL WASTE.—The term "commercial and retail waste" means material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities.

(B) CONSTRUCTION AND DEMOLITION DEBRIS.—The term "construction and demolition debris" means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures.

(C) HOUSEHOLD WASTE.—The term "household waste" means material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities.

(D) INDUSTRIAL WASTE.—The term "industrial waste" means the solid waste generated by manufacturing and industrial and research and development processes and operations, including contaminated soil, nonhazardous oil spill cleanup waste and dry nonhazardous pesticides and chemical waste, but does not include hazardous waste regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), mining or oil and gas waste.

(E) INSTITUTIONAL WASTE.—The term "institutional waste" means material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities.

(F) MUNICIPAL SOLID WASTE.—The term "municipal solid waste" means—

(i) household waste;

(ii) commercial and retail waste; and

(iii) institutional waste.

(G) SOLID WASTE.—With the exception of waste generated by a rail carrier during track, track structure, or right-of-way construction, maintenance, or repair (including railroad ties and line-side poles) or waste generated as a result of a railroad accident, incident, or derailment, the term "solid waste" means—

(i) construction and demolition debris;

(ii) municipal solid waste;

(iii) household waste;

(iv) commercial and retail waste;

(v) institutional waste;
(vi) sludge;
(vii) industrial waste; and
(viii) other solid waste, as determined appropriate by the Board.

(H) SOLID WASTE RAIL TRANSFER FACILITY.—The term "solid waste rail transfer facility"—
(i) means the portion of a facility owned or operated by or on behalf of a rail carrier (as defined in section 10102 of this title) where solid waste, as a commodity to be transported for a charge, is collected, stored, separated, processed, treated, managed, disposed of, or transferred, when the activity takes place outside of original shipping containers; but
(ii) does not include—
(I) the portion of a facility to the extent that activities taking place at such portion are comprised solely of the railroad transportation of solid waste after the solid waste is loaded for shipment on or in a rail car, including railroad transportation for the purpose of interchanging railroad cars containing solid waste shipments; or
(II) a facility where solid waste is solely transferred or transloaded from a tank truck directly to a rail tank car.

(I) SLUDGE.—The term "sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), the terms "household waste", "commercial and retail waste", and "institutional waste" do not include—
(A) yard waste and refuse-derived fuel;
(B) used oil;
(C) wood pallets;
(D) clean wood;
(E) medical or infectious waste; or
(F) motor vehicles (including motor vehicle parts or vehicle fluff).

(3) STATE REQUIREMENTS.—In this section the term "State requirements" does not include the laws, regulations, ordinances, orders, or other requirements of a political subdivision of a State, including a locality or municipality, unless a State expressly delegates such authority to such political subdivision.

(Added Pub. L. 110–432, div. A, title VI, §603(a), Oct. 16, 2008, 122 Stat. 4900.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Clean Railroads Act of 2008, referred to in subsec. (b), is the date of enactment of title VI of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

The Solid Waste Disposal Act, referred to in subsec. (e)(1)(D), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795. Subtitle C of the Act is classified generally to subchapter III (§6921 et seq.) of chapter 82 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

PRIOR PROVISIONS

For prior section 10908, see note set out under section 10907 of this title.

[1] *So in original. Probably should be followed by a comma.*

§10909. Solid waste rail transfer facility land-use exemption

(a) AUTHORITY.—The Board may issue a land-use exemption for a solid waste rail transfer facility that is or is proposed to be operated by or on behalf of a rail carrier if—

(1) the Board finds that a State, local, or municipal law, regulation, order, or other requirement affecting the siting of such facility unreasonably burdens the interstate transportation of solid waste by railroad, discriminates against the railroad transportation of solid waste and a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility petitions the Board for such an exemption; or

(2) the Governor of a State in which a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 is located, or his or her designee, petitions the Board to initiate a permit proceeding for that particular facility.

(b) LAND-USE EXEMPTION PROCEDURES.—Not later than 90 days after the date of enactment of the Clean Railroads Act of 2008, the Board shall publish procedures governing the submission and review of applications for solid waste rail transfer facility land-use exemptions. At a minimum, the procedures shall address—

(1) the information that each application should contain to explain how the solid waste rail transfer facility will not pose an unreasonable risk to public health, safety, or the environment;

(2) the opportunity for public notice and comment including notification of the municipality, the State, and any relevant Federal or State regional planning entity in the jurisdiction of which the solid waste rail transfer facility is proposed to be located;

(3) the timeline for Board review, including a requirement that the Board approve or deny an exemption within 90 days after the full record for the application is developed;

(4) the expedited review timelines for petitions for modifications, amendments, or revocations of granted exemptions;

(5) the process for a State to petition the Board to require a solid waste transfer facility or a rail carrier that owns or operates such a facility to apply for a siting permit; and

(6) the process for a solid waste transfer facility or a rail carrier that owns or operates such a facility to petition the Board for a land-use exemption.

(c) STANDARD FOR REVIEW.—

(1) The Board may only issue a land-use exemption if it determines that the facility at the existing or proposed location does not pose an unreasonable risk to public health, safety, or the environment. In deciding whether a solid waste rail transfer facility that is or proposed to be constructed or operated by or on behalf of a rail carrier poses an unreasonable risk to public health, safety, or the environment, the Board shall weigh the particular facility's potential benefits to and the adverse impacts on public health, public safety, the environment, interstate commerce, and transportation of solid waste by rail.

(2) The Board may not grant a land-use exemption for a solid waste rail transfer facility proposed to be located on land within any unit of or land affiliated with the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National Trails System, the National Wild and Scenic Rivers System, a National Reserve, a National Monument, or lands referenced in Public Law 108–421 for which a State has implemented a conservation management plan, if operation of the facility would be inconsistent with restrictions placed on such land.

(d) CONSIDERATIONS.—When evaluating an application under this section, the Board shall consider and give due weight to the following, as applicable:

(1) the land-use, zoning, and siting regulations or solid waste planning requirements of the State or State subdivision in which the facility is or will be located that are applicable to solid waste transfer facilities, including those that are not owned or operated by or on behalf of a rail carrier;

(2) the land-use, zoning, and siting regulations or solid waste planning requirements applicable to the property where the solid waste rail transfer facility is proposed to be located;

(3) regional transportation planning requirements developed pursuant to Federal and State law;

(4) regional solid waste disposal plans developed pursuant to State or Federal law;

(5) any Federal and State environmental protection laws or regulations applicable to the site;

(6) any unreasonable burdens imposed on the interstate transportation of solid waste by railroad, or the potential for discrimination against the railroad transportation of solid waste, a solid waste rail transfer facility, or a rail carrier that owns or operates such a facility; and

(7) any other relevant factors, as determined by the Board.

(e) EXISTING FACILITIES.—Upon the granting of a petition from the State in which a solid waste rail transfer facility is operating as of the date of enactment of the Clean Railroads Act of 2008 by the Board, the facility shall submit a complete application for a siting permit to the Board pursuant to the procedures issued pursuant to subsection (b). No State may enforce a law, regulation, order, or other requirement affecting the siting of a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 until the Board has approved or denied a permit pursuant to subsection (c).

(f) EFFECT OF LAND-USE EXEMPTION.—If the Board grants a land-use exemption to a solid waste rail transfer facility, all State laws, regulations, orders, or other requirements affecting the siting of a facility are preempted with regard to that facility. An exemption may require compliance with such State laws, regulations, orders, or other requirements.

(g) INJUNCTIVE RELIEF.—Nothing in this section precludes a person from seeking an injunction to enjoin a solid waste rail transfer facility from being constructed or operated by or on behalf of a rail carrier if that facility has materially violated, or will materially violate, its land-use exemption or if it failed to receive a valid land-use exemption under this section.

(h) FEES.—The Board may charge permit applicants reasonable fees to implement this section, including the costs of third-party consultants.

(i) DEFINITIONS.—In this section the terms "solid waste", "solid waste rail transfer facility", and "State requirements" have the meaning given such terms in section 10908(e).

(Added Pub. L. 110–432, div. A, title VI, §604(a), Oct. 16, 2008, 122 Stat. 4903; amended Pub. L. 114–94, div. A, title XI, §11316(b), Dec. 4, 2015, 129 Stat. 1676.)

REFERENCES IN TEXT

The date of enactment of the Clean Railroads Act of 2008, referred to in subsecs. (a)(2), (b), and (e), is the date of enactment of title VI of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

Public Law 108–421, referred to in subsec. (c)(2), is Pub. L. 108–421, Nov. 30, 2004, 118 Stat. 2375, known as the Highlands Conservation Act, which is not classified to the Code.

EDITORIAL NOTES

PRIOR PROVISIONS

For prior section 10909, see note set out under section 10907 of this title.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94, §11316(b)(1), substituted "Clean Railroads Act of 2008" for "Clean Railroad Act of 2008" in introductory provisions.

Subsec. (e). Pub. L. 114–94, §11316(b)(2), substituted "Upon the granting of a petition from the State" for "Upon the granting of petition from the State".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§10910. Effect on other statutes and authorities

Nothing in section 10908 or 10909 is intended to affect the traditional police powers of the State to require a rail carrier to comply with State and local environmental, public health, and public safety standards that are not unreasonably burdensome to interstate commerce and do not discriminate against rail carriers.

(Added Pub. L. 110–432, div. A, title VI, §605(a), Oct. 16, 2008, 122 Stat. 4905.)

EDITORIAL NOTES

PRIOR PROVISIONS

For prior section 10910, see note set out under section 10907 of this title.

CHAPTER 111—OPERATIONS

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SUBCHAPTER I—GENERAL REQUIREMENTS

§11101. Common carrier transportation, service, and rates

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall provide the transportation or service on reasonable request. A rail carrier shall not be found to have violated this section because it fulfills its reasonable commitments under contracts authorized under section 10709 of this title before responding to reasonable requests for service. Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.

(b) A rail carrier shall also provide to any person, on request, the carrier's rates and other service terms. The response by a rail carrier to a request for the carrier's rates and other service terms shall be—

(1) in writing and forwarded to the requesting person promptly after receipt of the request; or
(2) promptly made available in electronic form.

(c) A rail carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written or electronic notice is provided to any person who, within the previous 12 months—
(1) has requested such rates or terms under subsection (b); or
(2) has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

(d) With respect to transportation of agricultural products, in addition to the requirements of subsections (a), (b), and (c), a rail carrier shall publish, make available, and retain for public inspection its common carrier rates, schedules of rates, and other service terms, and any proposed and actual changes to such rates and service terms. For purposes of this subsection, agricultural products shall include grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and all products thereof, and fertilizer.

(e) A rail carrier shall provide transportation or service in accordance with the rates and service terms, and any changes thereto, as published or otherwise made available under subsection (b), (c), or (d).

(f) The Board shall, by regulation, establish rules to implement this section. The regulations shall provide for immediate disclosure and dissemination of rates and service terms, including classifications, rules, and practices, and their effective dates. Final regulations shall be adopted by the Board not later than 180 days after January 1, 1996.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 830; amended Pub. L. 104–287, §5(25), Oct. 11, 1996, 110 Stat. 3390.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11101, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419; Pub. L. 96–258, §1(10), June 3, 1980, 94 Stat. 426; Pub. L. 96–448, title II, §222, Oct. 14, 1980, 94 Stat. 1929; Pub. L. 99–521, §9(a), Oct. 22, 1986, 100 Stat. 2997; Pub. L. 103–180, §8, Dec. 3, 1993, 107 Stat. 2052, related to duties of carriers to provide transportation and service, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11101, 13710, 14101, and 15701 of this title.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of the ICC Termination Act of 1995".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11102. Use of terminal facilities

(a) The Board may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, to be used by another rail carrier if the Board finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The rail carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the

rail carriers cannot agree, the Board may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a rail carrier may begin to use the facilities of another rail carrier under this section.

(b) A rail carrier whose terminal facilities are required to be used by another rail carrier under this section is entitled to recover damages from the other rail carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

(c)(1) The Board may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The rail carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the rail carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Board may establish such conditions and compensation.

(2) The Board may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.

(d) The Board shall complete any proceeding under subsection (a) or (b) within 180 days after the filing of the request for relief.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 831.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11103 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11102, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419, related to classification of carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11103. Switch connections and tracks

(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a rail carrier providing transportation subject to the jurisdiction of the Board under this part shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

(1) is reasonably practicable;

(2) can be made safely; and

(3) will furnish sufficient business to justify its construction and maintenance.

(b) If a rail carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Board under section 11701 of this title. The Board shall investigate the complaint

and decide the safety, practicability, justification, and compensation to be paid for the connection. The Board may direct the rail carrier to comply with subsection (a) of this section only after a full hearing.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 831.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11104 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11103 to 11111 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11103, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419; Pub. L. 96–448, title II, §223, Oct. 14, 1980, 94 Stat. 1929, related to use of terminal facilities. See section 11102 of this title.

Section 11104, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420, related to switch connections and tracks. See section 11103 of this title.

Section 11105, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420, related to protective services.

Section 11106, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420, related to identification of motor vehicles.

Section 11107, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420; Pub. L. 96–296, §15(d), July 1, 1980, 94 Stat. 809, related to leased motor vehicles. See section 14102 of this title.

Section 11108, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421, related to water carriers subject to unreasonable discrimination in foreign transportation.

Section 11109, added Pub. L. 96–296, §15(a)(1), July 1, 1980, 94 Stat. 808, related to loading and unloading motor vehicles. See section 14103 of this title.

Section 11110, added Pub. L. 96–454, §6(a)(1), Oct. 15, 1980, 94 Stat. 2015, related to household goods carrier operations. See section 14104 of this title.

Section 11111, added Pub. L. 97–261, §25(d)(1), Sept. 20, 1982, 96 Stat. 1125, related to use of citizen band radios on buses.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER II—CAR SERVICE

§11121. Criteria

(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Board may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Board decides that the rail carrier has materially failed to furnish that service. The Board may begin a proceeding under this paragraph when an interested person files an application with it. The Board may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

(A) providing the facilities or equipment will not materially and adversely affect the ability of the rail carrier to provide safe and adequate transportation;

(B) the amount spent for the facilities or equipment, including a return equal to the rail carrier's current cost of capital, will be recovered; and

(C) providing the facilities or equipment will not impair the ability of the rail carrier to attract adequate capital.

(2) The Board may require a rail carrier to file its car service rules with the Board.

(b) The Board may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under sections 11123 and 11124(a)(1) of this title.

(c) The Board shall consult, as it considers necessary, with the National Grain Car Council on matters within the charter of that body.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 832.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11121, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421; Pub. L. 96–258, §1(11), June 3, 1980, 94 Stat. 426, related to criteria of rail carriers to furnish safe and adequate car service, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11122. Compensation and practice

(a) The regulations of the Board on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include—

(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

(3) sanctions for nonobservance.

(b) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Board shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 832.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11122, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421; Pub. L. 96–448, title II, §224(a), Oct. 14, 1980, 94 Stat. 1929, related to use of and compensation for freight cars, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11123. Situations requiring immediate action to serve the public

(a) When the Board determines that shortage of equipment, congestion of traffic, unauthorized cessation of operations, failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, or other failure of traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on shippers, or on rail service in a region of the United States, or that a rail carrier providing transportation subject to the jurisdiction of the Board under this part cannot transport the traffic offered to it in a manner that properly serves the public, the Board may, to promote commerce and service to the public, for a period not to exceed 30 days—

(1) direct the handling, routing, and movement of the traffic of a rail carrier and its distribution over its own or other railroad lines;

(2) require joint or common use of railroad facilities;

(3) prescribe temporary through routes;

(4) give directions for—

(A) preference or priority in transportation;

(B) embargoes; or

(C) movement of traffic under permits; or

(5) in the case of a failure of existing freight or commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, direct the continuation of the operations and dispatching, maintenance, and other necessary infrastructure functions related to the operations.

(b)(1) Except with respect to proceedings under paragraph (2) of this subsection, the Board may act under this section on its own initiative or on application without regard to subchapter II of chapter 5 of title 5.

(2) Rail carriers may establish between themselves the terms of compensation for operations, and use of facilities and equipment, required under this section. When rail carriers do not agree on the terms of compensation under this section, the Board may establish the terms for them. The Board may act under subsection (a) before conducting a proceeding under this paragraph.

(3)(A) Except as provided in subparagraph (B), when a rail carrier is directed under this section to operate the lines of another rail carrier due to that carrier's cessation of operations, compensation for the directed operations shall derive only from revenues generated by the directed operations.

(B) In the case of a failure of existing freight or commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, the Board shall provide funding to fully reimburse the directed service provider for its costs associated with the activities directed under subsection (a), including the payment of increased insurance premiums. The Board shall order complete indemnification against any and all claims associated with the provision of service to which the directed rail carrier may be exposed.

(c)(1) The Board may extend any action taken under subsection (a) of this section beyond 30 days if the Board finds that a transportation emergency described in subsection (a) continues to exist. Action by the Board under subsection (a) of this section may not remain in effect for more than 240 days beyond the initial 30-day period.

(2) The Board may not take action under this section that would—

(A) cause a rail carrier to operate in violation of this part; or

(B) impair substantially the ability of a rail carrier to serve its own customers adequately, or to fulfill its common carrier obligations.

(3) A rail carrier directed by the Board to take action under this section is not responsible, as a result of that action, for debts of any other rail carrier.

(4) In the case of a failure of existing freight or commuter rail passenger transportation operations caused by cessation of service by the National Railroad Passenger Corporation, the Board may not direct a rail carrier to undertake activities under subsection (a) to continue such operations unless—

(A) the Board first affirmatively finds that the rail carrier is operationally capable of conducting the directed service in a safe and efficient manner; and

(B) the funding for such directed service required by subparagraph (B) of subsection (b)(3) is provided in advance in appropriations Acts.

(d) In carrying out this section, the Board shall require, to the maximum extent practicable, the use of employees who would normally have performed work in connection with the traffic subject to the action of the Board.

(e) For purposes of this section, the National Railroad Passenger Corporation and any entity providing commuter rail passenger transportation shall be considered rail carriers subject to the Board's jurisdiction.

(f) For purposes of this section, the term "commuter rail passenger transportation" has the meaning given that term in section 24102(4).[1]

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 833; amended Pub. L. 108–199, div. F, title I, §150(1), Jan. 23, 2004, 118 Stat. 302.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 24102 of this title, referred to in subsec. (f), was subsequently amended, and section 24102(4) no longer defines "commuter rail passenger transportation". However, such term is defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 11123, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422; Pub. L. 96–448, title II, §226, Oct. 14, 1980, 94 Stat. 1930, related to situations requiring immediate action, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–199, §150(1)(A)(i), inserted "failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation," after "cessation of operations," in introductory provisions.

Subsec. (a)(5). Pub. L. 108–199, §150(1)(A)(ii)–(iv), added par. (5).

Subsec. (b)(3). Pub. L. 108–199, §150(1)(B), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), when" for "When", and added subpar. (B).

Subsec. (c)(4). Pub. L. 108–199, §150(1)(C), added par. (4).

Subsecs. (e), (f). Pub. L. 108–199, §150(1)(D), added subsecs. (e) and (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

[1] *See References in Text note below.*

§11124. War emergencies; embargoes imposed by carriers

(a)(1) When the President, during time of war or threatened war, notifies the Board that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Board shall direct that preference or priority be given to that traffic.

(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all rail

carriers providing transportation subject to the jurisdiction of the Board under this part shall adopt every means within their control to facilitate and expedite the military traffic.

(b) An embargo imposed by any such rail carrier does not apply to shipments consigned to agents of the United States Government for its use. The rail carrier shall deliver those shipments as promptly as possible.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11128 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11124 to 11128 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11124, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422, related to rerouting traffic on failure of rail carrier to serve the public.

Section 11125, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1423; Pub. L. 98–216, §2(15), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(28), July 5, 1994, 108 Stat. 1378, related to directed rail transportation.

Section 11126, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424; Pub. L. 103–272, §5(m)(29), July 5, 1994, 108 Stat. 1378, related to distribution of coal cars.

Section 11127, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424; Pub. L. 99–521, §9(b)(1), (2), Oct. 22, 1986, 100 Stat. 2997, related to service of household goods freight forwarders.

Section 11128, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425, related to war emergencies and embargoes imposed by carriers. See section 11124 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER III—REPORTS AND RECORDS

§11141. Definitions

In this subchapter—

(1) the terms "rail carrier" and "lessor" include a receiver or trustee of a rail carrier and lessor, respectively;

(2) the term "lessor" means a person owning a railroad that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Board under this part; and

(3) the term "association" means an organization maintained by or in the interest of a group of rail carriers providing transportation or service subject to the jurisdiction of the Board under this part that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11141, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425; Pub. L. 99–521, §9(c), Oct. 22, 1986, 100 Stat. 2997, defined terms for purposes of former sections 11141 to 11145 of this title, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11141, 14121, and 15721 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11142. Uniform accounting system

The Board may prescribe a uniform accounting system for classes of rail carriers providing transportation subject to the jurisdiction of the Board under this part. To the maximum extent practicable, the Board shall conform such system to generally accepted accounting principles, and shall administer this subchapter in accordance with such principles.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11142, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425; Pub. L. 96–448, title III, §301, Oct. 14, 1980, 94 Stat. 1934, related to uniform accounting system, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11143. Depreciation charges

The Board shall, for a class of rail carriers providing transportation subject to its jurisdiction under this part, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Board may classify those rail carriers for purposes of this section. A rail carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Board;

(2) charge another rate of depreciation; or

(3) include other depreciation charges in operating expenses.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11143, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1426, related to depreciation charges, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L.

104–88, set out as a note under section 1301 of this title.

§11144. Records: form; inspection; preservation

(a) The Board may prescribe the form of records required to be prepared or compiled under this subchapter—

(1) by rail carriers and lessors, including records related to movement of traffic and receipts and expenditures of money; and

(2) by persons furnishing cars to or for a rail carrier providing transportation subject to the jurisdiction of the Board under this part to the extent related to those cars or that service.

(b) The Board, or an employee designated by the Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a rail carrier or lessor; and

(2) inspect and copy any record of—

(A) a rail carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a rail carrier if the Board considers inspection relevant to that person's relation to, or transaction with, that rail carrier; and

(C) a person furnishing cars to or for a rail carrier if the Board prescribed the form of that record.

(c) The Board may prescribe the time period during which operating, accounting, and financial records must be preserved by rail carriers, lessors, and persons furnishing cars.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 835.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11144, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1426; Pub. L. 96–296, §24(c), July 1, 1980, 94 Stat. 816, related to form, inspection, and preservation of records, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11144, 14122, and 15722 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11145. Reports by rail carriers, lessors, and associations

(a) The Board may require—

(1) rail carriers, lessors, and associations, or classes of them as the Board may prescribe, to file annual, periodic, and special reports with the Board containing answers to questions asked by it; and

(2) a person furnishing cars to a rail carrier to file reports with the Board containing answers to questions about those cars.

(b)(1) An annual report shall contain an account, in as much detail as the Board may require, of the affairs of the rail carrier, lessor, or association for the 12-month period ending on December 31 of each year.

(2) An annual report shall be filed with the Board by the end of the third month after the end of the

year for which the report is made unless the Board extends the filing date or changes the period covered by the report. The annual report and, if the Board requires, any other report made under this section, shall be made under oath.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 835.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11145, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1427; Pub. L. 96–296, §5(b), July 1, 1980, 94 Stat. 796, related to reports by carriers, lessors, and associations, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11145, 14123, and 15723 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER IV—RAILROAD COST ACCOUNTING

§11161. Implementation of cost accounting principles

The Board shall periodically review its cost accounting rules and shall make such changes in those rules as are required to achieve the regulatory purposes of this part. The Board shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes. To the maximum extent practicable, the Board shall conform such rules to generally accepted accounting principles.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 835.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11163 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11161, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1934, related to Railroad Accounting Principles Board, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11162. Rail carrier cost accounting system

(a) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Board under section 11161 of this title. A rail carrier may, after

notifying the Board, make modifications in such system unless, within 60 days after the date of notification, the Board finds such modifications to be inconsistent with the rules promulgated by the Board under section 11161 of this title.

(b) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Board, the Board shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 836.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11164 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11162, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1935; amended Pub. L. 103–272, §4(j)(30), July 5, 1994, 108 Stat. 1370, related to cost accounting principles, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11163. Cost availability

As required by the rules of the Board governing discovery in Board proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Board proceeding in which such data are required.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 836.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11165 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11163, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1936; amended Pub. L. 103–272, §4(j)(31), July 5, 1994, 108 Stat. 1370, related to implementation of cost accounting principles, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 11161 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11164. Accounting and cost reporting

To obtain expense and revenue information for regulatory purposes, the Board may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Board under this part, prescribing expense and revenue accounting and reporting requirements consistent

with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 836.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11166 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11164 to 11168 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11164, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1936, related to certification of rail carrier cost accounting systems. See section 11162 of this title.

Section 11165, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1937, related to cost data availability. See section 11163 of this title.

Section 11166, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1937; amended Pub. L. 103–272, §4(j)(32), July 5, 1994, 108 Stat. 1370, related to accounting and cost reporting. See section 11164 of this title.

Section 11167, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1938; amended Pub. L. 103–272, §4(j)(33), July 5, 1994, 108 Stat. 1370, related to reports to Congress by Railroad Accounting Principles Board.

Section 11168, added Pub. L. 96–448, title III, §302(a), Oct. 14, 1980, 94 Stat. 1938, authorized appropriations for fiscal years 1981 to 1983.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 113—FINANCE

SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

Sec.
11301. Equipment trusts: recordation; evidence of indebtedness.

SUBCHAPTER II—COMBINATIONS

11321. Scope of authority.
11322. Limitation on pooling and division of transportation or earnings.
11323. Consolidation, merger, and acquisition of control.
11324. Consolidation, merger, and acquisition of control: conditions of approval.
11325. Consolidation, merger, and acquisition of control: procedure.
11326. Employee protective arrangements in transactions involving rail carriers.
11327. Supplemental orders.
11328. Restrictions on officers and directors.

SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

§11301. Equipment trusts: recordation; evidence of indebtedness

(a) A mortgage (other than a mortgage under chapter 313 of title 46), lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in vessels, railroad cars, locomotives, or other

rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), intended for a use related to interstate commerce shall be filed with the Board in order to perfect the security interest that is the subject of such instrument. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it shall also be filed with the Board. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Board regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents. This section does not change chapter 313 of title 46.

(b) The Board shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Board shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions.

(c) The Board may to the greatest extent practicable perform its functions under this section through contracts with private sector entities.

(d) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in vessels, railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

(1) is duly constituted under the laws of a country other than the United States; and

(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

(e) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.

(f) The Board shall collect, maintain, and keep open for public inspection a railway equipment register consistent with the manner and format maintained by the Interstate Commerce Commission as of January 1, 1996.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 837; amended Pub. L. 104–287, §5(25), Oct. 11, 1996, 110 Stat. 3390.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11303 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11301, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1428; Pub. L. 103–429, §6(16), Oct. 31, 1994, 108 Stat. 4379, related to authority of certain carriers to issue securities and assume obligations and liabilities, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11302, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1430; Pub. L. 96–296, §18(a), July 1, 1980, 96 Stat. 811, provided that section 11301 of this title applied to motor carriers and corporations subject to jurisdiction of Interstate Commerce Commission under former subchapter II of chapter 105 of this title, but did not apply to corporations under a certain capitalization, and that this section did not apply to Federal, State, or local governments, prior to repeal by Pub. L. 97–261, §§19(a), 31(a), Sept. 20, 1982, 96 Stat. 1121, 1129, effective on the 60th day after Sept. 20, 1982.

Prior sections 11303 and 11304 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11303, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1430; Pub. L. 103–272, §5(m)(30), July 5, 1994, 108 Stat. 1378, related to filing and recording of mortgages, leases, equipment trusts, and other agreements with Interstate Commerce Commission. See section 11301 of this title.

Section 11304, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1431; Pub. L. 96–258, §1(12), June 3, 1980, 94 Stat. 426, related to security interests in certain motor vehicles. See section 14301 of this title.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of the ICC Termination Act of 1995".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER II—COMBINATIONS

§11321. Scope of authority

(a) The authority of the Board under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Board under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. However, if a purchase and sale, a lease, or a corporate consolidation or merger is involved in the transaction, the carrier or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote. The vote must occur at a regular meeting, or special meeting called for that purpose, of those stockholders and the notice of the meeting must indicate its purpose.

(b) A power granted under this subchapter to a carrier or corporation is in addition to and changes its powers under its corporate charter and under State law. Action under this subchapter does not establish or provide for establishing a corporation under the laws of the United States.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11341 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11321, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1432, related to limitations on ownership of certain water carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11322. Limitation on pooling and division of transportation or earnings

(a) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may not agree or combine with another of those rail carriers to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section or section 11123 of this title. The Board may approve and authorize the agreement or combination if the rail carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(b) The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the rail carriers.

(c) The Board may begin a proceeding under this section on its own initiative or on application.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11342 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11322, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1433, related to restrictions on officers and directors of carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 11328 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11323. Consolidation, merger, and acquisition of control

(a) The following transactions involving rail carriers providing transportation subject to the jurisdiction of the Board under this part may be carried out only with the approval and authorization of the Board:

(1) Consolidation or merger of the properties or franchises of at least 2 rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

(2) A purchase, lease, or contract to operate property of another rail carrier by any number of rail carriers.

(3) Acquisition of control of a rail carrier by any number of rail carriers.

(4) Acquisition of control of at least 2 rail carriers by a person that is not a rail carrier.

(5) Acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers.

(6) Acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those rail carriers, regardless of how that result is reached, only with the approval and authorization of the Board under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control or management:

(1) A transaction by a rail carrier that has the effect of putting that rail carrier and person affiliated with it, taken together, in control of another rail carrier.

(2) A transaction by a person affiliated with a rail carrier that has the effect of putting that rail carrier and persons affiliated with it, taken together, in control of another rail carrier.

(3) A transaction by at least 2 persons acting together (one of whom is a rail carrier or is affiliated with a rail carrier) that has the effect of putting those persons and rail carriers and persons affiliated with any of them, or with any of those affiliated rail carriers, taken together, in control of another rail carrier.

(c) A person is affiliated with a rail carrier under this subchapter if, because of the relationship between that person and a rail carrier, it is reasonable to believe that the affairs of another rail carrier, control of which may be acquired by that person, will be managed in the interest of the other rail carrier.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11343 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11323, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1433; Pub. L. 99–521, §10(a), (b)(1), Oct. 22, 1986, 100 Stat. 2997, related to limitation on ownership of other carriers by household goods freight forwarders, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11324. Consolidation, merger, and acquisition of control: conditions of approval

(a) The Board may begin a proceeding to approve and authorize a transaction referred to in section 11323 of this title on application of the person seeking that authority. When an application is filed with the Board, the Board shall notify the chief executive officer of each State in which property of the rail carriers involved in the proposed transaction is located and shall notify those rail carriers. The Board shall hold a public hearing unless the Board determines that a public hearing is not necessary in the public interest.

(b) In a proceeding under this section which involves the merger or control of at least two Class I railroads, as defined by the Board, the Board shall consider at least—

(1) the effect of the proposed transaction on the adequacy of transportation to the public;

(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;

(3) the total fixed charges that result from the proposed transaction;

(4) the interest of rail carrier employees affected by the proposed transaction; and

(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

(c) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Board may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. The Board may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Board finds their inclusion to be consistent with the public interest.

(d) In a proceeding under this section which does not involve the merger or control of at least two Class I railroads, as defined by the Board, the Board shall approve such an application unless it finds that—

(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Board shall, with respect to any application that is part of a plan or proposal developed under section 333(a)–(d) of this title, accord substantial weight to any recommendations of the Attorney General.

(e) No transaction described in section 11326(b) may have the effect of avoiding a collective bargaining agreement or shifting work from a rail carrier with a collective bargaining agreement to a rail carrier without a collective bargaining agreement.

(f)(1) To the extent provided in this subsection, a proceeding under this subchapter relating to a transaction involving at least one Class I rail carrier shall not be considered an adjudication required by statute to be determined on the record after opportunity for an agency hearing, for the purposes of subchapter II of chapter 5 of title 5, United States Code.

(2) Ex parte communications, as defined in section 551(14) of title 5, United States Code, shall be permitted in proceedings described in paragraph (1) of this subsection, subject to the requirements of paragraph (3) of this subsection.

(3)(A) Any member or employee of the Board who makes or receives a written ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place the communication in the public docket of the proceeding.

(B) Any member or employee of the Board who makes or receives an oral ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place a written summary of the oral communication in the public docket of the proceeding.

(4) Nothing in this subsection shall be construed to require the Board or any of its members or employees to engage in any ex parte communication with any person. Nothing in this subsection or any other law shall be construed to limit the authority of the members or employees of the Board, in their discretion, to note in the docket or otherwise publicly the occurrence and substance of an ex parte communication.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 839.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11344 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11325. Consolidation, merger, and acquisition of control: procedure

(a) The Board shall publish notice of the application under section 11324 in the Federal Register by the end of the 30th day after the application is filed with the Board. However, if the application is incomplete, the Board shall reject it by the end of that period. The order of rejection is a final action of the Board. The published notice shall indicate whether the application involves—

(1) the merger or control of at least two Class I railroads, as defined by the Board, to be decided within the time limits specified in subsection (b) of this section;

(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

(b) If the application involves the merger or control of two or more Class I railroads, as defined by the Board, the following conditions apply:

(1) Written comments about an application may be filed with the Board within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Attorney General and the Secretary of Transportation, who may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Board by the end of the 15th day after the date of receipt of the written comments.

(2) The Board shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 90th day after publication of notice under that subsection.

(3) The Board must conclude evidentiary proceedings by the end of 1 year after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

(c) If the application involves a transaction other than the merger or control of at least two Class I railroads, as defined by the Board, which the Board has determined to be of regional or national transportation significance, the following conditions apply:

(1) Written comments about an application, including comments of the Attorney General and the Secretary of Transportation, may be filed with the Board within 30 days after notice of the application is published under subsection (a) of this section.

(2) The Board shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 60th day after publication of notice under that subsection.

(3) The Board must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

(d) For all applications under this section other than those specified in subsections (b) and (c) of this section, the following conditions apply:

(1) Written comments about an application, including comments of the Attorney General and the Secretary of Transportation, may be filed with the Board within 30 days after notice of the application is published under subsection (a) of this section.

(2) The Board must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 841.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11345 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11326. Employee protective arrangements in transactions involving rail carriers

(a) Except as otherwise provided in this section, when approval is sought for a transaction under sections 11324 and 11325 of this title, the Board shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 5(2)(f) of the Interstate Commerce Act before February 5, 1976, and the terms established under section 24706(c) [1] of this title. Notwithstanding this part, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Board (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

(b) When approval is sought under sections 11324 and 11325 for a transaction involving one Class II and one or more Class III rail carriers, there shall be an arrangement as required under subsection (a) of this section, except that such arrangement shall be limited to one year of severance pay, which shall not exceed the amount of earnings from the railroad employment of that employee during the 12-month period immediately preceding the date on which the application for approval of such transaction is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of that employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction. The parties may agree to terms other than as provided in this subsection.

(c) When approval is sought under sections 11324 and 11325 for a transaction involving only Class III rail carriers, this section shall not apply.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 842.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5(2)(f) of the Interstate Commerce Act, referred to in subsec. (a), was classified to section 5(2)(f) of former Title 49, Transportation, prior to repeal and reenactment as section 11347 of this title by Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439. Section 11347 of this title was subsequently omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 24706(c) of this title, referred to in subsec. (a), was repealed by Pub. L. 105–134, title I, §142(a), Dec. 2, 1997, 111 Stat. 2576.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11347 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

[1] *See References in Text note below.*

§11327. Supplemental orders

When cause exists, the Board may make appropriate orders supplemental to an order made in a proceeding under sections 11322 through 11326 of this title.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 843.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11351 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11328. Restrictions on officers and directors

(a) A person may hold the position of officer or director of more than one rail carrier only when authorized by the Board. The Board may authorize a person to hold the position of officer or director of more than one of those carriers when public or private interests will not be adversely affected.

(b) This section shall not apply to an individual holding the position of officer or director only of Class III rail carriers.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 843.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11322 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11341 to 11351 and 11361 to 11367 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11341, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 97–261, §21(a), Sept. 20, 1982, 96 Stat. 1122, related to exclusive authority of Interstate Commerce Commission under former sections 11341 to 11351 of this title. See sections 11321, 14302, and 14303 of this title.

Section 11342, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 96–296, §20, July 1, 1980, 94 Stat. 811; Pub. L. 96–454, §5(c), Oct. 15, 1980, 94 Stat. 2014, related to limitation on pooling and division of transportation or earnings. See sections 11322 and 14302 of this title.

Section 11343, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 96–296, §18(b), July 1, 1980, 94 Stat. 811; Pub. L. 97–261, §21(b), Sept. 20, 1982, 96 Stat. 1122, related to consolidation, merger, and acquisition of control. See sections 11323 and 14303 of this title.

Section 11344, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1436; Pub. L. 96–448, title II, §228(a)–(c), Oct. 14, 1980, 94 Stat. 1931; Pub. L. 97–261, §21(f), (g), Sept. 20, 1982, 96 Stat. 1123; Pub. L. 98–216, §2(4), Feb. 14, 1984, 98 Stat. 5, related to general procedures and conditions of approval of consolidations, mergers, and acquisitions of control. See sections 11324 and 14303 of this title.

Section 11345, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1436; Pub. L. 96–448, title II, §228(d), Oct. 14, 1980, 94 Stat. 1932, related to rail carrier procedures in consolidations, mergers, and acquisitions of control. See section 11325 of this title.

Section 11345a, added Pub. L. 96–296, §27(a), July 1, 1980, 94 Stat. 819; amended Pub. L. 97–261, §21(c), (d), Sept. 20, 1982, 96 Stat. 1123, related to motor carrier procedures in consolidations, mergers, and acquisitions of control. See section 14303 of this title.

Section 11346, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1437; Pub. L. 97–449, §5(g)(7), Jan. 12, 1983, 96 Stat. 2443, related to expedited rail carrier procedures in consolidations, mergers, and acquisitions of control.

Section 11347, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439; Pub. L. 98–216, §2(16), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(31), July 5, 1994, 108 Stat. 1378, related to employee protective arrangements in transactions involving rail carriers. See section 11326 of this title.

Section 11348, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439; Pub. L. 96–454, §8(b)(1), Oct. 15, 1980, 94 Stat. 2021; Pub. L. 97–261, §19(b), Sept. 20, 1982, 96 Stat. 1121; Pub. L. 97–449, §5(g)(8), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–554, title II, §227(a)(3), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 103–272, §5(m)(32), July 5, 1994, 108 Stat. 1378; Pub. L. 103–429, §6(17), Oct. 31, 1994, 108 Stat. 4379, related to Interstate Commerce Commission authority over noncarriers that acquire control of carriers. See section 14303 of this title.

Section 11349, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439, related to temporary operating approval for transactions involving motor and water carriers. See section 14303 of this title.

Section 11350, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1440, related to responsibility of Secretary of Transportation in certain transactions.

Section 11351, added Pub. L. 96–258, §1(13)(A), June 3, 1980, 94 Stat. 427, related to orders by Interstate Commerce Commission supplemental to orders made in proceedings under former sections 11342 to 11345 and 11347 of this title. See sections 11327 and 14303 of this title.

Section 11361, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1441; Pub. L. 97–449, §5(g)(9), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–216, §2(17), Feb. 14, 1984, 98 Stat. 5, related to exclusive authority of Interstate Commerce Commission over financial structure of carriers.

Section 11362, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1441, related to criteria for approval and authority to make changes in carrier financial structure.

Section 11363, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1442, related to assent of holders of securities and certain other instruments to changes in carrier financial structure.

Section 11364, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to procedure for obtaining assents of security holders to changes in financial structure.

Section 11365, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to effect of change in financial structure of carrier on other persons.

Section 11366, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to reports by carriers making change in financial structure.

Section 11367, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1444; Pub. L. 98–216, §2(18), (19), Feb. 14, 1984, 98 Stat. 5, related to application of certain other laws to proposed changes in financial structure of carriers.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 115—FEDERAL-STATE RELATIONS

Sec.

11501. Tax discrimination against rail transportation property.
11502. Withholding State and local income tax by rail carriers.

§11501. Tax discrimination against rail transportation property

(a) In this section—

(1) the term "assessment" means valuation for a property tax levied by a taxing district;

(2) the term "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

(3) the term "rail transportation property" means property, as defined by the Board, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Board under this part; and

(4) the term "commercial and industrial property" means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 843.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11503 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11501, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1444; Pub. L. 96–448, title II, §214(a)–(c)(1), Oct. 14, 1980, 94 Stat. 1913, 1915; Pub. L. 97–261, §17(a), Sept. 20, 1982, 96 Stat. 1117; Pub. L. 99–521, §11(a), Oct. 22, 1986, 100 Stat. 2997; Pub. L. 103–272, §4(j)(34), July 5, 1994, 108 Stat. 1370; Pub. L. 103–305, title VI, §601(c), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–311, title II, §211(b)(2), Aug. 26, 1994, 108 Stat. 1689, related to Interstate Commerce Commission authority over intrastate transportation, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 14501 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11502. Withholding State and local income tax by rail carriers

(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Board under this part to an employee who performs regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

(b) A rail carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 844.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11504 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11502 to 11507 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11502, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1445, related to conferences and joint hearings with State authorities.

Section 11503, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1445, related to tax discrimination against rail transportation property. See section 11501 of this title.

Section 11503a, added Pub. L. 96–296, §31(a)(1), July 1, 1980, 94 Stat. 823; amended Pub. L. 97–261, §20, Sept. 20, 1982, 96 Stat. 1122, related to tax discrimination against motor carrier transportation property. See section 14502 of this title.

Section 11504, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1446; Pub. L. 97–261, §29(d), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 101–322, §7, July 6, 1990, 104 Stat. 296; Pub. L. 103–272, §5(m)(33), July 5, 1994, 108 Stat. 1378, related to withholding State and local income tax by certain carriers. See sections 11502 and 14503 of this title.

Section 11505, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1448; Pub. L. 99–521, §11(b), Oct. 22, 1986, 100 Stat. 2998, related to State action to enjoin rail carriers from certain actions.

Section 11506, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1448; Pub. L. 102–240, title IV, §4005, Dec. 18, 1991, 105 Stat. 2146, related to registration of motor carriers by a State.

Section 11507, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1449; Pub. L. 98–473, title II, §233, Oct. 12, 1984, 98 Stat. 2031, related to prison-made property governed by State law.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 117—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.

11701. General authority.
11702. Enforcement by the Board.
11703. Enforcement by the Attorney General.
11704. Rights and remedies of persons injured by rail carriers.
11705. Limitation on actions by and against rail carriers.
11706. Liability of rail carriers under receipts and bills of lading.
11707. Liability when property is delivered in violation of routing instructions.
11708. Voluntary arbitration of certain rail rates and practice disputes.[1]

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–110, §13(b), Dec. 18, 2015, 129 Stat. 2237, added item 11708.

[1] So in original. Does not conform to section catchline.

§11701. General authority

(a) Except as otherwise provided in this part, the Board may begin an investigation under this part on the Board's own initiative or upon receiving a complaint pursuant to subsection (b). If the Board finds that a rail carrier is violating this part, the Board shall take appropriate action to compel compliance with this part. If the Board finds a violation of this part in a proceeding brought on its own initiative, any remedy from such proceeding may only be applied prospectively.

(b) A person, including a governmental authority, may file with the Board a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Board under this part because of the absence of direct damage to the complainant.

(c) A formal investigative proceeding begun by the Board under subsection (a) of this section is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the third year after the date on which it was begun.

(d) In any investigation commenced on the Board's own initiative, the Board shall—

(1) not later than 30 days after initiating the investigation, provide written notice to the parties under investigation, which shall state the basis for such investigation;

(2) only investigate issues that are of national or regional significance;

(3) permit the parties under investigation to file a written statement describing any or all facts and circumstances concerning a matter which may be the subject of such investigation;

(4) make available to the parties under investigation and Board members—

(A) any recommendations made as a result of the investigation; and

(B) a summary of the findings that support such recommendations;

(5) to the extent practicable, separate the investigative and decisionmaking functions of staff;

(6) dismiss any investigation that is not concluded by the Board with administrative finality within 1 year after the date on which it was commenced; and

(7) not later than 90 days after receiving the recommendations and summary of findings under paragraph (4)—

(A) dismiss the investigation if no further action is warranted; or

(B) initiate a proceeding to determine if a provision under this part has been violated.

(e)(1) Any parties to an investigation against whom a violation is found as a result of an investigation begun on the Board's own initiative may, not later than 60 days after the date of the order of the Board finding such a violation, institute an action in the United States court of appeals for the appropriate judicial circuit for de novo review of such order in accordance with chapter 7 of title 5.

(2) The court—

(A) shall have jurisdiction to enter a judgment affirming, modifying, or setting aside, in whole or in part, the order of the Board; and

(B) may remand the proceeding to the Board for such further action as the court may direct.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845; amended Pub. L. 114–110, §12(a), (b), Dec. 18, 2015, 129 Stat. 2234.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11701, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1449; Pub. L. 96–296, §26(a), July 1, 1980, 94 Stat. 818; Pub. L. 98–554, title II, §226(c)(4), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 99–521, §12(a), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 100–690, title IX, §9111(i), Nov. 18, 1988, 102 Stat. 4534; Pub. L. 103–272, §5(m)(34), July 5, 1994, 108 Stat. 1378, related to general authority of Interstate Commerce Commission to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11701, 14701, and 15901 of this title.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–110, §12(a), substituted "on the Board's own initiative or upon receiving a complaint pursuant to subsection (b)" for "only on complaint" and inserted at end "If the Board finds a violation of this part in a proceeding brought on its own initiative, any remedy from such proceeding may only be applied prospectively."

Subsecs. (d), (e). Pub. L. 114–110, §12(b), added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

RULEMAKINGS FOR INVESTIGATIONS OF THE BOARD'S INITIATIVE

Pub. L. 114–110, §12(c), Dec. 18, 2015, 129 Stat. 2235, provided that: "Not later than 1 year after the date of the enactment of this Act [Dec. 18, 2015], the Board shall issue rules, after notice and comment rulemaking, for investigations commenced on its own initiative that—

"(1) comply with the requirements of section 11701(d) of title 49, United States Code, as added by subsection (b);

"(2) satisfy due process requirements; and

"(3) take into account ex parte constraints."

§11702. Enforcement by the Board

The Board may bring a civil action—

(1) to enjoin a rail carrier from violating sections 10901 through 10906 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

(2) to enforce subchapter II of chapter 113 of this title and to compel compliance with an order of the Board under that subchapter; and

(3) to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11702, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1450; Pub. L. 96–296, §§15(c), 16(c), July 1, 1980, 94 Stat. 809, 810; Pub. L. 97–261, §25(e), Sept. 20, 1982, 96 Stat. 1125; Pub. L. 98–554, title II, §226(c)(5), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 100–690, title IX, §9111(j), Nov. 18, 1988, 102 Stat. 4534, related to authority of Interstate Commerce Commission to bring a civil action to enforce various provisions of this subtitle, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11702, 14702, and 15902 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11703. Enforcement by the Attorney General

(a) The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part, or a regulation or order of the Board or certificate issued under this part, and to prosecute a person violating this part or a regulation or order of the Board or certificate issued under this part.

(b) The United States Government may bring a civil action on behalf of a person to compel a rail carrier providing transportation subject to the jurisdiction of the Board under this part to provide that transportation to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the rail carrier, for like traffic under similar conditions to another person.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11703, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1450, related to authority of Attorney General and United States Government to bring civil actions to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11703, 14703, and 15903 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11704. Rights and remedies of persons injured by rail carriers

(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action in a United States District Court to enforce that order under this subsection.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part. A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable to a person for amounts charged that exceed the applicable rate for the transportation.

(c)(1) A person may file a complaint with the Board under section 11701(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(2) When the Board makes an award under subsection (b) of this section, the Board shall order the rail carrier to pay the amount awarded by a specific date. The Board may order a rail carrier providing transportation subject to the jurisdiction of the Board under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the rail carrier does not pay the amount awarded by the date payment was ordered to be made.

(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Board requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

(A) in which the plaintiff resides;

(B) in which the principal operating office of the rail carrier is located; or

(C) through which the railroad line of that carrier runs.

In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 846.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11704, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1451, related to actions by private persons to enjoin abandonment of service, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11705. Limitation on actions by and against rail carriers

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) A person must begin a civil action to recover overcharges under section 11704(b) of this title within 3 years after the claim accrues, whether or not a complaint is filed under section 11704(c)(1).

(c) A person must file a complaint with the Board to recover damages under section 11704(b) of this title within 2 years after the claim accrues.

(d) The limitation period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the rail carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the rail carrier within that limitation period. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the rail carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) A person must begin a civil action to enforce an order of the Board against a rail carrier for the payment of money within one year after the date the order required the money to be paid.

(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

(1) payment of the rate for the transportation or service involved;

(2) subsequent refund for overpayment of that rate; or

(3) deduction made under section 3726 of title 31, whichever is later.

(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the rail carrier.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 847.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11705, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1451; Pub. L. 99–521, §12(b), Oct. 22, 1986, 100 Stat. 2998, related to rights and remedies of persons injured by certain carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11704, 14704, and 15904 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11706. Liability of rail carriers under receipts and bills of lading

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under

this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That rail carrier and any other carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Board under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by—

(1) the receiving rail carrier;

(2) the delivering rail carrier; or

(3) another rail carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading.

Failure to issue a receipt or bill of lading does not affect the liability of a rail carrier. A delivering rail carrier is deemed to be the rail carrier performing the line-haul transportation nearest the destination but does not include a rail carrier providing only a switching service at the destination.

(b) The rail carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the rail carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c)(1) A rail carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, or rule in violation of this section is void.

(2) A rail carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on trains carrying passengers.

(3) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish rates for transportation of property under which—

(A) the liability of the rail carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier; or

(B) specified amounts are deducted, pursuant to a written agreement between the shipper and the carrier, from any claim against the carrier with respect to the transportation of such property.

(d)(1) A civil action under this section may be brought in a district court of the United States or in a State court.

(2)(A) A civil action under this section may only be brought—

(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

(B) In this section, "judicial district" means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

(e) A rail carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless

the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 847.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11706, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1452; Pub. L. 97–258, §3(n), Sept. 13, 1982, 96 Stat. 1066; Pub. L. 99–521, §12(c), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 103–180, §3, Dec. 3, 1993, 107 Stat. 2049; Pub. L. 103–429, §6(18), Oct. 31, 1994, 108 Stat. 4379, related to limitation on actions by and against common carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11705, 14705, and 15905 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11707. Liability when property is delivered in violation of routing instructions

(a)(1) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part diverts or delivers property to another rail carrier in violation of routing instructions in the bill of lading, both of those rail carriers are jointly and severally liable to the rail carrier that was deprived of its right to participate in hauling that property for the total amount of the rate it would have received if it participated in hauling the property.

(2) A rail carrier is not liable under paragraph (1) of this subsection when it diverts or delivers property in compliance with an order or regulation of the Board.

(3) A rail carrier to whom property is transported is not liable under this subsection if it shows that it had no notice of the routing instructions before transporting the property. The burden of proving lack of notice is on that rail carrier.

(b) The court shall award a reasonable attorney's fee to the plaintiff in a judgment against the defendant rail carrier under subsection (a) of this section. The court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 849.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11710 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11707 to 11712 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11707, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1453; Pub. L. 96–258, §1(14), June 3, 1980, 94 Stat. 427; Pub. L. 96–296, §26(b), July 1, 1980, 94 Stat. 818; Pub. L. 96–448, title II, §211(c), Oct. 14, 1980, 94

Stat. 1911; Pub. L. 99–521, §12(d), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 100–690, title IX, §9114, Nov. 18, 1988, 102 Stat. 4535, related to liability of common carriers under receipts and bills of lading. See sections 11706, 14706, and 15906 of this title.

Section 11708, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454; Pub. L. 99–521, §12(e)(1), (2), Oct. 22, 1986, 100 Stat. 2998, related to private enforcement of motor carrier and household goods freight forwarder licensing requirements. See section 14707 of this title.

Section 11709, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454, related to liability for issuance of securities by certain carriers.

Section 11710, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1455, related to liability when property is delivered in violation of routing instructions. See section 11707 of this title.

Section 11711, added Pub. L. 96–454, §7(a)(1), Oct. 15, 1980, 94 Stat. 2016; amended Pub. L. 97–261, §6(d)(2), Sept. 20, 1982, 96 Stat. 1107, related to dispute settlement program for household goods carriers. See section 14708 of this title.

Section 11712, added Pub. L. 103–180, §4(a), Dec. 3, 1993, 107 Stat. 2049, related to tariff reconciliation rules for motor common carriers of property. See section 14709 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11708. Voluntary arbitration of certain rail rates and practices disputes

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Surface Transportation Board Reauthorization Act of 2015, the Board shall promulgate regulations to establish a voluntary and binding arbitration process to resolve rail rate and practice complaints subject to the jurisdiction of the Board.

(b) COVERED DISPUTES.—The voluntary and binding arbitration process established pursuant to subsection (a)—

(1) shall apply to disputes involving—

(A) rates, demurrage, accessorial charges, misrouting, or mishandling of rail cars; or

(B) a carrier's published rules and practices as applied to particular rail transportation;

(2) shall not apply to disputes—

(A) to obtain the grant, denial, stay, or revocation of any license, authorization, or exemption;

(B) to prescribe for the future any conduct, rules, or results of general, industry-wide applicability;

(C) to enforce a labor protective condition; or

(D) that are solely between 2 or more rail carriers; and

(3) shall not prevent parties from independently seeking or utilizing private arbitration services to resolve any disputes the parties may have.

(c) ARBITRATION PROCEDURES.—

(1) IN GENERAL.—The Board—

(A) may make the voluntary and binding arbitration process established pursuant to subsection (a) available only to the relevant parties;

(B) may make the voluntary and binding arbitration process available only—

(i) after receiving the written consent to arbitrate from all relevant parties; and

(ii)(I) after the filing of a written complaint; or

(II) through other procedures adopted by the Board in a rulemaking proceeding;

(C) with respect to rate disputes, may make the voluntary and binding arbitration process

available only to the relevant parties if the rail carrier has market dominance (as determined under section 10707); and

(D) may initiate the voluntary and binding arbitration process not later than 40 days after the date on which a written complaint is filed or through other procedures adopted by the Board in a rulemaking proceeding.

(2) LIMITATION.—Initiation of the voluntary and binding arbitration process shall preclude the Board from separately reviewing a complaint or dispute related to the same rail rate or practice in a covered dispute involving the same parties.

(3) RATES.—In resolving a covered dispute involving the reasonableness of a rail carrier's rates, the arbitrator or panel of arbitrators, as applicable, shall consider the Board's methodologies for setting maximum lawful rates, giving due consideration to the need for differential pricing to permit a rail carrier to collect adequate revenues (as determined under section 10704(a)(2)).

(d) ARBITRATION DECISIONS.—Any decision reached in an arbitration process under this section—

(1) shall be consistent with sound principles of rail regulation economics;

(2) shall be in writing;

(3) shall contain findings of fact and conclusions;

(4) shall be binding upon the parties; and

(5) shall not have any precedential effect in any other or subsequent arbitration dispute.

(e) TIMELINES.—

(1) SELECTION.—An arbitrator or panel of arbitrators shall be selected not later than 14 days after the date of the Board's decision to initiate arbitration.

(2) EVIDENTIARY PROCESS.—The evidentiary process of the voluntary and binding arbitration process shall be completed not later than 90 days after the date on which the arbitration process is initiated unless—

(A) a party requests an extension; and

(B) the arbitrator or panel of arbitrators, as applicable, grants such extension request.

(3) DECISION.—The arbitrator or panel of arbitrators, as applicable, shall issue a decision not later than 30 days after the date on which the evidentiary record is closed.

(4) EXTENSIONS.—The Board may extend any of the timelines under this subsection upon the agreement of all parties in the dispute.

(f) ARBITRATORS.—

(1) IN GENERAL.—Unless otherwise agreed by all of the parties, an arbitration under this section shall be conducted by an arbitrator or panel of arbitrators, which shall be selected from a roster, maintained by the Board, of persons with rail transportation, economic regulation, professional or business experience, including agriculture, in the private sector.

(2) INDEPENDENCE.—In an arbitration under this section, the arbitrators shall perform their duties with diligence, good faith, and in a manner consistent with the requirements of impartiality and independence.

(3) SELECTION.—

(A) IN GENERAL.—If the parties cannot mutually agree on an arbitrator, or the lead arbitrator of a panel of arbitrators, the parties shall select the arbitrator or lead arbitrator from the roster by alternately striking names from the roster until only 1 name remains meeting the criteria set forth in paragraph (1).

(B) PANEL OF ARBITRATORS.—If the parties agree to select a panel of arbitrators, instead of a single arbitrator, the panel shall be selected under this subsection as follows:

(i) The parties to a dispute may mutually select 1 arbitrator from the roster to serve as the lead arbitrator of the panel of arbitrators.

(ii) If the parties cannot mutually agree on a lead arbitrator, the parties shall select a lead arbitrator using the process described in subparagraph (A).

(iii) In addition to the lead arbitrator selected under this subparagraph, each party to a dispute shall select 1 additional arbitrator from the roster, regardless of whether the other party struck out the arbitrator's name under subparagraph (A).

(4) COST.—The parties shall share the costs incurred by the Board and arbitrators equally, with each party responsible for paying its own legal and other associated arbitration costs.

(g) RELIEF.—

(1) IN GENERAL.—Subject to the limitations set forth in paragraphs (2) and (3), an arbitral decision under this section may award the payment of damages or rate prescriptive relief.

(2) PRACTICE DISPUTES.—The damage award for practice disputes may not exceed $2,000,000.

(3) RATE DISPUTES.—

(A) MONETARY LIMIT.—The damage award for rate disputes, including any rate prescription, may not exceed $25,000,000.

(B) TIME LIMIT.—Any rate prescription shall be limited to not longer than 5 years from the date of the arbitral decision.

(h) BOARD REVIEW.—If a party appeals a decision under this section to the Board, the Board may review the decision under this section to determine if—

(1) the decision is consistent with sound principles of rail regulation economics;

(2) a clear abuse of arbitral authority or discretion occurred;

(3) the decision directly contravenes statutory authority; or

(4) the award limitation under subsection (g) was violated.

(Added Pub. L. 114–110, §13(a), Dec. 18, 2015, 129 Stat. 2235.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Surface Transportation Board Reauthorization Act of 2015, referred to in subsec. (a), is the date of enactment of Pub. L. 114–110, which was approved Dec. 18, 2015.

CHAPTER 119—CIVIL AND CRIMINAL PENALTIES

Sec.

11901. General civil penalties.
11902. Interference with railroad car supply.
11903. Record keeping and reporting violations.
11904. Unlawful disclosure of information.
11905. Disobedience to subpoenas.
11906. General criminal penalty when specific penalty not provided.
11907. Punishment of corporation for violations committed by certain individuals.
11908. Relation to other Federal criminal penalties.

§11901. General civil penalties

(a) Except as otherwise provided in this section, a rail carrier providing transportation subject to the jurisdiction of the Board under this part, an officer or agent of that rail carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating this part or an order of the Board under this part is liable to the United States Government for a civil penalty of not more than $5,000 for

each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, or a receiver or trustee of that rail carrier, violating a regulation or order of the Board under section 11124(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

(c) A person knowingly authorizing, consenting to, or permitting a violation of sections 10901 through 10906 of this title or of a requirement or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

(d) A rail carrier, receiver, or operating trustee violating an order or direction of the Board under section 11123 or 11124(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

(e)(1) A person required under subchapter III of chapter 111 of this title to make, prepare, preserve, or submit to the Board a record concerning transportation subject to the jurisdiction of the Board under this part that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

(2) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, and a lessor, receiver, or trustee of that rail carrier, violating section 11144(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

(3) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, a lessor, receiver, or trustee of that rail carrier, a person furnishing cars, and an officer, agent, or employee of one of them, required to make a report to the Board or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(f) Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 849.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11901, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1455; Pub. L. 96–454, §8(a), Oct. 15, 1980, 94 Stat. 2019; Pub. L. 96–510, title III, §306(c), Dec. 11, 1980, 94 Stat. 2810; Pub. L. 97–261, §23, Sept. 20, 1982, 96 Stat. 1124; Pub. L. 98–554, title II, §§226(c)(6), 227(a)(1), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 103–180, §§6(b), 7(c), Dec. 3, 1993, 107 Stat. 2051, 2052, related to general civil penalties, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11901, 14901, and 16101 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11902. Interference with railroad car supply

(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Board under this part intending to influence an action of that other person related to supply, distribution, or movement of cars,

vehicles, or vessels used in the transportation of property, or because of the action of that other person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Board under this part that solicits, accepts, or receives anything of value—

(1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property; or

(2) because of the action of that person,

shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 850.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11907 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11902 and 11902a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11902, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457, related to civil penalties for accepting rebates from common carriers. See section 14902 of this title.

Section 11902a, added Pub. L. 96–296, §15(b)(1), July 1, 1980, 94 Stat. 809, related to penalties for violations of rules relating to loading and unloading motor vehicles. See section 14905 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11903. Record keeping and reporting violations

A person required to make a report to the Board, or make, prepare, or preserve a record, under subchapter III of chapter 111 of this title about transportation subject to the jurisdiction of the Board under this part that knowingly and willfully—

(1) makes a false entry in the report or record;

(2) destroys, mutilates, changes, or by another means falsifies the record;

(3) does not enter business related facts and transactions in the record;

(4) makes, prepares, or preserves the record in violation of a regulation or order of the Board; or

(5) files a false report or record with the Board,

shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 851.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11909 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11903, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457, related to rate, discrimination, and tariff violations, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 14903 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11904. Unlawful disclosure of information

(a) A—

(1) rail carrier providing transportation subject to the jurisdiction of the Board under this part, or an officer, agent, or employee of that rail carrier, or another person authorized to receive information from that rail carrier, that knowingly discloses to another person, except the shipper or consignee; or

(2) person who solicits or knowingly receives,

information described in subsection (b) without the consent of the shipper or consignee shall be fined not more than $1,000.

(b) The information referred to in subsection (a) is information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that rail carrier for transportation provided under this part, or information about the contents of a contract authorized under section 10709 of this title, that may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee.

(c) This part does not prevent a rail carrier providing transportation subject to the jurisdiction of the Board under this part from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another rail carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(d) An employee of the Board delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Board, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

(e) A person that knowingly discloses confidential data made available to such person under section 11163 of this title by a rail carrier providing transportation subject to the jurisdiction of the Board under this part shall be fined not more than $50,000.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 851; amended Pub. L. 105–102, §2(6), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:11904(a)(2) to correct a grammatical error.

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11904, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457; Pub. L. 99–521, §13(a), Oct. 22, 1986, 100 Stat. 2998, related to additional rate and discrimination violations, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 14904 of this title.

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105–102 struck out "a" before "person".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11905. Disobedience to subpoenas

A person not obeying a subpoena or requirement of the Board to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11905, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459; Pub. L. 97–261, §29(e), Sept. 20, 1982, 96 Stat. 1128, related to transportation of passengers without charge, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11906. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under this chapter, a rail carrier providing transportation subject to the jurisdiction of the Board under this part, and when that rail carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined not more than $5,000. The person may be imprisoned for not more than 2 years in addition to being fined under this section. A separate violation occurs each day a violation of this part continues.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852; amended Pub. L. 105–102, §2(7), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:11906 to correct an erroneous cross-reference.

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11906, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459, related to evasion of regulation of

motor carriers and brokers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 14906 of this title.

AMENDMENTS

1997—Pub. L. 105–102 substituted "violation of this part" for "violation of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11907. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that rail carrier are considered to be the actions and omissions of that rail carrier as well as that individual.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11907, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459, related to interference with railroad car supply, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 11902 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§11908. Relation to other Federal criminal penalties

Notwithstanding section 3571 of title 18, United States Code, the criminal penalties provided for in this chapter are the exclusive criminal penalties for violations of this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 11908 to 11917 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11908, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459; Pub. L. 99–521, §13(b)(1), (2), Oct. 22, 1986, 100 Stat. 2998, 2999, related to penalty for abandonment of service by household goods freight forwarders.

Section 11909, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1460; Pub. L. 96–258, §1(15), June 3, 1980, 94 Stat. 427; Pub. L. 97–424, title IV, §427(a), Jan. 6, 1983, 96 Stat. 2168; Pub. L. 98–216, §2(20), Feb. 14, 1984, 98 Stat. 6; Pub. L. 99–521, §13(c), Oct. 22, 1986, 100 Stat. 2999; Pub. L. 103–180, §6(c), Dec. 3, 1993, 107 Stat. 2051; Pub. L. 103–272, §4(j)(35), July 5, 1994, 108 Stat. 1370, related to penalties for record keeping and reporting violations. See sections 11903, 14907, and 16102 of this title.

Section 11910, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1461; Pub. L. 96–448, title III, §303(b), Oct. 14, 1980, 94 Stat. 1938; Pub. L. 99–521, §13(d), Oct. 22, 1986, 100 Stat. 2999, related to penalties for unlawful disclosure of information. See sections 11904, 14908, and 16103 of this title.

Section 11911, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1462; Pub. L. 97–261, §19(c), Sept. 20, 1982, 96 Stat. 1121, related to penalties for violations involving issuance of securities, disposition of funds, and restrictions on ownership.

Section 11912, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1462; Pub. L. 96–258, §1(13)(C), June 3, 1980, 94 Stat. 427, related to penalties for violations by persons, not carriers, involving consolidations, mergers, and acquisitions of control.

Section 11913, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1463, related to penalty for disobedience to subpenas. See sections 11905, 14909, and 16104 of this title.

Section 11913a, added Pub. L. 96–448, title III, §303(a)(1), Oct. 14, 1980, 94 Stat. 1938, related to penalty for accounting principles violations.

Section 11914, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1463; Pub. L. 96–258, §1(16), June 3, 1980, 94 Stat. 427; Pub. L. 97–424, title IV, §427(b), Jan. 6, 1983, 96 Stat. 2168; Pub. L. 98–216, §2(20), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98–554, title II, §226(c)(7), Oct. 30, 1984, 98 Stat. 2852, related to general criminal penalty when specific penalty not provided. See sections 11906, 14910, and 16105 of this title.

Section 11915, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1464, related to punishment of corporation for violations committed by certain individuals. See sections 11907, 14911, and 16106 of this title.

Section 11916, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1464, related to conclusiveness of rates in certain prosecutions. See section 14913 of this title.

Section 11917, added Pub. L. 96–454, §9(a), Oct. 15, 1980, 94 Stat. 2021, related to weight-bumping in household goods transportation. See section 14912 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(26)(A), Oct. 11, 1996, 110 Stat. 3390, made technical amendment to part heading.

CHAPTER 131—GENERAL PROVISIONS

Sec.
13101. Transportation policy.
13102. Definitions.
13103. Remedies as cumulative.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(26)(B), Oct. 11, 1996, 110 Stat. 3390, made technical amendment to heading.

§13101. Transportation policy

(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

(1) in overseeing those modes—

(A) to recognize and preserve the inherent advantage of each mode of transportation;

(B) to promote safe, adequate, economical, and efficient transportation;

(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

(E) to cooperate with each State and the officials of each State on transportation matters; and

(F) to encourage fair wages and working conditions in the transportation industry;

(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

(C) meet the needs of shippers, receivers, passengers, and consumers;

(D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

(E) allow the most productive use of equipment and energy resources;

(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

(G) provide and maintain service to small communities and small shippers and intrastate bus services;

(H) provide and maintain commuter bus operations;

(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

(J) promote greater participation by minorities in the motor carrier system;

(K) promote intermodal transportation;

(3) in overseeing transportation by motor carrier of passengers—

(A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part;

(B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and

(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions; and

(4) in overseeing transportation by water carrier, to encourage and promote service and price competition in the noncontiguous domestic trade.

(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section and to promote the public interest.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 853.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Bus Regulatory Reform Act of 1982, referred to in subsec. (a)(3)(C), is Pub. L. 97–261, Sept. 20, 1982, 96 Stat. 1102. For complete classification of this Act to the Code, see Short Title of 1982 Amendment note set out under section 10101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13102. Definitions

In this part, the following definitions shall apply:

(1) BOARD.—The term "Board" means the Surface Transportation Board.

(2) BROKER.—The term "broker" means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(3) CARRIER.—The term "carrier" means a motor carrier, a water carrier, and a freight forwarder.

(4) CONTRACT CARRIAGE.—The term "contract carriage" means—

(A) for transportation provided before January 1, 1996, service provided pursuant to a permit issued under section 10923, as in effect on December 31, 1995; and

(B) for transportation provided after December 31, 1995, service provided under an agreement entered into under section 14101(b).

(5) CONTROL.—The term "control", when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

(B) any other means.

(6) FOREIGN MOTOR CARRIER.—The term "foreign motor carrier" means a person (including a motor carrier of property but excluding a motor private carrier)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

(7) FOREIGN MOTOR PRIVATE CARRIER.—The term "foreign motor private carrier" means a person (including a motor private carrier but excluding a motor carrier of property)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a

person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).

(8) FREIGHT FORWARDER.—The term "freight forwarder" means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to jurisdiction under this subtitle.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

(9) HIGHWAY.—The term "highway" means a road, highway, street, and way in a State.

(10) HOUSEHOLD GOODS.—The term "household goods", as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

(A) arranged and paid for by the householder, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder; or

(B) arranged and paid for by another party.

(11) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term "household goods freight forwarder" means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

(12) HOUSEHOLD GOODS MOTOR CARRIER.—

(A) IN GENERAL.—The term "household goods motor carrier" means a motor carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

(i) Binding and nonbinding estimates.

(ii) Inventorying.

(iii) Protective packing and unpacking of individual items at personal residences.

(iv) Loading and unloading at personal residences.

(B) INCLUSION.—The term includes any person that is considered to be a household goods motor carrier under regulations, determinations, and decisions of the Federal Motor Carrier Safety Administration that are in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

(C) LIMITED SERVICE EXCLUSION.—The term does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier).

(13) INDIVIDUAL SHIPPER.—The term "individual shipper" means any person who—

(A) is the shipper, consignor, or consignee of a household goods shipment;

(B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;

(C) owns the goods being transported; and

(D) pays his or her own tariff transportation charges.

(14) MOTOR CARRIER.—The term "motor carrier" means a person providing motor vehicle

transportation for compensation.

(15) MOTOR PRIVATE CARRIER.—The term "motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 13501 of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(16) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(17) NONCONTIGUOUS DOMESTIC TRADE.—The term "noncontiguous domestic trade" means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

(18) PERSON.—The term "person", in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(19) PRE-ARRANGED GROUND TRANSPORTATION SERVICE.—The term "pre-arranged ground transportation service" means transportation for a passenger (or a group of passengers) that is arranged in advance (or is operated on a regular route or between specified points) and is provided in a motor vehicle with a seating capacity not exceeding 15 passengers (including the driver).

(20) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(21) STATE.—The term "State" means the 50 States of the United States and the District of Columbia.

(22) TAXICAB SERVICE.—The term "taxicab service" means passenger transportation in a motor vehicle having a capacity of not more than 8 passengers (including the driver), not operated on a regular route or between specified places, and that—

(A) is licensed as a taxicab by a State or a local jurisdiction; or

(B) is offered by a person that—

(i) provides local transportation for a fare determined (except with respect to transportation to or from airports) primarily on the basis of the distance traveled; and

(ii) does not primarily provide transportation to or from airports.

(23) TRANSPORTATION.—The term "transportation" includes—

(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, packing, unpacking, and interchange of passengers and property.

(24) UNITED STATES.—The term "United States" means the States of the United States and the District of Columbia.

(25) VESSEL.—The term "vessel" means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

(26) WATER CARRIER.—The term "water carrier" means a person providing water transportation for compensation.

(27) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 854; amended Pub. L. 104–287, §5(27), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 106–159, title II, §209(a), Dec. 9, 1999, 113 Stat.

1764; Pub. L. 107–298, §3(a), Nov. 26, 2002, 116 Stat. 2343; Pub. L. 109–59, title IV, §§4142(a), 4202(b), Aug. 10, 2005, 119 Stat. 1747, 1751; Pub. L. 110–244, title III, §305(c), June 6, 2008, 122 Stat. 1620; Pub. L. 110–291, §3, July 30, 2008, 122 Stat. 2915.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(27)(A)

This amends 49:13102(4)(A) by setting out the effective date of the ICC Termination Act of 1995 (Public Law 104–88, 109 Stat. 803) and the day before that date.

PUB. L. 104–287, §5(27)(B)

This amends 49:13102(4)(B) for clarity and consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 10923, referred to in par. (4)(A), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

The date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005, referred to in par. (12)(B), is the date of enactment of subtitle B of title IV of Pub. L. 109–59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10102 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2008—Pars. (6)(B), (7)(B), (14), (15). Pub. L. 110–244 substituted "motor vehicle" for "commercial motor vehicle (as defined in section 31132)".

Par. (27). Pub. L. 110–291 added par. (27).

2005—Pars. (6)(B), (7)(B). Pub. L. 109–59, §4142(a), substituted "commercial motor vehicle (as defined in section 31132)" for "motor vehicle".

Par. (12). Pub. L. 109–59, §4202(b), added par. (12). Former par. (12) redesignated (14).

Pub. L. 109–59, §4142(a), substituted "commercial motor vehicle (as defined in section 31132)" for "motor vehicle".

Par. (13). Pub. L. 109–59, §4202(b), added par. (13). Former par. (13) redesignated (15).

Pub. L. 109–59, §4142(a), substituted "commercial motor vehicle (as defined in section 31132)" for "motor vehicle" in introductory provisions.

Pars. (14) to (26). Pub. L. 109–59, §4202(b), redesignated pars. (12) to (24) as (14) to (26), respectively.

2002—Pars. (17) to (24). Pub. L. 107–298 added pars. (17) and (20) and redesignated former pars. (17), (18), (19), (20), (21), and (22) as pars. (18), (19), (21), (22), (23), and (24), respectively.

1999—Par. (10)(A). Pub. L. 106–159 substituted ", except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder;" for ", including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling,".

1996—Par. (4)(A). Pub. L. 104–287, §5(27)(A), substituted "January 1, 1996" for "the effective date of this section" and "December 31, 1995" for "the day before the effective date of this section".

Par. (4)(B). Pub. L. 104–287, §5(27)(B), substituted "after December 31, 1995" for "on or after such date".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

APPLICATION OF CERTAIN PROVISIONS OF LAW

Pub. L. 109–59, title IV, §4202(c), Aug. 10, 2005, 119 Stat. 1752, provided that: "The provisions of title 49,

United States Code, and this subtitle [subtitle B (§§4201–4216) of title IV of Pub. L. 109–59, see Short Title of 2005 Amendment note set out under section 10101 of this title] (including any amendments made by this subtitle), that relate to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102 of title 49, United States Code)."

DEFINITIONS

Pub. L. 109–59, title IV, §4202(a), Aug. 10, 2005, 119 Stat. 1751, provided that: "In this subtitle [subtitle B (§§4201–4216) of title IV of Pub. L. 109–59, see Short Title of 2005 Amendment note set out under section 10101 of this title], the terms 'carrier', 'household goods', 'motor carrier', 'Secretary', and 'transportation' have the meaning given to such terms in section 13102 of title 49, United States Code."

§13103. Remedies as cumulative

Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 856.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10103 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 133—ADMINISTRATIVE PROVISIONS

Sec.

13301. Powers.
13302. Intervention.
13303. Service of notice in proceedings.
13304. Service of process in court proceedings.

§13301. Powers

(a) GENERAL POWERS OF SECRETARY.—Except as otherwise specified, the Secretary shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

(b) OBTAINING INFORMATION.—The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

(c) SUBPOENA POWER.—

(1) BY SECRETARY.—The Secretary may subpoena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpoena.

(2) ENFORCEMENT.—The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

(d) TESTIMONY OF WITNESSES.—

(1) PROCEDURE FOR TAKING TESTIMONY.—In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) SUBPOENA.—If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(3) DEPOSITIONS.—A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) NOTICE OF DEPOSITION.—Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) TRANSCRIPT.—The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(6) FOREIGN COUNTRY.—The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

(e) WITNESS FEES.—Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(f) POWERS OF BOARD.—For those provisions of this part that are specified to be carried out by the Board, the Board shall have the same powers as the Secretary has under this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 856.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10321 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

BROKER GUIDANCE RELATING TO FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Pub. L. 117–58, div. B, title III, §23021, Nov. 15, 2021, 135 Stat. 777, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall issue guidance to clarify the definitions of the terms 'broker' and 'bona fide agents' in section 371.2 of title 49, Code of Federal Regulations.

"(b) CONSIDERATIONS.—In issuing guidance under subsection (a), the Secretary shall take into consideration—

"(1) the extent to which technology has changed the nature of freight brokerage;

"(2) the role of bona fide agents; and

"(3) other aspects of the freight transportation industry.

"(c) DISPATCH SERVICES.—In issuing guidance under subsection (a), the Secretary shall, at a minimum—

"(1) examine the role of a dispatch service in the transportation industry;

"(2) examine the extent to which dispatch services could be considered brokers or bona fide agents; and

"(3) clarify the level of financial penalties for unauthorized brokerage activities under section 14916 of title 49, United States Code, applicable to a dispatch service."

§13302. Intervention

Under regulations of the Secretary, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 shall be given to interested persons.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 858.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10328 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13303. Service of notice in proceedings

(a) AGENTS FOR SERVICE OF PROCESS.—A carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 shall designate, in writing, an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

(b) FILING WITH STATE.—A motor carrier providing transportation under this part shall also file the designation with the appropriate authority of each State in which it operates. The designation may be changed at any time in the same manner as originally made.

(c) NOTICE.—A notice to a motor carrier, freight forwarder, or broker shall be served personally or by mail on the motor carrier, freight forwarder, or broker or on its designated agent. Service by mail on the designated agent shall be made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, freight forwarder, or broker does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 858.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10329 of this title prior to the general

amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13304. Service of process in court proceedings

(a) DESIGNATION OF AGENT.—A motor carrier or broker providing transportation subject to jurisdiction under chapter 135, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation and each State in which the carrier operates may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

(b) CHANGE.—A designation under this section may be changed at any time in the same manner as originally made.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 858.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10330 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 135—JURISDICTION

SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

Sec.
13501. General jurisdiction.
13502. Exempt transportation between Alaska and other States.
13503. Exempt motor vehicle transportation in terminal areas.
13504. Exempt motor carrier transportation entirely in one State.
13505. Transportation furthering a primary business.
13506. Miscellaneous motor carrier transportation exemptions.
13507. Mixed loads of regulated and unregulated property.
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SUBCHAPTER II—WATER CARRIER TRANSPORTATION

13521. General jurisdiction.

SUBCHAPTER III—FREIGHT FORWARDER SERVICE

13531. General jurisdiction.

SUBCHAPTER IV—AUTHORITY TO EXEMPT

13541. Authority to exempt transportation or services.

SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

§13501. General jurisdiction

The Secretary and the Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

(1) between a place in—

(A) a State and a place in another State;

(B) a State and another place in the same State through another State;

(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 859.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10521 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13502. Exempt transportation between Alaska and other States

To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 is provided in a foreign country—

(1) neither the Secretary nor the Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 859.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10522 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13503. Exempt motor vehicle transportation in terminal areas

(a) TRANSPORTATION BY CARRIERS.—

(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery;

(B) is provided by—

(i) a rail carrier subject to jurisdiction under chapter 105;

(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

(2) APPLICABILITY OF OTHER PROVISIONS.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

(b) TRANSPORTATION BY AGENT.—

(1) IN GENERAL.—Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

(ii) a motor carrier subject to jurisdiction under this subchapter;

(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

(2) TREATMENT OF TRANSPORTATION BY PRINCIPAL.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 860.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10523 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13504. Exempt motor carrier transportation entirely in one State

Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 860.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10525 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13505. Transportation furthering a primary business

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over the transportation of property by motor vehicle when—

(1) the property is transported by a person engaged in a business other than transportation; and

(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

(b) CORPORATE FAMILIES.—

(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family.

(2) DEFINITION.—In this section, "corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 861.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10524 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13506. Miscellaneous motor carrier transportation exemptions

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer's agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

(6) transportation by motor vehicle of—

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

(7) a motor vehicle used only to distribute newspapers;

(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

(9) the operation of a motor vehicle in a national park or national monument;

(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

(11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

(13) transportation of wood chips;

(14) brokers for motor carriers of passengers, except as provided in section 13904(d); [1]

(15) transportation of broken, crushed, or powdered glass; or

(16) the transportation of passengers by 9 to 15 passenger motor vehicles operated by youth or family camps that provide recreational or educational activities.

(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Board has jurisdiction under this part over—

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part;

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle; or

(4) transportation by a motor vehicle designed or used to transport not fewer than 9, and not more than 15, passengers (including the driver), whether operated alone or with a trailer attached for the transport of recreational equipment, if—

(A) the motor vehicle is operated by a person that provides recreational activities;

(B) the transportation is provided within a 150 air-mile radius of the location at which passengers initially boarded the motor vehicle at the outset of the trip; and

(C) in the case of a motor vehicle transporting passengers over a route between a place in a State and a place in another State, the person operating the motor vehicle is lawfully providing transportation of passengers over the entire route in accordance with applicable State law.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 861; amended Pub. L. 105–102, §2(8), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 107–298, §3(b)(1), Nov. 26, 2002, 116 Stat. 2343; Pub. L. 114–113, div. L, title I, §136, Dec. 18, 2015, 129 Stat. 2851; Pub. L. 117–58, div. B, title III,

§23012, Nov. 15, 2021, 135 Stat. 771.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:13506(a)(5) to correct a grammatical error.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 13904(d), referred to in subsec. (a)(14), was redesignated section 13904(f) by Pub. L. 112–141, div. C, title II, §32916(b)(2), July 6, 2012, 126 Stat. 821.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10526 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2021—Subsec. (b)(4). Pub. L. 117–58 added par. (4).
2015—Subsec. (a)(16). Pub. L. 114–113 added par. (16).
2002—Subsec. (a)(2). Pub. L. 107–298 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;".
1997—Subsec. (a)(5). Pub. L. 105–102 substituted "1141j(a)))" for "1141j(a))".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

[1] *See References in Text note below.*

§13507. Mixed loads of regulated and unregulated property

A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6), (8), (11), (12), or (13) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a). Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such registration.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 863.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10528 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13508. Limited authority over cooperative associations

(a) IN GENERAL.—Notwithstanding section 13506(a)(5), any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or a federation of cooperative associations shall prepare and maintain such records relating to transportation provided by such association or federation, in such form as the Secretary or the Board may require by regulation to carry out the provisions of such section 13506(a)(5). The Secretary or the Board, or an employee designated by the Secretary or the Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

(2) inspect and copy any record of such association or federation.

(b) REPORTS.—Notwithstanding section 13506(a)(5), the Secretary or the Board may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Secretary or the Board containing answers to questions about transportation provided by such association or federation.

(c) ENFORCEMENT.—The Secretary or the Board may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Secretary or the Board issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

(d) REPORTING PENALTIES.—

(1) IN GENERAL.—A person required to make a report to the Secretary or the Board, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

(A) does not make the report;

(B) does not specifically, completely, and truthfully answer the question; or

(C) does not maintain the record in the form and manner prescribed under this section;

is liable to the United States for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

(2) VENUE.—Trial in a civil action under paragraph (1) shall be in the judicial district in which—

(A) the cooperative association or federation of cooperative associations has its principal office;

(B) the violation occurred; or

(C) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(e) EVASION PENALTIES.—A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

(f) RECORDKEEPING PENALTIES.—A person required to make a report, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

(1) willfully does not make that report;

(2) willfully does not specifically, completely, and truthfully answer that question in 30 days

from the date that the question is required to be answered;

(3) willfully does not maintain that record in the form and manner prescribed;

(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

(5) knowingly and willfully files a false report or record under this section;

(6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction; or

(7) knowingly and willfully maintains a record in violation of a regulation or order issued under this section;

shall be fined not more than $5,000.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 863.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10529 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER II—WATER CARRIER TRANSPORTATION

§13521. General jurisdiction

(a) GENERAL RULES.—The Secretary and the Board have jurisdiction over transportation insofar as water carriers are concerned—

(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) by water carrier and motor carrier from a place in a State to a place in another State; except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

(A) by motor carrier that is in the United States; and

(B) by water carrier that is from a place in the United States to another place in the United States; and

(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

(A) when the transportation is by motor carrier, the transportation is provided in the United States;

(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the

United States.

(b) DEFINITIONS.—In this section, the terms "State" and "United States" include the territories and possessions of the United States.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 865.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10541 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER III—FREIGHT FORWARDER SERVICE

§13531. General jurisdiction

(a) IN GENERAL.—The Secretary and the Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) a place in a State and another place in the same State through a place outside the State; or

(3) a place in the United States and a place outside the United States.

(b) EXEMPTION OF CERTAIN AIR CARRIER SERVICE.—Neither the Secretary nor the Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 865.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10561 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER IV—AUTHORITY TO EXEMPT

§13541. Authority to exempt transportation or services

(a) IN GENERAL.—In any matter subject to jurisdiction under this part, the Secretary or the Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of this part, or use this exemption authority to modify the application of a provision of this part as it applies to such person, class, transaction, or service, when the Secretary or Board finds that the application of that provision—

(1) is not necessary to carry out the transportation policy of section 13101;

(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

(3) is in the public interest.

(b) INITIATION OF PROCEEDING.—The Secretary or Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Board's own initiative or on application by an interested party.

(c) PERIOD OF EXEMPTION.—The Secretary or Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

(d) REVOCATION.—The Secretary or Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 13101.

(e) LIMITATIONS.—

(1) IN GENERAL.—The exemption authority under this section may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage, insurance, safety fitness, or activities approved under section 13703 or 14302 or not terminated under section 13907(d)(2).

(2) WATER CARRIERS.—The Secretary or Board, as applicable, may not exempt a water carrier from the application of, or compliance with, section 13701 or 13702 for transportation in the non-contiguous domestic trade.

(f) CONTINUATION OF CERTAIN EXISTING EXEMPTIONS FOR WATER CARRIERS .—The Secretary or Board, as applicable, shall not regulate or exercise jurisdiction under this part over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under Federal law in effect on November 1, 1995.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 866.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10505 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 137—RATES AND THROUGH ROUTES

Sec.

13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation.
13702. Tariff requirement for certain transportation.
13703. Certain collective activities; exemption from antitrust laws.
13704. Household goods rates—estimates; guarantees of service.
13705. Requirements for through routes among motor carriers of passengers.
13706. Liability for payment of rates.
13707. Payment of rates.
13708. Billing and collecting practices.
13709. Procedures for resolving claims involving unfiled, negotiated transportation rates.
13710. Additional billing and collecting practices.
13711. Alternative procedure for resolving undercharge disputes.
13712. Government traffic.
13713. Food and grocery transportation.

§13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

(a) REASONABLENESS.—

(1) CERTAIN HOUSEHOLD GOODS TRANSPORTATION; JOINT RATES INVOLVING WATER TRANSPORTATION.—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under chapter 135 for transportation or service involving—

(A) a movement of household goods,

(B) a rate for a movement by or with a water carrier in noncontiguous domestic trade, or

(C) rates, rules, and classifications made collectively by motor carriers under agreements approved pursuant to section 13703,

must be reasonable.

(2) THROUGH ROUTES AND DIVISIONS OF JOINT RATES.—Through routes and divisions of joint rates for such transportation or service must be reasonable.

(b) PRESCRIPTION BY BOARD FOR VIOLATIONS.—When the Board finds it necessary to stop or prevent a violation of subsection (a), the Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

(c) FILING OF COMPLAINT.—A complaint that a rate, classification, rule, or practice in noncontiguous domestic trade violates subsection (a) may be filed with the Board.

(d) ZONE OF REASONABLENESS.—

(1) IN GENERAL.—For purposes of this section, a rate or division of a motor carrier for service in noncontiguous domestic trade or water carrier for port-to-port service in that trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

(2) ADJUSTMENTS TO THE ZONE.—The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

(3) DETERMINATIONS AFTER COMPLAINT.—The Board shall determine whether any rate or division of a carrier or service in noncontiguous domestic trade which is not within the range

described in paragraph (1) is reasonable if a complaint is filed under subsection (c) or section 13702(b)(6).

(4) REPARATIONS.—Upon a finding of violation of subsection (a), the Board shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure, or tariff. Upon complaint from any governmental agency or authority and upon a finding or violation of subsection (a), the Board shall make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all amounts plus interest, which the Board finds to have been assessed and collected in violation of subsection (a).

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 867.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10701, 10704, and 10705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13702. Tariff requirement for certain transportation

(a) IN GENERAL.—Except when providing transportation for charitable purposes without charge, a carrier subject to jurisdiction under chapter 135 may provide transportation or service that is—

(1) in noncontiguous domestic trade, except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste; or

(2) for movement of household goods;

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device. A rate contained in a tariff shall be stated in money of the United States.

(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS DOMESTIC TRADE.—

(1) FILING.—A carrier providing transportation or service described in subsection (a)(1) shall publish and file with the Board tariffs containing the rates established for such transportation or service. The carriers shall keep such tariffs available for public inspection. The Board shall prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection under this subsection.

(2) CONTENTS.—The Board may prescribe any specific information and charges to be identified in a tariff, but at a minimum tariffs must identify plainly—

(A) the carriers that are parties to it;

(B) the places between which property will be transported;

(C) terminal charges if a carrier provides transportation or service subject to jurisdiction under subchapter III of chapter 135;

(D) privileges given and facilities allowed; and

(E) any rules that change, affect, or determine any part of the published rate.

(3) INLAND DIVISIONS.—A carrier providing transportation or service described in

subsection (a)(1) under a joint rate for a through movement shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of that through rate.

(4) TIME-VOLUME RATES.—Rates in tariffs filed under this subsection may vary with the volume of cargo offered over a specified period of time.

(5) CHANGES.—The Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs under this subsection that cover matter that is not being changed when the Board finds that action to be consistent with the public interest. Those carriers may either—

(A) publish new tariffs that incorporate changes, or

(B) plainly indicate the proposed changes in the tariffs then in effect and make the tariffs as changed available for public inspection.

(6) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

(c) TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS.—

(1) IN GENERAL.—A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published tariff. The tariff must be available for inspection by the Board and be made available for inspection by shippers upon reasonable request.

(2) NOTICE OF AVAILABILITY.—A carrier that maintains a tariff under this subsection may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

(3) REQUIREMENTS.—A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this part. A tariff that does not comply with this subsection may not be enforced against any individual shipper.

(4) INCORPORATION BY REFERENCE.—A carrier may incorporate by reference the rates, terms, and other conditions of a tariff in agreements covering the transportation of household goods.

(5) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

(d) INVALIDATION.—The Board may invalidate a tariff prepared by a carrier or carriers under this section if that tariff violates this section or a regulation of the Board carrying out this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 868.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10761 and 10762 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13703. Certain collective activities; exemption from antitrust laws

(a) AGREEMENTS.—

(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to

jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

(A) through routes and joint rates;

(B) rates for the transportation of household goods;

(C) classifications;

(D) mileage guides;

(E) rules;

(F) divisions;

(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

(2) SUBMISSION OF AGREEMENT TO BOARD; APPROVAL.—An agreement entered into under paragraph (1) may be submitted by any carrier or carriers that are parties to such agreement to the Board for approval and may be approved by the Board only if it finds that such agreement is in the public interest.

(3) CONDITIONS.—The Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be, precluded from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

(5) INVESTIGATIONS.—

(A) REASONABLENESS.—The Board may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Board may investigate any action taken pursuant to an agreement approved under this section. If the Board finds that the action is not in the public interest, the Board may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

(6) EFFECT OF APPROVAL.—If the Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

(b) RECORDS.—The Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

(c) REVIEW.—

(1) IN GENERAL.—The Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Board under this section—

(A) approving an agreement,

(B) denying, ending, or changing approval,

(C) prescribing the conditions on which approval is granted, or

(D) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

(2) PERIODIC REVIEW OF APPROVALS.—Subject to this section, in the 5-year period beginning on the date of the enactment of this paragraph and in each 5-year period thereafter, the Board shall initiate a proceeding to review any agreement approved pursuant to this section. Any such agreement shall be continued unless the Board determines otherwise.

(d) EXISTING AGREEMENTS.—

(1) AGREEMENTS EXISTING AS OF DECEMBER 31, 1995.—Agreements approved under former section 10706(b) and in effect on December 31, 1995, shall be treated for purposes of this section as approved by the Board under this section beginning on January 1, 1996.

(2) CASES PENDING AS OF DATE OF THE ENACTMENT.—Nothing in section 227 (other than subsection (b)) of the Motor Carrier Safety Improvement Act of 1999, including the amendments made by such section, shall be construed to affect any case brought under this section that is pending before the Board as of the date of the enactment of this paragraph.

(e) LIMITATIONS ON STATUTORY CONSTRUCTION.—

(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

(2) OBLIGATION OF SHIPPER.—Nothing in this title, the ICC Termination Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on December 31, 1995.

(f) INDUSTRY STANDARD GUIDES.—

(1) IN GENERAL.—

(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

(B) PARTICIPATION OF CARRIERS.—

(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

(2) MILEAGE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 may enforce collection of its mileage rates unless such carrier—

(A) is a participant in a publication of mileages formulated under an agreement approved under this section; or

(B) uses a publication of mileage (other than a publication described in subparagraph (A)) that can be examined by any interested person upon reasonable request.

(g) SINGLE LINE RATE DEFINED.—In this section, the term "single line rate" means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 869; amended Pub. L. 104–287, §5(28), Oct. 11, 1996, 110 Stat. 3391; Pub. L. 105–102, §2(9), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 106–159, title II, §227, Dec. 9, 1999, 113 Stat. 1772; Pub. L. 108–7, div. I, title III, §354, Feb. 20, 2003, 117 Stat. 421.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:13703(a)(2) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsecs. (c)(2) and (d)(2), is the date of enactment of Pub. L. 106–159, which was approved Dec. 9, 1999.

Former section 10706(b), referred to in subsec. (d)(1), probably means section 10706(b) of this title as in effect before that section was omitted and a new section 10706 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 812.

Section 227 of the Motor Carrier Safety Improvement Act of 1999, referred to in subsec. (d)(2), is section 227 of Pub. L. 106–159, which amended this section. See 1999 Amendment notes below.

The ICC Termination Act of 1995, referred to in subsec. (e)(2), is Pub. L. 104–88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2003—Subsecs. (d) to (h). Pub. L. 108–7 redesignated subsecs. (e) to (h) as (d) to (g), respectively, and struck out heading and text of former subsec. (d). Text read as follows: "The Board shall not take any action that would permit the establishment of nationwide collective ratemaking authority."

1999—Subsec. (c). Pub. L. 106–159, §227(a), designated introductory provisions as par. (1) and inserted heading, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1) and realigned their margins, and added par. (2).

Subsec. (d). Pub. L. 106–159, §227(b), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Board, the agreement is unchanged, and the Board approves such renewal. The Board shall approve the renewal unless it finds that the renewal is not in the public interest. Parties to the agreement may continue to undertake activities pursuant to the previously approved agreement while the renewal request is pending."

Subsec. (e). Pub. L. 106–159, §227(c), designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1997—Subsec. (a)(2). Pub. L. 105–102 substituted "paragraph (1)" for "subsection (a)".

1996—Subsec. (e). Pub. L. 104–287, §5(28)(A), substituted "December 31, 1995," for "the day before the effective date of this section" and "January 1, 1996" for "such effective date".

Subsec. (f)(2). Pub. L. 104–287, §5(28)(B), substituted "December 31, 1995" for "the day before the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

§13704. Household goods rates—estimates; guarantees of service

(a) IN GENERAL.—

(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

(2) NONPREFERENTIAL; NONPREDATORY.—Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

(b) RATES FOR GUARANTEED SERVICE.—

(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

(2) AUTHORITY OF SECRETARY TO REQUIRE NONGUARANTEED SERVICE RATES .—Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary may require such carrier to have in effect and keep in effect, during any period such rate is in effect under paragraph (1), a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 872.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10735 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13705. Requirements for through routes among motor carriers of passengers

(a) ESTABLISHMENT; REASONABLENESS.—A motor carrier providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them. Such through route must be reasonable.

(b) PRESCRIBED BY BOARD.—When the Board finds it necessary to enforce the requirements of this section, the Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 872.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10703 and 10705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13706. Liability for payment of rates

(a) LIABILITY OF CONSIGNEE.—Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(1) of the agency and absence of beneficial title; and

(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(b) LIABILITY OF BENEFICIAL OWNER.—When the consignee is liable only for rates billed at the time of delivery under subsection (a), the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of the lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 872.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10744 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13707. Payment of rates

(a) TRANSFER OF POSSESSION UPON PAYMENT.—Except as provided in subsection (b), a

carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

(b) EXCEPTIONS.—

(1) REGULATIONS.—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

(2) EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

(3) SHIPMENTS OF HOUSEHOLD GOODS.—

(A) IN GENERAL.—A carrier providing transportation of a shipment of household goods shall give up possession of the household goods being transported at the destination upon payment of—

(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

(B) CALCULATION OF PRORATED CHARGES.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

(C) POST-CONTRACT SERVICES.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

(D) IMPRACTICABLE OPERATIONS.—Subparagraph (A) does not apply to impracticable operations, as defined by the applicable carrier tariff, except that the charges collected at delivery for such operations shall not exceed 15 percent of all other charges due at delivery. Any remaining charges due shall be paid within 30 days after the carrier presents its freight bill.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 873; amended Pub. L. 109–59, title IV, §4203, Aug. 10, 2005, 119 Stat. 1752.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10743 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2005—Subsec. (b)(3). Pub. L. 109–59 added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13708. Billing and collecting practices

(a) DISCLOSURE.—A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made.

(b) FALSE OR MISLEADING INFORMATION.—No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction.

(c) ALLOWANCES FOR SERVICES.—When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 873.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10767 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13709. Procedures for resolving claims involving unfiled, negotiated transportation rates

(a) TRANSPORTATION PROVIDED AT RATES OTHER THAN LEGAL TARIFF RATES.—

(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 (as in effect on December 31, 1995) or subchapter I of chapter 135, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

(B) with respect to the claim—

(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Board or with the Interstate Commerce Commission, as required, for the transportation service;

(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(iii) the carrier or freight forwarder did not properly or timely file with the Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(iv) such transportation rate was billed and collected by the carrier or freight forwarder;

and

(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

(2) FORUM.—If there is a dispute as to the showing under paragraph (1)(A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (1)(B), such dispute shall be resolved by the Board. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder.

(3) EFFECT OF SATISFACTION OF CLAIMS.—Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 119 of this title, as such chapter was in effect on December 31, 1995, or chapter 149.

(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before January 1, 1996, all rights and remedies that existed under this title on December 31, 1995.

(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

(g) NOTIFICATION OF ELECTION.—

(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

(B) March 5, 1994.

(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

(B) March 5, 1994.

(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—

(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

(C) if the cargo involved in the claim is recyclable materials.

(2) RECYCLABLE MATERIALS DEFINED.—In this subsection, the term "recyclable materials" means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 874; amended Pub. L. 104–287, §5(29), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(29)(A)

This amends 49:13709(a)(1) and (3) for clarity and consistency.

PUB. L. 104–287, §5(29)(B)

This amends 49:13709(e) by setting out the effective date for 49:13709 and for clarity and consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (a)(1), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

Chapter 119, referred to in subsec. (a)(3), was omitted and a new chapter 119 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 849, effective Jan. 1, 1996.

The Small Business Act, referred to in subsec. (h)(1)(A), is Pub. L. 85–536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and

Tables.

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (h)(1)(B), is classified to section 501 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10701 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (a)(1), (3). Pub. L. 104–287, §5(29)(A), substituted "December 31, 1995" for "the day before the effective date of this section".

Subsec. (e). Pub. L. 104–287, §5(29)(B), substituted "January 1, 1996" for "the effective date of this section" and "December 31, 1995" for "the day before such effective date".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13710. Additional billing and collecting practices

(a) MISCELLANEOUS PROVISIONS.—

(1) INFORMATION RELATING TO BASIS OF RATE.—A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate applicable to its shipment or agreed to between the shipper and carrier is based.

(2) REASONABLENESS OF RATES; COLLECTING ADDITIONAL CHARGES.—When the applicability or reasonableness of the rates and related provisions billed by a motor carrier is challenged by the person paying the freight charges, the Board shall determine whether such rates and provisions are reasonable under section 13701 or applicable based on the record before it.

(3) BILLING DISPUTES.—

(A) INITIATED BY MOTOR CARRIERS.—In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

(B) INITIATED BY SHIPPERS.—If a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Board determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges.

(4) VOIDING OF CERTAIN TARIFFS.—Any tariff on file with the Interstate Commerce Commission on August 26, 1994, and not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on January 1, 1996, and not required to be filed after that date is null and void beginning on that date.

(b) RESOLUTION OF DISPUTES OVER STATUS OF COMMON CARRIER OR CONTRACT

CARRIER.—If a motor carrier (other than a motor carrier providing transportation of household goods) that was subject to jurisdiction under subchapter II of chapter 105, as in effect on December 31, 1995, and that had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to January 1, 1996, was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Board shall resolve the dispute.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 876; amended Pub. L. 104–287, §5(30), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(30)(A)

This sets out the effective date of 49:13710.

PUB. L. 104–287, §5(30)(B)

This amends 49:13710(b) by setting out the effective date for 49:13710 and for clarity and consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (b), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10762 and 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104–287, §5(30)(A), substituted "January 1, 1996," for "the effective date of this section".

Subsec. (b). Pub. L. 104–287, §5(30)(B), substituted "December 31, 1995" for "the day before the effective date of this section" and "January 1, 1996," for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13711. Alternative procedure for resolving undercharge disputes

(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter I of chapter 135 or, before January 1, 1996, to have provided transportation that was subject to jurisdiction under subchapter II of chapter 105, as in effect on December 31, 1995, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between (1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter or, with respect to transportation provided before January 1, 1996, in accordance with chapter 107, as in effect on the date the transportation was provided, by the carrier or freight forwarder applicable to such transportation service, and (2) the negotiated rate for such

transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) or is transporting property between places described in section 13501(1) for the purpose of avoiding application of this section.

(b) JURISDICTION OF BOARD.—

(1) DETERMINATION.—The Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service.

(2) FACTORS TO CONSIDER.—In making a determination under paragraph (1), the Board shall consider—

(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Interstate Commerce Commission or the Board, as required, at the time of the movement for the transportation service;

(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(C) whether the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission or the Board, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before January 1, 1996, to the requirements of sections 10761(a) and 10762, as in effect on December 31, 1995, as such sections relate to a filed tariff rate and other general tariff requirements.

(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE .—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13709 shall not apply to such rate.

(f) DEFINITIONS.—In this section, the term "negotiated rate" means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

(g) APPLICABILITY TO PENDING CASES.—This section shall apply to all cases and proceedings pending on January 1, 1996.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 877; amended Pub. L. 104–287, §5(31), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13711(a), (d), and (g) by setting out the effective date of 49:13711 and for clarity and

consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (a), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

Chapter 107, as in effect on the date transportation was provided, referred to in subsec. (a), means chapter 107 of this title, as in effect on the date transportation was provided with respect to transportation provided before Jan. 1, 1996. Chapter 107 (§10701 et seq.) was omitted and a new chapter 107 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 809, effective Jan. 1, 1996.

Sections 10761(a) and 10762, referred to in subsec. (d), were omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2(e) of Pub. L. 103–180, set out as a note under former section 10701 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–287, §5(31)(A), substituted "or, before January 1, 1996" for "or, before the effective date of this section", "December 31, 1995" for "the day before the effective date of this section", and "provided before January 1, 1996" for "provided before the effective date of this section".

Subsec. (d). Pub. L. 104–287, §5(31)(B), substituted "January 1, 1996" for "the effective date of this section" and "December 31, 1995" for "the day before such effective date".

Subsec. (g). Pub. L. 104–287, §5(31)(C), substituted "January 1, 1996" for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13712. Government traffic

A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 6101(b) to (d) of title 41 does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 879; amended Pub. L. 111–350, §5(o)(5), Jan. 4, 2011, 124 Stat. 3853.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10721 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2011—Pub. L. 111–350 substituted "Section 6101(b) to (d) of title 41" for "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13713. Food and grocery transportation

(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 879.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10732 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 139—REGISTRATION

Sec.

13901. Requirement for registration.[1]
13902. Registration of motor carriers.
13903. Registration of freight forwarders.
13904. Registration of brokers.
13905. Effective periods of registration.
13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.
13907. Household goods agents.
13908. Registration and other reforms.
13909. Availability of information.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141, div. C, title II, §32914(b)(2), July 6, 2012, 126 Stat. 820, added item 13909.

2005—Pub. L. 109–59, title IV, §4303(d)(2), Aug. 10, 2005, 119 Stat. 1763, inserted "motor private carriers," after "motor carriers," in item 13906.

[1] *So in original. Section catchline amended by Pub. L. 112–141 without corresponding amendment of chapter analysis.*

§13901. Requirements for registration

(a) IN GENERAL.—A person may provide transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135 or service as a freight forwarder subject to jurisdiction under subchapter III of such chapter, or service as a broker for transportation subject to jurisdiction under subchapter I of such chapter only if the person is registered under this chapter to provide such transportation or service.

(b) REGISTRATION NUMBERS.—

(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for each such authority to provide transportation or service for which the person is registered.

(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

(c) SPECIFICATION OF AUTHORITY.—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing such transportation or service.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 879; amended Pub. L. 112–141, div. C, title II, §32914(a), July 6, 2012, 126 Stat. 819.)

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section read as follows: "A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13902. Registration of motor carriers

(a) MOTOR CARRIER GENERALLY.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier using self-propelled vehicles the motor carrier owns, rents, or leases only if the Secretary determines that the person—

(A) is willing and able to comply with—

(i) this part and the applicable regulations of the Secretary and the Board;

(ii) any safety regulations imposed by the Secretary;

(iii) the duties of employers and employees established by the Secretary under section 31135;

(iv) the safety fitness requirements established by the Secretary under section 31144;

(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

(B) has been issued a USDOT number under section 31134;

(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, if the relationship occurred in the 3-year period preceding the date of the filing of the application for registration; and

(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.

(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after that person—

(A) provides evidence of participation in an arbitration program and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c); and

(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.

(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration.

(5) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Board (including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus), the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection. In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.

(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker

transportation services unless the motor carrier has registered as a broker under this chapter.

(b) MOTOR CARRIERS OF PASSENGERS.—

(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE .—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

(i) the recipient meets the requirements of subsection (a)(1); and

(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

(4) PREEMPTION OF STATE REGULATION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(5) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Subject to section 14501(a), any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation, but in no case later than the 30th day following the date

on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

(8) DEFINITIONS.—In this subsection, the following definitions apply:

(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term "public recipient of governmental assistance" means—

(i) any State,

(ii) any municipality or other political subdivision of a State,

(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

(iv) any Indian tribe, and

(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv),

which before, on, or after January 1, 1996, received governmental assistance for the purchase or operation of any bus.

(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term "private recipient of government assistance" means any person (other than a person described in subparagraph (A)) who before, on, or after January 1, 1996, received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

(A) seek elimination of such practices through consultations; or

(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted

in the commercial zones along the United States-Mexico border as such zones were defined on December 31, 1995; or

(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

(d) TRANSITION RULE.—

(1) IN GENERAL.—Pending the implementation of the rulemaking required by section 13908, the Secretary may register a person under this section—

(A) as a motor common carrier if such person would have been issued a certificate to provide transportation as a motor common carrier under this subtitle on December 31, 1995; and

(B) as a motor contract carrier if such person would have been issued a permit to provide transportation as a motor contract carrier under this subtitle on such day.

(2) DEFINITIONS.—In this subsection, the terms "motor common carrier" and "motor contract carrier" have the meaning such terms had under section 10102 as such section was in effect on December 31, 1995.

(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date.

(e) PENALTIES FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS .—In addition to other penalties available under law, motor carriers that fail to register their operations as required by this section or that operate beyond the scope of their registrations may be subject to the following penalties:

(1) OUT-OF-SERVICE ORDERS.—If, upon inspection or investigation, the Secretary determines that a motor carrier providing transportation requiring registration under this section is operating without a registration or beyond the scope of its registration, the Secretary may order the motor carrier operations out-of-service. Subsequent to the issuance of the out-of-service order, the Secretary shall provide an opportunity for review in accordance with section 554 of title 5, United States Code; except that such review shall occur not later than 10 days after issuance of such order.

(2) PERMISSION FOR OPERATIONS.—A person domiciled in a country contiguous to the United States with respect to which an action under subsection (c)(1)(A) or (c)(1)(B) is in effect

and providing transportation for which registration is required under this section shall maintain evidence of such registration in the motor vehicle when the person is providing the transportation. The Secretary shall not permit the operation in interstate commerce in the United States of any motor vehicle in which there is not a copy of the registration issued pursuant to this section.

(f) MODIFICATION OF CARRIER REGISTRATION.—

(1) IN GENERAL.—On and after the transition termination date, the Secretary—

(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

(B) shall register applicants under this section as motor carriers; and

(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B)) and transportation under terms and conditions meeting the requirements of section 13710(a)(1). The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

(A) subsection (d) of this section, as that section was in effect before the transition termination date; or

(B) any other provision of this title that was in effect before the transition termination date.

(3) TRANSITION TERMINATION DATE DEFINED.—In this section, the term "transition termination date" means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.

(g) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term "motor carrier" includes foreign motor private carriers.

(h) UPDATE OF REGISTRATION.—

(1) IN GENERAL.—The Secretary shall require a registrant to update its registration under this section not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(2) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of paragraph (1), the Secretary shall require a motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under this section.

(i) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

(1) may only provide transportation of property with—

(A) self-propelled motor vehicles owned or leased by the motor carrier; or

(B) interchanges under regulations issued by the Secretary if the originating carrier—

(i) physically transports the cargo at some point; and

(ii) retains liability for the cargo and for payment of interchanged carriers; and

(2) may not arrange transportation except as described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under

section 13903 or 13904, as applicable.

(j) MEXICO-DOMICILED MOTOR CARRIERS.—Notwithstanding any other provision of this section, upon an order in accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, the Secretary shall carry out the relief specified by denying or imposing limitations on a request for registration or capping the number of requests for registration by Mexico-domiciled motor carriers of cargo to operate beyond the municipalities along the United States-Mexico international border and the commercial zones of those municipalities as directed.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 880; amended Pub. L. 104–287, §5(32), Oct. 11, 1996, 110 Stat. 3391; Pub. L. 106–159, title II, §205, Dec. 9, 1999, 113 Stat. 1762; Pub. L. 109–59, title IV, §§4113(b), 4204, 4303(c), Aug. 10, 2005, 119 Stat. 1725, 1753, 1762; Pub. L. 110–291, §2, July 30, 2008, 122 Stat. 2915; Pub. L. 112–141, div. C, title II, §§32101(a), 32107(a), 32111, 32915, 32921(a), July 6, 2012, 126 Stat. 777, 781, 783, 820, 827; Pub. L. 114–94, div. A, title V, §5508(a)(1), Dec. 4, 2015, 129 Stat. 1554; Pub. L. 116–113, title III, §326(a), Jan. 29, 2020, 134 Stat. 60.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(32)(A)

This amends 49:13902(b)(8)(A) to correct a grammatical error and to set out the effective date of 49:13902(b).

PUB. L. 104–287, §5(32)(B)

This sets out the effective date of 49:13902(b)(8).

PUB. L. 104–287, §5(32)(C)

This amends 49:13902(c)(4)(A) and (d)(1) and (2) for clarity and consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (a)(1)(D), is section 32101(b) of Pub. L. 112–141, which is set out as a note below.

Section 6 of the Bus Regulatory Reform Act of 1982, referred to in subsec. (c)(4)(B), is section 6 of Pub. L. 97–261, Sept. 20, 1982, 96 Stat. 1103, which amended former sections 10102, 10322, 10521, 10922, and 11711 of this title, section 250 of Title 26, Internal Revenue Code, and former section 5201 of Title 39, Postal Service.

Section 4481 of the Internal Revenue Code of 1986, referred to in subsec. (c)(8), is classified to section 4481 of Title 26, Internal Revenue Code.

Section 10102, referred to in subsec. (d)(2), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsec. (f)(3), is the date of enactment of subtitle C of title IV of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, referred to in subsec. (j), is classified to section 4574(a) of Title 19, Customs Duties.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10922 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2020—Subsec. (j). Pub. L. 116–113 added subsec. (j).

2015—Subsec. (i)(2). Pub. L. 114–94 inserted "except as" before "described".

2012—Subsec. (a)(1). Pub. L. 112–141, §32915(1)(A), inserted "using self-propelled vehicles the motor carrier owns, rents, or leases" after "motor carrier" in introductory provisions.

Pub. L. 112–141, §32101(a), amended par. (1) generally. Prior to amendment, text read as follows: "Except

as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

"(A) this part and the applicable regulations of the Secretary and the Board;

"(B)(i) any safety regulations imposed by the Secretary;

"(ii) the duties of employers and employees established by the Secretary under section 31135; and

"(iii) the safety fitness requirements established by the Secretary under section 31144;

"(C) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus; and

"(D) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138."

Subsec. (a)(2)(B). Pub. L. 112–141, §32921(a)(1), substituted "section 13702(c); and" for "section 13702(c);".

Subsec. (a)(2)(C). Pub. L. 112–141, §32921(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "provides evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and".

Subsec. (a)(2)(D). Pub. L. 112–141, §32921(a)(3), struck out subpar. (D) which read as follows: "discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration."

Subsec. (a)(6). Pub. L. 112–141, §32915(1)(B), added par. (6).

Subsec. (e)(1). Pub. L. 112–141, §32111, substituted "a motor carrier" for "a motor vehicle" and "order the motor carrier operations" for "order the vehicle".

Subsec. (h). Pub. L. 112–141, §32107(a), added subsec. (h).

Subsec. (i). Pub. L. 112–141, §32915(2), added subsec. (i).

2008—Subsec. (a)(1)(C), (D). Pub. L. 110–291, §2(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (a)(5). Pub. L. 110–291, §2(b), inserted "(including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus)" after "Board".

2005—Subsec. (a)(1)(B). Pub. L. 109–59, §4113(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and".

Subsec. (a)(2), (3). Pub. L. 109–59, §4204(1), (3), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

"(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration."

Subsec. (a)(4). Pub. L. 109–59, §4204(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109–59, §4204(2), (4), redesignated par. (4) as (5) and inserted at end "In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection."

Subsec. (d)(3). Pub. L. 109–59, §4303(c)(1), added par. (3).

Subsecs. (f), (g). Pub. L. 109–59, §4303(c)(2), added subsec. (f) and redesignated former subsec. (f) as (g).

1999—Subsecs. (e), (f). Pub. L. 106–159 added subsec. (e) and redesignated former subsec. (e) as (f).

1996—Subsec. (b)(8)(A). Pub. L. 104–287, §5(32)(A), inserted "and" after "any Indian tribe," in cl. (iv), struck out "and" after "clause (i), (ii), (iii), or (iv)," in cl. (v), and substituted "January 1, 1996," for "the effective date of this subsection" in concluding provisions.

Subsec. (b)(8)(B). Pub. L. 104–287, §5(32)(B), substituted "January 1, 1996," for "the effective date of this paragraph".

Subsecs. (c)(4)(A), (d)(1)(A), (2). Pub. L. 104–287, §5(32)(C), substituted "December 31, 1995" for "the day before the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by sections 32101(a), 32107(a), 32111, and 32915 of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

Pub. L. 112–141, div. C, title II, §32921(c), July 6, 2012, 126 Stat. 828, provided that: "The amendments made by this section [amending this section and section 31144 of this title] shall take effect 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways]."

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

REGULATIONS

Pub. L. 119–75, div. D, title I, §131, Feb. 3, 2026, 140 Stat. 357, provided that: "The Secretary [of Transportation] shall update the Department's regulations to ensure that non-compliance with section 391.11(b)(2) of title 49, Code of Federal Regulations, triggers an out-of-service order."

Pub. L. 109–59, title IV, §4308, Aug. 10, 2005, 119 Stat. 1774, provided that: "The Secretary [of Transportation] may issue such regulations as the Secretary determines are necessary to carry out this subtitle [subtitle C (§§4301–4308) of title IV of Pub. L. 109–59, see Short Title of 2005 Amendment note set out under section 10101 of this title] and the amendments made by this subtitle."

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

WRITTEN PROFICIENCY EXAMINATION

Pub. L. 112–141, div. C, title II, §32101(b), July 6, 2012, 126 Stat. 777, provided that: "Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall establish through a rulemaking a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal government."

DEADLINE FOR IMPLEMENTATION OF REGISTRATION REQUIREMENTS

Pub. L. 110–291, §4, July 30, 2008, 122 Stat. 2915, provided that: "Not later than 30 days after the date of enactment of this Act [July 30, 2008], the Secretary shall take necessary actions to implement the changes required by the amendment made by section 2(a) [amending this section] relating to registration of motor carriers providing transportation by an over-the-road bus."

COORDINATION WITH DEPARTMENT OF JUSTICE

Pub. L. 110–291, §5, July 30, 2008, 122 Stat. 2916, provided that: "Not later than 6 months after the date of enactment of this Act [July 30, 2008], the Secretary of Transportation and the Attorney General shall enter into a memorandum of understanding to delineate the specific roles and responsibilities of the Department of Transportation and the Department of Justice, respectively, in enforcing the compliance of motor carriers of passengers providing transportation by an over-the-road bus (as defined in section 13102 of title 49, United States Code) with the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the

Secretary may issue. Such memorandum shall recognize the Department of Transportation's statutory responsibilities as clarified by this Act [see Short Title of 2008 Amendment note set out under section 10101 of this title] (including the amendments made by this Act)."

AUTHORITY OF MEXICAN MOTOR CARRIERS TO OPERATE BEYOND UNITED STATES MUNICIPALITIES AND COMMERCIAL ZONES ON UNITED STATES-MEXICO BORDER

Pub. L. 110–28, title VI, §6901, May 25, 2007, 121 Stat. 183, provided that:

"(a) Hereafter, funds limited or appropriated for the Department of Transportation may be obligated or expended to grant authority to a Mexico-domiciled motor carrier to operate beyond United States municipalities and commercial zones on the United States-Mexico border only to the extent that—

"(1) granting such authority is first tested as part of a pilot program;

"(2) such pilot program complies with the requirements of section 350 of Public Law 107–87 [set out below] and the requirements of section 31315(c) of title 49, United States Code, related to pilot programs; and

"(3) simultaneous and comparable authority to operate within Mexico is made available to motor carriers domiciled in the United States.

"(b) Prior to the initiation of the pilot program described in subsection (a) in any fiscal year—

"(1) the Inspector General of the Department of Transportation shall transmit to Congress and the Secretary of Transportation a report verifying compliance with each of the requirements of subsection (a) of section 350 of Public Law 107–87, including whether the Secretary of Transportation has established sufficient mechanisms to apply Federal motor carrier safety laws and regulations to motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border and to ensure compliance with such laws and regulations; and

"(2) the Secretary of Transportation shall—

"(A) take such action as may be necessary to address any issues raised in the report of the Inspector General under subsection (b)(1) and submit a report to Congress detailing such actions; and

"(B) publish in the Federal Register, and provide sufficient opportunity for public notice and comment—

"(i) comprehensive data and information on the pre-authorization safety audits conducted before and after the date of enactment of this Act [May 25, 2007] of motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border;

"(ii) specific measures to be required to protect the health and safety of the public, including enforcement measures and penalties for noncompliance;

"(iii) specific measures to be required to ensure compliance with section 391.11(b)(2) and section 365.501(b) of title 49, Code of Federal Regulations;

"(iv) specific standards to be used to evaluate the pilot program and compare any change in the level of motor carrier safety as a result of the pilot program; and

"(v) a list of Federal motor carrier safety laws and regulations, including the commercial drivers license requirements, for which the Secretary of Transportation will accept compliance with a corresponding Mexican law or regulation as the equivalent to compliance with the United States law or regulation, including for each law or regulation an analysis as to how the corresponding United States and Mexican laws and regulations differ.

"(c) During and following the pilot program described in subsection (a), the Inspector General of the Department of Transportation shall monitor and review the conduct of the pilot program and submit to Congress and the Secretary of Transportation an interim report, 6 months after the commencement of the pilot program, and a final report, within 60 days after the conclusion of the pilot program. Such reports shall address whether—

"(1) the Secretary of Transportation has established sufficient mechanisms to determine whether the pilot program is having any adverse effects on motor carrier safety;

"(2) Federal and State monitoring and enforcement activities are sufficient to ensure that participants in the pilot program are in compliance with all applicable laws and regulations; and

"(3) the pilot program consists of a representative and adequate sample of Mexico-domiciled carriers likely to engage in cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border.

"(d) In the event that the Secretary of Transportation in any fiscal year seeks to grant operating authority for the purpose of initiating cross-border operations beyond United States municipalities and commercial zones

on the United States-Mexico border either with Mexico-domiciled motor coaches or Mexico-domiciled commercial motor vehicles carrying placardable quantities of hazardous materials, such activities shall be initiated only after the conclusion of a separate pilot program limited to vehicles of the pertinent type. Each such separate pilot program shall follow the same requirements and processes stipulated under subsections (a) through (c) of this section and shall be planned, conducted and evaluated in concert with the Department of Homeland Security or its Inspector General, as appropriate, so as to address any and all security concerns associated with such cross-border operations."

RELATIONSHIP TO OTHER LAWS

Pub. L. 109–59, title IV, §4302, Aug. 10, 2005, 119 Stat. 1761, provided that: "Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this subtitle, this subtitle [subtitle C (§§4301–4308) of title IV of Pub. L. 109–59, see Short Title of 2005 Amendment note set out under section 10101 of this title] is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law."

SAFETY OF CROSS-BORDER TRUCKING BETWEEN UNITED STATES AND MEXICO

Pub. L. 107–87, title III, §350, Dec. 18, 2001, 115 Stat. 864, as amended by Pub. L. 114–113, div. L, title I, §130(b), Dec. 18, 2015, 129 Stat. 2850, provided that:

"(a) No funds limited or appropriated in this Act [see Tables for classification] may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until the Federal Motor Carrier Safety Administration—

"(1)(A) requires a safety examination of such motor carrier to be performed before the carrier is granted conditional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

"(B) requires the safety examination to include—

"(i) verification of available performance data and safety management programs;

"(ii) verification of a drug and alcohol testing program consistent with part 40 of title 49, Code of Federal Regulations;

"(iii) verification of that motor carrier's system of compliance with hours-of-service rules, including hours-of-service records;

"(iv) verification of proof of insurance;

"(v) a review of available data concerning that motor carrier's safety history, and other information necessary to determine the carrier's preparedness to comply with Federal Motor Carrier Safety rules and regulations and Hazardous Materials rules and regulations;

"(vi) an inspection of that Mexican motor carrier's commercial vehicles to be used under such operating authority, if any such commercial vehicles have not received a decal from the inspection required in subsection (a)(5);

"(vii) an evaluation of that motor carrier's safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections;

"(viii) verification of drivers' qualifications, including a confirmation of the validity of the Licencia de Federal de Conductor of each driver of that motor carrier who will be operating under such authority; and

"(ix) an interview with officials of that motor carrier to review safety management controls and evaluate any written safety oversight policies and practices.

"(C) requires that—

"(i) Mexican motor carriers with three or fewer commercial vehicles need not undergo on-site safety examination; however 50 percent of all safety examinations of all Mexican motor carriers shall be conducted onsite; and

"(ii) such on-site inspections shall cover at least 50 percent of estimated truck traffic in any year.

"(2) requires a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the motor carrier a satisfactory rating, before the carrier is granted permanent operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border, and requires that any such safety compliance review take place within 18 months of that motor carrier being granted conditional operating authority, provided that—

"(A) Mexican motor carriers with three or fewer commercial vehicles need not undergo onsite

compliance review; however 50 percent of all compliance reviews of all Mexican motor carriers shall be conducted on-site; and

"(B) any Mexican motor carrier with 4 or more commercial vehicles that did not undergo an on-site safety exam under (a)(1)(C), shall undergo an on-site safety compliance review under this section.

"(3) requires Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;

"(A) for every such vehicle carrying a placardable quantity of hazardous materials;

"(B) whenever the inspection required in subsection (a)(5) is performed; and

"(C) randomly for other Mexican motor carrier commercial vehicles, but in no case less than 50 percent of all other such commercial vehicles.

"(4) gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations including hours-of-service rules under part 395 of title 49, Code of Federal Regulations;

"(5) requires, with the exception of Mexican motor carriers that have been granted permanent operating authority for three consecutive years—

"(A) inspections of all commercial vehicles of Mexican motor carriers authorized, or seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border that do not display a valid Commercial Vehicle Safety Alliance inspection decal, by certified inspectors in accordance with the requirements for a Level I Inspection under the criteria of the North American Standard Inspection (as defined in section 350.105 of title 49, Code of Federal Regulations), including examination of the driver, vehicle exterior and vehicle under-carriage;

"(B) a Commercial Vehicle Safety Alliance decal to be affixed to each such commercial vehicle upon completion of the inspection required by clause (A) or a re-inspection if the vehicle has met the criteria for the Level I inspection; and

"(C) that any such decal, when affixed, expire at the end of a period of not more than 90 days, but nothing in this paragraph shall be construed to preclude the Administration from requiring reinspection of a vehicle bearing a valid inspection decal or from requiring that such a decal be removed when a certified Federal or State inspector determines that such a vehicle has a safety violation subsequent to the inspection for which the decal was granted.

"(6) requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;

"(7)(A) equips all United States-Mexico commercial border crossings with scales suitable for enforcement action; equips 5 of the 10 such crossings that have the highest volume of commercial vehicle traffic with weigh-in-motion (WIM) systems; ensures that the remaining 5 such border crossings are equipped within 12 months; requires inspectors to verify the weight of each Mexican motor carrier commercial vehicle entering the United States at said WIM equipped high volume border crossings; and

"(B) initiates a study to determine which other crossings should also be equipped with weigh-in-motion systems;

"(8) the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed in the United States;

"(9) requires commercial vehicles operated by a Mexican motor carrier to enter the United States only at commercial border crossings where and when a certified motor carrier safety inspector is on duty and where adequate capacity exists to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections.

"(10) publishes—

"(A) interim final regulations under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 [Pub. L. 106–159] (49 U.S.C. 31144 note) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that may include the administration of a proficiency examination;

"(B) interim final regulations under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors;

"(C) a policy under sections 218(a) and (b) of that Act (49 U.S.C. 31133 note) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border;

"(D) a policy under section 219(d) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor

is subject to a suspension, restriction, or limitation on its right to operate in the United States; and

"(E) a policy under section 219(a) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from operating in the United States that is found to have operated illegally in the United States.

"(b) No vehicles owned or leased by a Mexican motor carrier and carrying hazardous materials in a placardable quantity may be permitted to operate beyond a United States municipality or commercial zone until the United States has completed an agreement with the Government of Mexico which ensures that drivers of such vehicles carrying such placardable quantities of hazardous materials meet substantially the same requirements as United States drivers carrying such materials.

"(c) No vehicles owned or leased by a Mexican motor carrier may be permitted to operate beyond United States municipalities and commercial zones under conditional or permanent operating authority granted by the Federal Motor Carrier Safety Administration until—

"(1) the Department of Transportation Inspector General conducts a comprehensive review of border operations within 180 days of enactment [probably means date of enactment of this Act, which was approved Dec. 18, 2001] to verify that—

"(A) all new inspector positions funded under this Act [see Tables for classification] have been filled and the inspectors have been fully trained;

"(B) each inspector conducting on-site safety compliance reviews in Mexico consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, is fully trained as a safety specialist;

"(C) the requirement of subparagraph (a)(2) has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border, undermining the level of inspection coverage and safety elsewhere in the United States;

"(D) the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance with hours-of-service rules under part 395 of title 49, Code of Federal Regulations, by Mexican motor carriers seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

"(E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of United States enforcement authorities to allow United States authorities to verify the status and validity of licenses, vehicle registrations, operating authority and insurance of Mexican motor carriers while operating in the United States, and that adequate telecommunications links exist at all United States-Mexico border crossings used by Mexican motor carrier commercial vehicles, and in all mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority and insurance information can be easily and quickly verified at border crossings or by mobile enforcement units;

"(F) there is adequate capacity at each United States-Mexico border crossing used by Mexican motor carrier commercial vehicles to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections;

"(G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers that apply for authority to operate commercial vehicles beyond United States municipalities and commercial zones on the United States-Mexico border and the drivers of those vehicles; and

"(H) measures are in place to enable United States law enforcement authorities to ensure the effective enforcement and monitoring of license revocation and licensing procedures of Mexican motor carriers.

"(2) The Secretary of Transportation certifies in writing in a manner addressing the Inspector General's findings in paragraphs (c)(1)(A) through (c)(1)(H) of this section that the opening of the border does not pose an unacceptable safety risk to the American public.

"[(d) Repealed. Pub. L. 114–113, div. L, title I, §130(b), Dec. 18, 2015, 129 Stat. 2850.]

"(e) For purposes of this section, the term 'Mexican motor carrier' shall be defined as a Mexico-domiciled motor carrier operating beyond United States municipalities and commercial zones on the United States-Mexico border.

"(f) In addition to amounts otherwise made available in this Act, to be derived from the Highway Trust Fund, there is hereby appropriated to the Federal Motor Carrier Safety Administration, $25,866,000 for the salary, expense, and capital costs associated with the requirements of this section."

EXECUTIVE DOCUMENTS

LIMITED MODIFICATION TO MORATORIUM ON ISSUANCE OF CERTIFICATES OR

PERMITS WITH RESPECT TO MEXICO

Memorandum of President of the United States, May 6, 1993, 58 F.R. 27647, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97–261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. The Act [Pub. L. 97–261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a contiguous foreign country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

I am pleased that an agreement between the United States and Mexico has been concluded to ensure fair and reciprocal treatment for charter and tour bus interests on both sides of the border. The agreement reached, however, does not allow for full access to cross-border and domestic markets. Therefore, the moratorium must reflect the conditions under which operating authority may be issued to Mexican charter and tour companies under the agreement.

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(l)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], I hereby make a limited modification to the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or special operations, in foreign commerce, in round trip or one-way service between Mexico and the United States pursuant to the following restrictions:

1. The Mexican motor carrier can conduct cross-border charter or special service in the United States only when the international tour or charter begins in Mexico;

2. Tickets or tour packages for such operations cannot be sold in the United States; and

3. The terms of the grants of authority given to Mexican motor carriers will be limited by the life of the agreement with Mexico covering reciprocal cross-border charter and special operations.

This action applies only to international charter and tour operations, does not allow for point-to-point service within the United States, and does not authorize companies to conduct cross-border regular route service. This action preserves the status quo with respect to Mexican trucking companies and Mexican companies engaged in regular route service, and will maintain the moratorium on those operations through September 25, 1994, unless earlier revoked or modified.

Accordingly, you are directed to notify the Congress today on my behalf that, effective 60 days hence, the moratorium will no longer be in effect for Mexican charter and tour bus companies subject to the above stated conditions. Because of this action, the Interstate Commerce Commission will then accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms. I should note that applications in Mexico by United States charter and tour bus firms will be similarly treated.

You are hereby authorized and directed to publish this determination in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Jan. 1, 1994, 59 F.R. 653, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97–261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of a contiguous foreign country. The Act [Pub. L. 97–261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a foreign contiguous country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

As set forth in the Statement of Administrative Action regarding the North American Free Trade Agreement (NAFTA) that I submitted to the Congress on November 3, 1993, the moratorium with respect to Mexico will be lifted in phases to coincide with the schedule of liberalization in the relevant provisions of the NAFTA. The NAFTA specifically states that the moratorium will not apply to the provision of cross-border charter or tour bus services as of the date of entry into force of the Agreement.

This is to give public notice that, pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(l)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], on November 3, 1993, I gave the Congress notice of my intention to make a limited modification to the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of Mexico. This modification will take effect on January 1, 1994, the 60th day after my notice to the Congress.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or tour bus operations, in foreign commerce, in round-trip or one-way service between Mexico and the United States.

This action applies only to international charter or tour bus operations, does not allow for point-to-point bus service within the United States, and does not authorize companies to conduct cross-border regular route bus service.

Effective January 1, 1994, the Interstate Commerce Commission will begin to accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms.

This determination shall be published in the Federal Register.

WILLIAM J. CLINTON.

[Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title and section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 1301 of this title.]

EXTENSION OF MORATORIUM

Memorandum of President of the United States, Mar. 2, 1995, 60 F.R. 12393, provided:

Memorandum for the Secretary of Transportation [and] the United States Trade Representative

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. 10922(l)(1) and (2) [Pub. L. 97–261, see former 49 U.S.C. 10922(m)(1), (2)], I hereby extend for an additional 2 years both the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. This action preserves the *status quo* and will maintain the moratorium through September 19, 1996, unless earlier revoked or modified.

This memorandum shall be published in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Sept. 25, 1992, 57 F.R. 44647, extended moratorium through Sept. 19, 1994.

Memorandum of President of the United States, Sept. 17, 1990, 55 F.R. 38657, extended moratorium through Sept. 19, 1992.

Memorandum of President of the United States, Sept. 15, 1988, 53 F.R. 36430, extended moratorium through Sept. 19, 1990.

Memorandum of President of the United States, Sept. 23, 1986, 51 F.R. 34079, extended moratorium through Sept. 19, 1988.

Memorandum of President of the United States, Aug. 30, 1984, 49 F.R. 35001, extended moratorium through Sept. 19, 1986.

Memorandum of President of the United States, June 5, 2001, 66 F.R. 30799, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97–261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of a contiguous foreign country, and authorized the President to modify the moratorium. The Interstate Commerce Commission Termination Act of 1995 (ICCTA) [ICC Termination Act of 1995, Pub. L. 104–88, see Tables for classification] maintained these restrictions, subject to modifications made prior to the enactment of the ICCTA [Dec. 29, 1995], and authorized the President to make further modifications to the moratorium. The relevant provisions of the ICCTA are codified at 49 U.S.C. 13902.

The North American Free Trade Agreement (NAFTA) established a schedule for liberalizing certain restrictions on investment in truck and bus services. Pursuant to 49 U.S.C. 13902(c)(3), I have determined that the following modifications to the moratorium are consistent with obligations of the United States under NAFTA and with U.S. transportation policy, and that the moratorium shall be modified accordingly. First, enterprises domiciled in the United States that are owned or controlled by persons of Mexico will be allowed to obtain operating authority to provide truck services for the transportation of international cargo between points in the United States. Second, enterprises domiciled in the United States that are owned or controlled by persons of Mexico will be allowed to obtain operating authority to provide bus services between points in the United States. These modifications shall be effective today.

Pursuant to 49 U.S.C. 13902(c)(5), I have determined that expeditious action is required to implement these modifications to the moratorium. Effective today, the Department of Transportation will accept and expeditiously process applications, submitted by enterprises domiciled in the United States that are owned or controlled by persons of Mexico, to obtain operating authority to provide truck services for the transportation of international cargo between points in the United States or to provide bus services between points in the United States.

Motor carriers domiciled in the United States that are owned or controlled by persons of Mexico will be subject to the same Federal and State regulations and procedures that apply to all other U.S. carriers. These include safety regulations, such as drug and alcohol testing; insurance requirements; taxes and fees; and all other applicable laws and regulations, including those administered by the U.S. Customs Service, the Immigration and Naturalization Service, and the Department of Labor.

This memorandum shall be published in the Federal Register.

GEORGE W. BUSH.

Memorandum of President of the United States, Nov. 27, 2002, 67 F.R. 71795, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982, Public Law 97–261, 96 Stat. 1103 [see former 49 U.S.C. 10922(m)(1), (2)], imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country and authorized the President to modify the moratorium. The Interstate Commerce Commission Termination Act of 1995 (ICCTA), Public Law 104–88, 109 Stat. 803 [ICC Termination Act of 1995, see Tables for classification], maintained these restrictions, subject to modifications made prior to the enactment of the ICCTA [Dec. 29, 1995], and empowered the President to make further modifications to the moratorium.

Pursuant to 49 U.S.C. 13902(c)(3), I modified the moratorium on June 5, 2001, to allow motor carriers domiciled in the United States that are owned or controlled by persons of Mexico to obtain operating authority to transport international cargo by truck between points in the United States and to provide bus services between points in the United States.

The North American Free Trade Agreement (NAFTA) established a schedule for liberalizing certain restrictions on the provision of bus and truck services by Mexican-domiciled motor carriers in the United States. Pursuant to 49 U.S.C. 13902(c)(3), I hereby determine that the following modifications to the moratorium are consistent with obligations of the United States under NAFTA and with our national transportation policy and that the moratorium shall be modified accordingly.

First, qualified motor carriers domiciled in Mexico will be allowed to obtain operating authority to transport passengers in cross-border scheduled bus services. Second, qualified motor carriers domiciled in Mexico will be allowed to obtain operating authority to provide cross-border truck services. The moratorium on the issuance of certificates or permits to Mexican-domiciled motor carriers for the provision of truck or bus services between points in the United States will remain in place. These modifications shall be effective on the date of this memorandum.

Furthermore, pursuant to 49 U.S.C. 13902(c)(5), I hereby determine that expeditious action is required to implement this modification to the moratorium. Effective on the date of this memorandum, the Department of Transportation is authorized to act on applications, submitted by motor carriers domiciled in Mexico, to obtain operating authority to provide cross-border scheduled bus services and cross-border truck services. In reviewing such applications, the Department shall continue to work closely with the Department of Justice, the Office of Homeland Security, and other relevant Federal departments, agencies, and offices in order to help ensure the security of the border and to prevent potential threats to national security.

Motor carriers domiciled in Mexico operating in the United States will be subject to the same Federal and State laws, regulations, and procedures that apply to carriers domiciled in the United States. These include safety regulations, such as drug and alcohol testing requirements; insurance requirements; taxes and fees; and

other applicable laws and regulations, including those administered by the United States Customs Service, the Immigration and Naturalization Service, the Department of Labor, and Federal and State environmental agencies.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§13903. Registration of freight forwarders

(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary determines that the person—

(1) has sufficient experience to qualify the person to act as a freight forwarder; and

(2) is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary.

(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each freight forwarder shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.

(e) UPDATE OF REGISTRATION.—The Secretary shall require a freight forwarder to update its registration under this section not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 109–59, title IV, §4142(b), Aug. 10, 2005, 119 Stat. 1747; Pub. L. 110–244, title III, §305(d), June 6, 2008, 122 Stat. 1620; Pub. L. 112–141, div. C, title II, §§32107(b), 32916(a), July 6, 2012, 126 Stat. 782, 820; Pub. L. 114–94, div. A, title V, §5508(a)(2), Dec. 4, 2015, 129 Stat. 1554.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (d). Pub. L. 114–94 struck out par. (1) designation and heading before "A freight forwarder".

2012—Subsec. (a). Pub. L. 112–141, §32916(a)(1), substituted "determines that the person—" for "finds that the person is fit", added par. (1), inserted par. (2) designation and "is fit" before ", willing", and, in par. (2), struck out "and the Board" after "Secretary".

Subsec. (b). Pub. L. 112–141, §32916(a)(3), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 112–141, §32916(a)(3), added subsec. (c). Former subsec. (c) redesignated (e).

Pub. L. 112–141, §32107(b), added subsec. (c).

Subsec. (d). Pub. L. 112–141, §32916(a)(4), amended subsec. (d) generally. Prior to amendment, text read as follows: "The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter."

Pub. L. 112–141, §32916(a)(2), redesignated subsec. (b) as (d).

Subsec. (e). Pub. L. 112–141, §32916(a)(2), redesignated subsec. (c) as (e).

2008—Subsec. (a). Pub. L. 110–244 amended subsec. (a) generally. Prior to amendment, text read as follows:

"(1) HOUSEHOLD GOODS.—The Secretary shall register a person to provide service subject to

jurisdiction under subchapter III of chapter 135 as a freight forwarder of household goods if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

"(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder (other than a freight forwarder of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board."

2005—Subsec. (a). Pub. L. 109–59 designated existing provisions as par. (1) and inserted heading, inserted "of household goods" after "freight forwarder", and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

FINANCIAL RESPONSIBILITY REQUIREMENTS

Pub. L. 112–141, div. C, title II, §32104, July 6, 2012, 126 Stat. 780, provided that: "Not later than 6 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], and every 4 years thereafter, the Secretary shall—

"(1) issue a report on the appropriateness of—

"(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

"(B) the current bond and insurance requirements under sections 13904(f), 13903, and 13906 of title 49, United States Code; and

"(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."

§13904. Registration of brokers

(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary determines that the person—

(1) has sufficient experience to qualify the person to act as a broker for transportation; and

(2) is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

(c) EXPERIENCE OR TRAINING REQUIREMENTS.—Each broker shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

(1) IN GENERAL.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.

(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

(e) REGULATION TO PROTECT MOTOR CARRIERS AND SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of motor carriers and shippers by motor vehicle.

(f) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

(g) UPDATE OF REGISTRATION.—The Secretary shall require a broker to update its registration under this section not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 109–59, title IV, §4142(c), Aug. 10, 2005, 119 Stat. 1747; Pub. L. 110–244, title III, §305(e), June 6, 2008, 122 Stat. 1620; Pub. L. 112–141, div. C, title II, §§32107(c), 32916(b), July 6, 2012, 126 Stat. 782, 821.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §32916(b)(1), substituted "determines that the person—" for "finds that the person is fit", added par. (1), and inserted par. (2) designation and "is fit" before ", willing".

Subsecs. (b), (c). Pub. L. 112–141, §32916(b)(3), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 112–141, §32916(b)(4), amended subsec. (d) generally. Prior to amendment, text read as follows:

"(1) IN GENERAL.—The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier under this chapter.

"(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers."

Pub. L. 112–141, §32916(b)(2), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 112–141, §32916(b)(5), amended subsec. (e) generally. Prior to amendment, text read as follows: "Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle."

Pub. L. 112–141, §32916(b)(2), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Pub. L. 112–141, §32107(c), added subsec. (e).

Subsecs. (f), (g). Pub. L. 112–141, §32916(b)(2), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

2008—Subsec. (a). Pub. L. 110–244 amended subsec. (a) generally. Prior to amendment, text read as follows:

"(1) HOUSEHOLD GOODS.—The Secretary shall register, subject to section 13906(b), a person to be a broker of household goods for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker of household goods for transportation and to comply with this part and applicable regulations of the Secretary.

"(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a broker (other than a broker of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board."

2005—Subsec. (a). Pub. L. 109–59, §4142(c)(1), (3), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (a)(1). Pub. L. 109–59, §4142(c)(2), which directed amendment of par. (1) by inserting "of household goods" after "broker", was executed by making the insertion in two places to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13905. Effective periods of registration

(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on December 31, 1995, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

(b) PERSON REGISTERED WITH SECRETARY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a), shall be treated, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a.

(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

(A) shall be effective beginning on the date specified by the Secretary; and

(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

(2) REISSUANCE OF REGISTRATION.—

(A) REQUIREMENT.—Not later than 4 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

(i) shall expire not later than 5 years after the date of such renewal; and

(ii) may be further renewed as provided under this chapter.

(d) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—

(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

(A) suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor

carrier, foreign motor private carrier, broker, or freight forwarder for willful failure to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

(iii) a condition of its registration;

(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder for failure—

(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

(iii) for failure [1] to obey a subpoena issued by the Secretary;

(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board; or

(iii) a condition of its registration; or

(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder if the Secretary finds that the motor carrier, broker, or freight forwarder does not disclose any relationship through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904.

(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.

(4) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and opportunity for public comment, shall issue regulations to provide for the suspension, amendment, or revocation of a registration under this part for failure to pay a civil penalty as provided in paragraph (2)(B).

(e) PROCEDURE.—Except on application of the registrant, or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C), the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

(2) the registrant willfully does not comply with the order for a period of 30 days.

(f) EXPEDITED PROCEDURE.—

(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for

failure to comply with requirements of the Secretary pursuant to section 13904(e) or 13906 or an order or regulation of the Secretary prescribed under those sections; and

(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144.

(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.

(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.

(g) MEXICO-DOMICILED MOTOR CARRIERS.—Notwithstanding any other provision of this section, upon an order in accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, the Secretary shall carry out the relief specified by revoking or imposing limitations on existing registrations of Mexico-domiciled motor carriers of cargo to operate beyond the municipalities along the United States-Mexico international border and the commercial zones of those municipalities as directed.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 104–287, §5(33), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 105–102, §2(10), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 106–159, title II, §206(a), Dec. 9, 1999, 113 Stat. 1763; Pub. L. 109–59, title IV, §§4104, 4303(a), Aug. 10, 2005, 119 Stat. 1716, 1761; Pub. L. 110–291, §2(b), July 30, 2008, 122 Stat. 2915; Pub. L. 112–141, div. C, title II, §§32103(a), 32109, 32205, 32917, 32933(a), July 6, 2012, 126 Stat. 778, 782, 785, 821, 830; Pub. L. 114–94, div. A, title V, §5508(a)(3), Dec. 4, 2015, 129 Stat. 1554; Pub. L. 116–113, title III, §326(b), Jan. 29, 2020, 134 Stat. 60.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13905(a) for clarity and consistency.

PUB. L. 105–102

This amends 49:13905(e)(1) to correct a grammatical error.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (c)(2)(A), is the date of enactment of title II of div. C of Pub. L. 112–141, which was approved July 6, 2012.

The date of the enactment of this paragraph, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 106–159, which was approved Dec. 9, 1999.

Section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, referred to in subsec. (g), is classified to section 4574(a) of Title 19, Customs Duties.

AMENDMENTS

2020—Subsec. (g). Pub. L. 116–113 added subsec. (g).

2015—Subsec. (d)(2)(D). Pub. L. 114–94 substituted "the Secretary finds that" for "the Secretary finds that—", struck out cl. (i) designation before "the motor carrier,", and inserted period at end.

2012—Subsec. (c). Pub. L. 112–141, §32917, amended subsec. (c) generally. Prior to amendment, text read as follows: "Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation."

Subsec. (d)(1). Pub. L. 112–141, §32103(a)(1)(B), added par. (1) and struck out former par. (1) which

authorized the Secretary to amend or revoke a registration upon application, or suspend, amend or revoke a registration upon complaint or the Secretary's own initiative after notice and opportunity for a proceeding.

Subsec. (d)(2). Pub. L. 112–141, §32205, inserted "foreign motor carrier, foreign motor private carrier," after "registration of a motor carrier," wherever appearing.

Pub. L. 112–141, §32103(a)(1)(B), added par. (2). Former par. (2) redesignated (4).

Subsec. (d)(3). Pub. L. 112–141, §32103(a)(1)(B), added par. (3).

Subsec. (d)(4). Pub. L. 112–141, §32103(a)(1)(C), substituted "paragraph (2)(B)" for "paragraph (1)(B)".

Pub. L. 112–141, §32103(a)(1)(A), redesignated par. (2) as (4).

Subsec. (e). Pub. L. 112–141, §32103(a)(2), inserted "or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C)," after "registrant,".

Subsec. (f)(1)(A). Pub. L. 112–141, §32933(a), substituted "section 13904(e)" for "section 13904(c)".

Subsec. (f)(2). Pub. L. 112–141, §32109, amended par. (2) generally. Prior to amendment, text read as follows: "Without regard to subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property."

2008—Subsec. (d)(1)(A). Pub. L. 110–291 inserted "(including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus)" after "Board".

2005—Subsecs. (b) to (d). Pub. L. 109–59, §4303(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–59, §4303(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 109–59, §4104(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144 of this title, or an order or regulation of the Secretary prescribed under those sections."

Subsec. (e)(2). Pub. L. 109–59, §4104(2), substituted "shall revoke the registration" for "may suspend a registration".

Subsec. (e)(3). Pub. L. 109–59, §4104(3), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension."

Subsec. (f). Pub. L. 109–59, §4303(a)(1), redesignated subsec. (e) as (f).

1999—Subsec. (c). Pub. L. 106–159 inserted par. (1) designation and heading, inserted "(A)" before "suspend", added cl. (B), realigned par. (1) margins, and added par. (2).

1997—Subsec. (e)(1). Pub. L. 105–102 struck out comma after "31144".

1996—Subsec. (a). Pub. L. 104–287 substituted "December 31, 1995" for "the day before the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301–4308) of title IV of Pub. L. 109–59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109–59, set out as a note under section 13902 of this title.

[1] So in original. The words "for failure" probably should not appear.

§13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders

(a) MOTOR CARRIER REQUIREMENTS.—

(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) [1] of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139.

(3) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

(4) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

(C) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of

subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the broker consents to the payment;

(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of $75,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

(B) the Secretary shall immediately post such notification on the public Internet Website of the Department of Transportation.

(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of that person falls below the amount required under this subsection.

(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—

(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

(i) all uncontested claims received during such period; or

(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

(7) PENALTIES.—

(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provider [2] broker financial security for 3 years.

(8) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, other financial security, or a combination of such instruments, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, that meets the requirements of this subsection.

(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may not be accepted by the Secretary unless the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

(ii) in the case [3] the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

(iii) the claim—

(I) is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii); and

(II) is reduced to a judgment against the freight forwarder.

(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following receipt of the notice; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

(3) FREIGHT FORWARDER INSURANCE.—

(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards prescribed by the Secretary.

(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in subparagraph (C)), resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder while providing transfer, collection, or delivery service under this part.

(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary, that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of $75,000, regardless of the number of branch offices or sales agents of the freight forwarder.

(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

(B) the Secretary shall immediately post such notification on the public Internet web site of the Department of Transportation.

(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if its available financial security falls below the amount required under this subsection.

(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

(i) all uncontested claims received during such period; or

(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

(8) PENALTIES.—

(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated

the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide freight forwarder financial security for 3 years

(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of January 1, 1996, shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke or suspend the registration of any carrier or broker after the effective date of the cancellation.

(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 885; amended Pub. L. 104–287, §5(34), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 109–59, title IV, §4303(b), (d)(1), Aug. 10, 2005, 119 Stat. 1762, 1763; Pub. L. 112–141, div. C, title II, §32918(a), July 6, 2012, 126 Stat. 822; Pub. L. 114–94, div. A, title V, §5201, Dec. 4, 2015, 129 Stat. 1534.)

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraph (3) of this subsection, referred to in subsec. (a)(1), was redesignated as paragraph (4) of subsec. (a) of this section by Pub. L. 109–59, title IV, §4303(b)(1), Aug. 10, 2005, 119 Stat. 1762.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsec. (a)(2), is the date of enactment of subtitle C of title IV of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2015—Subsec. (e). Pub. L. 114–94 inserted "or suspend" after "revoke".

2012—Subsecs. (b), (c). Pub. L. 112–141 added subsecs. (b) and (c) and struck out former subsecs. (b) and (c) which related to broker requirements and freight forwarder requirements, respectively.

2005—Pub. L. 109–59, §4303(d)(1), inserted "motor private carriers," after "motor carriers," in section catchline.

Subsec. (a)(2) to (4). Pub. L. 109–59, §4303(b), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (d). Pub. L. 104–287 substituted "January 1, 1996," for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. C, title II, §32918(c), July 6, 2012, 126 Stat. 826, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date that is 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways]."

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

REGULATIONS

Pub. L. 112–141, div. C, title II, §32918(b), July 6, 2012, 126 Stat. 826, provided that: "Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall issue regulations to implement and enforce the requirements under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a)."

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301–4308) of title IV of Pub. L. 109–59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109–59, set out as a note under section 13902 of this title.

SELF-INSURANCE RULES

Pub. L. 104–88, title I, §104(h), Dec. 29, 1995, 109 Stat. 920, provided that: "The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

"(1) continued ability of motor carriers to qualify as self-insurers; and

"(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification."

[Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.]

[1] See References in Text note below.

[2] So in original. Probably should be "provide".

[3] So in original.

§13907. Household goods agents

(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each motor carrier providing transportation of household goods shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

(b) STANDARD FOR SELECTING AGENTS.—Each motor carrier providing transportation of household goods shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

(c) ENFORCEMENT.—

(1) COMPLAINT.—Whenever the Secretary has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including

accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

(2) RIGHT TO DEFEND.—The agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

(3) ORDER.—If the agent does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

(4) HEARING.—Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

(5) COURT REVIEW.—Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

(d) LIMITATION ON APPLICABILITY OF ANTITRUST LAWS.—

(1) IN GENERAL.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods and its agents (whether or not an agent is also a carrier) related solely to—

(A) rates for the transportation of household goods under the authority of the principal carrier;

(B) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier;

(C) allowances relating to transportation of household goods under the authority of the principal carrier; and

(D) ownership of a motor carrier providing transportation of household goods by an agent or membership on the board of directors of any such motor carrier by an agent.

(2) BOARD REVIEW.—The Board, upon its own initiative or request, shall review any activities undertaken under paragraph (1) and shall modify or terminate the activity if necessary to protect the public interest.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) HOUSEHOLD GOODS.—The term "household goods" has the meaning such term had under section 10102(11) of this title, as in effect on December 31, 1995.

(2) TRANSPORTATION.—The term "transportation" means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on December 31, 1995, if such subchapter were still in effect.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 887; amended Pub. L. 104–287, §5(35), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13907(e)(1) and (2) for clarity and consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 10102(11) of this title, referred to in subsec. (e)(1), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

Subchapter II of chapter 105 of this title, referred to in subsec. (e)(2), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10934 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104–287, §5(35)(A), substituted "December 31, 1995" for "the day before the effective date of this section".

Subsec. (e)(2). Pub. L. 104–287, §5(35)(B), substituted "December 31, 1995" for "the day before such effective date".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§13908. Registration and other reforms

(a) ESTABLISHMENT OF UNIFIED CARRIER REGISTRATION SYSTEM.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder, and broker industries and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 regulations to establish an online Federal registration system, to be named the "Unified Carrier Registration System", to replace—

(1) the current Department of Transportation identification number system, the single State registration system under section 14504; [1]

(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

(3) the service of process agent systems under sections 503 and 13304.

(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF INFORMATION.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, freight forwarders, and others required to register with the Department of Transportation, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a. The Secretary shall ensure that

Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration.

(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed $10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

(3) ACCESS AND RETRIEVAL FEES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the unified carrier registration agreement.

(B) EXCEPTIONS.—There shall be no fee charged under this paragraph—

(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

(e) USE OF FEES FOR UNIFIED CARRIER REGISTRATION SYSTEM.—Fees collected under this section may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected and shall be available for expenditure for such purposes until expended.

(f) APPLICATION TO CERTAIN INTRASTATE OPERATIONS.—Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 888; amended Pub. L. 104–287, §5(36), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 109–59, title IV, §4304, Aug. 10, 2005, 119 Stat. 1763; Pub. L. 110–244, title III, §301(l), June 6, 2008, 122 Stat. 1617; Pub. L. 112–141, div. C, title II, §32106, July 6, 2012, 126 Stat. 781.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(36)(A)

This amends 49:13908(d)(1) for clarity and consistency.

PUB. L. 104–287, §5(36)(B)

This sets out the effective date of 49:13908.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsec. (a), is the date of enactment of subtitle C of title IV of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 14504, referred to in subsec. (a)(1), was repealed by Pub. L. 109–59, title IV, §4305(a), Aug. 10, 2005, 119 Stat. 1764; Pub. L. 110–53, title XV, §1537(a), Aug. 3, 2007, 121 Stat. 467, effective Jan. 1, 2008.

The effective date of this section, referred to in subsec. (c), probably means the date of enactment of Pub. L. 109–59, which amended this section generally and was approved Aug. 10, 2005.

AMENDMENTS

2012—Subsec. (d)(1). Pub. L. 112–141 struck out "but shall not exceed $300" after "registration".

2008—Subsecs. (e), (f). Pub. L. 110–244 added subsec. (e) and redesignated former subsec. (e) as (f).

2005—Pub. L. 109–59 amended heading and text of section generally. Prior to amendment, text consisted of subsecs. (a) to (e) relating to issuance of regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter, and the financial responsibility information system under section 13906 with a single, online, Federal system.

1996—Subsec. (d)(1). Pub. L. 104–287, §5(36)(A), substituted "December 31, 1995" for "the day before the effective date of this section".

Subsec. (e). Pub. L. 104–287, §5(36)(B), substituted "January 1, 1996" for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

REGULATIONS

Pub. L. 110–53, title XV, §1537(b), Aug. 3, 2007, 121 Stat. 467, provided that: "Not later than October 1, 2007, the Federal Motor Carrier Safety Administration shall issue final regulations to establish the Unified Carrier Registration System, as required by section 13908 of title 49, United States Code, and set fees for the unified carrier registration agreement for calendar year 2007 or subsequent calendar years to be charged to motor carriers, motor private carriers, and freight forwarders under such agreement, as required by 14504a of title 49, United States Code."

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301–4308) of title IV of Pub. L. 109–59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109–59, set out as a note under section 13902 of this title.

[1] *See References in Text note below.*

§13909. Availability of information

The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

(1) the names and business addresses of the principals of each entity holding such registration;

(2) the status of such registration; and
(3) the electronic address of the entity's surety provider for the submission of claims.

(Added Pub. L. 112–141, div. C, title II, §32914(b)(1), July 6, 2012, 126 Stat. 819.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

CHAPTER 141—OPERATIONS OF CARRIERS

SUBCHAPTER I—GENERAL REQUIREMENTS

Sec.
14101. Providing transportation and service.
14102. Leased motor vehicles.
14103. Loading and unloading motor vehicles.
14104. Household goods carrier operations.

SUBCHAPTER II—REPORTS AND RECORDS

14121. Definitions.
14122. Records: form; inspection; preservation.
14123. Financial reporting.

SUBCHAPTER I—GENERAL REQUIREMENTS

§14101. Providing transportation and service

(a) ON REASONABLE REQUEST.—A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

(b) CONTRACTS WITH SHIPPERS.—

(1) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(10)(A), to provide specified services under specified rates and conditions. If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies. The parties may not waive the provisions governing registration, insurance, or safety fitness.

(2) REMEDY FOR BREACH OF CONTRACT.—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 890.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14102. Leased motor vehicles

(a) GENERAL AUTHORITY OF SECRETARY.—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

(b) RESPONSIBLE PARTY FOR LOADING AND UNLOADING.—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 890.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11107 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14103. Loading and unloading motor vehicles

(a) SHIPPER RESPONSIBLE FOR ASSISTING.—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

(b) COERCION PROHIBITED.—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more

persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 891.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsec. (b), is act July 5, 1935, ch. 372, 49 Stat. 449, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Act of March 23, 1932, commonly known as the Norris-LaGuardia Act, referred to in subsec. (b), is act Mar. 23, 1932, ch. 90, 47 Stat. 70, which is classified generally to chapter 6 (§101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11109 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

COLLECTION OF DATA ON DELAYS IN GOODS MOVEMENT

Pub. L. 114–94, div. A, title V, §5501(b), Dec. 4, 2015, 129 Stat. 1550, provided that: "Not later than 2 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall establish by regulation a process to collect data on delays experienced by operators of commercial motor vehicles before the loading and unloading of such vehicles and at other points in the pick-up and delivery process."

§14104. Household goods carrier operations

(a) GENERAL REGULATORY AUTHORITY.—

(1) PAPERWORK MINIMIZATION.—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

(2) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following—

(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

(iv) service requirements of the carriers;

(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

(b) ESTIMATES.—

(1) REQUIRED TO BE IN WRITING.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) as a household goods motor carrier and subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.

(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation requirements of the Secretary as are applicable to bills of lading.

(C) ESTIMATE.—

(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier's statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding. The written estimate shall be based on a physical survey of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate.

(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.

(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper's shipment and the carrier's lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.

(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA–ESA–03–005 (or its successor publication) entitled "Ready to Move?". Before the execution of a contract for service, the motor carrier shall provide the shipper copy of the Department of Transportation publication OCE 100, entitled "Your Rights and Responsibilities When You Move" required by section 375.213 of title 49, Code of Federal Regulations (or any successor regulation).

(3) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent

with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 891; amended Pub. L. 109–59, title IV, §4205, Aug. 10, 2005, 119 Stat. 1753.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11110 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59 added pars. (1) and (2), redesignated former par. (2) as (3), and struck out heading and text of former par. (1). Text read as follows: "Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

AMENDMENTS TO REGULATIONS RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE

Pub. L. 117–58, div. B, title III, §23013, Nov. 15, 2021, 135 Stat. 772, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATION.—The term 'Administration' means the Federal Motor Carrier Safety Administration.

"(2) COVERED CARRIER.—The term 'covered carrier' means a motor carrier that is—

"(A) engaged in the interstate transportation of household goods; and

"(B) subject to the requirements of part 375 of title 49, Code of Federal Regulations (as in effect on the effective date of any amendments made pursuant to the notice of proposed rulemaking issued under subsection (b)).

"(b) AMENDMENTS TO REGULATIONS.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall issue a notice of proposed rulemaking to amend, as the Secretary determines to be appropriate, regulations relating to the interstate transportation of household goods.

"(c) CONSIDERATIONS.—In issuing the notice of proposed rulemaking under subsection (b), the Secretary shall consider amending the following provisions of title 49, Code of Federal Regulations, in accordance with the following recommendations:

"(1) Section 375.207(b) to require each covered carrier to include on the website of the covered carrier a link—

"(A) to the publication of the Administration entitled 'Ready to Move–Tips for a Successful Interstate Move' and numbered ESA–03–005 on the website of the Administration; or

"(B) to a copy of the publication referred to in subparagraph (A) on the website of the covered carrier.

"(2) Subsections (a) and (b)(1) of section 375.213 to require each covered carrier to provide to each individual shipper, together with any written estimate provided to the shipper, a copy of the publication described in appendix A of part 375 of that title, entitled 'Your Rights and Responsibilities When You Move' and numbered ESA–03–006 (or a successor publication), in the form of a written copy or a hyperlink on the website of the covered carrier to the location on the website of the Administration containing that publication.

"(3) Section 375.213 to repeal subsection (e) of that section.
"(4) Section 375.401(a) to require each covered carrier—
"(A) to conduct a visual survey of the household goods to be transported by the covered carrier—
"(i) in person; or
"(ii) virtually, using—
"(I) a remote camera; or
"(II) another appropriate technology;
"(B) to offer a visual survey described in subparagraph (A) for all household goods shipments, regardless of the distance between—
"(i) the location of the household goods; and
"(ii) the location of the agent of the covered carrier preparing the estimate; and
"(C) to provide to each shipper a copy of the publication of the Administration entitled 'Ready to Move–Tips for a Successful Interstate Move' and numbered ESA–03–005 on receipt from the shipper of a request to schedule, or a waiver of, a visual survey offered under subparagraph (B).
"(5) Sections 375.401(b)(1), 375.403(a)(6)(ii), and 375.405(b)(7)(ii), and subpart D of appendix A of part 375, to require that, in any case in which a shipper tenders any additional item or requests any additional service prior to loading a shipment, the affected covered carrier shall—
"(A) prepare a new estimate; and
"(B) maintain a record of the date, time, and manner in which the new estimate was accepted by the shipper.
"(6) Section 375.501(a), to establish that a covered carrier is not required to provide to a shipper an order for service if the covered carrier elects to provide the information described in paragraphs (1) through (15) of that section in a bill of lading that is presented to the shipper before the covered carrier receives the shipment.
"(7) Subpart H of part 375, to replace the replace the terms 'freight bill' and 'expense bill' with the term 'invoice'."

STUDY OF ENFORCEMENT OF CONSUMER PROTECTION RULES IN HOUSEHOLD GOODS MOVING INDUSTRY

Pub. L. 106–159, title II, §209(c), Dec. 9, 1999, 113 Stat. 1764, provided that: "The Comptroller General shall conduct a study of the effectiveness of the Department of Transportation's enforcement of household goods consumer protection rules under title 49, United States Code. The study shall also include a review of other potential methods of enforcing such rules, including allowing States to enforce such rules."

SUBCHAPTER II—REPORTS AND RECORDS

§14121. Definitions

In this subchapter, the following definitions apply:

(1) CARRIER AND BROKER.—The terms "carrier" and "broker" include a receiver or trustee of a carrier and broker, respectively.

(2) ASSOCIATION.—The term "association" means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 892.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11141 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14122. Records: form; inspection; preservation

(a) FORM OF RECORDS.—The Secretary or the Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

(b) RIGHT OF INSPECTION.—The Secretary or Board, or an employee designated by the Secretary or Board, may on demand and display of proper credentials, in person or in writing—

(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

(2) inspect and copy any record of—

(A) a carrier, broker, or association; and

(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Board, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers and brokers.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 893; amended Pub. L. 112–141, div. C, title II, §32501(d), July 6, 2012, 126 Stat. 803.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11144 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–141 inserted ", in person or in writing" after "proper credentials".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14123. Financial reporting

(a) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

(2) OTHER REPORTS.—The Secretary may require motor carriers, freight forwarders,

brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

(b) MATTERS TO BE COVERED.—In determining the matters to be covered by any reports to be filed under subsection (a), the Secretary shall consider—

(1) safety needs;

(2) the need to preserve confidential business information and trade secrets and prevent competitive harm;

(3) private sector, academic, and public use of information in the reports; and

(4) the public interest.

(c) EXEMPTIONS.—

(1) FROM FILING.—The Secretary may exempt upon good cause shown any party from the financial reporting requirements of subsection (a). Any request for such exemption must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.

(2) FROM PUBLIC RELEASE.—

(A) IN GENERAL.—The Secretary shall allow, upon request, a filer of a report under subsection (a) that is not a publicly held corporation or that is not subject to financial reporting requirements of the Securities and Exchange Commission, an exemption from the public release of such report.

(B) PROCEDURE.—After a request under subparagraph (A) and notice and opportunity for comment but in no event later than 90 days after the date of such request, the Secretary shall approve such request if the Secretary finds that the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.

(C) USE OF DATA FOR INTERNAL DOT PURPOSES.—If an exemption is granted under this paragraph, nothing shall prevent the Secretary from using data from reports filed under this subsection for internal purposes of the Department of Transportation or including such data in aggregate industry statistics released for publication if such inclusion would not render the filer's data readily identifiable.

(D) PENDING REQUESTS.—The Secretary shall not release publicly the report of a carrier making a request under subparagraph (A) while such request is pending.

(3) PERIOD OF EXEMPTIONS.—Exemptions granted under this subsection shall be for 3-year periods.

(d) STREAMLINING AND SIMPLIFICATION.—The Secretary shall streamline and simplify, to the maximum extent practicable, any reporting requirements the Secretary imposes under this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 893; amended Pub. L. 105–102, §2(11), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:14123(c)(2)(B) to correct a grammatical error.

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11145 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1997—Subsec. (c)(2)(B). Pub. L. 105–102 inserted "in" before "no event".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 143—FINANCE

Sec.

14301. Security interests in certain motor vehicles.
14302. Pooling and division of transportation or earnings.
14303. Consolidation, merger, and acquisition of control of motor carriers of passengers.

§14301. Security interests in certain motor vehicles

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTOR VEHICLE.—The term "motor vehicle" means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

(2) LIEN CREDITOR.—The term "lien creditor" means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

(3) SECURITY INTEREST.—The term "security interest" means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

(4) PERFECTION.—The term "perfection", as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

(b) REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

(3) a certificate of title has not been issued and the security interest cannot be perfected under

paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 894.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11304 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14302. Pooling and division of transportation or earnings

(a) APPROVAL REQUIRED.—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section.

(b) STANDARDS FOR APPROVAL.—The Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(c) PROCEDURE.—

(1) APPLICATION.—Any motor carrier of property may apply to the Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Board not less than 50 days before its effective date.

(2) DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.—Prior to the effective date of the agreement or combination, the Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Board determines that neither of these 2 factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(3) HEARING.—If the Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration

between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(4) SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.—In the case of an application for Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before January 1, 1996.

(5) STREAMLINING AND SIMPLIFYING.—The Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

(d) CONDITIONS.—The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

(e) INITIATION OF PROCEEDING.—The Board may begin a proceeding under this section on its own initiative or on application.

(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Board under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

(g) CONTINUATION OF EXISTING AGREEMENTS.—Any agreements in operation under the provisions of this title on January 1, 1996, that are succeeded by this section shall remain in effect until further order of the Board.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) HOUSEHOLD GOODS.—The term "household goods" has the meaning such term had under section 10102(11) of this title, as in effect on December 31, 1995.

(2) TRANSPORTATION.—The term "transportation" means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on December 31, 1995, if such subchapter were still in effect.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 895; amended Pub. L. 104–287, §5(37), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(37)(A), (B)

This sets out the effective date of 49:14302.

PUB. L. 104–287, §5(37)(C), (D)

This amends 49:14302(h)(1) and (2) for clarity and consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 10102(11) of this title, referred to in subsec. (h)(1), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 20, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

Subchapter II of chapter 105 of this title, referred to in subsec. (h)(2), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 11341 and 11342 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (c)(4). Pub. L. 104–287, §5(37)(A), substituted "January 1, 1996" for "the effective date of this section".

Subsec. (g). Pub. L. 104–287, §5(37)(B), substituted "January 1, 1996," for "the effective date of this section".

Subsec. (h)(1). Pub. L. 104–287, §5(37)(C), substituted "December 31, 1995" for "the day before the effective date of this section".

Subsec. (h)(2). Pub. L. 104–287, §5(37)(D), substituted "December 31, 1995" for "the day before such effective date".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Board:

(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

(3) Acquisition of control of a carrier by any number of carriers.

(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

(b) STANDARD FOR APPROVAL.—The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

(1) The effect of the proposed transaction on the adequacy of transportation to the public.

(2) The total fixed charges that result from the proposed transaction.

(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

(d) COMMENTS.—Written comments about an application may be filed with the Board within 45 days after the date on which notice of the application is published under subsection (c).

(e) DEADLINES.—The Board shall conclude evidentiary proceedings by the 240th day after the

date on which notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

(h) APPLICABILITY OF CERTAIN PROVISIONS.—When the Board approves and authorizes a transaction under this section in which a person not a carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 acquires control of at least 1 carrier subject to such jurisdiction, the person is subject, as a carrier, to the following provisions of this title that apply to the carrier being acquired by that person, to the extent specified by the Board: sections 504(f), 14121–14123, 14901(a), and 14907.

(i) INTERIM APPROVAL.—Pending determination of an application filed under this section, the Board may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties, when it appears that failure to do so may result in destruction of or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public. Transportation provided by a motor carrier under a grant of approval under this subsection is subject to this part.

(j) SUPPLEMENTAL ORDERS.—When cause exists, the Board may issue appropriate orders supplemental to an order made in a proceeding under this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 897.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 11341, 11343, 11344, 11345a, 11348, 11349, and 11351 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 145—FEDERAL-STATE RELATIONS

Sec.

14501. Federal authority over intrastate transportation.
14502. Tax discrimination against motor carrier transportation property.
14503. Withholding State and local income tax by certain carriers.
[14504. Repealed.]

14504a. Unified Carrier Registration System plan and agreement.
14505. State tax.
14506. Identification of vehicles.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59, title IV, §§4305(c), 4306(b), Aug. 10, 2005, 119 Stat. 1773, 1774, added items 14504a and 14506.

Pub. L. 109–59, title IV, §4305(a), Aug. 10, 2005, 119 Stat. 1764, as amended by Pub. L. 110–53, title XV, §1537(c), Aug. 3, 2007, 121 Stat. 467, struck out item 14504 "Registration of motor carriers by a State", effective Jan. 1, 2008.

§14501. Federal authority over intrastate transportation

(a) MOTOR CARRIERS OF PASSENGERS.—

(1) LIMITATION ON STATE LAW.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to—

(A) scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by a motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route;

(B) the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required; or

(C) the authority to provide intrastate or interstate charter bus transportation.

This paragraph shall not apply to intrastate commuter bus operations, or to intrastate bus transportation of any nature in the State of Hawaii.

(2) MATTERS NOT COVERED.—Paragraph (1) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle, or the authority of a State to regulate carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization.

(b) FREIGHT FORWARDERS AND BROKERS.—

(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

(c) MOTOR CARRIERS OF PROPERTY.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

(2) MATTERS NOT COVERED.—Paragraph (1)—

(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles,

the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

(B) does not apply to the intrastate transportation of household goods; and

(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the regulation of tow truck operations performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(3) STATE STANDARD TRANSPORTATION PRACTICES.—

(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

(i) uniform cargo liability rules,

(ii) uniform bills of lading or receipts for property being transported,

(iii) uniform cargo credit rules,

(iv) antitrust immunity for joint line rates or routes, classifications, mileage guides, and pooling, or

(v) antitrust immunity for agent-van line operations (as set forth in section 13907),

if such law, regulation, or provision meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Board under this part; and

(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

(4) NONAPPLICABILITY TO HAWAII.—This subsection shall not apply with respect to the State of Hawaii.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from requiring that, in the case of a motor vehicle to be towed from private property without the consent of the owner or operator of the vehicle, the person towing the vehicle have prior written authorization from the property owner or lessee (or an employee or agent thereof) or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.

(d) PRE-ARRANGED GROUND TRANSPORTATION.—

(1) IN GENERAL.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law requiring a license or fee on account of the fact that a motor vehicle is providing pre-arranged ground transportation service if the motor carrier providing such service—

(A) meets all applicable registration requirements under chapter 139 for the interstate transportation of passengers;

(B) meets all applicable vehicle and intrastate passenger licensing requirements of the State

or States in which the motor carrier is domiciled or registered to do business; and

(C) is providing such service pursuant to a contract for—

(i) transportation by the motor carrier from one State, including intermediate stops, to a destination in another State; or

(ii) transportation by the motor carrier from one State, including intermediate stops in another State, to a destination in the original State.

(2) INTERMEDIATE STOP DEFINED.—In this section, the term "intermediate stop", with respect to transportation by a motor carrier, means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to such passenger or passengers does not, before resuming the transportation of such passenger (or at least 1 of such passengers), provide transportation to any other person not included among the passengers being transported when the pause began.

(3) MATTERS NOT COVERED.—Nothing in this subsection shall be construed—

(A) as subjecting taxicab service to regulation under chapter 135 or section 31138;

(B) as prohibiting or restricting an airport, train, or bus terminal operator from contracting to provide preferential access or facilities to one or more providers of pre-arranged ground transportation service; and

(C) as restricting the right of any State or political subdivision of a State to require, in a nondiscriminatory manner, that any individual operating a vehicle providing prearranged ground transportation service originating in the State or political subdivision have submitted to pre-licensing drug testing or a criminal background investigation of the records of the State in which the operator is domiciled, by the State or political subdivision by which the operator is licensed to provide such service, or by the motor carrier providing such service, as a condition of providing such service.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 899; amended Pub. L. 105–178, title IV, §4016, June 9, 1998, 112 Stat. 412; Pub. L. 105–277, div. C, title I, §106, Oct. 21, 1998, 112 Stat. 2681–586; Pub. L. 107–298, §2, Nov. 26, 2002, 116 Stat. 2342; Pub. L. 109–59, title IV, §§4105(a), 4206(a), Aug. 10, 2005, 119 Stat. 1717, 1754; Pub. L. 114–94, div. A, title V, §5514, Dec. 4, 2015, 129 Stat. 1557.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Surface Freight Forwarder Deregulation Act of 1986, referred to in subsec. (b)(2), is Pub. L. 99–521, Oct. 22, 1986, 100 Stat. 2993. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 10101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11501 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2015—Subsec. (c)(2)(C). Pub. L. 114–94 substituted "the regulation of tow truck operations" for "the price of for-hire motor vehicle transportation by a tow truck, if such transportation is".

2005—Subsec. (c)(2)(B). Pub. L. 109–59, §4206(a), inserted "intrastate" before "transportation".

Subsec. (c)(5). Pub. L. 109–59, §4105(a), added par. (5).

2002—Subsec. (d). Pub. L. 107–298 added subsec. (d).

1998—Subsec. (a). Pub. L. 105–178 reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for any charter

transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations."

Subsec. (a)(1). Pub. L. 105–277 substituted "operations, or to intrastate bus transportation of any nature in the State of Hawaii" for "operations" in concluding provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14502. Tax discrimination against motor carrier transportation property

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ASSESSMENT.—The term "assessment" means valuation for a property tax levied by a taxing district.

(2) ASSESSMENT JURISDICTION.—The term "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(3) MOTOR CARRIER TRANSPORTATION PROPERTY.—The term "motor carrier transportation property" means property, as defined by the Secretary, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135.

(4) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term "commercial and industrial property" means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

(b) ACTS BURDENING INTERSTATE COMMERCE.—The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) EXCESSIVE VALUATION OF PROPERTY.—Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) TAX ON ASSESSMENT.—Levy or collect a tax on an assessment that may not be made under paragraph (1).

(3) AD VALOREM TAX.—Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(c) JURISDICTION.—

(1) IN GENERAL.—Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section.

(2) LIMITATION IN RELIEF.—Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds, by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial

property in the same assessment jurisdiction.

(3) BURDEN OF PROOF.—The burden of proof in determining assessed value and true market value is governed by State law.

(4) VIOLATION.—If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 900.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11503a of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14503. Withholding State and local income tax by certain carriers

(a) SINGLE STATE TAX WITHHOLDING.—

(1) IN GENERAL.—No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

(2) EMPLOYEE DEFINED.—In this subsection, the term "employee" has the meaning given such term in section 31132.

(b) SPECIAL RULES.—

(1) CALCULATION OF EARNINGS.—In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) WATER CARRIERS.—A water carrier providing transportation subject to jurisdiction under subchapter II of chapter 135 shall file income tax information returns and other reports only with—

(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(3) APPLICABILITY TO SAILORS.—This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal, or noncontiguous trade or in the fisheries of the United States.

(c) FILING OF INFORMATION.—A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 901.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11504 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

[§14504. Repealed. Pub. L. 109–59, title IV, §4305(a), Aug. 10, 2005, 119 Stat. 1764; Pub. L. 110–53, title XV, §1537(a), Aug. 3, 2007, 121 Stat. 467]

Section, added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 902; amended Pub. L. 110–53, title XV, §1537(a), Aug. 3, 2007, 121 Stat. 467, related to registration of motor carriers by a State.

Provisions similar to those in this section were contained in section 11506 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 109–59, title IV, §4305(a), Aug. 10, 2005, 119 Stat. 1764, as amended by Pub. L. 110–53, title XV, §1537(c), Aug. 3, 2007, 121 Stat. 467, provided that this section and the item relating to this section in the analysis for this chapter are repealed effective Jan. 1, 2008.

TEMPORARY REENACTMENT OF SECTION

Pub. L. 110–53, title XV, §1537(a), Aug. 3, 2007, 121 Stat. 467, provided that section 14504 of this title, as in effect on Dec. 31, 2006, was to be in effect for the period beginning on Jan. 1, 2007, and ending on the earlier of Jan. 1, 2008, or the effective date of final regulations issued (none issued as of Jan. 1, 2008) pursuant to section 1537(b) of Pub. L. 110–53, set out as a note under section 13908 of this title.

§14504a. Unified Carrier Registration System plan and agreement

(a) DEFINITIONS.—In this section and section 14506 (except as provided in paragraph (5)), the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "commercial motor vehicle"—

(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101; and

(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101.

(B) EXCEPTION.—With respect to determining the size of a motor carrier or motor private carrier's fleet in calculating the fee to be paid by a motor carrier or motor private carrier pursuant to subsection (f)(1), the motor carrier or motor private carrier shall have the option to include, in addition to commercial motor vehicles as defined in subparagraph (A), any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

(2) BASE-STATE.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "base-State" means, with respect to a unified carrier registration agreement, a State—

(i) that is in compliance with the requirements of subsection (e); and

(ii) in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company to which the agreement applies maintains its principal place of business.

(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder, or leasing company may designate another State in which it maintains an office or operating facility to be its base-State in the event that—

(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

(ii) the motor carrier, motor private carrier, broker, freight forwarder, or leasing company does not have a principal place of business in the United States.

(3) INTRASTATE FEE.—The term "intrastate fee" means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

(4) LEASING COMPANY.—The term "leasing company" means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

(5) MOTOR CARRIER.—

(A) THIS SECTION.—In this section:

(i) IN GENERAL.—The term "motor carrier" includes all carriers that are otherwise exempt from this part—

(I) under subchapter I of chapter 135; or

(II) through exemption actions by the former Interstate Commerce Commission under this title.

(ii) EXCLUSIONS.—In this section, the term "motor carrier" does not include—

(I) any carrier subject to section 13504; or

(II) any other carrier that the board of directors of the unified carrier registration plan determines to be appropriate pursuant to subsection (d)(4)(C).

(B) SECTION 14506.—In section 14506, the term "motor carrier" includes all carriers that are otherwise exempt from this part—

(i) under subchapter I of chapter 135; or

(ii) through exemption actions by the former Interstate Commerce Commission under this title.

(6) PARTICIPATING STATE.—The term "participating State" means a State that has complied with the requirements of subsection (e).

(7) SSRS.—The term "SSRS" means the single state registration system in effect on the date of enactment of this section.

(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms "unified carrier registration agreement" and "UCR agreement" mean the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.

(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms "unified carrier registration plan" and "UCR plan" mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.

(10) VEHICLE REGISTRATION.—The term "vehicle registration" means the registration of any commercial motor vehicle under the International Registration Plan (as defined in section 31701) or any other registration law or regulation of a jurisdiction.

(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) [1] shall be subject to the provisions of this section as if the freight forwarder is a motor carrier.

(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States—

(1) to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an "interstate motor carrier" and an "interstate motor private carrier", respectively) in connection with—

(A) the registration with the State of the interstate operations of the motor carrier or motor private carrier;

(B) the filing with the State of information relating to the financial responsibility of a motor carrier or motor private carrier pursuant to sections 31138 or 31139;

(C) the filing with the State of the name of the local agent for service of process of the motor carrier or motor private carrier pursuant to section 503 or 13304; or

(D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier or motor private carrier is—

(i) registered under section 13902 or section 13905(b); and

(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A); except with respect to—

(I) intrastate service provided by motor carriers of passengers that is not subject to the preemption provisions of section 14501(a);

(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2); and

(III) the intrastate transportation of waste or recyclable materials by any carrier; or

(2) to require any interstate motor carrier or motor private carrier that also performs intrastate operations to pay any fee or tax which [2] a carrier engaged exclusively in intrastate operations is exempt.

(d) UNIFIED CARRIER REGISTRATION PLAN.—

(1) BOARD OF DIRECTORS.—

(A) GOVERNANCE OF PLAN; ESTABLISHMENT.—The unified carrier registration plan shall have a board of directors consisting of representatives of the Department of

Transportation, participating States, and the motor carrier industry. The Secretary shall establish the board.

(B) COMPOSITION.—The board shall consist of 15 directors appointed by the Secretary as follows:

(i) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—One director from each of the Federal Motor Carrier Safety Administration's 4 service areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR agreement.

(ii) STATE AGENCIES.—Five directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR agreement in their respective States.

(iii) MOTOR CARRIER INDUSTRY.—Five directors from the motor carrier industry. At least 1 of the appointees under this clause shall be a representative of a national trade association representing the general motor carrier of property industry. At least 1 of the appointees under this clause shall represent a motor carrier that falls within the smallest fleet fee bracket.

(iv) DEPARTMENT OF TRANSPORTATION.—The Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the Department, as the Secretary may appoint.

(C) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as chairperson and 1 director as vice-chairperson of the board. The chairperson and vice-chairperson shall serve in such capacity for the term of their appointment as directors.

(D) TERMS.—

(i) INITIAL TERMS.—In appointing the initial board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year.

(ii) THEREAFTER.—After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (B)(iv) shall be at the discretion of the Secretary.

(iii) SUCCESSION.—A director may be appointed to succeed himself or herself.

(iv) END OF SERVICE.—A director may continue to serve on the board until his or her successor is appointed.

(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall—

(A) prescribe uniform forms and formats, for—

(i) the annual submission of the information required by a base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

(ii) the transmission of information by a participating State to the Unified Carrier Registration System;

(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the board of the intent of such entity to change its base-State, and the procedures for a State to object to such a change under subparagraph (C);

(B) provide for the administration of the unified carrier registration agreement, including procedures for amending the agreement and obtaining clarification of any provision of the

Agreement;

(C) provide procedures for dispute resolution under the agreement that provide due process for all involved parties; and

(D) designate a depository.

(3) COMPENSATION AND EXPENSES.—

(A) IN GENERAL.—Except for the representative of the Department appointed under paragraph (1)(B)(iv), no director shall receive any compensation or other benefits from the Federal Government for serving on the board or be considered a Federal employee as a result of such service.

(B) EXPENSES.—All directors shall be reimbursed for expenses they incur attending meetings of the board. In addition, the board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under paragraph (5) for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee and task force members shall be under subchapter II of chapter 57 of title 5, United States Code, governing reimbursement of expenses for travel by Federal employees.

(4) MEETINGS.—

(A) IN GENERAL.—The board shall meet at least once per year. Additional meetings may be called, as needed, by the chairperson of the board, a majority of the directors, or the Secretary.

(B) QUORUM.—A majority of directors shall constitute a quorum.

(C) VOTING.—Approval of any matter before the board shall require the approval of a majority of all directors present at the meeting, except that a decision to approve the exclusion of carriers from the definition of the term "motor carrier" under subsection (a)(5) shall require an affirmative vote of ¾ of all such directors..[2]

(D) OPEN MEETINGS.—Meetings of the board and any subcommittees or task forces appointed under paragraph (5) shall be subject to the provisions of section 552b of title 5.

(5) SUBCOMMITTEES.—

(A) INDUSTRY ADVISORY SUBCOMMITTEE.—The chairperson shall appoint an industry advisory subcommittee. The industry advisory subcommittee shall consider any matter before the board and make recommendations to the board.

(B) OTHER SUBCOMMITTEES.—The chairperson shall appoint an audit subcommittee, a dispute resolution subcommittee, and any additional subcommittees and task forces that the board determines to be necessary.

(C) MEMBERSHIP.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or nondirectors.

(D) REPRESENTATION ON SUBCOMMITTEES.—Except for the industry advisory subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f)), each subcommittee and task force shall include representatives of the participating States and the motor carrier industry.

(6) DELEGATION OF AUTHORITY.—The board may contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement, but may not delegate its decision or policy-making responsibilities.

(7) DETERMINATION OF FEES.—

(A) RECOMMENDATION BY BOARD.—The board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders under the unified carrier registration agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any agreement year, and in setting the fee level, the board and the Secretary shall consider—

(i) the administrative costs associated with the unified carrier registration plan and the agreement;

(ii) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the board; and

(iii) the provisions governing fees under subsection (f)(1).

(B) SETTING FEES.—The Secretary shall set the initial annual fees for the next agreement year and any subsequent adjustment of those fees—

(i) within 90 days after receiving the board's recommendation under subparagraph (A); and

(ii) after notice and opportunity for public comment.

(8) LIABILITY PROTECTIONS FOR DIRECTORS.—No individual appointed to serve on the board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the board if—

(A) the individual was acting within the scope of his or her responsibilities as a director; and

(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

(9) INAPPLICABILITY OF CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 shall not apply to the unified carrier registration plan, the board, or its committees.

(10) CERTAIN FEES NOT AFFECTED.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement (as defined in section 31701).

(e) STATE PARTICIPATION.—

(1) STATE PLAN.—No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—

(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and

(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.

(2) AMENDED PLANS.—A State that submits a plan under this subsection may change the agency designated in the plan by filing an amended plan with the Secretary and the chairperson of the board of directors.

(3) WITHDRAWAL OF PLAN.—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan it submitted under this subsection, the State may no longer participate in the unified carrier registration agreement or receive any portion of the revenues derived under the agreement. The Secretary shall notify the chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the agreement, or both.

(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary in accordance with paragraph (1) or withdraws its plan under paragraph (3), the State may not submit or resubmit a plan or participate in the agreement.

(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the chairperson of the board of directors not later than 10 days after date of submission of the plan.

(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The unified carrier registration agreement shall provide the following:

(1) FEES.—(A) Fees charged—

(i) to a motor carrier, motor private carrier, or freight forwarder under the UCR agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder; and

(ii) to a broker or leasing company under the UCR agreement shall be equal to the smallest fee charged to a motor carrier, motor private carrier, and freight forwarder under this paragraph.

(B) The fees shall be determined by the Secretary based upon the recommendation of the board under subsection (d)(7).

(C) The board shall develop for purposes of charging fees no more than 6 and no less than 4 brackets of carriers (including motor private carriers) based on the size of fleet.

(D) The fee scale shall be progressive in the amount of the fee.

(E) The board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

(i) are insufficient to provide the revenues to which the States are entitled under this section; or

(ii) exceed those revenues.

(2) DETERMINATION OF OWNERSHIP OR OPERATION.—For purposes of this subsection, a commercial motor vehicle is owned or operated by a motor carrier, motor private carrier, or freight forwarder if the vehicle is registered under Federal law or State law, or both, in the name of the motor carrier, motor private carrier, or freight forwarder or is controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS–150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the registration year of the Unified Carrier Registration System. A motor carrier may include in the calculation of its fleet size for purposes of paragraph (1) any commercial motor vehicle. Motor carriers and motor private carriers in the calculation of their fleet size for purposes of paragraph (1) may elect not to include commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material.

(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their base-State pursuant to the UCR Agreement.

(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to participating States as follows:

(1) A State that participated in the SSRS in the last registration year under the SSRS ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with subsection (e) is entitled to receive under this section a portion of the revenues generated under the UCR agreement equivalent to the revenues it received under the SSRS in such last registration year, as long as the State continues to comply with subsection (e).

(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with subsection (e) is entitled to receive under this section an additional portion of the revenues generated under the UCR agreement equivalent to the revenues it received from such carriers in the last calendar year ending

before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with subsection (e).

(3) States that comply with subsection (e) but did not participate in SSRS during such last registration year shall be entitled under this section to an annual allotment not to exceed $500,000 from the revenues generated under the UCR agreement, as long as the State continues to comply with the provisions of subsection (e).

(4) The amount of revenues generated under the UCR agreement to which a State is entitled under this section shall be calculated by the board and approved by the Secretary.

(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

(1) ELIGIBILITY.—Each State that is in compliance with subsection (e) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the board under subsection (d)(2)(D).

(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds deposited in the depository shall be distributed by the board of directors as follows:

(A) On a pro rata basis to each participating State that did not collect revenues under the UCR agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross revenues collected under the UCR agreement by a participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

(B) After all distributions under subparagraph (A) have been made, to pay the administrative costs of the UCR plan and the UCR agreement.

(4) RETENTION OF CERTAIN EXCESS FUNDS.—Any excess funds held by the depository after distributions and payments under paragraphs (3)(A) and (3)(B) shall be retained in the depository, and the fees charged under the UCR agreement to motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.

(i) ENFORCEMENT.—

(1) CIVIL ACTIONS.—Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (2) to enforce an order issued to require compliance with this section and with the terms of the UCR agreement.

(2) VENUE.—An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.

(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.

(4) ENFORCEMENT BY STATES.—Nothing in this section—

(A) prohibits a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

(i) submit information documents as required under subsection (d)(2); or

(ii) pay the fees required under subsection (f); or

(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under

section 14506 on or in a commercial motor vehicle.

(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR agreement to motor carriers and motor private carriers and freight forwarders subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.

(Added Pub. L. 109–59, title IV, §4305(b), Aug. 10, 2005, 119 Stat. 1764; amended Pub. L. 110–244, title III, §301(m)–(p), June 6, 2008, 122 Stat. 1617; Pub. L. 110–432, div. A, title VII, §701(d), Oct. 16, 2008, 122 Stat. 4906; Pub. L. 112–141, div. C, title II, §32933(b), July 6, 2012, 126 Stat. 830; Pub. L. 117–286, §4(a)(305), Dec. 27, 2022, 136 Stat. 4339.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(7), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 13903(b), referred to in subsec. (b), was redesignated section 13903(d) by Pub. L. 112–141, div. C, title II, §32916(a)(2), July 6, 2012, 126 Stat. 820.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsecs. (e)(1) and (g)(1), (2), is the date of enactment of subtitle C of title IV of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2022—Subsec. (d)(9). Pub. L. 117–286 substituted "chapter 10 of title 5" for "federal advisory committee act" in heading and "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)" in text.

2012—Subsec. (c)(1)(C). Pub. L. 112–141, §32933(b)(1), substituted "section" for "sections".

Subsec. (c)(1)(D)(ii)(II). Pub. L. 112–141, §32933(b)(2), substituted "; and" for period at end.

2008—Subsec. (a). Pub. L. 110–432, §701(d)(1)(A), inserted "(except as provided in paragraph (5))" after "14506" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 110–432, §701(d)(1)(B), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "Except as provided in subparagraph (B), the term 'commercial motor vehicle' has the meaning such term has under section 31101."

Subsec. (a)(1)(B). Pub. L. 110–244, §301(m), substituted "determining the size of a motor carrier or motor private carrier's fleet in calculating the fee to be paid by a motor carrier or motor private carrier pursuant to subsection (f)(1), the motor carrier or motor private carrier" for "a motor carrier required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the motor carrier".

Subsec. (a)(5). Pub. L. 110–432, §701(d)(1)(C), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "The term 'motor carrier' includes all carriers that are otherwise exempt from this part under subchapter I of chapter 135 or exemption actions by the former Interstate Commerce Commission under this title."

Subsec. (c)(1)(B). Pub. L. 110–244, §301(p)(1), substituted "a" for "the a".

Subsec. (c)(2). Pub. L. 110–244, §301(n), substituted "exclusively in intrastate operations" for "exclusively in interstate operations".

Subsec. (d)(4)(C). Pub. L. 110–432, §701(d)(2), inserted before period ", except that a decision to approve the exclusion of carriers from the definition of the term 'motor carrier' under subsection (a)(5) shall require an affirmative vote of ¾ of all such directors."

Subsec. (f)(1)(A)(i). Pub. L. 110–244, §301(p)(2), struck out "in connection with the filing of proof of financial responsibility" before "under the UCR agreement".

Subsec. (f)(1)(A)(ii). Pub. L. 110–244, §301(o), (p)(3), substituted "under the UCR agreement" for "in connection with such a filing" and struck out "or" before "under this paragraph."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an

Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

[1] See References in Text note below.

[2] So in original.

§14505. State tax

A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

(1) a passenger traveling in interstate commerce by motor carrier;

(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

(3) the sale of passenger transportation in interstate commerce by motor carrier; or

(4) the gross receipts derived from such transportation.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 904.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14506. Identification of vehicles

(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

(b) EXCEPTION.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

(1) under the International Registration Plan under section 31704;

(2) under the International Fuel Tax Agreement under section 31705 or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement;

(3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

(4) in connection with Federal requirements for hazardous materials transportation under section 5103; or

(5) in connection with the Federal vehicle inspection standards under section 31136.

(Added Pub. L. 109–59, title IV, §4306(a), Aug. 10, 2005, 119 Stat. 1773; amended Pub. L. 110–244, title III, §301(q), June 6, 2008, 122 Stat. 1617.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110–244 inserted "or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement" before semicolon at end.

CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

Sec.

14701. General authority.
14702. Enforcement by the regulatory authority.
14703. Enforcement by the Attorney General.
14704. Rights and remedies of persons injured by carriers or brokers.
14705. Limitation on actions by and against carriers.
14706. Liability of carriers under receipts and bills of lading.
14707. Private enforcement of registration requirement.
14708. Dispute settlement program for household goods carriers.
14709. Tariff reconciliation rules for motor carriers of property.
14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.
14711. Enforcement by State attorneys general.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59, title IV, §4206(c), Aug. 10, 2005, 119 Stat. 1757, added items 14710 and 14711.

§14701. General authority

(a) INVESTIGATIONS.—The Secretary or the Board, as applicable, may begin an investigation under this part on the Secretary's or the Board's own initiative or on complaint. If the Secretary or Board, as applicable, finds that a carrier or broker is violating this part, the Secretary or Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

(b) COMPLAINTS.—A person, including a governmental authority, may file with the Secretary or Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

(c) DEADLINE.—A formal investigative proceeding begun by the Secretary or Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the 3d year after the date on which it was begun.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 904.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11701 of this title prior to the general

amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CONSUMER COMPLAINT INFORMATION

Pub. L. 109–59, title IV, §4214, Aug. 10, 2005, 119 Stat. 1759, provided that:

"(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall—

"(1) establish (A) a system for filing and logging consumer complaints relating to household goods motor carriers for the purpose of compiling or linking complaint information gathered by the Department of Transportation and the States with regard to such carriers, (B) a database of the complaints, and (C) a procedure for the public to have access, subject to section 552(a) of title 5, United States Code, to aggregated information and for carriers to challenge duplicate or fraudulent information in the database;

"(2) issue regulations requiring each motor carrier of household goods to submit on a quarterly basis a report summarizing—

"(A) the number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;

"(B) the number and general category of complaints lodged by consumers with the carrier;

"(C) the number of claims filed with the carrier for loss and damage in excess of $500;

"(D) the number of such claims resolved during the reporting period;

"(E) the number of such claims declined in the reporting period; and

"(F) the number of such claims that are pending at the close of the reporting period; and

"(3) develop a procedure to forward a complaint, including the motor carrier bill of lading number, if known, related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(d) of title 49, United States Code) in the State in which the complainant resides.

"(b) USE OF INFORMATION.—The Secretary shall consider information in the data base established under subsection (a) in its household goods compliance and enforcement program."

[For definitions of "carrier", "household goods", "motor carrier", and "Secretary" as used in section 4214 of Pub. L. 109–59, set out above, see section 4202(a) of Pub. L. 109–59, set out as a note under section 13102 of this title.]

§14702. Enforcement by the regulatory authority

(a) IN GENERAL.—The Secretary or the Board, as applicable, may bring a civil action—

(1) to enforce section 14103 of this title; or

(2) to enforce this part, or a regulation or order of the Secretary or Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

(b) VENUE.—In a civil action under subsection (a)(2) of this section—

(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

(c) STANDING.—The Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 905.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11702 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14703. Enforcement by the Attorney General

The Attorney General may, and on request of either the Secretary or the Board shall, bring court proceedings—

(1) to enforce this part or a regulation or order of the Secretary or Board or terms of registration under this part; and

(2) to prosecute a person violating this part or a regulation or order of the Secretary or Board or term of registration under this part.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 905.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11703 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14704. Rights and remedies of persons injured by carriers or brokers

(a) IN GENERAL.—

(1) ENFORCEMENT OF ORDER.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102, 14103, and 14915(c).

(2) DAMAGES FOR VIOLATIONS.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702.

(c) ELECTION.—

(1) COMPLAINT TO DOT OR BOARD; CIVIL ACTION.—A person may file a complaint with the Board or the Secretary, as applicable, under section 14701(b) or bring a civil action under subsection (b) to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135.

(2) ORDER OF DOT OR BOARD.—

(A) IN GENERAL.—When the Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Board or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 to pay damages only when the proceeding is on complaint.

(B) ENFORCEMENT BY CIVIL ACTION.—The person for whose benefit an order of the Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

(d) PROCEDURE.—

(1) IN GENERAL.—When a person begins a civil action under subsection (b) of this section to enforce an order of the Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Board or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) PARTIES.—All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as part of the costs of the action.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 905; amended Pub. L. 112–141, div. C, title II, §32922(a), July 6, 2012, 126 Stat. 828.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141 substituted ", 14103, and 14915(c)" for "and 14103".

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14705. Limitation on actions by and against carriers

(a) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

(b) OVERCHARGES.—A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 and an election to file a complaint with the Board or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c) DAMAGES.—A person must file a complaint with the Board or Secretary, as applicable, to recover damages under section 14704(b) within 2 years after the claim accrues.

(d) EXTENSIONS.—The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) PAYMENT.—A person must begin a civil action to enforce an order of the Board or Secretary against a carrier within 1 year after the date of the order.

(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the later of the date of—

(1) payment of the rate for the transportation or service involved;

(2) subsequent refund for overpayment of that rate; or

(3) deduction made under section 3726 of title 31.

(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 907.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14706. Liability of carriers under receipts and bills of lading

(a) GENERAL LIABILITY.—

(1) MOTOR CARRIERS AND FREIGHT FORWARDERS.—A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (A) the receiving carrier, (B) the delivering carrier, or (C) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff under section 13702. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

(2) FREIGHT FORWARDER.—A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c) SPECIAL RULES.—

(1) MOTOR CARRIERS.—

(A) SHIPPER WAIVER.—Subject to the provisions of subparagraph (B), a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 may, subject to the provisions of this chapter (including with respect to a motor carrier, the requirements of section 13710(a)), establish rates for the transportation of property (other than household goods described in section 13102(10)(A)) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

(B) CARRIER NOTIFICATION.—If the motor carrier is not required to file its tariff with the Board, it shall provide under section 13710(a)(1) to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices upon which any rate applicable to a shipment, or agreed to between the shipper and the carrier, is based. The copy provided by the carrier shall clearly state the dates of applicability of the rate, classification, rules, or practices.

(C) PROHIBITION AGAINST COLLECTIVE ESTABLISHMENT.—No discussion, consideration, or approval as to rules to limit liability under this subsection may be undertaken by carriers acting under an agreement approved pursuant to section 13703.

(2) WATER CARRIERS.—If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of

the water carrier.

(d) CIVIL ACTIONS.—

(1) AGAINST DELIVERING CARRIER.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

(2) AGAINST CARRIER RESPONSIBLE FOR LOSS.—A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

(3) JURISDICTION OF COURTS.—A civil action under this section may be brought in a United States district court or in a State court.

(4) JUDICIAL DISTRICT DEFINED.—In this section, "judicial district" means—

(A) in the case of a United States district court, a judicial district of the United States; and

(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

(e) MINIMUM PERIOD FOR FILING CLAIMS.—

(1) IN GENERAL.—A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

(2) SPECIAL RULES.—For the purposes of this subsection—

(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(f) LIMITING LIABILITY OF HOUSEHOLD GOODS CARRIERS TO DECLARED VALUE .—

(1) IN GENERAL.—A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 may petition the Board to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment and to rules issued by the Surface Transportation Board and applicable tariffs.

(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as "released rates") shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived, in writing, by the shipper.

(g) MODIFICATIONS AND REFORMS.—

(1) STUDY.—The Secretary shall conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions of this section, including those related to limitation of liability by carriers.

(2) FACTORS TO CONSIDER.—In conducting the study, the Secretary, at a minimum, shall

consider—

(A) the efficient delivery of transportation services;

(B) international and intermodal harmony;

(C) the public interest; and

(D) the interest of carriers and shippers.

(3) REPORT.—Not later than 12 months after January 1, 1996, the Secretary shall submit to Congress a report on the results of the study, together with any recommendations of the Secretary (including legislative recommendations) for implementing modifications or reforms identified by the Secretary as being appropriate.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 907; amended Pub. L. 104–287, §5(38), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 109–59, title IV, §4207, Aug. 10, 2005, 119 Stat. 1757.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10730 and 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2005—Subsec. (f). Pub. L. 109–59 designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

1996—Subsec. (g)(3). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

REVIEW OF LIABILITY OF CARRIERS

Pub. L. 109–59, title IV, §4215, Aug. 10, 2005, 119 Stat. 1760, provided that, not later than 1 year after Aug. 10, 2005, the Surface Transportation Board would complete a review of Federal regulations regarding liability protection provided by motor carriers that provided transportation of household goods and revise such regulations, if necessary, to provide enhanced protection for loss or damage.

§14707. Private enforcement of registration requirement

(a) IN GENERAL.—If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

(b) PROCEDURE.—A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

(c) ATTORNEY'S FEES.—In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 910.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11708 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14708. Dispute settlement program for household goods carriers

(a) OFFERING SHIPPERS ARBITRATION.—As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers of household goods concerning damage or loss to the household goods transported and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of household goods.

(b) ARBITRATION REQUIREMENTS.—

(1) PREVENTION OF SPECIAL ADVANTAGE.—The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

(2) NOTICE OF ARBITRATION PROCEDURE.—The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure, any applicable costs, and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

(3) PROVISION OF FORMS.—Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

(4) INDEPENDENCE OF ARBITRATOR.—Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

(5) APPORTIONMENT OF COSTS.—No shipper may be charged more than half of the cost for instituting an arbitration proceeding that is brought under this section. In the decision, the arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding, including the cost of instituting the proceeding.

(6) REQUESTS.—The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises. If the dispute involves a claim for $10,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than $10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.

(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, compensation for damages, and an order requiring the payment of additional carrier charges.

(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

(2) the shipper prevails in such court action; and

(3)(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;

(B) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

(C) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

(1) after resolution of such dispute through arbitration under this section; or

(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

(B) a decision resolving such dispute is rendered.

(f) LIMITATION OF APPLICABILITY TO COLLECT-ON-DELIVERY TRANSPORTATION .—The provisions of this section shall apply only in the case of collect-on-delivery transportation of household goods.

(g) REVIEW BY SECRETARY.—Not later than 18 months after January 1, 1996, the Secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 910; amended Pub. L. 104–287, §5(38), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 106–159, title II, §209(b), Dec. 9, 1999, 113 Stat.

1764; Pub. L. 109–59, title IV, §4208, Aug. 10, 2005, 119 Stat. 1757.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11711 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, §4208(a), inserted "and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of household goods" before period at end.

Subsec. (b)(6). Pub. L. 109–59, §4208(b), substituted "$10,000" for "$5,000" in two places.

Subsec. (b)(8). Pub. L. 109–59, §4208(c), substituted "compensation for damages, and an order requiring the payment of additional carrier charges" for "and compensation for damages".

Subsec. (d)(3). Pub. L. 109–59, §4208(d), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

1999—Subsec. (b)(6). Pub. L. 106–159 substituted "$5000" for "$1000" in two places.

1996—Subsec. (g). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14709. Tariff reconciliation rules for motor carriers of property

Subject to review and approval by the Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 or, with respect to transportation provided before January 1, 1996, sections 10761 and 10762, as in effect on December 31, 1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a tariff.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 912; amended Pub. L. 104–287, §5(39), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:14709 by setting out the effective date of 49:14709 and for clarity and consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 10761 and 10762, referred to in text, were omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11712 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of this section" and "December 31, 1995" for "the day before the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall be paid, notwithstanding any other provision of law, to and retained by the State.

(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide the notice immediately upon instituting such civil action.

(c) ENFORCEMENT ASSISTANCE OUTREACH PLAN.—The Federal Motor Carrier Safety Administration shall implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.

(d) STATE AUTHORITY DEFINED.—In this section, the term "State authority" means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

(Added Pub. L. 109–59, title IV, §4206(b)(1), Aug. 10, 2005, 119 Stat. 1754; amended Pub. L. 109–115, div. A, title I, §173(a), (b), Nov. 30, 2005, 119 Stat. 2426.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–115, §173(a), (e), temporarily substituted "a State authority other than the attorney general of the state may, as parens patriae," for "a State authority may" in first sentence and inserted second sentence which read as follows: "Any civil action for injunctive relief to enjoin such delivery or transportation or to compel a person to pay a fine or penalty assessed under chapter 149 shall be brought in an appropriate district court of the United States." See Termination Date of 2005 Amendment note below.

Subsec. (b). Pub. L. 109–115, §173(b), (e), temporarily amended subsec. (b) to read as follows: " EXERCISE OF ENFORCEMENT AUTHORITY.—The authority of this section shall be exercised subject to the requirements of sections 14711(b)–(f) of this title." See Termination Date of 2005 Amendment note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION DATE OF 2005 AMENDMENT

Pub. L. 109–115, div. A, title I, §173(e), Nov. 30, 2005, 119 Stat. 2426, provided that: "The amendments made by this section [amending this section and section 14711 of this title] shall cease to be in effect after September 30, 2006."

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS

Pub. L. 109–59, title IV, §4213, Aug. 10, 2005, 119 Stat. 1759, as amended by Pub. L. 111–147, title IV, §422(j), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2202(j), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112–5, title II, §202(j), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112–30, title I, §122(i), Sept. 16, 2011, 125 Stat. 349; Pub. L. 112–102, title II, §202(i), Mar. 30, 2012, 126 Stat. 274; Pub. L. 112–140, title II, §202(i), June 29, 2012, 126 Stat. 395; Pub. L. 112–141, div. G, title II, §112002(f), July 6, 2012, 126 Stat. 983, directed the Secretary of Transportation to establish a working group to enhance the Federal-State partnership with respect to interstate transportation of household goods to remain in effect until Sept. 30, 2012.

§14711. Enforcement by State attorneys general

(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods by a household goods motor carrier subject to jurisdiction under subchapter I of chapter 135 or regulations or orders of the Secretary or the Board issued under such provisions or to impose the civil penalties authorized by this part or such regulations or orders, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 or a foreign motor carrier providing transportation that is registered under section 13902 and is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, issued under this part.

(b) NOTICE AND CONSENT.—

(1) IN GENERAL.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.

(2) CONDITIONS.—The Secretary or the Board—

(A) shall review the initiation of a civil action under this section by a State if—

(i) the carrier or broker that is the subject of the action is not registered with the Department of Transportation;

(ii) the license of the carrier or broker for failure to file proof of required bodily injury or cargo liability insurance is pending, or the license has been revoked for any other reason by the Department;

(iii) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department; or

(iv) the carrier or broker has been licensed with the Department for less than 5 years; and

(B) may review if the carrier or broker fails to meet criteria developed by the Secretary that are consistent with this section.

(3) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of any criteria developed by the Secretary under paragraph (2)(B).

(4) 60-DAY DEADLINE.—The Secretary or the Board shall be considered to have consented to any civil action of a State under this section if the Secretary or the Board has taken no action with respect to the notice within 60 calendar days after the date on which the Secretary or the

Board received notice under paragraph (1).

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Secretary or board may intervene in a civil action of a State under this section and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil actions.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

(1) convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or

(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a Federal judicial district in which—

(A) the carrier, foreign motor carrier, or broker operates;

(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.

(Added Pub. L. 109–59, title IV, §4206(b)(1), Aug. 10, 2005, 119 Stat. 1755; amended Pub. L. 109–115, div. A, title I, §173(c), (d), Nov. 30, 2005, 119 Stat. 2426.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–115, §173(c), (e), temporarily inserted at end "The State may initiate a civil action under subsection (a) if it is reviewable under subsection (b)(2)." See Termination Date of 2005 Amendment note below.

Subsec. (b)(4). Pub. L. 109–115, §173(d), (e), temporarily inserted "that is subject to review under subsection (b)(2)" before "if the Secretary". See Termination Date of 2005 Amendment note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–115 to cease to be in effect after Sept. 30, 2006, see section 173(e) of Pub. L. 109–115, set out as a note under section 14710 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.

14901. General civil penalties.
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EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141, div. C, title II, §32919(b), July 6, 2012, 126 Stat. 827, added item 14916.
2005—Pub. L. 109–59, title IV, §4210(b), Aug. 10, 2005, 119 Stat. 1759, added item 14915.

§14901. General civil penalties

(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or the Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

(1) does not make the report;
(2) does not specifically, completely, and truthfully answer the question;
(3) does not make, prepare, or preserve the record in the form and manner prescribed;
(4) does not comply with section 13901; or
(5) does not comply with section 13902(c);

is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day the violation continues; except that, in the case of a person or an officer, agent, or employee of such person, that does not comply with section 13901 or section 13902(c) of this title, the amount of the civil penalty shall not be less than $10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not less than $20,000, but not to exceed $40,000 for each violation.

(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or

shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—

(1) IN GENERAL.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.

(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

(1) the carrier or broker has its principal office;

(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

(3) the violation occurred; or

(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(g) BUSINESS ENTERTAINMENT EXPENSES.—

(1) IN GENERAL.—Any business entertainment expense incurred by a water carrier providing transportation subject to this part shall not constitute a violation of this part if that expense would not be unlawful if incurred by a person not subject to this part.

(2) COST OF SERVICE.—Any business entertainment expense subject to paragraph (1) that is paid or incurred by a water carrier providing transportation subject to this part shall not be taken into account in determining the cost of service or the rate base for purposes of section 13702.

(h) SETTLEMENT OF CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in

abeyance.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 913; amended Pub. L. 109–59, title IV, §4209, Aug. 10, 2005, 119 Stat. 1758; Pub. L. 112–141, div. C, title II, §§32108, 32923(a), July 6, 2012, 126 Stat. 782, 828; Pub. L. 114–94, div. A, title V, §5508(a)(4), (b)(1), Dec. 4, 2015, 129 Stat. 1554.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b), is title II of Pub. L. 89–272, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. Section 3001 of the Act is classified to section 6921 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10751 and 11901 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, §5508(b)(1), amended Pub. L. 112–141, §32108(a)(4). See 2012 Amendment note below.

Subsec. (h). Pub. L. 114–94, §5508(a)(4), struck out "Household Goods" after "Settlement of" in heading.

2012—Subsec. (a). Pub. L. 112–141, §32108(a)(4), as amended by Pub. L. 114–94, §5508(b)(1), substituted "$10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers" for "$2,000 for each violation and for each additional day the violation continues" in concluding provisions.

Pub. L. 112–141, §32108(a)(1)–(3), substituted "$1,000" for "$500" and "or section 13902(c) of this title," for "with respect to providing transportation of passengers," and struck out "who is not registered under this part to provide transportation of passengers," after "in the case of a person" in concluding provisions.

Subsec. (b). Pub. L. 112–141, §32108(b), substituted "not less than $20,000, but not to exceed $40,000" for "not to exceed $20,000".

Subsec. (h). Pub. L. 112–141, §32923(a), added subsec. (h).

2005—Subsec. (d). Pub. L. 109–59 designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 5508(a)(4) of Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title V, §5508(b), Dec. 4, 2015, 129 Stat. 1554, provided that the amendment made by section 5508(b)(1) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

FOREIGN MOTOR CARRIER PENALTIES AND DISQUALIFICATIONS

Pub. L. 106–159, title II, §219, Dec. 9, 1999, 113 Stat. 1768, provided that:

"(a) GENERAL RULE.—Subject to subsections (b) and (c), a foreign motor carrier or foreign motor private carrier (as such terms are defined under section 13102 of title 49, United States Code) that operates without authority, before the implementation of the land transportation provisions of the North American Free

Trade Agreement, outside the boundaries of a commercial zone along the United States-Mexico border shall be liable to the United States for a civil penalty and shall be disqualified from operating a commercial motor vehicle anywhere within the United States as provided in subsections (b) and (c).

"(b) PENALTY FOR INTENTIONAL VIOLATION.—The civil penalty for an intentional violation of subsection (a) by a carrier shall not be more than $10,000 and may include a disqualification from operating a commercial motor vehicle anywhere within the United States for a period of not more than 6 months.

"(c) PENALTY FOR PATTERN OF INTENTIONAL VIOLATIONS.—The civil penalty for a pattern of intentional violations of subsection (a) by a carrier shall not be more than $25,000 and the carrier shall be disqualified from operating a commercial motor vehicle anywhere within the United States and the disqualification may be permanent.

"(d) LEASING.—Before the implementation of the land transportation provisions of the North American Free Trade Agreement, during any period in which a suspension, condition, restriction, or limitation imposed under section 13902(c) of title 49, United States Code, applies to a motor carrier (as defined in section 13902(e) of such title), that motor carrier may not lease a commercial motor vehicle to another motor carrier or a motor private carrier to transport property in the United States.

"(e) SAVINGS CLAUSE.—No provision of this section may be enforced if it is inconsistent with any international agreement of the United States.

"(f) ACTS OF EMPLOYEES.—The actions of any employee driver of a foreign motor carrier or foreign motor private carrier committed without the knowledge of the carrier or committed unintentionally shall not be grounds for penalty or disqualification under this section."

§14902. Civil penalty for accepting rebates from carrier

A person—

(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702;

is liable to the United States for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 915.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11902 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14903. Tariff violations

(a) CIVIL PENALTY FOR UNDERCHARGING AND OVERCHARGING.—A person that

offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at a rate different than the rate in effect under section 13702 is liable to the United States for a civil penalty of not more than $100,000 for each violation.

(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined under title 18 or imprisoned not more than 2 years, or both.

(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 915; amended Pub. L. 105–102, §2(12), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:14903(a) to correct a grammatical error.

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11903 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–102 inserted "a" before "civil penalty of not more than".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14904. Additional rate violations

(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

(1) offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

is liable to the United States for a civil penalty of $200 for the first violation and $250 for a subsequent violation.

(b) UNDERCHARGING.—

(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight forwarder, that assists a person in getting, or willingly permits a person to get, service provided under that

subchapter at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(2) OTHERS.—A person that by any means gets, or attempts to get, service provided under subchapter III of chapter 135 at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 915.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11904 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14905. Penalties for violations of rules relating to loading and unloading motor vehicles

(a) CIVIL PENALTIES.—Whoever knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 or who knowingly violates subsection (a) of such section is liable to the United States for a civil penalty of not more than $10,000 for each violation.

(b) CRIMINAL PENALTIES.—Whoever knowingly violates section 14103(b) of this title shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 916.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11902a of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14906. Evasion of regulation of carriers and brokers

A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation provided under this part for carriers or brokers is liable to the United States for a civil penalty of at least $2,000 for the first violation and at least $5,000 for a subsequent violation, and may be subject to criminal penalties.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 916; amended Pub. L. 112–141, div. C, title II, §32505(b), July 6, 2012, 126 Stat. 804.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11906 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2012—Pub. L. 112–141 substituted "at least $2,000" for "$200" and "$5,000" for "$250" and inserted ", and may be subject to criminal penalties" after "a subsequent violation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14907. Recordkeeping and reporting violations

A person required to make a report to the Secretary or the Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135, or an officer, agent, or employee of that person, that—

(1) does not make that report;

(2) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Board, as applicable, requires the question to be answered;

(3) does not make, prepare, or preserve that record in the form and manner prescribed;

(4) falsifies, destroys, mutilates, or changes that report or record;

(5) files a false report or record;

(6) makes a false or incomplete entry in that record about a business related fact or transaction; or

(7) makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Board;

is liable to the United States for a civil penalty of not more than $5,000.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 916.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11909 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14908. Unlawful disclosure of information

(a) DISCLOSURE OF SHIPMENT AND ROUTING INFORMATION.—

(1) VIOLATIONS.—A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not disclose to another person, except the shipper or consignee, and a person may not solicit, or receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(2) PENALTY.—A person violating paragraph (1) of this subsection is liable to the United States for a civil penalty of not more than $2,000.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14909. Disobedience to subpoenas

Whoever does not obey a subpoena or requirement of the Secretary or the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14910. General civil penalty when specific penalty not provided

When another civil penalty is not provided under this chapter, a person that violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 or a condition of a registration of a foreign motor carrier or foreign motor private carrier under section 13902, is liable to the United States for a civil penalty of $500 for each violation. A separate violation occurs each day the violation continues.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14911. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14912. Weight-bumping in household goods transportation

(a) WEIGHT-BUMPING DEFINED.—For the purposes of this section, "weight-bumping" means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135.

(b) PENALTY.—Whoever has been found to have committed weight-bumping shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 918.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11917 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14913. Conclusiveness of rates in certain prosecutions

When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 918.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11916 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14914. Civil penalty procedures

(a) IN GENERAL.—After notice and an opportunity for a hearing, a person found by the Surface Transportation Board to have violated a provision of law that the Board carries out or a regulation prescribed under that law by the Board that is related to transportation which occurs under subchapter II of chapter 135 for which a civil penalty is provided, is liable to the United States for the civil penalty provided. The amount of the civil penalty shall be assessed by the Board by written notice. In determining the amount of the penalty, the Board shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) COMPROMISE.—The Board may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

(c) COLLECTION.—If a person fails to pay an assessment of a civil penalty after it has become final, the Board may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) REFUNDS.—The Board may refund or remit a civil penalty collected under this section if—

(1) application has been made for refund or remission of the penalty within 1 year from the date of payment; and

(2) the Board finds that the penalty was unlawfully, improperly, or excessively imposed.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 918.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§14915. Penalties for failure to give up possession of household goods

(a) CIVIL PENALTY.—

(1) IN GENERAL.—Whoever is found holding a household goods shipment hostage is liable to the United States for a civil penalty of not less than $10,000 for each violation. The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.

(2) EACH DAY, A SEPARATE VIOLATION.—Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation.

(3) SUSPENSION.—If the person found holding a shipment hostage is a carrier or broker, the Secretary may suspend for a period of not less than 12 months nor more than 36 months the registration of such carrier or broker under chapter 139. The force and effect of such suspension of a carrier or broker shall extend to and include any carrier or broker having the same ownership or operational control as the suspended carrier or broker.

(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.

(b) CRIMINAL PENALTY.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 2 years, or both.

(c) FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS DEFINED.—For purposes of this section, the term "failed to give up possession of household goods" means the knowing and willful failure, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A).

(Added Pub. L. 109–59, title IV, §4210(a), Aug. 10, 2005, 119 Stat. 1758; amended Pub. L. 112–141, div. C, title II, §§32922(b), 32923(b), July 6, 2012, 126 Stat. 828.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141, §32922(b), inserted at end "The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper."

Subsec. (a)(4). Pub. L. 112–141, §32923(b), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§14916. Unlawful brokerage activities

(a) PROHIBITED ACTIVITIES.—A person may provide interstate brokerage services as a broker only if that person—

(1) is registered under, and in compliance with, section 13904; and

(2) has satisfied the financial security requirements under section 13906.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) a non-vessel-operating common carrier (as defined in section 40102 of title 46) or an ocean freight forwarder (as defined in section 40102 of title 46) when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port;

(2) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations, only to the extent that the customs broker is engaging in a movement under a customs bond or in a transaction involving customs business, as defined by section 111.1 of title 19, Code of Federal Regulations; or

(3) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration, only to the extent that the indirect air carrier is engaging in the activities as an air carrier as defined in section 40102(2) or in the activities defined in section 40102(3).

(c) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

(1) to the United States Government for a civil penalty in an amount not to exceed $10,000 for each violation; and

(2) to the injured party for all valid claims incurred without regard to amount.

(d) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

(1) to any corporate entity or partnership involved; and

(2) to the individual officers, directors, and principals of such entities.

(Added Pub. L. 112–141, div. C, title II, §32919(a), July 6, 2012, 126 Stat. 827; amended Pub. L. 114–94, div. A, title V, §5508(a)(5), Dec. 4, 2015, 129 Stat. 1554.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94 substituted section symbol for "SEC." before section designation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

PART C—PIPELINE CARRIERS

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(40), Oct. 11, 1996, 110 Stat. 3392, made technical amendment to part heading.

CHAPTER 151—GENERAL PROVISIONS

Sec.

15101. Transportation policy.
15102. Definitions.
15103. Remedies as cumulative.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(41), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading.

§15101. Transportation policy

(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the national defense, it is the policy of the United States Government to oversee the modes of transportation and in overseeing those modes—

(1) to recognize and preserve the inherent advantage of each mode of transportation;

(2) to promote safe, adequate, economical, and efficient transportation;

(3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

(5) to cooperate with each State and the officials of each State on transportation matters; and

(6) to encourage fair wages and working conditions in the transportation industry.

(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 921; amended Pub. L. 105–102, §2(13), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:15101(a) to correct a grammatical error.

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–102 struck out "of" after "Government to oversee".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

GAO REPORT

Pub. L. 104–88, title I, §106(b), Dec. 29, 1995, 109 Stat. 932, directed the Comptroller General, within 3 years after Jan. 1, 1996, to transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report regarding the impact of regulations on the competitiveness of pipelines and to recommend whether to continue, revise, or sunset such regulations.

§15102. Definitions

In this part—

(1) BOARD.—The term "Board" means the Surface Transportation Board.

(2) PIPELINE CARRIER.—The term "pipeline carrier" means a person providing pipeline transportation for compensation.

(3) RATE.—The term "rate" means a rate or charge for transportation.

(4) STATE.—The term "State" means a State of the United States and the District of Columbia.

(5) TRANSPORTATION.—The term "transportation" includes—

(A) property, facilities, instrumentalities, or equipment of any kind related to the movement of property, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, transfer in transit, storage, handling, and interchange of property.

(6) UNITED STATES.—The term "United States" means the States of the United States and the District of Columbia.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 921.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10102 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15103. Remedies as cumulative

Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 922.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10103 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 153—JURISDICTION

Sec.

15301. General pipeline jurisdiction.
15302. Authority to exempt pipeline carrier transportation.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(42), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading.

§15301. General pipeline jurisdiction

(a) IN GENERAL.—The Board has jurisdiction over transportation by pipeline, or by pipeline and railroad or water, when transporting a commodity other than water, gas, or oil. Jurisdiction under this subsection applies only to transportation in the United States between a place in—

(1) a State and a place in another State;

(2) the District of Columbia and another place in the District of Columbia;

(3) a State and a place in a territory or possession of the United States;

(4) a territory or possession of the United States and a place in another such territory or possession;

(5) a territory or possession of the United States and another place in the same territory or possession;

(6) the United States and another place in the United States through a foreign country; or

(7) the United States and a place in a foreign country.

(b) NO JURISDICTION OVER INTRASTATE TRANSPORTATION.—The Board does not have jurisdiction under subsection (a) over the transportation of property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country except as otherwise provided in this part.

(c) PROTECTION OF STATES POWERS.—This part does not affect the power of a State, in exercising its police power, to require reasonable intrastate transportation by carriers providing transportation subject to the jurisdiction of the Board under this chapter unless the State requirement is inconsistent with an order of the Board issued under this part or is prohibited under this part.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 922.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10501 of this title prior to the general

amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15302. Authority to exempt pipeline carrier transportation

(a) IN GENERAL—In a matter related to a pipeline carrier providing transportation subject to jurisdiction under this chapter, the Board shall exempt a person, class of persons, or a transaction or service when the Board finds that the application, in whole or in part, of a provision of this part—

(1) is not necessary to carry out the transportation policy of section 15101; and

(2) either (A) the transaction or service is of limited scope, or (B) the application, in whole or in part, of the provision is not needed to protect shippers from the abuse of market power.

(b) INITIATION OF PROCEEDING.—The Board may, where appropriate, begin a proceeding under this section on its own initiative or an interested party.

(c) PERIOD OF EXEMPTION.—The Board may specify the period of time during which an exemption granted under this section is effective.

(d) REVOCATION.—The Board may revoke an exemption, to the extent it specifies, when it finds that application, in whole or in part, of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 15101.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 923.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 155—RATES

Sec.

15501. Standards for pipeline rates, classifications, through routes, rules, and practices.
15502. Authority for pipeline carriers to establish rates, classifications, rules, and practices.
15503. Authority and criteria: rates, classifications, rules, and practices prescribed by Board.
15504. Government traffic.
15505. Prohibition against discrimination by pipeline carriers.
15506. Facilities for interchange of traffic.

§15501. Standards for pipeline rates, classifications, through routes, rules, and practices

(a) REASONABLENESS.—A rate, classification, rule, or practice related to transportation or service provided by a pipeline carrier subject to this part must be reasonable. A through route established by such a carrier must be reasonable.

(b) NONDISCRIMINATION.—A pipeline carrier providing transportation subject to this part may not discriminate in its rates against a connecting line of any other pipeline, rail, or water carrier providing transportation subject to this subtitle or unreasonably discriminate against that line in the

distribution of traffic that is not routed specifically by the shipper.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 923.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10701 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15502. Authority for pipeline carriers to establish rates, classifications, rules, and practices

A pipeline carrier providing transportation or service subject to this part shall establish—

(1) rates and classifications for transportation and service it may provide under this part; and

(2) rules and practices on matters related to that transportation or service.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 923.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10702 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15503. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

(a) IN GENERAL.—When the Board, after a full hearing, decides that a rate charged or collected by a pipeline carrier for transportation subject to this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the rate, classification, rule, or practice to be followed. In prescribing the rate, classification, rule, or practice, the Board may utilize rate reasonableness procedures that provide an effective simulation of a market-based price for a stand alone pipeline. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

(b) FACTORS TO CONSIDER.—When prescribing a rate, classification, rule, or practice for transportation or service by a pipeline carrier, the Board shall consider, among other factors—

(1) the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier;

(2) the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service; and

(3) the availability of other economic transportation alternatives.

(c) PROCEEDING.—The Board may begin a proceeding under this section on complaint. A complaint under this section must contain a full statement of the facts and the reasons for the complaint and must be made under oath.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 924.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10704 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15504. Government traffic

A pipeline carrier providing transportation or service for the United States Government may transport property for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 6101(b) to (d) of title 41 does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 924; amended Pub. L. 111–350, §5(o)(6), Jan. 4, 2011, 124 Stat. 3853.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10721 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

2011—Pub. L. 111–350 substituted "Section 6101(b) to (d) of title 41" for "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15505. Prohibition against discrimination by pipeline carriers

A pipeline carrier providing transportation or service subject to this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 924.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10741 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15506. Facilities for interchange of traffic

A pipeline carrier providing transportation subject to this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of property to and from, its respective line and a connecting line of a pipeline, rail, or water carrier under this subtitle.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 924.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10742 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 157—OPERATIONS OF CARRIERS

SUBCHAPTER A—GENERAL REQUIREMENTS

Sec.

15701. Providing transportation and service.

SUBCHAPTER B—OPERATIONS OF CARRIERS

15721. Definitions.
15722. Records: form; inspection; preservation.
15723. Reports by carriers, lessors, and associations.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(43)(A), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading and made technical amendments to items for subchapters A and B.

SUBCHAPTER A—GENERAL REQUIREMENTS

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(43)(B)(i), Oct. 11, 1996, 110 Stat. 3393, made technical amendment to subchapter heading.

§15701. Providing transportation and service

(a) SERVICE ON REASONABLE REQUEST.—A pipeline carrier providing transportation or service under this part shall provide the transportation or service on reasonable request.

(b) RATES AND OTHER TERMS.—A pipeline carrier shall also provide to any person, on request, the carrier's rates and other service terms. The response by a pipeline carrier to a request for the carrier's rates and other service terms shall be—

(1) in writing and forwarded to the requesting person promptly after receipt of the request; or

(2) promptly made available in electronic form.

(c) LIMITATION ON RATE INCREASES AND CHANGES TO SERVICE TERMS.—A pipeline carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written or electronic notice is provided to any person who, within the previous 12 months—

(1) has requested such rates or terms under subsection (b); or

(2) has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

(d) PROVISION OF SERVICE.—A pipeline carrier shall provide transportation or service in accordance with the rates and service terms, and any changes thereto, as published or otherwise made available under subsection (b) or (c).

(e) REGULATIONS.—The Board shall, by regulation, establish rules to implement this section. The regulations shall provide for immediate disclosure and dissemination of rates and service terms, including classifications, rules, and practices, and their effective dates. The regulations may modify the 20-day period specified in subsection (c). Final regulations shall be adopted by the Board not later than 180 days after January 1, 1996.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 925; amended Pub. L. 104–287, §5(44), Oct. 11, 1996, 110 Stat. 3393.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–287 substituted "January 1, 1996" for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBCHAPTER B—OPERATIONS OF CARRIERS

STATUTORY NOTES AND RELATED SUBSIDIARIES

AMENDMENTS

1996—Pub. L. 104–287, §5(43)(B)(ii), Oct. 11, 1996, 110 Stat. 3393, made technical amendment to subchapter heading.

§15721. Definitions

In this subchapter, the following definitions apply:

(1) CARRIER, LESSOR.—The terms "carrier" and "lessor" include a receiver or trustee of a pipeline carrier and lessor, respectively.

(2) LESSOR.—The term "lessor" means a person owning a pipeline that is leased to and operated by a carrier providing transportation under this part.

(3) ASSOCIATION.—The term "association" means an organization maintained by or in the interest of a group of pipeline carriers that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 925.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11141 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15722. Records: form; inspection; preservation

(a) FORM OF RECORDS.—The Board may prescribe the form of records required to be prepared or compiled under this subchapter by pipeline carriers and lessors, including records related to movement of traffic and receipts and expenditures of money.

(b) INSPECTION.—The Board, or an employee designated by the Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a pipeline carrier or lessor; and

(2) inspect and copy any record of—

(A) a pipeline carrier, lessor, or association; and

(B) a person controlling, controlled by, or under common control with a pipeline carrier if the Board considers inspection relevant to that person's relation to, or transaction with, that carrier.

(c) PRESERVATION PERIOD.—The Board may prescribe the time period during which operating, accounting, and financial records must be preserved by pipeline carriers and lessors.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 926.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11144 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15723. Reports by carriers, lessors, and associations

(a) FILING OF REPORTS.—The Board may require pipeline carriers, lessors, and associations, or classes of them as the Board may prescribe, to file annual, periodic, and special reports with the Board containing answers to questions asked by it.

(b) UNDER OATH.—Any report under this section shall be made under oath.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 926.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11145 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 159—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.

15901. General authority.
15902. Enforcement by the Board.
15903. Enforcement by the Attorney General.
15904. Rights and remedies of persons injured by pipeline carriers.
15905. Limitation on actions by and against pipeline carriers.
15906. Liability of pipeline carriers under receipts and bills of lading.

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–225, §7(d), Aug. 12, 1998, 112 Stat. 1512, made technical amendment to directory language of Pub. L. 104–287, §5(45)(A), effective Oct. 11, 1996. See 1996 Amendment note below.

1997—Pub. L. 105–102, §3(d)(1)(A), Nov. 20, 1997, 111 Stat. 2215, which directed technical correction of directory language of Pub. L. 104–287, §5(45)(A), by substituting "ENFORCEMENT:" for "ENFORCEMENT,", could not be executed because "ENFORCEMENT," does not appear in section 5(45)(A).

Pub. L. 105–102, §2(14), Nov. 20, 1997, 111 Stat. 2205, substituted "pipeline" for "certain" in item 15904.

1996—Pub. L. 104–287, §5(45)(B), Oct. 11, 1996, 110 Stat. 3393, struck out item 15907 "Liability when property is delivered in violation of routing instructions".

Pub. L. 104–287, §5(45)(A), Oct. 11, 1996, 110 Stat. 3393, as amended by Pub. L. 105–225, struck out duplicative chapter heading.

§15901. General authority

(a) INVESTIGATION; COMPLIANCE ORDER.—Except as otherwise provided in this part, the Board may begin an investigation under this part only on complaint. If the Board finds that a pipeline carrier is violating this part, the Board shall take appropriate action to compel compliance with this part. The Board shall provide the carrier notice of the investigation and an opportunity for a proceeding.

(b) COMPLAINT.—A person, including a governmental authority, may file with the Board a complaint about a violation of this part by a pipeline carrier providing transportation or service subject to this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a pipeline carrier providing transportation subject to this part because of the absence of direct damage to the complainant.

(c) AUTOMATIC DISMISSAL.—A formal investigative proceeding begun by the Board under subsection (a) is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the 3d year after the date on which it was begun.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 926.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11701 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15902. Enforcement by the Board

The Board may bring a civil action to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a pipeline carrier providing transportation subject to this part.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 927.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11702 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15903. Enforcement by the Attorney General

(a) ON BEHALF OF BOARD.—The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part or a regulation or order of the Board and to prosecute a person violating this part or a regulation or order of the Board issued under this part.

(b) ON BEHALF OF OTHERS.—The United States Government may bring a civil action on behalf of a person to compel a pipeline carrier providing transportation or service subject to this part to provide that transportation or service to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 927.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11703 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15904. Rights and remedies of persons injured by pipeline carriers

(a) ENFORCEMENT OF ORDERS.—A person injured because a pipeline carrier providing transportation or service subject to this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

(b) LIABILITY OF CARRIER.—

(1) EXCESSIVE CHARGES.—A pipeline carrier providing transportation subject to this part is liable to a person for amounts charged that exceed the applicable rate for the transportation.

(2) DAMAGES.—A pipeline carrier providing transportation subject to this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part.

(c) COMPLAINTS.—

(1) FILING.—A person may file a complaint with the Board under section 15901(b) or bring a civil action under subsection (b) to enforce liability against a pipeline carrier providing transportation subject to this part.

(2) PAYMENT DEADLINE.—When the Board makes an award under subsection (b), the Board shall order the carrier to pay the amount awarded by a specific date. The Board may order a carrier providing transportation subject to this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier does not pay the amount awarded by the date payment was ordered to be made.

(d) CIVIL ACTIONS.—

(1) COMPLAINT.—When a person begins a civil action under subsection (b) to enforce an order of the Board requiring the payment of damages by a pipeline carrier providing transportation subject to this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having

jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 927; amended Pub. L. 105–102, §2(15), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–225, §7(b)(2), Aug. 12, 1998, 112 Stat. 1511.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:15904(c)(1) to correct an erroneous cross-reference.

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1998—Subsec. (c)(1). Pub. L. 105–225 inserted "section" before "15901(b)".
1997—Subsec. (c)(1). Pub. L. 105–102 substituted "15901(b)" for "section 11501(b)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15905. Limitation on actions by and against pipeline carriers

(a) IN GENERAL.—A pipeline carrier providing transportation or service subject to this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) OVERCHARGES.—A person must begin a civil action to recover overcharges under section 15904(b)(1) within 3 years after the claim accrues. If an election to file a complaint with the Board is made under section 15904(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c) DAMAGES.—A person must file a complaint with the Board to recover damages under section 15904(b)(2) within 2 years after the claim accrues.

(d) EXTENSIONS.—The limitation periods under subsection (b) are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsection (b) and the 2-year period under subsection (c) are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) PAYMENT.—A person must begin a civil action to enforce an order of the Board against a carrier for the payment of money within one year after the date the order required the money to be paid.

(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

(1) payment of the rate for the transportation or service involved,

(2) subsequent refund for overpayment of that rate, or

(3) deduction made under section 3726 of title 31,

whichever is later.

(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 928.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§15906. Liability of pipeline carriers under receipts and bills of lading

(a) GENERAL LIABILITY.—A pipeline carrier providing transportation or service subject to this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by the carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading. Failure to issue a receipt or bill of lading does not affect the liability of a carrier.

(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c) CIVIL ACTIONS.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State, through which the defendant carrier operates a line or route.

(d) MINIMUM PERIOD FOR FILING CLAIMS.—A pipeline carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides

reasons for such disallowance; and

(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 929.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

CHAPTER 161—CIVIL AND CRIMINAL PENALTIES

Sec.

16101. General civil penalties.
16102. Recordkeeping and reporting violations.
16103. Unlawful disclosure of information.
16104. Disobedience to subpenas.
16105. General criminal penalty when specific penalty not provided.
16106. Punishment of corporation for violations committed by certain individuals.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(46), Oct. 11, 1996, 110 Stat. 3393, struck out duplicative chapter heading.

§16101. General civil penalties

(a) GENERAL.—Except as otherwise provided in this section, a pipeline carrier providing transportation subject to this part, an officer or agent of that carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating this part or an order of the Board under this part is liable to the United States for a civil penalty of not more than $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) RECORDKEEPING AND REPORTING.—

(1) RECORDS.—A person required under chapter 157 to make, prepare, preserve, or submit to the Board a record concerning transportation subject to this part that does not make, prepare, preserve, or submit that record as required under that chapter, is liable to the United States for a civil penalty of $500 for each violation.

(2) INSPECTION.—A carrier providing transportation subject to this part, and a lessor, receiver, or trustee of that carrier, violating section 15722, is liable to the United States for a civil penalty of $100 for each violation.

(3) REPORTS.—A carrier providing transportation subject to the jurisdiction of the Board under this part, a lessor, receiver, or trustee of that carrier, and an officer, agent, or employee of one of them, required to make a report to the Board or answer a question that does not make the

report or does not specifically, completely, and truthfully answer the question, is liable to the United States for a civil penalty of $100 for each violation.

(4) CONTINUED VIOLATION.—A separate violation occurs for each day violation under this subsection continues.

(c) VENUE.—Trial in a civil action under this section is in the judicial district in which the carrier has its principal operating office.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 930; amended Pub. L. 105–102, §2(16), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:16101 to redesignate subsection (d) as (c) because no subsection (c) was enacted.

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11901 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1997—Subsecs. (c), (d). Pub. L. 105–102 redesignated subsec. (d) as (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§16102. Recordkeeping and reporting violations

A person required to make a report to the Board, or make, prepare, or preserve a record, under chapter 157 about transportation subject to this part that knowingly and willfully—

(1) makes a false entry in the report or record,

(2) destroys, mutilates, changes, or by another means falsifies the record,

(3) does not enter business related facts and transactions in the record,

(4) makes, prepares, or preserves the record in violation of a regulation or order of the Board, or

(5) files a false report or record with the Board,

shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 930.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11909 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§16103. Unlawful disclosure of information

(a) GENERAL PROHIBITION.—A pipeline carrier providing transportation subject to this part, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this part without the consent of the shipper or consignee, if that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, is liable to the United States for a civil penalty of not more than $1,000.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a pipeline carrier providing transportation under this part from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) BOARD EMPLOYEE.—An employee of the Board delegated to make an inspection or examination under section 15722 who knowingly discloses information acquired during that inspection or examination, except as directed by the Board, a court, or a judge of that court, shall be fined under title 18 or imprisoned for not more than 6 months, or both.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§16104. Disobedience to subpenas

Whoever does not obey a subpena or requirement of the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L.

104–88, set out as a note under section 1301 of this title.

§16105. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under this chapter, a pipeline carrier providing transportation subject to this part, and when that carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined under title 18 or imprisoned not more than 2 years, or both. A separate violation occurs each day a violation of this part continues.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§16106. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this subtitle if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a pipeline carrier providing transportation or service subject to this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 1301 of this title.

SUBTITLE V—RAIL PROGRAMS

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[245. Repealed.]
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EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title II, §22308(b), Nov. 15, 2021, 135 Stat. 733, added item for chapter 251.

Pub. L. 117–58, div. B, title I, §21301(i), Nov. 15, 2021, 135 Stat. 691, which directed amendment of the analysis for title 49, United States Code, by adding item for chapter 224 after item for chapter 223, was executed by adding such item to the analysis for this subtitle, to reflect the probable intent of Congress.

2019—Pub. L. 115–420, §7(a)(4), Jan. 3, 2019, 132 Stat. 5445, added item for chapter 229 and struck out item for chapter 244 "Rail improvement grants".

2015–Pub. L. 114–94, div. A, title XI, §§11301(c)(3), 11303(b)(2), 11503(c), Dec. 4, 2015, 129 Stat. 1648, 1654, 1692, struck out item for chapter 225 "Federal grants to States for highway-rail grade crossing safety", added item for chapter 242, and substituted "Rail improvement grants" for "Intercity Passenger Rail Service Corridor Capital Assistance" in item for chapter 244.

2008—Pub. L. 110–432, div. A, title II, §207(b), div. B, title III, §301(b), title IV, §401(b), Oct. 16, 2008, 122 Stat. 4875, 4946, 4956, added items for chapters 225, 244, and 285.

Pub. L. 110–432, div. B, title III, §303(b), Oct. 16, 2008, 122 Stat. 4951, which directed insertion of the item for chapter 227 after the item for chapter 223, was executed by making the insertion after the item for chapter 225 to reflect the probable intent of Congress.

2007—Pub. L. 110–140, title XI, §1112(b), Dec. 19, 2007, 121 Stat. 1759, substituted "Capital Grants for Class II and Class III Railroads" for "Light Density Rail Line Pilot Projects" in item for chapter 223.

1998—Pub. L. 105–178, title VII, §7202(b), June 9, 1998, 112 Stat. 471, added item for chapter 223.

1997—Pub. L. 105–134, title I, §106(a), Dec. 2, 1997, 111 Stat. 2573, struck out item for chapter 245 "Amtrak Commuter".

1996—Pub. L. 104–287, §5(56)(B), Oct. 11, 1996, 110 Stat. 3394, added item for chapter 283.

1994—Pub. L. 103–440, title I, §103(b)(1), Nov. 2, 1994, 108 Stat. 4618, added part D and item for chapter 261, struck out former part D "MISCELLANEOUS" and former item for chapter 261 "Law Enforcement . . . 26101", and added part E and item for chapter 281.

[1] So in original. Probably should be "Railroad Rehabilitation and Improvement Financing".

[2] So in original. Probably should be "State Rail Plans".

[3] So in original. Probably should be "Project Delivery".

[4] So in original. Probably should be "Passenger Rail Planning".

PART A—SAFETY

CHAPTER 201—GENERAL

SUBCHAPTER I—GENERAL

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EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title II, §§22403(b)(2), 22415(b), 22416(b), 22425(b), Nov. 15, 2021, 135 Stat. 736, 747, 748, 756, added items 20167 and 20169 to 20171.

2015–Pub. L. 114–94, div. A, title XI, §§11301(c)(1), 11411(b), 11413(b), Dec. 4, 2015, 129 Stat. 1648, 1687, 1689, added items 20121 and 20168 and struck out items 20154 "Capital grants for rail line relocation projects" and 20167 "Railroad safety infrastructure improvement grants". Items 20121 and 20168 were added to the analysis for this chapter to reflect the probable intent of Congress, notwithstanding directory language adding those items to the analyses for subchapters I and II of this chapter, respectively.

2008—Pub. L. 110–432, div. A, title I, §§103(b), 104(b), 105(b), 107(b), 109(b), title II, §§203(b), 204(b), 205(b), 208(b), 210(b), title III, §303(b), title IV, §§401(b), 402(e), 406(b), 409(b), 413(b), 418(b), Oct. 16, 2008, 122 Stat. 4856, 4858–4860, 4867, 4869, 4871, 4873, 4876, 4877, 4879, 4883, 4884, 4886, 4887, 4889, 4892, added items 20116 and 20118 to 20120, substituted "Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy" for "Railroad trespassing and vandalism prevention strategy" in item 20151 and "Notification of grade crossing problems" for "Emergency notification of grade crossing problems" in item 20152, and added items 20156 to 20167.

2005—Pub. L. 109–59, title IX, §§9002(a)(2), 9005(b)(2), Aug. 10, 2005, 119 Stat. 1921, 1925, added items 20154 and 20155.

1995—Pub. L. 104–66, title I, §1121(g)(2), Dec. 21, 1995, 109 Stat. 724, struck out item 20116 "Biennial report".

1994—Pub. L. 103–440, title II, §§206(b), 207(b), 210(b), 211(b), 212(b), 213(b), 214(b), 215(b), 219(b),

title III, §§301(b), 302(b), Nov. 2, 1994, 108 Stat. 4621–4624, 4626, 4628, substituted "Biennial" for "Annual" in item 20116 and "cars" for "equipment" in item 20133 and added items 20145 to 20153.

[1] Section catchline amended by Pub. L. 110–53 without corresponding amendment of chapter analysis.

[2] So in original. Does not conform to section catchline.

SUBCHAPTER I—GENERAL

§20101. Purpose

The purpose of this chapter is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20101	45:421.	Oct. 16, 1970, Pub. L. 91–458, §101, 84 Stat. 971.

The words "The Congress declares that" are omitted as surplus. The words "accidents and incidents" are substituted for "accidents" for consistency with the source provisions restated in section 20105(b)(1)(B) of the revised title. The words "and to reduce deaths and injuries to persons and to reduce damage to property caused by accidents involving any carrier of hazardous materials" are omitted as obsolete because they applied to 49 App.:1761 and 1762, that were repealed by section 113(g) of the Hazardous Materials Transportation Act (Public Law 93–633, 88 Stat. 2163).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118–205, §1, Dec. 23, 2024, 138 Stat. 2697, provided that: "This Act [amending section 24315 of this title] may be cited as the 'Think Differently Transportation Act'."

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 117–58, div. B, title II, §22001, Nov. 15, 2021, 135 Stat. 694, provided that: "This title [see Tables for classification] may be cited as the 'Passenger Rail Expansion and Rail Safety Act of 2021'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title XI, §11001, Dec. 4, 2015, 129 Stat. 1622, provided that: "This title [see Tables for classification] may be cited as the 'Passenger Rail Reform and Investment Act of 2015'."

Pub. L. 114–94, div. A, title XI, §11501, Dec. 4, 2015, 129 Stat. 1690, provided that: "This subtitle [subtitle E (§§11501–11504) of title XI of div. A of Pub. L. 114–94, enacting sections 24201 and 24202 of this title, amending section 303 of this title and section 138 of Title 23, Highways, and enacting provisions set out as a note under section 4370m of Title 42, The Public Health and Welfare] may be cited as the 'Track, Railroad, and Infrastructure Network Act' or the 'TRAIN Act'."

Pub. L. 114–73, title I, §1302(a), Oct. 29, 2015, 129 Stat. 576, provided that: "This section [amending section 20157 of this title] may be cited as the 'Positive Train Control Enforcement and Implementation Act of 2015'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–432, div. A, §1(a), Oct. 16, 2008, 122 Stat. 4848, provided that: "This division [see Tables for

classification] may be cited as the 'Rail Safety Improvement Act of 2008'."

Pub. L. 110–432, div. B, §1(a), Oct. 16, 2008, 122 Stat. 4907, provided that: "This division [enacting chapters 227, 244, and 285 of this title and sections 24105, 24310, 24316, 24702, 24710, 24711, 24910, and 26106 of this title, amending sections 103, 24101, 24102, 24302, 24308, 24706, 24904, 24905, 26101, and 26104 of this title, enacting provisions set out as notes under sections 24101, 24302, 24305, 24307, 24308, 24405, 24702, 24709, 24711, 24902, and 26106 of this title, and amending provisions set out as a note under section 24101 of this title] may be cited as the 'Passenger Rail Investment and Improvement Act of 2008'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–134, §1(a), Dec. 2, 1997, 111 Stat. 2570, provided that: "This Act [enacting section 28103 of this title, amending sections 24101, 24102, 24104, 24301 to 24307, 24309, 24312, 24315, 24701, 24706, 24902, and 24904 of this title, section 8G of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees, and section 9101 of Title 31, Money and Finance, repealing sections 24310, 24314, 24501 to 24506, 24702 to 24705, 24707, 24708, and 24903 of this title, and section 1111 of Title 45, Railroads, and enacting provisions set out as notes under this section and sections 24101, 24104, 24301, 24304, 24305, 24307, 24312, 24315, 24501, and 24706 of this title, section 8G of the Appendix to Title 5, and section 172 of Title 26, Internal Revenue Code] may be cited as the 'Amtrak Reform and Accountability Act of 1997'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–440, title I, §101, Nov. 2, 1994, 108 Stat. 4615, provided that: "This title [enacting sections 26101 to 26105 of this title, renumbering former sections 26101 and 26102 of this title as 28101 and 28102 of this title, respectively, and enacting provisions set out as notes under section 26101 of this title and section 838 of Title 45, Railroads] may be cited as the 'Swift Rail Development Act of 1994'."

Pub. L. 103–440, title II, §201, Nov. 2, 1994, 108 Stat. 4619, provided that: "This title [enacting sections 20145 to 20151 and 21108 of this title, amending sections 103, 20103, 20111, 20116, 20117, 20133, 20142, and 21303 of this title, and enacting provisions set out as a note under section 11504 of this title] may be cited as the 'Federal Railroad Safety Authorization Act of 1994'."

DATA ACCESSIBILITY

Pub. L. 117–58, div. B, title II, §22405, Nov. 15, 2021, 135 Stat. 738, provided that:

"(a) REVIEW.—Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Chief Information Officer of the Department [of Transportation] shall—

"(1) conduct a review of the website of the Office of Safety Analysis of the Federal Railroad Administration; and

"(2) provide recommendations to the Secretary [of Transportation] for improving the public's usability and accessibility of the website referred to in paragraph (1).

"(b) UPDATES.—Not later than 1 year after receiving recommendations from the Chief Information Officer pursuant to subsection (a)(2), the Secretary, after considering such recommendations, shall update the website of the Office of Safety Analysis of the Federal Railroad Administration to improve the usability and accessibility of the website."

FEDERAL RAILROAD ADMINISTRATION REPORTING REQUIREMENTS

Pub. L. 117–58, div. B, title II, §22421(a), Nov. 15, 2021, 135 Stat. 750, provided that:

"(a) ELIMINATION OF DUPLICATIVE OR UNNECESSARY REPORTING OR PAPERWORK REQUIREMENTS IN THE FEDERAL RAILROAD ADMINISTRATION.—

"(1) REVIEW.—The Administrator of the Federal Railroad Administration (referred to in this subsection as the 'FRA Administrator'), in consultation with the Administrator of the Federal Transit Administration, shall conduct a review of existing reporting and paperwork requirements in the Federal Railroad Administration to determine if any such requirements are duplicative or unnecessary.

"(2) ELIMINATION OF CERTAIN REQUIREMENTS.—If the FRA Administrator determines, as a result of the review conducted pursuant to paragraph (1), that any reporting or paperwork requirement that is not statutorily required is duplicative or unnecessary, the FRA Administrator, after consultation with the Administrator of the Federal Transit Administration, shall terminate such requirement.

"(3) REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the FRA Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that—

"(A) identifies all of the reporting or paperwork requirements that were terminated pursuant to paragraph (2); and

"(B) identifies any statutory reporting or paperwork requirements that are duplicative or unnecessary and should be repealed."

SHARED-USE STUDY

Pub. L. 114–94, div. A, title XI, §11311, Dec. 4, 2015, 129 Stat. 1670, as amended by Pub. L. 117–58, div. B, title I, §21301(j)(4)(C), Nov. 15, 2021, 135 Stat. 693, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation], in consultation with Amtrak, commuter rail passenger transportation authorities, other railroad carriers, railroad carriers that own rail infrastructure over which both passenger and freight trains operate, States, the Surface Transportation Board, the Northeast Corridor Commission established under section 24905 of title 49, United States Code, the State-Supported Route Committee established under section 24712 of such title, and groups representing rail passengers and customers, as appropriate, shall complete a study that evaluates—

"(1) the shared use of right-of-way by passenger and freight rail systems; and

"(2) the operational, institutional, and legal structures that would best support improvements to the systems referred to in paragraph (1).

"(b) AREAS OF STUDY.—In conducting the study under subsection (a), the Secretary shall evaluate—

"(1) the access and use of railroad right-of-way by a rail carrier that does not own the right-of-way, such as passenger rail services that operate over privately-owned right-of-way, including an analysis of—

"(A) access agreements;

"(B) costs of access; and

"(C) the resolution of disputes relating to such access or costs;

"(2) the effectiveness of existing contractual, statutory, and regulatory mechanisms for establishing, measuring, and enforcing train performance standards, including—

"(A) the manner in which passenger train delays are recorded;

"(B) the assignment of responsibility for such delays; and

"(C) the use of incentives and penalties for performance;

"(3) the strengths and weaknesses of the existing mechanisms described in paragraph (2) and possible approaches to address the weaknesses;

"(4) mechanisms for measuring and maintaining public benefits resulting from publicly funded freight or passenger rail improvements, including improvements directed towards shared-use right-of-way by passenger and freight rail;

"(5) approaches to operations, capacity, and cost estimation modeling that—

"(A) allow for transparent decisionmaking; and

"(B) protect the proprietary interests of all parties;

"(6) liability requirements and arrangements, including—

"(A) whether to expand statutory liability limits to additional parties;

"(B) whether to revise the current statutory liability limits;

"(C) whether current insurance levels of passenger rail operators are adequate and whether to establish minimum insurance requirements for such passenger rail operators; and

"(D) whether to establish alternative insurance models, including other models administered by the Federal Government;

"(7) the effect on rail passenger services, operations, liability limits, and insurance levels of the assertion of sovereign immunity by a State; and

"(8) other issues identified by the Secretary.

"(c) REPORT.—Not later than 60 days after the study under subsection (a) is complete, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

"(1) the results of the study; and

"(2) any recommendations for further action, including any legislative proposals consistent with such recommendations.

"(d) IMPLEMENTATION.—The Secretary shall integrate, as appropriate, the recommendations submitted under subsection (c) into the financial assistance programs under subtitle V of title 49, United States Code."

RAILROAD SAFETY STRATEGY

Pub. L. 110–432, div. A, title I, §102, Oct. 16, 2008, 122 Stat. 4852, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(3), Dec. 4, 2015, 129 Stat. 1677, provided that:

"(a) SAFETY GOALS.—In conjunction with existing federally-required and voluntary strategic planning efforts ongoing at the Department and the Federal Railroad Administration as of the date of enactment of this

Act [Oct. 16, 2008], the Secretary shall develop a long-term strategy for improving railroad safety to cover a period of not less than 5 years. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

"(1) Reducing the number and rates of accidents, incidents, injuries, and fatalities involving railroads including train collisions, derailments, and human factors.

"(2) Improving the consistency and effectiveness of enforcement and compliance programs.

"(3) Improving the identification of high-risk highway-rail grade crossings and strengthening enforcement and other methods to increase grade crossing safety.

"(4) Improving research efforts to enhance and promote railroad safety and performance.

"(5) Preventing railroad trespasser accidents, incidents, injuries, and fatalities.

"(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure.

"(b) RESOURCE NEEDS.—The strategy and annual plan shall include estimates of the funds and staff resources needed to accomplish the goals established by subsection (a). Such estimates shall also include the staff skills and training required for timely and effective accomplishment of each such goal.

"(c) SUBMISSION WITH THE PRESIDENT'S BUDGET.—The Secretary shall submit the strategy and annual plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure at the same time as the President's budget submission.

"(d) ACHIEVEMENT OF GOALS.—

"(1) PROGRESS ASSESSMENT.—No less frequently than annually, the Secretary shall assess the progress of the Department toward achieving the strategic goals described in subsection (a). The Secretary shall identify any deficiencies in achieving the goals within the strategy and develop and institute measures to remediate such deficiencies. The Secretary and the Administrator shall convey their assessment to the employees of the Federal Railroad Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

"(2) REPORT TO CONGRESS.—Beginning in 2009, not later than November 1 of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a)."

[For definitions of "railroad", "Department", "Secretary", and "crossing", as used in section 102 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

REPORTS ON STATUTORY MANDATES AND RECOMMENDATIONS

Pub. L. 110–432, div. A, title I, §106, Oct. 16, 2008, 122 Stat. 4859, provided that: "Not later than December 31, 2008, and annually thereafter, the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the specific actions taken to implement unmet statutory mandates regarding railroad safety and each open railroad safety recommendation made by the National Transportation Safety Board or the Department's Inspector General."

[For definitions of "Secretary", "railroad", and "Department", as used in section 106 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

§20102. Definitions

In this part—

(1) "Class I railroad", "Class II railroad", and "Class III railroad" mean railroad carriers that have annual carrier operating revenues that meet the threshold amount for Class I carriers, Class II carriers, and Class III carriers, respectively, as determined by the Surface Transportation Board under section 1201.1–1 of title 49, Code of Federal Regulations.

(2) "railroad"—

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including—

(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation

on January 1, 1979; and

(ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but

(B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(3) "railroad carrier" means a person providing railroad transportation, except that, upon petition by a group of commonly controlled railroad carriers that the Secretary determines is operating within the United States as a single, integrated rail system, the Secretary may by order treat the group of railroad carriers as a single railroad carrier for purposes of one or more provisions of part A, subtitle V of this title and implementing regulations and order, subject to any appropriate conditions that the Secretary may impose.

(4) "safety-related railroad employee" means—

(A) a railroad employee who is subject to chapter 211;

(B) another operating railroad employee who is not subject to chapter 211;

(C) an employee who maintains the right of way of a railroad;

(D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;

(E) an employee who inspects, repairs, or maintains locomotives, passenger cars, or freight cars; and

(F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863; Pub. L. 110–432, div. A, §2(b), title IV, §407, Oct. 16, 2008, 122 Stat. 4850, 4886.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20102(1)	45:16.	Apr. 14, 1910, ch. 160, §1, 36 Stat. 298; restated June 22, 1988, Pub. L. 100–342, §13(3)(E), 102 Stat. 632.
	45:22.	Feb. 17, 1911, ch. 103, §1, 36 Stat. 913; June 7, 1924, ch. 355, §1, 43 Stat. 659; restated June 22, 1988, Pub. L. 100–342, §14(1), 102 Stat. 632.
	45:38 (last sentence).	May 6, 1910, ch. 208, 36 Stat. 350, §1 (last sentence); added June 22, 1988, Pub. L. 100–342, §15(1)(C), 102 Stat. 633.
	45:61(a).	Mar. 4, 1907, ch. 2939, §1(a), 34 Stat. 1415; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; restated Nov. 2, 1978, Pub. L. 95–574, §5, 92 Stat. 2461; June 22, 1988, Pub. L. 100–342, §16(1)(A), 102 Stat. 634.
	45:61(b)(1).	Mar. 4, 1907, ch. 2939, §1(b)(1), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; June 22, 1988, Pub. L. 100–342, §16(1)(B), 102 Stat. 634.

	45:431(e).	Oct. 16, 1970, Pub. L. 91–458, §202(e), 84 Stat. 971; restated June 22, 1988, Pub. L. 100–342, §7(a), 102 Stat. 628.
	49:App.:26(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(a); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; Aug. 26, 1937, ch. 818, 50 Stat. 835; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; restated June 22, 1988, Pub. L. 100–342, §17(1), 102 Stat. 635.
20102(2)	(no source).	

Clause (1) is substituted for the source provisions to avoid repeating the definition of "railroad" in each chapter in this part.

Clause (2) is added to distinguish between railroad transportation and the entity providing railroad transportation.

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–432, §2(b), added pars. (1) and (4) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Par. (3). Pub. L. 110–432, §407, amended par. (3) generally. Prior to amendment, text read as follows: " 'railroad carrier' means a person providing railroad transportation."

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS APPLICABLE TO DIVISION A OF PUB. L. 110–432

Pub. L. 110–432, div. A, §2(a), Oct. 16, 2008, 122 Stat. 4849, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(2), Dec. 4, 2015, 129 Stat. 1677, provided that: "In this division [see Short Title of 2008 Amendment note set out under section 20101 of this title]:

"(1) CROSSING.—The term 'crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks at grade, where—

"(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

"(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

"(2) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(3) RAILROAD.—The term 'railroad' has the meaning given that term by section 20102 of title 49, United States Code.

"(4) RAILROAD CARRIER.—The term 'railroad carrier' has the meaning given that term by section 20102 of title 49, United States Code.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(6) STATE.—The term 'State' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico."

§20103. General authority

(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and

regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.

(b) REGULATIONS OF PRACTICE FOR PROCEEDINGS.—The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) CONSIDERATION OF INFORMATION AND STANDARDS.—In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) NONEMERGENCY WAIVERS.—

(1) IN GENERAL.—The Secretary of Transportation may waive, or suspend the requirement to comply with, any part of a regulation prescribed or an order issued under this chapter if such waiver or suspension is in the public interest and consistent with railroad safety.

(2) NOTICE REQUIRED.—The Secretary shall—

(A) provide timely public notice of any request for a waiver under this subsection or for a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations;

(B) make available the application for such waiver or suspension and any nonconfidential underlying data to interested parties;

(C) provide the public with notice and a reasonable opportunity to comment on a proposed waiver or suspension under this subsection before making a final decision; and

(D) publish on a publicly accessible website the reasons for granting each such waiver or suspension.

(3) INFORMATION PROTECTION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

(4) RULEMAKING.—

(A) IN GENERAL.—Not later than 1 year after the first day on which a waiver under this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations, has been in continuous effect for a 6-year period, the Secretary shall complete a review and analysis of such waiver or suspension to determine whether issuing a rule that is consistent with the waiver is—

(i) in the public interest; and

(ii) consistent with railroad safety.

(B) FACTORS.—In conducting the review and analysis under subparagraph (A), the Secretary shall consider—

(i) the relevant safety record under the waiver or suspension;

(ii) the likelihood that other entities would have similar safety outcomes;

(iii) the materials submitted in the applications, including any comments regarding such materials; and

(iv) related rulemaking activity.

(C) NOTICE AND COMMENT.—

(i) IN GENERAL.—The Secretary shall publish the review and analysis required under this paragraph in the Federal Register, which shall include a summary of the data collected and all relevant underlying data, if the Secretary decides not to initiate a regulatory update under subparagraph (D).

(ii) NOTICE OF PROPOSED RULEMAKING.—The review and analysis under this paragraph shall be included as part of the notice of proposed rulemaking if the Secretary initiates a regulatory update under subparagraph (D).

(D) REGULATORY UPDATE.—The Secretary may initiate a rulemaking to incorporate relevant aspects of a waiver under this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations, into the relevant regulation, to the extent the Secretary considers appropriate.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to delay any waiver granted pursuant to this subsection that is in the public interest and consistent with railroad safety.

(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this part, including a regulation or order establishing, amending, or providing a waiver, described in subsection (d), of compliance with a railroad safety regulation prescribed or order issued under this part. An opportunity for an oral presentation shall be provided.

(f) TOURIST RAILROAD CARRIERS.—In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.

(g) EMERGENCY WAIVERS.—

(1) IN GENERAL.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this part without prior notice and comment if the Secretary determines that—

(A) it is in the public interest to grant the waiver;

(B) the waiver is not inconsistent with railroad safety; and

(C) the waiver is necessary to address an actual or impending emergency situation or emergency event.

(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this part.

(3) STATEMENT OF REASONS.—The Secretary shall state in the decision issued under this subsection the reasons for granting the waiver.

(4) CONSULTATION.—In granting a waiver under this subsection, the Secretary shall consult and coordinate with other Federal agencies, as appropriate, for matters that may impact such agencies.

(5) EMERGENCY SITUATION; EMERGENCY EVENT.—In this subsection, the terms "emergency situation" and "emergency event" mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863; Pub. L. 103–440, title II, §217, Nov. 2, 1994, 108 Stat. 4624; Pub. L. 107–296, title XVII, §1710(b), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 110–432, div. A, title III, §308, Oct. 16, 2008, 122 Stat. 4881; Pub. L. 117–58, div. B, title II, §22411, Nov. 15, 2021, 135 Stat. 742.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20103(a)	45:431(a) (1st sentence cl. (1)).	Oct. 16, 1970, Pub. L. 91–458, §202(a)

		(1st sentence cl. (1)), (b), (c), 84 Stat. 971.
20103(b)	45:431(d) (21st–last words).	Oct. 16, 1970, Pub. L. 91–458, §202(d), 84 Stat. 971; restated July 8, 1976, Pub. L. 94–348, §5(a), 90 Stat. 819.
20103(c)	45:431(d) (1st–20th words).	
20103(d)	45:431(c).	
20103(e)	45:431(b).	

In this part, the word "rule" is omitted as being synonymous with "regulation". The word "standard" is omitted as being included in "regulation".

In subsection (a), the words "(hereafter in this subchapter referred to as the 'Secretary')" in 45:431(a) (1st sentence cl. (1)) are omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In subsection (b), the words "within 180 days after July 8, 1976" are omitted as expired. The word "prescribe" is substituted for "take such action as may be necessary to develop and publish" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (d), the words "after hearing in accordance with subsection (b) of this section" are omitted as surplus because of the language restated in subsection (e) of this section.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (d). Pub. L. 117–58 amended subsec. (d) generally. Prior to amendment, text read as follows: "The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver."

2008—Subsec. (d). Pub. L. 110–432, §308(1), substituted "Nonemergency Waivers" for "Waivers" in heading.

Subsec. (e). Pub. L. 110–432, §308(2), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided."

Subsec. (g). Pub. L. 110–432, §308(3), added subsec. (g).

2002—Subsec. (a). Pub. L. 107–296 inserted at end "When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary."

1994—Subsec. (f). Pub. L. 103–440 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

REGULATIONS

Pub. L. 103–272, §4(t), July 5, 1994, 108 Stat. 1372, provided that:

"(1) Not later than March 3, 1995, the Secretary of Transportation shall complete a regulatory proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. The proceeding shall assess—

"(A) the adequacy of Locomotive Crashworthiness Requirements Standard S–580, or any successor standard, adopted by the Association of American Railroads in 1989 in improving the safety of locomotive cabs; and

"(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs

affect productivity, health, and the safe operation of locomotives.

"(2) SUPPORTING RESEARCH AND ANALYSIS.—In support of the proceeding required under paragraph (1) of this subsection, the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

"(A) the costs and benefits associated with equipping locomotives with—

"(i) braced collision posts;

"(ii) rollover protection devices;

"(iii) deflection plates;

"(iv) shatterproof windows;

"(v) readily accessible crash refuges;

"(vi) uniform sill heights;

"(vii) anticlimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

"(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

"(x) functioning and regularly maintained sanitary facilities; and

"(B) the effects on train crews of the presence of asbestos in locomotive components.

"(3) REPORT.—If, on the basis of the proceeding required under paragraph (1) of this subsection, the Secretary decides not to prescribe regulations, the Secretary shall report to Congress on the reasons for that decision."

RAILROAD POINT OF CONTACT FOR PUBLIC SAFETY ISSUES

Pub. L. 117–58, div. B, title II, §22426, Nov. 15, 2021, 135 Stat. 756, provided that: "All railroads shall—

"(1) provide railroad contact information for public safety issues, including a telephone number, to the relevant Federal, State, and local oversight agencies; and

"(2) post the information described in paragraph (1) on a publicly accessible website."

REAL-TIME EMERGENCY RESPONSE INFORMATION

Pub. L. 114–94, div. A, title VII, §7302, Dec. 4, 2015, 129 Stat. 1594, as amended by Pub. L. 117–58, div. B, title VI, §26003, Nov. 15, 2021, 135 Stat. 883, provided that:

"(a) IN GENERAL.—Not later than December 5, 2022, the Secretary [of Transportation], in consultation with appropriate Federal agencies, shall issue regulations that—

"(1) require a Class I railroad transporting hazardous materials—

"(A) to generate accurate, real-time, and electronic train consist information, including—

"(i) the identity, quantity, and location of hazardous materials on a train;

"(ii) the point of origin and destination of the train;

"(iii) any emergency response information or resources required by the Secretary; and

"(iv) an emergency response point of contact designated by the Class I railroad; and

"(B) to provide the electronic train consist information described in subparagraph (A) to authorized State and local first responders, emergency response officials, and law enforcement personnel that are involved in the response to, or investigation of, an accident, incident, or public health or safety emergency involving the rail transportation of hazardous materials;

"(2) require each Class I railroad to provide advanced notification and information on high-hazard flammable trains to each State emergency response commission, consistent with the notification content requirements in Emergency Order Docket No. DOT–OST–2014–0067, including—

"(A) a reasonable estimate of the number of implicated trains that are expected to travel, per week, through each county within the applicable State;

"(B) updates to such estimate prior to making any material changes to any volumes or frequencies of trains traveling through a county;

"(C) identification and a description of the Class 3 flammable liquid being transported on such trains;

"(D) applicable emergency response information, as required by regulation;

"(E) identification of the routes over which such liquid will be transported; and

"(F) a point of contact at the Class I railroad responsible for serving as the point of contact for State emergency response centers and local emergency responders related to the Class I railroad's transportation of such liquid.

"(3) require each applicable State emergency response commission to provide to a political subdivision of a State, or public agency responsible for emergency response or law enforcement, upon request of the political subdivision or public agency, the information the commission receives from a Class I railroad

pursuant to paragraph (2), including, for any such political subdivision or public agency responsible for emergency response or law enforcement that makes an initial request for such information, any updates received by the State emergency response commission.

"(4) prohibit any Class I railroad, employee, or agent from withholding, or causing to be withheld, the train consist information from first responders, emergency response officials, and law enforcement personnel described in paragraph (2) in the event of an incident, accident, or public health or safety emergency involving the rail transportation of hazardous materials;

"(5) establish security and confidentiality protections, including protections from the public release of proprietary information or security-sensitive information, to prevent the release to unauthorized persons any electronic train consist information or advanced notification or information provided by Class I railroads under this section; and

"(6) allow each Class I railroad to enter into a memorandum of understanding with any Class II railroad or Class III railroad that operates trains over the Class I railroad's line to incorporate the Class II railroad or Class III railroad's train consist information within the existing framework described in paragraph (1).

"(b) DEFINITIONS.—In this section:

"(1) CLASS I RAILROAD; CLASS II RAILROAD; CLASS III RAILROAD.—The terms 'Class I railroad', 'Class II railroad', and 'Class III railroad' have the meaning given those terms in section 20102 of title 49, United States Code.

"(2) CLASS 3 FLAMMABLE LIQUID.—The term 'Class 3 flammable liquid' has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

"(3) HAZARDOUS MATERIAL.—The term 'hazardous material' means a substance or material the Secretary designates as hazardous under section 5103 of title 49, United States Code.

"(4) HIGH-HAZARD FLAMMABLE TRAIN.—The term 'high-hazard flammable train' means a single train transporting 20 or more tank cars loaded with a Class 3 flammable liquid in a continuous block or a single train transporting 35 or more tank cars loaded with a Class 3 flammable liquid throughout the train consist.

"(5) TRAIN CONSIST.—The term 'train consist' includes, with regard to a specific train, the number of rail cars and the commodity transported by each rail car.

"(c) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit a Class I railroad from voluntarily entering into a memorandum of understanding with a State emergency response commission or an entity representing or including first responders, emergency response officials, and law enforcement personnel."

ALERTERS

Pub. L. 114–94, div. A, title XI, §11407, Dec. 4, 2015, 129 Stat. 1684, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall promulgate a rule to require a working alerter in the controlling locomotive of each passenger train in intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code) or commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code).

"(b) RULEMAKING.—

"(1) IN GENERAL.—The Secretary may promulgate a rule to specify the essential functionalities of a working alerter, including the manner in which the alerter can be reset.

"(2) ALTERNATE PRACTICE OR TECHNOLOGY.—The Secretary may require or allow a technology or practice in lieu of a working alerter if the Secretary determines that the technology or practice would achieve an equivalent or greater level of safety in enhancing or ensuring appropriate locomotive control."

LOCOMOTIVE CAB STUDIES

Pub. L. 110–432, div. A, title IV, §405, Oct. 16, 2008, 122 Stat. 4885, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary, through the Railroad Safety Advisory Committee if the Secretary makes such a request, shall complete a study on the safety impact of the use of personal electronic devices, including cell phones, video games, and other distracting devices, by safety-related railroad employees (as defined in section 20102(4) of title 49, United States Code), during the performance of such employees' duties. The study shall consider the prevalence of the use of such devices.

"(b) LOCOMOTIVE CAB ENVIRONMENT.—The Secretary may also study other elements of the locomotive cab environment and their effect on an employee's health and safety.

"(c) REPORT.—Not later than 6 months after the completion of any study under this section, the Secretary

shall issue a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

"(d) AUTHORITY.—Based on the conclusions of the study required under (a), the Secretary of Transportation may prohibit the use of personal electronic devices, such as cell phones, video games, or other electronic devices that may distract employees from safely performing their duties, unless those devices are being used according to railroad operating rules or for other work purposes. Based on the conclusions of other studies conducted under subsection (b), the Secretary may prescribe regulations to improve elements of the cab environment to protect an employee's health and safety."

[For definitions of "Secretary" and "railroad", as used in section 405 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

TUNNEL INFORMATION

Pub. L. 110–432, div. A, title IV, §414, Oct. 16, 2008, 122 Stat. 4889, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(7), Dec. 4, 2015, 129 Stat. 1678, provided that: "Not later than 120 days after the date of enactment of this Act [Oct. 16, 2008], each railroad carrier shall, with respect to each of its tunnels which—

"(1) are longer than 1000 feet and located under a city with a population of 400,000 or greater; or

"(2) carry 5 or more scheduled passenger trains per day, or 500 or more carloads of poison- or toxic-by-inhalation hazardous materials (as defined in sections 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations) per year,

maintain, for at least two years, historical documentation of structural inspection and maintenance activities for such tunnels, including information on the methods of ingress and egress into and out of the tunnel, the types of cargos typically transported through the tunnel, and schematics or blueprints for the tunnel, when available. Upon request, a railroad carrier shall provide periodic briefings on such information to the governments of the local jurisdiction in which the tunnel is located, including updates whenever a repair or rehabilitation project substantially alters the methods of ingress and egress. Such governments shall use appropriate means to protect and restrict the distribution of any security sensitive information (as defined in section 1520.5 of title 49, Code of Federal Regulations) provided by the railroad carrier under this section, consistent with national security interests."

[For definition of "railroad carrier", as used in section 414 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

RAILROAD BRIDGE SAFETY ASSURANCE

Pub. L. 110–432, div. A, title IV, §417, Oct. 16, 2008, 122 Stat. 4890, as amended by Pub. L. 114–94, div. A, title XI, §11405, Dec. 4, 2015, 129 Stat. 1682, provided that:

"(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall promulgate a regulation requiring owners of track carried on one or more railroad bridges to adopt a bridge safety management program to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's railroad transportation system that would result from a catastrophic bridge failure.

"(b) REQUIREMENTS.—The regulations shall, at a minimum, require each track owner to [sic]—

"(1) to develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

"(2) to ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

"(3) to maintain, and update as appropriate, a record of the safe capacity of each bridge which carries its track and, if available, maintain the original design documents of each bridge and a documentation of all repairs, modifications, and inspections of the bridge;

"(4) to develop, maintain, and enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities;

"(5) to conduct regular comprehensive inspections of each bridge, at least once every year, and maintain records of those inspections that include the date on which the inspection was performed, the precise identification of the bridge inspected, the items inspected, an accurate description of the condition of those items, and a narrative of any inspection item that is found by the inspector to be a potential problem;

"(6) to ensure that the level of detail and the inspection procedures are appropriate to the configuration of the bridge, conditions found during previous inspections, and the nature of the railroad traffic moved over the bridge, including car weights, train frequency and length, levels of passenger and hazardous materials traffic, and vulnerability of the bridge to damage;

"(7) to ensure that an engineer who is competent in the field of railroad bridge engineering—

"(A) is responsible for the development of all inspection procedures;

"(B) reviews all inspection reports; and

"(C) determines whether bridges are being inspected according to the applicable procedures and frequency, and reviews any items noted by an inspector as exceptions; and

"(8) to designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indications of potential structural problems.

"(c) USE OF BRIDGE MANAGEMENT PROGRAMS REQUIRED.—The Secretary shall instruct bridge experts to obtain copies of the most recent bridge management programs of each railroad within the expert's areas of responsibility, and require that experts use those programs when conducting bridge observations.

"(d) REVIEW OF DATA.—

"(1) IN GENERAL.—The Secretary shall establish a program to periodically review bridge inspection and maintenance data from railroad carrier bridge inspectors and Federal Railroad Administration bridge experts.

"(2) AVAILABILITY OF BRIDGE CONDITION.—

"(A) IN GENERAL.—A State or political subdivision of a State may file a request with the Secretary for a public version of a bridge inspection report generated under subsection (b)(5) for a bridge located in such State or political subdivision's jurisdiction.

"(B) PUBLIC VERSION OF REPORT.—If the Secretary determines that the request is reasonable, the Secretary shall require a railroad to submit a public version of the most recent bridge inspection report, such as a summary form, for a bridge subject to a request under subparagraph (A). The public version of a bridge inspection report shall include the date of last inspection, length of bridge, location of bridge, type of bridge, type of structure, feature crossed by bridge, and railroad contact information, along with a general statement on the condition of the bridge.

"(C) PROVISION OF REPORT.—The Secretary shall provide to a State or political subdivision of a State a public version of a bridge inspection report submitted under subparagraph (B).

"(D) TECHNICAL ASSISTANCE.—The Secretary, upon the reasonable request of State or political subdivision of a State, shall provide technical assistance to such State or political subdivision of a State to facilitate the understanding of a bridge inspection report."

[For definitions of "Secretary", "railroad", and "railroad carrier", as used in section 417 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

§20104. Emergency authority

(a) ORDERING RESTRICTIONS AND PROHIBITIONS.—(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary immediately may order restrictions and prohibitions, without regard to section 20103(e) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this section to maintain the order in effect for as long as the emergency situation exists.

(b) REVIEW OF ORDERS.—After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under section 554 of title 5. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

(c) CIVIL ACTIONS TO COMPEL ISSUANCE OF ORDERS.—An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is

alleged to exist, in which that employing carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under section 706 of title 5.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 864; Pub. L. 110–432, div. A, title III, §304, Oct. 16, 2008, 122 Stat. 4879.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20104(a)	45:432(a), (d).	Oct. 16, 1970, Pub. L. 91–458, §203, 84 Stat. 972; restated Oct. 10, 1980, Pub. L. 96–423, §3, 94 Stat. 1811.
20104(b)	45:432(b), (c).	
20104(c)	45:432(e).	

In subsection (a)(1), the words "or both" are omitted as surplus. The words "immediately may order restrictions and prohibitions . . . that may be necessary to abate the situation" are substituted for "may immediately issue an order . . . imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation" to eliminate unnecessary words.

In subsection (a)(2), the words "or a combination of conditions and practices" are added for consistency with paragraph (1). The words "(as determined by the Secretary)" are omitted as surplus. The last sentence is substituted for 45:432(d) (last sentence) for clarity.

In subsection (b), the words "the Secretary" are added for clarity.

In subsection (c), the words "issue an order" are substituted for "seek relief" for consistency in this section. The words "The action must be brought in the judicial district" are substituted for "for the judicial district" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–432 substituted "death, personal injury, or significant harm to the environment" for "death or personal injury".

§20105. State participation

(a) INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—The Secretary concerned may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued by the Secretary [1] that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary concerned an annual certification as provided in subsection (b) of this section.

(b) ANNUAL CERTIFICATION.—(1) A State authority's annual certification must include—

(A) a certification that the authority—

(i) has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued by the Secretary concerned, that applies to the equipment, facilities, rolling stock, or operations, as of the date of certification; and

(iii) is conducting the investigative and surveillance activities prescribed by the Secretary concerned under subsection (a) of this section; and

(B) a report, in the form the Secretary concerned prescribes by regulation, that includes—

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than $750 (or a higher amount prescribed by the Secretary concerned), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary concerned in enforcing railroad safety regulations prescribed and orders issued by the Secretary concerned, including the number of inspections made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary concerned requires.

(2) An annual certification applies to a safety regulation prescribed or order issued after the date of the certification only if the State authority submits an appropriate certification to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary concerned decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary concerned may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary concerned must give the authority notice and an opportunity for a hearing before taking action under this paragraph. When the Secretary concerned gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary concerned.

(c) AGREEMENT WHEN CERTIFICATION NOT RECEIVED.—(1) If the Secretary concerned does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary concerned may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary concerned as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

(2) The Secretary concerned may terminate any part of an agreement made under this subsection on finding that the authority has not provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary concerned must give the authority notice and an opportunity for a hearing before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) AGREEMENT FOR INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—In addition to providing for State participation under this section, the Secretary concerned may make an agreement with a State to provide investigative and surveillance activities related to the duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).

(e) PAYMENT.—On application by a State authority that has submitted a certification under subsections (a) and (b) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary concerned shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary concerned may pay an authority only when the authority assures the Secretary concerned that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) MONITORING.—The Secretary concerned may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).

(g) DEFINITIONS.—In this section—

(1) the term "safety" includes security; and
(2) the term "Secretary concerned" means—
(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and
(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 864; Pub. L. 107–296, title XVII, §1710(a), Nov. 25, 2002, 116 Stat. 2319.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20105(a)	45:435(a) (1st sentence related to authority for State participation).	Oct. 16, 1970, Pub. L. 91–458, §206(a) (1st sentence), (b), (f), 84 Stat. 972, 973, 974; Nov. 16, 1990, Pub. L. 101–615, §28(a)(1)–(3), (b), (c), 104 Stat. 3276, 3277.
20105(b) (1)(A)	45:435(a) (1st sentence related to contents of certification).	
20105(b) (1)(B)	45:435(b) (1st sentence).	
20105(b)(2)	45:435(f).	
20105(b)(3)	45:435(b) (2d–last sentences).	
20105(c)	45:435(c).	Oct. 16, 1970, Pub. L. 91–458, §206(c), (e), 84 Stat. 973, 974.
20105(d)	45:435(g).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §206(g); added Oct. 10, 1980, Pub. L. 96–423, §4(a), 94 Stat. 1812.
20105(e)	45:435(d).	Oct. 16, 1970, Pub. L. 91–458, §206(d), 84 Stat. 974; Oct. 10, 1980, Pub. L. 96–423, §4(b), 94 Stat. 1812.
20105(f)	45:435(e).	

In subsection (a), the first sentence is added for clarity.

In subsection (b)(1)(A)(iii), the words "as necessary for the enforcement by him of each rule, regulation, order, and standard referred to in paragraph (2) of this subsection, as interpreted by the Secretary" are omitted as surplus.

In subsection (b)(1)(B)(i) and (ii), the words "railroad carrier" are substituted for "railroad" because of the definition of "railroad carrier" in section 20102 of the revised title.

In subsection (b)(1)(B)(iii), the words "a detail of" are omitted as surplus.

In subsection (b)(3), the text of 45:435(b) (2d sentence) and the words "as he deems", "reasonable", and "with respect to such safety rules, regulations, orders, and standards" are omitted as surplus.

In subsection (c)(1), the word "enforce" is substituted for "obtain compliance with" for clarity and consistency in this section.

In subsection (e), the words "out of funds appropriated pursuant to this subchapter or otherwise made available", "reasonably", and "satisfactory" are omitted as surplus. The words "will be at least as much as the average amount expended" are substituted for "will be maintained at a level which does not fall below the average level of such expenditures" for clarity and to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, §1710(a)(2), substituted "the Secretary concerned" for "the Secretary" in second sentence.

Pub. L. 107–296, §1710(a)(1), substituted "The Secretary concerned" for "The Secretary of Transportation" in first sentence.

Subsecs. (b), (c). Pub. L. 107–296, §1710(a)(2), substituted "Secretary concerned" for "Secretary" wherever appearing.

Subsec. (d). Pub. L. 107–296, §1710(a)(2), (3), substituted "Secretary concerned" for "Secretary" and "duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)" for "Secretary's duties under chapters 203–213 of this title".

Subsec. (e). Pub. L. 107–296, §1710(a)(2), substituted "Secretary concerned" for "Secretary" wherever appearing.

Subsec. (f). Pub. L. 107–296, §1710(a)(2), (4), substituted "Secretary concerned" for "Secretary" and "chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)" for "chapter".

Subsec. (g). Pub. L. 107–296, §1710(a)(5), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

[1] So in original. Probably should be "Secretary concerned".

§20106. Preemption

(a) NATIONAL UNIFORMITY OF REGULATION.—(1) Laws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable.

(2) A State may adopt or continue in force a law, regulation, or order related to railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order—

(A) is necessary to eliminate or reduce an essentially local safety or security hazard;

(B) is not incompatible with a law, regulation, or order of the United States Government; and

(C) does not unreasonably burden interstate commerce.

(b) CLARIFICATION REGARDING STATE LAW CAUSES OF ACTION.—(1) Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party—

(A) has failed to comply with the Federal standard of care established by a regulation or order issued by the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), covering the subject matter as provided in subsection (a) of this section;

(B) has failed to comply with its own plan, rule, or standard that it created pursuant to a regulation or order issued by either of the Secretaries; or

(C) has failed to comply with a State law, regulation, or order that is not incompatible with subsection (a)(2).

(2) This subsection shall apply to all pending State law causes of action arising from events or activities occurring on or after January 18, 2002.

(c) JURISDICTION.—Nothing in this section creates a Federal cause of action on behalf of an injured party or confers Federal question jurisdiction for such State law causes of action.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 866; Pub. L. 107–296, title XVII, §1710(c), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 110–53, title XV, §1528, Aug. 3, 2007, 121 Stat. 453.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20106	45:434.	Oct. 16, 1970, Pub. L. 91–458, §205, 84 Stat. 972.

In this section, before clause (1), the words "The Congress declares that" are omitted as unnecessary. In clause (3), the word "unreasonably" is substituted for "undue" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

2007—Pub. L. 110–53 amended section generally. Prior to amendment, text of section read as follows: "Laws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order—

"(1) is necessary to eliminate or reduce an essentially local safety or security hazard;

"(2) is not incompatible with a law, regulation, or order of the United States Government; and

"(3) does not unreasonably burden interstate commerce."

2002—Pub. L. 107–296, §1710(c), in introductory provisions, in first sentence inserted "and laws, regulations, and orders related to railroad security" after "safety", in second sentence substituted "Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters)," for "Transportation", and in second and third sentences inserted "or security" after "order related to railroad safety".

Par. (1). Pub. L. 107–296, §1710(c)(2), inserted "or security" after "safety".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§20107. Inspection and investigation

(a) GENERAL.—To carry out this part, the Secretary of Transportation may take actions the Secretary considers necessary, including—

(1) conduct investigations, make reports, issue subpenas, require the production of documents, take depositions, and prescribe recordkeeping and reporting requirements; and

(2) delegate to a public entity or qualified person the inspection, examination, and testing of railroad equipment, facilities, rolling stock, operations, and persons.

(b) ENTRY AND INSPECTION.—In carrying out this part, an officer, employee, or agent of the Secretary, at reasonable times and in a reasonable way, may enter and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer, employee, or agent shall display proper credentials. During an inspection, the officer, employee, or agent is an employee of the United States Government under chapter 171 of title 28.

(c) RAILROAD RADIO COMMUNICATIONS.—

(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct, with or without making their presence known, the following activities in circumstances the Secretary finds to be reasonable:

(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is—

(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

(ii) primarily used by such railroad carriers for communications in connection with railroad operations.

(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

(C) Receiving or assisting in receiving the communication (or any information therein contained).

(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

(E) Recording the communication by any means, including writing and tape recording.

(2) ACCIDENT AND INCIDENT PREVENTION AND INVESTIGATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident and incident prevention and investigation.

(3) USE OF INFORMATION.—(A) Information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except—

(i) in a prosecution of a felony under Federal or State criminal law; or

(ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934

(47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 866; Pub. L. 110–432, div. A, title III, §306, Oct. 16, 2008, 122 Stat. 4880.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20107(a)	45:437(a) (1st sentence words before 9th and after 14th commas).	Oct. 16, 1970, Pub. L. 91–458, §208(a) (1st sentence words before 9th and after 14th commas), 84 Stat. 974, 975.
	45:437(d)(1) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1813.
20107(b)	45:437(b).	Oct. 16, 1970, Pub. L. 91–458, §208(b), 84 Stat. 975; restated Nov. 2, 1978, Pub. L. 95–574, §9, 92 Stat. 2462; Oct. 10, 1980, Pub. L. 96–423, §6(a), 94 Stat. 1813.

In subsection (a), before clause (1), the words "To carry out this part, the Secretary of Transportation may" are substituted for "In carrying out his functions under this subchapter, the Secretary is authorized to perform . . . to carry out the provisions of this subchapter" and "In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section . . . to carry out such transferred functions" to eliminate unnecessary words. In clause (2), the word "entity" is substituted for "bodies" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words "In carrying out this part" are substituted for "To carry out the Secretary's responsibilities under this subchapter and under the functions transferred by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix" to eliminate unnecessary words. The word "way" is substituted for "manner" for consistency in the revised title and with other titles of the Code. The word "examine" is omitted as being included in "inspect". The word "considered" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–432 added subsec. (c).

SAFETY INSPECTIONS IN MEXICO

Pub. L. 110–432, div. A, title IV, §416, Oct. 16, 2008, 122 Stat. 4890, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(8), Dec. 4, 2015, 129 Stat. 1678, provided that: "Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary certifies that—

"(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States;

"(2) the inspections are being performed by employees that have received training similar to the training received by similar railroad employees in the United States;

"(3) inspection records that are required to be available to the crewmembers on board the train, including air slips and blue cards, are maintained in both English and Spanish, and such records are available to the Federal Railroad Administration for review; and

"(4) the Federal Railroad Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this section."

[For definition of "railroad", as used in section 416 of Pub. L. 110–432, set out above, see section 2(a) of

Pub. L. 110–432, set out as a note under section 20102 of this title.]

§20108. Research, development, testing, and training

(a) GENERAL.—The Secretary of Transportation shall carry out, as necessary, research, development, testing, evaluation, and training for every area of railroad safety.

(b) CONTRACTS.—To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt attention).

(c) AMOUNTS FROM NON-GOVERNMENT SOURCES FOR TRAINING SAFETY EMPLOYEES.—The Secretary may request, receive, and expend amounts received from non-United States Government sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, except State rail safety inspectors participating in training under section 20105 of this title.

(d) FACILITIES.—The Secretary may erect, alter, and repair buildings and make other public improvements to carry out necessary railroad research, safety, and training activities at the Transportation Technology Center in Pueblo, Colorado.

(e) OFFSETTING COLLECTIONS.—The Secretary may collect fees or rents from facility users to offset appropriated amounts for the cost of providing facilities or research, development, testing, training, or other services, including long-term sustainment of the on-site physical plant.

(f) REVOLVING FUND.—Amounts appropriated to carry out subsection (d) and all fees and rents collected pursuant to subsection (e) shall be credited to a revolving fund and remain available until expended. The Secretary may use such fees and rents for operation, maintenance, repair, or improvement of the Transportation Technology Center.

(g) LEASES AND CONTRACTS.—Notwithstanding section 1302 of title 40, the Secretary may lease to others or enter into contracts for terms of up to 20 years, for such consideration and subject to such terms and conditions as the Secretary determines to be in the best interests of the Government of the United States, for the operation, maintenance, repair, and improvement of the Transportation Technology Center.

(h) PROPERTY AND CASUALTY LOSS INSURANCE.—The Secretary may allow its lessees and contractors to purchase property and casualty loss insurance for its assets and activities at the Transportation Technology Center to mitigate the lessee's or contractor's risk associated with operating a facility.

(i) ENERGY PROJECTS.—Notwithstanding section 1341 of title 31, the Secretary may enter into contracts or agreements, or commit to obligations in connection with third-party contracts or agreements, including contingent liability for the purchase of electric power in connection with such contracts or agreements, for terms not to exceed 20 years, to enable the use of the land at the Transportation Technology Center for projects to produce energy from renewable sources.

(j) RAIL RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.—

(1) CENTER OF EXCELLENCE.—The Secretary shall award grants to establish and maintain a center of excellence to advance research and development that improves the safety, efficiency, and reliability of passenger and freight rail transportation.

(2) ELIGIBILITY.—An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a consortium of nonprofit institutions of higher education shall be eligible to receive a grant from the center established pursuant to paragraph (1).

(3) SELECTION CRITERIA.—In awarding a grant under this subsection, the Secretary shall—

(A) give preference to applicants with strong past performance related to rail research, education, and workforce development activities;

(B) consider the extent to which the applicant would involve public and private sector passenger and freight railroad operators; and

(C) consider the regional and national impacts of the applicant's proposal.

(4) USE OF FUNDS.—Grant funds awarded pursuant to this subsection shall be used for basic

and applied research, evaluation, education, workforce development, and training efforts related to safety, project delivery, efficiency, reliability, resiliency, and sustainability of urban commuter, intercity high-speed, and freight rail transportation, to include advances in rolling stock, advanced positive train control, human factors, rail infrastructure, shared corridors, grade crossing safety, inspection technology, remote sensing, rail systems maintenance, network resiliency, operational reliability, energy efficiency, and other advanced technologies.

(5) FEDERAL SHARE.—The Federal share of a grant awarded under this subsection shall be 50 percent of the cost of establishing and operating the center of excellence and related research activities carried out by the grant recipient.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 867; Pub. L. 117–58, div. B, title II, §§22412, 22413, Nov. 15, 2021, 135 Stat. 743, 744.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20108(a)	45:431(a) (1st sentence cl. (2)).	Oct. 16, 1970, Pub. L. 91–458, §§202(a) (1st sentence cl. (2)), 208(a) (1st sentence words before 3d comma and between 9th–14th commas), 84 Stat. 971, 974.
20108(b)	45:437(a) (1st sentence words before 3d comma and between 9th–14th commas).	
	45:437(d)(1) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1813.
20108(c)	45:444(a) (last sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(a) (last sentence); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97–35, §1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101–508, §10501(b), 104 Stat. 1388–400; restated Sept. 3, 1992, Pub. L. 102–365, §12, 106 Stat. 980.

In subsection (b), the words "To carry out this part, the Secretary may" are substituted for "In carrying out his functions under this subchapter, the Secretary is authorized to perform such acts including, but not limited to . . . as he deems necessary to carry out the provisions of this subchapter" and "In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2021—Subsecs. (d) to (i). Pub. L. 117–58, §22412, added subsecs. (d) to (i).
Subsec. (j). Pub. L. 117–58, §22413, added subsec. (j).

§20109. Employee protections

(a) IN GENERAL.—A railroad carrier engaged in interstate or foreign commerce, a contractor or a subcontractor of such a railroad carrier, or an officer or employee of such a railroad carrier, may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(1) to provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of Federal grants or other public funds intended to be used for railroad safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under chapter 4 of title 5; [1]

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to railroad safety or security;

(3) to file a complaint, or directly cause to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or to testify in that proceeding;

(4) to notify, or attempt to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury or work-related illness of an employee;

(5) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board;

(6) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

(7) to accurately report hours on duty pursuant to chapter 211.

(b) HAZARDOUS SAFETY OR SECURITY CONDITIONS.—(1) A railroad carrier engaged in interstate or foreign commerce, or an officer or employee of such a railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

(A) reporting, in good faith, a hazardous safety or security condition;

(B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

(C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) exist.

(2) A refusal is protected under paragraph (1)(B) and (C) if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

(C) the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

(3) In this subsection, only paragraph (1)(A) shall apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.

(c) PROMPT MEDICAL ATTENTION.—

(1) PROHIBITION.—A railroad carrier or person covered under this section may not deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest hospital where the employee can receive safe and appropriate medical care.

(2) DISCIPLINE.—A railroad carrier or person covered under this section may not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician, except that a railroad carrier's refusal to permit an employee to return to work following medical treatment shall not be considered a violation of this section if the refusal is pursuant to Federal Railroad Administration medical standards for fitness of duty or, if there are no pertinent Federal Railroad Administration standards, a carrier's medical standards for fitness for duty. For purposes of this paragraph, the term "discipline" means to bring charges against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note of reprimand on an employee's record.

(d) ENFORCEMENT ACTION.—

(1) IN GENERAL.—An employee who alleges discharge, discipline, or other discrimination in violation of subsection (a), (b), or (c) of this section, may seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

(2) PROCEDURE.—

(A) IN GENERAL.—Any action under paragraph (1) shall be governed under the rules and procedures set forth in section 42121(b), including:

(i) BURDENS OF PROOF.—Any action brought under (d)(1) [2] shall be governed by the legal burdens of proof set forth in section 42121(b).

(ii) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the alleged violation of subsection (a), (b), or (c) of this section occurs.

(iii) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued by the Secretary of Labor pursuant to the procedures in section 42121(b), the Secretary of Labor may bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred, as set forth in 42121.[3]

(B) EXCEPTION.—Notification made under section 42121(b)(1) shall be made to the person named in the complaint and the person's employer.

(3) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have

jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(4) APPEALS.—Any person adversely affected or aggrieved by an order issued pursuant to the procedures in section 42121(b),[4] may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. The review shall conform to chapter 7 of title 5. The commencement of proceedings under this paragraph shall not, unless ordered by the court, operate as a stay of the order.

(e) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (d) shall be entitled to all relief necessary to make the employee whole.

(2) DAMAGES.—Relief in an action under subsection (d) (including an action described in subsection (d)(3)) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) any backpay, with interest; and

(C) compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(3) POSSIBLE RELIEF.—Relief in any action under subsection (d) may include punitive damages in an amount not to exceed $250,000.

(f) ELECTION OF REMEDIES.—An employee may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the railroad carrier.

(g) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(h) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(i) DISCLOSURE OF IDENTITY.—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosures shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

(j) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding railroad security problems, deficiencies, or vulnerabilities.

(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 867; Pub. L. 110–53, title XV, §1521, Aug. 3, 2007, 121 Stat. 444; Pub. L. 110–432, div. A, title IV, §419, Oct. 16, 2008, 122 Stat. 4892; Pub. L. 117–286, §4(b)(98), Dec. 27, 2022, 136 Stat. 4353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20109(a)	45:441(a).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(a)–(c)(1), (d); added Oct. 10, 1980, Pub. L. 96–423, §10, 94 Stat. 1815.
	45:441(e).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(e); added Oct. 10, 1980, Pub. L. 96–423, §10, 94 Stat. 1815; Sept. 3, 1992, Pub. L. 102–365, §5(b), 106 Stat. 975.
20109(b)	45:441(b).	
20109(c)	45:441(c)(1).	
	45:441(c)(2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(c)(2); added Oct. 10, 1980, Pub. L. 96–423, §10, 94 Stat. 1815; restated June 22, 1988, Pub. L. 100–342, §5(a), 102 Stat. 627.
20109(d)	45:441(d).	
20109(e)	45:441(e).	
	45:441(f).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(f); added June 22, 1988, Pub. L. 100–342, §5(b), 102 Stat. 627.

In subsections (a) and (b), the words "railroad carrier" are substituted for "common carrier by railroad" because of the definition of "railroad carrier" in section 20102 of the revised title.

In subsection (a)(1), the words "under or" are omitted as surplus.

In subsection (b)(1)(B), before subclause (i), the words "the hazardous condition is of such a nature that" are omitted as surplus. The word "individual" is substituted for "person" as being more appropriate. In subclause (ii), the words "resort to" are omitted as surplus.

In subsection (b)(1)(C), the words "his apprehension of" are omitted as surplus.

In subsection (b)(2), the words "by a carrier . . . transported by railroad" are substituted for "by a railroad . . . transported by such railroad" for consistency in the revised title.

Subsection (d) is substituted for 45:441(d) for clarity and to eliminate unnecessary words.

Subsection (e)(2) is substituted for 45:441(f)(2) to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (a)(1)(A). Pub. L. 117–286 substituted "chapter 4 of title 5;" for "the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452);".

2008—Subsec. (c). Pub. L. 110–432, §419(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).
Subsec. (d). Pub. L. 110–432, §419(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).
Subsec. (d)(1). Pub. L. 110–432, §419(b)(1)(A), substituted "(a), (b), or (c)" for "(a) or (b)".
Subsec. (d)(2)(A)(i). Pub. L. 110–432, §419(b)(1)(B), substituted "(d)(1)" for "(c)(1)".
Subsec. (d)(2)(A)(ii). Pub. L. 110–432, §419(b)(1)(C), substituted "(a), (b), or (c)" for "(a) or (b)".
Subsec. (e). Pub. L. 110–432, §419(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).
Subsec. (e)(1). Pub. L. 110–432, §419(b)(2)(A), substituted "(d)" for "(c)".
Subsec. (e)(2). Pub. L. 110–432, §419(b)(2)(B), (C), substituted "(d)" for "(c)" and "(d)(3)" for "(c)(3)" in introductory provisions.
Subsec. (e)(3). Pub. L. 110–432, §419(b)(2)(D), substituted "(d)" for "(c)".
Subsecs. (f) to (j). Pub. L. 110–432, §419(a)(1), redesignated subsecs. (e) to (i) as (f) to (j), respectively.
2007—Pub. L. 110–53 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to prohibition against discharge or discrimination for filing of complaints or testifying, prohibition against discharge or discrimination for refusal to work because of hazardous conditions, dispute resolution, election of remedies, and nondisclosure of identity of employee who had provided information regarding a violation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CRITICAL INCIDENT STRESS PLANS

Pub. L. 117–58, div. B, title II, §22424, Nov. 15, 2021, 135 Stat. 752, provided that: "The Secretary [of Transportation] shall amend part 272 of title 49, Code of Federal Regulations, to the extent necessary to ensure that—

"(1) the coverage of a critical incident stress plan under section 272.7 of such part includes employees of commuter railroads and intercity passenger railroads (as such terms are defined in section 272.9 of such part), including employees who directly interact with passengers; and

"(2) an assault against an employee requiring medical attention is included in the definition of critical incident under section 272.9 of such part."

Pub. L. 110–432, div. A, title IV, §410, Oct. 16, 2008, 122 Stat. 4887, provided that:

"(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, as appropriate, shall require each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.

"(b) PLAN REQUIREMENTS.—Each such plan shall include provisions for—

"(1) relieving an employee who was involved in a critical incident of his or her duties for the balance of the duty tour, following any actions necessary for the safety of persons and contemporaneous documentation of the incident;

"(2) upon the employee's request, relieving an employee who witnessed a critical incident of his or her duties following any actions necessary for the safety of persons and contemporaneous documentation of the incident; and

"(3) providing such leave from normal duties as may be necessary and reasonable to receive preventive services, treatment, or both, related to the incident.

"(c) SECRETARY TO DEFINE WHAT CONSTITUTES A CRITICAL INCIDENT.—Within 30 days after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall initiate a rulemaking proceeding to define the term 'critical incident' for the purposes of this section."

[For definitions of "railroad carrier" and "Secretary", as used in section 410 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

[1] So in original. A closing parenthesis probably should precede the semicolon.

[2] So in original. Probably should be preceded by "subsection".

[3] So in original. Probably should be preceded by "section".

[4] *So in original. The comma probably should not appear.*

§20110. Effect on employee qualifications and collective bargaining

This chapter does not—

(1) authorize the Secretary of Transportation to prescribe regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

(2) prohibit the bargaining representatives of railroad carriers and their employees from making collective bargaining agreements under the Railway Labor Act (45 U.S.C. 151 et seq.), including agreements related to qualifications of employees, that are not inconsistent with regulations prescribed and orders issued under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 868.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20110	45:431(a) (2d, last sentences).	Oct. 16, 1970, Pub. L. 91–458, §202(a) (2d, last sentences), 84 Stat. 971.

In clause (2), the words "railroad carriers" are substituted for "common carriers" for consistency in this part.

EDITORIAL NOTES

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (2), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

§20111. Enforcement by the Secretary of Transportation

(a) EXCLUSIVE AUTHORITY.—The Secretary of Transportation has exclusive authority—

(1) to impose and compromise a civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary;

(2) except as provided in section 20113 of this title, to request an injunction for a violation of a railroad safety regulation prescribed or order issued by the Secretary; and

(3) to recommend appropriate action be taken under section 20112(a) of this title.

(b) COMPLIANCE ORDERS.—The Secretary may issue an order directing compliance with this part or with a railroad safety regulation prescribed or order issued under this part.

(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—

(1) If an individual's violation of this part, chapter 51 of this title, or a regulation prescribed, or an order issued, by the Secretary under this part or chapter 51 of this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after providing notice and an opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met.

(2) This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.

(d) REGULATIONS REQUIRING REPORTING OF REMEDIAL ACTIONS.—(1) The

Secretary shall prescribe regulations to require that a railroad carrier notified by the Secretary that imposition of a civil penalty will be recommended for a failure to comply with this part, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions, shall report to the Secretary, not later than the 30th day after the end of the month in which the notification is received—

(A) actions taken to remedy the failure; or

(B) if appropriate remedial actions cannot be taken by that 30th day, an explanation of the reasons for the delay.

(2) The Secretary—

(A) not later than June 3, 1993, shall issue a notice of a regulatory proceeding for proposed regulations to carry out this subsection; and

(B) not later than September 3, 1994, shall prescribe final regulations to carry out this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 868; Pub. L. 103–440, title II, §205, Nov. 2, 1994, 108 Stat. 4620; Pub. L. 110–432, div. A, title III, §305, Oct. 16, 2008, 122 Stat. 4879.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20111(a)	45:435(a) (last sentence).	Oct. 16, 1970, Pub. L. 91–458, §206(a) (last sentence), 84 Stat. 973; Nov. 16, 1990, Pub. L. 101–615, §28(a)(4), 104 Stat. 3276.
20111(b)	45:437(a) (2d sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(a) (2d sentence); added Jan. 3, 1975, Pub. L. 93–633, §206, 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §8, 102 Stat. 628.
	45:437(d)(1) (last sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(1) (last sentence); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1814.
20111(c)	45:438(f).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §209(f); added June 22, 1988, Pub. L. 100–342, §3(a)(4), 102 Stat. 625.
20111(d)	45:437 (note).	Sept. 3, 1992, Pub. L. 102–365, §3, 106 Stat. 972.

In this section, the word "impose" is substituted for "assess" for consistency.

In subsection (b), the word "further" is omitted as surplus.

In subsection (d), the words "this part, chapter 51 or 57 of this title" are substituted for "the Federal railroad safety laws, as such term is defined in section 441(e) of this title" because 45:441(e) is not restated as a definition.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–432 amended subsec. (c) generally. Prior to amendment, text read as follows: "If an individual's violation of this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or a regulation prescribed or order issued by the Secretary

under this chapter is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met. This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis."

1994—Subsec. (c). Pub. L. 103–440 inserted "this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or" after "individual's violation of".

§20112. Enforcement by the Attorney General

(a) CIVIL ACTIONS.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in a district court of the United States—

(1) to enjoin a violation of, or to enforce, this part, except for section 20109 of this title, or a railroad safety regulation prescribed or order issued by the Secretary;

(2) to collect a civil penalty imposed or an amount agreed on in compromise under section 21301, 21302, or 21303 of this title; or

(3) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this part.

(b) VENUE.—(1) Except as provided in paragraph (2) of this subsection, a civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If an action to collect a penalty is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action to enforce a subpena issued by the Secretary or a compliance order issued under section 20111(b) of this title may be brought in the judicial district in which the defendant resides, does business, or is found.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 869; Pub. L. 110–432, div. A, title III, §309, Oct. 16, 2008, 122 Stat. 4882.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20112(a)	45:437(a) (last sentence related to authority to bring actions).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(a) (last sentence); added June 22, 1988, Pub. L. 100–342, §8, 102 Stat. 628.
	45:437(d)(2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(2); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1814.
	45:438(c) (4th sentence related to authority to bring actions).	Oct. 16, 1970, Pub. L. 91–458, §209(c) (4th sentence), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §8(a), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §3(a)(3)(A), (B), 102 Stat. 624.
	45:439(a) (related to actions by Attorney General).	Oct. 16, 1970, Pub. L. 91–458, §210(a) (related to actions by Attorney General), 84 Stat. 975; Oct. 10, 1980,

		Pub. L. 96–423, §9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101–615, §28(f), 104 Stat. 3277.
20112(b)(1)	45:438(c) (4th sentence related to venue).	
	45:439(c) (related to actions by Attorney General).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §210(c) (related to actions by Attorney General); added Oct. 10, 1980, Pub. L. 96–423, §9(b), 94 Stat. 1815.
20112(b)(2)	45:437(a) (last sentence related to venue).	

In subsection (a), before clause (1), the words "At the request of the Secretary of Transportation" are substituted for "at the request of the Secretary" in 45:439(a), and are made applicable to all of the source provisions restated in this subsection, for clarity and consistency. The words "at the request of the Secretary" in 45:439(a) are interpreted and restated to mean that the Secretary's request is to the Attorney General rather than to the district court. See H.R. Rept. No. 91–1194, 91st Cong., 2d Sess., p. 20 (1970). The words "the Attorney General may bring a civil action in a district court of the United States" are substituted for "such district court shall have jurisdiction, upon petition by the Attorney General" in 45:437(a) (last sentence), "The district courts of the United States shall have jurisdiction, upon petition by the Attorney General" in 45:437(d)(2), and "The United States district court shall . . . upon petition by the Attorney General on behalf of the United States . . . have jurisdiction" in 45:439(a) for clarity and consistency. It is not necessary to restate that the district court has jurisdiction because of 28:1331 and 1345. See also the statement of Senator Prouty in 115 Cong. Rec. 40205 (1969) explaining that similar language in section 110 of S. 1933, 91st Cong., 1st Sess. (the derivative source for 45:439) would grant the Attorney General the power to seek injunctions. Clauses (1)–(3) are substituted for the source provisions to eliminate unnecessary words. In clause (1), the words "subject to the provisions of rules 65(a) and (b) of the Federal Rules of Civil Procedure" in 45:439(a) are omitted as surplus because the Federal Rules of Civil Procedure (28 App. U.S.C.) apply in the district court unless otherwise provided. In clause (2), the words "or an amount agreed on in compromise" are added for clarity.

In subsection (b)(1), the text of 45:439(c) (words before 1st comma) is omitted because it applies only to actions brought by a State authority. See discussion of the cross-reference in the note for section 20113(c) of the revised title. The last sentence is substituted for "in which the individual resides" in 45:438(c) because of the restatement.

In subsection (b)(2), the words "compliance order issued under section 20111(b) of this title" are substituted for "order, or directive" because the latter words are interpreted as referring to "orders directing compliance" in 45:437(a) (2d sentence), restated in section 20111(b).

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–432, §309(1), inserted "this part, except for section 20109 of this title, or" after "enforce,".

Subsec. (a)(2). Pub. L. 110–432, §309(2), substituted "21301, 21302, or 21303" for "21301".

Subsec. (a)(3). Pub. L. 110–432, §309(3), (4), substituted "subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition" for "subpena" and "part." for "chapter."

§20113. Enforcement by the States

(a) INJUNCTIVE RELIEF.—If the Secretary of Transportation does not begin a civil action under section 20112 of this title to enjoin the violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 15 days after the date the Secretary receives notice of the violation and a request from a State authority participating in investigative and surveillance activities

under section 20105 of this title that the action be brought, the authority may bring a civil action in a district court of the United States to enjoin the violation. This subsection does not apply if the Secretary makes an affirmative written finding that the violation did not occur or that the action is not necessary because of other enforcement action taken by the Secretary related to the violation.

(b) IMPOSITION AND COLLECTION OF CIVIL PENALTIES.—If the Secretary does not impose the applicable civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 60 days after the date of receiving notice from a State authority participating in investigative and surveillance activities under section 20105 of this title, the authority may bring a civil action in a district court of the United States to impose and collect the penalty. This paragraph does not apply if the Secretary makes an affirmative written finding that the violation did not occur.

(c) VENUE.—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. However, a State authority may not bring an action under this section outside the State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 869.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20113(a)	45:436(b)(1) (related to authority to bring actions), (2).	Oct. 16, 1970, Pub. L. 91–458, §207(b), (c), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, §8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, §5, 94 Stat. 1812.
	45:439(a) (related to actions by States).	Oct. 16, 1970, Pub. L. 91–458, §210(a) (related to actions by States), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101–615, §28(f), 104 Stat. 3277.
20113(b)	45:436(a)(1) (related to authority to bring actions), (2).	Oct. 16, 1970, Pub. L. 91–458, §207(a), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, §8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, §5, 94 Stat. 1812; Nov. 16, 1990, Pub. L. 101–615, §28(e), 104 Stat. 3277.
20113(c)	45:436(a)(1) (related to venue), (b)(1) (related to venue), (c).	
	45:439(c) (related to actions by States).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §210(c) (related to actions by States); added Oct. 10, 1980, Pub. L. 96–423, §9(b), 94 Stat. 1815.

In subsection (a), the language about jurisdiction in 45:439(a) (related to actions by States) is omitted for the reasons explained in the revision note for section 20112(a) of the revised title.

In subsection (b), the word "impose" is substituted for "assess" for consistency. The words "the authority may bring a civil action in an appropriate district court of the United States" are substituted for "agency may apply to the United States district court" for consistency in the revised title and with other titles of the United States Code. The words "included in or made applicable to such rule, regulation, order, or standard" are omitted as surplus.

In subsection (c), the reference to "section 207(d)" in section 210(c) of the Federal Railroad Safety Act of 1970 (Public Law 91–458, 84 Stat. 971), as added by section 9(b) of the Federal Railroad Safety Authorization Act of 1980 (Public Law 96–423, 94 Stat. 1815), is assumed to have been intended as a

reference to section 207(c). The Federal Railroad Safety Authorization Act of 1980 was derived from S. 2730, which in turn was derived from H.R. 7104. See 126 Cong. Rec. 26535 (1980). Section 207(d) in an earlier version of H.R. 7104 was redesignated as section 207(c) during the legislative process and no section 207(d) was enacted. See H.R. Rept. No. 96–1025, 96th Cong., 2d Sess., pp. 14, 15 (1980).

§20114. Judicial procedures

(a) CRIMINAL CONTEMPT.—In a trial for criminal contempt for violating an injunction or restraining order issued under this chapter, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(b) SUBPENAS FOR WITNESSES.—A subpena for a witness required to attend a district court of the United States in an action brought under this chapter may be served in any judicial district.

(c) REVIEW OF AGENCY ACTION.—Except as provided in section 20104(c) of this title, a proceeding to review a final action of the Secretary of Transportation under this part or, as applicable to railroad safety, chapter 51 or 57 of this title shall be brought in the appropriate court of appeals as provided in chapter 158 of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 870.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20114(a)	45:439(b).	Oct. 16, 1970, Pub. L. 91–458, §§209(d), 210(b), 84 Stat. 975, 976.
20114(b)	45:438(d).	
20114(c)	45:431(f).	Oct. 16, 1970, Pub. L. 91–458, §202(f), 84 Stat. 972; restated Sept. 3, 1992, Pub. L. 102–365, §5(a)(1), 106 Stat. 975.

In subsection (a), the words "the defendant may demand a jury trial" are substituted for "trial shall be by the court, or, upon demand of the accused, by a jury" to eliminate unnecessary words and for consistency in the revised title.

In subsection (b), the words "may be served in any judicial district" are substituted for "may run into any other district" for clarity.

In subsection (c), the words "a final action of the Secretary" are substituted for "Any final agency action taken by the Secretary" to eliminate unnecessary words. The words "this part or, as applicable to railroad safety, chapter 51 or 57 of this title" are substituted for "this subchapter or under any of the other Federal railroad safety laws, as defined in section 441(e) of this title" because of the restatement. The words "is subject to judicial review as provided in chapter 7 of title 5" are omitted as unnecessary because 5:ch. 7 applies unless otherwise stated. The words "by and in the manner prescribed" are omitted as surplus.

§20115. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe by regulation a schedule of fees for railroad carriers subject to this chapter. The fees—

(1) shall cover the costs of carrying out this chapter (except section 20108(a));

(2) shall be imposed fairly on the railroad carriers, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors; and

(3) may not be based on that part of industry revenues attributable to a railroad carrier or class of railroad carriers.

(b) COLLECTION PROCEDURES.—The Secretary shall prescribe procedures to collect the fees. The Secretary may use the services of a department, agency, or instrumentality of the United States Government or of a State or local authority to collect the fees, and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(c) COLLECTION, DEPOSIT, AND USE.—(1) The Secretary shall impose and collect fees under this section for each fiscal year before the end of the fiscal year.

(2) Fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts. The fees may be used, to the extent provided in advance in an appropriation law, only to carry out this chapter.

(3) Fees prescribed under this section shall be imposed in an amount sufficient to pay for the costs of activities under this chapter. However, the total fees received for a fiscal year may not be more than 105 percent of the total amount of the appropriations for the fiscal year for activities to be financed by the fees.

(d) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year in which fees are collected under this section, the Secretary shall report to Congress on—

(A) the amount of fees collected during that fiscal year;

(B) the impact of the fees on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

(C) the total cost of Government safety activities for each other competing mode of transportation, including any part of that total cost defrayed by Government user fees.

(2) Not later than 90 days after submitting a report for a fiscal year, the Secretary shall submit to Congress recommendations for corrective legislation if the report includes a finding that—

(A) there has been an impact from the fees on the financial health of the railroad industry or its competitive position relative to each competing mode of transportation; or

(B) there is a significant difference in the burden of Government user fees on the railroad industry and other competing modes of transportation.

(e) EXPIRATION.—This section expires on September 30, 1995.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 870.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20115(a)	45:447(a)(1), (3).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §216; added Nov. 5, 1990, Pub. L. 101–508, §10501(a), 104 Stat. 1388–399.
20115(b)	45:447(a)(2).	
20115(c)	45:447(b)–(d).	
20115(d)	45:447(e).	
20115(e)	45:447(f).	

In subsection (a), before clause (1), the words "after notice and comment" are omitted as unnecessary because of 5:553.

In subsection (c), the words "beginning on March 1, 1991" are omitted as obsolete.

§20116. Rulemaking process

No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless—

(1) the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule or order; or

(2) the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.

(Added Pub. L. 110–432, div. A, title I, §107(a), Oct. 16, 2008, 122 Stat. 4859; amended Pub. L. 114–94, div. A, title XI, §11316(c), Dec. 4, 2015, 129 Stat. 1676.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 20116, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 871; amended Pub. L. 103–440, title II, §206(a), Nov. 2, 1994, 108 Stat. 4620, related to biennial safety reports prior to repeal by Pub. L. 104–66, title I, §1121(g)(1), Dec. 21, 1995, 109 Stat. 724.

AMENDMENTS

2015—Pub. L. 114–94 substituted "unless—" for "unless", inserted par. (1) designation before "the date", substituted "order; or" for "order, or" in par. (1), inserted par. (2) designation before "the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.", and realigned margins.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§20117. Authorization of appropriations

(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary—

(A) $225,000,000 for fiscal year 2009;
(B) $245,000,000 for fiscal year 2010;
(C) $266,000,000 for fiscal year 2011;
(D) $289,000,000 for fiscal year 2012; and
(E) $293,000,000 for fiscal year 2013.

(2) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase Gage Restraint Measurement System vehicles and track geometry vehicles or other comparable technology as needed to assess track safety consistent with the results of the track inspection study required by section 403 of the Rail Safety Improvement Act of 2008.

(3) There are authorized to be appropriated to the Secretary $18,000,000 for the period encompassing fiscal years 2009 through 2013 to design, develop, and construct the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado. The facility shall be used to test and evaluate the vulnerabilities of above-ground and underground rail tunnels to prevent accidents and incidents in such tunnels, to mitigate and remediate the consequences of any such accidents or incidents, and to provide a realistic scenario for training emergency responders.

(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2009 through 2013 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.

(b) GRADE CROSSING SAFETY.—Not more than $1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, except demonstration projects under section

20134(c) of this title. Amounts appropriated under this subsection remain available until expended.

(c) RESEARCH AND DEVELOPMENT, AUTOMATED TRACK INSPECTION, AND STATE PARTICIPATION GRANTS.—Amounts appropriated under this section for research and development, automated track inspection, and grants under section 20105(e) of this title remain available until expended.

(d) MINIMUM AVAILABLE FOR CERTAIN PURPOSES.—At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety research, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development $300,000 for fiscal year 1995, $500,000 for fiscal year 1996, and $750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 872; Pub. L. 103–440, title II, §§202, 218, Nov. 2, 1994, 108 Stat. 4619, 4625; Pub. L. 110–432, div. A, §3, Oct. 16, 2008, 122 Stat. 4850.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20117(a)(1)	45:444(a) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(a) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97–35, §1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101–508, §10501(b), 104 Stat. 1388–400; restated Sept. 3, 1992, Pub. L. 102–365, §12, 106 Stat. 980.
20117(a)(2)	45:435(h).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §206(h); Nov. 16, 1990, Pub. L. 101–615, §28(d), 104 Stat. 3277.
20117(b)	45:445(c).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §215(c); added June 22, 1988, Pub. L. 100–342, §20, 102 Stat. 638.
20117(c)	45:444(b).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(b); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624.
20117(d)	45:442.	Nov. 2, 1978, Pub. L. 95–574, §3, 92 Stat. 2459.

In subsection (a), references to fiscal years prior to 1993 are omitted as obsolete.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 403 of the Rail Safety Improvement Act of 2008, referred to in subsec. (a)(2), is section 403 of Pub. L. 110–432, which is set out as a note under section 20142 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–432 amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized appropriations for fiscal years 1993 through 1998.

1994—Subsec. (a)(1)(C) to (F). Pub. L. 103–440, §202, added subpars. (C) to (F).

Subsec. (e). Pub. L. 103–440, §218, added subsec. (e).

§20118. Prohibition on public disclosure of railroad safety analysis records

(a) IN GENERAL.—Except as necessary for the Secretary of Transportation or another Federal agency to enforce or carry out any provision of Federal law, any part of any record (including, but not limited to, a railroad carrier's analysis of its safety risks and its statement of the mitigation measures it has identified with which to address those risks) that the Secretary has obtained pursuant to a provision of, or regulation or order under, this chapter related to the establishment, implementation, or modification of a railroad safety risk reduction program or pilot program is exempt from the requirements of section 552 of title 5 if the record is—

(1) supplied to the Secretary pursuant to that safety risk reduction program or pilot program; or

(2) made available for inspection and copying by an officer, employee, or agent of the Secretary pursuant to that safety risk reduction program or pilot program.

(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary may disclose any part of any record comprised of facts otherwise available to the public if, in the Secretary's sole discretion, the Secretary determines that disclosure would be consistent with the confidentiality needed for that safety risk reduction program or pilot program.

(c) DISCRETIONARY PROHIBITION OF DISCLOSURE.—The Secretary may prohibit the public disclosure of risk analyses or risk mitigation analyses that the Secretary has obtained under other provisions of, or regulations or orders under, this chapter if the Secretary determines that the prohibition of public disclosure is necessary to promote railroad safety.

(Added Pub. L. 110–432, div. A, title I, §109(a), Oct. 16, 2008, 122 Stat. 4866.)

§20119. Study on use of certain reports and surveys

(a) STUDY.—The Federal Railroad Administration shall complete a study to evaluate whether it is in the public interest, including public safety and the legal rights of persons injured in railroad accidents, to withhold from discovery or admission into evidence in a Federal or State court proceeding for damages involving personal injury or wrongful death against a carrier any report, survey, schedule, list, or data compiled or collected for the purpose of evaluating, planning, or implementing a railroad safety risk reduction program required under this chapter, including a railroad carrier's analysis of its safety risks and its statement of the mitigation measures with which it will address those risks. In conducting this study, the Secretary shall solicit input from the railroads, railroad non-profit employee labor organizations, railroad accident victims and their families, and the general public.

(b) AUTHORITY.—Following completion of the study required under subsection (a), the Secretary, if in the public interest, including public safety and the legal rights of persons injured in railroad accidents, may prescribe a rule subject to notice and comment to address the results of the study. Any such rule prescribed pursuant to this subsection shall not become effective until 1 year after its adoption.

(Added Pub. L. 110–432, div. A, title I, §109(a), Oct. 16, 2008, 122 Stat. 4867.)

§20120. Enforcement report

(a) [1] IN GENERAL.—Beginning not later than December 31, 2009, the Secretary of Transportation shall make available to the public and publish on its public Web site an annual report that—

(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, accident and incident reporting, and hazardous materials;

(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

(A) the number of civil penalties assessed;

(B) the initial amount of civil penalties assessed;

(C) the number of civil penalty cases settled;

(D) the final amount of civil penalties assessed;

(E) the difference between the initial and final amounts of civil penalties assessed;

(F) the number of administrative hearings requested and completed related to hazardous materials transportation law violations or enforcement actions against individuals;

(G) the number of cases referred to the Attorney General for civil or criminal prosecution; and

(H) the number and subject matter of all compliance orders, emergency orders, or precursor agreements;

(3) analyzes the effect of the number of inspections conducted and enforcement actions taken on the number and rate of reported accidents and incidents and railroad safety;

(4) provide [2] the information required by paragraphs (2) and (3)—

(A) for each Class I railroad individually; and

(B) in the aggregate for—

(i) Class II railroads;

(ii) Class III railroads;

(iii) hazardous materials shippers; and

(iv) individuals;

(5) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—

(A) the Locomotive Engineer Review Board;

(B) an administrative hearing officer or administrative law judge; or

(C) the Administrator of the Federal Railroad Administration;

(6) provides an explanation regarding any changes in the Secretary's or the Federal Railroad Administration's enforcement programs or policies that may substantially affect the information reported; and

(7) includes any additional information that the Secretary determines is useful to improve the transparency of its enforcement program.

(Added Pub. L. 110–432, div. A, title III, §303(a), Oct. 16, 2008, 122 Stat. 4878; amended Pub. L. 114–94, div. A, title XI, §11316(d), Dec. 4, 2015, 129 Stat. 1676.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, §11316(d)(1), substituted "Web site" for "website" in introductory provisions.

Subsec. (a)(1). Pub. L. 114–94, §11316(d)(2), substituted "accident and incident reporting" for "accident

and incidence reporting".

Subsec. (a)(2)(G). Pub. L. 114–94, §11316(d)(3), inserted "and" at end.

Subsec. (a)(5)(B). Pub. L. 114–94, §11316(d)(4), substituted "administrative hearing officer or administrative law judge" for "Administrative Hearing Officer or Administrative Law Judge".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

[1] *So in original. No subsec. (b) has been enacted.*

[2] *So in original. Probably should be "provides".*

§20121. Repair and replacement of damaged track inspection equipment

The Secretary of Transportation may receive and expend cash, or receive and utilize spare parts and similar items, from non-United States Government sources to repair damages to or replace United States Government-owned automated track inspection cars and equipment as a result of third-party liability for such damages, and any amounts collected under this section shall be credited directly to the Railroad Safety and Operations account of the Federal Railroad Administration and shall remain available until expended for the repair, operation, and maintenance of automated track inspection cars and equipment in connection with the automated track inspection program.

(Added Pub. L. 114–94, div. A, title XI, §11413(a), Dec. 4, 2015, 129 Stat. 1688.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

§20131. Restricted access to rolling equipment

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 872.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20131	45:431(g) (1st sentence cl. (1)).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat.

		971, §202(g) (1st sentence cl. (1)); added July 8, 1976, Pub. L. 94–348, §5(b), 90 Stat. 820.

The words "within 180 days after July 8, 1976" are omitted as expired.

§20132. Visible markers for rear cars

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) PREEMPTION.—Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20132(a)	45:431(g) (1st sentence cls. (2), (3)).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(g) (1st sentence cls. (2), (3), last sentence); added July 8, 1976, Pub. L. 94–348, §5(b), 90 Stat. 820.
20132(b)	45:431(g) (last sentence).	

In subsection (a), before clause (1), the words "within 180 days after July 8, 1976" are omitted as expired.

§20133. Passenger cars

(a) MINIMUM STANDARDS.—The Secretary of Transportation shall prescribe regulations establishing minimum standards for the safety of cars used by railroad carriers to transport passengers. Before prescribing such regulations, the Secretary shall consider—

(1) the crashworthiness of the cars;

(2) interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety;

(3) maintenance and inspection of the cars;

(4) emergency response procedures and equipment; and

(5) any operating rules and conditions that directly affect safety not otherwise governed by regulations.

The Secretary may make applicable some or all of the standards established under this subsection to cars existing at the time the regulations are prescribed, as well as to new cars, and the Secretary shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

(b) INITIAL AND FINAL REGULATIONS.—(1) The Secretary shall prescribe initial regulations under subsection (a) within 3 years after November 2, 1994. The initial regulations may exempt

equipment used by tourist, historic, scenic, and excursion railroad carriers to transport passengers.

(2) The Secretary shall prescribe final regulations under subsection (a) within 5 years after November 2, 1994.

(c) PERSONNEL.—The Secretary may establish within the Department of Transportation 2 additional full-time equivalent positions beyond the number permitted under existing law to assist with the drafting, prescribing, and implementation of regulations under this section.

(d) CONSULTATION.—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to chapter 10 of title 5, but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 103–440, title II, §215(a), Nov. 2, 1994, 108 Stat. 4623; Pub. L. 104–287, §5(47), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 117–286, §4(a)(306), Dec. 27, 2022, 136 Stat. 4339.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20133(a)	45:431(h)(1)(A) (1st, last sentences), (B), (4).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(h); added Oct. 10, 1980, Pub. L. 96–423, §14, 94 Stat. 1817; Jan. 14, 1983, Pub. L. 97–468, §702(a), 96 Stat. 2579.
20133(b)	45:431(h)(1)(A) (2d, 3d sentences), (2).	
20133(c)	45:431(h)(3).	

In subsection (a), the words "within one year after January 14, 1983" and "initial" are omitted as obsolete. The text of 45:431(h)(1)(B) is omitted as executed. The words "after a hearing in accordance with subsection (b) of this section" are omitted as surplus because of section 20103(e) of the revised title.

In subsections (b) and (c), the word "subsequent" is omitted as surplus.

In subsection (c), the word "Amtrak" is substituted for "National Railroad Passenger Corporation" for consistency in this subtitle. The word "regulatory" is substituted for "rulemaking" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–286 substituted "chapter 10 of title 5," for "the Federal Advisory Committee Act (5 U.S.C. App.),".

1996—Subsec. (b)(1). Pub. L. 104–287, §5(47)(A), substituted "November 2, 1994" for "the date of enactment of the Federal Railroad Safety Authorization Act of 1994".

Subsec. (b)(2). Pub. L. 104–287, §5(47)(B), substituted "November 2, 1994" for "such date of enactment".

1994—Pub. L. 103–440 amended section generally, substituting present provisions for provisions requiring the Secretary to take administrative action to ensure that the construction, operation, and maintenance of passenger rail equipment maximize the safety of passengers, and providing for areas of consideration and concentration, as well as consultation with Amtrak.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EMERGENCY LIGHTING

Pub. L. 117–58, div. B, title II, §22406, Nov. 15, 2021, 135 Stat. 738, provided that: "Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall initiate a rulemaking to require that all rail carriers providing intercity passenger rail transportation or commuter rail

passenger transportation (as such terms are defined in section 24102 of title 49, United States Code), develop and implement periodic inspection plans to ensure that passenger equipment offered for revenue service complies with the requirements under part 238 of title 49, Code of Federal Regulations, including ensuring that, in the event of a loss of power, there is adequate emergency lighting available to allow passengers, crew members, and first responders—

"(1) to see and orient themselves;

"(2) to identify obstacles;

"(3) to safely move throughout the rail car; and

"(4) to evacuate safely."

PASSENGER RAIL VEHICLE OCCUPANT PROTECTION SYSTEMS

Pub. L. 117–58, div. B, title II, §22420, Nov. 15, 2021, 135 Stat. 749, provided that:

"(a) STUDY.—The Administrator of the Federal Railroad Administration shall conduct a study of the potential installation and use in new passenger rail rolling stock of passenger rail vehicle occupant protection systems that could materially improve passenger safety.

"(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Administrator shall consider minimizing the risk of secondary collisions, including estimating the costs and benefits of the new requirements, through the use of—

"(1) occupant restraint systems;

"(2) air bags;

"(3) emergency window retention systems; and

"(4) interior designs, including seats, baggage restraints, and table configurations and attachments.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Administrator shall—

"(1) submit a report summarizing the findings of the study conducted pursuant to subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(2) publish such report on the website of the Federal Railroad Administration.

"(d) RULEMAKING.—Following the completion of the study required under subsection (a), and after considering the costs and benefits of the proposed protection systems, the Administrator may promulgate a rule that establishes standards for the use of occupant protection systems in new passenger rail rolling stock."

§20134. Grade crossings and railroad rights of way

(a) GENERAL.—To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction. The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.

(b) SIGNAL SYSTEMS AND OTHER DEVICES.—Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c) DEMONSTRATION PROJECTS.—(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the

demonstration projects to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title II, §208(c), Oct. 16, 2008, 122 Stat. 4876.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20134(a)	45:433(b).	Oct. 16, 1970, Pub. L. 91–458, §204(b), 84 Stat. 972.
20134(b)	45:431(q).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §§202(q), 215(a), (b); added June 22, 1988, Pub. L. 100–342, §§20, 23, 102 Stat. 638, 639; Sept. 3, 1992, Pub. L. 102–365, §2(4), 106 Stat. 972.
20134(c)	45:445(a), (b).	

In subsection (a), the words "In addition" are omitted as surplus. The word "maintain" is substituted for "undertake" for clarity because the effort has begun. The words "the objective of" are omitted as surplus. The words "To carry out this section, the Secretary may use" are added for clarity.

In subsection (b), the words "Not later than June 22, 1989" are substituted for "within one year after June 22, 1988" for clarity.

In subsection (c)(1), before clause (A), and (2), the word "Secretary" is substituted for "Federal Railroad Administration" for clarity and consistency in the revised title. In this restatement, the Secretary of Transportation carries out all laws. However, this subsection is based on source provisions that provide that the Federal Railroad Administration carries out the subsection. A cross-reference to this subsection has been included in 49:103 to preserve duties and powers under this subsection to the Administrator of the Federal Railroad Administration.

In subsection (c)(1), before clause (A), the words "and incidents" are added for consistency in this part.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–432 inserted at end "The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority."

1996—Subsec. (c)(2). Pub. L. 104–287 substituted "Committee on Transportation and Infrastructure" for "Committee on Energy and Commerce".

STATUTORY NOTES AND RELATED SUBSIDIARIES

PEDESTRIAN CROSSING SAFETY

Pub. L. 110–432, div. A, title II, §201, Oct. 16, 2008, 122 Stat. 4868, provided that: "Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall provide guidance to railroads on strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including—

"(1) providing audible warning of approaching trains to the pedestrians at railroad passenger stations;

"(2) using signs, signals, or other visual devices to warn pedestrians of approaching trains;

"(3) installing infrastructure at pedestrian crossings to improve the safety of pedestrians crossing railroad tracks;

"(4) installing fences to prohibit access to railroad tracks; and

"(5) other strategies or methods as determined by the Secretary."

[For definitions of "crossing", "Secretary", and "railroad", as used in section 201 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

§20135. Licensing or certification of locomotive operators

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) PROGRAM REQUIREMENTS.—The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier's operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Secretary, as the Secretary requires.

(c) WAIVERS.—(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) OPPORTUNITY FOR HEARING.—An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this

section shall be entitled to a hearing under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) OPPORTUNITY TO EXAMINE AND COMMENT ON INFORMATION.—The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 874.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20135(a)	45:431(i)(1).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(i); added June 22, 1988, Pub. L. 100–342, §§4(a), 7(b), 102 Stat. 625, 628; Sept. 3, 1992, Pub. L. 102–365, §2(1), 106 Stat. 972.
20135(b)	45:431(i)(2).	
20135(c)(1)	45:431(i)(4).	
20135(c)(2)	45:431(i)(6).	
20135(d)	45:431(i)(5).	
20135(e)	45:431(i)(3).	

In subsection (a), the words "within 12 months after June 22, 1988" are omitted as executed. The words "including any locomotive engineer" are omitted as surplus. The words "after one year after" are substituted for "after the expiration of 12 months following" to eliminate unnecessary words.

In subsection (b)(5), the word "requirements" is substituted for "terms" for consistency in this section.

In subsection (c)(1), the words "In establishing the program under this subsection" are omitted as surplus.

§20136. Automatic train control and related systems

The Secretary of Transportation shall prescribe regulations and issue orders to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this section shall be maintained in the same way and place as the daily inspection report for the locomotive.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 875; Pub. L. 103–429, §6(19), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20136	45:431(j).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(j); added June 22, 1988, Pub. L. 100–342, §9, 102 Stat. 628.

The words "Within 90 days after June 22, 1988" are omitted as expired.

This amends 49:20136(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 875).

EDITORIAL NOTES

AMENDMENTS

1994—Par. (2). Pub. L. 103–429 substituted "section" for "subsection".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§20137. Event recorders

(a) DEFINITION.—In this section, "event recorder" means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary of Transportation considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) REGULATIONS AND ORDERS.—Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 875.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20137	45:431(m).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(m); added June 22, 1988, Pub. L. 100–342, §10, 102 Stat. 629.

In subsection (b), the words "Not later than December 22, 1989" are substituted for "within 18 months after June 22, 1988" for clarity. The words "may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued" are substituted for "may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past 18 months after such rules, regulations, orders, and standards are issued" to eliminate unnecessary words.

§20138. Tampering with safety and operational monitoring devices

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b) PENALTIES.—(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 21301 of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 21301 of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20135 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 876.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20138	45:431(*o*).	Oct 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(*o*); added June 22, 1988, Pub. L. 100–342, §21, 102 Stat. 638; Sept. 3, 1992, Pub. L. 102–365, §2(3), 106 Stat. 972.

In subsection (a), the words "within 90 days after June 22, 1988" are omitted as expired.
In subsection (b), the words "by another person" are omitted as surplus.

§20139. Maintenance-of-way operations on railroad bridges

Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders for the safety of maintenance-of-way employees on railroad bridges. The Secretary at least shall provide in those regulations standards for bridge safety equipment, including nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 876.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20139	45:431(n).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(n); added June 22, 1988, Pub. L. 100–342, §19(a), 102 Stat. 637; Sept. 3, 1992, Pub. L. 102–365, §2(2), 106 Stat. 972.

The words "Not later than June 22, 1989" are substituted for "within one year after June 22, 1988" for clarity.

§20140. Alcohol and controlled substances testing

(a) DEFINITION.—In this section, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) GENERAL.—(1) In the interest of safety, the Secretary of Transportation shall prescribe regulations and issue orders, not later than October 28, 1992, related to alcohol and controlled substances use in railroad operations. The regulations shall establish a program requiring—

(A) a railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as

decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation; the regulations shall permit such railroad carriers to conduct preemployment testing of such employees for the use of alcohol; and

(B) when the Secretary considers it appropriate, disqualification for an established period of time or dismissal of any employee found—

(i) to have used or been impaired by alcohol when on duty; or

(ii) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or a regulation or order under this chapter.

(2) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations and issue orders requiring railroad carriers to conduct periodic recurring testing of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar

circumstances.

(d) REHABILITATION.—The Secretary of Transportation shall prescribe regulations or issue orders establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) in need of assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. Each railroad carrier is encouraged to make such a program available to all of its employees in addition to employees responsible for safety-sensitive functions. This subsection does not prevent a railroad carrier from establishing a program under this subsection in cooperation with another railroad carrier.

(e) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS AND REGULATIONS.—In carrying out this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(f) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed or order issued before October 28, 1991, governing the use of alcohol or a controlled substance in railroad operations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 876; Pub. L. 104–59, title III, §342(b), Nov. 28, 1995, 109 Stat. 609.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20140(a)	45:431(r)(5).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(r); added Oct. 28, 1991, Pub. L. 102–143, §4, 105 Stat. 957.
20140(b)	45:431(r)(1) (1st–3d sentences).	
20140(c)	45:431(r)(2).	
20140(d)	45:431(r)(3).	
20140(e)	45:431(r)(4).	
20140(f)	45:431(r)(1) (last sentence).	

In subsection (b)(1), before clause (A), the words "controlled substances" are substituted for "drug" for consistency in this section. In clauses (B) and (C), the word "found" is substituted for "determined" for consistency in the revised title.

In subsection (c)(3), the words "of any employee" are omitted as surplus.

In subsection (c)(4), the words "by any employee" are omitted as surplus.

In subsection (c)(5), the word "tested" is substituted for "assayed" for consistency. The words "2d confirmation test" are substituted for "independent test" for clarity and consistency.

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (b)(1)(A). Pub. L. 104–59 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "a railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation; and".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTROLLED SUBSTANCES TESTING FOR MECHANICAL EMPLOYEES

Pub. L. 117–58, div. B, title II, §22427, Nov. 15, 2021, 135 Stat. 756, provided that: "Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall amend the regulations under part 219 of title 49, Code of Federal Regulations, to require all mechanical employees of railroads to be subject to all of the breath or body fluid testing set forth in subpart C, D, and E of such part, including random testing, reasonable suspicion testing, reasonable cause testing, pre-employment testing, return-to-duty testing, and follow-up testing."

ALCOHOL AND CONTROLLED SUBSTANCE TESTING OF MECHANICAL EMPLOYEES

Pub. L. 115–271, title VIII, §8102, Oct. 24, 2018, 132 Stat. 4104, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Oct. 24, 2018], the Secretary of Transportation shall publish a rule in the Federal Register revising the regulations promulgated under section 20140 of title 49, United States Code, to cover all employees of railroad carriers who perform mechanical activities.

"(b) DEFINITION OF MECHANICAL ACTIVITIES.—For the purposes of the rule under subsection (a), the Secretary shall define the term 'mechanical activities' by regulation."

ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES

Pub. L. 110–432, div. A, title IV, §412, Oct. 16, 2008, 122 Stat. 4889, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(6), Dec. 4, 2015, 129 Stat. 1678, provided that: "Not later than 2 years following the date of enactment of this Act [Oct. 16, 2008], the Secretary shall complete a rulemaking proceeding to revise the regulations prescribed under section 20140 of title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities."

[For definition of "railroad carrier", as used in section 412 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]'

§20141. Power brake safety

(a) REVIEW AND REVISION OF EXISTING REGULATIONS.—The Secretary of Transportation shall review existing regulations on railroad power brakes and, not later than December 31, 1993, revise the regulations based on safety information presented during the review. Where applicable, the Secretary shall prescribe regulations that establish standards on dynamic braking equipment.

(b) 2-WAY END-OF-TRAIN DEVICES.—(1) The Secretary shall require 2-way end-of-train devices (or devices able to perform the same function) on road trains, except locals, road switchers, or work trains, to enable the initiation of emergency braking from the rear of a train. The Secretary shall prescribe regulations as soon as possible, but not later than December 31, 1993, requiring the 2-way end-of-train devices. The regulations at least shall—

(A) establish standards for the devices based on performance;

(B) prohibit a railroad carrier, on or after the date that is one year after the regulations are prescribed, from acquiring any end-of-train device for use on trains that is not a 2-way device meeting the standards established under clause (A) of this paragraph;

(C) require that the trains be equipped with 2-way end-of-train devices meeting those standards not later than 4 years after the regulations are prescribed; and

(D) provide that any 2-way end-of-train device acquired for use on trains before the regulations are prescribed shall be deemed to meet the standards.

(2) The Secretary may consider petitions to amend the regulations prescribed under paragraph (1) of this subsection to allow the use of alternative technologies that meet the same basic performance requirements established by the regulations.

(3) In developing the regulations required by paragraph (1) of this subsection, the Secretary shall consider information presented under subsection (a) of this section.

(c) EXCLUSIONS.—The Secretary may exclude from regulations prescribed under subsections (a) and (b) of this section any category of trains or rail operations if the Secretary decides that the exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for the exclusion. The Secretary at least shall exclude from the regulations prescribed under subsection (b)—

(1) trains that have manned cabooses;

(2) passenger trains with emergency brakes;

(3) trains that operate only on track that is not part of the general railroad system;

(4) trains that do not exceed 30 miles an hour and do not operate on heavy grades, except for any categories of trains specifically designated by the Secretary; and

(5) trains that operate in a push mode.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 878.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20141(a)	45:431(r)(1), (2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(r); added Sept. 3, 1992, Pub. L. 102–365, §7, 106 Stat. 976.
20141(b)	45:431(r)(3).	
20141(c)	45:431(r)(4).	

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY AND TESTING OF ELECTRONICALLY CONTROLLED PNEUMATIC BRAKES

Pub. L. 114–94, div. A, title VII, §7311, Dec. 4, 2015, 129 Stat. 1601, provided that:

"(a) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

"(1) IN GENERAL.—The Comptroller General of the United States shall conduct an independent evaluation of ECP brake systems, pilot program data, and the Department [of Transportation]'s research and analysis on the costs, benefits, and effects of ECP brake systems.

"(2) STUDY ELEMENTS.—In completing the independent evaluation under paragraph (1), the Comptroller General shall examine the following issues related to ECP brake systems:

"(A) Data and modeling results on safety benefits relative to conventional brakes and to other braking technologies or systems, such as distributed power and 2-way end-of-train devices.

"(B) Data and modeling results on business benefits, including the effects of dynamic braking.

"(C) Data on costs, including up-front capital costs and on-going maintenance costs.

"(D) Analysis of potential operational benefits and challenges, including the effects of potential locomotive and car segregation, technical reliability issues, and network disruptions.

"(E) Analysis of potential implementation challenges, including installation time, positive train control integration complexities, component availability issues, and tank car shop capabilities.

"(F) Analysis of international experiences with the use of advanced braking technologies.

"(3) REPORT.—Not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the independent evaluation under paragraph (1).

"(b) EMERGENCY BRAKING APPLICATION TESTING.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall enter into an agreement with the National Academy of Sciences to—

"(A) complete testing of ECP brake systems during emergency braking application, including more than 1 scenario involving the uncoupling of a train with 70 or more DOT–117 specification or DOT–117R specification tank cars; and

"(B) transmit, not later than 18 months after the date of enactment of this Act, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the testing.

"(2) INDEPENDENT EXPERTS.—In completing the testing under paragraph (1)(A), the National Academy of Sciences may contract with 1 or more engineering or rail experts, as appropriate, that—

"(A) are not railroad carriers, entities funded by such carriers, or entities directly impacted by the final rule issued on May 8, 2015, entitled "Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains" (80 Fed. Reg. 26643); and

"(B) have relevant experience in conducting railroad safety technology tests or similar crash tests.

"(3) TESTING FRAMEWORK.—In completing the testing under paragraph (1), the National Academy of Sciences and each contractor described in paragraph (2) shall ensure that the testing objectively, accurately, and reliably measures the performance of ECP brake systems relative to other braking technologies or systems, such as distributed power and 2-way end-of-train devices, including differences in—

"(A) the number of cars derailed;

"(B) the number of cars punctured;

"(C) the measures of in-train forces; and

"(D) the stopping distance.

"(4) FUNDING.—The Secretary shall provide funding, as part of the agreement under paragraph (1), to the National Academy of Sciences for the testing required under this section—

"(A) using sums made available to carry out sections 20108 and 5118 of title 49, United States Code; and

"(B) to the extent funding under subparagraph (A) is insufficient or unavailable to fund the testing required under this section, using such sums as are necessary from the amounts appropriated to the Secretary, the Federal Railroad Administration, or the Pipeline and Hazardous Materials Safety Administration, or a combination thereof.

"(5) EQUIPMENT.—

"(A) RECEIPT.—The National Academy of Sciences and each contractor described in paragraph (2) may receive or use rolling stock, track, and other equipment or infrastructure from a railroad carrier or other private entity for the purposes of conducting the testing required under this section.

"(B) CONTRACTED USE.—Notwithstanding paragraph (2)(A), to facilitate testing, the National Academy of Sciences and each contractor may contract with a railroad carrier or any other private entity for the use of such carrier or entity's rolling stock, track, or other equipment and receive technical assistance on their use.

"(c) EVIDENCE-BASED APPROACH.—

"(1) ANALYSIS.—The Secretary shall—

"(A) not later than 90 days after the report date, fully incorporate the results of the evaluation under subsection (a) and the testing under subsection (b) and update the regulatory impact analysis of the final rule described in subsection (b)(2)(A) of the costs, benefits, and effects of the applicable ECP brake system requirements;

"(B) as soon as practicable after completion of the updated analysis under subparagraph (A), solicit public comment in the Federal Register on the analysis for a period of not more than 30 days; and

"(C) not later than 60 days after the end of the public comment period under subparagraph (B), post the final updated regulatory impact analysis on the Department of Transportation's Internet Web site.

"(2) DETERMINATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

"(A) determine, based on whether the final regulatory impact analysis described in paragraph (1)(C) demonstrates that the benefits, including safety benefits, of the applicable ECP brake system requirements exceed the costs of such requirements, whether the applicable ECP brake system requirements are justified;

"(B) if the applicable ECP brake system requirements are justified, publish in the Federal Register the determination and reasons for such determination; and

"(C) if the Secretary does not publish the determination under subparagraph (B), repeal the applicable ECP brake system requirements.

"(3) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule described under subsection (b)(2)(A) prior to the determination required under subsection (c)(2) of this section, or require the Secretary to promulgate a new rule on the provisions of such final rule, other than on the applicable ECP brake system requirements, if the Secretary does not determine that the applicable ECP brake system requirements are justified pursuant to this subsection.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) APPLICABLE ECP BRAKE SYSTEM REQUIREMENTS.—The term 'applicable ECP brake

system requirements' means sections 174.310(a)(3)(ii), 174.310(a)(3)(iii), 174.310(a)(5)(v), 179.202–10, 179.202–12(g), and 179.202–13(i) of title 49, Code of Federal Regulations, and any other regulation in effect on the date of enactment of this Act requiring the installation of ECP brakes or operation in ECP brake mode.

"(2) CLASS 3 FLAMMABLE LIQUID.—The term 'Class 3 flammable liquid' has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

"(3) ECP.—The term 'ECP' means electronically controlled pneumatic when applied to a brake or brakes.

"(4) ECP BRAKE MODE.—The term 'ECP brake mode' includes any operation of a rail car or an entire train using an ECP brake system.

"(5) ECP BRAKE SYSTEM.—

"(A) IN GENERAL.—The term 'ECP brake system' means a train power braking system actuated by compressed air and controlled by electronic signals from the locomotive or an ECP–EOT to the cars in the consist for service and emergency applications in which the brake pipe is used to provide a constant supply of compressed air to the reservoirs on each car but does not convey braking signals to the car.

"(B) INCLUSIONS.—The term 'ECP brake system' includes dual mode and stand-alone ECP brake systems.

"(6) RAILROAD CARRIER.—The term 'railroad carrier' has the meaning given the term in section 20102 of title 49, United States Code.

"(7) REPORT DATE.—The term 'report date' means the date that the reports under subsections (a)(3) and (b)(1)(B) are required to be transmitted pursuant to those subsections."

§20142. Track safety

(a) REVIEW OF EXISTING REGULATIONS.—Not later than March 3, 1993, the Secretary of Transportation shall begin a review of Department of Transportation regulations related to track safety standards. The review at least shall include an evaluation of—

(1) procedures associated with maintaining and installing continuous welded rail and its attendant structure, including cold weather installation procedures;

(2) the need for revisions to regulations on track excepted from track safety standards; and

(3) employee safety.

(b) REVISION OF REGULATIONS.—Not later than September 1, 1995, the Secretary shall prescribe regulations and issue orders to revise track safety standards, considering safety information presented during the review under subsection (a) of this section and the report of the Comptroller General submitted under subsection (c) of this section.

(c) COMPTROLLER GENERAL'S STUDY AND REPORT.—The Comptroller General shall study the effectiveness of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and information. Not later than September 3, 1993, the Comptroller General shall submit a report to Congress and the Secretary on the results of the study, with recommendations for improving enforcement of those standards.

(d) IDENTIFICATION OF INTERNAL RAIL DEFECTS.—In carrying out subsections (a) and (b), the Secretary shall consider whether or not to prescribe regulations and issue orders concerning—

(1) inspection procedures to identify internal rail defects, before they reach imminent failure size, in rail that has significant shelling; and

(2) any specific actions that should be taken when a rail surface condition, such as shelling, prevents the identification of internal defects.

(e) TRACK STANDARDS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this subsection, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of

Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) INSPECTION.—Whenever the Administration determines that it is necessary or appropriate, the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 879; Pub. L. 103–440, title II, §208, Nov. 2, 1994, 108 Stat. 4621; Pub. L. 109–59, title IX, §9005(a), Aug. 10, 2005, 119 Stat. 1924.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20142(a)	45:431(s)(1) (1st sentence), (2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(s); added Sept. 3, 1992, Pub. L. 102–365, §8, 106 Stat. 976.
20142(b)	45:431(s)(1) (last sentence).	
20142(c)	45:431(s)(3).	

In subsection (c), the word "information" is substituted for "data" for consistency in the revised title.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–59 added subsec. (e).

1994—Subsec. (a)(1). Pub. L. 103–440, §208(2), inserted ", including cold weather installation procedures" after "attendant structure".

Subsec. (b). Pub. L. 103–440, §208(1), substituted "September 1, 1995" for "September 3, 1994".

Subsec. (d). Pub. L. 103–440, §208(3), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMMUTER RAIL TRACK INSPECTIONS

Pub. L. 114–94, div. A, title XI, §11409, Dec. 4, 2015, 129 Stat. 1684, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall evaluate track inspection regulations to determine if a railroad carrier providing commuter rail passenger transportation on high density commuter railroad lines should be required to inspect the lines in the same manner as is required for other commuter railroad lines.

"(b) RULEMAKING.—Considering safety, including railroad carrier employee and contractor safety, system capacity, and other relevant factors, the Secretary may promulgate a rule for high density commuter railroad lines. If, after the evaluation under subsection (a), the Secretary determines that it is necessary to promulgate a rule, the Secretary shall specifically consider the following regulatory requirements for high density commuter railroad lines:

"(1) At least once every 2 weeks—

"(A) traverse each main line by vehicle; or

"(B) inspect each main line on foot.

"(2) At least once each month, traverse and inspect each siding by vehicle or by foot.

"(c) REPORT.—If, after the evaluation under subsection (a), the Secretary determines it is not necessary to revise the regulations under this section, the Secretary, not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report explaining the reasons for not revising the regulations.

"(d) CONSTRUCTION.—Nothing in this section may be construed to limit the authority of the Secretary to promulgate regulations or issue orders under any other law."

TRACK INSPECTION TIME STUDY

Pub. L. 110–432, div. A, title IV, §403, Oct. 16, 2008, 122 Stat. 4884, provided that:

"(a) STUDY.—Not later that [sic] 2 years after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of a study to determine whether—

"(1) the required intervals of track inspections for each class of track should be amended;

"(2) track remedial action requirements should be amended;

"(3) different track inspection and repair priorities or methods should be required; and

"(4) the speed at which railroad track inspection vehicles operate and the scope of the territory they generally cover allow for proper inspection of the track and whether such speed and appropriate scope should be regulated by the Secretary.

"(b) CONSIDERATIONS.—In conducting the study the Secretary shall consider—

"(1) the most current rail flaw, rail defect growth, rail fatigue, and other relevant track- or rail-related research and studies;

"(2) the availability and feasibility of developing and implementing new or novel rail inspection technology for routine track inspections;

"(3) information from National Transportation Safety Board or Federal Railroad Administration accident investigations where track defects were the cause or a contributing cause; and

"(4) other relevant information, as determined by the Secretary.

"(c) UPDATE OF REGULATIONS.—Not later than 2 years after the completion of the study required by subsection (a), the Secretary shall prescribe regulations based on the results of the study conducted under subsection (a).

"(d) CONCRETE CROSS TIES.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall promulgate regulations for concrete cross ties. In developing the regulations for class 1 through 5 track, the Secretary may address, as appropriate—

"(1) limits for rail seat abrasion;

"(2) concrete cross tie pad wear limits;

"(3) missing or broken rail fasteners;

"(4) loss of appropriate toeload pressure;

"(5) improper fastener configurations; and

"(6) excessive lateral rail movement."

[For definitions of "Secretary" and "railroad", as used in section 403 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

§20143. Locomotive visibility

(a) DEFINITION.—In this section, "locomotive visibility" means the enhancement of day and night visibility of the front end unit of a train, considering in particular the visibility and perspective of a driver of a motor vehicle at a grade crossing.

(b) INTERIM REGULATIONS.—Not later than December 31, 1992, the Secretary of Transportation shall prescribe temporary regulations identifying ditch, crossing, strobe, and oscillating lights as temporary locomotive visibility measures and authorizing and encouraging the installation and use of those lights. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation or to an amendment to a temporary regulation.

(c) REVIEW OF REGULATIONS.—The Secretary shall review the Secretary's regulations on locomotive visibility. Not later than December 31, 1993, the Secretary shall complete the current research of the Department of Transportation on locomotive visibility. In conducting the review, the

Secretary shall collect relevant information from operational experience by rail carriers using enhanced visibility measures.

(d) REGULATORY PROCEEDING.—Not later than June 30, 1994, the Secretary shall begin a regulatory proceeding to prescribe final regulations requiring substantially enhanced locomotive visibility measures. In the proceeding, the Secretary shall consider at least—

(1) revisions to the existing locomotive headlight standards, including standards for placement and intensity;

(2) requiring the use of reflective material to enhance locomotive visibility;

(3) requiring the use of additional alerting lights, including ditch, crossing, strobe, and oscillating lights;

(4) requiring the use of auxiliary lights to enhance locomotive visibility when viewed from the side;

(5) the effect of an enhanced visibility measure on the vision, health, and safety of train crew members; and

(6) separate standards for self-propelled, push-pull, and multi-unit passenger operations without a dedicated head end locomotive.

(e) FINAL REGULATIONS.—(1) Not later than June 30, 1995, the Secretary shall prescribe final regulations requiring enhanced locomotive visibility measures. The Secretary shall require that not later than December 31, 1997, a locomotive not excluded from the regulations be equipped with temporary visibility measures under subsection (b) of this section or the visibility measures the final regulations require.

(2) In prescribing regulations under paragraph (1) of this subsection, the Secretary may exclude a category of trains or rail operations from a specific visibility requirement if the Secretary decides the exclusion is in the public interest and is consistent with rail safety, including grade-crossing safety.

(3) A locomotive equipped with temporary visibility measures prescribed under subsection (b) of this section when final regulations are prescribed under paragraph (1) of this subsection is deemed to be complying with the final regulations for 4 years after the final regulations are prescribed.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 880.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20143(a)	45:431(u)(6).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(u); added Oct. 27, 1992, Pub. L. 102–533, §14, 106 Stat. 3522.
20143(b)	45:431(u)(2) (1st, 2d sentences).	
20143(c)	45:431(u)(1).	
20143(d)	45:431(u)(3).	
20143(e)(1)	45:431(u)(5).	
20143(e)(2)	45:431(u)(4).	
20143(e)(3)	45:431(u)(2) (last sentence).	

In this section, the word "visibility" is substituted for "conspicuity" for clarity and consistency in this chapter.

In subsection (a), the words "by means of lighting, reflective materials, or other means" are omitted as surplus.

In subsection (b), the words "those lights" are substituted for "such measures" for clarity.

In subsection (c), the word "Secretary's" is substituted for "Department of Transportation's" because of 49:102(b). The word "using" is substituted for "having . . . in service" to eliminate unnecessary words.

In subsection (e)(2) and (3) of this section, the reference is to paragraph (1) of this subsection, rather than to subsection (d) of this section, because the regulations are prescribed under paragraph (1).

In subsection (e)(2), the words "a category" are substituted for "and category" to correct an apparent mistake in the source provision. See S. Rept. 102–990, 102d Cong., 2d Sess., p. 18 (1992).

In subsection (e)(3), the word "full" is omitted as surplus.

§20144. Blue signal protection for on-track vehicles

The Secretary of Transportation shall prescribe regulations applying blue signal protection to on-track vehicles where rest is provided.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 881.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20144	(uncodified).	June 22, 1988, Pub. L. 100–342, §19(c), 102 Stat. 638.

The words "prescribe regulations" are substituted for "within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations" because the regulations to carry out this section have been prescribed.

§20145. Report on bridge displacement detection systems

Not later than 18 months after November 2, 1994, the Secretary of Transportation shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning any action that has been taken by the Secretary on railroad bridge displacement detection systems.

(Added Pub. L. 103–440, title II, §207(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104–287, §5(48), (49), Oct. 11, 1996, 110 Stat. 3393.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287 substituted "November 2, 1994" for "the date of enactment of the Federal Railroad Safety Authorization Act of 1994" and "Committee on Transportation and Infrastructure" for "Committee on Energy and Commerce".

§20146. Institute for Railroad Safety

The Secretary of Transportation, in conjunction with a university or college having expertise in transportation safety, shall establish, within one year after November 2, 1994, an Institute for Railroad Safety. The Institute shall research, develop, fund, and test measures for reducing the number of fatalities and injuries relevant to railroad operations. There are authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 1996 through 2000 to fund activities carried out under this section by the Institute, which shall report at least once each year on its use of such funds in carrying out such activities and the results thereof to the Secretary of Transportation and the Congress.

(Added Pub. L. 103–440, title II, §210(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104–287, §5(49), Oct. 11, 1996, 110 Stat. 3393.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287 substituted "November 2, 1994" for "the date of enactment of the Federal Railroad Safety Authorization Act of 1994".

§20147. Warning of civil liability

The Secretary of Transportation shall encourage railroad carriers to warn the public about potential liability for violation of regulations related to vandalism of railroad signs, devices, and equipment and to trespassing on railroad property.

(Added Pub. L. 103–440, title II, §211(a), Nov. 2, 1994, 108 Stat. 4622.)

§20148. Railroad car visibility

(a) REVIEW OF RULES.—The Secretary of Transportation shall conduct a review of the Department of Transportation's rules with respect to railroad car visibility. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced visibility measures in service.

(b) REGULATIONS.—If the review conducted under subsection (a) establishes that enhanced railroad car visibility would likely improve safety in a cost-effective manner, the Secretary shall initiate a rulemaking proceeding to prescribe regulations requiring enhanced visibility standards for newly manufactured and remanufactured railroad cars. In such proceeding the Secretary shall consider, at a minimum—

(1) visibility of railroad cars from the perspective of nonrailroad traffic;

(2) whether certain railroad car paint colors should be prohibited or required;

(3) the use of reflective materials;

(4) the visibility of lettering on railroad cars;

(5) the effect of any enhanced visibility measures on the health and safety of train crew members; and

(6) the cost/benefit ratio of any new regulations.

(c) EXCLUSIONS.—In prescribing regulations under subsection (b), the Secretary may exclude from any specific visibility requirement any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety.

(Added Pub. L. 103–440, title II, §212(a), Nov. 2, 1994, 108 Stat. 4622.)

§20149. Coordination with the Department of Labor

The Secretary of Transportation shall consult with the Secretary of Labor on a regular basis to ensure that all applicable laws affecting safe working conditions for railroad employees are appropriately enforced to ensure a safe and productive working environment for the railroad industry.

(Added Pub. L. 103–440, title II, §213(a), Nov. 2, 1994, 108 Stat. 4623.)

§20150. Positive train control system progress report

The Secretary of Transportation shall submit a report to the Congress on the development, deployment, and demonstration of positive train control systems by December 31, 1995.

(Added Pub. L. 103–440, title II, §214(a), Nov. 2, 1994, 108 Stat. 4623.)

§20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy

(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property, vandalism affecting railroad safety, and violations of highway-rail grade crossing signs, signals, markings, or other warning devices and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after the date of enactment of the Rail Safety Improvement Act of 2008. The Secretary shall revise the model prevention strategies and enforcement codes periodically.

(b) OUTREACH PROGRAM FOR TRESPASSING AND VANDALISM PREVENTION.—The Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, State inspectors certified by the Federal Railroad Administration, railroad police, and State and local law enforcement officers, for the purpose of addressing trespassing and vandalism problems on railroad property, and strengthening relevant enforcement strategies. This program shall be designed to increase public and police awareness of the illegality of, dangers inherent in, and the extent of, trespassing on railroad rights-of-way, to develop strategies to improve the prevention of trespassing and vandalism, and to improve the enforcement of laws relating to railroad trespass, vandalism, and safety.

(c) MODEL LEGISLATION.—(1) Within 18 months after November 2, 1994, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for—

(A) civil or criminal penalties, or both, for vandalism of railroad equipment or property which could affect the safety of the public or of railroad employees; and

(B) civil or criminal penalties, or both, for trespassing on a railroad owned or leased right-of-way.

(2) Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signs, signals, markings, or other warning devices.

(d) DEFINITION.—In this section, the term "violation of highway-rail grade crossing signs, signals, markings, or other warning devices" includes any action by a motorist, unless directed by an authorized safety officer—

(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

(2) to drive through a flashing grade crossing signal;

(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

(4) in the vicinity of a grade crossing, who creates a hazard of an accident involving injury or property damage at the grade crossing.

(Added Pub. L. 103–440, title II, §219(a), Nov. 2, 1994, 108 Stat. 4625; amended Pub. L. 104–287, §5(49), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title II, §208(a), Oct. 16, 2008, 122 Stat. 4875.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) and (c)(2), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Pub. L. 110–432, §208(a)(1), substituted "Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy" for "Railroad trespassing and vandalism prevention strategy" in section catchline.

Subsec. (a). Pub. L. 110–432, §208(a)(2), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property and vandalism affecting railroad safety, and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after November 2, 1994. The Secretary shall revise such model prevention strategies and enforcement codes periodically."

Subsec. (b). Pub. L. 110–432, §208(a)(3), inserted "for Trespassing and Vandalism Prevention" after "Outreach Program" in heading.

Subsec. (c). Pub. L. 110–432, §208(a)(4), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (d). Pub. L. 110–432, §208(a)(5), added subsec. (d).

1996—Subsecs. (a), (c). Pub. L. 104–287 substituted "November 2, 1994" for "the date of enactment of the Federal Railroad Safety Authorization Act of 1994".

§20152. Notification of grade crossing problems

(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall require each railroad carrier to—

(1) establish and maintain a toll-free telephone service for rights-of-way over which it dispatches trains, to directly receive calls reporting—

(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads;

(B) disabled vehicles blocking railroad tracks at such grade crossings;

(C) obstructions to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train's approach; or

(D) other safety information involving such grade crossings;

(2) upon receiving a report pursuant to paragraph (1)(A) or (B), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

(3) upon receiving a report pursuant to paragraph (1)(A) or (B), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities as appropriate;

(4) upon receiving a report pursuant to paragraph (1)(C) or (D), timely investigate the report, remove the obstruction if possible, or correct the unsafe circumstance; and

(5) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

(A) a toll-free telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

(B) an explanation of the purpose of that toll-free telephone number; and

(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.

(b) WAIVER.—The Secretary may waive the requirement that the telephone service be toll-free for Class II and Class III rail carriers if the Secretary determines that toll-free service would be cost prohibitive or unnecessary.

(Added Pub. L. 103–440, title III, §301(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104–287, §5(50), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title II, §205(a), Oct. 16, 2008, 122 Stat. 4872.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Pub. L. 110–432 amended section catchline and text generally. Prior to amendment, section related to a pilot program to demonstrate a system to provide emergency notification of grade crossing problems.

1996—Subsec. (b). Pub. L. 104–287 substituted "November 2, 1994" for "the date of enactment of this section" and "November 2, 1994, an evaluation" for "that date an evaluation".

§20153. Audible warnings at highway-rail grade crossings

(a) DEFINITIONS.—As used in this section—

(1) the term "highway-rail grade crossing" includes any street or highway crossing over a line of railroad at grade;

(2) the term "locomotive horn" refers to a train-borne audible warning device meeting standards specified by the Secretary of Transportation; and

(3) the term "supplementary safety measure" refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

(b) REQUIREMENT.—The Secretary of Transportation shall prescribe regulations requiring that a locomotive horn shall be sounded while each train is approaching and entering upon each public highway-rail grade crossing.

(c) EXCEPTION.—(1) In issuing such regulations, the Secretary may except from the requirement to sound the locomotive horn any categories of rail operations or categories of highway-rail grade crossings (by train speed or other factors specified by regulation)—

(A) that the Secretary determines not to present a significant risk with respect to loss of life or serious personal injury;

(B) for which use of the locomotive horn as a warning measure is impractical; or

(C) for which, in the judgment of the Secretary, supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

(2) In order to provide for safety and the quiet of communities affected by train operations, the Secretary may specify in such regulations that any supplementary safety measures must be applied to all highway-rail grade crossings within a specified distance along the railroad in order to be excepted from the requirement of this section.

(d) APPLICATION FOR WAIVER OR EXEMPTION.—Notwithstanding any other provision of this subchapter, the Secretary may not entertain an application for waiver or exemption of the regulations issued under this section unless such application shall have been submitted jointly by the railroad carrier owning, or controlling operations over, the crossing and by the appropriate traffic

control authority or law enforcement authority. The Secretary shall not grant any such application unless, in the judgment of the Secretary, the application demonstrates that the safety of highway users will not be diminished.

(e) DEVELOPMENT OF SUPPLEMENTARY SAFETY MEASURES.—(1) In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

(2) The Secretary may include in regulations issued under this subsection special procedures for approval of new supplementary safety measures meeting the requirements of subsection (c)(1) of this section following successful demonstration of those measures.

(f) SPECIFIC RULES.—The Secretary may, by regulation, provide that the following crossings over railroad lines shall be subject, in whole or in part, to the regulations required under this section:

(1) Private highway-rail grade crossings.

(2) Pedestrian crossings.

(3) Crossings utilized primarily by nonmotorized vehicles and other special vehicles.

Regulations issued under this subsection shall not apply to any location where persons are not authorized to cross the railroad.

(g) ISSUANCE.—The Secretary shall issue regulations required by this section pertaining to categories of highway-rail grade crossings that in the judgment of the Secretary pose the greatest safety hazard to rail and highway users not later than 24 months following November 2, 1994. The Secretary shall issue regulations pertaining to any other categories of crossings not later than 48 months following November 2, 1994.

(h) IMPACT OF REGULATIONS.—The Secretary shall include in regulations prescribed under this section a concise statement of the impact of such regulations with respect to the operation of section 20106 of this title (national uniformity of regulation).

(i) REGULATIONS.—In issuing regulations under this section, the Secretary—

(1) shall take into account the interest of communities that—

(A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or

(B) have not been subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;

(2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that the Secretary determines is not likely to contribute significantly to public safety.

(j) EFFECTIVE DATE OF REGULATIONS.—Any regulations under this section shall not take effect before the 365th day following the date of publication of the final rule.

(Added Pub. L. 103–440, title III, §302(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104–264, title XII, §1218(a), Oct. 9, 1996, 110 Stat. 3285; Pub. L. 104–287, §5(51), Oct. 11, 1996, 110 Stat. 3393.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–287 substituted "November 2, 1994" for "the date of enactment of this section" in two places.

Subsecs. (i), (j). Pub. L. 104–264 added subsecs. (i) and (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

[§20154. Repealed. Pub. L. 114–94, div. A, title XI, §11301(c)(1), Dec. 4, 2015, 129 Stat. 1648]

Section, Pub. L. 109–59, title IX, §9002(a)(1), Aug. 10, 2005, 119 Stat. 1919, related to capital grants for rail line relocation projects.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

REGULATIONS

Pub. L. 109–59, title IX, §9002(b), Aug. 10, 2005, 119 Stat. 1921, required Secretary of Transportation to issue temporary regulations to implement grant program under this section by April 1, 2006, and to issue final regulations by October 1, 2006.

§20155. Tank cars

(a) STANDARDS.—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this section; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this section.

(b) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this section the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall transmit a report, including recommendations for reducing any risk of catastrophic fracture and separation of such cars, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 109–59, title IX, §9005(b)(1), Aug. 10, 2005, 119 Stat. 1924.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PHASE-OUT OF ALL TANK CARS USED TO TRANSPORT CLASS 3 FLAMMABLE LIQUIDS

Pub. L. 114–94, div. A, title VII, §7304, Dec. 4, 2015, 129 Stat. 1596, provided that:

"(a) IN GENERAL.—Except as provided for in subsection (b), beginning on the date of enactment of this Act [Dec. 4, 2015], all DOT–111 specification railroad tank cars used to transport Class 3 flammable liquids shall meet the DOT–117, DOT–117P, or DOT–117R specifications in part 179 of title 49, Code of Federal Regulations, regardless of train composition.

"(b) PHASE-OUT SCHEDULE.—Certain tank cars not meeting DOT–117, DOT–117P, or DOT–117R specifications on the date of enactment of this Act may be used, regardless of train composition, until the following end-dates:

"(1) For transport of unrefined petroleum products in Class 3 flammable service, including crude oil—

"(A) January 1, 2018, for non-jacketed DOT–111 tank cars;

"(B) March 1, 2018, for jacketed DOT–111 tank cars;

"(C) April 1, 2020, for non-jacketed CPC–1232 tank cars; and

"(D) May 1, 2025, for jacketed CPC–1232 tank cars.

"(2) For transport of ethanol—

"(A) May 1, 2023, for non-jacketed and jacketed DOT–111 tank cars;

"(B) July 1, 2023, for non-jacketed CPC–1232 tank cars; and

"(C) May 1, 2025, for jacketed CPC–1232 tank cars.

"(3) For transport of Class 3 flammable liquids in Packing Group I, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2025.

"(4) For transport of Class 3 flammable liquids in Packing Groups II and III, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2029.

"(c) RETROFITTING SHOP CAPACITY.—The Secretary [of Transportation] may extend the deadlines established under paragraphs (3) and (4) of subsection (b) for a period not to exceed 2 years if the Secretary determines that insufficient retrofitting shop capacity will prevent the phase-out of tank cars not meeting the DOT–117, DOT–117P, or DOT–117R specifications by the deadlines set forth in such paragraphs.

"(d) CONFORMING REGULATORY AMENDMENTS.—

"(1) IN GENERAL.—Immediately after the date of enactment of this section [Dec. 4, 2015], the Secretary—

"(A) shall remove or revise the date-specific deadlines in any applicable regulations or orders to the extent necessary to conform with the requirements of this section; and

"(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the requirements of this section.

"(2) IMPLEMENTATION.—Nothing in this section shall be construed to require the Secretary to issue regulations, except as required under paragraph (1), to implement this section.

"(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule issued on May 08, 2015, entitled 'Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains' (80 Fed. Reg. 26643), other than the provisions of the final rule that are inconsistent with this section.

"(f) CLASS 3 FLAMMABLE LIQUID DEFINED.—In this section, the term 'Class 3 flammable liquid' has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations."

THERMAL BLANKETS

Pub. L. 114–94, div. A, title VII, §7305, Dec. 4, 2015, 129 Stat. 1597, provided that:

"(a) REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall issue such regulations as are necessary to require that each tank car built to meet the DOT–117 specification and each non-jacketed tank car modified to meet the DOT–117R specification be equipped with an insulating blanket with at least ½-inch-thick material that has been approved by the Secretary pursuant to section 179.18(c) of title 49, Code of Federal Regulations.

"(b) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Secretary from approving new or alternative technologies or materials as they become available that provide a level of safety at least equivalent to the level of safety provided for under subsection (a)."

MODIFICATION REPORTING

Pub. L. 114–94, div. A, title VII, §7308, Dec. 4, 2015, 129 Stat. 1599, as amended by Pub. L. 115–435, title III, §302(c)(5), Jan. 14, 2019, 132 Stat. 5553, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the

Secretary [of Transportation] shall implement a reporting requirement to monitor industry-wide progress toward modifying rail tank cars used to transport Class 3 flammable liquids by the applicable deadlines established in section 7304 [set out as a note above].

"(b) TANK CAR DATA.—The Secretary shall collect data from shippers and rail tank car owners on—

"(1) the total number of tank cars modified to meet the DOT–117R specification, or equivalent, specifying—

"(A) the type or specification of each tank car before it was modified, including non-jacketed DOT–111, jacketed DOT–111, non-jacketed DOT–111 meeting the CPC–1232 standard, or jacketed DOT–111 meeting the CPC–1232 standard; and

"(B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year;

"(2) the total number of tank cars built to meet the DOT–117 specification, or equivalent; and

"(3) the total number of tank cars used or likely to be used to transport Class 3 flammable liquids that have not been modified, specifying—

"(A) the type or specification of each tank car not modified, including the non-jacketed DOT–111, jacketed DOT–111, non-jacketed DOT–111 meeting the CPC–1232 standard, or jacketed DOT–111 meeting the CPC–1232 standard; and

"(B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year.

"(c) TANK CAR SHOP DATA.—The Secretary shall conduct a survey of tank car facilities modifying tank cars to the DOT–117R specification, or equivalent, or building new tank cars to the DOT–117 specification, or equivalent, to generate statistically-valid estimates of the anticipated number of tank cars those facilities expect to modify to DOT–117R specification, or equivalent, or build to the DOT–117 specification, or equivalent.

"(d) FREQUENCY.—The Secretary shall collect the data under subsection (b) and conduct the survey under subsection (c) annually until May 1, 2029.

"(e) INFORMATION PROTECTIONS.—

"(1) IN GENERAL.—The Secretary shall only report data in industry-wide totals and shall treat company-specific information as confidential business information.

"(2) LEVEL OF CONFIDENTIALITY.—The Secretary shall ensure the data collected under subsection (b) and the survey data under subsection (c) have the same level of confidentiality as required by section 3572 of title 44, United States Code, as administered by the Bureau of Transportation Statistics.

"(3) DESIGNEE.—The Secretary may—

"(A) designate the Director of the Bureau of Transportation Statistics to collect data under subsection (b) and the survey data under subsection (c); and

"(B) direct the Director to ensure the confidentially of company-specific information to the maximum extent permitted by law.

"(f) REPORT.—Each year, not later than 60 days after the date that both the collection of the data under subsection (b) and the survey under subsection (c) are complete, the Secretary shall submit a written report on the aggregate results, without company-specific information, to—

"(1) the Committee on Commerce, Science, and Transportation of the Senate; and

"(2) the Committee on Transportation and Infrastructure of the House of Representatives.

"(g) DEFINITION OF CLASS 3 FLAMMABLE LIQUID.—In this section, the term 'Class 3 flammable liquid' has the meaning given the term flammable liquid in section 173.120 of title 49, Code of Federal Regulations."

§20156. Railroad safety risk reduction program

(a) IN GENERAL.—

(1) PROGRAM REQUIREMENT.—Not later than 4 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad carrier that provides intercity rail passenger or commuter rail passenger transportation—

(A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates railroad safety risks on its system and manages those risks in order to reduce the numbers and rates of railroad accidents, incidents, injuries, and fatalities;

(B) to submit its program, including any required plans, to the Secretary for review and approval; and

(C) to implement the program and plans approved by the Secretary.

(2) RELIANCE ON PILOT PROGRAM.—The Secretary may conduct behavior-based safety and other research, including pilot programs, before promulgating regulations under this subsection and thereafter. The Secretary shall use any information and experience gathered through such research and pilot programs under this subsection in developing regulations under this section.

(3) REVIEW AND APPROVAL.—The Secretary shall review and approve or disapprove railroad safety risk reduction program plans within a reasonable period of time. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific areas in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within a reasonable period of time following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

(4) VOLUNTARY COMPLIANCE.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Secretary. The Secretary shall approve or disapprove any program submitted under this paragraph.

(b) CERTIFICATION.—The chief official responsible for safety of each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall certify that the contents of the program are accurate and that the railroad carrier will implement the contents of the program as approved by the Secretary.

(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program, each railroad carrier required to submit such a program pursuant to subsection (a) shall identify and analyze the aspects of its railroad, including operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

(d) PROGRAM ELEMENTS.—

(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop a comprehensive safety risk reduction program to improve safety by reducing the number and rates of accidents, incidents, injuries, and fatalities that is based on the risk analysis required by subsection (c) through—

(A) the mitigation of aspects that increase risks to railroad safety; and

(B) the enhancement of aspects that decrease risks to railroad safety.

(2) REQUIRED COMPONENTS.—Each railroad carrier's safety risk reduction program shall include a risk mitigation plan in accordance with this section, a technology implementation plan that meets the requirements of subsection (e), and a fatigue management plan that meets the requirements of subsection (f).

(e) TECHNOLOGY IMPLEMENTATION PLAN.—

(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop, and periodically update as necessary, a 10-year technology implementation plan that describes the railroad carrier's plan for development, adoption, implementation, maintenance, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program. Any updates to the plan are subject to review and approval by the Secretary.

(2) TECHNOLOGY ANALYSIS.—A railroad carrier's technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing

technologies, including processor-based technologies, positive train control systems (as defined in section 20157(i)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, highway-rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may mitigate risks to railroad safety identified in the risk analysis required by subsection (c).

(3) IMPLEMENTATION SCHEDULE.—A railroad carrier's technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that—

(A) each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule; and

(B) each railroad carrier required to submit such a plan implements a positive train control system pursuant to such plan by December 31, 2018.

(f) FATIGUE MANAGEMENT PLAN.—

(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop and update at least once every 2 years a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, incidents, injuries, and fatalities caused by fatigue. Any such update shall be subject to review and approval by the Secretary.

(2) TARGETED FATIGUE COUNTERMEASURES.—A railroad carrier's fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

(3) ADDITIONAL ELEMENTS.—A railroad shall consider the need to include in its fatigue management plan elements addressing each of the following items, as applicable:

(A) Employee education and training on the physiological and human factors that affect fatigue, as well as strategies to reduce or mitigate the effects of fatigue, based on the most current scientific and medical research and literature.

(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.

(C) Effects on employee fatigue of an employee's short-term or sustained response to emergency situations, such as derailments and natural disasters, or engagement in other intensive working conditions.

(D) Scheduling practices for employees, including innovative scheduling practices, on-duty call practices, work and rest cycles, increased consecutive days off for employees, changes in shift patterns, appropriate scheduling practices for varying types of work, and other aspects of employee scheduling that would reduce employee fatigue and cumulative sleep loss.

(E) Methods to minimize accidents and incidents that occur as a result of working at times when scientific and medical research have shown increased fatigue disrupts employees' circadian rhythm.

(F) Alertness strategies, such as policies on napping, to address acute drowsiness and fatigue while an employee is on duty.

(G) Opportunities to obtain restful sleep at lodging facilities, including employee sleeping quarters provided by the railroad carrier.

(H) The increase of the number of consecutive hours of off-duty rest, during which an employee receives no communication from the employing railroad carrier or its managers,

supervisors, officers, or agents.

(I) Avoidance of abrupt changes in rest cycles for employees.

(J) Additional elements that the Secretary considers appropriate.

(g) CONSENSUS.—

(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith, and use its best efforts to reach agreement with, all of its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

(2) STATEMENT.—If the railroad carrier and its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

(h) ENFORCEMENT.—The Secretary shall have the authority to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit, certify, or comply with a safety risk reduction program, risk mitigation plan, technology implementation plan, or fatigue management plan.

(Added Pub. L. 110–432, div. A, title I, §103(a), Oct. 16, 2008, 122 Stat. 4853; amended Pub. L. 114–94, div. A, title XI, §11316(e), Dec. 4, 2015, 129 Stat. 1676.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a)(1), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114–94, §11316(e)(1), inserted comma after "In developing its railroad safety risk reduction program".

Subsec. (g)(1). Pub. L. 114–94, §11316(e)(2), inserted comma after "good faith" and substituted "nonprofit" for "non-profit".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§20157. Implementation of positive train control systems

(a) IN GENERAL.—

(1) PLAN REQUIRED.—Not later than 90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall submit to the Secretary of Transportation a revised plan for implementing a positive train control system by December 31, 2018, governing operations on—

(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided;

(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in

sections 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations, are transported; and

(C) such other tracks as the Secretary may prescribe by regulation or order.

(2) IMPLEMENTATION.—

(A) CONTENTS OF REVISED PLAN.—A revised plan required under paragraph (1) shall—

(i) describe—

(I) how the positive train control system will provide for interoperability of the system with the movements of trains of other railroad carriers over its lines; and

(II) how, to the extent practical, the positive train control system will be implemented in a manner that addresses areas of greater risk before areas of lesser risk;

(ii) comply with the positive train control system implementation plan content requirements under section 236.1011 of title 49, Code of Federal Regulations; and

(iii) provide—

(I) the calendar year or years in which spectrum will be acquired and will be available for use in each area as needed for positive train control system implementation, if such spectrum is not already acquired and available for use;

(II) the total amount of positive train control system hardware that will be installed for implementation, with totals separated by each major hardware category;

(III) the total amount of positive train control system hardware that will be installed by the end of each calendar year until the positive train control system is implemented, with totals separated by each hardware category;

(IV) the total number of employees required to receive training under the applicable positive train control system regulations;

(V) the total number of employees that will receive the training, as required under the applicable positive train control system regulations, by the end of each calendar year until the positive train control system is implemented;

(VI) a summary of any remaining technical, programmatic, operational, or other challenges to the implementation of a positive train control system, including challenges with—

(aa) availability of public funding;

(bb) interoperability;

(cc) spectrum;

(dd) software;

(ee) permitting; and

(ff) testing, demonstration, and certification; and

(VII) a schedule and sequence for implementing a positive train control system by the deadline established under paragraph (1).

(B) ALTERNATIVE SCHEDULE AND SEQUENCE.—Notwithstanding the implementation deadline under paragraph (1) and in lieu of a schedule and sequence under paragraph (2)(A)(iii)(VII), a railroad carrier or other entity subject to paragraph (1) may include in its revised plan an alternative schedule and sequence for implementing a positive train control system, subject to review under paragraph (3). Such schedule and sequence shall provide for implementation of a positive train control system as soon as practicable, but not later than the date that is 24 months after the implementation deadline under paragraph (1).

(C) AMENDMENTS.—A railroad carrier or other entity subject to paragraph (1) may file a request to amend a revised plan, including any alternative schedule and sequence, as applicable, in accordance with section 236.1021 of title 49, Code of Federal Regulations.

(D) COMPLIANCE.—A railroad carrier or other entity subject to paragraph (1) shall

implement a positive train control system in accordance with its revised plan, including any amendments or any alternative schedule and sequence approved by the Secretary under paragraph (3).

(3) SECRETARIAL REVIEW.—

(A) NOTIFICATION.—A railroad carrier or other entity that submits a revised plan under paragraph (1) and proposes an alternative schedule and sequence under paragraph (2)(B) shall submit to the Secretary a written notification when such railroad carrier or other entity is prepared for review under subparagraph (B).

(B) CRITERIA.—Not later than 90 days after a railroad carrier or other entity submits a notification under subparagraph (A), the Secretary shall review the alternative schedule and sequence submitted pursuant to paragraph (2)(B) and determine whether the railroad carrier or other entity has demonstrated, to the satisfaction of the Secretary, that such carrier or entity has—

(i) installed all positive train control system hardware consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(II) on or before the implementation deadline under paragraph (1);

(ii) acquired all spectrum necessary for implementation of a positive train control system, consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(I) on or before the implementation deadline under paragraph (1);

(iii) completed employee training required under the applicable positive train control system regulations;

(iv) included in its revised plan an alternative schedule and sequence for implementing a positive train control system as soon as practicable, pursuant to paragraph (2)(B);

(v) certified to the Secretary in writing that it will be in full compliance with the requirements of this section on or before the date provided in an alternative schedule and sequence, subject to approval by the Secretary;

(vi) in the case of a Class I railroad carrier and Amtrak, implemented a positive train control system or initiated revenue service demonstration on the majority of territories, such as subdivisions or districts, or route miles that are owned or controlled by such carrier and required to have operations governed by a positive train control system; and

(vii) in the case of any other railroad carrier or other entity not subject to clause (vi)—

(I) initiated revenue service demonstration on at least 1 territory that is required to have operations governed by a positive train control system; or

(II) met any other criteria established by the Secretary.

(C) DECISION.—

(i) IN GENERAL.—Not later than 90 days after the receipt of the notification from a railroad carrier or other entity under subparagraph (A), the Secretary shall—

(I) approve an alternative schedule and sequence submitted pursuant to paragraph (2)(B) if the railroad carrier or other entity meets the criteria in subparagraph (B); and

(II) notify in writing the railroad carrier or other entity of the decision.

(ii) DEFICIENCIES.—Not later than 45 days after the receipt of the notification under subparagraph (A), the Secretary shall provide to the railroad carrier or other entity a written notification of any deficiencies that would prevent approval under clause (i) and provide the railroad carrier or other entity an opportunity to correct deficiencies before the date specified in such clause.

(D) REVISED DEADLINES.—

(i) PENDING REVIEWS.—For a railroad carrier or other entity that submits a notification under subparagraph (A), the deadline for implementation of a positive train control system required under paragraph (1) shall be extended until the date on which the Secretary approves

or disapproves the alternative schedule and sequence, if such date is later than the implementation date under paragraph (1).

(ii) ALTERNATIVE SCHEDULE AND SEQUENCE DEADLINE.—If the Secretary approves a railroad carrier or other entity's alternative schedule and sequence under subparagraph (C)(i), the railroad carrier or other entity's deadline for implementation of a positive train control system required under paragraph (1) shall be the date specified in that railroad carrier or other entity's alternative schedule and sequence. The Secretary may not approve a date for implementation that is later than 24 months from the deadline in paragraph (1).

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a).

(c) PROGRESS REPORTS AND REVIEW.—

(1) PROGRESS REPORTS.—Each railroad carrier or other entity subject to subsection (a) shall, not later than March 31, 2016, and annually thereafter until such carrier or entity has completed implementation of a positive train control system, submit to the Secretary a report on the progress toward implementing such systems, including—

(A) the information on spectrum acquisition provided pursuant to subsection (a)(2)(A)(iii)(I);

(B) the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii), by territory, if applicable;

(C) the extent to which the railroad carrier or other entity is complying with the implementation schedule under subsection (a)(2)(A)(iii)(VII) or subsection (a)(2)(B);

(D) any update to the information provided under subsection (a)(2)(A)(iii)(VI);

(E) for each entity providing regularly scheduled intercity or commuter rail passenger transportation, a description of the resources identified and allocated to implement a positive train control system;

(F) for each railroad carrier or other entity subject to subsection (a), the total number of route miles on which a positive train control system has been initiated for revenue service demonstration or implemented, as compared to the total number of route miles required to have a positive train control system under subsection (a); and

(G) any other information requested by the Secretary.

(2) PLAN REVIEW.—The Secretary shall at least annually conduct reviews to ensure that railroad carriers or other entities are complying with the revised plan submitted under subsection (a), including any amendments or any alternative schedule and sequence approved by the Secretary. Such railroad carriers or other entities shall provide such information as the Secretary determines necessary to adequately conduct such reviews.

(3) PUBLIC AVAILABILITY.—Not later than 60 days after receipt, the Secretary shall make available to the public on the Internet Web site of the Department of Transportation any report submitted pursuant to paragraph (1) or subsection (d), but may exclude, as the Secretary determines appropriate—

(A) proprietary information; and

(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations.

(d) REPORT TO CONGRESS.—Not later than July 1, 2018, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the progress of each railroad carrier or other entity subject to subsection (a) in implementing a positive train control system.

(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for—

(1) a violation of this section;

(2) the failure to submit or comply with the revised plan required under subsection (a),

including the failure to comply with the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii) and the spectrum acquisition dates provided pursuant to subsection (a)(2)(A)(iii)(I);

(3) failure to comply with any amendments to such revised plan pursuant to subsection (a)(2)(C); and

(4) the failure to comply with an alternative schedule and sequence submitted under subsection (a)(2)(B) and approved by the Secretary under subsection (a)(3)(C).

(f) OTHER RAILROAD CARRIERS.—Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section or section 20156, or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section 20156. In exercising such discretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations or issue orders necessary to implement this section, including regulations specifying in appropriate technical detail the essential functionalities of positive train control systems, and the means by which those systems will be qualified.

(2) CONFORMING REGULATORY AMENDMENTS.—Immediately after the date of the enactment of the Positive Train Control Enforcement and Implementation Act of 2015, the Secretary—

(A) shall remove or revise the date-specific deadlines in the regulations or orders implementing this section to the extent necessary to conform with the amendments made by such Act; and

(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the amendments made by such Act.

(3) REVIEW.—Nothing in the Positive Train Control Enforcement and Implementation Act of 2015, or the amendments made by such Act, shall be construed to require the Secretary to issue regulations to implement such Act or amendments other than the regulatory amendments required to conform with this section.

(4) CLARIFICATION.—

(A) PROHIBITIONS.—The Secretary is prohibited from—

(i) approving or disapproving a revised plan submitted under subsection (a)(1);

(ii) considering a revised plan under subsection (a)(1) as a request for amendment under section 236.1021 of title 49, Code of Federal Regulations; or

(iii) requiring the submission, as part of the revised plan under subsection (a)(1), of—

(I) only a schedule and sequence under subsection (a)(2)(A)(iii)(VII); or

(II) both a schedule and sequence under subsection (a)(2)(A)(iii)(VII) and an alternative schedule and sequence under subsection (a)(2)(B).

(B) CIVIL PENALTY AUTHORITY.—Except as provided in paragraph (2) and this paragraph, nothing in this subsection shall be construed to limit the Secretary's authority to assess civil penalties pursuant to subsection (e), consistent with the requirements of this section.

(C) RETAINED REVIEW AUTHORITY.—The Secretary retains the authority to review revised plans submitted under subsection (a)(1) and is authorized to require modifications of those plans to the extent necessary to ensure that such plans include the descriptions under subsection (a)(2)(A)(i), the contents under subsection (a)(2)(A)(ii), and the year or years, totals, and summary under subsection (a)(2)(A)(iii)(I) through (VI).

(h) CERTIFICATION.—

(1) IN GENERAL.—The Secretary shall not permit the installation of any positive train control system or component in revenue service unless the Secretary has certified that any such system or

component has been approved through the approval process set forth in part 236 of title 49, Code of Federal Regulations, and complies with the requirements of that part.

(2) PROVISIONAL OPERATION.—Notwithstanding the requirements of paragraph (1), the Secretary may authorize a railroad carrier or other entity to commence operation in revenue service of a positive train control system or component to the extent necessary to enable the safe implementation and operation of a positive train control system in phases.

(i) DEFINITIONS.—In this section:

(1) EQUIVALENT OR GREATER LEVEL OF SAFETY.—The term "equivalent or greater level of safety" means the compliance of a railroad carrier with—

(A) appropriate operating rules in place immediately prior to the use or implementation of such carrier's positive train control system, except that such rules may be changed by such carrier to improve safe operations; and

(B) all applicable safety regulations, except as specified in subsection (j).

(2) HARDWARE.—The term "hardware" means a locomotive apparatus, a wayside interface unit (including any associated legacy signal system replacements), switch position monitors needed for a positive train control system, physical back office system equipment, a base station radio, a wayside radio, a locomotive radio, or a communication tower or pole.

(3) INTEROPERABILITY.—The term "interoperability" means the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries.

(4) MAIN LINE.—The term "main line" means a segment or route of railroad tracks over which 5,000,000 or more gross tons of railroad traffic is transported annually, except that—

(A) the Secretary may, through regulations under subsection (g), designate additional tracks as main line as appropriate for this section; and

(B) for intercity rail passenger transportation or commuter rail passenger transportation routes or segments over which limited or no freight railroad operations occur, the Secretary shall define the term "main line" by regulation.

(5) POSITIVE TRAIN CONTROL SYSTEM.—The term "positive train control system" means a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position.

(j) EARLY ADOPTION.—

(1) OPERATIONS.—From the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015 through the 1-year period beginning on the date on which the last Class I railroad carrier's positive train control system subject to subsection (a) is certified by the Secretary under subsection (h)(1) of this section and is implemented on all of that railroad carrier's lines required to have operations governed by a positive train control system, any railroad carrier, including any railroad carrier that has its positive train control system certified by the Secretary, shall not be subject to the operational restrictions set forth in sections 236.567 and 236.1029 of title 49, Code of Federal Regulations, that would apply where a controlling locomotive that is operating in, or is to be operated in, a positive train control-equipped track segment experiences a positive train control system failure, a positive train control operated consist is not provided by another railroad carrier when provided in interchange, or a positive train control system otherwise fails to initialize, cuts out, or malfunctions, provided that such carrier operates at an equivalent or greater level of safety than the level achieved immediately prior to the use or implementation of its positive train control system.

(2) SAFETY ASSURANCE.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall make reasonable efforts to determine the cause of

the failure and adjust, repair, or replace any faulty component causing the system failure in a timely manner.

(3) PLANS.—The positive train control safety plan for each railroad carrier or other entity shall describe the safety measures, such as operating rules and actions to comply with applicable safety regulations, that will be put in place during any system failure.

(4) NOTIFICATION.—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall submit a notification to the appropriate regional office of the Federal Railroad Administration within 7 days of the system failure, or under alternative location and deadline requirements set by the Secretary, and include in the notification a description of the safety measures the affected railroad carrier or other entity has in place.

(k) SMALL RAILROADS.—Not later than 120 days after the date of the enactment of this Act,[1] the Secretary shall amend section 236.1006(b)(4)(iii)(B) of title 49, Code of Federal Regulations (relating to equipping locomotives for applicable Class II and Class III railroads operating in positive train control territory) to extend each deadline under such section by 3 years.

(l) REVENUE SERVICE DEMONSTRATION.—When a railroad carrier or other entity subject to (a)(1) [2] notifies the Secretary it is prepared to initiate revenue service demonstration, it shall also notify any applicable tenant railroad carrier or other entity subject to subsection (a)(1).

(m) REPORTS ON POSITIVE TRAIN CONTROL SYSTEM PERFORMANCE.—

(1) IN GENERAL.—Each host railroad subject to this section or subpart I of part 236 of title 49, Code of Federal Regulations, shall electronically submit to the Secretary of Transportation a Report of PTC System Performance on Form FRA F 6180.152, which shall be submitted on or before the applicable due date set forth in paragraph (3) and contain the information described in paragraph (2), which shall be separated by the host railroad, each applicable tenant railroad, and each positive train control-governed track segment, consistent with the railroad's positive train control Implementation Plan described in subsection (a)(1).

(2) REQUIRED INFORMATION.—Each report submitted pursuant to paragraph (1) shall include, for the applicable reporting period—

(A) the number of positive train control system initialization failures, disaggregated by the number of initialization failures for which the source or cause was the onboard subsystem, the wayside subsystem, the communications subsystem, the back office subsystem, or a non-positive train control component;

(B) the number of positive train control system cut outs, disaggregated by each component listed in subparagraph (A) that was the source or cause of such cut outs;

(C) the number of positive train control system malfunctions, disaggregated by each component listed in subparagraph (A) that was the source or cause of such malfunctions;

(D) the number of enforcements by the positive train control system;

(E) the number of enforcements by the positive train control system in which it is reasonable to assume an accident or incident was prevented;

(F) the number of scheduled attempts at initialization of the positive train control system;

(G) the number of train miles governed by the positive train control system; and

(H) a summary of any actions the host railroad and its tenant railroads are taking to reduce the frequency and rate of initialization failures, cut outs, and malfunctions, such as any actions to correct or eliminate systemic issues and specific problems.

(3) DUE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each host railroad shall electronically submit the report required under paragraph (1) not later than—

(i) April 30, for the period from January 1 through March 31;

(ii) July 31, for the period from April 1 through June 30;

(iii) October 31, for the period from July 1 through September 30; and

(iv) January 31, for the period from October 1 through December 31 of the prior calendar

year.

(B) FREQUENCY REDUCTION.—Beginning on the date that is 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary shall reduce the frequency with which host railroads are required to submit the report described in paragraph (1) to not less frequently than twice per year, unless the Secretary—

(i) determines that quarterly reporting is in the public interest; and

(ii) publishes a justification for such determination in the Federal Register.

(4) TENANT RAILROADS.—Each tenant railroad that operates on a host railroad's positive train control-governed main line and is not currently subject to an exception under section 236.1006(b) of title 49, Code of Federal Regulations, shall submit the information described in paragraph (2) to each applicable host railroad on a continuous basis.

(5) ENFORCEMENTS.—Any railroad operating a positive train control system classified under Federal Railroad Administration Type Approval number FRA–TA–2010–001 or FRA–TA–2013–003 shall begin submitting the metric required under paragraph (2)(D) not later than January 31, 2023.

(Added Pub. L. 110–432, div. A, title I, §104(a), Oct. 16, 2008, 122 Stat. 4856; amended Pub. L. 114–73, title I, §1302(b), (c), Oct. 29, 2015, 129 Stat. 576, 582; Pub. L. 114–94, div. A, title XI, §11315(d), Dec. 4, 2015, 129 Stat. 1675; Pub. L. 117–58, div. B, title II, §22414, Nov. 15, 2021, 135 Stat. 744.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015, referred to in subsecs. (a)(1), (g)(2), and (j)(1), is the date of enactment of section 1302 of Pub. L. 114–73, which was approved Oct. 29, 2015.

The Positive Train Control Enforcement and Implementation Act of 2015, referred to in subsec. (g)(2), (3), is Pub. L. 114–73, title I, §1302, Oct. 29, 2015, 129 Stat. 576, which amended this section and enacted provisions set out as a note under section 20101 of this title. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 20101 of this title and Tables.

The date of the enactment of this Act, referred to in subsec. (k), probably means the date of enactment of section 1302 of Pub. L. 114–73, known as the Positive Train Control Enforcement and Implementation Act of 2015, which enacted subsec. (k) and was approved Oct. 29, 2015.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (m)(3)(B), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (m). Pub. L. 117–58 added subsec. (m).

2015—Subsec. (a)(1). Pub. L. 114–73, §1302(b)(1)(A)–(D), in introductory provisions, substituted "90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015" for "18 months after the date of enactment of the Rail Safety Improvement Act of 2008", "a revised plan for implementing" for "a plan for implementing", and "December 31, 2018" for "December 31, 2015" and struck out "develop and" before "submit to the Secretary of Transportation".

Subsec. (a)(1)(B). Pub. L. 114–73, §1302(b)(1)(E), substituted "defined in sections" for "defined in parts".

Subsec. (a)(2), (3). Pub. L. 114–73, §1302(b)(2), added pars. (2) and (3) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "The plan shall describe how it will provide for interoperability of the system with movements of trains of other railroad carriers over its lines and shall, to the extent practical, implement the system in a manner that addresses areas of greater risk before areas of lesser risk. The railroad carrier shall implement a positive train control system in accordance with the plan."

Subsecs. (c) to (e). Pub. L. 114–73, §1302(b)(3), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which related, respectively, to review and approval of plans, progress report on implementation of positive train control systems, and enforcement of section.

Subsec. (g). Pub. L. 114–73, §1302(c), designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (g)(3). Pub. L. 114–94, §11315(d)(2), substituted "to conform with this section" for "by paragraph (2) and subsection (k)".

Subsec. (g)(4). Pub. L. 114–94, §11315(d)(1), added par. (4).

Subsec. (h). Pub. L. 114–73, §1302(b)(4), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (i). Pub. L. 114–73, §1302(b)(5), added pars. (1) and (2) and redesignated former pars. (1) to (3) as (3) to (5), respectively.

Subsecs. (j) to (l). Pub. L. 114–73, §1302(b)(6), added subsecs. (j) to (l).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

[1] *See References in Text note below.*

[2] *So in original. Probably should be preceded by "subsection".*

§20158. Railroad safety technology grants

(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for the deployment of train control technologies, train control component technologies, processor-based technologies, electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators and monitors, remote control power switch technologies, track integrity circuit technologies, and other new or novel railroad safety technology.

(b) GRANT CRITERIA.—

(1) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, railroad suppliers, and State and local governments for projects described in subsection (a) that have a public benefit of improved safety and network efficiency.

(2) CONSIDERATIONS.—Priority shall be given to projects that—

(A) focus on making technologies interoperable between railroad systems, such as train control technologies;

(B) accelerate train control technology deployment on high-risk corridors, such as those that have high volumes of hazardous materials shipments or over which commuter or passenger trains operate; or

(C) benefit both passenger and freight safety and efficiency.

(3) IMPLEMENTATION PLANS.—Grants may not be awarded under this section to entities that fail to develop and submit to the Secretary the plans required by sections 20156(e)(2) and 20157.

(4) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 80 percent of the total cost of such project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $50,000,000 for each of fiscal years 2009 through 2013 to carry out this section. Amounts appropriated pursuant to this section shall remain available until expended.

(Added Pub. L. 110–432, div. A, title I, §105(a), Oct. 16, 2008, 122 Stat. 4858.)

§20159. Roadway user sight distance at highway-rail grade crossings

Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008,

the Secretary of Transportation, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, including vegetation growth, topographic features, structures, and standing railroad equipment, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH–2007–044.

(Added Pub. L. 110–432, div. A, title II, §203(a), Oct. 16, 2008, 122 Stat. 4869; amended Pub. L. 114–94, div. A, title XI, §11316(f), Dec. 4, 2015, 129 Stat. 1676.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in text, is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Pub. L. 114–94 substituted "the Secretary of Transportation" for "the Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§20160. National crossing inventory

(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates with respect to the trackage over which it operates; or

(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

(b) UPDATING OF CROSSING INFORMATION.—

(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates with respect to the trackage over which it operates; or

(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

(2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Rail Safety Improvement Act of 2008 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to

implement this section. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this section.

(d) DEFINITIONS.—In this section:

(1) CROSSING.—The term "crossing" means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

(2) STATE.—The term "State" means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(Added Pub. L. 110–432, div. A, title II, §204(a), Oct. 16, 2008, 122 Stat. 4869; amended Pub. L. 114–94, div. A, title XI, §11316(g), Dec. 4, 2015, 129 Stat. 1676.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) to (c), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94, §11316(g)(1), substituted "concerning each previously unreported crossing through which it operates with respect to the trackage over which it operates" for "concerning each previously unreported crossing through which it operates or with respect to the trackage over which it operates".

Subsec. (b)(1)(A). Pub. L. 114–94, §11316(g)(2), substituted "concerning each crossing through which it operates with respect to the trackage over which it operates" for "concerning each crossing through which it operates or with respect to the trackage over which it operates".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings

(a) FINDINGS.—

(1) Collisions between highway users and trains at highway-rail grade crossings continue to cause an unacceptable loss of life, serious personal injury, and property damage.

(2) While elimination of at-grade crossings through consolidation of crossings and grade separations offers the greatest long-term promise for optimizing the safety and efficiency of the two modes of transportation, over 140,000 public grade crossings remain on the general rail system—approximately one for each route mile on the general rail system.

(3) Conventional highway traffic control devices such as flashing lights and gates are often

effective in warning motorists of a train's approach to an equipped crossing.

(4) Since enactment of the Highway Safety Act of 1973, over $4,200,000,000 of Federal funding has been invested in safety improvements at highway-rail grade crossings, yet a majority of public highway-rail grade crossings are not yet equipped with active warning systems.

(5) The emergence of new technologies presents opportunities for more effective and affordable warnings and safer passage of highway users and trains at remaining highway-rail grade crossings.

(6) Implementation of new crossing safety technology will require extensive cooperation between highway authorities and railroad carriers.

(7) Federal Railroad Administration regulations establishing performance standards for processor-based signal and train control systems provide a suitable framework for qualification of new or novel technology at highway-rail grade crossings, and the Federal Highway Administration's Manual on Uniform Traffic Control Devices provides an appropriate means of determining highway user interface with such new technology.

(b) POLICY.—It is the policy of the United States to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation is designated to carry out this policy in consultation with States and necessary public and private entities.

(c) SUBMISSION OF NEW TECHNOLOGY PROPOSALS.—Railroad carriers and railroad suppliers may submit for review and approval to the Secretary such new technology designed to improve safety at highway-rail grade crossings. The Secretary shall approve by order the new technology designed to improve safety at highway-rail grade crossings in accordance with Federal Railroad Administration standards for the development and use of processor-based signal and train control systems and shall consider the effects on safety of highway-user interface with the new technology.

(d) EFFECT OF SECRETARIAL APPROVAL.—If the Secretary approves by order new technology to provide warning to highway users at a highway-rail grade crossing and such technology is installed at a highway-rail grade crossing in accordance with the conditions of the approval, this determination preempts any State statute or regulation concerning the adequacy of the technology in providing warning at the crossing.

(Added Pub. L. 110–432, div. A, title II, §210(a), Oct. 16, 2008, 122 Stat. 4876.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Highway Safety Act of 1973, referred to in subsec. (a)(4), is title II of Pub. L. 93–87, Aug. 13, 1973, 87 Stat. 282. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 401 of Title 23, Highways, and Tables.

§20162. Minimum training standards and plans

(a) IN GENERAL.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish—

(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

(2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training programs and information deemed necessary by the Secretary to ensure that all safety-related railroad employees

receive appropriate training in a timely manner; and

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad carrier compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

(b) APPROVAL.—The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

(c) EXEMPTION.—The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008.

(Added Pub. L. 110–432, div. A, title IV, §401(a), Oct. 16, 2008, 122 Stat. 4883; amended Pub. L. 114–94, div. A, title XI, §11316(h), Dec. 4, 2015, 129 Stat. 1677.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) and (c), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–94 substituted "railroad carrier compliance with Federal standards" for "railroad compliance with Federal standards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

OPERATING CREW MEMBER TRAINING, QUALIFICATION, AND CERTIFICATION

Pub. L. 117–58, div. B, title II, §22410, Nov. 15, 2021, 135 Stat. 740, provided that:

"(a) AUDITS.—Not later than 60 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall initiate audits of the training, qualification, and certification programs of locomotive engineers and conductors of railroad carriers, subject to the requirements of parts 240 and 242 of title 49, Code of Federal Regulations, which audits shall—

"(1) be conducted in accordance with subsection (b);

"(2) consider whether such programs are in compliance with such parts 240 and 242;

"(3) assess the type and content of training that such programs provide locomotive engineers and conductors, relevant to their respective roles, including training related to installed technology;

"(4) determine whether such programs provide locomotive engineers and conductors the knowledge, skill, and ability to safely operate a locomotive or train, consistent with such parts 240 and 242;

"(5) determine whether such programs reflect the current operating practices of the railroad carrier;

"(6) assess the current practice by which railroads utilize simulator training, or any other technologies used to train and qualify locomotive engineers and conductors by examining how such technologies are used;

"(7) consider international experience and practice using similar technology, as appropriate, particularly before qualifying locomotive engineers on new or unfamiliar equipment, new train control, diagnostics, or other on-board technology;

"(8) assess the current practice for familiarizing locomotive engineers and conductors with new territory and using recurrency training to expose such personnel to normal and abnormal conditions; and

"(9) ensure that locomotive engineers and conductor training programs are considered separately, as

appropriate, based on the unique requirements and regulations.

"(b) AUDIT SCHEDULING.—The Secretary shall—

"(1) schedule the audits required under subsection (a) to ensure that—

"(A) each Class I railroad, including the National Railroad Passenger Corporation and other intercity passenger rail providers, is audited not less frequently than once every 5 years; and

"(B) a select number, as determined appropriate by the Secretary, of Class II and Class III railroads, along with other railroads providing passenger rail service that are not included in subparagraph (A), are audited annually; and

"(2) conduct the audits described in paragraph (1)(B) in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 [title II of Pub. L. 104–121] (5 U.S.C. 601 note) and appendix C of part 209 of title 49, Code of Federal Regulations.

"(c) UPDATES TO QUALIFICATION AND CERTIFICATION PROGRAM.—If the Secretary, while conducting the audits required under this section, identifies a deficiency in a railroad's training, qualification, and certification program for locomotive engineers or conductors, the railroad shall update the program to eliminate such deficiency.

"(d) CONSULTATION AND COOPERATION.—

"(1) CONSULTATION.—In conducting any audit required under this section, the Secretary shall consult with the railroad and its employees, including any nonprofit employee labor organization representing the engineers or conductors of the railroad.

"(2) COOPERATION.—The railroad and its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad, shall fully cooperate with any such audit, including by—

"(A) providing any relevant documents requested; and

"(B) making available any employees for interview without undue delay or obstruction.

"(3) FAILURE TO COOPERATE.—If the Secretary determines that a railroad or any of its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad is not fully cooperating with an audit, the Secretary shall electronically notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(e) REVIEW OF REGULATIONS.—The Secretary shall triennially determine whether any update to part 240 or 242 of title 49, Code of Federal Regulations, is necessary to better prepare locomotive engineers and conductors to safely operate trains by evaluating whether such regulations establish appropriate Federal standards requiring railroads—

"(1) to provide locomotive engineers or conductors the knowledge and skills to safely operate trains under conditions that reflect industry practices;

"(2) to adequately address locomotive engineer or conductor route situational awareness, including ensuring locomotive engineers and conductors to demonstrate knowledge on the physical characteristics of a territory under various conditions and using various resources;

"(3) to provide relevant and adequate hands-on training before a locomotive engineer or conductor is certified;

"(4) to adequately prepare locomotive engineers or conductors to understand relevant locomotive operating characteristics, to include instructions on functions they are required to operate on any installed technology; and

"(5) to address any other safety issue that the Secretary determines to be appropriate for better preparing locomotive engineers or conductors.

"(f) ANNUAL REPORT.—The Secretary shall publish an annual report on the public website of the Federal Railroad Administration that—

"(1) summarizes the findings of the prior year's audits;

"(2) summarizes any updates made pursuant to subsection (c); and

"(3) excludes and confidential business information or sensitive security information."

REPORT AND REGULATIONS ON CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES

Pub. L. 110–432, div. A, title IV, §402(b)–(d), Oct. 16, 2008, 122 Stat. 4884, provided that, not later than 6 months after promulgating regulations under this section, the Secretary was to issue a report to Congress about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees was necessary to reduce the number and rate of accidents and incidents or to improve railroad safety and that the Secretary could prescribe regulations requiring the certification of certain

crafts or classes of employees that the Secretary determined necessary to reduce accidents and incidents or to improve railroad safety.

§20163. Certification of train conductors

(a) REGULATIONS.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations to establish a program requiring the certification of train conductors. In prescribing such regulations, the Secretary shall require that train conductors be trained, in accordance with the training standards developed pursuant to section 20162.

(b) PROGRAM REQUIREMENTS.—In developing the regulations required by subsection (a), the Secretary may consider the requirements of section 20135(b) through (e).

(Added Pub. L. 110–432, div. A, title IV, §402(a), Oct. 16, 2008, 122 Stat. 4884.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

§20164. Development and use of rail safety technology

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensure the safe operation of such technology, such as—

(1) switch position monitoring devices or indicators;
(2) radio, remote control, or other power-assisted switches;
(3) hot box, high water, or earthquake detectors;
(4) remote control locomotive zone limiting devices;
(5) slide fences;
(6) grade crossing video monitors;
(7) track integrity warning systems; or
(8) other similar rail safety technologies, as determined by the Secretary.

(b) DARK TERRITORY DEFINED.—In this section, the term "dark territory" means any territory in a railroad system that does not have a signal or train control system installed or operational.

(Added Pub. L. 110–432, div. A, title IV, §406(a), Oct. 16, 2008, 122 Stat. 4886; amended Pub. L. 114–94, div. A, title XI, §11316(i), Dec. 4, 2015, 129 Stat. 1677.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94 substituted "after the date of enactment of the Rail Safety Improvement Act of 2008" for "after enactment of the Railroad Safety Enhancement Act of 2008" in introductory

provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§20165. Limitations on non-Federal alcohol and drug testing

(a) TESTING REQUIREMENTS.—Any non-Federal alcohol and drug testing program of a railroad carrier must provide that all post-employment tests of the specimens of employees who are subject to both the program and chapter 211 of this title be conducted using a scientifically recognized method of testing capable of determining the presence of the specific analyte at a level above the cut-off level established by the carrier.

(b) REDRESS PROCESS.—Each railroad carrier that has a non-Federal alcohol and drug testing program must provide a redress process to its employees who are subject to both the alcohol and drug testing program and chapter 211 of this title for such an employee to petition for and receive a carrier hearing to review his or her specimen test results that were determined to be in violation of the program. A dispute or grievance raised by a railroad carrier or its employee, except a probationary employee, in connection with the carrier's alcohol and drug testing program and the application of this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153).

(Added Pub. L. 110–432, div. A, title IV, §409(a), Oct. 16, 2008, 122 Stat. 4887.)

§20166. Emergency escape breathing apparatus

Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations that require railroad carriers—

(1) to provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all crewmembers in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release;

(2) to provide convenient storage in each freight train locomotive to enable crewmembers to access such apparatus quickly;

(3) to maintain such equipment in proper working condition; and

(4) to provide their crewmembers with appropriate training for using the breathing apparatus.

(Added Pub. L. 110–432, div. A, title IV, §413(a), Oct. 16, 2008, 122 Stat. 4889.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in text, is the date of enactment of div. A. of Pub. L. 110–432, which was approved Oct. 16, 2008.

§20167. Reports on highway-rail grade crossing safety

(a) REPORT.—Not later than 4 years after the date by which States are required to submit State highway-rail grade crossing action plans under section 11401(b) of the Fixing America's Surface Transportation Act (49 U.S.C. 22907 note), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the

Committee on Transportation and Infrastructure of the House of Representatives that summarizes the State highway-rail grade crossing action plans, including—

(1) an analysis and evaluation of each State railway-highway crossings program under section 130 of title 23, including—

(A) compliance with section 11401 of the Fixing America's Surface Transportation Act and section 130(g) of title 23; and

(B) the specific strategies identified by each State to improve safety at highway-rail grade crossings, including crossings with multiple accidents or incidents;

(2) the progress of each State in implementing its State highway-rail grade crossings action plan;

(3) the number of highway-rail grade crossing projects undertaken pursuant to section 130 of title 23, including the distribution of such projects by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

(4) which States are not in compliance with their schedule of projects under section 130(d) of title 23; and

(5) any recommendations for future implementation of the railway-highway crossings program under section 130 of title 23.

(b) UPDATES.—Not later than 5 years after the submission of the report required under subsection (a), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall—

(1) update the report based on the State annual reports submitted pursuant to section 130(g) of title 23 and any other information obtained by or available to the Administrator of the Federal Railroad Administration; and

(2) submit the updated report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) DEFINITIONS.—In this section:

(1) HIGHWAY-RAIL GRADE CROSSING.—The term "highway-rail grade crossing" means a location within a State, other than a location at which 1 or more railroad tracks cross 1 or more railroad tracks at grade, at which—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks, either at grade or grade-separated; or

(B) a pathway explicitly authorized by a public authority or a railroad carrier that—

(i) is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others;

(ii) is not associated with a public highway, road, or street, or a private roadway; and

(iii) crosses 1 or more railroad tracks, either at grade or grade-separated.

(2) STATE.—The term "State" means a State of the United States or the District of Columbia.

(Added Pub. L. 117–58, div. B, title II, §22403(b)(1), Nov. 15, 2021, 135 Stat. 735.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 11401 of the Fixing America's Surface Transportation Act, referred to in subsec. (a), is section 11401 of title XI of div. A of Pub. L. 114–94, which is set out as a note under section 22907 of this title.

PRIOR PROVISIONS

A prior section 20167, Pub. L. 110–432, div. A, title IV, §418(a), Oct. 16, 2008, 122 Stat. 4891, related to railroad safety infrastructure improvement grants, prior to repeal by Pub. L. 114–94, div. A, title XI, §11301(c)(1), Dec. 4, 2015, 129 Stat. 1648, effective Oct. 1, 2015.

§20168. Installation of audio and image recording devices

(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall promulgate regulations to require each railroad carrier that provides regularly scheduled intercity rail passenger or commuter rail passenger transportation to the public to install inward- and outward-facing image recording devices in all controlling locomotive cabs and cab car operating compartments in such passenger trains.

(b) DEVICE STANDARDS.—Each inward- and outward-facing image recording device shall—

(1) have a minimum 12-hour continuous recording capability;

(2) have crash and fire protections for any in-cab image recordings that are stored only within a controlling locomotive cab or cab car operating compartment; and

(3) have recordings accessible for review during an accident or incident investigation.

(c) REVIEW.—The Secretary shall establish a process to review and approve or disapprove an inward- or outward-facing image recording device for compliance with the standards described in subsection (b).

(d) USES.—A railroad carrier subject to the requirements of subsection (a) that has installed an inward- or outward-facing image recording device approved under subsection (c) may use recordings from that inward- or outward-facing image recording device for the following purposes:

(1) Verifying that train crew actions are in accordance with applicable safety laws and the railroad carrier's operating rules and procedures, including a system-wide program for such verification.

(2) Assisting in an investigation into the causation of a reportable accident or incident.

(3) Documenting a criminal act or monitoring unauthorized occupancy of the controlling locomotive cab or car operating compartment.

(4) Other purposes that the Secretary considers appropriate.

(e) DISCRETION.—

(1) IN GENERAL.—The Secretary may—

(A) require in-cab audio recording devices for the purposes described in subsection (d); and

(B) define in appropriate technical detail the essential features of the devices required under subparagraph (A).

(2) EXEMPTIONS.—The Secretary may exempt any railroad carrier subject to the requirements of subsection (a) or any part of the carrier's operations from the requirements under subsection (a) if the Secretary determines that the carrier has implemented an alternative technology or practice that provides an equivalent or greater safety benefit or that is better suited to the risks of the operation.

(f) TAMPERING.—

(1) IN GENERAL.—Except as provided in paragraph (2), a railroad carrier subject to the requirements of subsection (a) may take appropriate enforcement or administrative action against any employee that tampers with or disables an audio or inward- or outward-facing image recording device installed by the railroad carrier.

(2) TEMPORARILY OBSCURING FIELD OF VIEW OF AN IMAGE RECORDING DEVICE WHILE EXPRESSING BREAST MILK.—

(A) IN GENERAL.—For purposes of expressing breast milk, an employee may temporarily obscure the field of view of an image recording device required under this section if the passenger train on which such device is installed is not in motion.

(B) RESUMING OPERATION.—The crew of a passenger train on which an image recording device has been obscured pursuant to subparagraph (A) shall ensure that such image

recording device is no longer obscured immediately after the employee has finished expressing breast milk and before resuming operation of the passenger train.

(g) PRESERVATION OF DATA.—Each railroad carrier subject to the requirements of subsection (a) shall preserve recording device data for 1 year after the date of a reportable accident or incident.

(h) INFORMATION PROTECTIONS.—The Secretary may not disclose publicly any part of an in-cab audio or image recording or transcript of oral communications by or among train employees or other operating employees responsible for the movement and direction of the train, or between such operating employees and company communication centers, related to an accident or incident investigated by the Secretary. The Secretary may make public any part of a transcript or any written depiction of visual information that the Secretary determines is relevant to the accident at the time a majority of the other factual reports on the accident or incident are released to the public.

(i) PROHIBITED USE.—An in-cab audio or image recording obtained by a railroad carrier under this section may not be used to retaliate against an employee.

(j) SAVINGS CLAUSE.—Nothing in this section may be construed as requiring a railroad carrier to cease or restrict operations upon a technical failure of an inward- or outward-facing image recording device or in-cab audio device. Such railroad carrier shall repair or replace the failed inward- or outward-facing image recording device as soon as practicable.

(Added Pub. L. 114–94, div. A, title XI, §11411(a), Dec. 4, 2015, 129 Stat. 1686; amended Pub. L. 117–328, div. KK, §102(c), Dec. 29, 2022, 136 Stat. 6096.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (a), is the date of enactment of title XI of div. A of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2022—Subsec. (f). Pub. L. 117–328 designated existing provisions as par. (1) and inserted heading, substituted "Except as provided in paragraph (2), a railroad carrier" for "A railroad carrier", and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–328, div. KK, §103(c), Dec. 29, 2022, 136 Stat. 6096, provided that: "The amendments made by section 102(c) [amending this section] shall take effect on the date of enactment of this Act [Dec. 29, 2022]."

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§20169. Speed limit action plans

(a) IN GENERAL.—Not later than March 3, 2016, each railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation, in consultation with any applicable host railroad carrier, shall survey its entire system and identify each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel.

(b) ACTION PLANS.—Not later than 120 days after the date that the survey under subsection (a) is complete, a railroad carrier described in subsection (a) shall submit to the Secretary of Transportation an action plan that—

(1) identifies each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel;

(2) describes appropriate actions to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified under paragraph (1), including—

(A) modification to automatic train control systems, if applicable, or other signal systems;

(B) increased crew size;

(C) installation of signage alerting train crews of the maximum authorized speed for passenger trains in each location identified under paragraph (1);

(D) installation of alerters;

(E) increased crew communication; and

(F) other practices;

(3) contains milestones and target dates for implementing each appropriate action described under paragraph (2); and

(4) ensures compliance with the maximum authorized speed at each location identified under paragraph (1).

(c) APPROVAL.—Not later than 90 days after the date on which an action plan is submitted under subsection (b) or (d)(2), the Secretary shall approve, approve with conditions, or disapprove the action plan.

(d) PERIODIC REVIEWS AND UPDATES.—Each railroad carrier that submits an action plan to the Secretary pursuant to subsection (b) shall—

(1) not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and annually thereafter, review such plan to ensure the effectiveness of actions taken to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified pursuant to subsection (b)(1); and

(2) not later than 90 days before implementing any significant operational or territorial operating change, including initiating a new service or route, submit to the Secretary a revised action plan, after consultation with any applicable host railroad, that addresses such operational or territorial operating change.

(e) NEW SERVICE.—If a railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation did not exist on the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312), such railroad carrier, in consultation with any applicable host railroad carrier, shall—

(1) survey its routes pursuant to subsection (a) not later than 90 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021; and

(2) develop an action plan pursuant to subsection (b) not later than 120 days after the date on which such survey is complete.

(f) ALTERNATIVE SAFETY MEASURES.—The Secretary may exempt from the requirements under this section each segment of track for which operations are governed by a positive train control system certified under section 20157, or any other safety technology or practice that would achieve an equivalent or greater level of safety in reducing derailment risk.

(g) PROHIBITION.—No new intercity or commuter rail passenger service may begin operation unless the railroad carrier providing such service is in compliance with the requirements under this section.

(h) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit the Secretary from applying the requirements under this section to other segments of track at high risk of overspeed derailment.

(Added Pub. L. 117–58, div. B, title II, §22415(a), Nov. 15, 2021, 135 Stat. 746.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsecs. (d)(1) and (e)(1), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

The date of enactment of the FAST Act, referred in subsec. (e), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

§20170. Pre-revenue service safety validation plan

(a) PLAN SUBMISSION.—Any railroad providing new, regularly scheduled, intercity or commuter rail passenger transportation, an extension of existing service, or a renewal of service that has been discontinued for more than 180 days shall develop and submit for review a comprehensive pre-revenue service safety validation plan to the Secretary of Transportation not later than 60 days before initiating such revenue service. Such plan shall include pertinent safety milestones and a minimum period of simulated revenue service to ensure operational readiness and that all safety sensitive personnel are properly trained and qualified.

(b) COMPLIANCE.—After submitting a plan pursuant to subsection (a), the railroad shall adopt and comply with such plan and may not amend the plan without first notifying the Secretary of the proposed amendment. Revenue service may not begin until the railroad has completed the requirements of its plan, including the minimum simulated service period required by the plan.

(c) RULEMAKING.—The Secretary shall promulgate regulations to carry out this section, including—

(1) requiring that any identified safety deficiencies be addressed and corrected before the initiation of revenue service; and

(2) establishing appropriate deadlines to enable the Secretary to review and approve the pre-revenue service safety validation plan to ensure that service is not unduly delayed.

(Added Pub. L. 117–58, div. B, title II, §22416(a), Nov. 15, 2021, 135 Stat. 747.)

§20171. Requirements for railroad freight cars placed into service in the United States

(a) DEFINITIONS.—In this section:

(1) COMPONENT.—The term "component" means a part or subassembly of a railroad freight car.

(2) CONTROL.—The term "control" means the power, whether direct or indirect and whether or not exercised, through the ownership of a majority or a dominant minority of the total outstanding voting interest in an entity, representation on the board of directors of an entity, proxy voting on the board of directors of an entity, a special share in the entity, a contractual arrangement with the entity, a formal or informal arrangement to act in concert with an entity, or any other means, to determine, direct, make decisions, or cause decisions to be made for the entity.

(3) COST OF SENSITIVE TECHNOLOGY.—The term "cost of sensitive technology" means the aggregate cost of the sensitive technology located on a railroad freight car.

(4) COUNTRY OF CONCERN.—The term "country of concern" means a country that—

(A) is identified by the Department of Commerce as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021;

(B) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list (as defined in subsection (g)(3) of such section); and

(C) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(5) NET COST.—The term "net cost" has the meaning given such term in chapter 4 of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

(6) QUALIFIED FACILITY.—The term "qualified facility" means a facility that is not owned or under the control of a state-owned enterprise.

(7) QUALIFIED MANUFACTURER.—The term "qualified manufacturer" means a railroad freight car manufacturer that is not owned or under the control of a state-owned enterprise.

(8) RAILROAD FREIGHT CAR.—The term "railroad freight car" means a car designed to carry freight or railroad personnel by rail, including—

(A) a box car;
(B) a refrigerator car;
(C) a ventilator car;
(D) an intermodal well car;
(E) a gondola car;
(F) a hopper car;
(G) an auto rack car;
(H) a flat car;
(I) a special car;
(J) a caboose car;
(K) a tank car; and
(L) a yard car.

(9) SENSITIVE TECHNOLOGY.—The term "sensitive technology" means any device embedded with electronics, software, sensors, or other connectivity, that enables the device to connect to, collect data from, or exchange data with another device, including—

(A) onboard telematics;
(B) remote monitoring software;
(C) firmware;
(D) analytics;
(E) global positioning system satellite and cellular location tracking systems;
(F) event status sensors;
(G) predictive component condition and performance monitoring sensors; and
(H) similar sensitive technologies embedded into freight railcar components and sub-assemblies.

(10) STATE-OWNED ENTERPRISE.—The term "state-owned enterprise" means—

(A) an entity that is owned by, or under the control of, a national, provincial, or local government of a country of concern, or an agency of such government; or

(B) an individual acting under the direction or influence of a government or agency described in subparagraph (A).

(11) SUBSTANTIALLY TRANSFORMED.—The term "substantially transformed" means a component of a railroad freight car that undergoes an applicable change in tariff classification as a result of the manufacturing process, as described in chapter 4 and related annexes of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

(12) USMCA.—The term "USMCA" has the meaning given the term in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502).

(b) REQUIREMENTS FOR RAILROAD FREIGHT CARS.—

(1) LIMITATION ON RAILROAD FREIGHT CARS.—A railroad freight car wholly manufactured on or after the date that is 1 year after the date of issuance of the regulations required under subsection (c)(1) may only operate on the United States general railroad system of transportation if—

(A) the railroad freight car is manufactured, assembled, and substantially transformed, as applicable, by a qualified manufacturer in a qualified facility;

(B) none of the sensitive technology located on the railroad freight car, including components necessary to the functionality of the sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise; and

(C) none of the content of the railroad freight car, excluding sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid United States intellectual property rights of another including such a finding by a Federal district court under title 35 or the U.S. International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) LIMITATION ON RAILROAD FREIGHT CAR CONTENT.—

(A) PERCENTAGE LIMITATION.—

(i) INITIAL LIMITATION.—Not later than 1 year after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 20 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(ii) SUBSEQUENT LIMITATION.—Effective beginning on the date that is 3 years after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 15 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(B) CONFLICT.—The percentages specified in clauses (i) and (ii) of subparagraph (A), as applicable, shall apply notwithstanding any apparent conflict with provisions of chapter 4 of the USMCA.

(c) REGULATIONS AND PENALTIES.—

(1) REGULATIONS REQUIRED.—Not later than 2 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall issue such regulations as are necessary to carry out this section, including for the monitoring and sensitive technology requirements of this section.

(2) CERTIFICATION REQUIRED.—To be eligible to provide a railroad freight car for operation on the United States general railroad system of transportation, the manufacturer of such car shall annually certify to the Secretary of Transportation that any railroad freight cars to be so provided meet the requirements under this section.

(3) COMPLIANCE.—

(A) VALID CERTIFICATION REQUIRED.—At the time a railroad freight car begins operation on the United States general railroad system of transportation, the manufacturer of such railroad freight car shall have valid certification described in paragraph (2) for the year in which such car begins operation.

(B) REGISTRATION OF NONCOMPLIANT CARS PROHIBITED.—A railroad freight car manufacturer may not register, or cause to be registered, a railroad freight car that does not comply with the requirements under this section in the Association of American Railroad's [1] Umler system.

(4) CIVIL PENALTIES.—

(A) IN GENERAL.—Pursuant to section 21301, the Secretary of Transportation may assess a civil penalty of not less than $100,000, but not more than $250,000, for each violation of this

section for each railroad freight car.

(B) PROHIBITION ON OPERATION FOR VIOLATIONS.—The Secretary of Transportation may prohibit a railroad freight car manufacturer with respect to which the Secretary has assessed more than 3 violations under subparagraph (A) from providing additional railroad freight cars for operation on the United States general railroad system of transportation until the Secretary determines—

(i) such manufacturer is in compliance with this section; and

(ii) all civil penalties assessed to such manufacturer pursuant to subparagraph (A) have been paid in full.

(Added Pub. L. 117–58, div. B, title II, §22425(a), Nov. 15, 2021, 135 Stat. 753.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsecs. (a)(4)(A) and (c)(1), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

[1] So in original. Probably should be "Association of American Railroads' ".

CHAPTER 203—SAFETY APPLIANCES

Sec.

20301. Definition and nonapplication.
20302. General requirements.
20303. Moving defective and insecure vehicles needing repairs.
20304. Assumption of risk by employees.
20305. Inspection of mail cars.
20306. Exemption for technological improvements.

§20301. Definition and nonapplication

(a) DEFINITION.—In this chapter, "vehicle" means a car, locomotive, tender, or similar vehicle.

(b) NONAPPLICATION.—This chapter does not apply to the following:

(1) a train of 4-wheel coal cars.

(2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.

(3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.

(4) a car, locomotive, or train used on a street railway.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 881; Pub. L. 104–287, §5(52), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20301(a)	45:8 ("trains, locomotives, tenders, cars, and similar vehicles"). 45:9 (3d sentence).	

20301(b)	45:6 (1st sentence proviso).	Mar. 2, 1893, ch. 196, §6 (1st sentence proviso), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85.
	45:8 (words after 16th comma).	Mar. 2, 1903, ch. 976, §1 (words after 23d comma), 32 Stat. 943.

Subsection (a) is added to avoid repeating the substance of the definition throughout this chapter.

In subsection (b), the words before clause (1) are substituted for "*Provided*, That nothing in sections 1 to 7 of this title shall apply to" in 45:6 because 45:9, 11, and 16 provide that 45:9 and 11–16 apply to the same vehicles and trains as 45:1–7 apply to. In clause (1), the word "coal" is added for clarity because of the decision of the Supreme Court in *Baltimore & Ohio Railway Co.* v. *Jackson*, 353 U.S. 325, 333 (1957) and the legislative history of 45:6 (proviso). See 24 Cong. Rec. 1477 (1893). The text of 45:8 (words after last comma) is omitted as unnecessary because of the definition of "railroad" in section 20102 of the revised title.

PUB. L. 104–287

This amends 49:20301(b) to clarify the restatement of 45:8 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 881).

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–287 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§20302. General requirements

(a) GENERAL.—Except as provided in subsection (c) of this section and section 20303 of this title, a railroad carrier may use or allow to be used on any of its railroad lines—

(1) a vehicle only if it is equipped with—

(A) couplers coupling automatically by impact, and capable of being uncoupled, without the necessity of individuals going between the ends of the vehicles;

(B) secure sill steps and efficient hand brakes; and

(C) secure ladders and running boards when required by the Secretary of Transportation, and, if ladders are required, secure handholds or grab irons on its roof at the top of each ladder;

(2) except as otherwise ordered by the Secretary, a vehicle only if it is equipped with secure grab irons or handholds on its ends and sides for greater security to individuals in coupling and uncoupling vehicles;

(3) a vehicle only if it complies with the standard height of drawbars required by regulations prescribed by the Secretary;

(4) a locomotive only if it is equipped with a power-driving wheel brake and appliances for operating the train-brake system; and

(5) a train only if—

(A) enough of the vehicles in the train are equipped with power or train brakes so that the engineer on the locomotive hauling the train can control the train's speed without the necessity of brake operators using the common hand brakes for that purpose; and

(B) at least 50 percent of the vehicles in the train are equipped with power or train brakes and the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train.

(b) REFUSAL TO RECEIVE VEHICLES NOT PROPERLY EQUIPPED.—A railroad carrier complying with subsection (a)(5)(A) of this section may refuse to receive from a railroad line of a connecting railroad carrier or a shipper a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier.

(c) COMBINED VEHICLES LOADING AND HAULING LONG COMMODITIES .—Notwithstanding subsection (a)(1)(B) of this section, when vehicles are combined to load and haul long commodities, only one of the vehicles must have hand brakes during the loading and hauling.

(d) AUTHORITY TO CHANGE REQUIREMENTS.—The Secretary may—

(1) change the number, dimensions, locations, and manner of application prescribed by the Secretary for safety appliances required by subsection (a)(1)(B) and (C) and (2) of this section only for good cause and after providing an opportunity for a full hearing;

(2) amend regulations for installing, inspecting, maintaining, and repairing power and train brakes only for the purpose of achieving safety; and

(3) increase, after an opportunity for a full hearing, the minimum percentage of vehicles in a train that are required by subsection (a)(5)(B) of this section to be equipped and used with power or train brakes.

(e) SERVICES OF ASSOCIATION OF AMERICAN RAILROADS.—In carrying out subsection (d)(2) and (3) of this section, the Secretary may use the services of the Association of American Railroads.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 881.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20302(a) (1)(A)	45:2.	Mar. 2, 1893, ch. 196, §§1–4, 27 Stat. 531; June 22, 1988, Pub. L. 100–342, §13(1)(A)– (D), 102 Stat. 630.
	45:8 (words before 16th comma).	Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100–342, §13(2)(A), 102 Stat. 631.
20302(a) (1)(B)	45:11 (words before proviso related to sill steps and hand brakes).	Apr. 14, 1910, ch. 160, §2, 36 Stat. 298; June 22, 1988, Pub. L. 100–342, §13(3)(A), 102 Stat. 631.
20302(a) (1)(C)	45:8 (words before 16th comma).	
	45:11 (words before proviso related to ladders, running boards, grab irons, and handholds).	
20302(a)(2)	45:4.	
	45:8 (words before 16th comma).	
	49 App.:1655(e)(1)(C).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(A)–(C), 80 Stat. 939.
20302(a)(3)	45:8 (words before 16th comma).	

	45:12 (last sentence).	Apr. 14, 1910, ch. 160, §3 (1st sentence words before semicolon, proviso, last sentence), 36 Stat. 298; June 22, 1988, Pub. L. 100–342, §13(3)(B), 102 Stat. 631.
	49 App.:1655(e)(1)(A).	
20302(a)(4)	45:1 (related to locomotives).	
	45:8 (words before 16th comma).	
20302(a) (5)(A)	45:1 (related to trains).	
20302(a) (5)(B)	45:9 (1st sentence words before last semicolon).	Mar. 2, 1903, ch. 976, §2 (1st sentence), 32 Stat. 943; Apr. 11, 1958, Pub. L. 85–375, §1(b)(1), (2), 72 Stat. 86.
	45:9 (3d sentence).	Mar. 2, 1903, ch. 976, 32 Stat. 943, §2 (2d–5th sentences); added Apr. 11, 1958, Pub. L. 85–375, §1(b)(3), 72 Stat. 86; June 22, 1988, Pub. L. 100–342, §13(2)(B), 102 Stat. 631.
20302(b)	45:3.	
	45:8 (words before 16th comma).	
20302(c)	45:11 (proviso).	
20302(d)(1)	45:12 (1st sentence words before semicolon).	
	49 App.:1655(e)(1)(C).	
20302(d)(2)	45:9 (2d sentence).	
	49 App.:1655(e)(1)(B).	
20302(d)(3)	45:9 (1st sentence words after last semicolon).	
	49 App.:1655(e)(1)(B).	
20302(e)	45:9 (4th sentence).	
	49 App.:1655(e)(1)(B).	

In subsection (a), before clause (1), the words "Except as provided in subsection (c) of this section and section 20303 of this title" are added to alert the reader to the exceptions restated in subsection (c) and section 20303. The words "use or allow to be used" are substituted for "haul or permit to be hauled or used" in 45:2 and 11, "use" in 45:4 and 12, "use" and "run" in 45:1, "operated" and "used, hauled, or permitted to be used or hauled" in 45:9, "using . . . running . . . hauling or permitting to be hauled or used" in 45:6, and "used" in 45:8 for consistency in this section and to eliminate unnecessary words. See *United States* v. *St. Louis Southwestern Ry. Co. of Texas*, 184 F. 28, 32 (5th Cir., 1910); *United States* v. *Chicago, M. & St. P. Ry. Co*., 149 F. 486, 488 (D.S.D. Iowa, 1906). The words "That from and after the first day of January, eighteen hundred and ninety-eight", "That on and after the first day of January, eighteen hundred and ninety-eight", and "That from and after the first day of July, eighteen hundred and ninety-five" in sections 1, 2, and 4, respectively, of the Act of March 2, 1893 (ch. 196, 27 Stat. 531), are omitted as obsolete. The words "a railroad carrier . . . on any of its railroad lines" are substituted for "any railroad . . . on its line" in 45:1, "any such railroad . . . on its line" in 45:2, "any railroad company" in 45:4, "railroads in the Territories and the District of Columbia . . . used on any railroad, and in the Territories and the District of Columbia" in 45:8, "Whenever, as provided in sections 1 to 7 of this title" and "any railroad" in 45:9, and "any railroad subject to the provisions of sections 11 to 16 of this title . . . on its line" in 45:11 for clarity, for consistency in the revised title, to eliminate unnecessary words, and because of the definition of "railroad carrier" in section 20102 of the revised title. See *Southern Ry. Co*. v. *United States*, 222 U.S. 20, 26 (1911). In clauses (1)–(3), the word "vehicle" is substituted for "any car" in 45:2, "car" in 45:4, "all trains, locomotives, tenders, cars, and

similar vehicles used on . . . all other locomotives, tenders, cars, and similar vehicles used in connection therewith" in 45:8, and "any car subject to the provisions of said sections . . . to wit: All cars" in 45:11, and "any car or vehicle" in 45:12 for clarity, for consistency in the revised title, to eliminate unnecessary words, and because of the definition of "vehicle" in section 20301 of the revised title. In clause (1)(A), a comma is placed after the word "uncoupled" for clarity. See *Johnson* v. *Southern Pacific Co.*, 196 U.S. 1, 18 (1904). In clause (1)(C), the words "by the Secretary of Transportation" are added for clarity because of 45:12. In clause (3), the words "required by regulations prescribed by the Secretary" are substituted for "the standard now fixed or the standard so prescribed . . . the standard so prescribed by the Secretary" in 45:12 for clarity and to eliminate unnecessary words. The words "Said Secretary is given authority, after hearing, to modify or change, and to prescribe the standard height of drawbars and to fix the time within which such modification or change shall become effective and obligatory" are omitted as surplus because of 49:322(a). The words "and prior to the time so fixed . . . and after the time so fixed" are omitted as surplus. In clause (4), the word "locomotive" is substituted for "any locomotive engine" in 45:1 and "all trains, locomotives, tenders, cars, and similar vehicles used on . . . all other locomotives, tenders, cars, and similar vehicles used in connection therewith" in 45:8 for clarity and to eliminate unnecessary words. In clause (5)(B), the words "the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train" are substituted for "their brakes used and operated by the engineer of the locomotive drawing such train; and all power-braked cars in such train which are associated together with said 50 per centum shall have their brakes so used and operated" and "all . . . locomotives, tenders, cars, and similar vehicles" for clarity and consistency in this section. The text of section 2 (2d sentence) of the Act of March 2, 1903 (ch. 976, 32 Stat. 943), as added by section (1)(b) of the Power or Train Brakes Safety Appliance Act of 1958 (Public Law 85–375, 72 Stat. 86), is omitted as executed.

In subsection (b), the words "A railroad carrier complying with subsection (a)(5)(A) of this section" are substituted for "any railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section 1 of this title" in 45:3 and "The provisions and requirements of sections 1 to 7 of this title shall be held to apply to railroads in the Territories and the District of Columbia" in 45:8 for clarity, for consistency in this section, and because of the definition of "railroad carrier" in section 20102 of the revised title. The words "a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier" are substituted for "any cars not equipped sufficiently, in accordance with said section, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by sections 1 to 7 of this title" in 45:3 for clarity and to eliminate unnecessary words.

In subsection (c), the words "Notwithstanding subsection (a)(1)(B) of this section" are added for clarity.

In subsection (d)(1), the words "change . . . only for . . . and after" are substituted for "shall remain as the standards of equipment to be used on all cars subject to the provisions of sections 11 to 16 of this title, unless changed by an order of said Secretary of Transportation to be made after . . . and for" for clarity and to eliminate unnecessary words. The text of section 3 (proviso) of the Act of April 14, 1910 (ch. 160, 36 Stat. 298), is omitted as obsolete.

In subsection (d)(2), the text of 45:9 (2d sentence words before proviso) is omitted as executed.

In subsection (d)(3), the words "to more fully carry into effect the objects of said sections" and "from time to time" are omitted as surplus. The words "an opportunity for" are added for clarity and consistency in the revised title and with other titles of the Code. The words "equipped and used" are substituted for "operated" for consistency in this section.

In subsection (e), the words "and may avail himself of the advice and assistance of any department, commission, or board of the United States Government, and of State governments" are omitted as unnecessary because of 49:301(6) and (7) and 322(c). The words "but no official or employee of the United States shall receive any additional compensation for such service except as now permitted by law" are omitted as surplus because of 5:5533.

§20303. Moving defective and insecure vehicles needing repairs

(a) GENERAL.—A vehicle that is equipped in compliance with this chapter whose equipment becomes defective or insecure nevertheless may be moved when necessary to make repairs, without a penalty being imposed under section 21302 of this title, from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made—

(1) on the railroad line on which the defect or insecurity was discovered; or

(2) at the option of a connecting railroad carrier, on the railroad line of the connecting carrier, if

not farther than the place of repair described in clause (1) of this subsection.

(b) USE OF CHAINS INSTEAD OF DRAWBARS.—A vehicle in a revenue train or in association with commercially-used vehicles may be moved under this section with chains instead of drawbars only when the vehicle contains livestock or perishable freight.

(c) LIABILITY.—The movement of a vehicle under this section is at the risk only of the railroad carrier doing the moving. This section does not relieve a carrier from liability in a proceeding to recover damages for death or injury of a railroad employee arising from the movement of a vehicle with equipment that is defective, insecure, or not maintained in compliance with this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 882.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20303(a)	45:13 (2d sentence proviso words before 1st semicolon).	Apr. 14, 1910, ch. 160, §4 (2d sentence proviso), 36 Stat. 299; Jan. 14, 1983, Pub. L. 97–468, §704, 96 Stat. 2580.
20303(b)	45:13 (2d sentence proviso words after last semicolon).	
20303(c)	45:13 (2d sentence proviso words between semicolons).	

In subsections (a) and (b), the word "moved" is substituted for "hauled" and "hauling" for consistency in this section.

In subsection (a), before clause (1), the words "A vehicle that is equipped in compliance with this chapter" are substituted for "where any car shall have been properly equipped, as provided in sections 1 to 16 of this title" to eliminate unnecessary words. The words "while such car was being used by such carrier upon its line of railroad" are omitted as surplus since this chapter only applies in the case of vehicles used by railroad carriers on their railroad lines. The word "nevertheless" is added for clarity. The words "when necessary to make repairs" are substituted for "if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point" to eliminate unnecessary words. The words "without a penalty being imposed under section 21302 of this title" are substituted for "without liability for the penalties imposed by this section or section 6 of this title" because of the restatement.

In subsection (b), the words "A vehicle . . . may be moved under this section . . . only when" are substituted for "and nothing in this proviso shall be construed to permit the hauling of defective cars . . . unless" for clarity and to eliminate unnecessary words.

In subsection (c), the word "hauling" is omitted for consistency in this section. The word "proceeding" is substituted for "remedial action" for consistency in the revised title and to ensure that administrative, as well as court proceedings, are included. The words "to recover damages" are added for clarity. The words "arising from" are substituted for "caused . . . by reason of or in connection with" to eliminate unnecessary words.

§20304. Assumption of risk by employees

An employee of a railroad carrier injured by a vehicle or train used in violation of section 20302(a)(1)(A), (2), (4), or (5)(A) of this title does not assume the risk of injury resulting from the violation, even if the employee continues to be employed by the carrier after learning of the violation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20304	45:7.	Mar. 2, 1893, ch. 196, §8, 27 Stat. 532;

		June 22, 1988, Pub. L. 100–342, §13(1)(H), 102 Stat. 631.
	45:8 (words before 16th comma).	Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100–342, §13(2)(A), 102 Stat. 631.

The words "after learning of the violation" are substituted for "after the unlawful use of such locomotive, car, or train had been brought to his knowledge" in 45:7 for clarity.

§20305. Inspection of mail cars

The Secretary of Transportation shall inspect the construction, adaptability, design, and condition of mail cars used on railroads in the United States. The Secretary shall make a report on the inspection and submit a copy of the report to the United States Postal Service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20305	45:37.	May 27, 1908, ch. 200, §1 (6th par. last sentence under heading "Interstate Commerce Commission"), 35 Stat. 325.
		Mar. 4, 1909, ch. 299, §1 (6th par. last sentence under heading "Interstate Commerce Commission"), 35 Stat. 965.
	49 App.:1655(e)(1)(I), (J).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(I), (J), 80 Stat. 939.

The words "United States Postal Service" are substituted for "Postmaster General" because of sections 4(a) and 5(e) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 775).

§20306. Exemption for technological improvements

(a) GENERAL.—Subject to subsection (b) of this section, the Secretary of Transportation may exempt from the requirements of this chapter railroad equipment or equipment that will be operated on rails, when those requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.

(b) CONDITIONS FOR EXEMPTION.—The Secretary may grant an exemption under subsection (a) of this section only on the basis of—

(1) findings based on evidence developed at a hearing; or

(2) an agreement between national railroad labor representatives and the developer of the new equipment or technology.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20306	45:1013.	May 30, 1980, Pub. L. 96–254, §117,

		94 Stat. 406.

In subsection (a), the words "Notwithstanding any other provision of law" and "the mandatory requirements of" are omitted as surplus. The words "existing law" are substituted for "the existing statutes" for consistency in the revised title.

In subsection (b), the words before clause (1) are added because of the restatement. Clause (1) is substituted for "after a hearing and consistent with findings based upon evidence developed therein" to eliminate unnecessary words. In clause (2), the words "an agreement" are substituted for "expressions of agreement" to eliminate unnecessary words.

CHAPTER 205—SIGNAL SYSTEMS

Sec.
20501. Definition.
20502. Requirements for installation and use.
20503. Amending regulations and changing requirements.
20504. Inspection, testing, and investigation.
20505. Reports of malfunctions and accidents.

§20501. Definition

In this chapter, "signal system" means a block signal system, an interlocking, automatic train stop, train control, or cab-signal device, or a similar appliance, method, device, or system intended to promote safety in railroad operations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20501	(no source).	

This section is added to eliminate the unnecessary repetition of the words used in the definition. The definition is derived from 49 App.:26(b)–(f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIGNAL PROTECTION

Pub. L. 114–94, div. A, title XI, §11408, Dec. 4, 2015, 129 Stat. 1684, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall initiate a rulemaking to require that on-track safety regulations, whenever practicable and consistent with other safety requirements and operational considerations, include requiring implementation of redundant signal protection for maintenance-of-way work crews who depend on a train dispatcher to provide signal protection.

"(b) ALTERNATIVE SAFETY MEASURES.—The Secretary shall consider exempting from any final requirements of this section each segment of track for which operations are governed by a positive train control system certified under section 20157 of title 49, United States Code, or any other safety technology or practice that would achieve an equivalent or greater level of safety in providing additional signal protection."

§20502. Requirements for installation and use

(a) INSTALLATION.—(1) When the Secretary of Transportation decides after an investigation that it is necessary in the public interest, the Secretary may order a railroad carrier to install, on any part of its railroad line, a signal system that complies with requirements of the Secretary. The order

must allow the carrier a reasonable time to complete the installation. A carrier may discontinue or materially alter a signal system required under this paragraph only with the approval of the Secretary.

(2) A railroad carrier ordered under paragraph (1) of this subsection to install a signal system on one part of its railroad line may not be held negligent for not installing the system on any part of its line that was not included in the order. If an accident or incident occurs on a part of the line on which the signal system was not required to be installed and was not installed, the use of the system on another part of the line may not be considered in a civil action brought because of the accident or incident.

(b) USE.—A railroad carrier may allow a signal system to be used on its railroad line only when the system, including its controlling and operating appurtenances—

(1) may be operated safely without unnecessary risk of personal injury; and

(2) has been inspected and can meet any test prescribed under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20502(a)	49 App.:26(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(b); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 835; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, §17(2), (8), 102 Stat. 635, 636.
	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(A), 80 Stat. 939.
20502(b)	49 App.:26(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(e); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, §17(5), 102 Stat. 636.

In this section, the words "signal system" are substituted for "block signal system, interlocking, automatic train stop, train control, and/or cab-signal devices, and/or other similar appliances, methods, and systems intended to promote the safety of railroad operation" and "such systems, devices, appliances, or methods" in 49 App.:26(b) and "any system, device, or appliance covered by this section" and "such apparatus" in 49 App.:26(e) because of the definition of "signal system" in section 20501 of the revised title.

In subsection (a)(1), the words "decides after an investigation that it is necessary in the public interest" are substituted for "after investigation, if found necessary in the public interest" for clarity. The word "specifications" is omitted as included in "requirements". The words "The order must allow the carrier a reasonable time to complete the installation" are substituted for "such order to be issued and published a reasonable time (as determined by the Secretary) in advance of the date for its fulfillment" to eliminate unnecessary words. The words "a signal system required under this paragraph" are substituted for "That block signal systems, interlocking, automatic train stop, train control, and cab-signal devices in use on August 26, 1937, or such systems or devices hereinafter installed" to eliminate unnecessary or obsolete words and because of the definition of "signal system" in section 20501 of the revised title.

In subsection (a)(2), the words "railroad line" are substituted for "railroad" for consistency in the revised title. The word "civil" is added for consistency in the revised title and with other titles of the United States Code. The words "or incident" are added for consistency in this part.

In subsection (b), before clause (1), the words "may allow . . . only when" are substituted for "It shall be unlawful . . . unless . . . unless" for clarity. In clause (1), the words "in proper condition and" and "in the

service to which it is put" are omitted as being covered by the words of the clause. The words "risk of personal injury" are substituted for "peril to life and limb" for clarity. The words "from time to time" are omitted as surplus. In clause (2), the words "prescribed under this chapter" are substituted for "in accordance with the provisions of this section" and "prescribed in the rules and regulations provided for in this section" for consistency and to eliminate unnecessary words.

§20503. Amending regulations and changing requirements

The Secretary of Transportation may amend a regulation or change a requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter—

(1) when the carrier files with the Secretary a request for the amendment or change and the Secretary approves the request; or

(2) on the Secretary's own initiative for good cause shown.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 884.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20503	49 App.:26(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(c); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, §17(3), (8), 102 Stat. 635, 636.
	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(A), 80 Stat. 939.

In this section, before clause (1), the text of 49 App.:26(c) (words before 2d proviso) is omitted as executed. The words "The Secretary of Transportation may amend . . . change" are substituted for "and approved by the Secretary of Transportation" and "the Secretary may . . . revise, amend, or modify" for clarity and to eliminate unnecessary words. The words "regulation or . . . a requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter" are substituted for "rules, standards, and instructions herein provided for" and "rules, standards, and instructions prescribed by him under this subsection" for clarity, for consistency in the revised title, and because of the restatement. Clause (1) is substituted for "such railroad may from time to time change . . . but such change shall not take effect and the new rules, standards, and instructions be enforced until they shall have been filed with" for clarity and to eliminate unnecessary words. The words "and as revised, amended, or modified they shall be obligatory upon the railroad after a copy thereof shall have been served as above provided" are omitted as being superseded by 5:ch. 5, subch. II.

§20504. Inspection, testing, and investigation

(a) SYSTEMS IN USE.—(1) The Secretary of Transportation may—

(A) inspect and test a signal system used by a railroad carrier; and

(B) decide whether the system is in safe operating condition.

(2) In carrying out this subsection, the Secretary may employ only an individual who—

(A) has no interest in a patented article required to be used on or with a signal system; and

(B) has no financial interest in a railroad carrier or in a concern dealing in railroad supplies.

(b) SYSTEMS SUBMITTED FOR INVESTIGATION AND TESTING.—The Secretary may

investigate, test, and report on the use of and need for a signal system, without cost to the United States Government, when the system is submitted in completed shape for investigation and testing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 884.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20504(a)	49 App.:26(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(d); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, §17(4), (8), 102 Stat. 635, 636.
	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(I), (6)(A), 80 Stat. 939.
20504(b)	45:36.	May 27, 1908, ch. 200, §1 (1st complete par. on p. 325), 35 Stat. 325.
	49 App.:1655(e)(1)(I).	

In subsection (a)(1)(B), the words "safe operating condition" are substituted for "proper condition to operate and provide adequate safety" to eliminate unnecessary words.

In subsection (a)(2), before clause (A), the text of 49:26(d) (2d sentence) is omitted because of 5:3101. The text of 49:26(d) (3d sentence) is omitted because of 5:ch. 33. The words "In carrying out this subsection, the Secretary may employ" are substituted for "shall be used for such purpose" for clarity. In clause (A), the words "either directly or indirectly" are omitted as surplus.

In subsection (b), the word "experimentally" is omitted as surplus. The words "signal system" are substituted for "any appliances or systems intended to promote the safety of railway operation" because of the definition of "signal system" in section 20501 of the revised title. The text of 45:36 (last sentence) is omitted because of 49:323.

§20505. Reports of malfunctions and accidents

In the way and to the extent required by the Secretary of Transportation, a railroad carrier shall report to the Secretary a failure of a signal system to function as intended. If the failure results in an accident or incident causing injury to an individual or property that is required to be reported under regulations prescribed by the Secretary, the carrier owning or maintaining the signal system shall report to the Secretary immediately in writing the fact of the accident or incident.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 884.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20505	49 App.:26(f) (words before last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(f) (words before last semicolon); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, §17(6), (8), 102 Stat. 636.

	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(A), 80 Stat. 939.

The words "signal system" are substituted for "such systems, devices, or appliances" because of the definition of "signal system" in section 20501 of the revised title. The word "indicate" is omitted as being included in "function". The words "or incident" are added for consistency in this part. The word "individual" is substituted for "person", and the word "immediately" is substituted for "forthwith", for consistency in the revised title and with other titles of the United States Code.

CHAPTER 207—LOCOMOTIVES

Sec.

20701. Requirements for use.
20702. Inspections, repairs, and inspection and repair reports.
20703. Accident reports and investigations.

§20701. Requirements for use

A railroad carrier may use or allow to be used a locomotive or tender on its railroad line only when the locomotive or tender and its parts and appurtenances—

(1) are in proper condition and safe to operate without unnecessary danger of personal injury;

(2) have been inspected as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter; and

(3) can withstand every test prescribed by the Secretary under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 885.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20701	45:23.	Feb. 17, 1911, ch. 103, §2, 36 Stat. 913; Mar. 4, 1915, ch. 169, §1, 38 Stat. 1192; restated June 7, 1924, ch. 355, §2, 43 Stat. 659; June 22, 1988, Pub. L. 100–342, §14(2), 102 Stat. 632.
	45:30 (1st sentence related to 45:23).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §2 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148.
	49 App.:1655(e)(1)(E), (F).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E), (F), 80 Stat. 939.

In this section, before clause (1), the words "locomotive or tender . . . locomotive or tender and its parts and appurtenances" are substituted for "locomotive . . . locomotive, its boiler, tender, and all parts and appurtenances thereof" in 45:23 and "the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances" in 45:30 for clarity and because of the restatement. In clause (1), the words "in the service to which the same are put" and "in the active service of such railroad" in 45:23 are omitted as surplus. The words "danger of personal injury" are substituted for "peril to life or limb" for clarity and consistency in this part. In clause (2), the words "from time to time" are omitted as surplus. The words "as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter" are substituted for "in accordance with the provisions of sections 22 to 29

and 31 to 34 of this title" for clarity and consistency. In clause (3), the words "prescribed by the Secretary under this chapter" are substituted for "prescribed in the rules and regulations hereinafter provided for" for clarity and because of the restatement.

§20702. Inspections, repairs, and inspection and repair reports

(a) GENERAL.—The Secretary of Transportation shall—

(1) become familiar, so far as practicable, with the condition of every locomotive and tender and its parts and appurtenances;

(2) inspect every locomotive and tender and its parts and appurtenances as necessary to carry out this chapter, but not necessarily at stated times or at regular intervals; and

(3) ensure that every railroad carrier makes inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary and repairs every defect that is disclosed by an inspection before a defective locomotive, tender, part, or appurtenance is used again.

(b) NONCOMPLYING LOCOMOTIVES, TENDERS, AND PARTS.—(1) When the Secretary finds that a locomotive, tender, or locomotive or tender part or appurtenance owned or operated by a railroad carrier does not comply with this chapter or a regulation prescribed under this chapter, the Secretary shall give the carrier written notice describing any defect resulting in noncompliance. Not later than 5 days after receiving the notice of noncompliance, the carrier may submit a written request for a reinspection. On receiving the request, the Secretary shall provide for the reinspection by an officer or employee of the Department of Transportation who did not make the original inspection. The reinspection shall be made not later than 15 days after the date the Secretary gives the notice of noncompliance.

(2) Immediately after the reinspection is completed, the Secretary shall give written notice to the railroad carrier stating whether the locomotive, tender, part, or appurtenance is in compliance. If the original finding of noncompliance is sustained, the carrier has 30 days after receipt of the notice to file an appeal with the Secretary. If the carrier files an appeal, the Secretary, after providing an opportunity for a proceeding, may revise or set aside the finding of noncompliance.

(3) A locomotive, tender, part, or appurtenance found not in compliance under this subsection may be used only after it is—

(A) repaired to comply with this chapter and regulations prescribed under this chapter; or

(B) found on reinspection or appeal to be in compliance.

(c) REPORTS.—A railroad carrier shall make and keep, in the way the Secretary prescribes by regulation, a report of every—

(1) inspection made under regulations prescribed by the Secretary; and

(2) repair made of a defect disclosed by such an inspection.

(d) CHANGES IN INSPECTION PROCEDURES.—A railroad carrier may change a rule or instruction of the carrier governing the inspection by the carrier of the locomotives and tenders and locomotive and tender parts and appurtenances of the carrier when the Secretary approves a request filed by the carrier to make the change.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 885.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20702(a)	45:29 (1st–3d sentences).	Feb. 17, 1911, ch. 103, §6, 36 Stat. 915; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §6 of Act of Feb. 17,

		1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; Oct. 10, 1980, Pub. L. 96–423, §13, 94 Stat. 1816; June 22, 1988, Pub. L. 100–342, §14(5), 102 Stat. 633.
	45:30 (1st sentence related to 45:29, last sentence).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §§5, 6 of Act of Feb. 17, 1911, last sentence), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.
	49 App.:1655(e) (1)(E)–(G).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E)–(G), 80 Stat. 939.
20702(b)	45:29 (6th, last sentences).	
	45:30 (1st sentence related to 45:29)	
	49 App.:1655(e) (1)(E)–(G).	
20702(c)	45:29 (4th, 5th sentences).	
20702(d)	45:28.	Feb. 17, 1911, ch. 103, §5, 36 Stat. 914; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §5 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; June 22, 1988, Pub. L. 100–342, §14(4), 102 Stat. 633.
	45:30 (1st sentence related to 45:28).	
	49 App.:1655(e) (1)(E)–(G).	

In this section, the words "locomotive and tender and its parts and appurtenances" and "locomotive, tender, or locomotive or tender part or appurtenance" are substituted for "locomotive boiler" and "boiler or boilers or apparatus pertaining thereto" in 45:29 and "the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances" in 45:30 for clarity and because of the restatement.

In subsection (a), before clause (1), the word "shall" is substituted for "It shall be the duty of", "shall", and "His first duty shall be" in 45:29 and "shall . . . and shall have the same powers and duties with respect to all the parts and appurtenances of the locomotive and tender that they have with respect to the boiler of a locomotive and the appurtenances thereof" in 45:30 for clarity and to eliminate unnecessary words. In clause (1), the words "ordinarily housed or repaired in his district, and if any locomotive is ordinarily housed or repaired in two or more districts, then the director of locomotive inspection or an assistant shall make such division between inspectors as will avoid the necessity for duplication of work" in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). In clause (2), the words "inspect . . . as necessary to carry out" are substituted for "make such personal inspection . . . from time to time as may be necessary to fully carry out the provisions of" in 45:29 and "inspect" in 45:30 to eliminate unnecessary words. The words "under his care" and "as may be consistent with his other duties" in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). The words "but not necessarily" are substituted for "but he shall not be required to make such inspections" in 45:29 to eliminate unnecessary words. In clause (3), the words "inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary" are substituted for "inspections in accordance with the rules and regulations established or approved by the Secretary of Transportation" in 45:29 and "the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and

their appurtenances" in 45:30 for clarity and because of the restatement. The words "a defective locomotive, tender, part, or appurtenance is used again" are substituted for "the boiler or boilers or appurtenances pertaining thereto are again put in service" in 45:29 for consistency in this subsection. The text of 45:30 (last sentence) is omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320), 49 App.:1655(e)(1)(E)–(G), and 5:ch. 33.

In subsection (b), the word "reinspection" is substituted for "reexamination" for consistency in this chapter.

In subsection (b)(1), the words "in the performance of his duty" in 45:29 are omitted as surplus. The words "owned or operated by a railroad carrier" are added for clarity and because of the words "owning or operating such locomotive" in 45:29 (last sentence). The words "does not comply with this chapter or a regulation prescribed under this chapter" are substituted for "not conforming to the requirements of the law or the rules and regulations established and approved as hereinbefore stated" in 45:29 to eliminate unnecessary words and because of the restatement. The words "describing any defect resulting in noncompliance" are substituted for "that the locomotive is not in serviceable condition . . . because of defects set out and described in said notice" for consistency in this section and to eliminate unnecessary words. The words "written request for a reinspection" are substituted for "appeal . . . by telegraph or by letter to have said boiler reexamined" for clarity and to eliminate unnecessary words. The words "an officer or employee of the Department of Transportation" are substituted for "one of the assistant directors of locomotive inspection or any district inspector" because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G).

In subsection (b)(2), the words "Immediately after the reinspection is completed" are substituted for "upon such reexamination the boiler is found in serviceable condition . . . immediately" and "but if the reexamination of said boiler sustains the decision of the district inspector . . . at once" in 45:29 to eliminate unnecessary words. The words "give written notice . . . stating whether the locomotive, tender, part, or appurtenance is in compliance" are substituted for "in writing" and "that the appeal from the decision of the inspector is dismissed" for clarity and consistency in this subsection. The words "after providing an opportunity for a proceeding" are substituted for "after hearing" as being more appropriate and for consistency in the revised title and with other titles of the United States Code. The words "may revise or set aside the finding of noncompliance" are substituted for "shall have power to revise, modify, or set aside such action . . . and declare that said locomotive is in serviceable condition and authorize the same to be operated" to eliminate unnecessary words.

Subsection (b)(3) is substituted for "and thereafter such boiler shall not be used until in serviceable condition" and "whereupon such boiler may be put into service without further delay" in 45:29 and the text of 45:29 (last proviso) for clarity and to eliminate unnecessary words.

In subsection (c), before clause (1), the words "make and keep" are substituted for "keep" for clarity.

Subsection (d) is substituted for the text of 45:28 (1st sentence last proviso) and 30 (1st sentence related to 45:28) for clarity and because of the restatement.

§20703. Accident reports and investigations

(a) ACCIDENT REPORTS AND SCENE PRESERVATION.—When the failure of a locomotive, tender, or locomotive or tender part or appurtenance results in an accident or incident causing serious personal injury or death, the railroad carrier owning or operating the locomotive or tender—

(1) immediately shall file with the Secretary of Transportation a written statement of the fact of the accident or incident; and

(2) when the locomotive is disabled to the extent it cannot be operated under its own power, shall preserve intact all parts affected by the accident or incident, if possible without interfering with traffic, until an investigation of the accident or incident is completed.

(b) INVESTIGATIONS.—The Secretary shall—

(1) investigate each accident and incident reported under subsection (a) of this section;

(2) inspect each part affected by the accident or incident; and

(3) make a complete and detailed report on the cause of the accident or incident.

(c) PUBLICATION AND USE OF INVESTIGATION REPORTS.—When the Secretary considers publication to be in the public interest, the Secretary may publish a report of an investigation made under this section, stating the cause of the accident or incident and making

appropriate recommendations. No part of a report may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 886.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20703(a)	45:30 (1st sentence related to 45:32).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §8 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.
	45:32 (1st, 3d sentences).	Feb. 17, 1911, ch. 103, §8, 36 Stat. 916; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §8 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; June 22, 1988, Pub. L. 100–342, §14(6), 102 Stat. 633.
	49 App.:1655(e) (1)(E)–(G).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E)–(G), 80 Stat. 939.
20703(b)	45:32 (2d, last sentences).	
20703(c)	45:33.	
	49 App.:1655(e) (1)(E)–(G).	

In this section, the words "or incident" and "and incident" are added for consistency in this part.

In subsection (a), before clause (1), the words "locomotive, tender, or locomotive or tender part or appurtenance . . . the locomotive or tender" are substituted for "locomotive boiler or its appurtenances . . . said locomotive" in 45:32 and the text of 45:30 (1st sentence related to 45:32) for clarity and because of the restatement. The word "personal" is substituted for "to one or more persons" to eliminate unnecessary words. In clause (1), the word "immediately" is substituted for "forthwith" for consistency in this chapter. In clause (2), the words "operated under its own power" are substituted for "cannot be run by its own steam" for clarity. The words "hindrance or" are omitted as being included in "interfering". The word "investigation" is substituted for "inspection" for consistency in this section.

In subsection (c), the words "at any time call upon the director of locomotive inspection for a report of any accident embraced in section 32 of this title, and upon the receipt of said report" are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). The text of 45:33 (2d sentence) is omitted as surplus. The words "civil action" are substituted for "suit or action" for consistency in the revised title and with other titles of the United States Code. The words "resulting from" are substituted for "growing out of" for clarity. The words "or investigation" are omitted as unnecessary because of the restatement.

CHAPTER 209—ACCIDENTS AND INCIDENTS

Sec.
20901. Reports.
20902. Investigations.
20903. Reports not evidence in civil actions for damages.

§20901. Reports

(a) GENERAL REQUIREMENTS.—Not later than 30 days after the end of each month, a

railroad carrier shall file a report with the Secretary of Transportation on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the month. The report shall be under oath and shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.

(b) MONETARY THRESHOLD FOR REPORTING.—(1) In establishing or changing a monetary threshold for the reporting of a railroad accident or incident, the Secretary shall base damage cost calculations only on publicly available information obtained from—

(A) the Bureau of Labor Statistics; or

(B) another department, agency, or instrumentality of the United States Government if the information has been collected through objective, statistically sound survey methods or has been previously subject to a public notice and comment process in a proceeding of a Government department, agency, or instrumentality.

(2) If information is not available as provided in paragraph (1)(A) or (B) of this subsection, the Secretary may use any other source to obtain the information. However, use of the information shall be subject to public notice and an opportunity for written comment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 886.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20901(a)	45:38 (1st sentence).	May 6, 1910, ch. 208, §1 (1st sentence), 36 Stat. 350; restated Sept. 13, 1960, Pub. L. 86–762, §1, 74 Stat. 903; June 22, 1988, Pub. L. 100–342, §15(1)(A), (B), 102 Stat. 633.
	45:39 (related to time of filing report).	May 6, 1910, ch. 208, §2 (related to time of filing report), 36 Stat. 351; Jan. 3, 1975, Pub. L. 93–633, §204(b), 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §15(2), 102 Stat. 634.
	45:43a.	June 22, 1988, Pub. L. 100–342, §24, 102 Stat. 639.
	49 App.:1655(e)(1)(K).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(K), 80 Stat. 939.
20901(b)	45:38 (note).	Sept. 3, 1992, Pub. L. 102–365, §15, 106 Stat. 981.

In this section, the words "accident" and "incident" are used, and the words "collision" and "derailment" are omitted, for consistency in this part. The words "the general manager, superintendent, or other proper officer of" in 45:38 are omitted as surplus because any duty of a railroad carrier must necessarily be carried out through its proper officers and agents. The text of 45:38 (1st sentence proviso) is omitted as executed.

In subsection (b), the words "or incident" are added for consistency. The text of section 15(c) of the Rail Safety Enforcement and Review Act (Pub. L. 102–365, 106 Stat. 981) is omitted as executed.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAFETY REPORTING

Pub. L. 117–58, div. B, title II, §22421(b), Nov. 15, 2021, 135 Stat. 750, provided that: "Not later than 1

year after the date of enactment of this Act [Nov. 15, 2021], and annually thereafter for the following 4 years, the Secretary [of Transportation] shall update Special Study Block 49 on Form FRA F 6180.54 (Rail Equipment Accident/Incident Report) to collect, with respect to trains involved in accidents required to be reported to the Federal Railroad Administration—

"(1) the number of cars and length of the involved trains; and

"(2) the number of crew members who were aboard a controlling locomotive involved in an accident at the time of such accident."

ACCIDENT AND INCIDENT REPORTING

Pub. L. 110–432, div. A, title II, §209, Oct. 16, 2008, 122 Stat. 4876, provided that: "The Federal Railroad Administration shall conduct an audit of each Class I railroad at least once every 2 years and conduct an audit of each non-Class I railroad at least once every 5 years to ensure that all grade crossing collisions and fatalities are reported to any Federal national accident database."

[For definitions of "railroad" and "crossing", as used in section 209 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

§20902. Investigations

(a) GENERAL AUTHORITY.—The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) OTHER DUTIES AND POWERS.—In carrying out an investigation, the Secretary or authorized investigator may subpoena witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) REPORTS.—When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

(d) GATHERING INFORMATION AND TECHNICAL EXPERTISE.—

(1) IN GENERAL.—The Secretary shall create a standard process for investigators to use during accident and incident investigations conducted under this section for determining when it is appropriate and the appropriate method for—

(A) gathering information about an accident or incident under investigation from railroad carriers, contractors or employees of railroad carriers or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary; and

(B) consulting with railroad carriers, contractors or employees of railroad carriers or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary, for technical expertise on the facts of the accident or incident under investigation.

(2) CONFIDENTIALITY.—In developing the process required under paragraph (1), the Secretary shall factor in ways to maintain the confidentiality of any entity identified under paragraph (1) if—

(A) such entity requests confidentiality;

(B) such entity was not involved in the accident or incident; and

(C) maintaining such entity's confidentiality does not adversely affect an investigation of the Federal Railroad Administration.

(3) APPLICABILITY.—This subsection shall not apply to any investigation carried out by the National Transportation Safety Board.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 887; Pub. L. 117–58, div. B, title II, §22417, Nov. 15, 2021, 135 Stat. 748.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20902(a)	45:40 (1st sentence, 2d sentence words between 1st and 2d commas).	May 6, 1910, ch. 208, §3, 36 Stat. 351; June 22, 1988, Pub. L. 100–342, §15(3), 102 Stat. 634.
	49 App.:26(f) (words after last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(f) (words after last semicolon); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919.
	49 App.:1655(e)(1)(K).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(K), 80 Stat. 939.
20902(b)	45:40 (2d sentence less words between 1st and 2d commas).	
20902(c)	45:40 (3d, last sentences).	

In this section, the words "accident" and "incident" are used, and the words "collision" and "derailment" are omitted, for consistency in this part.

Subsection (a)(2) is substituted for the text of 49 App.:26(f) (words after last semicolon) for clarity.

In subsection (b), the words "In carrying out an investigation" are substituted for "shall have authority to investigate such collisions, derailments, or other accidents aforesaid, and all the attending facts, conditions, and circumstances, and for that purpose" to eliminate unnecessary words. The words "books, papers, orders, memoranda" are omitted as being included in "papers". The words "in coordination with" are substituted for "in connection with" for clarity. The words "The railroad carrier on whose railroad line the accident or incident occurred" are added for clarity.

In subsection (c), the words "When in the public interest" are substituted for "when he deems it to the public interest" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, §22417(1), substituted "subpoena" for "subpena".

Subsec. (d). Pub. L. 117–58, §22417(2), added subsec. (d).

§20903. Reports not evidence in civil actions for damages

No part of an accident or incident report filed by a railroad carrier under section 20901 of this title or made by the Secretary of Transportation under section 20902 of this title may be used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 887.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20903	45:41.	May 6, 1910, ch. 208, §4, 36 Stat. 351.

The words "civil action" are substituted for "suit or action" for consistency in the revised title and with other titles of the United States Code.

CHAPTER 211—HOURS OF SERVICE

Sec.

21101. Definitions.
21102. Nonapplication, exemption, and alternate hours of service regime.
21103. Limitations on duty hours of train employees.
21104. Limitations on duty hours of signal employees.
21105. Limitations on duty hours of dispatching service employees.
21106. Limitations on employee sleeping quarters.
21107. Maximum duty hours and subjects of collective bargaining.
21108. Pilot projects.
21109. Regulatory authority.

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–432, div. A, title I, §108(d)(2), (e)(2)(A), Oct. 16, 2008, 122 Stat. 4864, 4865, substituted item 21102 for former item 21102 "Nonapplication and exemption" and added item 21109.

1994—Pub. L. 103–440, title II, §203(b), Nov. 2, 1994, 108 Stat. 4620, added item 21108.

§21101. Definitions

In this chapter—

(1) "designated terminal" means the home or away-from-home terminal for the assignment of a particular crew.

(2) "dispatching service employee" means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) "employee" means a dispatching service employee, a signal employee, or a train employee.

(4) "signal employee" means an individual who is engaged in installing, repairing, or maintaining signal systems.

(5) "train employee" means an individual engaged in or connected with the movement of a train, including a hostler.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 888; Pub. L. 110–432, div. A, title I, §108(a), Oct. 16, 2008, 122 Stat. 4860.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21101(1)	45:61(b)(4) (1st sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §1(b)(4) (1st sentence); added Nov. 2, 1978, Pub. L. 95–574, §6, 92 Stat. 2461.
21101(2)–(4)	(no source).	
21101(5)	45:61(b)(2).	Mar. 4, 1907, ch. 2939, §1(b)(2), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; July 8, 1976, Pub. L. 94–348, §4(c), 90 Stat. 818.

Clause (2) is added to avoid the necessity of repeating the substance of the definition every time a "dispatching service employee" is referred to in this chapter. The language in clause (2) is derived from 45:63.

Clause (3) is added to provide a definition of "employee" when the source provisions apply to all types of employees covered by this chapter.

Clause (4) is added to avoid the necessity of repeating the substance of the definition every time a "signal employee" is referred to in this chapter. The language in clause (4) is derived from 45:63a.

In clause (5), the words "train employee" are substituted for "employee" to distinguish the term from the terms "dispatching service employee" and "signal employee". The word "actually" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2008—Par. (4). Pub. L. 110–432 struck out "employed by a railroad carrier" after "individual".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–432, div. A, title I, §108(g), Oct. 16, 2008, 122 Stat. 4866, provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and sections 21103 and 21104 of this title] shall take effect 9 months after the date of enactment of this Act [Oct. 16, 2008]."

RECORD KEEPING AND REPORTING

Pub. L. 110–432, div. A, title I, §108(f), Oct. 16, 2008, 122 Stat. 4866, provided that:

"(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act [Oct. 16, 2008], the Secretary [of Transportation] shall prescribe a regulation revising the requirements for recordkeeping and reporting for Hours of Service of Railroad Employees contained in part 228 of title 49, Code of Federal Regulations—

"(A) to adjust record keeping and reporting requirements to support compliance with chapter 211 of title 49, United States Code, as amended by this Act;

"(B) to authorize electronic record keeping, and reporting of excess service, consistent with appropriate considerations for user interface; and

"(C) to require training of affected employees and supervisors, including training of employees in the entry of hours of service data.

"(2) PROCEDURE.—In lieu of issuing a notice of proposed rulemaking as contemplated by section 553 of title 5, United States Code, the Secretary may utilize the Railroad Safety Advisory Committee to assist in development of the regulation. The Secretary may propose and adopt amendments to the revised regulations thereafter as may be necessary in light of experience under the revised requirements."

§21102. Nonapplication, exemption, and alternate hours of service regime

(a) GENERAL.—This chapter does not apply to a situation involving any of the following:

(1) a casualty.

(2) an unavoidable accident.

(3) an act of God.

(4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) EXEMPTION.—The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

(c) APPLICATION OF HOURS OF SERVICE REGIME TO COMMUTER AND INTERCITY

PASSENGER RAILROAD TRAIN EMPLOYEES.—

(1) When providing commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of railroad carriers, including public authorities operating passenger service, shall be solely governed by old section 21103 until the earlier of—

(A) the effective date of regulations prescribed by the Secretary under section 21109(b) of this chapter; or

(B) the date that is 3 years following the date of enactment of the Rail Safety Improvement Act of 2008.

(2) After the date on which old section 21103 ceases to apply, pursuant to paragraph (1), to the limitations on duty hours for train employees of railroad carriers with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of such railroad carriers shall be governed by new section 21103, except as provided in paragraph (3).

(3) After the effective date of the regulations prescribed by the Secretary under section 21109(b) of this title, such carriers shall—

(A) comply with the limitations on duty hours for train employees with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation as prescribed by such regulations; and

(B) be exempt from complying with the provisions of old section 21103 and new section 21103 for such employees.

(4) In this subsection:

(A) The terms "commuter rail passenger transportation" and "intercity rail passenger transportation" have the meaning given those terms in section 24102 of this title.

(C) [1] The term "new section 21103" means section 21103 of this chapter as amended by the Rail Safety Improvement Act of 2008.

(D) The term "old section 21103" means section 21103 of this chapter as it was in effect on the day before the enactment of that Act.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 888; Pub. L. 110–432, div. A, title I, §108(d)(1), Oct. 16, 2008, 122 Stat. 4863.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21102(a)	45:63a(d) (related to 45:64a).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §5); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.
	45:64a(d).	Mar. 4, 1907, ch. 2939, §5(d), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(6)(D), 102 Stat. 635.
21102(b)	45:63a(d) (related to 45:64a).	
	45:64a(e).	Mar. 4, 1907, ch. 2939, §5(e), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464.

In subsection (b), the words "with respect to one or more of its employees" are omitted as surplus because

the authority to exempt a railroad carrier includes the authority to exempt only some of the employees of the carrier. The words "carrier to require or allow its employees to be on duty" are substituted for "any railroad described in this section to work its employees" for clarity and consistency in this chapter.

EDITORIAL NOTES

REFERENCES IN TEXT

The Rail Safety Improvement Act of 2008, referred to in subsec. (c)(1)(B), (4)(C), (D), is div. A of Pub. L. 110–432, Oct. 16, 2008, 122 Stat. 4848. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 20101 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–432, §108(d)(1)(A), substituted "Nonapplication, exemption, and alternate hours of service regime" for "Nonapplication and exemption" in section catchline.

Subsec. (c). Pub. L. 110–432, §108(d)(1)(B), added subsec. (c).

[1] *So in original. No subpar. (B) has been enacted.*

§21103. Limitations on duty hours of train employees

(a) IN GENERAL.—Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to—

(1) remain on duty, go on duty, wait for deadhead transportation, be in deadhead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in any calendar month where the employee has spent a total of 276 hours—

(A) on duty;

(B) waiting for deadhead transportation, or in deadhead transportation from a duty assignment to the place of final release; or

(C) in any other mandatory service for the carrier;

(2) remain or go on duty for a period in excess of 12 consecutive hours;

(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

(4) remain or go on duty after that employee has initiated an on-duty period each day for—

(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier except that—

(i) an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal; and

(ii) any employee who works a seventh consecutive day pursuant to subparagraph (i) shall have at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier; or

(B) except as provided in subparagraph (A), 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier, if—

(i) for a period of 18 months following the date of enactment of the Rail Safety Improvement Act of 2008, an existing collective bargaining agreement expressly provides for such a schedule or, following the expiration of 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, collective bargaining agreements entered into during such period expressly provide for such a schedule;

(ii) such a schedule is provided for by a pilot program authorized by a collective

bargaining agreement; or

(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees' work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in or connected with the movement of a train is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) LIMBO TIME LIMITATION AND ADDITIONAL REST REQUIREMENT.—

(1) A railroad carrier may not require or allow an employee—

(A) to exceed a total of 40 hours per calendar month spent—

(i) waiting for deadhead transportation; or

(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period from the date of enactment of the Rail Safety Improvement Act of 2008 to one year after such date of enactment; and

(B) to exceed a total of 30 hours per calendar month spent—

(i) waiting for deadhead transportation; or

(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period beginning one year after the date of enactment of the Rail Safety Improvement Act of 2008 except that the Secretary may further limit the monthly limitation pursuant to regulations prescribed under section 21109.

(2) The limitations in paragraph (1) shall apply unless the train carrying the employee is directly delayed by—

(A) a casualty;

(B) an accident;

(C) an act of God;
(D) a derailment;
(E) a major equipment failure that prevents the train from advancing; or
(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(3) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release in excess of the requirements of paragraph (1).
(4) If—
(A) the time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is not time on duty, plus
(B) the time on duty,

exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the employee with additional time off duty equal to the number of hours by which such sum exceeds 12 hours.

(d) EMERGENCIES.—A train employee on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.
(e) COMMUNICATION DURING TIME OFF DUTY.—During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a) or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7) or during additional off-duty hours under subsection (c)(4), a railroad carrier, and its officers and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads' efficient operations and on-time performance of its trains.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 888; Pub. L. 110–432, div. A, title I, §108(b), Oct. 16, 2008, 122 Stat. 4860.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21103(a)	45:62(a)(1), (2).	Mar. 4, 1907, ch. 2939, §2(a)(1), (2), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; July 8, 1976, Pub. L. 94–348, §4(a)(1), (2), 90 Stat. 818; June 22, 1988, Pub. L. 100–342, §16(2), 102 Stat. 634.
21103(b)	45:61(b)(3).	Mar. 4, 1907, ch. 2939, §§1(b)(3), 2(b), 34 Stat. 1415, 1416; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463.
	45:61(b)(4) (last sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §1(b)(4) (last sentence); added Nov.

		2, 1978, Pub. L. 95–574, §6, 92 Stat. 2461; June 22, 1988, Pub. L. 100–342, §16(1)(C), 102 Stat. 634.
	45:62(b).	
21103(c)	45:62(c).	Mar. 4, 1907, ch. 2939, §2(c), 34 Stat. 1416; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; restated July 8, 1976, Pub. L. 94–348, §4(b), 90 Stat. 818.

In subsection (a), before clause (1), the words "Except as provided in subsection (c) of this section" are added to alert the reader to the exception restated in subsection (c). The words "train employee" are substituted for "employee" because of the definition of "train employee" in section 21101 of the revised title. In clause (2), the words "12 consecutive hours" are substituted for "continuously . . . fourteen hours" and "except that, effective upon the expiration of the two-year period beginning on the effective date of this paragraph, such fourteen-hour duty period shall be reduced to twelve hours" because the 2-year period has ended.

In subsection (b), the words before paragraph (1) are added as related to 45:61(b)(3) and (4) (last sentence) and substituted for "In determining, for the purposes of subsection (a), the number of hours an employee is on duty" in 45:62(b) for clarity. In paragraphs (2) and (3), the word "actually" is omitted as surplus. In paragraph (4), the words "neither time on duty nor time off duty" are substituted for "time off duty" for clarity and consistency with the source provisions restated in 21104(b)(3) and (4) of the revised title. In paragraph (7), before clause (A), the words "between designated terminals" are omitted as surplus. The text of 45:61(b)(3)(E) is omitted as surplus because of the restatement.

In subsection (c), the words "A train employee on" are added for consistency in this section. The word "actual" is omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a)(4)(B)(i) and (c)(1), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–432, §108(b)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty—

"(1) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

"(2) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty."

Subsecs. (c), (d). Pub. L. 110–432, §108(b)(2), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 110–432, §108(b)(3), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–432 effective 9 months after Oct. 16, 2008, see section 108(g) of Pub. L. 110–432, set out as a note under section 21101 of this title.

§21104. Limitations on duty hours of signal employees

(a) IN GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty and a contractor or subcontractor to a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty—

(1) for a period in excess of 12 consecutive hours; or

(2) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a signal employee is on duty or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in installing, repairing, or maintaining signal systems is time on duty.

(3) Time spent returning from a trouble call, whether the employee goes directly to the employee's residence or by way of the employee's headquarters, is neither time on duty nor time off duty.

(4) If, at the end of scheduled duty hours, an employee has not completed the trip from the final outlying worksite of the duty period to the employee's headquarters or directly to the employee's residence, the time after the scheduled duty hours necessarily spent in completing the trip to the residence or headquarters is neither time on duty nor time off duty.

(5) If an employee is released from duty at an outlying worksite before the end of the employee's scheduled duty hours to comply with this section, the time necessary for the trip from the worksite to the employee's headquarters or directly to the employee's residence is neither time on duty nor time off duty.

(6) Time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (3)–(5) of this subsection, is time on duty.

(7) A regularly scheduled meal period or another release period of at least 30 minutes but not more than one hour is time off duty and does not break the continuity of service of the employee under this section, but a release period of more than one hour is time off duty and does break the continuity of service.

(c) EMERGENCIES.—A signal employee may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of that employee is related to the emergency. In this subsection, an emergency ends when the signal system is restored to service. A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems.

(d) COMMUNICATION DURING TIME OFF DUTY.—During a signal employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier or a contractor or subcontractor to a railroad carrier, and its officers and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary.

(e) EXCLUSIVITY.—The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal Railroad Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 889; Pub. L. 110–432, div. A, title I, §108(c), Oct. 16, 2008, 122 Stat. 4862.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

21104(a)	45:63a(a) (1st sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(a) (1st sentence), (b); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.
	45:63a(a) (2d–last sentences).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(a) (2d–last sentences); added Nov. 2, 1978, Pub. L. 95–574, §4(a), 92 Stat. 2459.
21104(b)	45:63a(b).	
	45:63a(c).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415; §3A(c); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; restated Nov. 2, 1978, Pub. L. 95–574, §4(b), 92 Stat. 2460.
21104(c)	45:63a(f).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(f); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819.

In this section, the words "signal employee" are substituted for "an individual employed by the railroad who is engaged in installing, repairing or maintaining signal systems" and "an individual described in paragraph (1)" in 45:63a(a), "individual" in 45:63a(b) and (c), and "individual engaged in installing, repairing, or maintaining signal systems" in 45:63a(f) because of the definition of "signal employee" in section 21101 of the revised title.

Subsection (a)(1) is substituted for 45:63a(a) (last sentence) for clarity and because of the restatement.

In subsection (a)(2), before clause (A), the words "Except as provided in subsection (c) of this section" are added to alert the reader to the exception restated in subsection (c). The text of 45:63a(a) (2d sentence) is omitted as surplus.

In subsection (b), the words before paragraph (1) are added as related to 45:63a(c) and substituted for "In determining for the purposes of subsection (a) of this section the number of hours an individual is on duty" for clarity. In paragraph (2), the word "actually" is omitted as surplus.

In subsection (c), the word "actual" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–432, §108(c)(1), added subsec. (a) and struck out former subsec. (a) which limited the amount of time spent on duty by signal employees.

Subsec. (b)(3). Pub. L. 110–432, §108(c)(2), substituted "duty." for "duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty."

Subsec. (c). Pub. L. 110–432, §108(c)(3), inserted at end "A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems."

Subsecs. (d), (e). Pub. L. 110–432, §108(c)(4), added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–432 effective 9 months after Oct. 16, 2008, see section 108(g) of Pub. L. 110–432, set out as a note under section 21101 of this title.

§21105. Limitations on duty hours of dispatching service employees

(a) APPLICATION.—This section applies, rather than section 21103 or 21104 of this title, to a

train employee or signal employee during any period of time the employee is performing duties of a dispatching service employee.

(b) GENERAL.—Except as provided in subsection (d) of this section, a dispatching service employee may not be required or allowed to remain or go on duty for more than—

(1) a total of 9 hours during a 24-hour period in a tower, office, station, or place at which at least 2 shifts are employed; or

(2) a total of 12 hours during a 24-hour period in a tower, office, station, or place at which only one shift is employed.

(c) DETERMINING TIME ON DUTY.—Under subsection (b) of this section, time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is on duty in a tower, office, station, or other place is time on duty in that tower, office, station, or place.

(d) EMERGENCIES.—When an emergency exists, a dispatching service employee may be allowed to remain or go on duty for not more than 4 additional hours during a period of 24 consecutive hours for not more than 3 days during a period of 7 consecutive days.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 890.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21105(a)	45:62(d).	Mar. 4, 1907, ch. 2939, §2(d), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464.
	45:63a(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(e); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819.
21105(b)	45:63(a).	Mar. 4, 1907, ch. 2939, §3, 34 Stat. 1416; May 4, 1916, ch. 109, §1, 39 Stat. 61; Aug. 14, 1957, Pub. L. 85–135, §2, 71 Stat. 352; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(3), 102 Stat. 635.
21105(c)	45:63(b).	
21105(d)	45:63(c).	

In this section, the words "dispatching service employee" are substituted for "operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements" in 45:63(a), "employee . . . on duty in a class of service . . . described in paragraph (1) or (2) of such subsection" in 45:63(b), and "employees named in such subsection" in 45:63(c) because of the definition of "dispatching service employee" in section 21101 of the revised title.

In subsection (a), the words "This section applies, rather than section 21103 or 21104 of this title" are substituted for "The provisions of this section shall not apply" because of the restatement. The words "train employee" are substituted for "employee" in 45:62(d), and the words "signal employee" are substituted for "individual" in 45:63a(e), for consistency in this chapter and because of the definitions of "signal employee" and "train employee" in section 21101 of the revised title. The words "during any period of time the employee is performing duties of a dispatching service employee" are substituted for "during such period of time as the provisions of section 63 of this title apply to his duty and off-duty periods" in 45:62(d) and 63a(e) for clarity.

In subsection (b), before clause (1), the words "a total of" are substituted for "whether consecutive or in the aggregate" to eliminate unnecessary words.

In subsection (c), the words "a tower, office, station, or other place" are substituted for "a place, described in paragraph (1) or (2) of such subsection" for clarity.

In subsection (d), the words "When an emergency exists" are substituted for "in case of emergency" for consistency in this chapter.

§21106. Limitations on employee sleeping quarters

(a) IN GENERAL.—A railroad carrier and its officers and agents—

(1) may provide sleeping quarters (including crew quarters, camp or bunk cars, and trailers) for employees, and any individuals employed to maintain the right of way of a railroad carrier, only if the sleeping quarters are clean, safe, and sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees; and

(2) may not begin, after July 7, 1976, construction or reconstruction of sleeping quarters referred to in clause (1) of this section in an area or in the immediate vicinity of an area, as determined under regulations prescribed by the Secretary of Transportation, in which railroad switching or humping operations are performed.

(b) CAMP CARS.—Not later than December 31, 2009, any railroad carrier that uses camp cars shall fully retrofit or replace such cars in compliance with subsection (a).

(c) REGULATIONS.—Not later than April 1, 2010, the Secretary of Transportation, in coordination with the Secretary of Labor, shall prescribe regulations to implement subsection (a)(1) to protect the safety and health of any employees and individuals employed to maintain the right of way of a railroad carrier that uses camp cars, which shall require that all camp cars comply with those regulations by December 31, 2010. In prescribing the regulations, the Secretary shall assess the action taken by any railroad carrier to fully retrofit or replace its camp cars pursuant to this section.

(d) COMPLIANCE AND ENFORCEMENT.—The Secretary shall determine whether a railroad carrier has fully retrofitted or replaced a camp car pursuant to subsection (b) and shall prohibit the use of any non-compliant camp car. The Secretary may assess civil penalties pursuant to chapter 213 for violations of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 891; Pub. L. 110–432, div. A, title IV, §420, Oct. 16, 2008, 122 Stat. 4893.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21106	45:62(a)(3), (4).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(a)(3), (4); added July 8, 1976, Pub. L. 94–348, §4(a)(3), 90 Stat. 818; June 22, 1988, Pub. L. 100–342, §16(2), 102 Stat. 634.
	45:62(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(e); added June 22, 1988, Pub. L. 100–342, §19(b)(1), 102 Stat. 638.
	45:63a(d) (related to 45:62(a)(3)).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §2(a)(3)); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.

In this section, before clause (1), the words "and any individuals employed to maintain the right of way of a railroad carrier" are substituted for 45:62(e) because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–432 designated existing provisions as subsec. (a), inserted heading, in par. (1), substituted "sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees;" for "sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier;", and added subsecs. (b) to (d).

§21107. Maximum duty hours and subjects of collective bargaining

The number of hours established by this chapter that an employee may be required or allowed to be on duty is the maximum number of hours consistent with safety. Shorter hours of service and time on duty of an employee are proper subjects for collective bargaining between a railroad carrier and its employees.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 891.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21107	45:63a(d) (related to 45:64).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §4); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.
	45:64.	Mar. 4, 1907, ch. 2939, §4, 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(5), 102 Stat. 635.

§21108. Pilot projects

(a) IN GENERAL.—As of the date of enactment of the Rail Safety Improvement Act of 2008, a railroad carrier or railroad carriers and all nonprofit employee labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of—

(1) a waiver of compliance with this chapter as in effect on the date of enactment of the Rail Safety Improvement Act of 2008; or

(2) a waiver of compliance with this chapter as it will be effective 9 months after the enactment of the Rail Safety Improvement Act of 2008,

to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter, including requirements concerning maximum on-duty and minimum off-duty periods.

(b) GRANTING OF WAIVERS.—The Secretary may, after notice and opportunity for comment, approve such waivers described in subsection (a) for a period not to exceed two years, if the Secretary determines that such a waiver of compliance is in the public interest and is consistent with railroad safety.

(c) EXTENSIONS.—Any such waiver, based on a new petition, may be extended for additional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver

granted under this section shall be published in the Federal Register.

(d) REPORT.—The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, no later than December 31, 2012, or, if no projects are completed prior to December 31, 2012, no later than 6 months after the completion of a pilot project, a report that—

(1) explains and analyzes the effectiveness of any pilot project established pursuant to a waiver granted under subsection (a);

(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

(3) recommends any appropriate legislative changes to this chapter.

(e) DEFINITION.—For purposes of this section, the term "directly affected covered service employees" means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.

(Added Pub. L. 103–440, title II, §203(a), Nov. 2, 1994, 108 Stat. 4619; amended Pub. L. 110–432, div. A, title I, §110, Oct. 16, 2008, 122 Stat. 4867.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Pub. L. 110–432 amended section generally, revising and restating provisions of former subsec. (a) relating to waivers as subsecs. (a) to (c), provisions of former subsec. (b) relating to requirement of a report to Congress as subsec. (d), and provisions of former subsec. (c) defining "directly affected covered service employees" as subsec. (e).

§21109. Regulatory authority

(a) IN GENERAL.—In order to improve safety and reduce employee fatigue, the Secretary may prescribe regulations—

(1) to reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter;

(2) to increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter;

(3) to limit or eliminate the amount of time an employee spends waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is considered neither on duty nor off duty under this chapter;

(4) for signal employees—

(A) to limit or eliminate the amount of time that is considered to be neither on duty nor off duty under this chapter that an employee spends returning from an outlying worksite after scheduled duty hours or returning from a trouble call to the employee's headquarters or directly to the employee's residence; and

(B) to increase the amount of time that constitutes a release period, that does not break the continuity of service and is considered time off duty; and

(5) to require other changes to railroad operating and scheduling practices, including unscheduled duty calls, that could affect employee fatigue and railroad safety.

(b) REGULATIONS GOVERNING THE HOURS OF SERVICE OF TRAIN EMPLOYEES OF COMMUTER AND INTERCITY PASSENGER RAILROAD CARRIERS.—Within 3 years after

the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall prescribe regulations and issue orders to establish hours of service requirements for train employees engaged in commuter rail passenger transportation and intercity rail passenger transportation (as defined in section 24102 of this title) that may differ from the requirements of this chapter. Such regulations and orders may address railroad operating and scheduling practices, including unscheduled duty calls, communications during time off duty, and time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release, that could affect employee fatigue and railroad safety.

(c) CONSIDERATIONS.—In issuing regulations under subsection (a) the Secretary shall consider scientific and medical research related to fatigue and fatigue abatement, railroad scheduling and operating practices that improve safety or reduce employee fatigue, a railroad's use of new or novel technology intended to reduce or eliminate human error, the variations in freight and passenger railroad scheduling practices and operating conditions, the variations in duties and operating conditions for employees subject to this chapter, a railroad's required or voluntary use of fatigue management plans covering employees subject to this chapter, and any other relevant factors.

(d) TIME LIMITS.—

(1) If the Secretary determines that regulations are necessary under subsection (a), the Secretary shall first request that the Railroad Safety Advisory Committee develop proposed regulations and, if the Committee accepts the task, provide the Committee with a reasonable time period in which to complete the task.

(2) If the Secretary requests that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b) and the Committee accepts the task, the Committee shall reach consensus on the rulemaking within 18 months after accepting the task. If the Committee does not reach consensus within 18 months after the Secretary makes the request, the Secretary shall prescribe appropriate regulations within 18 months.

(3) If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b), the Secretary shall prescribe regulations within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008.

(e) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows:

(A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue.

(B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.

(2) WAIVER.—The Secretary may temporarily waive the requirements of this section, if necessary, to complete a pilot project under this subsection.

(f) DUTY CALL DEFINED.—In this section the term "duty call" means a telephone call that a railroad places to an employee to notify the employee of his or her assigned shift time.

(Added Pub. L. 110–432, div. A, title I, §108(e)(1), Oct. 16, 2008, 122 Stat. 4864.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (b), (d)(3), and

(e)(1), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMPLETION OF HOURS OF SERVICE AND FATIGUE STUDIES

Pub. L. 117–58, div. B, title II, §22408, Nov. 15, 2021, 135 Stat. 739, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 15, 2021], the Administrator of the Federal Railroad Administration shall commence the pilot programs required under subparagraphs (A) and (B) of section 21109(e)(1) of title 49, United States Code.

"(b) CONSULTATION.—The Federal Railroad Administration shall consult with the class or craft of employees impacted by the pilot projects, including railroad carriers, and representatives of labor organizations representing the impacted employees when designing and conducting the pilot programs referred to in subsection (a).

"(c) REPORT.—If the pilot programs required under section 21109(e)(1) of title 49, United States Code, have not commenced on the date that is 1 year and 120 days after the date of enactment of this Act, the Secretary [of Transportation], not later than 30 days after such date, submit [sic] a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

"(1) the status of such pilot programs;

"(2) actions that the Federal Railroad Administration has taken to commence the pilot programs, including efforts to recruit participant railroads;

"(3) any challenges impacting the commencement of the pilot programs; and

"(4) any other details associated with the development of the pilot programs that affect progress toward meeting the mandate under such section 21109(e)(1)."

CHAPTER 213—PENALTIES

SUBCHAPTER I—CIVIL PENALTIES

Sec.
21301. Chapter 201 general violations.
21302. Chapter 201 accident and incident violations and chapter 203–209 violations.
21303. Chapter 211 violations.
21304. Willfulness requirement for penalties against individuals.

SUBCHAPTER II—CRIMINAL PENALTIES

21311. Records and reports.

SUBCHAPTER I—CIVIL PENALTIES

§21301. Chapter 201 general violations

(a) PENALTY.—(1) A person may not fail to comply with section 20160 or with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title. Subject to section 21304 of this title, a person violating section 20160 of this title or a regulation prescribed or order issued by the Secretary under chapter 201 is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under chapter 201 of this title a civil penalty for a violation. The Secretary shall impose a civil penalty for a violation of section 20160 of this title. The amount of the penalty shall be at least $500 but not more than $25,000. However, when a grossly negligent violation or a pattern of repeated

violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $100,000.

(3) The Secretary may find that a person has violated this chapter or a regulation prescribed or order, special permit, or approval issued under this chapter only after notice and an opportunity for a hearing. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty. The Secretary may compromise the amount of a civil penalty by settlement agreement without issuance of an order. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed or compromise under this section and any accrued interest on the civil penalty. In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.

(b) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) DEPOSIT IN TREASURY.—A civil penalty collected under this section or section 20113(b) of this title shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 891; Pub. L. 104–287, §5(53), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title II, §204(d), title III, §302(a), Oct. 16, 2008, 122 Stat. 4871, 4878; Pub. L. 117–58, div. B, title II, §22418, Nov. 15, 2021, 135 Stat. 749.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21301(a)(1)	45:438(a).	Oct. 16, 1970, Pub. L. 91–458, §209(a), 84 Stat. 975; restated Jan. 14, 1983, Pub. L. 97–468, §706, 96 Stat. 2581; June 22, 1988, Pub. L. 100–342, §3(a)(1), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §9(a)(1), 106 Stat. 977.
	45:438(c) (1st, 3d sentences).	Oct. 16, 1970, Pub. L. 91–458, §209(c) (1st, 3d, 5th–8th sentences), 84 Stat. 975; June 22, 1988, Pub. L. 100–342, §3(a)(3)(A), (C), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(c)(1), 106 Stat. 974.
21301(a)(2)	45:438(b) (related to rules, regulations, orders, or standards issued under this subchapter).	Oct. 16, 1970, Pub. L. 91–458, §209(b) (related to rules, regulations, orders, or standards issued under this title), 84 Stat. 975; Jan. 3, 1975, Pub. L. 93–633, §204(a), 88 Stat. 2165; June 22, 1988, Pub. L. 100–342, §3(a)(2), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(a)(1), 106 Stat. 973.
21301(a)(3)	45:438(c) (5th, 6th sentences).	

21301(b)	45:438(c) (7th sentence).	
21301(c)	45:438(c) (8th sentence).	

In subsection (a), the words "impose" and "imposed" are substituted for "assessed", for consistency in the revised title.

In subsection (a)(1), the first 2 sentences are substituted for 45:438(a) and (c) (1st sentence) for consistency in the revised title and to eliminate unnecessary words. The words "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)" are omitted as surplus because of the definition of "person" in 1:1 and because the provision being violated indicates to whom it applies. The word "shall" in 45:438(c) (1st sentence) is retained from the source provisions. For a discussion of whether the authority of the Secretary of Transportation to impose a penalty is mandatory or permissive, see *Railway Labor Executives' Ass'n* v. *Dole*, 760 F.2d 1021, 1024, 1025 (9th Cir. 1985); H.R. Conf. Rept. No. 100–637, 100th Cong., 2d Sess., p. 20; 134 Cong. Rec. H3470, May 23, 1988 (daily ed.); 134 Cong. Rec. S7510, June 9, 1988 (daily ed.). See also 134 Cong. Rec. E1946, June 10, 1988 (daily ed.). For an extended discussion of FRA's prosecutorial discretion, see *Nationwide Rail Safety: Hearing Before the Subcommittee on Transportation, Tourism, and Hazardous Materials of the House Energy and Commerce Committee*, 100th Cong., 1st Sess., pp. 54–65 (1987). See also section 6 of this bill that provides that this bill restates, without substantive change, the provisions of law replaced by this bill, and that this bill may not be construed as making a substantive change in the law restated. Therefore, the word "shall" in this subsection has the same meaning it has under existing law. The words "A separate violation" are substituted for "a separate offense" for consistency.

In subsection (a)(3), the words "may compromise the amount . . . to not less than $500" are substituted for "may, however, be compromised . . . for any amount, but in no event for an amount less than the minimum provided in subsection (b) of this section" for clarity and to eliminate unnecessary words. In clause (B), the words "prior or subsequent" are omitted as unnecessary.

In subsection (c), the words "deposited in" are substituted for "covered into" for consistency in the revised title and with other titles of the United States Code.

PUB. L. 104–287

This amends 49:21301(a)(1) to clarify the restatement of 45:438(a) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 891).

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a)(3), (4). Pub. L. 117–58 added pars. (3) and (4) and struck out former par. (3). Prior to amendment, par. (3) read as follows: "The Secretary may compromise the amount of a civil penalty imposed under this subsection to not less than $500 before referring the matter to the Attorney General for collection. In determining the amount of a compromise, the Secretary shall consider—

"(A) the nature, circumstances, extent, and gravity of the violation;

"(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

"(C) other matters that justice requires."

2008—Subsec. (a)(1). Pub. L. 110–432, §204(d)(1), inserted "with section 20160 or" after "comply" and "section 20160 of this title or" after "violating".

Subsec. (a)(2). Pub. L. 110–432, §302(a), substituted "$25,000." for "$10,000." and "$100,000." for "$20,000."

Pub. L. 110–432, §204(d)(2), inserted "The Secretary shall impose a civil penalty for a violation of section 20160 of this title." after first sentence.

1996—Subsec. (a)(1). Pub. L. 104–287, §5(53)(B), substituted "Secretary under chapter 201 is liable" for "Secretary of Transportation under chapter 201 of this title is liable".

Pub. L. 104–287, §5(53)(A), inserted "A person may not fail to comply with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title." before "Subject to".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§21302. Chapter 201 accident and incident violations and chapter 203–209 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation, or violating chapters 203–209 of this title or a regulation or requirement prescribed or order issued under chapters 203–209, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least $500 but not more than $25,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $100,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

(b) CIVIL ACTIONS TO COLLECT.—The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 892; Pub. L. 110–432, div. A, title III, §302(b), Oct. 16, 2008, 122 Stat. 4878.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21302	45:6 (1st sentence words before 23d comma and between 24th comma and proviso, 2d sentence words before 2d comma, last sentence).	Mar. 2, 1893, ch. 196, §6 (1st sentence words before 23d comma and between 24th comma and proviso, 2d sentence words before 2d comma, last sentence), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85; Aug. 14, 1957, Pub. L. 85–135, §1(1), 71 Stat. 352; July 8, 1976, Pub. L. 94–348, §3(a), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95–574, §7(a), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96–423, §8(b), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §13(1)(F), 102 Stat. 630; Sept. 3,

	1992, Pub. L. 102–365, §§4(a)(1), (c)(3), 9(a)(3), 106 Stat. 973, 974, 977.
45:8 (words before 16th comma).	Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100–342, §13(2)(A), 102 Stat. 631.
45:9 (last sentence).	Mar. 2, 1903, ch. 976, 32 Stat. 943, §2 (last sentence); added Apr. 11, 1958, Pub. L. 85–375, §1(b)(3), 72 Stat. 86.
45:10 (words after 19th comma).	Mar. 2, 1903, ch. 976, §3 (last sentence words after semicolon), 32 Stat. 944.
45:12 (1st sentence words after semicolon).	Apr. 14, 1910, ch. 160, §3 (1st sentence words between semicolon and proviso), 36 Stat. 298.
45:13 (1st sentence words before last comma, 2d sentence words before proviso, last sentence).	Apr. 14, 1910, ch. 160, §4 (1st sentence words before last comma, 2d sentence words before proviso, last sentence), 36 Stat. 299; Aug. 14, 1957, Pub. L. 85–135, §1(2), 71 Stat. 352; July 8, 1976, Pub. L. 94–348, §3(b), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95–574, §7(b), 92 Stat. 2461; June 22, 1988, Pub. L. 100–342, §13(3) (C)(i)–(iv), 102 Stat. 632; Sept. 3, 1992, Pub. L. 102–365, §§4(a)(1), (c)(4), 9(a)(5), 106 Stat. 973, 974, 978.
45:14 (words after semicolon).	Apr. 14, 1910, ch. 160, §5 (words after semicolon), 36 Stat. 299.
45:30 (1st sentence related to 45:34).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §9 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.
45:34 (1st sentence words before last comma, 2d, last sentences).	Feb. 17, 1911, ch. 103, §9 (1st sentence words before last comma, 2d, last sentences), 36 Stat. 916; Apr. 22, 1940, ch. 124, §1 (related to §9 of Act of Feb. 17, 1911), 54 Stat. 148; Aug. 14, 1957, Pub. L. 85–135, §3, 71 Stat. 352; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; July 8, 1976, Pub. L. 94–348, §3(c), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95–574, §7(c), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96–423, §8(c), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §14(7)(A), 102 Stat. 633; Sept. 3, 1992, Pub. L,. 102–365,

	§§4(a)(1), (c)(7), 9(a)(8), 106 Stat. 973, 975, 978.
45:43 (1st sentence words before last comma, 2d sentence, 3d sentence words before 5th comma, last sentence).	May 6, 1910, ch. 208, §7 (1st sentence words before last comma, 2d sentence, 3d sentence words before 5th comma, last sentence), 36 Stat. 351; Sept. 13, 1960, Pub. L. 86–762, §3, 74 Stat. 904; restated June 22, 1988, Pub. L. 100–342, §15(4), 102 Stat. 634; Sept. 3, 1992, Pub. L. 102–365, §§4(a)(1), (c)(5), 9(a)(6), 106 Stat. 973, 974, 978.
45:438(b) (related to 45:39).	Oct. 16, 1970, Pub. L. 91–458, §209(b) (related to §2 of Act of May 6, 1910), 84 Stat. 975; Jan. 3, 1975, Pub. L. 93–633, §204(a), 88 Stat. 2165; June 22, 1988, Pub. L. 100–342, §3(a)(2), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(a)(1), 106 Stat. 973.
49 App.:26(h) (1st sentence words before last comma, 2d, 3d sentences, 4th sentence words before last comma, last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(h) (1st sentence words before last comma, 2d, 3d sentences, 4th sentence words before last comma, last sentence); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; July 8, 1976, Pub. L. 94–348, §3(d), 90 Stat 818; Nov. 2, 1978, Pub. L. 95–574, §7(d), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96–423, §8(d), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §17(7), (8), 102 Stat. 636; Sept. 3, 1992, Pub. L. 102–365, §§4(a)(1), (c)(6), 9(a)(7), 106 Stat. 973, 974, 978.
49 App.:1655(e)(1)(A), (C), (E)–(G), (K), (6)(A).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(A), (C), (E)–(G), (K), (6)(A), 80 Stat. 939.

In subsection (a)(1), the words "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)" are omitted as surplus because of the definition of "person" in 1:1 and because the provision being violated indicates to whom it applies. The words "violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation" are substituted for "violating . . . any rule, regulation, order, or standard issued under . . . the Federal Railroad Safety Act of 1970 [45 U.S.C. 431 et seq.] pertaining to accident reporting or investigations" in 45:43, and the words "violating chapters 203–209 of this title or a regulation or requirement prescribed or order issued under chapters 203–209" are substituted for various language in the source provisions, for clarity, for consistency in this section, and to eliminate unnecessary words. The words "liable to the United States Government for a civil penalty" are substituted for "liable to a penalty" for clarity. The text of 45:438(b) (related to 45:39) is omitted as covered by 45:43.

In subsection (a)(2), the words "The Secretary of Transportation imposes a civil penalty under this subsection" are substituted for "to be assessed by the Secretary of Transportation" in 45:6, "Such penalty shall be assessed by the Secretary of Transportation" in 45:13, the text of 45:10 (words after 7th comma) and 14 (words after semicolon), and "in such amount . . . as the Secretary of Transportation deems reasonable" in 45:34 and 43 and 49 App.:26(h) for clarity and to eliminate unnecessary words. The words "per violation" are omitted as surplus.

In subsections (a)(3) and (b), the words "Attorney General" are substituted for "United States attorney", "such attorneys, subject to the direction of the Attorney General", "proper United States attorney" and "proper United States attorneys" because of 28:509.

In subsection (a)(3), the words "section 3711 of title 31" are substituted for "the Federal Claims Collection Act of 1966" and "sections 3711 and 3716 to 3718 of title 31" because the Federal Claims Collection Act of 1966 has been repealed and reenacted as part of title 31 and penalties are compromised under 31:3711. In clause (B), the words "prior or subsequent" are omitted as unnecessary.

In subsection (a)(4), the words "the Secretary shall refer the matter to the Attorney General for collection" are substituted for "recovered in a suit or suits to be brought by" for clarity. The words "and it shall also be the duty of the Secretary of Transportation to lodge with . . . information of any such violations as may come to his knowledge" and "and it shall be the duty of the director of locomotive inspection to give information . . . of all violations coming to his knowledge" are omitted as obsolete.

In subsection (b), the words "The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section" are substituted for "and it shall be the duty of such United States attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred" in 45:6, and for "It shall be the duty of such attorneys to bring such suits upon duly verified information being lodged with them showing such violations having occurred" in 49 App.:26, for clarity and consistency in this section and with other provisions of the revised title.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–432 substituted "$25,000." for "$10,000." and "$100,000." for "$20,000."

§21303. Chapter 211 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating chapter 211 of this title, including section 21103 (as such section was in effect on the day before the date of enactment of the Rail Safety Improvement Act of 2008), or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. For a violation of section 21106 of this title, a separate violation occurs for each day a facility is not in compliance.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least $500 but not more than $25,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $100,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

(b) CIVIL ACTIONS TO COLLECT.—(1) The Attorney General shall bring a civil action in a

district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action under this subsection must be brought not later than 2 years after the date of the violation unless administrative notification under section 3711 of title 31 is given within that 2-year period to the person committing the violation. However, even if notification is given, the action must be brought within the period specified in section 2462 of title 28.

(c) IMPUTATION OF KNOWLEDGE.—In any proceeding under this section, a railroad carrier is deemed to know the acts of its officers and agents.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 892; Pub. L. 103–440, title II, §204, Nov. 2, 1994, 108 Stat. 4620; Pub. L. 104–287, §5(54), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title I, §108(e)(2)(B), title III, §302(c), Oct. 16, 2008, 122 Stat. 4866, 4878.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21303	45:63a(d) (related to 45:64a).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §5); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.
	45:64a(a)(1) (1st sentence words before last comma, 2d–4th sentences, 5th sentence words before last comma, last sentence).	Mar. 4, 1907, ch. 2939, §5(a)(1) (1st sentence words before last comma, 2d–4th sentences, 5th sentence words before last comma, last sentence), 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; July 8, 1976, Pub. L. 94–348, §4(e), 90 Stat. 819; Oct. 10, 1980, Pub. L. 96–423, §12, 94 Stat. 1816; restated June 22, 1988, Pub. L. 100–342, §16(6)(A), 102 Stat. 635; Sept. 3, 1992, Pub. L,. 102–365, §§4(a)(2), (c)(2), 9(a)(2), 106 Stat. 973, 974, 977.
	45:64a(a)(2).	Mar. 4, 1907, ch. 2939, §5(a)(2), 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; July 8, 1976, Pub. L. 94–348, §4(e), 90 Stat. 819; restated Oct. 10, 1980, Pub. L. 96–423, §12, 94 Stat. 1816; June 22, 1988, Pub. L. 100–342, §16(6)(B), 102 Stat. 635.
	45:64a(b).	Mar. 4, 1907, ch. 2939, §5(b), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464.
	45:64a(c).	Mar. 4, 1907, ch. 2939, §5(c), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L.

		91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(6)(C), 102 Stat. 635.

In this section, the words "Attorney General" are substituted for "United States attorney" because of 28:509. The words "civil action" are substituted for "suit or suits", "action", and "prosecutions" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a)(1), the words "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)" are omitted as surplus because of the definition of "person" in 1:1 and because the provision being violated indicates to whom it applies. The words "violating chapter 211 of this title" are substituted for "that requires or permits any employee to go, be, or remain on duty in violation of section 62, section 63, or section 63a of this title, or that violates any other provision of this chapter" to eliminate unnecessary words. The words "to the United States Government for a civil penalty" are substituted for "for a penalty" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words "The Secretary of Transportation imposes a civil penalty under this subsection" are substituted for "as the Secretary of Transportation deems reasonable" for clarity and consistency.

In subsection (a)(3), the words "section 3711 of title 31" are substituted for "sections 3711 and 3716 to 3718 of title 31" because penalties are compromised under 31:3711. In clause (B), the words "prior or subsequent" are omitted as unnecessary.

In subsection (a)(4), the words "the Secretary shall refer the matter to the Attorney General for collection" are substituted for "recovered in a suit or suits to be brought by" for clarity. The text of 45:64a(b) is omitted as obsolete.

In subsection (b)(1), the words "The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General" are substituted for "It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him" for clarity and consistency in this section and with other provisions of the revised title.

In subsection (c), the words "any proceeding" are substituted for "all prosecutions" for consistency in the revised title.

PUB. L. 104–287

This amends 49:21303(a)(1) to correct a grammatical error.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a)(1), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–432, §108(e)(2)(B), inserted "including section 21103 (as such section was in effect on the day before the date of enactment of the Rail Safety Improvement Act of 2008)," after "chapter 211 of this title,".

Subsec. (a)(2). Pub. L. 110–432, §302(c), substituted "$25,000." for "$10,000." and "$100,000." for "$20,000."

1996—Subsec. (a)(1). Pub. L. 104–287 inserted a comma after "chapter 211 of this title".

1994—Subsec. (a)(1). Pub. L. 103–440 inserted "or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title," after "chapter 211 of this title".

§21304. Willfulness requirement for penalties against individuals

A civil penalty under this subchapter may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was

following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 893.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21304	45:6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence).	Mar. 2, 1893, ch. 196, §6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence), 27 Stat. 532; restated June 22, 1988, Pub. L. 100–342, §13(1)(F), 102 Stat. 630; Sept. 3, 1992, Pub. L. 102–365, §9(a)(3), 106 Stat. 977.
	45:13 (1st sentence words after last comma, 3d, 4th sentences).	Apr. 14, 1910, ch. 160, §4 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 299; June 22, 1988, Pub. L. 100–342, §13(3)(C)(iii), (v), 102 Stat. 632.
	45:34 (1st sentence words after last comma, 3d, 4th sentences).	Feb. 17, 1911, ch. 103, §9 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 916; June 22, 1988, Pub. L. 100–342, §14(7), 102 Stat. 633.
	45:43 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence).	May 6, 1910, ch. 208, §7 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence), 36 Stat. 351; Sept. 13, 1960, Pub. L. 86–762, §3, 74 Stat. 904; restated June 22, 1988, Pub. L. 100–342, §15(4), 102 Stat. 634.
	45:64a(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence).	Mar. 4, 1907, ch. 2939, §5(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence), 34 Stat. 1417; restated June 22, 1988, Pub. L. 100–342, §16(6)(A), 102 Stat. 635.
	45:438(c) (2d, 9th, last sentences).	Oct. 16, 1970, Pub. L. 91–458, §209(c) (2d, 8th, last sentences), 84 Stat. 975; June 22, 1988, Pub. L. 100–342, §3(a)(3)(A), (C), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(c)(1), 106 Stat. 974.
	49 App.:26(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988,

		Pub. L. 100–342, §17(7), 102 Stat. 636.

The word "official" is added the 2d time it appears for consistency in this section.

SUBCHAPTER II—CRIMINAL PENALTIES

§21311. Records and reports

(a) RECORDS AND REPORTS UNDER CHAPTER 201.—A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

(1) makes a false entry in a record or report required to be made or preserved under chapter 201 of this title;

(2) destroys, mutilates, changes, or by another means falsifies such a record or report;

(3) does not enter required specified facts and transactions in such a record or report;

(4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under chapter 201 of this title; or

(5) files a false record or report with the Secretary of Transportation.

(b) ACCIDENT AND INCIDENT REPORTS.—A railroad carrier not filing a report in violation of section 20901 of this title shall be fined not more than $2,500. A separate violation occurs for each day the violation continues.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 893; Pub. L. 110–432, div. A, title III, §310, Oct. 16, 2008, 122 Stat. 4882.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21311(a)	45:438(e).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §209(e); added Oct. 10, 1980, Pub. L. 96–423, §7, 94 Stat. 1814.
21311(b)	45:39 (related to fine).	May 6, 1910, ch. 208, §2 (related to fine), 36 Stat. 351; Jan. 3, 1975, Pub. L. 93–633, §204(b), 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §15(2), 102 Stat. 634; Sept. 3, 1992, Pub. L. 102–365, §4(a)(3), 106 Stat. 973.

In subsection (a), before clause (1), the words "fined under title 18" are substituted for "fined not more than $5,000" for consistency with title 18. In clause (1), the word "prepared" is omitted as surplus. In clause (4), the word "prepares" is omitted as surplus.

In subsection (b), the words "shall be deemed guilty of a misdemeanor" are omitted for consistency with title 18. The words "upon conviction thereof by a court of competent jurisdiction" and "punished by a" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–432 amended subsec. (b) generally. Prior to amendment, text read as follows: "A railroad carrier not filing the report required by section 20901 of this title shall be fined not more

than $500 for each violation and not more than $500 for each day during which the report is overdue."

PART B—ASSISTANCE

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

Sec.
22101. Financial assistance for State projects.
22102. Eligibility.
22103. Applications.
22104. State rail plan financing.
22105. Sharing project costs.
22106. Limitations on financial assistance.
22107. Records, audits, and information.
[22108. Repealed.]

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94, div. A, title XI, §11301(c)(4), Dec. 4, 2015, 129 Stat. 1648, struck out item 22108 "Authorization of appropriations".

§22101. Financial assistance for State projects

(a) GENERAL.—The Secretary of Transportation shall provide financial assistance to a State, as provided under this chapter, for a rail freight assistance project of the State when a rail carrier subject to part A of subtitle IV of this title maintains a rail line in the State. The assistance is for the cost of—

(1) acquiring, in any way the State considers appropriate, an interest in a rail line or rail property to maintain existing, or to provide future, rail freight transportation, but only if the Surface Transportation Board has authorized, or exempted from the requirements of that authorization, the abandonment of, or the discontinuance of rail transportation on, the rail line related to the project;

(2) improving and rehabilitating rail property on a rail line to the extent necessary to allow adequate and efficient rail freight transportation on the line, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year; and

(3) building rail or rail-related facilities (including new connections between at least 2 existing rail lines, intermodal freight terminals, sidings, bridges, and relocation of existing lines) to improve the quality and efficiency of the rail freight transportation, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(b) CALCULATING COST-BENEFIT RATIO.—The Secretary shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under this chapter. In establishing the methodology, the Secretary shall consider the need for equitable treatment of different regions of the United States and different commodities transported by rail. The establishment of the methodology is committed to the discretion of the Secretary.

(c) CONDITIONS.—(1) Assistance for a project shall be provided under this chapter only if—

(A) a rail carrier certifies that the rail line related to the project carried more than 20 carloads a mile during the most recent year during which transportation was provided by the carrier on the line; and

(B) the ratio of benefits to costs for the project, as calculated using the methodology established

under subsection (b) of this section, is more than 1.0.

(2) If the rail carrier that provided the transportation on the rail line is no longer in existence, the applicant for the project shall provide the information required by the certification under paragraph (1)(A) of this subsection in the way the Secretary prescribes.

(3) The Secretary may waive the requirement of paragraph (1)(A) or (2) of this subsection if the Secretary—

(A) decides that the rail line has contractual guarantees of at least 40 carloads a mile for each of the first 2 years of operation of the proposed project; and

(B) finds that there is a reasonable expectation that the contractual guarantees will be fulfilled.

(d) LIMITATIONS ON AMOUNTS.—A State may not receive more than 15 percent of the amounts provided in a fiscal year under this chapter. Not more than 20 percent of the amounts available under this chapter may be provided in a fiscal year for any one project.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 894; Pub. L. 104–88, title III, §308(f)(1), (2), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22101(a)	49 App.:1654(b).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(b), (c), (n)–(p); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102– 106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1844, 1848.
	49 App.:1654(p).	
22101(b)	49 App.:1654(n).	
22101(c)	49 App.:1654(c).	
22101(d)	49 App.:1654(*o*).	

In this chapter, the word "transportation" is substituted for "service" for consistency in the revised title.

In subsection (a), before clause (1), the words "when a rail carrier . . . maintains a rail line in the State" are substituted for "As used in this section, the term 'State' means any State in which a rail carrier providing transportation . . . maintains any line of railroad" because of the restatement. The words "the jurisdiction of the Interstate Commerce Commission" are omitted as unnecessary because of 49:ch. 105. In clause (1), the words "by purchase, lease" are omitted as being included in "in any way the State considers appropriate" to eliminate unnecessary words.

In subsection (b), the words "no later than July 1, 1990" are omitted as executed.

In subsection (c)(1), before clause (A), the words "Assistance for a project shall be provided under this chapter only if" are substituted for "No project shall be provided rail freight assistance under this section unless" because of the restatement.

In subsection (c)(2), the words "If the rail carrier that provided the transportation on the rail line" are substituted for "In a case where the railroad", and the words "information required by the certification under paragraph (1)(A) of this subsection" are substituted for "such information", for clarity.

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted "part A of subtitle IV" for "subchapter I of chapter 105" in introductory provisions and "Surface Transportation Board" for "Interstate Commerce Commission" in par. (1).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§22102. Eligibility

A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that—

(1) the State has an adequate plan for rail transportation in the State and a suitable process for updating, revising, and modifying the plan;

(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;

(3) the State authority—

(A) is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;

(B) employs or will employ sufficient qualified and trained personnel;

(C) maintains or will maintain adequate programs of investigation, research, promotion, and development with opportunity for public participation; and

(D) is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation; and

(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 895.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22102	49 App.:1654(a).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(a); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11,

		1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1844.

In this section, before clause (1), the words "and the Secretary decides that" are substituted for "and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection" to eliminate unnecessary words. In clauses (2) and (3), the word "authority" is substituted for "agency" for consistency in the revised title. In clause (2), the word "fair" is substituted for "equitable" for consistency in the revised title. In clause (3)(A), the words "is authorized" are substituted for "has authority and administrative jurisdiction" to eliminate unnecessary words. In clause (3)(B), the words "directly or indirectly" are omitted as surplus. In clause (4), the word "adopt" is omitted as being included in "maintain".

§22103. Applications

(a) FILING.—A State must file an application with the Secretary of Transportation for financial assistance for a project described under section 22101(a) of this title not later than January 1 of the fiscal year for which amounts have been appropriated. However, for a fiscal year for which the authorization of appropriations for assistance under this chapter has not been enacted by the first day of the fiscal year, the State must file the application not later than 90 days after the date of enactment of a law authorizing the appropriations for that fiscal year. The Secretary shall prescribe the form of the application.

(b) CONSIDERATIONS.—In considering an application under this subsection, the Secretary shall consider the following:

(1) the percentage of rail lines that rail carriers have identified to the Surface Transportation Board for abandonment or potential abandonment in the State.

(2) the likelihood of future abandonments in the State.

(3) the ratio of benefits to costs for a proposed project calculated using the methodology established under section 22101(b) of this title.

(4) the likelihood that the rail line will continue operating with assistance.

(5) the impact of rail bankruptcies, rail restructuring, and rail mergers on the State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 896; Pub. L. 104–88, title III, §308(f)(3), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22103(a)	49 App.:1654(f) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(f); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1846.
22103(b)	49 App.:1654(f) (last sentence).	

In subsection (a), the words "under this chapter" are added for clarity. The words "a law" are substituted for "legislation" for consistency in the revised title.

In subsection (b)(3), the words "established by the Secretary" are omitted as surplus.

In subsection (b)(5), the words "applying for assistance" are omitted as unnecessary because of the restatement.

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (b)(1). Pub. L. 104–88 substituted "Surface Transportation Board" for "Interstate Commerce Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§22104. State rail plan financing

(a) ENTITLEMENT AND USES.—On the first day of each fiscal year, each State is entitled to $36,000 of the amounts made available under section 22108 [1] of this title during that fiscal year to be used—

(1) to establish, update, revise, and modify the State plan required by section 22102 of this title; or

(2) to carry out projects described in section 22101(a)(1), (2), or (3) of this title, as designated by the State, if those projects meet the requirements of section 22101(c)(1)(B) of this title.

(b) APPLICATIONS.—Each State must apply for amounts under this section not later than the first day of the fiscal year for which the amounts are available. However, for any fiscal year for which the authorization of appropriations for financial assistance under this chapter has not been enacted by the first day of the fiscal year, the State must apply for amounts under this section not later than 60 days after the date of enactment of a law authorizing the appropriations for that fiscal year. Not later than 60 days after receiving an application, the Secretary of Transportation shall consider the application and notify the State of the approval or disapproval of the application.

(c) AVAILABILITY OF AMOUNTS.—Amounts provided under this section remain available to a State for obligation for the first 3 months after the end of the fiscal year for which the amounts were made available. Amounts not applied for under this section or that remain unobligated after the first 3 months after the end of the fiscal year for which the amounts were made available are available to the Secretary for projects meeting the requirements of this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 896.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22104(a)	49 App.:1654(g) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(g); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983,

		Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1846.
22104(b)	49 App.:1654(g) (2d, 3d sentences).	
22104(c)	49 App.:1654(g) (4th, last sentences).	

In subsection (a)(1), the word "modify" is added for consistency with 49 App.:1654(a), restated in section 22102 of the revised title.

In subsection (b), the words "not later than the first day of the fiscal year for which the amounts are available" are substituted for "on or before the first day of the fiscal year" for clarity.

In subsection (c), the word "timely" is omitted as unnecessary. The words "the first 3 months after the end of the fiscal year for which the amounts were made available" are substituted for "the expiration of the period described in the previous sentence" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 22108 of this title, referred to in subsec. (a), was repealed by Pub. L. 114–94, div. A, title XI, §11301(c)(4), Dec. 4, 2015, 129 Stat. 1648.

[1] *See References in Text note below.*

§22105. Sharing project costs

(a) GENERAL.—(1) The United States Government's share of the costs of financial assistance for a project under this chapter is 50 percent, except that for assistance provided under section 22101(a)(2) of this title, the Government's share is 70 percent. The State may pay its share of the costs in cash or through the following benefits, to the extent that the benefits otherwise would not be provided:

(A) forgiveness of taxes imposed on a rail carrier or its property.

(B) real and tangible personal property (provided by the State or a person for the State) necessary for the safe and efficient operation of rail freight transportation.

(C) track rights secured by the State for a rail carrier.

(D) the cash equivalent of State salaries for State employees working on the State project, except overhead and general administrative costs.

(2) A State may pay more than its required percentage share of the costs of a project under this chapter. When a State, or a person acting for a State, pays more than the State share of the costs of its projects during a fiscal year, the excess amount shall be applied to the State share for the costs of the State projects for later fiscal years.

(b) AGREEMENTS TO COMBINE AMOUNTS.—States may agree to combine any part of the amounts made available under this chapter to carry out a project that is eligible for assistance under this chapter when—

(1) the project will benefit each State making the agreement; and

(2) the agreement is not a violation of State law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 897.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22105(a)	49 App.:1654(e).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(e), (j); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107– 109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1845, 1847.
22105(b)	49 App.:1654(j).	

In this section, the words "project" and "projects" are substituted for "program" for clarity and consistency in this section.

In subsection (a)(1), before clause (A), the words "financial assistance for a project under this chapter" are substituted for "rail freight assistance project" for clarity and consistency in this chapter. In clause (B), the words "for use in its rail freight assistance program" are omitted as unnecessary because of the restatement. In clause (D), the words "State employees" are substituted for "State public employees" to eliminate an unnecessary word.

In subsection (b), before clause (1), the words "States may agree" are substituted for "Two or more States . . . enter into an agreement" to eliminate unnecessary words.

§22106. Limitations on financial assistance

(a) GRANTS AND LOANS.—A State shall use financial assistance for projects under this chapter to make a grant or lend money to the owner of rail property, or a rail carrier providing rail transportation, related to a project being assisted.

(b) STATE USE OF REPAID FUNDS AND CONTINGENT INTEREST RECOVERIES.—The State shall place the United States Government's share of money that is repaid and any contingent interest that is recovered in an interest-bearing account. The repaid money, contingent interest, and any interest thereon shall be considered to be State funds. The State shall use such funds to make other grants and loans, consistent with the purposes for which financial assistance may be used under subsection (a), as the State considers to be appropriate.

(c) ENCOURAGING PARTICIPATION.—To the maximum extent possible, the State shall encourage the participation of shippers, rail carriers, and local communities in paying the State share of assistance costs.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 897; Pub. L. 104–287, §5(55), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title VII, §701(a), Oct. 16, 2008, 122 Stat. 4905; Pub. L. 114–94, div. A, title XI, §11316(k), Dec. 4, 2015, 129 Stat. 1678.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22106(a)	49 App.:1654(d)(1), (2).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(d), (i); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130;

		Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107– 109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1845, 1847.
22106(b)	49 App.:1654(d)(3) (1st, 2d sentences).	
22106(c)	49 App.:1654(d)(3) (3d, last sentences).	
22106(d)	49 App.:1654(d)(4).	
22106(e)	49 App.:1654(i).	

In subsection (a), the words "financial assistance for projects under this chapter" are substituted for "assistance provided under subsection (b) of this section" for clarity. The words "rail carrier providing rail transportation" are substituted for "operator of rail service" for consistency in the revised title. The word "conditions" is omitted as being included in "terms". The words "Secretary of the Treasury" are substituted for "Department of the Treasury" because of 31:301(b).

In subsection (b), the words "in the same manner and under the same conditions as if they were originally granted to the State by the Secretary" are omitted as unnecessary.

In subsection (e)(2), the words "assistance under this chapter" are substituted for "Federal assistance" for clarity and consistency in this chapter.

PUB. L. 104–287

This amends 49:22106(b) to clarify the restatement of 49 App.:1654(d)(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 897).

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 substituted "interest thereon" for "interest thereof".

2008—Subsec. (a). Pub. L. 110–432, §701(a)(1), struck out last sentence which read as follows: "The State shall decide on the financial terms of the grant or loan, except that the time for making grant advances shall comply with regulations of the Secretary of the Treasury."

Subsec. (b). Pub. L. 110–432, §701(a)(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The State shall place the United States Government's share of money that is repaid in an interest-bearing account. However, the Secretary of Transportation may allow a borrower to place that money, for the benefit of the State, in a bank designated by the Secretary of the Treasury under section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use the money and accumulated interest to make other grants and loans under this chapter in the same manner and under the same conditions as if they were originally granted to the State by the Secretary of Transportation."

Subsecs. (c), (d). Pub. L. 110–432, §701(a)(3), redesignated subsec. (d) as (c) and struck out former subsec. (c). Text of former subsec. (c) read as follows: "The State may pay the Secretary of Transportation the Government's share of unused money and accumulated interest at any time. However, the State must pay the unused money and accumulated interest to the Secretary when the State ends its participation under this chapter."

Subsec. (e). Pub. L. 110–432, §701(a)(3), struck out subsec. (e). Text read as follows: "Each State shall retain a contingent interest (redeemable preference shares) for the Government's share of amounts in a rail line receiving assistance under this chapter. The State may collect its share of the amounts used for the rail line if—

"(1) an application for abandonment of the rail line is filed under chapter 109 of this title; or

"(2) the rail line is sold or disposed of after it has received assistance under this chapter."

1996—Subsec. (b). Pub. L. 104–287 inserted "in the same manner and under the same conditions as if they were originally granted to the State by the Secretary of Transportation" after "under this chapter".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§22107. Records, audits, and information

(a) RECORDS.—Each recipient of financial assistance through an arrangement under this chapter shall keep records required by the Secretary of Transportation. The records shall be kept for 3 years after a project is completed and shall disclose—

(1) the amount of, and disposition by the recipient, of the assistance;

(2) the total costs of the project for which the assistance was given or used;

(3) the amount of that part of the costs of the project paid by other sources; and

(4) any other records that will make an effective audit easier.

(b) AUDITS.—The Secretary shall make regular financial and performance audits, as provided under chapter 75 of title 31, of activities and transactions assisted under this chapter.

(c) INFORMATION.—The Surface Transportation Board shall provide the Secretary with information the Secretary requests to assist in carrying out this chapter. The Board shall provide the information not later than 30 days after receiving a request from the Secretary.

(d) LIST OF RAIL LINES.—Not later than August 1 of each year, each rail carrier subject to part A of subtitle IV of this title shall submit to the Secretary a list of the rail lines of the carrier that carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 898; Pub. L. 104–88, title III, §308(f)(4), (5), Dec. 29, 1995, 109 Stat. 947; Pub. L. 104–316, title I, §127(c), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22107(a)	49 App.:1654(k)(1).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(k)–(m); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107– 109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1847.
22107(b)	49 App.:1654(k)(2), (3).	

22107(c)	49 App.:1654(*l*).	
22107(d)	49 App.:1654(m).	

In subsection (a), before clause (1), the words "an arrangement" are substituted for "whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements", and the word "project" is substituted for "project or undertaking", to eliminate unnecessary words and for consistency in this chapter.

Subsection (b) is substituted for 49 App.:1654(k)(2) and (3) because of 31:ch. 75.

In subsection (d), the words "Not later than" are substituted for "On or before" for clarity. The word "submit" is substituted for "prepare, update, and submit" to eliminate unnecessary words. The words "based on level of usage" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–316 struck out "and the Comptroller General" after "Secretary".

1995—Subsec. (c). Pub. L. 104–88, §308(f)(4), substituted "Surface Transportation Board" for "Interstate Commerce Commission" and "The Board" for "The Commission".

Subsec. (d). Pub. L. 104–88, §308(f)(5), substituted "part A of subtitle IV" for "subchapter I of chapter 105".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

[§22108. Repealed. Pub. L. 114–94, div. A, title XI, §11301(c)(4), Dec. 4, 2015, 129 Stat. 1648]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 898; Pub. L. 103–429, §6(20), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to authorization of appropriations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 223—CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS

Sec.

22301. Capital grants for class II and class III railroads.

EDITORIAL NOTES

AMENDMENTS

2007—Pub. L. 110–140, title XI, §1112(a), Dec. 19, 2007, 121 Stat. 1758, substituted "CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS" for "LIGHT DENSITY RAIL LINE PILOT PROJECTS" in chapter heading and "Capital grants for class II and class III railroads" for "Light density rail line pilot projects" in item 22301.

§22301. Capital grants for class II and class III railroads

(a) ESTABLISHMENT OF PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for making capital grants to class II and class III railroads. Such grants shall be for projects in the public interest that—

(A)(i) rehabilitate, preserve, or improve railroad track (including roadbed, bridges, and related track structures) used primarily for freight transportation;

(ii) facilitate the continued or greater use of railroad transportation for freight shipments; and

(iii) reduce the use of less fuel efficient modes of transportation in the transportation of such shipments; or

(B) demonstrate innovative technologies and advanced research and development that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation.

(2) PROVISION OF GRANTS.—Grants may be provided under this chapter—

(A) directly to the class II or class III railroad; or

(B) with the concurrence of the class II or class III railroad, to a State or local government.

(3) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

(4) REGULATIONS.—Not later than October 1, 2008, the Secretary shall issue final regulations to implement the program under this section.

(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case-by-case basis consistent with this chapter.

(c) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

(d) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of this chapter.

(e) LABOR STANDARDS.—

(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40 (commonly known as the "Davis-Bacon Act"). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the [1] subchapter IV of chapter 31 of title 40.

(f) STUDY.—The Secretary shall conduct a study of the projects carried out with grant assistance under this section to determine the extent to which the program helps promote a reduction in fuel use associated with the transportation of freight and demonstrates innovative technologies that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation. Not later than March 31, 2009, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and

Transportation of the Senate on the study, including any recommendations the Secretary considers appropriate regarding the program.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2008 through 2011 for carrying out this section.

(Added Pub. L. 110–140, title XI, §1112(a), Dec. 19, 2007, 121 Stat. 1758; amended Pub. L. 110–432, div. A, title VII, §701(b), Oct. 16, 2008, 122 Stat. 4906.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this chapter, referred to in subsec. (d), probably means the date of enactment of Pub. L. 110–140, which amended this chapter generally and was approved Dec. 19, 2007.

The Railway Labor Act, referred to in subsec. (e)(2), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

PRIOR PROVISIONS

A prior section 22301, added Pub. L. 105–178, title VII, §7202(a), June 9, 1998, 112 Stat. 470, related to grants for light density rail line pilot projects, prior to the general amendment of this chapter by Pub. L. 110–140.

AMENDMENTS

2008—Subsec. (a)(1)(A)(iii). Pub. L. 110–432 substituted "or" for "and".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] So in original. The word "the" probably should not appear.

CHAPTER 224—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

Sec.

22401. Definitions.
22402. Direct loans and loan guarantees.
22403. Administration of direct loans and loan guarantees.
22404. Employee protection.
22405. Substantive criteria and standards.
22406. Authorization of appropriations.

§22401. Definitions

In this chapter:

(1) COST.—

(A) The term "cost" means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(i) Loan disbursements.

(ii) Repayments of principal.

(iii) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

Calculation of the cost of a direct loan shall include the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments.

(ii) Payments to the Government, including origination and other fees, penalties, and recoveries.

Calculation of the cost of a loan guarantee shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(2) CURRENT.—The term "current" has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) DIRECT LOAN.—The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims.

(4) DIRECT LOAN OBLIGATION.—The term "direct loan obligation" means a binding agreement by the Secretary to make a direct loan when specified conditions are fulfilled by the borrower.

(5) INTERMODAL.—The term "intermodal" means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made.

(6) INVESTMENT-GRADE RATING.—The term "investment-grade rating" means a rating of BBB minus, Baa 3, bbb minus, BBB(low), or higher assigned by a rating agency.

(7) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(8) LOAN GUARANTEE COMMITMENT.—The term "loan guarantee commitment" means a binding agreement by the Secretary to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(9) MASTER CREDIT AGREEMENT.—The term "master credit agreement" means an agreement to make 1 or more direct loans or loan guarantees at future dates for a program of related projects on terms acceptable to the Secretary.

(10) MODIFICATION.—The term "modification" means any Government action that alters the

estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(11) PROJECT OBLIGATION.—The term "project obligation" means a note, bond, debenture, or other debt obligation issued by a borrower in connection with the financing of a project, other than a direct loan or loan guarantee under this chapter.

(12) RAILROAD.—The term "railroad" includes—

(A) any railroad or railroad carrier (as such terms are defined in section 20102); and

(B) any rail carrier (as defined in section 24102).

(13) RATING AGENCY.—The term "rating agency" means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(14) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(15) SUBSTANTIAL COMPLETION.—The term "substantial completion" means—

(A) the opening of a project to passenger or freight traffic; or

(B) a comparable event, as determined by the Secretary and specified in the terms of the direct loan or loan guarantee provided by the Secretary.

(Added and amended Pub. L. 117–58, div. B, title I, §21301(a)(2), (3), (c), Nov. 15, 2021, 135 Stat. 683.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in par. (2), is classified to section 900(c)(9) of Title 2, The Congress.

CODIFICATION

The text of section 821 of Title 45, Railroads, which was transferred to this section and amended by Pub. L. 117–58, div. B, title I, §21301(a)(3), (c), was based on Pub. L. 94–210, title V, §501, as added Pub. L. 105–178, title VII, §7203(a)(1), June 9, 1998, 112 Stat. 471; amended Pub. L. 114–94, div. A, title XI, §11602, Dec. 4, 2015, 129 Stat. 1693.

AMENDMENTS

2021—Pub. L. 117–58, §21301(c)(2)(A), substituted "In this chapter:" for "For purposes of this title" in introductory provisions.

Pub. L. 117–58, §21301(a)(3), transferred text of section 821 of Title 45, Railroads, to this section.

Par. (1). Pub. L. 117–58, §21301(c)(1)(A), inserted par. heading, designated existing provisions as subpar. (A), and realigned margins of subpars. (B) to (F).

Pars. (2) to (10). Pub. L. 117–58, §21301(c)(1)(B), inserted headings.

Par. (11). Pub. L. 117–58, §21301(c)(1)(B), (2)(B), inserted heading and substituted "under this chapter" for "under this title".

Par. (12). Pub. L. 117–58, §21301(c)(2)(C), amended par. (12) generally. Prior to amendment, text read as follows: "The term 'railroad' has the meaning given the term 'railroad carrier' in section 20102 of title 49, United States Code."

Pub. L. 117–58, §21301(c)(1)(B), inserted heading.

Par. (13). Pub. L. 117–58, §21301(c)(1)(B), inserted heading.

Par. (14). Pub. L. 117–58, §21301(c)(2)(E), added par. (14). Former par. (14) redesignated (15).

Pub. L. 117–58, §21301(c)(1)(B), inserted heading.

Par. (15). Pub. L. 117–58, §21301(c)(2)(D), redesignated par. (14) as (15).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Pub. L. 114–94, div. A, title XI, §11607(b), Dec. 4, 2015, 129 Stat. 1699, as amended by Pub. L. 117–58, div. B, title I, §21301(j)(3)(B)(i), Nov. 15, 2021, 135 Stat. 692, provided that: " All provisions under section[s] 22402 through 22404 of title 49, United States Code [see former 45 U.S.C. 822, 823, 836], as they existed on the day before enactment of this Act shall apply to direct loans provided by the Secretary [of Transportation] prior to the date of enactment of this Act [Dec. 4, 2015], and nothing in this title [see Tables for classification] may be construed to limit the payback of a credit risk premium, with interest accrued thereon, if a direct loan provided by the Secretary under such sections has been paid back in full, prior to the date of enactment of this Act."

Pub. L. 114–94, div. A, title XI, §11610, Dec. 4, 2015, 129 Stat. 1700, as amended by Pub. L. 117–58, div. B, title I, §21301(j)(3)(B)(ii), Nov. 15, 2021, 135 Stat. 692, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b) and section 11607(b) [set out above], this subtitle [see Short Title of 2015 Amendment note set out under section 801 of Title 45, Railroads], and the amendments made by this subtitle, shall not affect any direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) that was in effect prior to the date of enactment of this Act [Dec. 4, 2015]. Any such transaction entered into before the date of enactment of this Act shall be administered until completion under its terms as if this Act [div. A of Pub. L. 114–94, see Tables for classification] were not enacted.

"(b) MODIFICATION COSTS.—At the discretion of the Secretary [of Transportation], the authority to accept modification costs on behalf of an applicant under section 22402(f) of title 49, United States Code, may apply with respect to any direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) that was in effect prior to the date of enactment of this Act."

Pub. L. 105–178, title VII, §7203(b)(2), June 9, 1998, 112 Stat. 477, as amended by Pub. L. 117–58, div. B, title I, §21301(j)(3)(C), Nov. 15, 2021, 135 Stat. 692, provided that: "A transaction entered into under the authority of chapter 224 of title 49, United States Code, before the date of enactment of this Act [June 9, 1998] shall be administered until completion under its terms as if this Act [see Tables for classification] were not enacted."

§22402. Direct loans and loan guarantees

(a) GENERAL AUTHORITY.—The Secretary shall provide direct loans and loan guarantees to—

(1) State and local governments;

(2) entities implementing interstate compacts consented to by Congress under section 410(a) of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note);

(3) government sponsored authorities and corporations;

(4) railroads;

(5) entities participating in joint ventures that include at least 1 of the entities described in paragraph (1), (2), (3), (4), or (6);

(6) limited option freight shippers that own or operate a plant or other facility, solely for the purpose of constructing a rail connection between a plant or facility and a railroad; and

(7) private entities with controlling ownership in 1 or more freight railroads other than Class I carriers.

(b) ELIGIBLE PURPOSES.—

(1) IN GENERAL.—Direct loans and loan guarantees authorized under this section shall be used—

(A) to acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, cuts and fills, stations, tunnels, bridges, yards, buildings, and shops, and to finance costs related to those activities, including pre-construction costs;

(B) to develop or establish new intermodal or railroad facilities;

(C) to develop landside port infrastructure for seaports serviced by rail;

(D) to refinance outstanding debt incurred for the purposes described in subparagraph (A) ,

(B), or (C);

(E) to reimburse planning, permitting, and design expenses relating to activities described in subparagraph (A), (B), or (C); or

(F) to finance economic development, including commercial and residential development, and related infrastructure and activities, that—

(i) incorporates private investment of greater than 20 percent of total project costs;

(ii) is physically connected to, or is within ½ mile of, a fixed guideway transit station, an intercity bus station, a passenger rail station, or a multimodal station, provided that the location includes service by a railroad;

(iii) demonstrates the ability of the applicant to commence the contracting process for construction not later than 90 days after the date on which the direct loan or loan guarantee is obligated for the project under this chapter; and

(iv) demonstrates the ability to generate new revenue for the relevant passenger rail station or service by increasing ridership, increasing tenant lease payments, or carrying out other activities that generate revenue exceeding costs.

(2) OPERATING EXPENSES NOT ELIGIBLE.—Direct loans and loan guarantees under this section shall not be used for railroad operating expenses.

(c) PRIORITY PROJECTS.—In granting applications for direct loans or guaranteed loans under this section, the Secretary shall give priority to projects that—

(1) enhance public safety, including projects for the installation of a positive train control system (as defined in section 20157(i));

(2) promote economic development;

(3) enhance the environment;

(4) enable United States companies to be more competitive in international markets;

(5) are endorsed by the plans prepared under section 135 of title 23 or chapter 227 of this title by the State or States in which they are located;

(6) improve railroad stations and passenger facilities and increase transit-oriented development;

(7) preserve or enhance rail or intermodal service to small communities or rural areas;

(8) enhance service and capacity in the national rail system; or

(9) would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system.

(d) EXTENT OF AUTHORITY.—The aggregate unpaid principal amounts of obligations under direct loans and loan guarantees made under this section shall not exceed $35,000,000,000 at any one time. Of this amount, not less than $7,000,000,000 shall be available solely for projects primarily benefiting freight railroads other than Class I carriers. The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.

(e) RATES OF INTEREST.—

(1) DIRECT LOANS.—The interest rate on a direct loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(2) LOAN GUARANTEES.—The Secretary shall not make a loan guarantee under this section if the interest rate for the loan exceeds that which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market.

(f) INFRASTRUCTURE PARTNERS.—

(1) AUTHORITY OF SECRETARY.—In lieu of or in combination with appropriations of budget authority to cover the costs of direct loans and loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, including the cost of a modification thereof,

the Secretary may accept on behalf of an applicant for assistance under this section a commitment from a non-Federal source, including a State or local government or agency or public benefit corporation or public authority thereof, to fund in whole or in part credit risk premiums and modification costs with respect to the loan that is the subject of the application or modification. In no event shall the aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a direct loan or loan guarantee be less than the cost of that direct loan or loan guarantee.

(2) CREDIT RISK PREMIUM AMOUNT.—The Secretary shall determine the amount required for credit risk premiums under this subsection on the basis of—

(A) the circumstances of the applicant, including the amount of collateral offered, if any;

(B) the proposed schedule of loan disbursements;

(C) historical data on the repayment history of similar borrowers;

(D) consultation with the Congressional Budget Office; and

(E) any other factors the Secretary considers relevant.

(3) CREDITWORTHINESS.—Upon receipt of a proposal from an applicant under this section, the Secretary shall accept as a basis for determining the amount of the credit risk premium under paragraph (2) any of the following in addition to the value of any collateral described in paragraph (6):

(A) The net present value of a future stream of State or local subsidy income or other dedicated revenues to secure the direct loan or loan guarantee.

(B) Adequate coverage requirements to ensure repayment, on a non-recourse basis, from cash flows generated by the project or any other dedicated revenue source, including—

(i) tolls;

(ii) user fees, including operating or tenant charges, facility rents, or other fees paid by transportation service providers or operators for access to, or the use of, infrastructure, including rail lines, bridges, tunnels, yards, or stations; or

(iii) payments owing to the obligor under a public-private partnership.

(C) An investment-grade rating on the direct loan or loan guarantee, as applicable, except that if the total amount of the direct loan or loan guarantee is greater than $150,000,000, the applicant shall have an investment-grade rating from at least 2 rating agencies on the direct loan or loan guarantee.

(D) Revenue from projected freight or passenger demand for the project based on regionally developed economic forecasts, including projections of any modal diversion resulting from the project.

(4) PAYMENT OF PREMIUMS.—Credit risk premiums under this subsection shall be paid to the Secretary before the disbursement of loan amounts (and in the case of a modification, before the modification is executed), to the extent appropriations are not available to the Secretary to meet the costs of direct loans and loan guarantees, including costs of modifications thereof.

(5) COHORTS OF LOANS.—Subject to the availability of funds appropriated by Congress under section 22406(a)(2), for any direct loan issued before the date of enactment of the Fixing America's Surface Transportation Act (Public Law 114–94) pursuant to sections 501 through 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), the Secretary shall repay the credit risk premiums of such loan, with interest accrued thereon, not later than—

(A) 60 days after the date of enactment of the Surface Transportation Investment Act of 2021 if the borrower has satisfied all obligations attached to such loan; or

(B) if the borrower has not yet satisfied all obligations attached to such loan, 60 days after the date on which all obligations attached to such loan have been satisfied.

(6) COLLATERAL.—

(A) TYPES OF COLLATERAL.—An applicant or infrastructure partner may propose tangible and intangible assets as collateral, exclusive of goodwill. The Secretary, after evaluating each such asset—

(i) shall accept a net liquidation value of collateral; and

(ii) shall consider and may accept—

(I) the market value of collateral; or

(II) in the case of a blanket pledge or assignment of an entire operating asset or basket of assets as collateral, the market value of assets, or, the market value of the going concern, considering—

(aa) inclusion in the pledge of all the assets necessary for independent operational utility of the collateral, including tangible assets such as real property, track and structure, motive power, equipment and rolling stock, stations, systems and maintenance facilities and intangible assets such as long-term shipping agreements, easements, leases and access rights such as for trackage and haulage;

(bb) interchange commitments; and

(cc) the value of the asset as determined through the cost or market approaches, or the market value of the going concern, with the latter considering discounted cash flows for a period not to exceed the term of the direct loan or loan guarantee.

(B) APPRAISAL STANDARDS.—In evaluating appraisals of collateral under subparagraph (A), the Secretary shall consider—

(i) adherence to the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation; and

(ii) the qualifications of the appraisers to value the type of collateral offered.

(7) REPAYMENT OF CREDIT RISK PREMIUMS.—The Secretary shall return credit risk premiums paid, and interest accrued on such premiums, to the original source when all obligations of a loan or loan guarantee have been satisfied. This paragraph applies to any project that has been granted assistance under this section after the date of enactment of the Surface Transportation Investment Act of 2021.

(g) PREREQUISITES FOR ASSISTANCE.—The Secretary shall not make a direct loan or loan guarantee under this section unless the Secretary has made a finding in writing that—

(1) repayment of the obligation is required to be made within a term that is not longer than the shorter of—

(A) 75 years after the date of substantial completion of the project;

(B) the estimated useful life of the rail equipment or facilities to be acquired, rehabilitated, improved, developed, or established, subject to an adequate determination of long-term risk; or

(C) for projects determined to have an estimated useful life that is longer than 35 years, the period that is equal to the sum of—

(i) 35 years; and

(ii) the product of—

(I) the difference between the estimated useful life and 35 years; multiplied by

(II) 75 percent.

(2) the direct loan or loan guarantee is justified by the present and probable future demand for rail services or intermodal facilities;

(3) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the obligation will be economically and efficiently utilized;

(4) the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government; and

(5) the purposes of the direct loan or loan guarantee are consistent with subsection (b).

(h) CONDITIONS OF ASSISTANCE.—

(1) The Secretary shall, before granting assistance under this section, require the applicant to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to ensure that, as long as any principal or interest is due and payable on such obligation, the applicant, and any railroad or railroad partner for whose benefit the assistance is intended—

(A) will not use any funds or assets from railroad or intermodal operations for purposes not related to such operations, if such use would impair the ability of the applicant, railroad, or railroad partner to provide rail or intermodal services in an efficient and economic manner, or would adversely affect the ability of the applicant, railroad, or railroad partner to perform any obligation entered into by the applicant under this section;

(B) will, consistent with its capital resources, maintain its capital program, equipment, facilities, and operations on a continuing basis; and

(C) will not make any discretionary dividend payments that unreasonably conflict with the purposes stated in subsection (b).

(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project, if applicable. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

(3) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—

(A) the standards of section 24312, as in effect on September 1, 2002, with respect to the project in the same manner that Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a); and

(B) the protective arrangements established under section 22404, with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee.

(4) The Secretary shall require each recipient of a direct loan or loan guarantee under this section for a project described in subsection (b)(1)(F) to provide a non-Federal match of not less than 25 percent of the total amount expended by the recipient for such project.

(i) APPLICATION PROCESSING PROCEDURES.—

(1) APPLICATION STATUS NOTICES.—Not later than 30 days after the date that the Secretary receives an application under this section, or additional information and material under paragraph (2)(B), the Secretary shall provide the applicant written notice as to whether the application is complete or incomplete.

(2) INCOMPLETE APPLICATIONS.—If the Secretary determines that an application is incomplete, the Secretary shall—

(A) provide the applicant with a description of all of the specific information or material that is needed to complete the application, including any information required by an independent financial analyst; and

(B) allow the applicant to resubmit the application with the information and material described under subparagraph (A) to complete the application.

(3) APPLICATION APPROVALS AND DISAPPROVALS.—

(A) IN GENERAL.—Not later than 60 days after the date the Secretary notifies an applicant that an application is complete under paragraph (1), the Secretary shall provide the applicant written notice as to whether the Secretary has approved or disapproved the application.

(B) ACTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—In order to enable

compliance with the time limit under subparagraph (A), the Office of Management and Budget shall take any action required with respect to the application within that 60-day period.

(4) STREAMLINED APPLICATION REVIEW PROCESS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Surface Transportation Investment Act of 2021, the Secretary shall implement procedures and measures to economize and make available an streamlined application process or processes at the request of applicants seeking loans or loan guarantees.

(B) CRITERIA.—Applicants seeking loans and loan guarantees under this section shall—

(i) seek a total loan or loan guarantee value not exceeding $150,000,000;

(ii) meet eligible project purposes described in subparagraphs (A) and (B) of subsection (b)(1); and

(iii) meet other criteria considered appropriate by the Secretary, in consultation with the Council on Credit and Finance of the Department of Transportation.

(C) EXPEDITED CREDIT REVIEW.—The total period between the submission of an application and the approval or disapproval of an application for a direct loan or loan guarantee under this paragraph may not exceed 90 days. If an application review conducted under this paragraph exceeds 90 days, the Secretary shall—

(i) provide written notice to the applicant, including a justification for the delay and updated estimate of the time needed for approval or disapproval; and

(ii) publish the notice on the dashboard described in paragraph (5).

(5) DASHBOARD.—The Secretary shall post on the Department of Transportation's Internet Web site a monthly report that includes, for each application—

(A) the applicant type;

(B) the location of the project;

(C) a brief description of the project, including its purpose;

(D) the requested direct loan or loan guarantee amount;

(E) the date on which the Secretary provided application status notice under paragraph (1);

(F) the date that the Secretary provided notice of approval or disapproval under paragraph (3); and

(G) whether the project utilized the streamlined application process under paragraph (4).

(6) CREDITWORTHINESS REVIEW STATUS.—

(A) IN GENERAL.—The Secretary shall maintain status information related to each application for a loan or loan guarantee, which shall be provided to the applicant upon request, including—

(i) the total value of the proposed loan or loan guarantee;

(ii) the name of the applicant or applicants submitting the application;

(iii) the proposed capital structure of the project to which the loan or loan guarantee would be applied, including the proposed Federal and non-Federal shares of the total project cost;

(iv) the type of activity to receive credit assistance, including whether the project is new construction, the rehabilitation of existing rail equipment or facilities, or the refinancing an existing loan or loan guarantee;

(v) if a deferred payment is proposed, the length of such deferment;

(vi) the credit rating or ratings provided for the applicant;

(vii) if other credit instruments are involved, the proposed subordination relationship and a description of such other credit instruments;

(viii) a schedule for the readiness of proposed investments for financing;

(ix) a description of any Federal permits required, including under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any waivers under section 5323(j) (commonly known as the "Buy America Act");

(x) other characteristics of the proposed activity to be financed, borrower, key agreements, or the nature of the credit that the Secretary considers to be fundamental to the creditworthiness review;

(xi) the status of the application in the pre-application review and selection process;

(xii) the cumulative amounts paid by the Secretary to outside advisors related to the application, including financial and legal advisors;

(xiii) a description of the key rating factors used by the Secretary to determine credit risk, including—

(I) the factors used to determine risk for the proposed application;

(II) an adjectival risk rating for each identified factor, ranked as either low, moderate, or high;

(xiv) a nonbinding estimate of the credit risk premium, which may be in the form of—

(I) a range, based on the assessment of risk factors described in clause (xiii); or

(II) a justification for why the estimate of the credit risk premium cannot be determined based on available information; and

(xv) a description of the key information the Secretary needs from the applicant to complete the credit review process and make a final determination of the credit risk premium.

(B) REPORT UPON REQUEST.—The Secretary shall provide the information described in subparagraph (A) not later than 30 days after a request from the applicant.

(C) EXCEPTION.—Applications processed using the streamlined application review process under paragraph (4) are not subject to the requirements under this paragraph.

(j) REPAYMENT SCHEDULES.—

(1) IN GENERAL.—The Secretary shall establish a repayment schedule requiring payments to commence not later than 5 years after the date of substantial completion.

(2) ACCRUAL.—Interest shall accrue as of the date of disbursement, and shall be amortized over the remaining term of the loan beginning at the time the payments begin.

(3) DEFERRED PAYMENTS.—

(A) IN GENERAL.—If at any time after the date of substantial completion the obligor is unable to pay the scheduled loan repayments of principal and interest on a direct loan provided under this section, the Secretary, subject to subparagraph (B), may allow, for a maximum aggregate time of 1 year over the duration of the direct loan, the obligor to add unpaid principal and interest to the outstanding balance of the direct loan.

(B) INTEREST.—A payment deferred under subparagraph (A) shall—

(i) continue to accrue interest under paragraph (2) until the loan is fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(4) PREPAYMENTS.—

(A) USE OF EXCESS REVENUES.—With respect to a direct loan provided by the Secretary under this section, any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and direct loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the direct loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The direct loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(k) SALE OF DIRECT LOANS.—

(1) IN GENERAL.—Subject to paragraph (2) and as soon as practicable after substantial completion of a project, the Secretary, after notifying the obligor, may sell to another entity or reoffer into the capital markets a direct loan for the project if the Secretary determines that the sale or reoffering has a high probability of being made on favorable terms.

(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the prior written consent of the obligor.

(l) NONSUBORDINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a direct loan provided by the Secretary under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(2) PREEXISTING INDENTURES.—

(A) IN GENERAL.—The Secretary may waive the requirement under paragraph (1) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture if—

(i) the direct loan is rated in the A category or higher;

(ii) the direct loan is secured and payable from pledged revenues not affected by project performance, such as a tax-based revenue pledge or a system-backed pledge of project revenues; and

(iii) the program share, under this chapter, of eligible project costs is 50 percent or less.

(B) LIMITATION.—The Secretary may impose limitations for the waiver of the nonsubordination requirement under this paragraph if the Secretary determines that such limitations would be in the financial interest of the Federal Government.

(m) MASTER CREDIT AGREEMENTS.—

(1) IN GENERAL.—Subject to subsection (d) and paragraph (2) of this subsection, the Secretary may enter into a master credit agreement that is contingent on all of the conditions for the provision of a direct loan or loan guarantee, as applicable, under this chapter and other applicable requirements being satisfied prior to the issuance of the direct loan or loan guarantee.

(2) CONDITIONS.—Each master credit agreement shall—

(A) establish the maximum amount and general terms and conditions of each applicable direct loan or loan guarantee;

(B) identify 1 or more dedicated non-Federal revenue sources that will secure the repayment of each applicable direct loan or loan guarantee;

(C) provide for the obligation of funds for the direct loans or loan guarantees contingent on and after all requirements have been met for the projects subject to the master credit agreement; and

(D) provide 1 or more dates, as determined by the Secretary, before which the master credit agreement results in each of the direct loans or loan guarantees or in the release of the master credit agreement.

(n) NON-FEDERAL SHARE.—The proceeds of a loan provided under this section may be used as the non-Federal share of project costs for any grant program administered by the Secretary if such loan is repayable from non-Federal funds.

(Added and amended Pub. L. 117–58, div. B, title I, §21301(a)(2), (4), (d), Nov. 15, 2021, 135 Stat. 683, 684.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 410(a) of the Amtrak Reform and Accountability Act of 1997, referred to in subsec. (a)(2), is section 410(a) of Pub. L. 105–134, which is set out as a note under section 24101 of this title.

Section 504(b)(1) of the Federal Credit Reform Act of 1990, referred to in subsec. (f)(1), is classified to section 661c(b)(1) of Title 2, The Congress.

The date of enactment of the Fixing America's Surface Transportation Act, referred to in subsec. (f)(5), is

the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

Sections 501 through 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (f)(5), are sections 501 to 504 of Pub. L. 94–210, which are classified to sections 22401 to 22404 of this title.

The date of enactment of the Surface Transportation Investment Act of 2021, referred to in subsecs. (f)(5)(A), (7), and (i)(4)(A), is the date of enactment of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

The National Environmental Policy Act of 1969, referred to in subsec. (i)(6)(A)(ix), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

The text of section 822 of Title 45, Railroads, which was transferred to this section and amended by Pub. L. 117–58, div. B, title I, §21301(a)(4), (d), was based on Pub. L. 94–210, title V, §502, as added Pub. L. 105–178, title VII, §7203(a)(1), June 9, 1998, 112 Stat. 473; amended Pub. L. 109–59, title IX, §9003(b)–(g), Aug. 10, 2005, 119 Stat. 1921–1923; Pub. L. 110–432, div. A, title VII, §701(e), Oct. 16, 2008, 122 Stat. 4906; Pub. L. 114–94, div. A, title XI, §§11603–11605(a), 11606, 11607(a), 11608, 11609, Dec. 4, 2015, 129 Stat. 1694, 1695, 1697–1700; Pub. L. 116–94, div. H, title I, §192, Dec. 20, 2019, 133 Stat. 2972; Pub. L. 116–159, div. B, title I, §1104(b), Oct. 1, 2020, 134 Stat. 727.

AMENDMENTS

2021—Pub. L. 117–58, §21301(a)(4), transferred text of section 822 of Title 45, Railroads, to this section.

Subsec. (a)(2). Pub. L. 117–58, §21301(d)(1)(A), inserted "entities implementing" before "interstate compacts".

Subsec. (a)(5). Pub. L. 117–58, §21301(d)(1)(B), inserted "entities participating in" before "joint ventures" and struck out "and" at end.

Subsec. (a)(6), (7). Pub. L. 117–58, §21301(d)(1)(C), added pars. (6) and (7) and struck out former par. (6) which read as follows: "solely for the purpose of constructing a rail connection between a plant or facility and a railroad, limited option freight shippers that own or operate a plant or other facility."

Subsec. (b)(1). Pub. L. 117–58, §21301(d)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) related to eligible purposes for direct loans and loan guarantees.

Subsec. (b)(3). Pub. L. 117–58, §21301(d)(2)(B), struck out par. (3). Prior to amendment, text read as follows: "The Secretary may provide a direct loan or loan guarantee under this section for a project described in paragraph (1)(E) until September 30, 2021."

Subsec. (c)(1). Pub. L. 117–58, §21301(d)(3)(A), struck out "of title 49, United States Code" after "section 20157(i)".

Subsec. (c)(5). Pub. L. 117–58, §21301(d)(3)(B), substituted "this title" for "title 49, United States Code,".

Subsec. (e)(1). Pub. L. 117–58, §21301(d)(4), amended subsec. (e) generally. Prior to amendment, text read as follows: "The Secretary shall require interest to be paid on a direct loan made under this section at a rate not less than that necessary to recover the cost of making the loan."

Subsec. (f)(3). Pub. L. 117–58, §21301(d)(5)(A)(i), substituted "Upon receipt of a proposal from an applicant under this section," for "An applicant may propose and" and "collateral described in paragraph (6)" for "tangible asset" in introductory provisions.

Subsec. (f)(3)(B)(ii). Pub. L. 117–58, §21301(d)(5)(A)(ii), inserted ", including operating or tenant charges, facility rents, or other fees paid by transportation service providers or operators for access to, or the use of, infrastructure, including rail lines, bridges, tunnels, yards, or stations" after "user fees".

Subsec. (f)(3)(C). Pub. L. 117–58, §21301(d)(5)(A)(iii), substituted "$150,000,000" for "$75,000,000".

Subsec. (f)(3)(D). Pub. L. 117–58, §21301(d)(5)(A)(iv), added subpar. (D).

Subsec. (f)(5) to (7). Pub. L. 117–58, §21301(d)(5)(B), added pars. (5) to (7).

Subsec. (g)(1). Pub. L. 117–58, §21301(d)(6), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "repayment of the obligation is required to be made within a term of not more than the lesser of—

"(A) 35 years after the date of substantial completion of the project; or

"(B) the estimated useful life of the rail equipment or facilities to be acquired, rehabilitated, improved, developed, or established;".

Subsec. (h)(3)(A). Pub. L. 117–58, §21301(d)(7)(A)(i), substituted "Amtrak" for "the National Railroad Passenger Corporation" and struck out "of title 49, United States Code" after "section 24312" and "of that title" after "section 24308(a)".

Subsec. (h)(3)(B). Pub. L. 117–58, §21301(d)(7)(A)(ii), substituted "section 22404" for "section 504 of this

Act".

Subsec. (h)(4). Pub. L. 117–58, §21301(d)(7)(B), substituted "(b)(1)(F)" for "(b)(1)(E)".

Subsec. (i)(4). Pub. L. 117–58, §21301(d)(8)(A), amended par. (4) generally. Prior to amendment, text read as follows: "The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining an approval or a disapproval of an application for a direct loan or loan guarantee under this title."

Subsec. (i)(5)(G). Pub. L. 117–58, §21301(d)(8)(B), added subpar. (G).

Subsec. (i)(6). Pub. L. 117–58, §21301(d)(8)(C), added par. (6).

Subsec. (l)(2)(A)(iii). Pub. L. 117–58, §21301(d)(9), substituted "under this chapter" for "under this title".

Subsec. (m)(1). Pub. L. 117–58, §21301(d)(10), substituted "under this chapter" for "under this title".

Subsec. (n). Pub. L. 117–58, §21301(d)(11), added subsec. (n).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SUBSTANTIVE CRITERIA AND STANDARDS

Pub. L. 117–58, div. B, title I, §21302, Nov. 15, 2021, 135 Stat. 693, provided that: "Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall update the publicly available credit program guide in accordance with the provisions of chapter 224 of title 49, United States Code, as added by section 21301 [of div. B of Pub. L. 117–58]."

SEMIANNUAL REPORT ON TRANSIT-ORIENTED DEVELOPMENT ELIGIBILITY

Pub. L. 117–58, div. B, title I, §21303, Nov. 15, 2021, 135 Stat. 693, provided that: "Not later than 6 months after the date of enactment of this Act [Nov. 15, 2021], and every 6 months thereafter, the Secretary [of Transportation] shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that identifies—

"(1) the number of applications submitted to the Department [of Transportation] for a direct loan or loan guarantee under section 22402(b)(1)(E) of title 49, United States Code, as amended by section 21301 [of div. B of Pub. L. 117–58];

"(2) the number of such loans or loan guarantees that were provided to the applicants; and

"(3) for each such application, the reasons for providing or declining to provide the requested loan or loan guarantee."

RETURN OF CREDIT RISK PREMIUMS NOT USED TO MITIGATE LOSSES

Pub. L. 115–265, title II, §212(d), Oct. 11, 2018, 132 Stat. 3749, as amended by Pub. L. 117–58, div. B, title I, §21301(j)(3)(D), Nov. 15, 2021, 135 Stat. 692, provided that:

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation, for purposes of section 22402 of title 49, United States Code [see former 45 U.S.C. 822(f)(4)] (as in effect on the day before the amendments made by section 11607 of Public Law 114–94 (129 Stat. 1698) took effect [Oct. 1, 2015])—

"(A) not later than 30 days after the date of enactment of this Act [Oct. 11, 2018], and in consultation with the Director of the Office of Management and Budget, shall define the term 'cohorts of loans';

"(B) before the deadline described in paragraph (2), shall return to the original source, on a pro rata basis, the credit risk premiums paid for the loans in the cohort of loans, with interest accrued thereon, that were not used to mitigate losses; and

"(C) shall not treat the repayment of a loan after the date of enactment of Public Law 114–94 [Dec. 4, 2015] as precluding, limiting, or negatively affecting the satisfaction of the obligation of its cohort prior to the enactment of Public Law 114–94.

"(2) DEADLINE DESCRIBED.—The deadline described in this paragraph is—

"(A) if all obligations attached to a cohort of loans have been satisfied, not later than 60 days after the date of enactment of this Act; and

"(B) if all obligations attached to a cohort of loans have not been satisfied, not later than 60 days after the date on which all obligations attached to the cohort of loans are satisfied."

§22403. Administration of direct loans and loan guarantees

(a) APPLICATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe the form and contents required of

applications for assistance under section 22402, to enable the Secretary to determine the eligibility of the applicant's proposal, and shall establish terms and conditions for direct loans and loan guarantees made under that section, including a program guide, a standard term sheet, and specific timetables.

(2) DOCUMENTATION.—An applicant meeting the size standard for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) may provide unaudited financial statements as documentation of historical financial information if such statements are accompanied by the applicant's Federal tax returns and Internal Revenue Service tax verifications for the corresponding years.

(b) FULL FAITH AND CREDIT.—All guarantees entered into by the Secretary under section 22402 shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America.

(c) ASSIGNMENT OF LOAN GUARANTEES.—The holder of a loan guarantee made under section 22402 may assign the loan guarantee in whole or in part, subject to such requirements as the Secretary may prescribe.

(d) MODIFICATIONS.—The Secretary may approve the modification of any term or condition of a direct loan, loan guarantee, direct loan obligation, or loan guarantee commitment, including the rate of interest, time of payment of interest or principal, or security requirements, if the Secretary finds in writing that—

(1) the modification is equitable and is in the overall best interests of the United States;

(2) consent has been obtained from the applicant and, in the case of a loan guarantee or loan guarantee commitment, the holder of the obligation; and

(3) the modification cost has been covered under section 22402(f).

(e) COMPLIANCE.—The Secretary shall assure compliance, by an applicant, any other party to the loan, and any railroad or railroad partner for whose benefit assistance is intended, with the provisions of this chapter, regulations issued hereunder, and the terms and conditions of the direct loan or loan guarantee, including through regular periodic inspections.

(f) COMMERCIAL VALIDITY.—For purposes of claims by any party other than the Secretary, a loan guarantee or loan guarantee commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this chapter, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

(g) DEFAULT.—The Secretary shall prescribe regulations setting forth procedures in the event of default on a loan made or guaranteed under section 22402. The Secretary shall ensure that each loan guarantee made under that section contains terms and conditions that provide that—

(1) if a payment of principal or interest under the loan is in default for more than 30 days, the Secretary shall pay to the holder of the obligation, or the holder's agent, the amount of unpaid guaranteed interest;

(2) if the default has continued for more than 90 days, the Secretary shall pay to the holder of the obligation, or the holder's agent, 90 percent of the unpaid guaranteed principal;

(3) after final resolution of the default, through liquidation or otherwise, the Secretary shall pay to the holder of the obligation, or the holder's agent, any remaining amounts guaranteed but which were not recovered through the default's resolution;

(4) the Secretary shall not be required to make any payment under paragraphs (1) through (3) if the Secretary finds, before the expiration of the periods described in such paragraphs, that the default has been remedied; and

(5) the holder of the obligation shall not receive payment or be entitled to retain payment in a total amount which, together with all other recoveries (including any recovery based upon a security interest in equipment or facilities) exceeds the actual loss of such holder.

(h) RIGHTS OF THE SECRETARY.—

(1) SUBROGATION.—If the Secretary makes payment to a holder, or a holder's agent, under subsection (g) in connection with a loan guarantee made under section 22402, the Secretary shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

(2) DISPOSITION OF PROPERTY.—The Secretary may complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property or other interests obtained pursuant to this section. The Secretary shall not be subject to any Federal or State regulatory requirements when carrying out this paragraph.

(i) ACTION AGAINST OBLIGOR.—The Secretary may bring a civil action in an appropriate Federal court in the name of the United States in the event of a default on a direct loan made under section 22402, or in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under section 22402. The holder of a guarantee shall make available to the Secretary all records and evidence necessary to prosecute the civil action. The Secretary may accept property in full or partial satisfaction of any sums owed as a result of a default. If the Secretary receives, through the sale or other disposition of such property, an amount greater than the aggregate of—

(1) the amount paid to the holder of a guarantee under subsection (g) of this section; and

(2) any other cost to the United States of remedying the default,

the Secretary shall pay such excess to the obligor.

(j) BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in an appropriate Federal court to enjoin any activity which the Secretary finds is in violation of this chapter, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief.

(k) ATTACHMENT.—No attachment or execution may be issued against the Secretary, or any property in the control of the Secretary, prior to the entry of final judgment to such effect in any State, Federal, or other court.

(l) CHARGES AND LOAN SERVICING.—

(1) PURPOSES.—The Secretary may collect from each applicant, obligor, or loan party a reasonable charge for—

(A) the cost of evaluating the application, amendments, modifications, and waivers, including for evaluating project viability, applicant creditworthiness, and the appraisal of the value of the equipment or facilities for which the direct loan or loan guarantee is sought, and for making necessary determinations and findings;

(B) the cost of award management and project management oversight;

(C) the cost of services from expert firms, including counsel, and independent financial advisors to assist in the underwriting, auditing, servicing, and exercise of rights with respect to direct loans and loan guarantees; and

(D) the cost of all other expenses incurred as a result of a breach of any term or condition or any event of default on a direct loan or loan guarantee.

(2) STANDARDS.—The Secretary may charge different amounts under this subsection based on the different costs incurred under paragraph (1).

(3) SERVICER.—

(A) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing a direct loan or loan guarantee under this chapter.

(B) DUTIES.—A servicer appointed under subparagraph (A) shall act as the agent of the Secretary in servicing a direct loan or loan guarantee under this chapter.

(C) FEES.—A servicer appointed under subparagraph (A) shall receive a servicing fee from the obligor or other loan party, subject to approval by the Secretary.

(4) NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU ACCOUNT.—Amounts collected under this subsection shall—

(A) be credited directly to the National Surface Transportation and Innovative Finance Bureau account; and

(B) remain available until expended to pay for the costs described in this subsection.

(m) FEES AND CHARGES.—Except as provided in this chapter, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 22402.

(Added and amended Pub. L. 117–58, div. B, title I, §21301(a)(2), (5), (e), Nov. 15, 2021, 135 Stat. 683, 689.)

EDITORIAL NOTES

CODIFICATION

The text of section 823 of Title 45, Railroads, which was transferred to this section and amended by Pub. L. 117–58, div. B, title I, §21301(a)(5), (e), was based on Pub. L. 94–210, title V, §503, as added and amended Pub. L. 105–178, title VII, §7203(a)(1), (4), June 9, 1998, 112 Stat. 475, 477; Pub. L. 109–59, title IX, §9003(h), (i), Aug. 10, 2005, 119 Stat. 1923; Pub. L. 114–94, div. A, title XI, §11605(b), Dec. 4, 2015, 129 Stat. 1695; Pub. L. 115–56, div. D, §164(b), as added Pub. L. 115–123, div. B, §20101(2), Feb. 9, 2018, 132 Stat. 121.

AMENDMENTS

2021—Pub. L. 117–58, §21301(a)(5), transferred text of section 823 of Title 45, Railroads, to this section.

Subsec. (a). Pub. L. 117–58, §21301(e)(1), designated existing provisions as par. (1), inserted heading, substituted "section 22402" for "section 502", and added par. (2).

Subsecs. (b), (c). Pub. L. 117–58, §21301(e)(4)(A), substituted "section 22402" for "section 502".

Subsec. (d)(3). Pub. L. 117–58, §21301(e)(2), substituted "section 22402(f)" for "section 502(f)".

Subsecs. (e), (f). Pub. L. 117–58, §21301(e)(4)(B), substituted "this chapter" for "this title".

Subsecs. (g), (h)(1). Pub. L. 117–58, §21301(e)(4)(A), substituted "section 22402" for "section 502".

Subsec. (i). Pub. L. 117–58, §21301(e)(4)(A), substituted "section 22402" for "section 502" in two places in introductory provisions.

Subsec. (j). Pub. L. 117–58, §21301(e)(4)(B), substituted "this chapter" for "this title".

Subsec. (l)(3)(A). Pub. L. 117–58, §21301(e)(4)(B), substituted "this chapter" for "this title".

Subsec. (l)(3)(B). Pub. L. 117–58, §21301(e)(4)(B), substituted "this chapter" for "this title".

Pub. L. 117–58, §21301(e)(3), substituted "servicing a direct loan" for "serving a direct loan".

Subsec. (m). Pub. L. 117–58, §21301(e)(4), substituted "section 22402" for "section 502" and "this chapter" for "this title".

§22404. Employee protection

(a) GENERAL.—Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees who may be affected by actions taken pursuant to authorizations or approval obtained under this chapter. Such arrangements shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, not later than 120 days after February 5, 1976. In the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, not later than 150 days after February 5, 1976.

(b) TERMS.—The arrangements required by subsection (a) of this section shall apply to each employee who has an employment relationship with a railroad on the date on which such railroad first applies for applicable financial assistance under this chapter. Such arrangements shall include such provisions as may be necessary for the negotiation and execution of agreements as to the manner in which the protective arrangements shall be applied, including notice requirements. Such agreements shall be executed prior to implementation of work funded from financial assistance under

this chapter. If such an agreement is not reached within 30 days after the date on which an application for such assistance is approved, either party to the dispute may submit the issue for final and binding arbitration. The decision on any such arbitration shall be rendered within 30 days after such submission. Such arbitration decision shall in no way modify the protection afforded in the protective arrangements established pursuant to this section, shall be final and binding on the parties thereto, and shall become a part of the agreement. Such arrangements shall also include such provisions as may be necessary—

(1) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;

(2) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;

(3) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under this chapter, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and

(4) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this chapter.

(c) SUBCONTRACTING.—The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, pursuant to subsections (a) and (b) of this section, shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this chapter.

(Added and amended Pub. L. 117–58, div. B, title I, §21301(a)(2), (6), (f), Nov. 15, 2021, 135 Stat. 683, 690.)

EDITORIAL NOTES

CODIFICATION

The text of section 836 of Title 45, Railroads, which was transferred to this section and amended by Pub. L. 117–58, div. B, title I, §21301(a)(6), (f), was based on Pub. L. 94–210, title V, §504, formerly §516, Feb. 5, 1976, 90 Stat. 82; renumbered §504, Pub. L. 105–178, title VII, §7203(a)(5), June 9, 1998, 112 Stat. 477.

AMENDMENTS

2021—Pub. L. 117–58, §21301(a)(6), transferred text of section 826 of Title 45, Railroads, to this section.

Subsec. (a). Pub. L. 117–58, §21301(f)(1), in first sentence, struck out "not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.)," after "any employees" and substituted "under this chapter" for "under this title"; in second sentence, substituted "not later than 120 days after February 5, 1976" for "within 120 days after the date of enactment of this title"; and in third sentence, substituted "not later than 150 days after February 5, 1976" for "within 150 days after the date of enactment of this title".

Subsec. (b). Pub. L. 117–58, §21301(f)(2)(A), substituted "applicable financial assistance under this chapter" for "applicable financial assistance under this title" and "from financial assistance under this chapter" for "from financial assistance under this title" in introductory provisions.

Subsec. (b)(3). Pub. L. 117–58, §21301(f)(2)(B), substituted "under this chapter" for "under this title".

Subsec. (b)(4). Pub. L. 117–58, §21301(f)(2)(C), substituted "to this chapter" for "to this title".

Subsec. (c). Pub. L. 117–58, §21301(f)(3), substituted "to this chapter" for "to this title".

§22405. Substantive criteria and standards

The Secretary shall—

(1) publish in the Federal Register and post on a website of the Department of Transportation the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 22402; and

(2) ensure that adequate procedures and guidelines are in place to permit the filing of complete applications not later than 30 days after the publication referred to in paragraph (1).

(Added Pub. L. 117–58, div. B, title I, §21301(g), Nov. 15, 2021, 135 Stat. 690.)

§22406. Authorization of appropriations.[1]

(a) AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated for credit assistance under this chapter, which shall be provided at the discretion of the Secretary, $50,000,000 for each of fiscal years 2022 through 2026.

(2) REFUND OF PREMIUM.—There is authorized to be appropriated to the Secretary $70,000,000 to repay the credit risk premium in accordance with section 22402(f)(5).

(3) AVAILABILITY.—Amounts appropriated pursuant to this subsection shall remain available until expended.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Credit assistance provided under subsection (a) may not exceed $20,000,000 for any loan or loan guarantee.

(2) ADMINISTRATIVE COSTS.—Not less than 3 percent of the amounts appropriated pursuant to subsection (a) in each fiscal year shall be made available to the Secretary for use in place of charges collected under section 22403(l)(1) for passenger railroads and freight railroads other than Class I carriers.

(3) SHORT LINE SET-ASIDE.—Not less than 50 percent of the amounts appropriated pursuant to subsection (a)(1) for each fiscal year shall be set aside for freight railroads other than Class I carriers.

(Added Pub. L. 117–58, div. B, title I, §21301(h), Nov. 15, 2021, 135 Stat. 690.)

[1] *So in original. The period probably should not appear.*

[CHAPTER 225—REPEALED]

[§§22501 to 22505. Repealed. Pub. L. 114–94, div. A, title XI, §11301(c)(3), Dec. 4, 2015, 129 Stat. 1648]

Section 22501, Pub. L. 110–432, div. A, title II, §207(a), Oct. 16, 2008, 122 Stat. 4873, related to financial assistance to States for certain projects.

Section 22502, Pub. L. 110–432, div. A, title II, §207(a), Oct. 16, 2008, 122 Stat. 4874, related to distribution of grants.

Section 22503, Pub. L. 110–432, div. A, title II, §207(a), Oct. 16, 2008, 122 Stat. 4874, related to standards for awarding grants.

Section 22504, Pub. L. 110–432, div. A, title II, §207(a), Oct. 16, 2008, 122 Stat. 4874, related to use of grant funds.

Section 22505, Pub. L. 110–432, div. A, title II, §207(a), Oct. 16, 2008, 122 Stat. 4874, related to

authorization of appropriations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 227—STATE RAIL PLANS

Sec.

22701. Definitions.
22702. Authority.
22703. Purposes.
22704. Transparency; coordination; review.
22705. Content.
22706. Review.

§22701. Definitions

In this subchapter: [1]

(1) PRIVATE BENEFIT.—

(A) IN GENERAL.—The term "private benefit"—

(i) means a benefit accrued to a person or private entity, other than Amtrak, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

(2) PUBLIC BENEFIT.—

(A) IN GENERAL.—The term "public benefit"—

(i) means a benefit accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

(3) STATE.—The term "State" means any of the 50 States and the District of Columbia.

(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term "State rail transportation authority" means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.

(Added Pub. L. 110–432, div. B, title III, §303(a), Oct. 16, 2008, 122 Stat. 4947.)

[1] *So in original. Probably should be "chapter:".*

§22702. Authority

(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

(b) REQUIREMENTS.—The Secretary shall establish the minimum requirements for the preparation and periodic revision of a State rail plan, including that a State shall—

(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

(2) establish or designate a State rail plan approval authority to approve the plan;

(3) submit the State's approved plan to the Secretary of Transportation for review; and

(4) revise and resubmit a State-approved plan no less frequently than once every 4 years for acceptance by the Secretary.

(Added Pub. L. 110–432, div. B, title III, §303(a), Oct. 16, 2008, 122 Stat. 4948; amended Pub. L. 114–94, div. A, title XI, §11315(a)(1), Dec. 4, 2015, 129 Stat. 1674.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b)(4). Pub. L. 114–94 substituted "4 years for acceptance by the Secretary" for "5 years for reapproval by the Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§22703. Purposes

(a) PURPOSES.—The purposes of a State rail plan are as follows:

(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

(2) To establish the period covered by the State rail plan.

(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

(4) To serve as the basis for Federal and State rail investments within the State.

(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs, including the plan required under section 135 of title 23, and set forth rail transportation's role within the State transportation system.

(Added Pub. L. 110–432, div. B, title III, §303(a), Oct. 16, 2008, 122 Stat. 4948.)

§22704. Transparency; coordination; review

(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in

the preparation and review of its State rail plan.

(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

(Added Pub. L. 110–432, div. B, title III, §303(a), Oct. 16, 2008, 122 Stat. 4949.)

§22705. Content

(a) IN GENERAL.—Each State rail plan shall, at a minimum, contain the following:

(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

(2) A review of all rail lines within the State, including proposed high-speed rail corridors and significant rail line segments not currently in service.

(3) A statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stakeholders.

(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this subchapter,[1] and a plan for funding any recommended development of such corridors in the State.

(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall, at a minimum, include the following matters:

(A) A list of any rail capital projects expected to be undertaken or supported in whole or in part by the State.

(B) A detailed funding plan for those projects.

(2) PROJECT LIST CONTENT.—The list of rail capital projects shall contain—

(A) a description of the anticipated public and private benefits of each such project; and

(B) a statement of the correlation between—

(i) public funding contributions for the projects; and

(ii) the public benefits.

(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority should take into consideration the following matters:

(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

(B) Rail capacity and congestion effects.

(C) Effects on highway, aviation, and maritime capacity, congestion, or safety.

(D) Regional balance.

(E) Environmental impact.

(F) Economic and employment impacts.

(G) Projected ridership and other service measures for passenger rail projects.

(Added Pub. L. 110–432, div. B, title III, §303(a), Oct. 16, 2008, 122 Stat. 4949; amended Pub. L. 114–94, div. A, title XI, §11315(a)(2), Dec. 4, 2015, 129 Stat. 1674.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a)(12). Pub. L. 114–94 struck out par. (12) which read as follows: "A statement that the State is in compliance with the requirements of section 22102."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

[1] *So in original. Probably should be "chapter,".*

§22706. Review

The Secretary shall prescribe procedures for States to submit State rail plans for review under this title, including standardized format and data requirements. State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of this chapter, as determined by the Secretary, shall be deemed by the Secretary to have met the requirements of this chapter.

(Added Pub. L. 110–432, div. B, title III, §303(a), Oct. 16, 2008, 122 Stat. 4950.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Investment and Improvement Act of 2008, referred to in text, is the date of enactment of div. B of Pub. L. 110–432, which was approved Oct. 16, 2008.

CHAPTER 229—RAIL IMPROVEMENT GRANTS

Sec.

22901. Definitions.
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EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title II, §§22305(b), 22306(b), Nov. 15, 2021, 135 Stat. 723, 724, added items 22909 and 22910.

2019—Pub. L. 115–420, §7(a)(2), (3), (5), Jan. 3, 2019, 132 Stat. 5445, 5446, renumbered chapter 244 of this title as this chapter and amended analysis generally, substituting items 22901 to 22908 for former items 24401 to 24408, respectively.

[1] So in original. Does not conform to section catchline.

§22901. Definitions

In this chapter:

(1) APPLICANT.—The term "applicant" means a State (including the District of Columbia), a group of States, an Interstate Compact, or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

(2) CAPITAL PROJECT.—The term "capital project" means a project or program in a State rail plan developed under chapter 227 of this title for—

(A) acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to intercity passenger rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service;

(C) costs associated with developing State rail plans; and

(D) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under section 22904.

(3) INTERCITY PASSENGER RAIL SERVICE.—The term "intercity passenger rail service" means intercity rail passenger transportation, as defined in section 24102 of this title.

(Added Pub. L. 110–432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4935, §24401; renumbered §22901 and amended Pub. L. 115–420, §7(a)(1), (b)(2)(A), Jan. 3, 2019, 132 Stat. 5445, 5446.)

EDITORIAL NOTES

AMENDMENTS

2019—Pub. L. 115–420, §7(a)(1), renumbered section 24401 of this title as this section.
Par. (2)(D). Pub. L. 115–420, §7(b)(2)(A), substituted "22904" for "24404".

§22902. Capital investment grants to support intercity passenger rail service

(a) GENERAL AUTHORITY.—

(1) The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities, infrastructure, and equipment necessary to provide or improve intercity passenger rail transportation.

(2) Consistent with the requirements of this chapter, the Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section and shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing such procedures not later than 2 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008. For the period prior to the earlier of the issuance of such a rule or 2 years after the date of enactment of such Act, the Secretary shall issue interim guidance to applicants covering such procedures, and administer the grant program authorized under this section pursuant to such guidance.

(b) PROJECT AS PART OF STATE RAIL PLAN.—

(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008, and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

(2) An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

(3) If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not unnecessarily increase the cost of the project.

(c) PROJECT SELECTION CRITERIA.—The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

(1) require—

(A) that the project be part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008;

(B) that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities;

(C) that the applicant provides sufficient information upon which the Secretary can make the findings required by this subsection;

(D) that if an applicant has selected the proposed operator of its service competitively, that the applicant provide written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

(E) that each proposed project meet all safety and security requirements that are applicable to the project under law; and

(F) that each project be compatible with, and operated in conformance with—

(i) plans developed pursuant to the requirements of section 135 of title 23, United States Code; and

(ii) the national rail plan (if it is available);

(2) select projects—

(A) that are anticipated to result in significant improvements to intercity rail passenger service, including, but not limited to, consideration of—

(i) the project's levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008;

(ii) the project's anticipated favorable impact on air or highway traffic congestion, capacity, or safety; and

(iii) identification of the project by the Surface Transportation Board as necessary to improve the on-time performance and reliability of intercity passenger rail under section 24308(f);

(B) for which there is a high degree of confidence that the proposed project is feasible and will result in the anticipated benefits, as indicated by—

(i) the project's precommencement compliance with environmental protection requirements;

(ii) the readiness of the project to be commenced;

(iii) the timing and amount of the project's future noncommitted investments;

(iv) the commitment of any affected host rail carrier to ensure the realization of the anticipated benefits; and

(v) other relevant factors as determined by the Secretary; and

(C) for which the level of the anticipated benefits compares favorably to the amount of Federal funding requested under this chapter; and

(3) give greater consideration to projects—

(A) that are anticipated to result in benefits to other modes of transportation and to the public at large, including, but not limited to, consideration of the project's—

(i) encouragement of intermodal connectivity through provision of direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

(ii) anticipated improvement of freight or commuter rail operations;

(iii) encouragement of the use of positive train control technologies;

(iv) environmental benefits, including projects that involve the purchase of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment;

(v) anticipated positive economic and employment impacts;

(vi) encouragement of State and private contributions toward station development, energy and environmental efficiency, and economic benefits; and

(vii) falling under the description in section 5302(a)(1)(G) [1] of this title as defined to support intercity passenger rail service; and

(B) that incorporate equitable financial participation in the project's financing, including, but not limited to, consideration of—

(i) donated property interests or services;

(ii) financial contributions by freight and commuter rail carriers commensurate with the benefit expected to their operations; and

(iii) financial commitments from host railroads, non-Federal governmental entities, nongovernmental entities, and others.

(d) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22506 [1] of this title, shall be deemed by the Secretary to have met the requirements of subsection (c)(1)(A) of this section.

(e) AMTRAK ELIGIBILITY.—To receive a grant under this section, Amtrak may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan's ranked list of rail capital projects developed under section 22504(a)(5) [1] of this title. For such a grant, Amtrak may not use Federal funds authorized under section 101(a) or (c) of the Passenger Rail Investment and Improvement Act of 2008 to fulfill the non-Federal share requirements under subsection (g) of this section.

(f) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—

(1) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(2) At least 30 days before issuing a letter under paragraph (1) of this subsection, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used in subsection (c) for selecting the project for a grant award, and a description of how the project meets such criteria.

(3) An obligation or administrative commitment may be made only when amounts are appropriated. The letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of appropriations under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

(g) FEDERAL SHARE OF NET PROJECT COST.—

(1)(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

(B) A grant for the project shall not exceed 80 percent of the project net capital cost.

(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

(2) Up to an additional 20 percent of the required non-Federal funds may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

(3) The following amounts, not to exceed $15,000,000 per fiscal year, shall be available to each applicant as a credit toward an applicant's matching requirement for a grant awarded under this section—

(A) in each of fiscal years 2009, 2010, and 2011—

(i) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for capital projects related to intercity passenger rail service; and

(ii) 50 percent of the average of amounts expended in fiscal years 2002 through 2008 by an applicant for operating costs of such service; and

(B) in each of fiscal years 2010, 2011 and 2012, 50 percent of the amount by which the amounts expended for capital projects and operating costs related to intercity passenger rail service by an applicant in the prior fiscal year exceed the average capital and operating expenditures made for such service in fiscal years 2006, 2007, and 2008.

The Secretary may require such information as necessary to verify such expenditures. Credits made available to an applicant in a fiscal year under this paragraph may only be applied towards grants awarded in that fiscal year.

(4) The Federal share of expenditures for capital improvements under this chapter may not exceed 100 percent.

(h) 2-YEAR AVAILABILITY.—Funds appropriated under this section shall remain available until expended. If any amount provided as a grant under this section is not obligated or expended for the purposes described in subsection (a) within 2 years after the date on which the State received the grant, such sums shall be returned to the Secretary for other intercity passenger rail development projects under this section at the discretion of the Secretary.

(i) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this chapter.

(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

(B) cost-sharing of any project expense;

(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) SUBALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

(j) LARGE CAPITAL PROJECT REQUIREMENTS.—

(1) IN GENERAL.—For a grant awarded under this chapter for an amount in excess of $1,000,000,000, the following conditions shall apply:

(A) The Secretary may not obligate any funding unless the applicant demonstrates, to the satisfaction of the Secretary, that the applicant has committed, and will be able to fulfill, the non-Federal share required for the grant within the applicant's proposed project completion timetable.

(B) The Secretary may not obligate any funding for work activities that occur after the completion of final design unless—

(i) the applicant submits a financial plan to the Secretary that generally identifies the sources of the non-Federal funding required for any subsequent segments or phases of the corridor service development program covering the project for which the grant is awarded;

(ii) the grant will result in a useable segment, a transportation facility, or equipment, that has operational independence; and

(iii) the intercity passenger rail benefits anticipated to result from the grant, such as increased speed, improved on-time performance, reduced trip time, increased frequencies, new service, safety improvements, improved accessibility, or other significant enhancements, are detailed by the grantee and approved by the Secretary.

(C)(i) The Secretary shall ensure that the project is maintained to the level of utility that is necessary to support the benefits approved under subparagraph (B)(iii) for a period of 20 years from the date on which the useable segment, transportation facility, or equipment described in subparagraph (B)(ii) is placed in service.

(ii) If the project property is not maintained as required under clause (i) for a 12-month period, the grant recipient shall refund a pro-rata share of the Federal contribution, based upon the percentage remaining of the 20-year period that commenced when the project property was placed in service.

(2) EARLY WORK.—The Secretary may allow a grantee subject to this subsection to engage in at-risk work activities subsequent to the conclusion of final design if the Secretary determines that such work activities are reasonable and necessary.

(k) SMALL CAPITAL PROJECTS.—The Secretary shall make not less than 5 percent annually available from the amounts authorized under section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding $2,000,000, including costs eligible under section 209(d) [1] of that Act. For grants awarded under this subsection, the Secretary may waive requirements of this section, including State rail plan requirements, as appropriate.

(l) NONMOTORIZED TRANSPORTATION ACCESS AND STORAGE.—Grants under this chapter may be used to provide access to rolling stock for nonmotorized transportation, including bicycles, and recreational equipment, and to provide storage capacity in trains for such transportation, equipment, and other luggage, to ensure passenger safety.

(Added Pub. L. 110–432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4936, §24402; amended Pub. L. 114–94, div. A, title XI, §§11303(b)(1)(C), 11309, Dec. 4, 2015, 129 Stat. 1654, 1669; renumbered §22902 and amended Pub. L. 115–420, §7(a)(1), (b)(1)(A), Jan. 3, 2019, 132 Stat. 5445, 5446.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsecs. (a)(2) and (d), is the date of enactment of div. B of Pub. L. 110–432, which was approved Oct. 16, 2008.

Section 211 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsecs. (b)(1) and (c)(1)(A), is section 211 of Pub. L. 110–432, which was set out as a note under section 24902 of this title, prior to repeal by Pub. L. 114–94, div. A, title XI, §11306(b)(3), Dec. 4, 2015, 129 Stat. 1660.

Section 207 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (c)(2)(A)(i), is section 207 of Pub. L. 110–432, which is set out in a note under section 24101 of this title.

Section 5302 of this title, referred to in subsec. (c)(3)(A)(vii), was amended generally by Pub. L. 112–141, div. B, §20004, July 6, 2012, 126 Stat. 623, and, as so amended, no longer contains a subsec. (a)(1)(G), which described a type of capital project. However, capital project is defined elsewhere in that section.

Section 22506 of this title, referred to in subsec. (d), probably should be a reference to section 22706 of this title, which requires the Secretary to prescribe procedures for submitting State rail plans for review. No section 22506 of this title has been enacted.

Section 22504(a)(5) of this title, referred to in subsec. (e), probably should be a reference to section 22705(a)(5) of this title, which requires each State rail plan to contain a long-range rail investment program that includes a list of any rail capital projects expected to be undertaken or supported in whole or in part by the State. Section 22504(a) of this title did not contain a par. (5), prior to repeal by Pub. L. 114–94, div. A, title XI, §11301(c)(3), Dec. 4, 2015, 129 Stat. 1648.

Section 101 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsecs. (e) and (k), is section 101 of title I of div. B of Pub. L. 110–432, Oct. 16, 2008, 122 Stat. 4908, which is not classified to the Code.

Section 209(d) of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (k), is section 209(d) of Pub. L. 110–432, which was redesignated as section 209(c) of the Act by Pub. L. 114–94 and is set out in a note under section 24101 of this title.

AMENDMENTS

2019—Pub. L. 115–420, §7(a)(1), renumbered section 24402 of this title as this section.

Subsec. (c)(3)(A). Pub. L. 115–420, §7(b)(1)(A)(i)(I), inserted "of" after "other modes" in introductory provisions.

Subsec. (c)(3)(A)(vi). Pub. L. 115–420, §7(b)(1)(A)(i)(II), substituted "environmental" for "environmentally".

Subsec. (k). Pub. L. 115–420, §7(b)(1)(A)(ii), substituted "State rail plan" for "state rail plan".

2015—Subsec. (j). Pub. L. 114–94, §11309, added subsec. (j).

Pub. L. 114–94, §11303(b)(1)(C), struck out subsec. (j) which related to special transportation circumstances.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

[1] *See References in Text note below.*

§22903. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

(12) the recipient's commitment to submit periodically a project budget and project schedule to the Secretary.

[(b) Repealed. Pub. L. 114–94, div. A, title XI, §11316(p), Dec. 4, 2015, 129 Stat. 1679]

(c) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(Added Pub. L. 110–432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4941, §24403; amended Pub. L. 114–94, div. A, title XI, §11316(p), Dec. 4, 2015, 129 Stat. 1679; renumbered §22903, Pub. L. 115–420, §7(a)(1), Jan. 3, 2019, 132 Stat. 5445.)

EDITORIAL NOTES

AMENDMENTS

2019—Pub. L. 115–420 renumbered section 24403 of this title as this section.

2015—Subsec. (b). Pub. L. 114–94 struck out subsec. (b) which related to secretarial oversight.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§22904. Use of capital grants to finance first-dollar liability of grant project

Notwithstanding the requirements of section 22902 of this chapter, the Secretary of Transportation may approve the use of a capital assistance grant under this chapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the grant, but the coverage may not exceed $20,000,000 per occurrence or $20,000,000 in aggregate per year.

(Added Pub. L. 110–432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4942, §24404; renumbered §22904 and amended Pub. L. 115–420, §7(a)(1), (b)(2)(B), Jan. 3, 2019, 132 Stat. 5445, 5446.)

EDITORIAL NOTES

AMENDMENTS

2019—Pub. L. 115–420 renumbered section 24404 of this title as this section and substituted "section 22902" for "section 24402".

§22905. Grant conditions

(a) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) For purposes of this subsection, in calculating the components' costs, labor costs involved in final assembly shall not be included in the calculation.

(4) If the Secretary determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the Secretary shall, before the date on which such finding takes effect—

(A) publish in the Federal Register a detailed written justification as to why the waiver is needed; and

(B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days.

(5) Not later than December 31, 2012, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on any waivers granted under paragraph (2).

(6) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(7) A person is ineligible to receive a contract or subcontract made with amounts authorized under this chapter if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a "Made in America" label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

(8) The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(9) The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(10) A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(11) The requirements of this subsection shall only apply to projects for which the costs exceed $100,000.

(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts that definition or in which that definition applies, including—

(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

(2) the Railway Labor Act (45 U.S.C. 151 et seq.); and

(3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this chapter for a project that uses rights-of-way owned by a railroad that—

(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

(A) any compensation for such use;

(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations;

(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and

(D) an assurance that an applicant complies with liability requirements consistent with

section 28103 of this title; and

(2) the applicant agrees to comply with—

(A) the standards of section 24312 of this title, as such section was in effect on September 1, 2003, with respect to the project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

(B) the protective arrangements that are equivalent to the protective arrangements established under section 22404 with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this chapter.

(d) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act [1] on a project funded in whole or in part by grants made under this chapter and replaces intercity rail passenger service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity or unless Amtrak ceased providing intercity passenger railroad transportation over the affected route more than 3 years before the commencement of new service, as of such date shall enter into an agreement with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider that—

(A) gives each such qualified employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within 3 years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(2) IMMEDIATE REPLACEMENT SERVICE.—

(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1) as described in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only 1 name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues among the matters set forth in subparagraphs (A) through (D) of paragraph (1). The arbitrator shall be

guided by prevailing national standard rates of pay, benefits, and working conditions for comparable work. This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

(3) SERVICE COMMENCEMENT.—A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1) or the decision of the arbitrator has been rendered.

(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the adversely affected employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

(e) INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.—Nothing in this section applies to—

(1) commuter rail passenger transportation (as defined in section 24102) operations of a State or local governmental authority (as those terms are defined in section 5302) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

(2) the Alaska Railroad or its contractors; or

(3) Amtrak's access rights to railroad rights of way and facilities under current law.

(f) LIMITATION.—No grants shall be provided under this chapter for commuter rail passenger transportation (as defined in section 24102(3)).

(Added Pub. L. 110–432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4942, §24405; amended Pub. L. 114–94, div. A, title XI, §11303(b)(1)(D), Dec. 4, 2015, 129 Stat. 1654; renumbered §22905 and amended Pub. L. 115–420, §7(a)(1), (b)(1)(B), (2)(C), Jan. 3, 2019, 132 Stat. 5445, 5446; Pub. L. 117–58, div. B, title I, §21301(j)(4)(D), Nov. 15, 2021, 135 Stat. 693.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (b)(1), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railway Labor Act, referred to in subsec. (b)(2), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (b)(3), is act June 25, 1938, ch. 680, 52 Stat. 1094, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The date of enactment of this Act, referred to in subsec. (d)(1), probably means the date of enactment of Pub. L. 110–432, which enacted this section and was approved Oct. 16, 2008.

AMENDMENTS

2021—Subsec. (c)(2)(B). Pub. L. 117–58 substituted "section 22404" for "section 504 of the Railroad

Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836)".

2019—Pub. L. 115–420, §7(a)(1), renumbered section 24405 of this title as this section.

Subsec. (e)(1). Pub. L. 115–420, §7(b)(1)(B), (2)(C), substituted "section 24102) operations of a State or local governmental authority (as those terms are defined in section 5302)" for "section 24102(4) of this title) operations of a State or local government authority (as those terms are defined in section 5302(11) and (6), respectively, of this title)".

2015—Subsec. (b)(2). Pub. L. 114–94, §11303(b)(1)(D)(i), substituted "(45" for "(43".

Subsec. (c)(2)(B). Pub. L. 114–94, §11303(b)(1)(D)(ii), substituted "protective arrangements that are equivalent to the protective arrangements established" for "protective arrangements established".

Subsec. (d)(1). Pub. L. 114–94, §11303(b)(1)(D)(iii), in introductory provisions, inserted "or unless Amtrak ceased providing intercity passenger railroad transportation over the affected route more than 3 years before the commencement of new service" after "unless such service was provided solely by Amtrak to another entity".

Subsec. (f). Pub. L. 114–94, §11303(b)(1)(D)(iv), substituted "under this chapter for commuter rail passenger transportation (as defined in section 24102(3))." for "under this chapter for commuter rail passenger transportation, as defined in section 24102(4) of this title."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

ASSISTANCE WITH BUY AMERICA WAIVER REQUESTS

Pub. L. 110–432, div. B, title III, §301(c), Oct. 16, 2008, 122 Stat. 4946, as amended by Pub. L. 115–420, §7(b)(3)(B)(i), Jan. 3, 2019, 132 Stat. 5447, provided that: "In implementing section 22905(a) of title 49, United States Code, the Federal Highway Administration shall, upon request by the Federal Railroad Administration, assist the Federal Railroad Administration in developing a process for posting on its website or distributing via email notices of waiver requests received pursuant to such subsection and soliciting public comments on the intent to issue a waiver. The Federal Railroad Administration's development of such a process does not relieve the Federal Railroad Administration of the requirements under paragraph (4) of such subsection."

[1] *See References in Text note below.*

§22906. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Transportation for capital grants under this chapter the following amounts:

(1) For fiscal year 2009, $100,000,000.
(2) For fiscal year 2010, $300,000,000.
(3) For fiscal year 2011, $400,000,000.
(4) For fiscal year 2012, $500,000,000.
(5) For fiscal year 2013, $600,000,000.

(Added Pub. L. 110–432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4946, §24406; renumbered §22906, Pub. L. 115–420, §7(a)(1), Jan. 3, 2019, 132 Stat. 5445.)

EDITORIAL NOTES

AMENDMENTS

2019—Pub. L. 115–420 renumbered section 24406 of this title as this section.

§22907. Consolidated rail infrastructure and safety improvements

(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to an eligible recipient to assist in financing the cost of improving passenger and freight rail transportation systems in terms of safety, efficiency, or reliability.

(b) ELIGIBLE RECIPIENTS.—The following entities are eligible to receive a grant under this section:

(1) A State (including the District of Columbia).

(2) A group of States.

(3) An Interstate Compact.

(4) A public agency or publicly chartered authority established by 1 or more States.

(5) A political subdivision of a State.

(6) Amtrak or another rail carrier that provides intercity rail passenger transportation (as rail carrier and intercity rail passenger transportation are defined in section 24102).

(7) A Class II railroad or Class III railroad (as those terms are defined in section 20102).

(8) An association representing 1 or more railroads described in paragraph (7).

(9) A federally recognized Indian Tribe.

(10) Any rail carrier or rail equipment manufacturer in partnership with at least 1 of the entities described in paragraphs (1) through (5).

(11) The Transportation Research Board and any entity with which it contracts in the development of rail-related research, including cooperative research programs.

(12) A University transportation center engaged in rail-related research.

(13) A non-profit labor organization representing a class or craft of employees of rail carriers or rail carrier contractors.

(c) ELIGIBLE PROJECTS.—The following projects are eligible to receive grants under this section:

(1) Deployment of railroad safety technology, including positive train control and rail integrity inspection systems.

(2) A capital project as defined in section 22901(2), except that a project shall not be required to be in a State rail plan developed under chapter 227.

(3) A capital project identified by the Secretary as being necessary to address congestion or safety challenges affecting rail service.

(4) A capital project identified by the Secretary as being necessary to reduce congestion and facilitate ridership growth in intercity passenger rail transportation along heavily traveled rail corridors.

(5) A highway-rail grade crossing improvement project, including installation, repair, or improvement of grade separations, railroad crossing signals, gates, and related technologies, highway traffic signalization, highway lighting and crossing approach signage, roadway improvements such as medians or other barriers, railroad crossing panels and surfaces, and safety engineering improvements to reduce risk in quiet zones or potential quiet zones.

(6) A rail line relocation or improvement project.

(7) A capital project to improve short-line or regional railroad infrastructure.

(8) The preparation of regional rail and corridor service development plans and corresponding environmental analyses.

(9) Any project that the Secretary considers necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity rail passenger transportation and intercity bus service or commercial air service.

(10) The development and implementation of a safety program or institute designed to improve rail safety.

(11) The development and implementation of measures to prevent trespassing and reduce associated injuries and fatalities.

(12) Any research that the Secretary considers necessary to advance any particular aspect of rail-related capital, operations, or safety improvements.

(13) Workforce development and training activities, coordinated to the extent practicable with

the existing local training programs supported by the Department of Transportation, the Department of Labor, and the Department of Education.

(14) Research, development, and testing to advance and facilitate innovative rail projects, including projects using electromagnetic guideways in an enclosure in a very low-pressure environment.

(15) The preparation of emergency plans for communities through which hazardous materials are transported by rail.

(16) Rehabilitating, remanufacturing, procuring, or overhauling locomotives, provided that such activities result in a significant reduction of emissions.

(d) APPLICATION PROCESS.—The Secretary shall prescribe the form and manner of filing an application under this section.

(e) PROJECT SELECTION CRITERIA.—

(1) IN GENERAL.—In selecting a recipient of a grant for an eligible project, the Secretary shall—

(A) give preference to a proposed project for which the proposed Federal share of total project costs does not exceed 50 percent; and

(B) after factoring in preference to projects under subparagraph (A), select projects that will maximize the net benefits of the funds appropriated for use under this section, considering the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project and factoring in the other considerations described in paragraph (2).

(2) OTHER CONSIDERATIONS.—The Secretary shall also consider the following:

(A) The degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the project.

(B) The recipient's past performance in developing and delivering similar projects, and previous financial contributions.

(C) Whether the recipient has or will have the legal, financial, and technical capacity to carry out the proposed project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

(D) If applicable, the consistency of the proposed project with planning guidance and documents set forth by the Secretary or required by law or State rail plans developed under chapter 227.

(E) If applicable, any technical evaluation ratings the proposed project received under previous competitive grant programs administered by the Secretary.

(F) Such other factors as the Secretary considers relevant to the successful delivery of the project.

(3) BENEFITS.—The benefits described in paragraph (1)(B) may include the effects on system and service performance, including measures such as improved safety, competitiveness, reliability, trip or transit time, resilience, efficiencies from improved integration with other modes, the ability to meet existing or anticipated demand, and any other benefits.

(f) PERFORMANCE MEASURES.—The Secretary shall establish performance measures for each grant recipient to assess progress in achieving strategic goals and objectives. The Secretary may require a grant recipient to periodically report information related to such performance measures.

(g) RURAL AREAS.—

(1) IN GENERAL.—Of the amounts appropriated under this section, at least 25 percent shall be available for projects in rural areas. The Secretary shall consider a project to be in a rural area if all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a rural area.

(2) DEFINITION OF RURAL AREA.—In this subsection, the term "rural area" means any area

not in an urbanized area, as defined by the Bureau of the Census.

(h) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(1) TOTAL PROJECT COSTS.—The Secretary shall estimate the total costs of a project under this section based on the best available information, including any available engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.—The Federal share of total project costs under this section shall not exceed 80 percent.

(3) TREATMENT OF PASSENGER RAIL REVENUE.—If Amtrak or another rail carrier is an applicant under this section, Amtrak or the other rail carrier, as applicable, may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(4) GRADE CROSSING AND TRESPASSING PROJECTS.—Applicants may use costs incurred previously for preliminary engineering associated with highway-rail grade crossing improvement projects under subsection (c)(5) and trespassing prevention projects under subsection (c)(11) to satisfy the non-Federal share requirements.

(i) APPLICABILITY.—Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the requirements of this chapter.

(j) AVAILABILITY.—Amounts appropriated for carrying out this section shall remain available until expended.

(k) LIMITATION.—The requirements under sections 22902, 22903, and 22904, and the definition contained in section 22901(1) shall not apply to this section.

(l) SPECIAL TRANSPORTATION CIRCUMSTANCES.—

(1) IN GENERAL.—In carrying out this chapter, the Secretary shall allocate an appropriate portion of the amounts available to programs in this chapter to provide grants to States—

(A) in which there is no intercity passenger rail service, for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 227, including highway construction over rail facilities as an alternative to construction or improvement of a highway-rail grade crossing, that provide public benefits (as defined in chapter 227), as determined by the Secretary; or

(B) in which the rail transportation system is not physically connected to rail systems in the continental United States or may not otherwise qualify for a grant under this section due to the unique characteristics of the geography of that State or other relevant considerations, for the purpose of funding transportation-related capital projects.

(2) DEFINITION.—For the purposes of this subsection, the term "appropriate portion" means a share, for each State subject to paragraph (1), not less than the share of the total railroad route miles in such State of the total railroad route miles in the United States, excluding from all totals the route miles exclusively used for tourist, scenic, and excursion railroad operations.

(Added Pub. L. 114–94, div. A, title XI, §11301(a), Dec. 4, 2015, 129 Stat. 1644, §24407; renumbered §22907 and amended Pub. L. 115–420, §7(a)(1), (b)(2)(D), Jan. 3, 2019, 132 Stat. 5445, 5446; Pub. L. 117–58, div. B, title II, §22303(a), (c)(1), Nov. 15, 2021, 135 Stat. 718.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 117–58, §22303(a)(1)(A), inserted "(including the District of Columbia)" after "State".

Subsec. (b)(6). Pub. L. 117–58, §22303(a)(1)(B), inserted "rail carrier and intercity rail passenger transportation are" before "defined".

Subsec. (b)(8) to (13). Pub. L. 117–58, §22303(a)(1)(C), (D), added pars. (8) and (9) and redesignated

formers pars. (8) to (11) as (10) to (13), respectively.

Subsec. (c)(3). Pub. L. 117–58, §22303(a)(2)(A), inserted "or safety" after "congestion".

Subsec. (c)(6). Pub. L. 117–58, §22303(a)(2)(B), substituted "or" for "and".

Subsec. (c)(11) to (13). Pub. L. 117–58, §22303(a)(2)(C), (D), added par. (11) and redesignated former pars. (11) and (12) as (12) and (13), respectively.

Subsec. (c)(14) to (16). Pub. L. 117–58, §22303(a)(2)(E), added pars. (14) to (16).

Subsec. (h)(4). Pub. L. 117–58, §22303(a)(3), added par. (4).

Subsec. (l)(1)(A). Pub. L. 117–58, §22303(c)(1), inserted ", including highway construction over rail facilities as an alternative to construction or improvement of a highway-rail grade crossing," after "under chapter 227".

2019—Pub. L. 115–420, §7(a)(1), renumbered section 24407 of this title as this section.

Subsec. (c)(2). Pub. L. 115–420, §7(b)(2)(D)(i), substituted "section 22901(2)" for "section 24401(2)".

Subsec. (k). Pub. L. 115–420, §7(b)(2)(D)(ii), substituted "under sections 22902, 22903, and 22904, and the definition contained in section 22901(1)" for "of sections 24402, 24403, and 24404 and the definition contained in 24401(1)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–58, div. B, title II, §22303(c)(2), Nov. 15, 2021, 135 Stat. 718, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to amounts remaining under section 22907(l) of title 49, United States Code, from appropriations for prior fiscal years."

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

RULE OF CONSTRUCTION

Pub. L. 117–58, div. B, title II, §22303(b), Nov. 15, 2021, 135 Stat. 718, provided that: "The amendments made by subsection (a) [amending this section] may not be construed to affect any grant, including any application for a grant, made under section 22907 of title 49, United States Code, before the date of enactment of this Act [Nov. 15, 2021]."

GRADE CROSSING ACCIDENT PREDICTION MODEL

Pub. L. 117–58, div. B, title II, §22402, Nov. 15, 2021, 135 Stat. 734, provided that: "Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Administrator of the Federal Railroad Administration shall—

"(1) update the grade crossing accident prediction and severity model used by the Federal Railroad Administration to analyze accident risk at highway-rail grade crossings; and

"(2) provide training on the use of the updated grade crossing accident prediction and severity model."

BLOCKED CROSSING PORTAL

Pub. L. 117–58, div. B, title II, §22404, Nov. 15, 2021, 135 Stat. 736, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Railroad Administration shall establish a 3-year blocked crossing portal, which shall include the maintenance of the portal and corresponding database to receive, store, and retrieve information regarding blocked highway-rail grade crossings.

"(b) BLOCKED CROSSING PORTAL.—The Administrator of the Federal Railroad Administration shall establish a blocked crossing portal that—

"(1) collects information from the public, including first responders, regarding blocked highway-rail grade crossing events;

"(2) solicits the apparent cause of the blocked crossing and provides examples of common causes of blocked crossings, such as idling trains or instances when lights or gates are activated when no train is present;

"(3) provides each complainant with the contact information for reporting a blocked crossing to the relevant railroad; and

"(4) encourages each complainant to report the blocked crossing to the relevant railroad.

"(c) COMPLAINTS.—The blocked crossing portal shall be programmed to receive complaints from the general public about blocked highway-rail grade crossings. Any complaint reported through the portal shall

indicate whether the complainant also reported the blocked crossing to the relevant railroad.

"(d) INFORMATION RECEIVED.—In reviewing complaints received pursuant to subsection (c), the Federal Railroad Administration shall review, to the extent practicable, the information received from the complainant to account for duplicative or erroneous reporting.

"(e) USE OF INFORMATION.—The information received and maintained in the blocked crossing portal database shall be used by the Federal Railroad Administration—

"(1) to identify frequent and long-duration blocked highway-rail grade crossings;

"(2) as a basis for conducting outreach to communities, emergency responders, and railroads;

"(3) to support collaboration in the prevention of incidents at highway-rail grade crossings; and

"(4) to assess the impacts of blocked crossings.

"(f) SHARING INFORMATION RECEIVED.—

"(1) IN GENERAL.—The Administrator of the Federal Railroad Administration shall implement and make publicly available procedures for sharing any nonaggregated information received through the blocked crossing portal with the public.

"(2) RULE OF CONSTRUCTION.—Nothing in this section may be construed to authorize the Federal Railroad Administration to make publically available sensitive security information.

"(g) ADDITIONAL INFORMATION.—If the information submitted to the blocked crossing portal is insufficient to determine the locations and potential impacts of blocked highway-rail grade crossings, the Federal Railroad Administration may collect, from the general public, State and local law enforcement personnel, and others as appropriate, and on a voluntary basis, such additional information as may be necessary to make such determinations.

"(h) LIMITATIONS.—Complaints, data, and other information received through the blocked crossing portal may not be used—

"(1) to infer or extrapolate the rate or instances of crossings beyond the data received through the portal; or

"(2) for any regulatory or enforcement purposes except those specifically described in this section.

"(i) REPORTS.—

"(1) ANNUAL PUBLIC REPORT.—The Administrator of the Federal Railroad Administration shall publish an annual report on a public website regarding the blocked crossing program, including the underlying causes of blocked crossings, program challenges, and other findings.

"(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Administrator of the Federal Railroad Administration shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

"(A) based on the information received through the blocked crossing portal, frequent and long-duration blocked highway-rail grade crossings, including the locations, dates, durations, and impacts resulting from such occurrences;

"(B) the Federal Railroad Administration's process for verifying the accuracy of the complaints submitted to the blocked crossing portal, including whether the portal continues to be effective in collecting such information and identifying blocked crossings;

"(C) the Federal Railroad Administration's use of the data compiled by the blocked crossing portal to assess the underlying cause and overall impacts of blocked crossings;

"(D) the engagement of the Federal Railroad Administration with affected parties to identify and facilitate solutions to frequent and long-duration blocked highway-rail grade crossings identified by the blocked crossing portal; and

"(E) whether the blocked crossing portal continues to be an effective method to collect blocked crossing information and what changes could improve its effectiveness.

"(j) SUNSET.—This section (other than subsection (k)) shall have no force or effect beginning on the date that is 3 years after the date of enactment of this Act.

"(k) RULE OF CONSTRUCTION.—Nothing in this section may be construed to invalidate any authority of the Secretary [of Transportation] with respect to blocked highway-rail grade crossings. The Secretary may continue to use any such authority after the sunset date set forth in subsection (j)."

DATA AND ANALYSIS

Pub. L. 114–94, div. A, title XI, §11313, Dec. 4, 2015, 129 Stat. 1673, provided that:

"(a) DATA.—Not later than 3 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation], in consultation with the Surface Transportation Board, Amtrak, freight railroads, State and local governments, and regional business, tourism, and economic development agencies shall conduct a data

needs assessment to—

"(1) support the development of an efficient and effective intercity passenger rail network;

"(2) identify the data needed to conduct cost-effective modeling and analysis for intercity passenger rail development programs;

"(3) determine limitations to the data used for inputs;

"(4) develop a strategy to address such limitations;

"(5) identify barriers to accessing existing data;

"(6) develop recommendations regarding whether the authorization of additional data collection for intercity passenger rail travel is warranted; and

"(7) determine which entities should be responsible for generating or collecting needed data.

"(b) BENEFIT-COST ANALYSIS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall enhance the usefulness of assessments of benefits and costs for intercity passenger rail and freight rail projects by—

"(1) providing ongoing guidance and training on developing benefit and cost information for rail projects;

"(2) providing more direct and consistent requirements for assessing benefits and costs across transportation funding programs, including the appropriate use of discount rates;

"(3) requiring applicants to clearly communicate the methodology used to calculate the project benefits and costs, including non-proprietary information on—

"(A) assumptions underlying calculations;

"(B) strengths and limitations of data used; and

"(C) the level of uncertainty in estimates of project benefits and costs; and

"(4) ensuring that applicants receive clear and consistent guidance on values to apply for key assumptions used to estimate potential project benefits and costs.

"(c) CONFIDENTIAL DATA.—The Secretary shall protect all sensitive and confidential information to the greatest extent permitted by law. Nothing in this section shall require any entity to provide information to the Secretary in the absence of a voluntary agreement."

HIGHWAY-RAIL GRADE CROSSING SAFETY

Pub. L. 114–94, div. A, title XI, §11401, Dec. 4, 2015, 129 Stat. 1679, as amended by Pub. L. 115–420, §7(b)(3)(C)(iv), Jan. 3, 2019, 132 Stat. 5448; Pub. L. 117–58, div. B, title II, §22403(a), Nov. 15, 2021, 135 Stat. 734, provided that:

"(a) MODEL STATE HIGHWAY-RAIL GRADE CROSSING ACTION PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Administrator of the Federal Railroad Administration shall develop a model of a State-specific highway-rail grade crossing action plan and distribute the plan to each State.

"(2) CONTENTS.—The plan developed under paragraph (1) shall include—

"(A) methodologies, tools, and data sources for identifying and evaluating highway-rail grade crossing safety risks, including the public safety risks posed by blocked highway-rail grade crossings due to idling trains;

"(B) best practices to reduce the risk of highway-rail grade crossing accidents or incidents and to alleviate the blockage of highway-rail grade crossings due to idling trains, including strategies for—

"(i) education, including model stakeholder engagement plans or tools;

"(ii) engineering, including the benefits and costs of different designs and technologies used to mitigate highway-rail grade crossing safety risks; and

"(iii) enforcement, including the strengths and weaknesses associated with different enforcement methods;

"(C) for each State, a customized list and data set of the highway-rail grade crossing accidents or incidents in that State over the past 3 years, including the location, number of deaths, and number of injuries for each accident or incident, and a list of highway-rail grade crossings in that State that have experienced multiple accidents or incidents over the past 3 years; and

"(D) contact information of a Department of Transportation safety official available to assist the State in adapting the model plan to satisfy the requirements under subsection (b).

"(b) STATE HIGHWAY-RAIL GRADE CROSSING ACTION PLANS.—

"(1) REQUIREMENTS.—Not later than 18 months after the Administrator develops and distributes the model plan under subsection (a), the Administrator shall promulgate a rule that requires—

"(A) each State, except the 10 States identified under section 202 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note), to develop and implement a State highway-rail grade crossing action

plan; and

"(B) each State identified under section 202 of the Rail Safety Improvement Act of 2008 [div. A of Pub. L. 110–432] (49 U.S.C. 22501 note) to—

"(i) update the State action plan under such section; and

"(ii) submit to the Administrator—

"(I) the updated State action plan; and

"(II) a report describing what the State did to implement its previous State action plan under such section and how the State will continue to reduce highway-rail grade crossing safety risks.

"(2) CONTENTS.—Each State plan required under this subsection shall—

"(A) identify highway-rail grade crossings that have experienced recent highway-rail grade crossing accidents or incidents or multiple highway-rail grade crossing accidents or incidents, or are at high-risk for accidents or incidents;

"(B) identify specific strategies for improving safety at highway-rail grade crossings, including highway-rail grade crossing closures or grade separations; and

"(C) designate a State official responsible for managing implementation of the State action plan under subparagraph (A) or (B) of paragraph (1), as applicable.

"(3) ASSISTANCE.—The Administrator shall provide assistance to each State in developing and carrying out, as appropriate, the State action plan under this subsection.

"(4) PUBLIC AVAILABILITY.—Each State shall submit a final State plan under this subsection to the Administrator for publication. The Administrator shall make each approved State plan publicly available on an official Internet Web site.

"(5) CONDITIONS.—The Secretary [of Transportation] may condition the awarding of a grant to a State under chapter 229 of title 49, United States Code, on that State submitting an acceptable State action plan under this subsection.

"(6) REVIEW OF ACTION PLANS.—Not later than 60 days after the date of receipt of a State action plan under this subsection, the Administrator shall—

"(A) if the State action plan is approved, notify the State and publish the State action plan under paragraph (4); and

"(B) if the State action plan is incomplete or deficient, notify the State of the specific areas in which the plan is deficient and allow the State to complete the plan or correct the deficiencies and resubmit the plan under paragraph (1).

"(7) DEADLINE.—Not later than 60 days after the date of a notice under paragraph (6)(B), a State shall complete the plan or correct the deficiencies and resubmit the plan.

"(8) FAILURE TO COMPLETE OR CORRECT PLAN.—If a State fails to meet the deadline under paragraph (7), the Administrator shall post on the Web site under paragraph (4) a notice that the State has an incomplete or deficient highway-rail grade crossing action plan.

"(c) RAILWAY-HIGHWAY CROSSINGS FUNDS.—The Secretary may use funds made available to carry out section 130 of title 23, United States Code, to provide States with funds to develop a State highway-rail grade crossing action plan under subsection (b)(1)(A) or to update a State action plan under subsection (b)(1)(B).

"(d) DEFINITIONS.—In this section:

"(1) HIGHWAY-RAIL GRADE CROSSING.—The term 'highway-rail grade crossing' means a location within a State, other than a location where 1 or more railroad tracks cross 1 or more railroad tracks at grade, where—

"(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks either at grade or grade-separated; or

"(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses 1 or more railroad tracks either at grade or grade-separated.

"(2) STATE.—The term 'State' means a State of the United States or the District of Columbia."

STATE ACTION PLANS

Pub. L. 110–432, div. A, title II, §202, Oct. 16, 2008, 122 Stat. 4868, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall identify the 10 States that have had the most highway-rail grade crossing collisions, on average, over the past 3 years and require those States to develop a State grade crossing action plan within a reasonable period of time, as determined by the Secretary. The plan shall identify specific solutions for

improving safety at crossings, including highway-rail grade crossing closures or grade separations, and shall focus on crossings that have experienced multiple accidents or are at high risk for such accidents. The Secretary shall provide assistance to the States in developing and carrying out, as appropriate, the plan. The plan may be coordinated with other State or Federal planning requirements and shall cover a period of time determined to be appropriate by the Secretary. The Secretary may condition the awarding of any grants under section 20158, 20167, or 22501 of title 49, United States Code, to a State identified under this section on the development of such State's plan.

"(b) REVIEW AND APPROVAL.—Not later than 60 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is disapproved, the Secretary shall notify the affected State as to the specific areas in which the proposed plan is deficient, and the State shall correct all deficiencies within 30 days following receipt of written notice from the Secretary."

[For definitions of "Secretary", "State", and "crossing", as used in section 202 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

OPERATION LIFESAVER

Pub. L. 110–432, div. A, title II, §206, Oct. 16, 2008, 122 Stat. 4873, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(4), Dec. 4, 2015, 129 Stat. 1677, provided that:

"(a) GRANT.—The Federal Railroad Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. The program shall include, as appropriate, development, placement, and dissemination of public service announcements in newspaper, radio, television, and other media. The program shall also include, as appropriate, school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver's member organizations. As part of an educational program funded by grants awarded under this section, Operation Lifesaver shall provide information to the public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings.

"(b) PILOT PROGRAM.—The Secretary may allow funds provided under subsection (a) also to be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted and sustained community outreach on the subjects described in subsection (a). Such a pilot program shall be established in 1 or more States identified under section 202 of this division [set out above]. In carrying out such a pilot program Operation Lifesaver shall work with the State, community leaders, school districts, and public and private partners to identify the communities at greatest risk, to develop appropriate measures to reduce such risks, and shall coordinate the pilot program with the State grade crossing action plan.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration for carrying out this section—

"(1) $2,000,000 for each of fiscal years 2010 and 2011; and

"(2) $1,500,000 for each of fiscal years 2012 and 2013."

[For definitions of "railroad", "crossing", "Secretary", and "State", as used in section 206 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

§22908. Restoration and enhancement grants

(a) DEFINITIONS.—In this section:

(1) APPLICANT.—Notwithstanding section 22901(1), the term "applicant" means—

(A) a State, including the District of Columbia;

(B) a group of States;

(C) an entity implementing an interstate compact;

(D) a public agency or publicly chartered authority established by 1 or more States;

(E) a political subdivision of a State;

(F) a federally recognized Indian Tribe;

(G) Amtrak or another rail carrier that provides intercity rail passenger transportation;

(H) any rail carrier in partnership with at least 1 of the entities described in subparagraphs (A) through (F); and

(I) any combination of the entities described in subparagraphs (A) through (F).

(2) OPERATING ASSISTANCE.—The term "operating assistance", with respect to any route subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432), means any cost allocated, or that may be allocated, to a route pursuant to the cost methodology established under such section or under section 24712.

(b) GRANTS AUTHORIZED.—The Secretary of Transportation shall develop and implement a program for issuing operating assistance grants to applicants, on a competitive basis, for the purpose of initiating, restoring, or enhancing intercity rail passenger transportation.

(c) APPLICATION.—An applicant for a grant under this section shall submit to the Secretary—

(1) a capital and mobilization plan that—

(A) describes any capital investments, service planning actions (such as environmental reviews), and mobilization actions (such as qualification of train crews) required for initiation of intercity rail passenger transportation; and

(B) includes the timeline for undertaking and completing each of the investments and actions referred to in subparagraph (A);

(2) an operating plan that describes the planned operation of the service, including—

(A) the identity and qualifications of the train operator;

(B) the identity and qualifications of any other service providers;

(C) service frequency;

(D) the planned routes and schedules;

(E) the station facilities that will be utilized;

(F) projected ridership, revenues, and costs;

(G) descriptions of how the projections under subparagraph (F) were developed;

(H) the equipment that will be utilized, how such equipment will be acquired or refurbished, and where such equipment will be maintained; and

(I) a plan for ensuring safe operations and compliance with applicable safety regulations;

(3) a funding plan that—

(A) describes the funding of initial capital costs and operating costs for the first 6 years of operation;

(B) includes a commitment by the applicant to provide the funds described in subparagraph (A) to the extent not covered by Federal grants and revenues; and

(C) describes the funding of operating costs and capital costs, to the extent necessary, after the first 6 years of operation; and

(4) a description of the status of negotiations and agreements with—

(A) each of the railroads or regional transportation authorities whose tracks or facilities would be utilized by the service;

(B) the anticipated railroad carrier, if such entity is not part of the applicant group; and

(C) any other service providers or entities expected to provide services or facilities that will be used by the service, including any required access to Amtrak systems, stations, and facilities if Amtrak is not part of the applicant group.

(d) PRIORITIES.—In awarding grants under this section, the Secretary shall give priority to applications—

(1) for which planning, design, any environmental reviews, negotiation of agreements, acquisition of equipment, construction, and other actions necessary for initiation of service have been completed or nearly completed;

(2) that would restore service over routes formerly operated by Amtrak, including routes described in section 11304 of the Passenger Rail Reform and Investment Act of 2015;

(3) that would provide daily or daytime service over routes where such service did not previously exist;

(4) that include funding (including funding from railroads), or other significant participation by State, local, and regional governmental and private entities;

(5) that include a funding plan that demonstrates the intercity rail passenger service will be financially sustainable beyond the 3-year grant period;

(6) that would provide service to regions and communities that are underserved or not served by other intercity public transportation;

(7) that would foster economic development, particularly in rural communities and for disadvantaged populations;

(8) that would provide other non-transportation benefits;

(9) that would enhance connectivity and geographic coverage of the existing national network of intercity rail passenger service; and

(10) for routes selected under the Corridor Identification and Development Program and operated by Amtrak.

(e) LIMITATIONS.—

(1) DURATION.—Federal operating grants authorized under this section for any individual intercity rail passenger transportation route may not provide funding for more than 6 years (including for any such routes selected for funding before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021) and may not be renewed.

(2) LIMITATION.—Not more than 6 of the operating assistance grants awarded pursuant to subsection (b) may be simultaneously active.

(3) MAXIMUM FUNDING.—Grants described in paragraph (1) may not exceed—

(A) 90 percent of the projected net operating costs for the first year of service;

(B) 80 percent of the projected net operating costs for the second year of service;

(C) 70 percent of the projected net operating costs for the third year of service;

(D) 60 percent of the projected net operating costs for the fourth year of service;

(E) 50 percent of the projected net operating costs for the fifth year of service; and

(F) 30 percent of the projected net operating costs for the sixth year of service.

(f) USE WITH CAPITAL GRANTS AND OTHER FEDERAL FUNDING.—A recipient of an operating assistance grant under subsection (b) may use that grant in combination with other Federal grants awarded that would benefit the applicable service.

(g) AVAILABILITY.—Amounts appropriated for carrying out this section shall remain available until expended.

(h) COORDINATION WITH AMTRAK.—If the Secretary awards a grant under this section to a rail carrier other than Amtrak, Amtrak may be required consistent with section 24711(c)(1) of this title to provide access to its reservation system, stations, and facilities that are directly related to operations to such carrier, to the extent necessary to carry out the purposes of this section. The Secretary may award an appropriate portion of the grant to Amtrak as compensation for this access.

(i) CONDITIONS.—

(1) GRANT AGREEMENT.—The Secretary shall require a grant recipient under this section to enter into a grant agreement that requires such recipient to provide similar information regarding the route performance, financial, and ridership projections, and capital and business plans that Amtrak is required to provide, and such other data and information as the Secretary considers necessary.

(2) INSTALLMENTS; TERMINATION.—The Secretary may—

(A) award grants under this section in installments, as the Secretary considers appropriate; and

(B) terminate any grant agreement upon—

(i) the cessation of service; or

(ii) the violation of any other term of the grant agreement.

(3) GRANT CONDITIONS.—The Secretary shall require each recipient of a grant under this section to comply with the grant requirements of section 22905.

(j) REPORT.—Not later than 4 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary, after consultation with grant recipients under this section, shall submit to Congress a report that describes—

(1) the implementation of this section;
(2) the status of the investments and operations funded by such grants;
(3) the performance of the routes funded by such grants;
(4) the plans of grant recipients for continued operation and funding of such routes; and
(5) any legislative recommendations.

(Added Pub. L. 114–94, div. A, title XI, §11303(a), Dec. 4, 2015, 129 Stat. 1651, §24408; renumbered §22908 and amended Pub. L. 115–420, §7(a)(1), (b)(2)(E), Jan. 3, 2019, 132 Stat. 5445, 5446; Pub. L. 117–58, div. B, title II, §22304, Nov. 15, 2021, 135 Stat. 719.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 209 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (a)(2), is section 209 of title II of div. B of Pub. L. 110–432, which is set out as a note under section 24101 of this title.

Section 11304 of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (d)(2), is section 11304 of title IX of div. A of Pub. L. 114–94, 129 Stat. 1655, which is not classified to the Code.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (e)(1), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (j), is the date of enactment of title XI of div. A of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §22304(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) defined applicant.

Subsec. (c)(3). Pub. L. 117–58, §22304(2), substituted "6 years" for "3 years" in pars. (A) and (C).

Subsec. (d)(10). Pub. L. 117–58, §22304(3), added par. (10).

Subsec. (e)(1). Pub. L. 117–58, §22304(4)(A), struck out "assistance" before "grants" and substituted "6 years (including for any such routes selected for funding before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021)" for "3 years".

Subsec. (e)(3)(A) to (F). Pub. L. 117–58, §22304(4)(B), added subpars. (A) to (F) and struck out former subpars. (A) to (C) which read as follows:

"(A) 80 percent of the projected net operating costs for the first year of service;
"(B) 60 percent of the projected net operating costs for the second year of service; and
"(C) 40 percent of the projected net operating costs for the third year of service."

2019—Pub. L. 115–420, §7(a)(1), renumbered section 24408 of this title as this section.

Subsec. (a). Pub. L. 115–420, §7(b)(2)(E)(i), substituted "22901(1)" for "24401(1)" in introductory provisions.

Subsec. (i)(3). Pub. L. 115–420, §7(b)(2)(E)(ii), substituted "22905" for "24405".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§22909. Railroad Crossing Elimination Program

(a) IN GENERAL.—The Secretary of Transportation, in cooperation with the Administrator of the

Federal Railroad Administration, shall establish a competitive grant program (referred to in this section as the "Program") under which the Secretary shall award grants to eligible recipients described in subsection (c) for highway-rail or pathway-rail grade crossing improvement projects that focus on improving the safety and mobility of people and goods.

(b) GOALS.—The goals of the Program are—

(1) to eliminate highway-rail grade crossings that are frequently blocked by trains;

(2) to improve the health and safety of communities;

(3) to reduce the impacts that freight movement and railroad operations may have on underserved communities; and

(4) to improve the mobility of people and goods.

(c) ELIGIBLE RECIPIENTS.—The following entities are eligible to receive a grant under this section:

(1) A State, including the District of Columbia, Puerto Rico, and other United States territories and possessions.

(2) A political subdivision of a State.

(3) A federally recognized Indian Tribe.

(4) A unit of local government or a group of local governments.

(5) A public port authority.

(6) A metropolitan planning organization.

(7) A group of entities described in any of paragraphs (1) through (6).

(d) ELIGIBLE PROJECTS.—The Secretary may award a grant under the Program for a highway-rail or pathway-rail grade crossing improvement project (including acquiring real property interests) involving—

(1) grade separation or closure, including through the use of a bridge, embankment, tunnel, or combination thereof;

(2) track relocation;

(3) the improvement or installation of protective devices, signals, signs, or other measures to improve safety, provided that such activities are related to a separation or relocation project described in paragraph (1) or (2);

(4) other means to improve the safety and mobility of people and goods at highway-rail grade crossings (including technological solutions);

(5) a group of related projects described in paragraphs (1) through (4) that would collectively improve the mobility of people and goods; or

(6) the planning, environmental review, and design of an eligible project described in paragraphs (1) through (5).

(e) APPLICATION PROCESS.—

(1) IN GENERAL.—An eligible entity seeking a grant under the Program shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) RAILROAD APPROVALS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require applicants to obtain the necessary approvals from any impacted rail carriers or real property owners before proceeding with the construction of a project funded by a grant under the Program.

(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply to planning projects described in subsection (d)(6) if the applicant agrees to work collaboratively with rail carriers and right-of-way owners.

(f) PROJECT SELECTION CRITERIA.—

(1) IN GENERAL.—In awarding grants under the Program, the Secretary shall evaluate the

extent to which proposed projects would—

(A) improve safety at highway-rail or pathway-rail grade crossings;

(B) grade separate, eliminate, or close highway-rail or pathway-rail grade crossings;

(C) improve the mobility of people and goods;

(D) reduce emissions, protect the environment, and provide community benefits, including noise reduction;

(E) improve access to emergency services;

(F) provide economic benefits; and

(G) improve access to communities separated by rail crossings.

(2) ADDITIONAL CONSIDERATIONS.—In awarding grants under the Program, the Secretary shall consider—

(A) the degree to which the proposed project will use—

(i) innovative technologies;

(ii) innovative design and construction techniques; or

(iii) construction materials that reduce greenhouse gas emissions;

(B) the applicant's planned use of contracting incentives to employ local labor, to the extent permissible under Federal law;

(C) whether the proposed project will improve the mobility of—

(i) multiple modes of transportation, including ingress and egress from freight facilities; or

(ii) users of nonvehicular modes of transportation, such as pedestrians, bicyclists, and public transportation;

(D) whether the proposed project is identified in—

(i) the freight investment plan component of a State freight plan, as required under section 70202(b)(9);

(ii) a State rail plan prepared in accordance with chapter 227; or

(iii) a State highway-rail grade crossing action plan, as required under section 11401(b) of the Passenger Rail Reform and Investment Act of 2015 (title XI of Public Law 114–94); and

(E) the level of financial support provided by impacted rail carriers.

(3) AWARD DISTRIBUTION.—In selecting grants for Program funds in any fiscal year, the Secretary shall comply with the following limitations:

(A) GRANT FUNDS.—Not less than 20 percent of the grant funds available for the Program in any fiscal year shall be reserved for projects located in rural areas or on Tribal lands. The requirement under section 22907(l), which applies to this section, shall not apply to grant funds reserved specifically under this subparagraph. Not less than 5 percent of the grant funds reserved under this subparagraph shall be reserved for projects in counties with 20 or fewer residents per square mile, according to the most recent decennial census, provided that sufficient eligible applications have been submitted.

(B) PLANNING GRANTS.—Not less than 25 percent of the grant funds set aside for planning projects in any fiscal year pursuant to section 22104(b) of the Passenger Rail Expansion and Rail Safety Act of 2021 shall be awarded for projects located in rural areas or on tribal lands.

(C) STATE LIMITATION.—Not more than 20 percent of the grant funds available for the Program in any fiscal year may be selected for projects in any single State.

(D) MINIMUM SIZE.—No grant awarded under this section shall be for less than $1,000,000, except for a planning grant described in subsection (d)(6).

(g) COST SHARE.—Except as provided in paragraph (2),[1] the Federal share of the cost of a project carried out using a grant under the Program may not exceed 80 percent of the total cost of the

project. Applicants may count costs incurred for preliminary engineering associated with highway-rail and pathway-rail grade crossing improvement projects as part of the total project costs.

(h) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before awarding a grant for a project under the Program, the Secretary shall submit written notification of the proposed grant to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, which shall include—

(1) a summary of the project; and

(2) the amount of the proposed grant award.

(i) ANNUAL REPORT.—Not later than 60 days after each round of award notifications, the Secretary shall post, on the public website of the Department of Transportation—

(1) a list of all eligible applicants that submitted an application for funding under the Program during the current fiscal year;

(2) a list of the grant recipients and projects that received grant funding under the Program during such fiscal year; and

(3) a list of the proposed projects and applicants that were determined to be ineligible.

(j) COMMUTER RAIL ELIGIBILITY AND GRANT CONDITIONS.—

(1) IN GENERAL.—Section 22905(f) shall not apply to grants awarded under this section for commuter rail passenger transportation projects.

(2) ADMINISTRATION OF FUNDS.—The Secretary of Transportation shall transfer amounts awarded under this section for commuter rail passenger transportation projects to the Federal Transit Administration, which shall administer such funds in accordance with chapter 53.

(3) PROTECTIVE ARRANGEMENTS.—

(A) IN GENERAL.—Notwithstanding paragraph (2) and section 22905(e)(1), as a condition of receiving a grant under this section, any employee covered by the Railway Labor Act (45 U.S.C. 151 et seq.) and the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) who is adversely affected by actions taken in connection with the project financed in whole or in part by such grant shall be covered by employee protective arrangements required to be established under section 22905(c)(2)(B).

(B) IMPLEMENTATION.—A grant recipient under this section, and the successors, assigns, and contractors of such grant recipient—

(i) shall be bound by the employee protective arrangements required under subparagraph (A); and

(ii) shall be responsible for the implementation of such arrangements and for the obligations under such arrangements, but may arrange for another entity to take initial responsibility for compliance with the conditions of such arrangement.

(k) DEFINED TERM.—In this section, the term "rural area" means any area that is not within an area designated as an urbanized area by the Bureau of the Census.

(Added Pub. L. 117–58, div. B, title II, §22305(a), Nov. 15, 2021, 135 Stat. 720.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 11401(b) of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (f)(2)(D)(iii), is section 11401(b) of title XI of div. A of Pub. L. 114–94, which is set out as a note under section 22907 of this title.

Section 22104(b) of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (f)(3)(B), is section 22104(b) of title II of div. B of Pub. L. 117–58, Nov. 15, 2021, 135 Stat. 696, which is not classified to the Code.

The Railway Labor Act, referred to in subsec. (j)(3)(A), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (j)(3)(A), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

[1] So in original. No par. (2) has been enacted.

§22910. Interstate Rail Compacts Grant Program

(a) GRANTS AUTHORIZED.—The Secretary of Transportation shall establish a competitive grant program to provide financial assistance to entities implementing interstate rail compacts pursuant to section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note) for—

(1) costs of administration;

(2) systems planning, including studying the impacts on freight rail operations and ridership;

(3) promotion of intercity passenger rail operation;

(4) preparation of applications for competitive Federal grant programs; and

(5) operations coordination.

(b) MAXIMUM AMOUNT.—The Secretary may not award a grant under this section in an amount exceeding $1,000,000 per year.

(c) SELECTION CRITERIA.—In selecting a recipient of a grant for an eligible project under this section, the Secretary shall consider—

(1) the amount of funding received (including funding from a rail carrier (as defined in section 24102)) or other participation by State, local, and regional governments and the private sector;

(2) the applicant's work to foster economic development through rail service, particularly in rural communities;

(3) whether the applicant seeks to restore service over routes formerly operated by Amtrak, including routes described in section 11304(a) of the Passenger Rail Reform and Investment Act of 2015 (title XI of division A of Public Law 114–94);

(4) the applicant's dedication to providing intercity passenger rail service to regions and communities that are underserved or not served by other intercity public transportation;

(5) whether the applicant is enhancing connectivity and geographic coverage of the existing national network of intercity passenger rail service;

(6) whether the applicant has prepared regional rail or corridor service development plans and corresponding environmental analysis; and

(7) whether the applicant has engaged with appropriate government entities and transportation providers to identify projects necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity passenger rail service and intercity bus service or commercial air service.

(d) NUMERICAL LIMITATION.—The Secretary may not award grants under this section for more than 10 interstate rail compacts in any fiscal year.

(e) OPERATOR LIMITATION.—The Secretary may only award grants under this section to applicants with eligible expenses related to intercity passenger rail service to be operated by Amtrak.

(f) NON-FEDERAL MATCH.—The Secretary shall require each recipient of a grant under this section to provide a non-Federal match of not less than 50 percent of the eligible expenses of carrying out the interstate rail compact under this section.

(g) REPORT.—Not later than 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary, after consultation with grant recipients under this section, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

(1) the implementation of this section;

(2) the status of the planning efforts and coordination funded by grants awarded under this section;

(3) the plans of grant recipients for continued implementation of the interstate rail compacts;

(4) the status of, and data regarding, any new, restored, or enhanced rail services initiated under the interstate rail compacts; and

(5) any legislative recommendations.

(Added Pub. L. 117–58, div. B, title II, §22306(a), Nov. 15, 2021, 135 Stat. 723.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 410 of the Amtrak Reform and Accountability Act of 1997, referred to in subsec. (a), is section 410 of title IV of Pub. L. 105–134, which is set out as a note under section 24101 of this title.

Section 11304(a) of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (c)(3), is section 11304(a) of title IX of div. A of Pub. L. 114–94, Dec. 4, 2015, 129 Stat. 1655, which is not classified to the Code.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (g), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

PART C—PASSENGER TRANSPORTATION

CHAPTER 241—GENERAL

Sec.

24101. Findings, mission, and goals.
24102. Definitions.
24103. Enforcement.
[24104, 20105. Repealed.]

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94, div. A, title XI, §§11202(c)(2), 11301(c)(2), Dec. 4, 2015, 129 Stat. 1630, 1648, struck out items 24104 "Authorization of appropriations" and 24105 "Congestion grants".

2008—Pub. L. 110–432, div. B, title II, §201(e)(2), title III, §302(b), Oct. 16, 2008, 122 Stat. 4911, 4947, substituted "Findings, mission, and goals" for "Findings, purpose, and goals" in item 24101 and added item 24105.

§24101. Findings, mission, and goals

(a) FINDINGS.—(1) Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation throughout the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways.

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A greater degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment in order to meet the intercity passenger rail needs of the United States.

(5) Modern and efficient intercity passenger and commuter rail passenger transportation is important to the viability and well-being of major urban and rural areas and to the energy

conservation and self-sufficiency goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation through its subsidiary, Amtrak Commuter, under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transportation is required.

(9) Long-distance routes are valuable resources of the United States that are used by rural and urban communities.

(b) MISSION.—The mission of Amtrak is to provide efficient and effective intercity passenger rail mobility consisting of high quality service that is trip-time competitive with other intercity travel options and that is consistent with the goals set forth in subsection (c).

(c) GOALS.—Amtrak shall—

(1) use its best business judgment in acting to maximize the benefits of Federal investments, including—

(A) offering competitive fares;

(B) increasing revenue from the transportation of mail and express;

(C) offering food service that meets the needs of its customers;

(D) improving its contracts with rail carriers over whose tracks Amtrak operates;

(E) controlling or reducing management and operating costs; and

(F) providing economic benefits to the communities it serves;

(2) minimize Government subsidies by encouraging State, regional, and local governments and the private sector, separately or in combination, to share the cost of providing rail passenger transportation, including the cost of operating facilities;

(3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;

(4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;

(5) develop transportation on rail corridors subsidized by States and private parties;

(6) implement schedules based on a systemwide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;

(7) encourage rail carriers to assist in improving intercity rail passenger transportation;

(8) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;

(9) provide additional or complementary intercity transportation service to ensure mobility in times of national disaster or other instances where other travel options are not adequately available;

(10) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;

(11) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation;

(12) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property; and

(13) support and maintain established long-distance routes to provide value to the Nation by serving customers throughout the United States and connecting urban and rural communities.

(d) INCREASING REVENUES.—Amtrak is encouraged to make agreements with private sector entities and to undertake initiatives that are consistent with good business judgment and designed to generate additional revenues to advance the goals described in subsection (c).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 899; Pub. L. 105–134, title I, §105(b), title II, §201, Dec. 2, 1997, 111 Stat. 2573, 2578; Pub. L. 110–432, div. B, title II, §§201(e)(1), 218(a)(1), Oct. 16,

2008, 122 Stat. 4910, 4930; Pub. L. 114–94, div. A, title XI, §11316(l), Dec. 4, 2015, 129 Stat. 1678; Pub. L. 117–58, div. B, title II, §22201, Nov. 15, 2021, 135 Stat. 696.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24101(a)	45:501.	Oct. 30, 1970, Pub. L. 91–518, §101, 84 Stat. 1328; Sept. 29, 1979, Pub. L. 96–73, §102, 93 Stat. 537; restated Aug. 13, 1981, Pub. L. 97–35, §1171, 95 Stat. 687.
24101(b)	45:541 (2d sentence words after 1st comma).	Oct. 30, 1970, Pub. L. 91–518, §301 (2d sentence words after 1st comma), 84 Stat. 1330; Aug. 13, 1981, Pub. L. 97–35, §1188(a), 95 Stat. 699.
24101(c)	45:501a (less (14) (last sentence)).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §102; added Sept. 29, 1979, Pub. L. 96–73, §103(a), 93 Stat. 537; Aug. 13, 1981, Pub. L. 97–35, §1172, 95 Stat. 688.
24101(d)	45:501a(14) (last sentence).	

In this part, the word "Amtrak" is substituted for "National Railroad Passenger Corporation", and the words "Amtrak Commuter" are substituted for "Amtrak Commuter Services Corporation", to reflect the more current and commonly used names of the entities. The words "rail transportation" are substituted for "rail service" and "rail services", the word "transportation" is substituted for "service" where appropriate, and the word "authority" is substituted for "agency", as being more appropriate and for consistency in the revised title and with other titles of the United States Code. The words "rail carrier" are substituted for "railroad" because of the definitions of "rail carrier" and "railroad" in 49:10102.

In subsection (a), the words "The Congress finds that the" and "The Congress further finds that" are omitted as surplus.

In subsection (a)(3), the words "greatest possible choice of" are substituted for "to the maximum extent feasible . . . the freedom to choose the mode of" to eliminate unnecessary words.

In subsection (c), before clause (1), the words "Amtrak shall" are substituted for "The Congress hereby establishes the following goals for Amtrak" to eliminate unnecessary words. The text of 45:501a(3) and (4) is omitted as executed. The text of 45:501a(9) is omitted as obsolete because there no longer are any technical assistance panels. In clause (2), the words "stations and other" are omitted as surplus. In clause (4), the words "for such operation" are omitted as surplus. In clause (10), the word "various" is omitted as surplus. In clause (11), the words "real property" are substituted for "real estate" for consistency in the revised title and with other titles of the Code.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §22201(a)(1), substituted "throughout" for "between crowded urban areas and in other areas of".

Subsec. (a)(4). Pub. L. 117–58, §22201(a)(2), substituted "in order to meet the intercity passenger rail needs of the United States" for "to Amtrak to achieve a performance level sufficient to justify expending public money".

Subsec. (a)(5). Pub. L. 117–58, §22201(a)(3), inserted "intercity passenger and" before "commuter" and "and rural" after "major urban".

Subsec. (a)(9). Pub. L. 117–58, §22201(a)(4), added par. (9).

Subsec. (c)(1). Pub. L. 117–58, §22201(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "use its best business judgment in acting to minimize United States Government subsidies, including—

"(A) increasing fares;
"(B) increasing revenue from the transportation of mail and express;
"(C) reducing losses on food service;
"(D) improving its contracts with operating rail carriers;
"(E) reducing management costs; and
"(F) increasing employee productivity;".

Subsec. (c)(13). Pub. L. 117–58, §22201(b)(2)–(4), added par. (13).

Subsec. (d). Pub. L. 117–58, §22201(c), amended subsec. (d) generally. Prior to amendment, text read as follows: "To carry out subsection (c)(12) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies. Amtrak shall prepare a financial plan, consistent with section 204 of the Passenger Rail Investment and Improvement Act of 2008, including the budgetary goals for fiscal years 2009 through 2013. Amtrak and its Board of Directors shall adopt a long-term plan that minimizes the need for Federal operating subsidies."

2015—Subsec. (b). Pub. L. 114–94 substituted "set forth in subsection (c)" for "of subsection (d)".

2008—Pub. L. 110–432, §201(e)(1)(A), substituted "mission" for "purpose" in section catchline.

Subsec. (b). Pub. L. 110–432, §201(e)(1)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "By using innovative operating and marketing concepts, Amtrak shall provide intercity and commuter rail passenger transportation that completely develops the potential of modern rail transportation to meet the intercity and commuter passenger transportation needs of the United States."

Subsec. (c)(9) to (12). Pub. L. 110–432, §201(e)(1)(C), added par. (9) and redesignated former pars. (9) to (11) as (10) to (12), respectively.

Subsec. (d). Pub. L. 110–432, §218(a)(1)(B), substituted "Amtrak and its Board of Directors shall adopt a long-term plan that minimizes the need for Federal operating subsidies." for "Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit."

Pub. L. 110–432, §218(a)(1)(A), which directed substitution of "plan, consistent with section 204 of the Passenger Rail Investment and Improvement Act of 2008, including the budgetary goals for fiscal years 2009 through 2013." for "plan to operate within the funding levels authorized by section 24104 of this chapter, including the budgetary goals for fiscal years 1998 through 2002." was executed by making the substitution for "plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002." to reflect the probable intent of Congress.

Pub. L. 110–432, §201(e)(1)(D), substituted "subsection (c)(12)" for "subsection (c)(11)".

1997—Subsec. (c)(2). Pub. L. 105–134, §105(b), inserted ", separately or in combination," after "and the private sector".

Subsec. (d). Pub. L. 105–134, §201, inserted at end "Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES

Pub. L. 110–432, div. B, title II, §201(c), Oct. 16, 2008, 122 Stat. 4910, provided that: "Nothing in this division [see Short Title of 2008 Amendment note set out under section 20101 of this title] is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service."

AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

Pub. L. 110–432, div. B, title II, §§203–209, Oct. 16, 2008, 122 Stat. 4912–4917, as amended by Pub. L. 114–94, div. A, title XI, §§11006(b)(2), 11202(c)(1), 11203(d), 11204(b)(2), 11206, 11214, Dec. 4, 2015, 129 Stat. 1624, 1630, 1634, 1637, 1644; Pub. L. 117–58, div. B, title I, §21301(j)(4)(E), Nov. 15, 2021, 135 Stat. 693, provided that:

"SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL ACCOUNTING SYSTEM.

"(a) IN GENERAL.—The Amtrak Board of Directors—

"(1) may employ an independent financial consultant with experience in railroad accounting to assist Amtrak in improving Amtrak's financial accounting and reporting system and practices;

"(2) shall implement a modern financial accounting and reporting system not later than 3 years after the date of enactment of this Act [Oct. 16, 2008]; and

"(3) shall, not later than 90 days after the end of each fiscal year through fiscal year 2013—

"(A) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a comprehensive report that allocates all of Amtrak's revenues and costs to each of its routes, each of its lines of business, and each major activity within each route and line of business activity, including—

"(i) train operations;

"(ii) equipment maintenance;

"(iii) food service;

"(iv) sleeping cars;

"(v) ticketing;

"(vi) reservations; and

"(vii) unallocated fixed overhead costs;

"(B) include the report described in subparagraph (A) in Amtrak's annual report; and

"(C) post such report on Amtrak's website.

"(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his or her findings and conclusions, together with any recommendations, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(c) CATEGORIZATION OF REVENUES AND EXPENSES.—In carrying out subsection (a), the Amtrak Board of Directors shall separately categorize assigned revenues and attributable expenses by type of service, including long-distance routes, State-sponsored routes, commuter contract routes, and Northeast Corridor routes.

"[SEC. 204. REPEALED. PUB. L. 114–94, DIV. A, TITLE XI, §11203(D), DEC. 4, 2015, 129 STAT. 1634.]

"SEC. 205. RESTRUCTURING LONG-TERM DEBT AND CAPITAL LEASES.

"(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary [of Transportation] and Amtrak, may make agreements to restructure Amtrak's indebtedness, to the extent provided in advance in appropriations Acts.

"(b) DEBT RESTRUCTURING.—To the extent amounts are provided in advance in appropriations Acts, the Secretary of the Treasury, in consultation with the Secretary and Amtrak, shall enter into negotiations with the holders of Amtrak debt, including leases, outstanding for the purpose of restructuring (including repayment) and repaying that debt. The Secretary of the Treasury may secure agreements for restructuring or repayment on such terms as the Secretary of the Treasury deems favorable to the interests of the United States Government.

"(c) CRITERIA.—In restructuring Amtrak's indebtedness, the Secretary of the Treasury and Amtrak—

"(1) shall take into consideration repayment costs, the term of any loan or loans, and market conditions; and

"(2) shall ensure that the restructuring results in significant savings to Amtrak and the United States Government.

"(d) PAYMENT OF RENEGOTIATED DEBT.—If the criteria under subsection (c) are met, the Secretary of the Treasury may assume or repay the restructured debt, as appropriate, to the extent provided in advance in appropriations Acts.

"(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

"(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of the Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary [of Transportation] shall use funds authorized for the use of Amtrak for retirement of principal or payment of interest on loans for capital equipment, or capital leases.

"(2) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (a) results in reductions in amounts of principal or interest that Amtrak must service on existing debt, the corresponding amounts authorized for Amtrak shall be reduced accordingly.

"(f) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, other than debt assumed under subsection (d), with the proceeds of grants under subsection (e) shall not—

"(1) modify the extent or nature of any indebtedness of Amtrak to the United States in existence;

"(2) change the private nature of Amtrak's or its successors' liabilities; or

"(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

"(g) SECRETARY APPROVAL.—Amtrak may not incur more debt after the date of enactment of this Act without the express advance approval of the Secretary [of Transportation], unless that debt receives credit assistance, including direct loans and loan guarantees, under chapter 6 of title 23, United States Code or chapter 224 of title 49, United States Code.

"[SEC. 206. REPEALED. PUB. L. 114–94, DIV. A, TITLE XI, §11202(C)(1), DEC. 4, 2015, 129 STAT. 1630.]

"SEC. 207. METRICS AND STANDARDS.

"(a) IN GENERAL.—Within 180 days after the date of enactment of this Act [Oct. 16, 2008], the Federal Railroad Administration and Amtrak shall jointly, in consultation with the Surface Transportation Board, rail carriers over whose rail lines Amtrak trains operate, States, Amtrak employees, nonprofit employee organizations representing Amtrak employees, and groups representing Amtrak passengers, as appropriate, develop new or improve existing metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services. Such metrics, at a minimum, shall include the percentage of avoidable and fully allocated operating costs covered by passenger revenues on each route, ridership per train mile operated, measures of on-time performance and delays incurred by intercity passenger trains on the rail lines of each rail carrier and, for long-distance routes, measures of connectivity with other routes in all regions currently receiving Amtrak service and the transportation needs of communities and populations that are not well-served by other forms of intercity transportation. Amtrak shall provide reasonable access to the Federal Railroad Administration in order to enable the Administration to carry out its duty under this section.

"(b) QUARTERLY REPORTS.—The Administrator of the Federal Railroad Administration shall collect the necessary data and publish a quarterly report on the performance and service quality of intercity passenger train operations, including Amtrak's cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

"(c) CONTRACTS WITH HOST RAIL CARRIERS.—To the extent practicable, Amtrak and its host rail carriers shall incorporate the metrics and standards developed under subsection (a) into their access and service agreements.

"(d) ARBITRATION.—If the development of the metrics and standards is not completed within the 180-day period required by subsection (a), any party involved in the development of those standards may petition the Surface Transportation Board to appoint an arbitrator to assist the parties in resolving their disputes through binding arbitration.

"SEC. 208. METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

"(a) METHODOLOGY DEVELOPMENT.—Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015 [Dec. 4, 2015], Amtrak shall obtain the services of an independent entity to develop and recommend objective methodologies for Amtrak to use in determining what intercity rail passenger transportation routes and services it should provide, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

"(b) CONSIDERATIONS.—Amtrak shall require the independent entity, in developing the methodologies described in subsection (a), to consider—

"(1) the current and expected performance and service quality of intercity rail passenger transportation operations, including cost recovery, on-time performance, ridership, on-board services, stations, facilities, equipment, and other services;

"(2) the connectivity of a route with other routes;

"(3) the transportation needs of communities and populations that are not well served by intercity rail passenger transportation service or by other forms of intercity transportation;

"(4) the methodologies of Amtrak and major intercity rail passenger transportation service providers in other countries for determining intercity passenger rail routes and services;

"(5) the financial and operational effects on the overall network, including the effects on direct and indirect costs;

"(6) the views of States, rail carriers that own infrastructure over which Amtrak operates, Interstate Compacts established by Congress and States, Amtrak employee representatives, stakeholder organizations, and other interested parties; and

"(7) the funding levels that will be available under authorization levels that have been enacted into law.

"(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015 [Dec. 4, 2015], Amtrak shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the recommendations developed by the independent entity under subsection (a).

"(d) CONSIDERATION OF RECOMMENDATIONS.—Not later than 90 days after the date on which the recommendations are transmitted under subsection (c), the Amtrak Board of Directors shall consider the adoption of each recommendation and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report explaining the reasons for adopting or not adopting each recommendation.

"SEC. 209. STATE-SUPPORTED ROUTES.

"(a) IN GENERAL.—Within 2 years after the date of enactment of this Act [Oct. 16, 2008], the Amtrak Board of Directors, in consultation with the Secretary [of Transportation], the governors of each relevant State, and the Mayor of the District of Columbia, or entities representing those officials, shall develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with trains operated on each of the routes described in section 24102(7)(B) and (D) [49 U.S.C. 24102(7)(B), (D)] and section 24702 [49 U.S.C. 24702] that—

"(1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and

"(2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

"(b) REVIEW.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) [now 24903(c)] of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

"(c) USE OF CHAPTER 244 FUNDS.—Funds provided to a State under chapter 244 [now 229] of title 49, United States Code, may be used, as provided in that chapter, to pay capital costs determined in accordance with this section."

ON-BOARD SERVICE IMPROVEMENTS

Pub. L. 110–432, div. B, title II, §222, Oct. 16, 2008, 122 Stat. 4932, provided that:

"(a) IN GENERAL.—Within 1 year after metrics and standards are established under section 207 of this division [set out above], Amtrak shall develop and implement a plan to improve on-board service pursuant to the metrics and standards for such service developed under that section.

"(b) REPORT.—Amtrak shall provide a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the on-board service improvements proscribed in the plan and the timeline for implementing such improvements."

NEXT GENERATION CORRIDOR TRAIN EQUIPMENT

Pub. L. 110–432, div. B, title III, §305, Oct. 16, 2008, 122 Stat. 4951, as amended by Pub. L. 114–94, div. A, title XI, §11315(b), Dec. 4, 2015, 129 Stat. 1675, provided that:

"(a) IN GENERAL.—Within 180 days after the date of enactment of this Act [Oct. 16, 2008], Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, host freight railroad companies, passenger railroad equipment manufacturers, nonprofit organizations representing employees who perform overhaul and maintenance of passenger railroad equipment, interested States, and, as appropriate, other passenger railroad operators. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment.

"(b) FUNCTIONS.—The Committee may—

"(1) determine the number of different types of equipment required, taking into account variations in

operational needs and corridor infrastructure;

"(2) establish a pool of equipment to be used on corridor routes funded by participating States; and

"(3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain and remanufacture equipment.

"(c) COOPERATIVE AGREEMENTS.—Amtrak and States participating in the Committee may enter into agreements for the funding, procurement, remanufacture, ownership, and management of corridor equipment, including equipment currently owned or leased by Amtrak and next-generation corridor equipment acquired as a result of the Committee's actions.

"(d) FUNDING.—In addition to the authorizations provided in this section, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 [now 229] of title 49, United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary [of Transportation] $5,000,000 for fiscal year 2010, to remain available until expended, for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under this section for the purpose of designing, developing specifications for, and initiating the procurement of an initial order of 1 or more types of standardized next-generation corridor train equipment."

FAIR COMPETITIVE BIDDING FOR STATE-SUPPORTED INTERCITY RAIL SERVICE

Pub. L. 108–447, div. H, title I, §150, Dec. 8, 2004, 118 Stat. 3221, which provided that for the purpose of assisting State-supported intercity rail service, in order to demonstrate whether competition would provide higher quality rail passenger service at reasonable prices, the Secretary of Transportation, working with affected States, was to develop and implement a procedure for fair competitive bidding by Amtrak and non-Amtrak operators for State-supported routes, was from the Consolidated Appropriations Act, 2005, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–199, div. F, title I, §151, Jan. 23, 2004, 118 Stat. 303.

AMTRAK FINDINGS

Pub. L. 105–134, §2, Dec. 2, 1997, 111 Stat. 2571, provided that: "The Congress finds that—

"(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

"(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

"(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

"(4) all of Amtrak's stakeholders, including labor, management, and the Federal Government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

"(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

"(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

"(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

"(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

"(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

"(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

"(A) a national passenger rail system; and

"(B) that system without Federal operating assistance; and

"(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002."

FISCAL ACCOUNTABILITY

Pub. L. 105–134, title II, §§202–205, Dec. 2, 1997, 111 Stat. 2578–2582, as amended by Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–432, div. B, title II, §218(a)(2), Oct. 16, 2008, 122 Stat. 4930,

provided that:

"SEC. 202. INDEPENDENT ASSESSMENT.

"(a) INITIATION.—Not later than 15 days after the date of enactment of this Act [Dec. 2, 1997], the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak, and independent of the Department of Transportation, to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

"(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described in subsection (a), using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

"(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

"(1) cost allocation process and procedures;

"(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

"(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

"(4) assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast Corridor and that required outside the Northeast Corridor, and shall include rolling stock requirements, including capital leases, 'state of good repair' requirements, and infrastructure improvements.

"(d) BIDDING PRACTICES.—

"(1) STUDY.—The independent assessment also shall determine whether, and to what extent, Amtrak has performed each year during the period from 1992 through 1996 services under contract at amounts less than the cost to Amtrak of performing such services with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation. For purposes of this clause, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting. If identified, such contracts shall be detailed in the report of the independent assessment, as well as the methodology for preparation of bids to reflect Amtrak's actual cost of performance.

"(2) REFORM.—If the independent assessment performed under this subparagraph reveals that Amtrak has performed services under contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation, then Amtrak shall revise its methodology for preparation of bids to reflect its cost of performance.

"(e) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

"SEC. 203. AMTRAK REFORM COUNCIL.

"(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

"(A) The Secretary of Transportation.

"(B) Two individuals appointed by the President, of which—

"(i) one shall be a representative of a rail labor organization; and

"(ii) one shall be a representative of rail management.

"(C) Three individuals appointed by the Majority Leader of the United States Senate.

"(D) One individual appointed by the Minority Leader of the United States Senate.

"(E) Three individuals appointed by the Speaker of the United States House of Representatives.

"(F) One individual appointed by the Minority Leader of the United States House of Representatives.

"(2) APPOINTMENT CRITERIA.—

"(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act [Dec. 2, 1997].

"(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

"(i) may not be employees of the United States;

"(ii) may not be board members or employees of Amtrak;

"(iii) may not be representatives of rail labor organizations or rail management; and

"(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

"(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

"(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

"(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

"(B) 45 days after the date of enactment of this Act.

"(5) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

"(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

"(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section[s] 5702 and 5703 of title 5, United States Code.

"(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

"(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

"(g) DUTIES.—

"(1) EVALUATION AND RECOMMENDATION.—The Council shall—

"(A) evaluate Amtrak's performance; and

"(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

"(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council shall consider all relevant performance factors, including—

"(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

"(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

"(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

"(3) MONITOR WORK-RULE SAVINGS.—If, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council—

"(A) the savings realized as a result of the agreement; and

"(B) how the savings are allocated.

"(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act [Dec. 2, 1997], the Council shall submit to the Congress a report that includes an assessment of—

"(1) Amtrak's progress on the resolution of productivity issues; or

"(2) the status of those productivity issues,

and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

"[SECS. 204, 205. REPEALED. PUB. L. 110–432, DIV. B, TITLE II, §218(A)(2), OCT. 16, 2008, 122 STAT. 4930.]"

LIMITATION ON USE OF TAX REFUND

Pub. L. 105–134, title II, §209, Dec. 2, 1997, 111 Stat. 2584, provided that:

"(a) IN GENERAL.—Amtrak may not use any amount received under section 977 of the Taxpayer Relief Act of 1997 [Pub. L. 105–34, 26 U.S.C. 172 note]—

"(1) for any purpose other than making payments to non-Amtrak States (pursuant to section 977(c) of that Act), or the financing of qualified expenses (as that term is defined in section 977(e)(1) of that Act); or

"(2) to offset other amounts used for any purpose other than the financing of such expenses.

"(b) REPORT BY ARC.—The Amtrak Reform Council shall report quarterly to the Congress on the use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997."

INTERSTATE RAIL COMPACTS

Pub. L. 105–134, title IV, §410, Dec. 2, 1997, 111 Stat. 2587, as amended by Pub. L. 117–58, div. B, title II, §22306(c), Nov. 15, 2021, 135 Stat. 724, provided that:

"(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

"(1) retaining an existing service or commencing a new service;

"(2) assembling rights-of-way; and

"(3) performing capital improvements, including—

"(A) the construction and rehabilitation of maintenance facilities;

"(B) the purchase of locomotives; and

"(C) operational improvements, including communications, signals, and other systems.

"(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

"(1) accept contributions from a unit of State or local government or a person;

"(2) use any Federal or State funds made available for intercity passenger rail service;

"(3) on such terms and conditions as the States consider advisable—

"(A) borrow money on a short-term basis and issue notes for the borrowing; and

"(B) issue bonds; and

"(4) obtain financing by other means permitted under Federal or State law.

"(c) NOTIFICATION REQUIREMENT.—Any State that enters into an interstate compact pursuant to subsection (a) shall notify the Secretary of Transportation of such compact not later than 60 days after it is formed. The failure of any State to notify the Secretary under this subsection shall not affect the status of the interstate compact.

"(d) INTERSTATE RAIL COMPACTS PROGRAM.—The Secretary of Transportation shall—

"(1) make available on a publicly accessible website a list of interstate rail compacts established under subsection (a) before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021 [Nov. 15, 2021] and interstate rail compacts established after such date; and

"(2) make information regarding interstate rail compacts available to the public, including how States may establish interstate rail compacts under subsection (a), and update such information, as necessary."

DEFINITION

Pub. L. 110–432, div. B, §3, Oct. 16, 2008, 122 Stat. 4908, provided that: "In this division [see Short Title of 2008 Amendment note set out under section 20101 of this title], the term 'Secretary' means the Secretary of Transportation."

§24102. Definitions

In this part—

(1) "auto-ferry transportation" means intercity rail passenger transportation—

(A) of automobiles or recreational vehicles and their occupants; and
(B) when space is available, of used unoccupied vehicles.

(2) "commuter authority" means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.
(3) "commuter rail passenger transportation" means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.
(4) "intercity rail passenger transportation" means rail passenger transportation, except commuter rail passenger transportation.
(5) "long-distance route" means a route described in subparagraph (C) of paragraph (7).
(6) "National Network" includes long-distance routes and State-supported routes.
(7) "national rail passenger transportation system" means—
(A) the segment of the continuous Northeast Corridor railroad line between Boston, Massachusetts, and Washington, District of Columbia;
(B) rail corridors that have been designated by the Secretary of Transportation as high-speed rail corridors (other than corridors described in subparagraph (A)), but only after regularly scheduled intercity service over a corridor has been established;
(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Passenger Rail Investment and Improvement Act of 2008; and
(D) short-distance corridors, or routes of not more than 750 miles between endpoints, operated by—
(i) Amtrak; or
(ii) another rail carrier that receives funds under chapter 229.

(8) "Northeast Corridor" means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.
(9) "rail carrier" means a person, including a unit of State or local government, providing rail transportation for compensation.
(10) "rate" means a rate, fare, or charge for rail transportation.
(11) "regional transportation authority" means an entity established to provide passenger transportation in a region.
(12) "state-of-good-repair" means a condition in which physical assets, both individually and as a system, are—
(A) performing at a level at least equal to that called for in their as-built or as-modified design specification during any period when the life cycle cost of maintaining the assets is lower than the cost of replacing them; and
(B) sustained through regular maintenance and replacement programs.

(13) "State-supported route" means a route described in subparagraph (B) or (D) of paragraph (7), or in section 24702, that is operated by Amtrak, excluding those trains operated by Amtrak on the routes described in paragraph (7)(A).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 900; Pub. L. 105–134, title IV, §407, Dec. 2, 1997, 111 Stat. 2586; Pub. L. 110–432, div. B, title II, §201(a), Oct. 16, 2008, 122 Stat. 4909; Pub. L. 114–94, div. A, title XI, §11006(a), Dec. 4, 2015, 129 Stat. 1624; Pub. L. 115–420, §7(b)(3)(A)(i)(I), Jan. 3, 2019, 132 Stat. 5446.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24102(1)	45:502(1).	Oct. 30, 1970, Pub. L. 91–518, §103(1), 84 Stat. 1328; restated Sept.

		29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538.
	45:502(2).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(2); added Aug. 13, 1981, Pub. L. 97–35, §1173(2), 95 Stat. 689.
	45:502(3).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(3); added Nov. 3, 1973, Pub. L. 93–146, §2(2), 87 Stat. 548; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538; Aug. 13, 1981, Pub. L. 97–35, §1173(1), 95 Stat. 689; Apr. 7, 1986, Pub. L. 99–272, §4012, 100 Stat. 109.
	45:502(6), (7), (10), (12), (14), (18).	Oct. 30, 1970, Pub. L. 91–518, §103(4)–(7), (10), (12), (14)–(18), 84 Stat. 1328; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538, 539; Aug. 13, 1981, Pub. L. 97–35, §1173(1), 95 Stat. 689; Oct. 27, 1992, Pub. L. 102–533, §8(1), 106 Stat. 3519.
24102(2)	45:502(4).	
24102(3)	45:502(5).	
24102(4)	45:502(8).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(8), (9); added Aug. 13, 1981, Pub. L. 97–35, §1173(3), 95 Stat. 689.
24102(5)	45:502(9).	
24102(6)	45:502(11).	Oct. 30, 1970, Pub. L. 91–518, §103(11), 84 Stat. 1328; Nov. 3, 1973, Pub. L. 93–146, §2(1), 87 Stat. 548; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 539; Aug. 13, 1981, Pub. L. 97–35, §1173(1), (4), 95 Stat. 689.
24102(7)	45:502(13).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(13); added Oct. 27, 1992, Pub. L. 102–533, §8(2), 106 Stat. 3519.
	45:851(c).	Feb. 5, 1976, Pub. L. 94–210, §701(c), 90 Stat. 120.
24102(8)	45:502(14).	
24102(9)	(no source).	
24102(10)	45:502(15).	
24102(11)	45:502(16).	

In clause (1), before subclause (A), the text of 45:502(1), (2), and (10) is omitted as surplus. The text of 45:502(6), (7), (12), (14), and (18) is omitted because the complete names of the Performance Evaluation

Center, Interstate Commerce Commission, Railroad Safety System Program, Technical Assistance Panel, and Secretary of Transportation are used the first time the terms appear in a section. The words "characterized by transportation" are omitted as surplus.

In clause (3), the text of 45:502(5)(A) and the words "on and after October 1, 1979" are omitted as obsolete. Reference to 45:564(e) is omitted as obsolete because 45:564(e) was repealed by section 1183(d) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 697).

In clauses (4) and (10), the words "authority, corporation, or other" are omitted as surplus.

In clause (4), the words "and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating" are omitted as surplus.

In clause (5), the words "whether within or across the geographical boundaries of a State" are omitted as surplus.

Clause (9) is added to eliminate repetition of the words "fares or charges" throughout this part.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Investment and Improvement Act of 2008, referred to in par. (7)(C), is the date of enactment of div. B of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2019—Par. (7)(D)(ii). Pub. L. 115–420 substituted "chapter 229" for "chapter 244".

2015—Pars. (5) to (13). Pub. L. 114–94 added pars. (5), (6), (12), and (13) and redesignated former pars. (5) to (9) as (7) to (11), respectively.

2008—Pars. (2) to (5). Pub. L. 110–432 added par. (5), redesignated former pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: " 'basic system' means the system of intercity rail passenger transportation designated by the Secretary of Transportation under section 4 of the Amtrak Improvement Act of 1978 and approved by Congress, and transportation required to be provided under section 24705(a) of this title and section 4(g) of the Act, including changes in the system or transportation that Amtrak makes using the route and service criteria."

1997—Pars. (2) to (6). Pub. L. 105–134, §407(1), (2), redesignated pars. (3) to (7) as (2) to (6), respectively, and struck out former par. (2) which read as follows: " 'avoidable loss' means the avoidable costs of providing rail passenger transportation, less revenue attributable to the transportation, as determined by the Interstate Commerce Commission under section 553 of title 5."

Par. (7). Pub. L. 105–134, §407(2), (3), redesignated par. (8) as (7) and inserted ", including a unit of State or local government," after "means a person". Former par. (7) redesignated (6).

Pars. (8) to (10). Pub. L. 105–134, §407(2), redesignated pars. (8) to (10) as (7) to (9), respectively.

Par. (11). Pub. L. 105–134, §407(1), struck out par. (11) which read as follows: " 'route and service criteria' means the criteria and procedures for making route and service decisions established under section 404(c)(1)–(3)(A) of the Rail Passenger Service Act."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§24103. Enforcement

(a) GENERAL.—(1) Except as provided in paragraph (2) of this subsection, only the Attorney General may bring a civil action for equitable relief in a district court of the United States when Amtrak or a rail carrier—

(A) engages in or adheres to an action, practice, or policy inconsistent with this part or chapter 229;

(B) obstructs or interferes with an activity authorized under this part or chapter 229;

(C) refuses, fails, or neglects to discharge its duties and responsibilities under this part or chapter 229; or

(D) threatens—

(i) to engage in or adhere to an action, practice, or policy inconsistent with this part or chapter 229;

(ii) to obstruct or interfere with an activity authorized by this part or chapter 229; or

(iii) to refuse, fail, or neglect to discharge its duties and responsibilities under this part or chapter 229.

(2) An employee affected by any conduct or threat referred to in paragraph (1) of this subsection, or an authorized employee representative, may bring the civil action if the conduct or threat involves a labor agreement.

(b) REVIEW OF DISCONTINUANCE OR REDUCTION.—A discontinuance of a route, a train, or transportation, or a reduction in the frequency of transportation, by Amtrak is reviewable only in a civil action for equitable relief brought by the Attorney General.

(c) VENUE.—Except as otherwise prohibited by law, a civil action under this section may be brought in the judicial district in which Amtrak or the rail carrier resides or is found.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 901; Pub. L. 115–420, §7(b)(3)(A)(i)(II), Jan. 3, 2019, 132 Stat. 5447.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24103(a)	45:547(a) (1st sentence less words between 13th–15th commas).	Oct. 30, 1970, Pub. L. 91–518, §307(a) (1st sentence), (b), 84 Stat. 1333.
24103(b)	45:547(a) (last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §307(a) (last sentence); added Aug. 13, 1981, Pub. L. 97–35, §1179, 95 Stat. 693.
24103(c)	45:547(a) (1st sentence words between 13th–15th commas), (b).	

In subsections (a) and (b), the words "may bring a civil action", "may bring the civil action", and "in a civil action brought by" are substituted for "upon petition of" and "on petition of" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a)(1), before clause (A), the words "Except as provided in paragraph (2) of this subsection" are added for clarity. The word "only" is added for clarity. See *National Railroad Passenger Corp. et al*. v. *National Association of Railroad Passengers*, 414 U.S. 453 (1974). In clauses (A) and (D)(i), the words "the policies and purposes of" are omitted as surplus.

In subsection (a)(2), the word "duly" is omitted as surplus.

In subsection (b), the words "in any court" are omitted as surplus.

Subsection (c) is substituted for 45:547(a) (1st sentence words between 13th–15th commas) for consistency in the revised title and with other titles of the United States Code. The text of 45:547(b) is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (a)(1). Pub. L. 115–420 inserted "or chapter 229" after "this part" wherever appearing.

[§24104. Repealed. Pub. L. 114–94, div. A, title XI, §11202(c)(2), Dec. 4, 2015, 129 Stat. 1630]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 902; Pub. L. 105–134, title III, §301(a), Dec. 2, 1997, 111 Stat. 2585, authorized certain appropriations for the benefit of Amtrak.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

REFORM BOARD

Pub. L. 105–134, title IV, §411(b), Dec. 2, 1997, 111 Stat. 2589, provided that provisions authorizing certain appropriations shall cease to be effective if the Reform Board had not assumed the responsibilities of the Board of Directors of Amtrak before July 1, 1998.

[§24105. Repealed. Pub. L. 114–94, div. A, title XI, §11301(c)(2), Dec. 4, 2015, 129 Stat. 1648]

Section, Pub. L. 110–432, div. B, title III, §302(a), Oct. 16, 2008, 122 Stat. 4947, related to congestion grants.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 242—PROJECT DELIVERY

Sec.

24201. Efficient environmental reviews.
24202. Railroad rights-of-way.

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94, div. A, title XI, §§11503(a), 11504(b), Dec. 4, 2015, 129 Stat. 1691, 1693, added chapter 242 and items 24201 and 24202.

§24201. Efficient environmental reviews

(a) EFFICIENT ENVIRONMENTAL REVIEWS.—

(1) IN GENERAL.—The Secretary of Transportation shall apply the project development procedures, to the greatest extent feasible, described in section 139 of title 23 to any railroad project that requires the approval of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) REGULATIONS AND PROCEDURES.—In carrying out paragraph (1), the Secretary shall incorporate into agency regulations and procedures pertaining to railroad projects described in paragraph (1) aspects of such project development procedures, or portions thereof, determined appropriate by the Secretary in a manner consistent with this section, that increase the efficiency of the review of railroad projects.

(3) DISCRETION.—The Secretary may choose not to incorporate into agency regulations and

procedures pertaining to railroad projects described in paragraph (1) such project development procedures that could only feasibly apply to highway projects, public transportation capital projects, and multimodal projects.

(4) APPLICABILITY.—Subsection (l) of section 139 of title 23 shall apply to railroad projects described in paragraph (1), except that the limitation on claims of 150 days shall be 2 years.

(b) ADDITIONAL CATEGORICAL EXCLUSIONS.—Not later than 6 months after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary shall—

(1) survey the use by the Federal Railroad Administration of categorical exclusions in transportation projects since 2005; and

(2) publish in the Federal Register for notice and public comment a review of the survey that includes a description of—

(A) the types of actions categorically excluded; and

(B) any actions the Secretary is considering for new categorical exclusions, including those that would conform to those of other modal administrations.

(c) NEW CATEGORICAL EXCLUSIONS.—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary shall publish a notice of proposed rulemaking to propose new and existing categorical exclusions for railroad projects that require the approval of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including those identified under subsection (b), and develop a process for considering new categorical exclusions to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations.

(d) TRANSPARENCY.—The Secretary shall maintain and make publicly available, including on the Internet, a database that identifies project-specific information on the use of a categorical exclusion on any railroad project carried out under this title.

(e) PROTECTIONS FOR EXISTING AGREEMENTS AND NEPA.—Nothing in subtitle E of the Passenger Rail Reform and Investment Act of 2015, or any amendment made by such subtitle, shall affect any existing environmental review process, program, agreement, or funding arrangement approved by the Secretary under title 49, as that title was in effect on the day preceding the date of enactment of such subtitle.

(Added Pub. L. 114–94, div. A, title XI, §11503(a), Dec. 4, 2015, 129 Stat. 1691.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1) and (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsecs. (b) and (c), is the date of enactment of title XI of div. A of Pub. L. 114–94, which was approved Dec. 4, 2015.

Subtitle E of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (e), is subtitle E (§§11501–11504) of title XI of div. A of Pub. L. 114–94, known as the Track, Railroad, and Infrastructure Network Act and also as the TRAIN Act, which enacted this section and section 24202 of this title, amended section 303 of this title and section 138 of Title 23, Highways, and enacted provisions set out as a note under section 4370m of Title 42, The Public Health and Welfare. For complete classification of this subtitle to the Code, see Short Title of 2015 Amendment note set out under section 20101 of this title and Tables.

The date of enactment of such subtitle, referred to in subsec. (e), is the date of enactment of subtitle E of title XI of div. A of Pub. L. 114–94, which was approved Dec. 4, 2015.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§24202. Railroad rights-of-way

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary shall submit a proposed exemption of railroad rights-of-way from the review under section 306108 of title 54 to the Advisory Council on Historic Preservation for consideration, consistent with the exemption for interstate highways approved on March 10, 2005 (70 Fed. Reg. 11,928).

(b) FINAL EXEMPTION.—Not later than 180 days after the date on which the Secretary submits the proposed exemption under subsection (a) to the Council, the Council shall issue a final exemption of railroad rights-of-way from review under chapter 3061 of title 54 consistent with the exemption for interstate highways approved on March 10, 2005 (70 Fed. Reg. 11,928).

(Added Pub. L. 114–94, div. A, title XI, §11504(a), Dec. 4, 2015, 129 Stat. 1692.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (a), is the date of enactment of title XI of div. A of Pub. L. 114–94, which was approved Dec. 4, 2015.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 243—AMTRAK

Sec.

24301. Status and applicable laws.
24302. Board of directors.
24303. Officers.
24304. Employee stock ownership plans.
24305. General authority.
24306. Mail, express, and auto-ferry transportation.
24307. Special transportation.
24308. Use of facilities and providing services to Amtrak.
24309. Retaining and maintaining facilities.
24310. Management accountability.
24311. Acquiring interests in property by eminent domain.
24312. Labor standards.
24313. Rail safety system program.
[24314. Repealed.]
24315. Reports and audits.
24316. Plans to address the needs of families of passengers involved in rail passenger accidents.[1]
24317. Accounts.
24318. Costs and revenues.
24319. Grant process and reporting.

24320. Amtrak 5-year service line and asset line plans.
24321. Food and beverage service.
24322. Rolling stock purchases.
24323. Prohibition on smoking on Amtrak trains.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title II, §§22206(c)(2), 22207(b), 22208(b)(2), 22209(b), Nov. 15, 2021, 135 Stat. 703, 706–708, substituted "Grant process and reporting" for "Grant process" in item 24319, "Amtrak 5-year service line and asset line plans" for "Amtrak 5-year business line and asset plans" in item 24320, and "Food and beverage service" for "Food and beverage reform" in item 24321 and added item 24323.

2015—Pub. L. 114–94, div. A, title XI, §§11201(b), 11202(b), 11203(c), 11207(b), 11208(b), 11316(m), Dec. 4, 2015, 129 Stat. 1627, 1630, 1634, 1639, 1640, 1678, substituted "Plans to address the needs of families of passengers involved in rail passenger accidents" for "Plan to assist families of passengers involved in rail passenger accidents" in item 24316 and added items 24317 to 24322.

2008—Pub. L. 110–432, div. A, title V, §502(b), div. B, title II, §221(b), Oct. 16, 2008, 122 Stat. 4899, 4932, added items 24310 and 24316.

1997—Pub. L. 105–134, title IV, §§403, 404, 415(a)(2), Dec. 2, 1997, 111 Stat. 2585, 2586, 2590, substituted "Employee stock ownership plans" for "Capitalization" in item 24304 and struck out item 24310 "Assistance for upgrading facilities" and item 24314 "Demonstration of new technology".

[1] *So in original. Does not conform to section catchline.*

§24301. Status and applicable laws

(a) STATUS.—Amtrak—

(1) is a railroad carrier under section 20102(2) [1] and chapters 261 and 281 of this title;

(2) shall be operated and managed as a for-profit corporation; and

(3) is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31.

(b) PRINCIPAL OFFICE AND PLACE OF BUSINESS.—The principal office and place of business of Amtrak are in the District of Columbia. Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part. Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.

(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11123, 11301, 11322(a), 11502, and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.

(d) APPLICATION OF SAFETY AND EMPLOYEE RELATIONS LAWS AND REGULATIONS.—Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier subject to part A of subtitle IV of this title apply to Amtrak.

(e) APPLICATION OF CERTAIN ADDITIONAL LAWS.—Section 552 of title 5, this part, and, to the extent consistent with this part, the District of Columbia Business Corporation Act (D.C. Code §29–301 et seq.) apply to Amtrak. Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.

(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger

transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.

(g) NONAPPLICATION OF RATE, ROUTE, AND SERVICE LAWS.—A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.

(h) NONAPPLICATION OF PAY PERIOD LAWS.—A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.

(i) PREEMPTION RELATED TO EMPLOYEE WORK REQUIREMENTS.—A State may not adopt or continue in force a law, rule, regulation, order, or standard requiring Amtrak to employ a specified number of individuals to perform a particular task, function, or operation.

(j) NONAPPLICATION OF LAWS ON JOINT USE OR OPERATION OF FACILITIES AND EQUIPMENT.—Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to allow the person to make and carry out obligations under the agreement.

(k) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection—

(A) "additional tax" means a tax or fee—

(i) on the acquisition, improvement, ownership, or operation of personal property by Amtrak; and

(ii) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak.

(B) "Amtrak" includes a rail carrier subsidiary of Amtrak and a lessor or lessee of Amtrak or one of its rail carrier subsidiaries.

(2) Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way material or structures used in providing rail passenger transportation, even if that use is indirect.

(l) EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.—(1) IN GENERAL .—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are exempt from a tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom after September 30, 1981. In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.

(2) The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant equitable or declaratory relief requested by Amtrak.

(m) WASTE DISPOSAL.—(1) An intercity rail passenger car manufactured after October 14, 1990, shall be built to provide for the discharge of human waste only at a servicing facility. Amtrak shall retrofit each of its intercity rail passenger cars that was manufactured after May 1, 1971, and before October 15, 1990, with a human waste disposal system that provides for the discharge of human waste only at a servicing facility. Subject to appropriations—

(A) the retrofit program shall be completed not later than October 15, 2001; and

(B) a car that does not provide for the discharge of human waste only at a servicing facility shall be removed from service after that date.

(2) Section 361 of the Public Health Service Act (42 U.S.C. 264) and other laws of the United

States, States, and local governments do not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation. The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this paragraph and may grant equitable or declaratory relief requested by Amtrak.

(n) RAIL TRANSPORTATION TREATED EQUALLY.—When authorizing transportation in the continental United States for an officer, employee, or member of the uniformed services of a department, agency, or instrumentality of the Government, the head of that department, agency, or instrumentality shall consider rail transportation (including transportation by extra-fare trains) the same as transportation by another authorized mode. The Administrator of General Services shall include Amtrak in the contract air program of the Administrator in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times.

(o) APPLICABILITY OF DISTRICT OF COLUMBIA LAW.—Any lease or contract entered into between Amtrak and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection shall be governed by the laws of the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 904; Pub. L. 104–88, title III, §308(g), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105–134, title I, §§106(b), 110(a), title II, §208, title IV, §§401, 402, 415(d)(1), Dec. 2, 1997, 111 Stat. 2573, 2574, 2584, 2585, 2590; Pub. L. 108–199, div. F, title I, §150(2), Jan. 23, 2004, 118 Stat. 303; Pub. L. 110–53, title XV, §1527, Aug. 3, 2007, 121 Stat. 452.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24301(a)	45:541 (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, §301 (1st, 4th, last sentences), 84 Stat. 1330.
	45:541 (2d sentence words before 1st comma).	Oct. 30, 1970, Pub. L. 91–518, §301 (2d sentence words before 1st comma), 84 Stat. 1330; Oct. 5, 1978, Pub. L. 95–421, §11, 92 Stat. 928.
	45:541 (3d sentence).	Oct. 30, 1970, Pub. L. 91–518, §301 (3d sentence), 84 Stat. 1330; June 22, 1988, Pub. L. 100–342, §18(a), 102 Stat. 636.
	45:541 (last sentence).	
	45:546(a) (words after "The Corporation" and before "and shall be subject to").	Oct. 30, 1970, Pub. L. 91–518, §306(a), 84 Stat. 1332; June 22, 1972, Pub. L. 92–316, §3(a), 86 Stat. 228; Sept. 29, 1979, Pub. L. 96–73, §112(a), 93 Stat. 541; Apr. 7, 1986, Pub. L. 99–272, §4015, 100 Stat. 110.
24301(b)	45:546(m).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(m); added Sept. 29, 1979, Pub. L. 96–73, §112(c), 93 Stat. 541; Apr. 7, 1986, Pub. L. 99–272, §4013, 100 Stat. 109.
24301(c)(1), (2)(A)	45:546(a) (less words after "The Corporation" and before "and shall be subject to").	
24301(c) (2)(B)	45:546a.	Oct. 5, 1978, Pub. L. 95–421, §7, 92 Stat. 927.
24301(d)	45:546(b).	Oct. 30, 1970, Pub. L. 91–518,

		§§305(a) (last sentence), 306(b)–(e), 84 Stat. 1332, 1333.
24301(e)	45:541 (4th sentence). 45:545(a) (last sentence).	
	45:545(e)(8).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(e)(8); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 551.
	45:546(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(g); added June 22, 1972, Pub. L. 92–316, §3(b), 86 Stat. 228.
24301(f)	45:546(d).	
24301(g)	45:546(c).	
24301(h)	45:546(*l*).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(*l*); added Sept. 29, 1979, Pub. L. 96–73, §112(c), 93 Stat. 541.
24301(i)	45:797j (words ", the National Railroad Passenger Corporation,").	Jan. 2, 1974, Pub. L. 93–236, 87 Stat. 985, §711 (words ", the National Railroad Passenger Corporation,"); added Aug. 13, 1981, Pub. L. 97–35, §1143(a), 95 Stat. 667.
24301(j)	45:546(e).	
24301(k)	45:546(n).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(n); added Aug. 13, 1981, Pub. L. 97–35, §1178, 95 Stat. 692; restated Oct. 27, 1992, Pub. L. 102–533, §6, 106 Stat. 3517.
24301(*l*)	45:546b.	Sept. 10, 1982, Pub. L. 97–257, §107 (par. under heading "Grants to the National Railroad Passenger Corporation"), 96 Stat. 852.
24301(m)	45:546(i).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(i); added Feb. 5, 1976, Pub. L. 94–210, §706(e), 90 Stat. 124; Oct. 19, 1976, Pub. L. 94–555, §105, 90 Stat. 2615; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412; Nov. 16, 1990, Pub. L. 101–610, §601(a), 104 Stat. 3185.
24301(n)	45:546(f).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(f); added June 22, 1972, Pub. L. 92–316, §3(b), 86 Stat. 228; Apr. 7, 1986, Pub. L. 99–272, §4004, 100 Stat. 107.

In subsection (a), before clause (1), the text of 45:541 (1st sentence) is omitted as executed. The text of 45:541 (last sentence) is omitted as surplus. In clause (1), the words "rail carrier" are substituted for "common carrier by railroad" because of 49:10102. In clause (3), the words "department, agency, or instrumentality" are substituted for "agency, instrumentality, authority, or entity, or establishment" for consistency in the revised title and with other titles of the United States Code. The word "instrumentality" includes entities, authorities, establishments, and any other organizational unit of the United States Government that is not a department or agency.

In subsection (b), the words "In connection with the performance of such activities" and "to which the

Corporation is a party" are omitted as surplus.

In subsection (c)(1)(B), the words "whether by trackage rights or otherwise" are omitted as surplus.

In subsection (c)(2)(B), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title and with other titles of the Code.

In subsection (d), the word "same" is omitted as surplus.

In subsection (e), the text of 45:545(a) (last sentence) and (e)(8) is omitted as surplus.

In subsection (f), the words "the place" are omitted as surplus.

In subsection (h), the word "applicable" is omitted as surplus.

In subsection (j), the words "existing", "including the antitrust laws of the United States", and "contracts . . . leases" are omitted as surplus.

In subsection (k)(2), the words "of funds" are omitted as surplus.

In subsection (l)(1), the words "Notwithstanding any other provision of law", "other", "including such taxes and fees levied after September 30, 1982", and "notwithstanding any provision of law" are omitted as surplus. The text of 45:546b (2d sentence) is omitted as executed.

In subsection (l)(2), the words "Notwithstanding the provision of section 1341 of title 28" are omitted as surplus.

In subsection (m)(1), before clause (A), the word "New" is omitted as surplus.

In subsection (m)(2), the word "vehicles" is substituted for "conveyances" for clarity.

In subsection (n), the words "uniformed services" are substituted for "Armed Forces or commissioned services" for consistency in the revised title and with other titles of the Code.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 20102(2), referred to in subsec. (a)(1), was redesignated section 20102(3) by Pub. L. 110–432, div. A, §2(b)(1), Oct. 16, 2008, 122 Stat. 4850.

The Railroad Retirement Act of 1974, referred to in subsec. (c), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (c), is act June 25, 1938, ch. 680, 52 Stat. 1094, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The Railroad Retirement Tax Act, referred to in subsec. (c), is act Aug. 16, 1954, ch. 736, §§3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, which is classified generally to chapter 22 (§3201 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3233 of Title 26 and Tables.

The District of Columbia Business Corporation Act, referred to in subsec. (e), is act June 8, 1954, ch. 269, 68 Stat. 179, which is not classified to the Code.

The date of the enactment of this subsection, referred to in subsec. (o), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

AMENDMENTS

2007—Subsec. (o). Pub. L. 110–53 added subsec. (o).

2004—Subsec. (c). Pub. L. 108–199 inserted "11123," after "except for sections".

1997—Subsec. (a)(1). Pub. L. 105–134, §401(1), substituted "railroad carrier under section 20102(2) and chapters 261 and 281" for "rail carrier under section 10102".

Subsec. (a)(3). Pub. L. 105–134, §415(d)(1), inserted ", and shall not be subject to title 31" after "United States Government".

Subsec. (c). Pub. L. 105–134, §401(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

"(1) Part A of subtitle IV of this title applies to Amtrak, except for provisions related to the—

"(A) regulation of rates;

"(B) abandonment or extension of rail lines used only for passenger transportation and the abandonment or extension of operations over those lines;

"(C) regulation of routes and service;

"(D) discontinuance or change of rail passenger transportation operations; and

"(E) issuance of securities or the assumption of an obligation or liability related to the securities of others.

"(2) Notwithstanding this subsection—

"(A) section 10721 of this title applies to Amtrak; and

"(B) on application of an adversely affected motor carrier, the Surface Transportation Board under part A of subtitle IV of this title may hear a complaint about an unfair or predatory rate or marketing practice of Amtrak for a route or service operating at a loss."

Subsec. (e). Pub. L. 105–134, §110(a), inserted at end "Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy."

Subsec. (f). Pub. L. 105–134, §106(b), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "The laws of the District of Columbia govern leases and contracts of Amtrak, regardless of where they are executed."

Subsec. (l)(1). Pub. L. 105–134, §208, inserted heading and substituted in text "Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are" for "Amtrak or a rail carrier subsidiary of Amtrak is", "tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom" for "tax or fee imposed by a State, a political subdivision of a State, or a local taxing authority and levied on it", and "In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997." for "However, Amtrak is not exempt under this subsection from a tax or fee that it was required to pay as of September 10, 1982."

Subsec. (m)(1)(A). Pub. L. 105–134, §402, substituted "2001" for "1996".

1995—Subsec. (c)(1). Pub. L. 104–88, §308(g)(1)(A), substituted "Part A of subtitle IV" for "Subtitle IV".

Subsec. (c)(2)(A). Pub. L. 104–88, §308(g)(1)(B), substituted "section 10721 of this title applies" for "sections 10721–10724 of this title apply".

Subsec. (c)(2)(B). Pub. L. 104–88, §308(g)(1)(C), substituted "Transportation Board under part A of subtitle IV" for "Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105".

Subsec. (d). Pub. L. 104–88, §308(g)(2), substituted "rail carrier subject to part A of subtitle IV" for "common carrier subject to subchapter I of chapter 105".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

REGULATIONS

Pub. L. 101–610, title VI, §601(d), (e), Nov. 16, 1990, 104 Stat. 3186, provided that:

"(d) Not later than 1 year after the date of enactment of this Act [Nov. 16, 1990], the Secretary of Transportation, after appropriate notice and comment, and in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and State and local officials shall promulgate such regulations as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

"(e) Not later than 1 year after the date of enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and the retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas."

PASSENGER CHOICE

Pub. L. 105–134, title I, §109, Dec. 2, 1997, 111 Stat. 2574, provided that: "Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis."

APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Pub. L. 105–134, title I, §110(b), Dec. 2, 1997, 111 Stat. 2574, provided that: "Section 303B(m) of the Federal Property and Administrative Services Act of 1949 ([former] 41 U.S.C. 253b(m)) [now 41 U.S.C. 4702] applies to a proposal in the possession or control of Amtrak."

EXEMPTION FROM LAWS RELATING TO ABANDONED OR UNCLAIMED PROPERTY

Pub. L. 104–205, title III, §347, Sept. 30, 1996, 110 Stat. 2976, provided that: "Hereinafter, the National Railroad Passenger Corporation (Amtrak) shall be exempted from any State or local law relating to the payment or delivery of abandoned or unclaimed personal property to any government authority, including any provision for the enforcement thereof, with respect to passenger rail tickets for which no refund has been or may be claimed, and such law shall not apply to funds held by Amtrak as a result of the purchase of tickets after April 30, 1972 for which no refund has been claimed."

[1] *See References in Text note below.*

§24302. Board of directors

(a) COMPOSITION AND TERMS.—

(1) The Amtrak Board of Directors (referred to in this section as the "Board") is composed of the following 10 directors, each of whom must be a citizen of the United States:

(A) The Secretary of Transportation.

(B) The Chief Executive Officer of Amtrak, who shall serve as a nonvoting member of the Board.

(C) 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, or passenger air transportation businesses, or representatives of employees or users of passenger rail transportation or a State government, at least 1 of whom shall be an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a demonstrated history of, or experience with, accessibility, mobility, and inclusive transportation in passenger rail or commuter rail.

(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

(3) An individual appointed under paragraph (1)(C) of this subsection shall be appointed for a term of 5 years. Such term may be extended until the individual's successor is appointed and qualified. Not more than 5 individuals appointed under paragraph (1)(C) may be members of the same political party.

(4) Of the individuals appointed pursuant to paragraph (1)(C)—

(A) 2 individuals shall reside in or near a location served by a regularly scheduled Amtrak service along the Northeast Corridor;

(B) 4 individuals shall reside in or near regions of the United States that are geographically distributed outside of the Northeast Corridor, of whom—

(i) 2 individuals shall reside in States served by a long-distance route operated by Amtrak;

(ii) 2 individuals shall reside in States served by a State-supported route operated by Amtrak; and

(iii) an individual who resides in a State that is served by a State-supported route and a long-distance route may be appointed to serve either position referred to in clauses (i) and (ii);

(C) 2 individuals shall reside either—

(i) in or near a location served by a regularly scheduled Amtrak service on the Northeast Corridor; or

(ii) in a State served by long-distance or a State-supported route; and

(D) each individual appointed to the Board pursuant to this paragraph may only fill 1 of the allocations set forth in subparagraphs (A) through (C).

(5) The Board shall elect a chairperson and vice chairperson, other than the Chief Executive Officer of Amtrak, from among its membership. The vice chairperson shall act as chairperson in the absence of the chairperson.

(6) The Board shall meet at least annually with—

(A) representatives of Amtrak employees;

(B) representatives of persons with disabilities; and

(C) the general public, in an open meeting with a virtual attendance option, to discuss financial performance and service results.

(7) The Secretary may be represented at Board meetings by the Secretary's designee.

(b) PAY AND EXPENSES.—Each director not employed by the United States Government or Amtrak is entitled to reasonable pay when performing Board duties. Each director not employed by the United States Government is entitled to reimbursement from Amtrak for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending Board meetings.

(c) TRAVEL.—(1) Each director not employed by the United States Government shall be subject to the same travel and reimbursable business travel expense policies and guidelines that apply to Amtrak's executive management when performing Board duties.

(2) Not later than 60 days after the end of each fiscal year, the Board shall submit a report describing all travel and reimbursable business travel expenses paid to each director when performing Board duties to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(3) The report submitted under paragraph (2) shall include a detailed justification for any travel or reimbursable business travel expense that deviates from Amtrak's travel and reimbursable business travel expense policies and guidelines.

(d) VACANCIES.—A vacancy on the Board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

(e) QUORUM.—A majority of the members serving who are eligible to vote shall constitute a quorum for doing business.

(f) BYLAWS.—The Board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 906; Pub. L. 105–134, title IV, §411(a), Dec. 2, 1997, 111 Stat. 2588; Pub. L. 110–432, div. B, title II, §202(a), Oct. 16, 2008, 122 Stat. 4911; Pub. L. 114–94, div. A, title XI, §11205, Dec. 4, 2015, 129 Stat. 1637; Pub. L. 117–58, div. B, title II, §22202(a), Nov. 15, 2021, 135 Stat. 697.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24302(a)(1)	45:543(a)(1) (words before (A)),	Oct. 30, 1970, Pub. L. 91–518, §303(a),

	(A) (1st sentence), (B)–(E) (words before comma).	84 Stat. 1330; restated Nov. 3, 1973, Pub. L. 93–146, §3(a), 87 Stat. 548; Feb. 5, 1976, Pub. L. 94–210, §706(f), 90 Stat. 124; Oct. 19, 1976, Pub. L. 94–555, §103, 90 Stat. 2615; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412; Aug. 13, 1981, Pub. L. 97–35, §1174(a), 95 Stat. 689; June 22, 1988, Pub. L. 100–342, §18(b), 102 Stat. 636.
24302(a)(2)	45:543(a)(2)(A) (1st sentence words before comma, last sentence).	
24302(a)(3)	45:543(a)(2)(B).	
24302(a)(4)	45:543(a)(1)(E) (words after comma).	
24302(a)(5)	45:543(a)(4).	
24302(a)(6)	45:543(a)(1)(A) (last sentence).	
24302(b)	45:543(a)(7).	
	45:543(c).	Oct. 30, 1970, Pub. L. 91–518, §303(b), (c), 84 Stat. 1331.
24302(c)	45:543(a)(6).	
24302(d)	45:543(a)(5).	
24302(e)	45:543(a)(2)(A) (1st sentence words after comma), (3), (8).	
24302(f)	45:543(b).	

In subsection (a)(1), before clause (A), the words "is composed of the following 9 directors, each of whom must be a citizen" are substituted for "consisting of nine individuals who are citizens" for consistency in the revised title. The words "as follows" are omitted as surplus. In clause (A), the words "ex officio" are omitted as surplus. In clause (C)(ii), the words "chief executive officer of a State" are substituted for "Governor" for consistency in the revised title and with other titles of the United States Code. In clause (D), the text of 45:543(a)(1)(D)(i) and the words "after January 1, 1983" are omitted as executed.

In subsection (a)(2), the words "by the President" and "registered as" are omitted as surplus.

In subsection (a)(3) and (4), the word "selected" is substituted for "appointed" for consistency.

In subsection (a)(6), the word "only" is added for clarity.

In subsection (b), the text of 45:543(a)(7) is omitted as obsolete because preferred stockholder representatives are always part of Amtrak's board of directors. The text of 45:543(c) (words after "all stockholders") is omitted as obsolete because Congress eliminated common stockholder representatives when it reconstituted the board.

In subsection (c), the words "direct or indirect" are omitted as surplus.

In subsection (d), the word "performing" is substituted for "engaged in the actual performance of" to eliminate unnecessary words. The word "board" is added for clarity. The words "and powers" are added for consistency in the revised title and with other titles of the Code. The word "reasonable" is substituted for "which is reasonably required" to eliminate unnecessary words.

In subsection (e), the words "the membership of" and "in the case of" are omitted as surplus. The words "occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of the term" are substituted for "shall be appointed only for the unexpired term of the member he is appointed to succeed" for clarity and consistency in the revised title and with other titles of the Code. The words "under subsection (a)(1)(C)" the 2d time they appear are substituted for "paragraph (1)(B) of this subsection" in 45:543(a)(8) to correct an erroneous cross-reference.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a)(1)(B). Pub. L. 117–58, §22202(a)(1)(A), substituted "Chief Executive Officer" for "President".

Subsec. (a)(1)(C). Pub. L. 117–58, §22202(a)(1)(B), inserted ", at least 1 of whom shall be an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a demonstrated history of, or experience with, accessibility, mobility, and inclusive transportation in passenger rail or commuter rail" before period at end.

Subsec. (a)(2). Pub. L. 117–58, §22202(a)(2), struck out before period at end "and try to provide adequate and balanced representation of the major geographic regions of the United States served by Amtrak".

Subsec. (a)(4) to (6). Pub. L. 117–58, §22202(a)(4), added pars. (4) to (6) and struck out former par. (4) which read as follows: "The Board shall elect a chairman and a vice chairman, other than the President of Amtrak, from among its membership. The vice chairman shall serve as chairman in the absence of the chairman." Former par. (5) redesignated (7).

Subsec. (a)(7). Pub. L. 117–58, §22202(a)(3), redesignated par. (5) as (7).

2015—Subsec. (a)(1). Pub. L. 114–94, §11205(1)(A), substituted "10 directors" for "9 directors".

Subsec. (a)(1)(B). Pub. L. 114–94, §11205(1)(B), inserted ", who shall serve as a nonvoting member of the Board" after "Amtrak".

Subsec. (a)(1)(C). Pub. L. 114–94, §11205(1)(C), substituted "8" for "7".

Subsec. (e). Pub. L. 114–94, §11205(2), inserted "who are eligible to vote" after "serving".

2008—Pub. L. 110–432 amended section generally. Prior to amendment, section related, in subsec. (a), to establishment, duties, membership, and confirmation procedure of Reform Board, in subsec. (b), to selection of the Board of Directors, and in subsec. (c), to authority of Reform Board to recommend to Congress a plan to implement transfer of Amtrak's infrastructure assets and responsibilities to a new separately governed corporation.

1997—Pub. L. 105–134 amended section generally. Prior to amendment, section related, in subsec. (a), to composition and terms of Amtrak board of directors, in subsec. (b), to cumulative voting by stockholders, in subsec. (c), to conflicts of interest of directors, in subsec. (d), to pay and expenses of directors, in subsec. (e), to vacancies on board, and in subsec. (f), to bylaws of board.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–432, div. B, title II, §202(b), Oct. 16, 2008, 122 Stat. 4912, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 6 months after the date of enactment of this Act [Oct. 16, 2008]. The members of the Amtrak Board of Directors serving as of the date of enactment of this Act may continue to serve for the remainder of the term to which they were appointed."

RULE OF CONSTRUCTION

Pub. L. 117–58, div. B, title II, §22202(b), Nov. 15, 2021, 135 Stat. 698, provided that: "None of the amendments made by subsection (a) [amending this section] may be construed as affecting the term of any director serving on the Amtrak Board of Directors under section 24302(a)(1)(C) of title 49, United States Code, as of the date of enactment of this Act [Nov. 15, 2021]."

§24303. Officers

(a) APPOINTMENT AND TERMS.—Amtrak has a President and other officers that are named and appointed by the board of directors of Amtrak. An officer of Amtrak must be a citizen of the United States. Officers of Amtrak serve at the pleasure of the board.

(b) PAY.—The board may fix the pay of the officers of Amtrak. An officer may not be paid more than the general level of pay for officers of rail carriers with comparable responsibility. The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.

(c) CONFLICTS OF INTEREST.—When employed by Amtrak, an officer may not have a financial or employment relationship with another rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 907; Pub. L. 105–134, title II, §207, Dec. 2, 1997, 111 Stat. 2584.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24303(a)	45:543(d) (1st, 4th, 5th sentences).	Oct. 30, 1970, Pub. L. 91–518, §303(d), 84 Stat. 1331; June 22, 1972, Pub. L. 92–316, §1(a), 86 Stat. 227; May 26, 1975, Pub. L. 94–25, §2, 89 Stat. 90; July 18, 1982, Pub. L. 97–216, §101 (par. under heading "Grants to the National Railroad Passenger Corporation"), 96 Stat. 187; June 22, 1988, Pub. L. 100–342, §18(c), 102 Stat. 636.
24303(b)	45:543(d) (2d, 3d sentences).	
24303(c)	45:543(d) (last sentence).	

In subsection (a), the words "of directors of Amtrak" are added for clarity.

In subsection (b), the words "rates of", "president and other", and "at a level" are omitted as surplus.

In subsection (c), the words "direct or indirect" are omitted as surplus. The word "another" is substituted for "any" for clarity.

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–134 inserted at end "The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak."

§24304. Employee stock ownership plans

In issuing stock pursuant to applicable corporate law, Amtrak is encouraged to include employee stock ownership plans.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 908; Pub. L. 105–134, title IV, §415(a)(1), Dec. 2, 1997, 111 Stat. 2590.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24304(a)	45:544(a) (1st sentence, last sentence words before (A), (A) (1st sentence), (B)(i) (1st sentence)).	Oct. 30, 1970, Pub. L. 91–518, §304(a), 84 Stat. 1331; Aug. 13, 1981, Pub. L. 97–35, §1175(1), (2), 95 Stat. 691.
24304(b)	45:544(a) (2d sentence).	
	45:544(b).	Oct. 30, 1970, Pub. L. 91–518,

		§304(b), 84 Stat. 1332; Oct. 28, 1974, Pub. L. 93–496, §2, 88 Stat. 1526.
24304(c)	45:544(a) (last sentence words before (A), (A) (last sentence), (B)(i) (last sentence), (ii), (iii)).	
24304(d)(1)	45:544(c)(1), (2).	Oct. 30, 1970, Pub. L. 91–518, §304(c)(1), (2), 84 Stat. 1332; restated Aug. 13, 1981, Pub. L. 97–35, §1175(3), 95 Stat. 691.
24304(d)(2)	45:544(c)(3).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §304(c)(3); added Apr. 7, 1986, Pub. L. 99–272, §4003, 100 Stat. 107.
24304(d)(3)	45:544(c)(4).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §304(c)(4); added Oct. 27, 1992, Pub. L. 102–533, §5, 106 Stat. 3517.
24304(e)	45:544(e)(2).	Oct. 30, 1970, Pub. L. 91–518, §304(d), (e), 84 Stat. 1332; restated Aug. 13, 1981, Pub. L. 97–35, §1175(4), 95 Stat. 691.
24304(f)	45:544(d).	
24304(g)	45:544(e)(1).	

In subsection (a), before clause (1), the words "issue and" are omitted because they are included in "have outstanding". The words "in such amounts as it shall determine" are omitted as surplus. The words "one issue of common stock and one issue of preferred stock" are substituted for "two issues of capital stock, a common and a preferred" for clarity. In clause (1), the word "designated" is omitted as surplus.

In subsection (b)(1)(A), the words "may not hold" are substituted for "may be issued and held only by any person other than" to eliminate unnecessary words.

In subsections (b)(1)(B) and (c), the words "as defined in section 10102(6) of title 49" are omitted because of the definition of "rail carrier" in section 24102 of the revised title.

In subsection (b)(1)(B), the words "after the initial issue is completed" are omitted as executed. The words "single" and "directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control" are omitted as surplus. The words "may vote not more than one-third of the total number of shares of outstanding common stock of Amtrak" are substituted for "At no time . . . shall the aggregate of the shares of common stock of the Corporation voted by . . . exceed 331/3 per centum of such shares issued and outstanding" to eliminate unnecessary words.

In subsection (b)(2), the words "Additional common stock" are substituted for "a number of shares in excess of 331/3 per centum of the total number of common shares issued and outstanding, such excess number" to eliminate unnecessary words. The words "issued and" are omitted because they are included in "outstanding".

Subsection (c)(1) is substituted for "Dividends shall be fixed at a rate not less than 6 per centum per annum, and shall be cumulative" to eliminate unnecessary words.

In subsection (c)(2), the text of 45:544(a) (last sentence) (A) (last sentence) and the words "for any dividend period" and "at the rate fixed in the articles of incorporation" are omitted as surplus.

In subsection (c)(3), the words "holders of preferred stock" are substituted for "preferred stockholders", and the words "holders of common stock" are substituted for "common stockholders", for consistency in this chapter.

In subsection (c)(4), the words "at such time and upon such terms as the articles of incorporation shall provide" are omitted as surplus.

In subsection (d)(1), the text of 45:544(c)(1) and the words "Commencing on October 1, 1981" are omitted as executed. The words "and in consideration of receiving further Federal financial assistance", "of the United

States Government", "additional", and "of funds" are omitted as surplus.

In subsection (d)(3), the words "required to be issued" are omitted as surplus.

Subsection (e) is substituted for 45:544(e)(2) to eliminate unnecessary words.

In subsection (f), the words "in addition to the stock authorized by subsection (a) of this section", "securities, bonds, debentures, notes, and other", and "as it may determine" are omitted as surplus.

Subsection (g) is substituted for 45:544(e)(1) to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–134 amended section catchline and text generally, substituting provisions relating to employee stock ownership plans for provisions relating to capitalization of Amtrak.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AMTRAK STOCK

Pub. L. 105–134, title IV, §415(b), (c), Dec. 2, 1997, 111 Stat. 2590, provided that Amtrak was to redeem all common stock previously issued for the fair market value of such stock before Oct. 1, 2002, and that the preferred stock of Amtrak held by the Secretary of Transportation would confer no liquidation preference, effective 90 days after Dec. 2, 1997, and confer no voting rights, effective 60 days after Dec. 2, 1997.

§24305. General authority

(a) ACQUISITION AND OPERATION OF EQUIPMENT AND FACILITIES.—(1) Amtrak may acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for intercity and commuter rail passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.

(b) MAINTENANCE AND REHABILITATION.—Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes—

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) MISCELLANEOUS AUTHORITY.—Amtrak may—

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains;

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d) THROUGH ROUTES AND JOINT FARES.—(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in sections 11322 and 14302 of this title for the purpose of providing improved service to the public and economy of operation.

(e) RAIL POLICE.—Amtrak may directly employ or contract with rail police to provide security for rail passengers and property of Amtrak. Rail police directly employed by or contracted by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be directly employed or contracted without regard to the law of another State containing those requirements.

(f) DOMESTIC BUYING PREFERENCES.—(1) In this subsection, "United States" means the States, territories, and possessions of the United States and the District of Columbia.

(2) Amtrak shall buy only—

(A) unmanufactured articles, material, and supplies mined or produced in the United States; or

(B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(3) Paragraph (2) of this subsection applies only when the cost of those articles, material, or supplies bought is at least $1,000,000.

(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

(A) for particular articles, material, or supplies—

(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

(ii) the cost of imposing those requirements is unreasonable; or

(iii) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 909; Pub. L. 105–134, title I, §107, Dec. 2, 1997, 111 Stat. 2573; Pub. L. 114–94, div. A, title XI, §11412(c)(1), Dec. 4, 2015, 129 Stat. 1688; Pub. L. 117–58, div. B, title II, §22208(a), Nov. 15, 2021, 135 Stat. 706.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

24305(a)(1)	45:545(a) (1st sentence 1st–32d words, words after last semicolon).	Oct. 30, 1970, Pub. L. 91–518, §305(a) (1st, 2d sentences), 84 Stat. 1332; June 22, 1972, Pub. L. 92–316, §2(1), (2), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, §4, 87 Stat. 549; Aug. 13, 1981, Pub. L. 97–35, §1188(b), 95 Stat. 699.
	45:545(b) (4th sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(b) (4th sentence); added June 22, 1972, Pub. L. 92–316, §2(3), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, §5, 87 Stat. 550.
	45:545(e)(5).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(e)(1)–(6); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 551.
24305(a)(2)	45:545(a) (2d sentence).	
24305(b)	45:545(e)(2).	
	45:545(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(g); added Oct. 28, 1974, Pub. L. 93–496, §3, 88 Stat. 1527; restated Sept. 29, 1979, Pub. L. 96–73, §§106, 107, 93 Stat. 539, 540.
24305(c)(1)	45:851(a)(2).	Feb. 5, 1976, Pub. L. 94–210, §701(a)(2), 90 Stat. 119.
24305(c)(2)	45:545(a) (1st sentence 33d word–1st semicolon).	
	45:545a.	Oct. 5, 1978, Pub. L. 95–421, §19, 92 Stat. 930.
24305(c)(3)	45:545(e)(1).	
24305(c)(4)	45:545(n).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(n); added Aug. 13, 1981, Pub. L. 97–35, §1177(a), 95 Stat. 692.
24305(c)(5)	45:545(a) (1st sentence words between 1st and last semicolons), (e)(3).	
24305(c)(6)	45:545(e)(4), (6).	
24305(d)	45:546(j).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(j); added Oct. 19, 1976, Pub. L. 94–555, §106, 90 Stat. 2615; Sept. 29, 1979, Pub. L. 96–73, §112(b), 93 Stat. 541.
24305(e)	45:545(j).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(j); added Oct. 19, 1976, Pub. L. 94–555, §104, 90 Stat. 2615; Sept. 29, 1979, Pub. L 96–73, §§106, 108, 93 Stat. 539, 540.
24305(f)	45:545(k).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(k); added Oct. 5, 1978, Pub. L. 95–421, §10, 92 Stat. 928;

		Sept. 29, 1979, Pub. L. 96–73, §§106, 109, 93 Stat. 539, 540.

In subsection (a)(1), the text of 45:545(e)(5) is omitted as obsolete. The words "acquire, operate, maintain, and make contracts for the operation and maintenance of" are substituted for "own, manage, operate, or contract for the operation of", "acquire by construction, purchase, or gift, or to contract for the use of", "acquire, lease, modify, or develop", and "or to enter into contracts for the provision of such service" to eliminate unnecessary words. The word "physical" is omitted as surplus. The words "intercity and commuter trains" are omitted as being included in "equipment". The words "the transportation of mail and express" are substituted for "mail, express . . . service" for consistency in this chapter.

In subsection (b), before clause (1), the words "service" and "repair" are omitted as surplus. The words "not later than January 1, 1980" are omitted as executed. In clause (1), the words "principal office of Amtrak" are substituted for "corporate headquarters" for clarity and consistency. In clauses (3) and (4), the words "establishment of" are omitted as executed.

In subsection (c)(1), the words "contracts and" and "necessary or . . . in the conduct of its functions" are omitted as surplus.

In subsection (c)(2), the words "on such trains" in 45:545(a), and the words "including taking into account the needs of the United States Postal Service in establishing schedules" and "and service" in 45:545a, are omitted as surplus.

In subsection (c)(4), the text of 45:545(n) (1st sentence) and the words "Beginning October 1, 1982" are omitted as executed.

In subsection (d)(1), the words "rail passenger carriers" are substituted for "common carriers of passengers by rail" for consistency in the revised title. The words "establishing those routes and fares" are substituted for "the making of such arrangements" for clarity.

In subsection (e), the words "and protection" and "licensing, residency, or related" are omitted as surplus.

In subsection (f)(1), the words "several" and "the Commonwealth of Puerto Rico" are omitted as surplus.

In subsection (f)(2), the words "Except as provided in paragraph (2) or (3) of this subsection", "which have been", "all", and "as the case may be" are omitted as surplus.

In subsection (f)(3), the text of 45:545(k)(4)(B) is omitted as executed.

In subsection (f)(4)(A) and (B), the words "the purchase of" are omitted as surplus.

In subsection (f)(4)(A)(i), the words "imposing" and "with respect to such articles, materials, and supplies" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (c)(4). Pub. L. 117–58 struck out "only if revenues from the services each year at least equal the cost of providing the services" after "on its trains".

2015—Subsec. (e). Pub. L. 114–94 substituted "may directly employ or contract with" for "may employ", "directly employed by or contracted by" for "employed by", and "directly employed or contracted without" for "employed without".

1997—Subsec. (a)(3). Pub. L. 105–134, §107(a), added par. (3).

Subsec. (d)(3). Pub. L. 105–134, §107(b), added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

LOCAL PRODUCTS AND PROMOTIONAL EVENTS

Pub. L. 114–94, div. A, title XI, §11209, Dec. 4, 2015, 129 Stat. 1640, provided that:

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Dec. 4, 2015], Amtrak shall establish a pilot program for a State or States that sponsor a State-supported route operated by Amtrak to facilitate—

"(1) onboard purchase and sale of local food and beverage products; and

"(2) partnerships with local entities to hold promotional events on trains or in stations.

"(b) PROGRAM DESIGN.—The pilot program under paragraph (1) shall—

"(1) allow a State or States to nominate and select a local food and beverage products supplier or suppliers or local promotional event partner;

"(2) allow a State or States to charge a reasonable price or fee for local food and beverage products or promotional events and related activities to help defray the costs of program administration and State-supported routes; and

"(3) provide a mechanism to ensure that State products can effectively be handled and integrated into existing food and beverage services, including compliance with all applicable regulations and standards governing such services.

"(c) PROGRAM ADMINISTRATION.—The pilot program shall—

"(1) for local food and beverage products, ensure the products are integrated into existing food and beverage services, including compliance with all applicable regulations and standards;

"(2) for promotional events, ensure the events are held in compliance with all applicable regulations and standards, including terms to address insurance requirements; and

"(3) require an annual report that documents revenues and costs and indicates whether the products or events resulted in a reduction in the financial contribution of a State or States to the applicable State-supported route.

"(d) REPORT.—Not later than 4 years after the date of enactment of this Act, Amtrak shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on which States have participated in the pilot programs under this section. The report shall summarize the financial and operational outcomes of the pilot programs and include any plan for future action.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting Amtrak's ability to operate special trains in accordance with section 216 of the Passenger Rail Investment and Improvement Act of 2008 [div. B of Pub. L. 110–432] (49 U.S.C. 24308 note)."

AMTRAK PILOT PROGRAM FOR PASSENGERS TRANSPORTING DOMESTICATED CATS AND DOGS

Pub. L. 114–94, div. A, title XI, §11210, Dec. 4, 2015, 129 Stat. 1641, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], Amtrak shall develop a pilot program that allows passengers to transport domesticated cats or dogs on certain trains operated by Amtrak.

"(b) PET POLICY.—In developing the pilot program required under subsection (a), Amtrak shall—

"(1) in the case of a passenger train that is comprised of more than 1 car, designate, where feasible, at least 1 car in which a ticketed passenger may transport a domesticated cat or dog in the same manner as carry-on baggage if—

"(A) the cat or dog is contained in a pet kennel;

"(B) the pet kennel complies with Amtrak size requirements for carriage of carry-on baggage;

"(C) the passenger is traveling on a train operating on a route described in subparagraph (A), (B), or (D) of section 24102(7) of title 49, United States Code; and

"(D) the passenger pays a fee described in paragraph (3);

"(2) allow a ticketed passenger to transport a domesticated cat or dog on a train in the same manner as cargo if—

"(A) the cat or dog is contained in a pet kennel;

"(B) the pet kennel complies with Amtrak size requirements for carriage of carry-on baggage;

"(C) the passenger is traveling on a train operating on a route described in subparagraph (A), (B), or (D) of section 24102(7) of title 49, United States Code;

"(D) the cargo area is temperature controlled in a manner protective of cat and dog safety and health; and

"(E) the passenger pays a fee described in paragraph (3); and

"(3) collect fees for each cat or dog transported by a ticketed passenger in an amount that, in the aggregate and at a minimum, covers the full costs of the pilot program.

"(c) REPORT.—Not later than 1 year after the pilot program required under subsection (a) is first implemented, Amtrak shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing an evaluation of the pilot program.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—

"(1) SERVICE ANIMALS.—The pilot program under subsection (a) shall be separate from and in

addition to the policy governing Amtrak passengers traveling with service animals. Nothing in this section may be interpreted to limit or waive the rights of passengers to transport service animals.

"(2) ADDITIONAL TRAIN CARS.—Nothing in this section may be interpreted to require Amtrak to add additional train cars or modify existing train cars.

"(3) FEDERAL FUNDS.—No Federal funds may be used to implement the pilot program required under this section."

RIGHT-OF-WAY LEVERAGING

Pub. L. 114–94, div. A, title XI, §11211, Dec. 4, 2015, 129 Stat. 1641, provided that:

"(a) REQUEST FOR PROPOSALS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], Amtrak shall issue a Request for Proposals seeking qualified persons or entities to utilize right-of-way and real estate owned, controlled, or managed by Amtrak for telecommunications systems, energy distribution systems, and other activities considered appropriate by Amtrak.

"(2) CONTENTS.—The Request for Proposals shall provide sufficient information on the right-of-way and real estate assets to enable respondents to propose an arrangement that will monetize or generate additional revenue from such assets through revenue sharing or leasing agreements with Amtrak, to the extent possible.

"(3) DEADLINE.—Amtrak shall set a deadline for the submission of proposals that is not later than 1 year after the issuance of the Request for Proposals under paragraph (1).

"(b) CONSIDERATION OF PROPOSALS.—Not later than 180 days after the deadline for the receipt of proposals under subsection (a), the Amtrak Board of Directors shall review and consider each qualified proposal. Amtrak may enter into such agreements as are necessary to implement any qualified proposal.

"(c) REPORT.—Not later than 1 year after the deadline for the receipt of proposals under subsection (a), Amtrak shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Request for Proposals required by this section, including summary information of any proposals submitted to Amtrak and any proposals accepted by the Amtrak Board of Directors.

"(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit Amtrak's ability to utilize right-of-way or real estate assets that it currently owns, controls, or manages or constrain Amtrak's ability to enter into agreements with other parties to utilize such assets."

STATION DEVELOPMENT

Pub. L. 114–94, div. A, title XI, §11212, Dec. 4, 2015, 129 Stat. 1642, provided that:

"(a) REPORT ON DEVELOPMENT OPTIONS.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], Amtrak shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

"(1) options to enhance economic development and accessibility of and around Amtrak stations and terminals, for the purposes of—

"(A) improving station condition, functionality, capacity, and customer amenities;

"(B) generating additional investment capital and development-related revenue streams;

"(C) increasing ridership and revenue; and

"(D) strengthening multimodal connections, including transit, intercity buses, roll-on and roll-off bicycles, and airports, as appropriate; and

"(2) options for additional Amtrak stops that would have a positive incremental financial impact to Amtrak, based on Amtrak feasibility studies that demonstrate a financial benefit to Amtrak by generating additional revenue that exceeds any incremental costs.

"(b) REQUEST FOR INFORMATION.—Not later than 90 days after the date the report is submitted under subsection (a), Amtrak shall issue a Request for Information for 1 or more owners of stations served by Amtrak to formally express an interest in completing the requirements of this section.

"(c) PROPOSALS.—

"(1) REQUEST FOR PROPOSALS.—Not later than 180 days after the date the Request for Information is issued under subsection (b), Amtrak shall issue a Request for Proposals from qualified persons, including small business concerns owned and controlled by socially and economically disadvantaged individuals and veteran-owned small businesses, to lead, participate, or partner with Amtrak, a station owner that responded under subsection (b), and other entities in enhancing development in and around such stations and terminals using applicable options identified under subsection (a) at facilities selected by Amtrak.

"(2) CONSIDERATION OF PROPOSALS.—Not later than 1 year after the date the Request for Proposals is issued under paragraph (1), the Amtrak Board of Directors shall review and consider qualified proposals submitted under paragraph (1). Amtrak or a station owner that responded under subsection (b) may enter into such agreements as are necessary to implement any qualified proposal.

"(d) REPORT.—Not later than 4 years after the date of enactment of this Act, Amtrak shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Request for Proposals process required under this section, including summary information of any qualified proposals submitted to Amtrak and any proposals acted upon by Amtrak or a station owner that responded under subsection (b).

"(e) DEFINITIONS.—In this section, the terms 'small business concern', 'socially and economically disadvantaged individual', and 'veteran-owned small business' have the meanings given the terms in section 11310(c) of this Act [129 Stat. 1670].

"(f) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit Amtrak's ability to develop its stations, terminals, or other assets, to constrain Amtrak's ability to enter into and carry out agreements with other parties to enhance development at or around Amtrak stations or terminals, or to affect any station development initiatives ongoing as of the date of enactment of this Act."

AMTRAK SECURITY EVALUATION AND DEVELOPMENT OF PROCEDURES FOR FIREARM STORAGE AND CARRIAGE IN CHECKED BAGGAGE CARS AND STATIONS

Pub. L. 111–117, div. A, title I, §159, Dec. 16, 2009, 123 Stat. 3061, as amended by Pub. L. 111–212, title III, §3009, July 29, 2010, 124 Stat. 2340, provided that:

"(a) AMTRAK SECURITY EVALUATION.—No later than 180 days after the enactment of this Act [Dec. 16, 2009], Amtrak, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall submit a report to Congress that contains—

"(1) a comprehensive, system-wide, security evaluation; and

"(2) proposed guidance and procedures necessary to implement a new checked firearms program.

"(b) DEVELOPEMENT AND IMPLEMENTATION OF GUIDANCE AND PROCEDURES.—

"(1) IN GENERAL.—Not later than one year after the enactment of this Act [Dec. 16, 2009], Amtrak, in consultation with the Assistant Secretary, shall develop and implement guidance and procedures to carry out the duties and responsibilities of firearm storage and carriage in checked baggage cars and at Amtrak stations that accept checked baggage.

"(2) SCOPE.—The guidance and procedures developed under paragraph (1) shall—

"(A) permit Amtrak passengers holding a ticket for a specific Amtrak route to place an unloaded firearm or starter pistol in a checked bag on such route if—

"(i) the Amtrak station accepts checked baggage for such route;

"(ii) the passenger declares to Amtrak, either orally or in writing, at the time the reservation is made or not later than 24 hours before departure, that the firearm will be placed in his or her bag and will be unloaded;

"(iii) the firearm is in a hard-sided container;

"(iv) such container is locked; and

"(v) only the passenger has the key or combination for such container;

"(B) permit Amtrak passengers holding a ticket for a specific Amtrak route to place small arms ammunition for personal use in a checked bag on such route if the ammunition is securely packed—

"(i) in fiber, wood, or metal boxes; or

"(ii) in other packaging specifically designed to carry small amounts of ammunition; and

"(C) include any other measures needed to ensure the safety and security of Amtrak employees, passengers, and infrastructure, including—

"(i) requiring inspections of any container containing a firearm or ammunition; and

"(ii) the temporary suspension of firearm carriage service if credible intelligence information indicates a threat related to the national rail system or specific routes or trains.

"(c) DEFINITIONS.—

"(1) [sic] For purposes of this section, the term 'checked baggage' refers to baggage transported that is accessible only to select Amtrak employees."

GENERAL SERVICES ADMINISTRATION SERVICES

Pub. L. 110–432, div. B, title II, §218(b), Oct. 16, 2008, 122 Stat. 4930, provided that: "Amtrak may obtain from the Administrator of General Services, and the Administrator may provide to Amtrak, services under sections 502(a) and 602 of title 40, United States Code."

Pub. L. 106–554, §1(a)(4) [div. A, §1110], Dec. 21, 2000, 114 Stat. 2763, 2763A–202, provided that:

"Amtrak is authorized to obtain services from the Administrator of General Services, and the Administrator is authorized to provide services to Amtrak, under sections 201(b) and 211(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b) and 491(b)) [now 40 U.S.C. 502, 602, 603(a)(1)] for fiscal year 2001 and each fiscal year thereafter until the fiscal year that Amtrak operates without Federal operating grant funds appropriated for its benefit, as required by sections 24101(d) and [former] 24104(a) of title 49, United States Code."

RAIL AND MOTOR CARRIER PASSENGER SERVICE

Pub. L. 105–134, title I, §108, Dec. 2, 1997, 111 Stat. 2574, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a)(3) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

"(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

"(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

"(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest."

EDUCATIONAL PARTICIPATION

Pub. L. 105–134, title IV, §412, Dec. 2, 1997, 111 Stat. 2589, provided that: "Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety."

§24306. Mail, express, and auto-ferry transportation

(a) ACTIONS TO INCREASE REVENUES.—Amtrak shall take necessary action to increase its revenues from the transportation of mail and express. To increase its revenues, Amtrak may provide auto-ferry transportation as part of the basic passenger transportation authorized by this part.

(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 910; Pub. L. 105–134, title I, §102, Dec. 2, 1997, 111 Stat. 2572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24306(a)	45:545(b) (1st, 2d sentence words before 2d comma, last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(b) (1st–3d, last sentences); added June 22, 1972, Pub. L. 92–316, §2(3), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, §5, 87 Stat. 549.
24306(b)(1)	45:545(b) (2d sentence words after 2d comma).	
24306(b)(2)	45:545(b) (3d sentence).	
24306(b)(3)	45:546(h).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(h); added Nov. 3, 1973, Pub. L. 93–146, §7, 87 Stat. 551.

In subsection (a), the words "and to better accomplish the purposes of this chapter" and "modify its services to" are omitted as surplus. The words "a department, agency, or instrumentality of the United States

Government" are substituted for "Federal departments and agencies" for consistency in the revised title and with other titles of the United States Code. The words "consistent with the provisions of existing law" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "A person primarily providing auto-ferry transportation and any other person not a rail carrier may provide" are substituted for "except that nothing contained in this chapter shall prevent any other person, other than a railroad (except that for purposes of this section a person primarily engaged in auto-ferry service shall not be deemed to be a railroad), from providing such" to eliminate unnecessary words. The text of 45:545(b) (2d sentence words after "the public") is omitted as obsolete.

In subsection (b)(2), the words "may provide" are substituted for "Nothing in this section shall be construed to restrict the right of . . . from performing" to eliminate unnecessary words and for clarity. The words "rail lines" are substituted for "lines" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (b)(3), the words "has the effect of prohibiting or", "fine, penalty, or other", and "for violation of" are omitted as surplus. The words "rail carrier" are substituted for "common carrier by railroad" for consistency in the revised title and with other titles of the Code.

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–134, §102(1), struck out at end "When requested by Amtrak, a department, agency, or instrumentality of the United States Government shall assist in carrying out this section."

Subsec. (b). Pub. L. 105–134, §102(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

"(1) A person primarily providing auto-ferry transportation and any other person not a rail carrier may provide auto-ferry transportation over any route under a certificate issued by the Interstate Commerce Commission if the Commission finds that the auto-ferry transportation—

"(A) will not impair the ability of Amtrak to reduce its losses or increase its revenues; and

"(B) is required to meet the public demand.

"(2) A rail carrier that has not made a contract with Amtrak to provide rail passenger transportation may provide auto-ferry transportation over its own rail lines.

"(3) State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful."

§24307. Special transportation

(a) REDUCED FARE PROGRAM.—Amtrak shall maintain a reduced fare program for the following:

(1) individuals at least 65 years of age.

(2) individuals (except alcoholics and drug abusers) who—

(A) have a physical or mental impairment that substantially limits a major life activity of the individual;

(B) have a record of an impairment; or

(C) are regarded as having an impairment.

(b) EMPLOYEE TRANSPORTATION.—(1) In this subsection, "rail carrier employee" means—

(A) an active full-time employee of a rail carrier or terminal company and includes an employee on furlough or leave of absence;

(B) a retired employee of a rail carrier or terminal company; and

(C) a dependent of an employee referred to in clause (A) or (B) of this paragraph.

(2) Amtrak shall ensure that a rail carrier employee eligible for free or reduced-rate rail transportation on April 30, 1971, under an agreement in effect on that date is eligible, to the greatest

extent practicable, for free or reduced-rate intercity rail passenger transportation provided by Amtrak under this part, if space is available, on terms similar to those available on that date under the agreement. However, Amtrak may apply to all rail carrier employees eligible to receive free or reduced-rate transportation under any agreement a single systemwide schedule of terms that Amtrak decides applied to a majority of employees on that date under all those agreements. Unless Amtrak and a rail carrier make a different agreement, the carrier shall reimburse Amtrak at the rate of 25 percent of the systemwide average monthly yield of each revenue passenger-mile. The reimbursement is in place of costs Amtrak incurs related to free or reduced-rate transportation, including liability related to travel of a rail carrier employee eligible for free or reduced-rate transportation.

(3) This subsection does not prohibit the Surface Transportation Board from ordering retroactive relief in a proceeding begun or reopened after October 1, 1981.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 911; Pub. L. 105–134, title IV, §406(b), Dec. 2, 1997, 111 Stat. 2586; Pub. L. 112–141, div. C, title II, §32932(c)(1), July 6, 2012, 126 Stat. 829.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24307(a)	45:545(c)(2).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(c)(2); added Sept. 29, 1979, Pub. L. 96–73, §105(2), 93 Stat. 539.
24307(b)	45:545(c)(1).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(c)(1); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 550; Sept. 29, 1979, Pub. L. 96–73, §105(1), 93 Stat. 539.
24307(c)	45:565(f).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §405(f); added June 22, 1972, Pub. L. 92–316, §8, 86 Stat. 230; Sept. 29, 1979, Pub. L. 96–73, §120(a), 93 Stat. 547; Aug. 13, 1981, Pub. L. 97–35, §1184, 95 Stat. 697.

In subsection (a), before clause (1), the word "maintain" is substituted for "Within 90 days after September 29, 1979" and "establish" for clarity.

In subsection (b), before clause (1), the word "act" is substituted for "take all steps necessary to" to eliminate unnecessary words. The words "access to" are added for clarity. In clause (1), the words "and devices" are omitted as surplus. In clause (4), the words "architectural and other" are omitted as surplus.

In subsection (c)(1)(A), the words "period of" and "while on" are omitted as surplus.

In subsection (c)(2), the words "take such action as may be necessary to", "the terms of . . . policy or", and "to such railroad employee" are omitted as surplus. The words "or group of railroads" are omitted because of 1:1.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (b)(3). Pub. L. 112–141 substituted "Surface Transportation Board" for "Interstate Commerce Commission".

1997—Subsecs. (b), (c). Pub. L. 105–134 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

"(b) ACTIONS TO ENSURE ACCESS.—Amtrak may act to ensure access to intercity transportation for elderly or handicapped individuals on passenger trains operated by or for Amtrak. That action may include—

"(1) acquiring special equipment;

"(2) conducting special training for employees;

"(3) designing and acquiring new equipment and facilities;

"(4) eliminating barriers in existing equipment and facilities to comply with the highest standards of design, construction, and alteration of property to accommodate elderly and handicapped individuals; and

"(5) providing special assistance to elderly and handicapped individuals when getting on and off trains and in terminal areas."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

ACCESSIBILITY BY INDIVIDUALS WITH DISABILITIES

Pub. L. 110–432, div. B, title II, §219, Oct. 16, 2008, 122 Stat. 4931, provided that:

"(a) IN GENERAL.—Amtrak, in consultation with station owners and other railroads operating service through the existing stations that it serves, shall evaluate the improvements necessary to make these stations readily accessible to and usable by individuals with disabilities, as required by such section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include, for each applicable station, improvements required to bring it into compliance with the applicable parts of such section 242(e)(2), any potential barriers to achieving compliance, including issues related to passenger rail station platforms, the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. The evaluation shall also include a detailed plan and schedule for bringing all applicable stations into compliance with the applicable parts of section 242(e)(2) by the 2010 statutory deadline for station accessibility. Amtrak shall submit the evaluation to the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; the Department of Transportation; and the National Council on Disability by February 1, 2009, along with recommendations for funding the necessary improvements. Should the Department of Transportation issue any rule related to transportation for individuals with disabilities by intercity passenger rail after Amtrak submits its evaluation, Amtrak shall, within 120 days after the date that such rule is published, submit to the above parties a supplemental evaluation on any impact of the rule on its cost and schedule for achieving full compliance.

"(b) ACCESSIBILITY IMPROVEMENTS AND BARRIER REMOVAL FOR PEOPLE WITH DISABILITIES.—There are authorized to be appropriated to the Secretary [of Transportation] for the use of Amtrak such sums as may be necessary to improve the accessibility of facilities, including rail platforms, and services."

Pub. L. 110–432, div. B, title II, §220, Oct. 16, 2008, 122 Stat. 4931, provided that: "Using the funds authorized by section 103 of this division [122 Stat. 4909], the Federal Railroad Administration shall monitor and conduct periodic reviews of Amtrak's compliance with applicable sections of the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] and the Rehabilitation Act of 1974 [probably means Rehabilitation Act of 1973, 29 U.S.C. 701 et seq.] to ensure that Amtrak's services and facilities are accessible to individuals with disabilities to the extent required by law."

Pub. L. 105–134, title IV, §406(a), Dec. 2, 1997, 111 Stat. 2586, provided that:

"(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements required by the Americans With Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] at any station jointly used by Amtrak and a commuter authority.

"(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998."

§24308. Use of facilities and providing services to Amtrak

(a) GENERAL AUTHORITY.—(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree and if the Surface Transportation Board finds it necessary to carry out this part, the Board shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Board shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(C) The Board shall decide the dispute not later than 90 days after Amtrak submits the dispute to the Board.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) OPERATING DURING EMERGENCIES.—To facilitate operation by Amtrak during an emergency, the Board, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Board then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) PREFERENCE OVER FREIGHT TRANSPORTATION.—Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Board orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Board for relief. If the Board, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Board shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) ACCELERATED SPEEDS.—If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Board for an order requiring the carrier to allow the accelerated speeds. The Board shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a hearing, the Board shall establish the maximum allowable speeds of Amtrak trains on terms the Board decides are reasonable.

(e) ADDITIONAL TRAINS.—(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Board for an order requiring the carrier to provide or allow for the operation of the requested trains. After a hearing on the record, the Board may order the carrier, within 60 days, to provide or allow for the operation of the requested trains on a schedule based on legally permissible operating times. However, if the Board decides not to hold a hearing, the Board, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

(2) The Board shall consider—

(A) when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) when establishing scheduled running times, the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the

carrier for additional trains provided under an order under this subsection, the Board shall decide the dispute under subsection (a) of this section.

(f) PASSENGER TRAIN PERFORMANCE AND OTHER STANDARDS.—

(1) INVESTIGATION OF SUBSTANDARD PERFORMANCE.—If the on-time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters, or the service quality of intercity passenger train operations for which minimum standards are established under section 207 of the Passenger Rail Investment and Improvement Act of 2008 fails to meet those standards for 2 consecutive calendar quarters, the Surface Transportation Board (referred to in this section as the "Board") may initiate an investigation, or upon the filing of a complaint by Amtrak, an intercity passenger rail operator, a host freight railroad over which Amtrak operates, or an entity for which Amtrak operates intercity passenger rail service, the Board shall initiate such an investigation, to determine whether and to what extent delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over whose tracks the intercity passenger train operates or reasonably addressed by Amtrak or other intercity passenger rail operators. As part of its investigation, the Board has authority to review the accuracy of the train performance data and the extent to which scheduling and congestion contribute to delays. In making its determination or carrying out such an investigation, the Board shall obtain information from all parties involved and identify reasonable measures and make recommendations to improve the service, quality, and on-time performance of the train.

(2) PROBLEMS CAUSED BY HOST RAIL CARRIER.—If the Board determines that delays or failures to achieve minimum standards investigated under paragraph (1) are attributable to a rail carrier's failure to provide preference to Amtrak over freight transportation as required under subsection (c), the Board may award damages against the host rail carrier, including prescribing such other relief to Amtrak as it determines to be reasonable and appropriate pursuant to paragraph (3) of this subsection.

(3) DAMAGES AND RELIEF.—In awarding damages and prescribing other relief under this subsection the Board shall consider such factors as—

(A) the extent to which Amtrak suffers financial loss as a result of host rail carrier delays or failure to achieve minimum standards; and

(B) what reasonable measures would adequately deter future actions which may reasonably be expected to be likely to result in delays to Amtrak on the route involved.

(4) USE OF DAMAGES.—The Board shall, as it deems appropriate, order the host rail carrier to remit the damages awarded under this subsection to Amtrak or to an entity for which Amtrak operates intercity passenger rail service. Such damages shall be used for capital or operating expenditures on the routes over which delays or failures to achieve minimum standards were the result of a rail carrier's failure to provide preference to Amtrak over freight transportation as determined in accordance with paragraph (2).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 911; 110–432, div. B, title II, §213(a), (d), Oct. 16, 2008, 122 Stat. 4925, 4926.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24308(a)(1)–(3)	45:562(a)(1).	Oct. 30, 1970, Pub. L. 91–518, §402(a)(1), 84 Stat. 1335; June 22, 1972, Pub. L. 92–316, §5(1), 86 Stat. 229; Nov. 3, 1973, Pub. L. 93–146, §10(1), 87 Stat. 552; Oct. 5, 1978, Pub. L. 95–421, §15, 92 Stat. 929; Aug. 13, 1981, Pub. L. 97–35,

		§1181, 95 Stat. 693; Apr. 7, 1986, Pub. L. 99–272, §4017(b)(1), 100 Stat. 110.
24308(a)(4)	45:562 (note).	July 11, 1987, Pub. L. 100–71 (last proviso under heading "Grants to the National Railroad Passenger Corporation"), 101 Stat. 447.
24308(b)	45:562(c).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(c); added June 22, 1972, Pub. L. 92–316, §5(2), 86 Stat. 229.
24308(c)	45:562(e).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(e); added Nov. 3, 1973, Pub. L. 93–146, §10(2), 87 Stat. 552; Aug. 13, 1981, Pub. L. 97–35, §1188(c), 95 Stat. 699.
24308(d)	45:562(f).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(f); added Nov. 3, 1973, Pub. L. 93–146, §10(2), 87 Stat. 552.
24308(e)	45:562(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(g); added May 30, 1980, Pub. L. 96–254, §216, 94 Stat. 418; Apr. 7, 1986, Pub. L. 99–272, §4006(2), 100 Stat. 107.

In subsection (a)(1), the word "authority" is substituted for "agencies" for consistency in the revised title and with other titles of the United States Code. The words "tracks and other" are omitted as surplus. The words "of . . . by, the carrier or authority" are added for clarity. The words "and conditions" are omitted as surplus.

In subsection (a)(2)(A), before clause (i), the words "the purposes of" are omitted as surplus. In clause (ii), the words "just and" are omitted as surplus.

Subsection (a)(2)(B) is substituted for 45:562(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (a)(2)(C), the words "shall decide the dispute" are added, and the words "submits the dispute" are substituted for "application", for clarity.

In subsection (a)(3), the words "Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation" are substituted for "and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order . . . shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission" to eliminate unnecessary words. The words "or under an order issued under subsection (b) of this section" are omitted as obsolete because 45:562(b) is executed. The words "amount of", "fixed", "duly and", and "properly" are omitted as surplus.

In subsection (a)(4), the words "notwithstanding any other provision of law", "hereafter", and "becomes inadequate or otherwise" are omitted as surplus.

In subsections (b)–(d), the words "just and" are omitted as surplus.

In subsection (b), the words "as may be deemed by it to be necessary", "tracks and other", and "proceed to" are omitted as surplus. The words "personal injury" are substituted for "casualty" for consistency.

In subsections (c) and (d), the words "an opportunity for a" are added for clarity and consistency.

In subsection (c), the word "given" is omitted as surplus. The words "rail line" are substituted for "line of track" for consistency in the revised title and with other titles of the Code. The word "appropriate" is omitted as surplus. The words "the carrier" are substituted for "trains" for clarity and consistency. The words "and Amtrak" are added for clarity.

In subsection (d), the words "upon request of the Corporation" and "otherwise" are omitted as surplus. The words "which improvements would be required" are substituted for "and with respect to the nature and extent of improvements to track, signal systems, and other facilities that would be required" to eliminate unnecessary words.

In subsection (e)(1), the words "satisfactory, voluntary" are omitted as surplus. The words "provide, or allow Amtrak to provide" are added, and the words "Amtrak may apply to the Secretary for an order requiring

the carrier to provide or allow for the operation of the requested trains" are substituted for "Upon receipt of an application from the Corporation", for clarity.

In subsection (e)(2)(A), the words "involved" and "seeking to oppose the operation of an additional train" are omitted as surplus. The words "when conducting a hearing" are added for clarity.

In subsection (e)(2)(B), the word "proper" is omitted as surplus. The words "60 miles" are substituted for "55 miles" for consistency with 45:501a(8), restated in section 24101(c)(6) of the revised title. Section 1172(3) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 91–35, 95 Stat. 688) raised the speed from 55 to 60 in 45:501a but did not make a corresponding change in 45:562(g).

In subsection (e)(3), the words "Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection" are substituted for 45:562(g) (last sentence words before last comma) to eliminate unnecessary words. The words "the dispute" are added for clarity and consistency in this section.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 207 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (f)(1), is section 207 of Pub. L. 110–432, which is set out in a note under section 24101 of this title.

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–432, §213(d)(2), substituted "Board" for "Commission" wherever appearing.

Subsec. (a)(2)(A). Pub. L. 110–432, §213(d)(1), substituted "Surface Transportation Board" for "Interstate Commerce Commission" in introductory provisions.

Subsec. (b). Pub. L. 110–432, §213(d)(2), substituted "Board" for "Commission" in two places.

Subsec. (c). Pub. L. 110–432, §213(d)(3), (4), substituted "Board" for "Secretary of Transportation" after "unless the" and for "Secretary" in three places.

Subsecs. (d), (e)(1), (2). Pub. L. 110–432, §213(d)(4), substituted "Board" for "Secretary" wherever appearing.

Subsec. (e)(3). Pub. L. 110–432, §213(d)(2), substituted "Board" for "Commission".

Subsec. (f). Pub. L. 110–432, §213(a), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FEES

Pub. L. 110–432, div. B, title II, §213(b), Oct. 16, 2008, 122 Stat. 4926, provided that: "The Surface Transportation Board may establish and collect filing fees from any entity that files a complaint under section 24308(f)(1) of title 49, United States Code, or otherwise requests or requires the Board's services pursuant to this division [see Short Title of 2008 Amendment note set out under section 20101 of this title]. The Board shall establish such fees at levels that will fully or partially, as the Board determines to be appropriate, offset the costs of adjudicating complaints under that section and other requests or requirements for Board action under this division. The Board may waive any fee established under this subsection for any governmental entity as determined appropriate by the Board."

SPECIAL PASSENGER TRAINS

Pub. L. 110–432, div. B, title II, §216, Oct. 16, 2008, 122 Stat. 4930, provided that: "Amtrak is encouraged to increase the operation of special trains funded by, or in partnership with, private sector operators through competitive contracting to minimize the need for Federal subsidies. Amtrak shall utilize the provisions of section 24308 of title 49, United States Code, when necessary to obtain access to facilities, train and engine crews, or services of a rail carrier or regional transportation authority that are required to operate such trains."

§24309. Retaining and maintaining facilities

(a) DEFINITIONS.—In this section—

(1) "facility" means a rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station

and repair tracks, a station building, a platform, and a related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or altering a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) APPROVAL REQUIRED FOR DOWNGRADING OR DISPOSAL.—A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, or on January 1, 1997, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c) NOTIFICATION AND ANALYSIS.—(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintenance of tracks, structures, and equipment and depreciation).

(d) APPROVAL OF APPLICATION AND PAYMENT OF AVOIDABLE COSTS.—(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) COMPLIANCE WITH OTHER OBLIGATIONS.—Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 913; Pub. L. 105–134, title I, §162, Dec. 2, 1997, 111 Stat. 2578.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24309(a)	45:566(e)(1), (2).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §406; added Sept. 29, 1979, Pub. L. 96–73, §121, 93 Stat. 548.
24309(b)	45:566(a).	
24309(c)(1)	45:566(b).	
24309(c)(2)	45:566(d)(2).	
24309(d)(1)	45:566(c)(1).	
24309(d)(2)	45:566(c)(2), (d)(1).	
24309(e)	45:566(e)(3).	

In subsection (a)(1), the words "rail line" are substituted for "railroad tracks" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the word "authority" is substituted for "agency" for consistency in the revised title and with other titles of the Code. The words "obtaining the" are omitted as surplus.

In subsection (c)(1), the words "first" and "to take such action" are omitted as surplus.

In subsection (c)(2), before clause (A), the words "need for the" are added for clarity. The words "necessary or" are omitted as surplus. The words "Within 90 days after September 29, 1979" and 45:566(d)(2)(A)(i) are omitted as executed. The word "maintain" is substituted for "take steps to prepare" for clarity. The words "survey plan which shall provide for" and "compilation, and storage" are omitted as surplus. In clause (F), the words "over time" are omitted as surplus.

In subsection (d)(2), before clause (A), the word "timely" is omitted as surplus. In clause (F), the words "rail line" are substituted for "lines of railroad" for consistency in the revised title and with other titles of the Code.

In subsection (e), the words "approval of" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–134 inserted "or on January 1, 1997," after "1979,".

§24310. Management accountability

(a) IN GENERAL.—Within 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, and 2 years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

(b) ASSESSMENT.—The management assessment undertaken by the Inspector General may include a review of—

(1) effectiveness in improving annual financial planning;

(2) effectiveness in implementing improved financial accounting;

(3) efforts to implement minimum train performance standards;

(4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and

(5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.

(Added Pub. L. 110–432, div. B, title II, §221(a), Oct. 16, 2008, 122 Stat. 4931.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (a), is div. B of Pub. L. 110–432, Oct. 16, 2008, 122 Stat. 4907. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 20101 of this title and Tables.

PRIOR PROVISIONS

A prior section 24310, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 914, allowed petition or application for assistance in upgrading facilities to correct dangerous conditions or State and local violations, prior to repeal by Pub. L. 105–134, title IV, §403, Dec. 2, 1997, 111 Stat. 2585.

§24311. Acquiring interests in property by eminent domain

(a) GENERAL AUTHORITY.—(1) To the extent financial resources are available, Amtrak may acquire by eminent domain under subsection (b) of this section interests in property—

(A) necessary for intercity rail passenger transportation, except property of a rail carrier, a State, a political subdivision of a State, or a governmental authority; or

(B) requested by the Secretary of Transportation in carrying out the Secretary's duty to design and build an intermodal transportation terminal at Union Station in the District of Columbia if the Secretary assures Amtrak that the Secretary will reimburse Amtrak.

(2) Amtrak may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

(B) agree with the owner on the purchase price for the interest.

(b) CIVIL ACTIONS.—(1) A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

(A) a statement of the public use for which the interest is taken;

(B) a description of the property sufficient to identify it;

(C) a statement of the interest in the property taken;

(D) a plan showing the interest taken; and

(E) a statement of the amount of money Amtrak estimates is just compensation for the interest.

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide—

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of

interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

(4) On application of a party, the court may order immediate payment of any part of the amount deposited in the court for the compensation to be awarded. If the award is more than the amount received, the court shall enter judgment against Amtrak for the deficiency.

(c) AUTHORITY TO CONDEMN RAIL CARRIER PROPERTY INTERESTS.—(1) If Amtrak and a rail carrier cannot agree on a sale to Amtrak of an interest in property of a rail carrier necessary for intercity rail passenger transportation, Amtrak may apply to the Surface Transportation Board for an order establishing the need of Amtrak for the interest and requiring the carrier to convey the interest on reasonable terms, including just compensation. The need of Amtrak is deemed to be established, and the Board, after holding an expedited proceeding and not later than 120 days after receiving the application, shall order the interest conveyed unless the Board decides that—

(A) conveyance would impair significantly the ability of the carrier to carry out its obligations as a common carrier; and

(B) the obligations of Amtrak to provide modern, efficient, and economical rail passenger transportation can be met adequately by acquiring an interest in other property, either by sale or by exercising its right of eminent domain under subsection (a) of this section.

(2) If the amount of compensation is not determined by the date of the Board's order, the order shall require, as part of the compensation, interest at 6 percent a year from the date prescribed for the conveyance until the compensation is paid.

(3) Amtrak subsequently may reconvey to a third party an interest conveyed to Amtrak under this subsection or prior comparable provision of law if the Board decides that the reconveyance will carry out the purposes of this part, regardless of when the proceeding was brought (including a proceeding pending before a United States court on November 28, 1990).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 915; Pub. L. 112–141, div. C, title II, §32932(c)(2), July 6, 2012, 126 Stat. 829.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24311(a)	45:545(d)(1) (less words between 11th comma and proviso).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(d)(1); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 550; restated Oct. 28, 1974, Pub. L. 93–496, §6, 88 Stat. 1528; Feb. 5, 1976, Pub. L. 94–210, §706(g), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.
24311(b)(1)	45:545(d)(1) (words between 11th comma and proviso).	
	45:545(d)(2), (3) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(d)(2)–(5); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 550.
24311(b)(2)	45:545(d)(3) (2d sentence), (5).	
24311(b)(3)	45:545(d)(3) (3d, last sentences).	
24311(b)(4)	45:545(d)(4).	
24311(c)	45:562(d).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(d); added Nov. 3, 1973, Pub. L. 93–146, §10(2), 87 Stat. 552; Feb. 5, 1976, Pub. L. 94–210,

		§706(h), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412; Nov. 28, 1990, Pub. L. 101–641, §9(a), 104 Stat. 4658.
	45:562 (note).	Nov. 28, 1990, Pub. L. 101–641, §9(b), 104 Stat. 4658.

In subsection (a)(1), before clause (A), the words "the exercise of the right of" and "right-of-way, land, or other" are omitted as surplus.

In subsection (b)(1) and (2), the words "estate or" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought" are added, the words "any judicial district in which any piece of the property is located" are substituted for "any such court", and the words "under this subsection" are added, for clarity.

In subsection (b)(2), before clause (A), the words "When the declaration is filed and the deposit is made under paragraph (1) of this subsection" are substituted for "shall thereupon" for clarity. The word "immediately" is omitted as surplus. In clause (A), the words "possession of the property is given to Amtrak" are substituted for "the parties in possession are required to surrender possession to the Corporation" to eliminate unnecessary words. Clause (B) is substituted for 45:545(d)(5) (last sentence) to eliminate unnecessary words.

In subsection (b)(3), the words "of money" are omitted as surplus. The words "awarding that amount and interest on it" are substituted for "make an award and . . . accordingly. Such judgment shall include, as part of the just compensation awarded, interest" to eliminate unnecessary words. The words "of interest" are added for clarity. The words "finally . . . as the value of the property on the date of taking" and "on such date" are omitted as surplus.

In subsection (b)(4), the word "award" is substituted for "compensation finally awarded" for consistency and to eliminate unnecessary words. The words "of the money . . . by any person entitled to compensation" and "amount of the" are omitted as surplus.

In subsection (c)(1), before clause (A), the words "terms for", "at issue", "to the Corporation", "and conditions", "for the property", "in any event", "from the Corporation", and "to the Corporation on such reasonable terms and conditions as it may prescribe, including just compensation" are omitted as surplus. In clause (A), the words "of the property to the Corporation" are omitted as surplus. In clause (B), the words "either by sale or by exercising its right of eminent domain under subsection (a) of this section" are substituted for "which is available for sale on reasonable terms to the Corporation, or available to the Corporation by the exercise of its authority under section 545(d) of this title" for clarity and to eliminate unnecessary words.

In subsection (c)(3), the words "reconvey . . . an interest conveyed to Amtrak under this subsection or prior comparable provision of law" are substituted for "convey title or other interest in such property" for consistency in the revised title and to eliminate unnecessary words. The words "regardless of when the proceeding was brought" are substituted for section 9(b) (less words in parentheses) of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4658) to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–141, §32932(c)(2)(B), substituted "Board" for "Commission" wherever appearing.

Subsec. (c)(1). Pub. L. 112–141, §32932(c)(2)(A), substituted "Surface Transportation Board" for "Interstate Commerce Commission".

Subsec. (c)(2). Pub. L. 112–141, §32932(c)(2)(C), substituted "Board's" for "Commission's".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§24312. Labor standards

(a) PREVAILING WAGES AND HEALTH AND SAFETY STANDARDS.—Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under section 24308(a) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141–3144, 3146, and 3147 of title 40. Amtrak may make such an agreement only after being assured that required labor standards will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 3704 of title 40 apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.

(b) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with sections 3141–3144, 3146, and 3147 of title 40.

(c) AVAILABILITY OF STATION AGENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), beginning on the date that is 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall ensure that at least 1 Amtrak ticket agent is employed at each station building—

(A) that Amtrak owns, or operates service through, as part of a long-distance or Northeast Corridor passenger service route;

(B) where at least 1 Amtrak ticket agent was employed on or after October 1, 2017; and

(C) for which an average of 40 passengers boarded or deboarded an Amtrak train per day during all of the days in fiscal year 2017 when the station was serviced by Amtrak, regardless of the number of Amtrak trains servicing the station per day.

(2) EXCEPTION.—Paragraph (1) shall not apply to any station building in which a commuter rail ticket agent has the authority to sell Amtrak tickets.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 916; Pub. L. 105–134, title I, §§101(f), 105(c), 121(a), Dec. 2, 1997, 111 Stat. 2572–2574; Pub. L. 107–217, §3(n)(4), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 117–58, div. B, title II, §22203, Nov. 15, 2021, 135 Stat. 698.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24312(a)	45:565(d).	Oct. 30, 1970, Pub. L. 91–518, §405(d), 84 Stat. 1337.
24312(b)	45:565(e).	Oct. 30, 1970, Pub. L. 91–518, §405(e), 84 Stat. 1337; Aug. 13, 1981, Pub. L. 97–35, §1177(b), 95 Stat. 692.

In subsection (a)(1), the words "take such action as may be necessary to", "the performance of", "with the assistance of funds received", "contract or", "at rates", and "adequate" are omitted as surplus.

In subsection (a)(2), the words "provided for" and "and pursuant to" are omitted as surplus.

In subsection (b)(1), the words "Except as provided in paragraph (2) of this subsection" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (c)(1), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (c). Pub. L. 117–58 added subsec. (c).

2002—Subsec. (a). Pub. L. 107–217, §3(n)(4)(A), substituted "sections 3141–3144, 3146, and 3147 of title 40" for "the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)" and "section 3704 of title 40" for "section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333)".

Subsec. (b). Pub. L. 107–217, §3(n)(4)(B), substituted "sections 3141–3144, 3146, and 3147 of title 40" for "the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)".

1997—Subsec. (a)(1). Pub. L. 105–134, §121(a)(2), redesignated par. (1) as subsec. (a).

Pub. L. 105–134, §§101(f), 105(c), struck out ", 24701(a), or 24704(b)(2)" after "24308(a)".

Subsec. (a)(2). Pub. L. 105–134, §121(a)(3), redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 105–134, §121(a)(1), (3), redesignated subsec. (a)(2) as (b), inserted heading, and struck out former subsec. (b), which read as follows:

"(b) CONTRACTING OUT.—(1) Amtrak may not contract out work normally performed by an employee in a bargaining unit covered by a contract between a labor organization and Amtrak or a rail carrier that provided intercity rail passenger transportation on October 30, 1970, if contracting out results in the layoff of an employee in the bargaining unit.

"(2) This subsection does not apply to food and beverage services provided on trains of Amtrak."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTRACTING OUT

Pub. L. 105–134, title I, §121(b)–(f), Dec. 2, 1997, 111 Stat. 2574, 2575, as amended by Pub. L. 117–58, div. B, title II, §22213, Nov. 15, 2021, 135 Stat. 712, provided that:

"(b) AMENDMENT OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—

"(1) CONTRACTING OUT.—Any collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees before the date of enactment of this Act [Dec. 2, 1997] is deemed amended to include the language of section 24312(b) of title 49, United States Code, as that section existed on the day before the effective date [Dec. 2, 1997] of the amendments made by subsection (a) [amending this section].

"(2) ENFORCEABILITY OF AMENDMENT.—The amendment to any such collective bargaining agreement deemed to be made by paragraph (1) of this subsection is binding on all parties to the agreement and has the same effect as if arrived at by agreement of the parties under the Railway Labor Act [45 U.S.C. 151 et seq.].

"(c) CONTRACTING-OUT ISSUES TO BE INCLUDED IN NEGOTIATIONS.—Proposals on the subject matter of contracting out work, other than work related to food and beverage service, which results in the layoff of an Amtrak employee—

"(1) shall be included in negotiations under section 6 of the Railway Labor Act (45 U.S.C. 156) between Amtrak and an organization representing Amtrak employees, which shall be commenced by—

"(A) the date on which labor agreements under negotiation on the date of enactment of this Act [Dec. 2, 1997] may be re-opened; or

"(B) November 1, 1999,

whichever is earlier;

"(2) may, at the mutual election of Amtrak and an organization representing Amtrak employees, be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act; and

"(3) may not be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act, unless both Amtrak and the organization representing Amtrak employees agree to include it in the negotiation.

No contract between Amtrak and an organization representing Amtrak employees, that is under negotiation on the date of enactment of this Act, may contain a moratorium that extends more than 5 years from the date of expiration of the last moratorium.

"(d) FURLOUGHED WORK.—Amtrak may not contract out work within the classification of work performed by an employee in a bargaining unit covered by a collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees during the period such employee has been laid off and has not been recalled to perform such work.

"(e) AGREEMENT PROHIBITIONS ON CONTRACTING OUT.—This section does not—

"(1) supersede a prohibition or limitation on contracting out work covered by an agreement entered

into between Amtrak and an organization representing Amtrak employees; or

"(2) prohibit Amtrak and an organization representing Amtrak employees from entering into an agreement that allows for contracting out the work of a furloughed employee that would otherwise be prohibited under subsection (d).

"(f) NO INFERENCE.—The amendment made by subsection (a)(1) [amending this section] is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees."

§24313. Rail safety system program

In consultation with rail labor organizations, Amtrak shall maintain a rail safety system program for employees working on property owned by Amtrak. The program shall be a model for other rail carriers to use in developing safety programs. The program shall include—

(1) periodic analyses of accident information, including primary and secondary causes;

(2) periodic evaluations of the activities of the program, particularly specific steps taken in response to an accident;

(3) periodic reports on amounts spent for occupational health and safety activities of the program;

(4) periodic reports on reduced costs and personal injuries because of accident prevention activities of the program;

(5) periodic reports on direct accident costs, including claims related to accidents; and

(6) reports and evaluations of other information Amtrak considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 917.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24313	45:646.	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §807; added Oct. 5, 1978, Pub. L. 95–421, §13, 92 Stat. 929.

In this section, before clause (1), the words "No later than January 1, 1979" are omitted as executed. The word "maintain" is substituted for "develop and implement" for clarity. The words "designed to serve as" and "required under this section" are omitted as surplus. In clause (1), the words "if known" are omitted as surplus. In clause (2), the words "undertaken" and "causes" are omitted as surplus. In clauses (3)–(6), the word "reports" is substituted for "identification" for clarity. In clause (3), the word "included" is omitted as surplus. In clause (4), the words "personal injuries" are substituted for "fatalities, and casualties" for consistency in the revised title. The word "activities" is added for clarity. In clause (6), the words "or data" and "necessary or" are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMPREHENSIVE RAIL SAFETY REVIEW OF AMTRAK

Pub. L. 117–58, div. B, title II, §22407, Nov. 15, 2021, 135 Stat. 739, provided that:

"(a) COMPREHENSIVE SAFETY ASSESSMENT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall—

"(1) conduct a focused review of Amtrak's safety-related processes and procedures, compliance with safety regulations and requirements, and overall safety culture; and

"(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes the findings and recommendations resulting from such assessment.

"(b) PLAN.—

"(1) INITIAL PLAN.—Not later than 6 months after the completion of the comprehensive safety assessment under subsection (a)(1), Amtrak shall submit a plan to the Committee on Commerce, Science,

and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives for addressing the findings and recommendations raised in the comprehensive safety assessment.

"(2) ANNUAL UPDATES.—Amtrak shall submit annual updates of its progress toward implementing the plan submitted pursuant to paragraph (1) to the committees listed in such paragraph."

[§24314. Repealed. Pub. L. 105–134, title IV, §404, Dec. 2, 1997, 111 Stat. 2586]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 917; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to Amtrak developing plan for demonstrating new technology that may increase train speed in intercity rail passenger system.

§24315. Reports and audits

(a) AMTRAK ANNUAL OPERATIONS REPORT.—Not later than February 15 of each year, Amtrak shall submit to Congress a report that—

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on—

(A) ridership;

(B) passenger-miles;

(C) the short-term avoidable profit or loss for each passenger-mile;

(D) the revenue-to-cost ratio;

(E) revenues;

(F) the United States Government subsidy;

(G) the subsidy not provided by the United States Government;

(H) on-time performance; and

(I) any change made to a route's or service's frequency or station stops;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies—

(A) significant operational problems Amtrak identifies; and

(B) proposals by Amtrak to solve those problems.

(b) AMTRAK GENERAL AND LEGISLATIVE ANNUAL REPORT.—(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

(A) shall include a discussion and accounting of Amtrak's success in meeting the goal described in section 24902(a);

(B) may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance;

(C) shall incorporate the category described in section 24319(c)(2)(C);

(D) shall include an action plan for bringing Amtrak-served stations that are not in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) into compliance with such Act, as required by the settlement agreement entered into in 2020 between Amtrak and the Department of Justice;

(E) shall include a status report on—

(i) Amtrak-served stations for which Amtrak is solely responsible for compliance with such Act based on a station assessment carried out by Amtrak, including a timeline for any required compliance with such Act, as required by the settlement agreement;

(ii) Amtrak-served stations for which Amtrak has a shared responsibility for compliance with

such Act based on a station assessment carried out by Amtrak or by the party responsible for such compliance, including a timeline for any required compliance with such Act for the portions of the station for which Amtrak is the responsible party consistent with the terms of the settlement agreement, identifying who is responsible for compliance (and the status of the compliance of each responsible party with such Act) for such portions and the timeline for compliance in cases in which Amtrak is not the responsible party; and

(iii) the status of compliance with such Act for all Amtrak-served stations for which Amtrak is not the responsible party, nor is responsible for a portion of the station, and identify the entity or entities that have responsibility for compliance with such Act, based on a station assessment carried out by Amtrak or the party responsible under such Act.

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(3) Amtrak may meet the requirements described in clauses (ii) and (iii) of paragraph (1)(E) by demonstrating that Amtrak took reasonable measures to obtain cooperation from responsible entities.

(4) Amtrak shall submit the action plan and status report required under subparagraphs (D) and (E) of paragraph (1)—

(A) annually while the settlement agreement referred to in paragraph (1)(D) is in effect; and

(B) every 5 years beginning on the first day the settlement is no longer in effect.

(c) SECRETARY'S REPORT ON EFFECTIVENESS OF THIS PART.—The Secretary of Transportation shall prepare a report on the effectiveness of this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of Amtrak each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section.

(e) COMPTROLLER GENERAL AUDITS.—The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted management principles. The Comptroller General may prescribe regulations governing the audit.

(f) AVAILABILITY OF RECORDS AND PROPERTY OF AMTRAK AND RAIL CARRIERS .—Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) COMPTROLLER GENERAL'S REPORT TO CONGRESS.—The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 918; Pub. L. 105–134, title II, §206, Dec. 2, 1997, 111 Stat. 2584; Pub. L. 117–58, div. B, title II, §§22204(a), 22206(c)(1), Nov. 15, 2021, 135 Stat. 699, 702; Pub. L. 118–205, §2, Dec. 23, 2024, 138 Stat. 2697.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24315(a)	45:548(a).	Oct. 30, 1970, Pub. L. 91–518, §308(a), 84 Stat. 1333; June 22, 1972, Pub. L. 92–316, §4, 86 Stat. 228; Sept. 29, 1979, Pub. L. 96–73, §113, 93 Stat. 542; Aug. 13, 1981, Pub. L. 97–35, §1180(a), 95 Stat. 693; restated Apr. 7, 1986, Pub. L. 99–272, §4005, 100 Stat. 107; June 22, 1988, Pub. L. 100–342, §18(d), 102 Stat. 637.
24315(b)	45:548(b).	Oct. 30, 1970, Pub. L. 91–518, §308(b), 84 Stat. 1333; restated June 22, 1972, Pub. L. 92–316, §4, 86 Stat. 229; Nov. 3, 1973, Pub. L. 93–146, §8, 87 Stat. 551; May 26, 1975, Pub. L. 94–25, §4(a), 89 Stat. 90.
	45:851(d)(2).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §701(d)(2); added May 30, 1980, Pub. L. 96–254, §205, 94 Stat. 412.
24315(c)	45:548(c).	Oct. 30, 1970, Pub. L. 91–518, §308(c), 84 Stat. 1333; restated June 22, 1972, Pub. L. 92–316, §4, 86 Stat. 229; May 26, 1975, Pub. L. 94–25, §4(b), 89 Stat. 90; Aug. 13, 1981, Pub. L. 97–35, §1180(b), 95 Stat. 693.
24315(d)	45:644(1)(A) (1st, 2d sentences), (B).	Oct. 30, 1970, Pub. L. 91–518, §805(1), 84 Stat. 1340.
24315(e)	45:644(2)(A) (1st, 2d sentences).	Oct. 30, 1970, Pub. L. 91–518, §805(2)(A), 84 Stat. 1340; Oct. 28, 1974, Pub. L. 93–496, §11, 88 Stat. 1531; Apr. 7, 1986, Pub. L. 99–272, §4007(a), 100 Stat. 108.
24315(f)	45:644(1)(A) (last sentence), (2)(A) (3d, last sentences).	
	45:644(2)(B).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §805(2)(B); added June 22, 1972, Pub. L. 92–316, §11(2), 86 Stat. 233; Apr. 7, 1986, Pub. L. 99–272, §4007(a)(2), 100 Stat. 108.
24315(g)	45:644(2)(C).	Oct. 30, 1970, Pub. L. 91–518, §805(2)(C), 84 Stat. 1340; June 22, 1972, Pub. L. 92–316, §11(2), 86 Stat. 233.

In subsection (a)(2), the words "to . . . compensation" and "prescribed" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "(beginning with 1973)" are omitted as executed. The word "complete" is substituted for "comprehensive and detailed" to eliminate unnecessary words. The words "under this chapter" are omitted as surplus. The word "revenues" is substituted for "receipts" for consistency. In clause (B), the words "may include recommendations for legislation" are substituted for "At the time of its

annual report, the Corporation shall submit such legislative recommendations as it deems desirable", the words "the method of computing the assistance" are substituted for "the manner and form in which the amount of such assistance should be computed", and the words "of the assistance" are substituted for "from which such assistance should be derived", to eliminate unnecessary words.

In subsection (c), the words "(beginning with 1974)" are omitted as executed. The word "prepare" is substituted for "transmit to the President and to the Congress by March 15 of each year" for clarity because the report is now part of the annual report under 49:308(a). The words "Beginning in 1976" are omitted as executed. The word "Secretary" is substituted for "Department of Transportation" because of 49:102(b). The words "submits under section 308(a) of this title" are substituted for "to the Congress" for clarity.

In subsection (d), the words "independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States" are omitted as obsolete because only certified public accountants are used for the audit. Only noncertified public accountants licensed before December 30, 1970, who were already conducting audits were allowed to continue. The words "or places" are omitted because of 1:1. The words "financial statements" are substituted for "accounts" because audits are performed on financial statements, not accounts. The words "independent" and "annual" are omitted as surplus. The text of 45:644(1)(B) (last sentence) is omitted as surplus because those requirements are included in "generally accepted auditing standards".

In subsection (e), the word "rules" is omitted as being synonymous with "regulations". The words "or places" are omitted because of 1:1. The word "appropriate" is omitted as surplus.

In subsection (f), the words "if required" are substituted for "To the extent . . . deems necessary" to eliminate unnecessary words. The words "the person conducting", "The representatives of the Comptroller General", "his representatives", "as he may make of the financial transactions of the Corporation", "things, or", and "full" are omitted as surplus. The words "may keep" are substituted for "shall remain in possession and custody of" and "shall remain in the possession and custody of" to eliminate unnecessary words.

In subsection (g), the word "giving" is substituted for "The report to the Congress shall contain such" to eliminate unnecessary words. The words "as the Comptroller General may deem", "as he may deem advisable", "program, expenditure or other", "observed in the course of the audit", and "or made" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990 and such Act, referred to in subsec. (b)(1)(D), (E), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

2024—Subsec. (b)(1)(D), (E). Pub. L. 118–205, §2(1), added subpars. (D) and (E).

Subsec. (b)(3), (4). Pub. L. 118–205, §2(2), added pars. (3) and (4).

2021—Subsec. (a)(1)(I). Pub. L. 117–58, §22204(a), added subpar. (I).

Subsec. (b)(1)(A). Pub. L. 117–58, §22206(c)(1)(A), substituted "the goal described in section 24902(a);" for "the goal of section 24902(b) of this title; and".

Subsec. (b)(1)(C). Pub. L. 117–58, §22206(c)(1)(B), (C), added subpar. (C).

1997—Subsec. (h). Pub. L. 105–134 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (a), (b)(1), (c), and (d) of this section relating to requirements to submit regular periodic reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 3rd item on page 176 and the 6th and 7th items on page 204 of House Document No. 103–7.

FUNDING FOR VALUATION OF AMTRAK'S ASSETS

Pub. L. 108–447, div. H, title I, Dec. 8, 2004, 118 Stat. 3221, provided in part: "That the Secretary of Transportation is authorized to retain up to $4,000,000 of the funds provided to be used to retain a consultant

or consultants to assist the Secretary in preparing a comprehensive valuation of Amtrak's assets to be completed not later than September 30, 2005: *Provided further*, That these funds shall be available to the Secretary of Transportation until expended: *Provided further*, That this valuation shall to be used to retain a consultant or consultants to develop to the Secretary's satisfaction a methodology for determining the avoidable and fully allocated costs of each Amtrak route: *Provided further*, That once the Secretary has approved the methodology for determining the avoidable and fully allocated costs of each Amtrak route, Amtrak shall apply that methodology in compiling an annual report to Congress on the avoidable and fully allocated costs of each of its routes, with the initial report for fiscal year 2005 to be submitted to the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation before December 31, 2005, and each subsequent report to be submitted within 90 days after the end of the fiscal year to which the report pertains."

REPORTS ON OPERATING LOSSES

Pub. L. 108–7, div. I, title III, §350, Feb. 20, 2003, 117 Stat. 419, provided that: "On February 15, 2003, and on each year thereafter, the National Railroad Passenger Corporation shall submit to the appropriate Congressional Committees a report detailing the per passenger operating loss on each rail line."

AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS

Pub. L. 105–134, title IV, §414, Dec. 2, 1997, 111 Stat. 2589, provided that: "If, at any time, during a fiscal year in which Amtrak receives Federal assistance, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

"(1) the name of the individual or firm involved;

"(2) the purpose of the contract or arrangement; and

"(3) the amount and nature of Amtrak's financial obligation under the contract.

This section applies only to contracts, renewals or extensions of contracts, or arrangements entered into after the date of the enactment of this Act [Dec. 2, 1997]."

§24316. Plans to address needs of families of passengers involved in rail passenger accidents

(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Safety Improvement Act of 2008, a rail passenger carrier shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a rail passenger carrier intercity train and resulting in any loss of life.

(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

(1) A process by which a rail passenger carrier will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1139(a)(2) of this title or the services of other suitably trained individuals.

(3) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

(5) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

(6) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier and by which any possession of the passenger within the control of the rail passenger carrier (regardless of its condition)—

(A) will be retained by the rail passenger carrier for at least 18 months; and

(B) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(8) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(9) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

(10) An assurance that the rail passenger carrier will work with any organization designated under section 1139(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1139(a)(2) of this title for services provided by the organization.

(c) USE OF INFORMATION.—Neither the National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor a rail passenger carrier may release to the public any personal information on a list obtained under subsection (b)(1), but may provide information on the list about a passenger to the passenger's family members to the extent that the Board or a rail passenger carrier considers appropriate.

(d) LIMITATION ON STATUTORY CONSTRUCTION.—

(1) RAIL PASSENGER CARRIERS.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

(2) INVESTIGATIONAL AUTHORITY OF BOARD AND SECRETARY.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including the development of information regarding the nature of injuries sustained and the manner in which they were sustained, for the purpose of determining compliance with existing laws and regulations or identifying means of preventing similar injuries in the future.

(e) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

(f) DEFINITIONS.—In this section, the terms "passenger" and "rail passenger accident" have the meaning given those terms by section 1139 of this title.

(g) FUNDING.—Out of funds appropriated pursuant to section 20117(a)(1)(A), there shall be

made available to the Secretary of Transportation $500,000 for fiscal year 2010 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.

(Added Pub. L. 110–432, div. A, title V, §502(a), Oct. 16, 2008, 122 Stat. 4897; amended Pub. L. 118–63, title XII, §1215(d), May 16, 2024, 138 Stat. 1430.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 substituted "any loss of life" for "a major loss of life".

§24317. Accounts

(a) PURPOSE.—The purpose of this section is to—

(1) promote the effective use and stewardship by Amtrak of Amtrak revenues, Federal, State, and third party investments, appropriations, grants and other forms of financial assistance, and other sources of funds; and

(2) enhance the transparency of the assignment of revenues, including Federal grant funds, and costs among Amtrak service lines while ensuring the health of the Northeast Corridor and National Network.

(b) ACCOUNT STRUCTURE.—

(1) IN GENERAL.—The Secretary of Transportation, in consultation with Amtrak, shall define, maintain, and periodically update an account structure and improvements to accounting methodologies, as necessary, to support the Northeast Corridor and the National Network.

(2) NOTIFICATION OF SUBSTANTIVE CHANGES.—The Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives regarding any substantive changes made to the account structure, including changes to—

(A) the service lines described in section 24320(b)(1); and

(B) the asset lines described in section 24320(c)(1).

(c) FINANCIAL SOURCES.—In defining, maintaining, and updating the account structure and improvements to accounting methodologies required under subsection (b), the Secretary shall ensure, to the greatest extent practicable, that Amtrak assigns the following:

(1) For the Northeast Corridor account, all revenues, appropriations, grants and other forms of financial assistance, compensation, and other sources of funds associated with the Northeast Corridor, including—

(A) grant funds appropriated for the Northeast Corridor pursuant to section 11101(a) of the Passenger Rail Reform and Investment Act of 2015 or any subsequent Act;

(B) compensation received from commuter rail passenger transportation providers for such providers' share of capital and operating costs on the Northeast Corridor provided to Amtrak pursuant to section 24905(c); and

(C) any operating surplus of the Northeast Corridor, as allocated pursuant to section 24318.

(2) For the National Network account, all revenues, appropriations, grants and other forms of financial assistance, compensation, and other sources of funds associated with the National Network, including—

(A) grant funds appropriated for the National Network pursuant to section 11101(b) of the

Passenger Rail Reform and Investment Act of 2015 or any subsequent Act;

(B) compensation received from States provided to Amtrak pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (42 U.S.C. 24101 note); [1] and

(C) any operating surplus of the National Network, as allocated pursuant to section 24318.

(d) FINANCIAL USES.—In defining, maintaining, and updating the account structure and improvements to accounting methodologies required under subsection (b), the Secretary shall ensure, to the greatest extent practicable, that amounts assigned to the Northeast Corridor and National Network accounts shall be used by Amtrak for the following:

(1) For the Northeast Corridor, all associated costs, including—

(A) operating activities;

(B) capital activities as described in section 24904(a)(2)(E);

(C) acquiring, rehabilitating, manufacturing, remanufacturing, overhauling, or improving equipment and associated facilities used for intercity rail passenger transportation by Northeast Corridor train services;

(D) payment of principal and interest on loans for capital projects described in this paragraph or for capital leases attributable to the Northeast Corridor;

(E) other capital projects on the Northeast Corridor, determined appropriate by the Secretary, and consistent with section 24905(c)(1)(A)(i); and

(F) if applicable, capital projects described in section 24904(b).

(2) For the National Network, all associated costs, including—

(A) operating activities;

(B) capital activities; and

(C) the payment of principal and interest on loans or capital leases attributable to the National Network.

(e) IMPLEMENTATION AND REPORTING.—

(1) IN GENERAL.—Amtrak, in consultation with the Secretary of Transportation, shall maintain and implement any account structures and improvements defined under subsection (b) to enable Amtrak to produce sources and uses statements for each of the service lines described in section 24320(b)(1) and, as appropriate, each of the asset lines described in section 24320(c)(1), that identify sources and uses of revenues, appropriations, and transfers between accounts.

(2) UPDATED SOURCES AND USES STATEMENTS.—Not later than 30 days after the implementation of subsection (b), and monthly thereafter, Amtrak shall submit to the Secretary of Transportation updated sources and uses statements for each of the service lines and asset lines referred to in paragraph (1). The Secretary and Amtrak may agree to a different frequency of reporting.

(f) ACCOUNT MANAGEMENT.—For the purposes of account management, Amtrak may transfer funds between the Northeast Corridor account and National Network account without prior notification and approval under subsection (g) if such transfers—

(1) do not materially impact Amtrak's ability to achieve its anticipated financial, capital, and operating performance goals for the fiscal year; and

(2) would not materially change any grant agreement entered into pursuant to section 24319(d), or other agreements made pursuant to applicable Federal law.

(g) TRANSFER AUTHORITY.—

(1) IN GENERAL.—If Amtrak determines that a transfer between the accounts defined under subsection (b) does not meet the account management standards established under subsection (f), Amtrak may transfer funds between the Northeast Corridor and National Network accounts if—

(A) Amtrak notifies the Amtrak Board of Directors, including the Secretary, at least 10 days prior to the expected date of transfer; and

(B) solely for a transfer that will materially change a grant agreement, the Secretary approves.

(2) REPORT.—Not later than 5 days after the Amtrak Board of Directors receives notification from Amtrak under paragraph (1)(A), the Board shall transmit to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, a report that includes—

(A) the amount of the transfer; and

(B) a detailed explanation of the reason for the transfer, including—

(i) the effects on Amtrak services funded by the account from which the transfer is drawn, in comparison to a scenario in which no transfer was made; and

(ii) the effects on Amtrak services funded by the account receiving the transfer, in comparison to a scenario in which no transfer was made.

(3) NOTIFICATIONS.—Not later than 5 days after the date that Amtrak notifies the Amtrak Board of Directors of a transfer under paragraph (1) to or from an account, Amtrak shall transmit to the State-Supported Route Committee and Northeast Corridor Commission a letter that includes the information described under subparagraphs (A) and (B) of paragraph (2).

(h) DEFINITION OF NORTHEAST CORRIDOR.—Notwithstanding section 24102, for purposes of this section, the term "Northeast Corridor" means the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and facilities and services used to operate and maintain that line.

(Added Pub. L. 114–94, div. A, title XI, §11201(a), Dec. 4, 2015, 129 Stat. 1625; amended Pub. L. 117–58, div. B, title II, §22205, Nov. 15, 2021, 135 Stat. 699.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 11101 of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (c)(1)(A), (2)(A), is section 11101 of title XI of div. A of Pub. L. 114–94, Dec. 4, 2015, 129 Stat. 1622, which is not classified to the Code.

Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (42 U.S.C. 24101 note), referred to in subsec. (c)(2)(B), probably means section 209 of div. B of Pub. L. 110–432, which is set out as a note under section 24101 of this title.

AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 117–58, §22205(1), substituted ", including Federal grant funds, and costs among Amtrak service lines" for "and costs among Amtrak business lines".

Subsec. (b). Pub. L. 117–58, §22205(2), amended subsec. (b) generally. Prior to amendment, text read as follows: "Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation, in consultation with Amtrak, shall define an account structure and improvements to accounting methodologies, as necessary, to support, at a minimum, the Northeast Corridor and the National Network."

Subsec. (c). Pub. L. 117–58, §22205(3), inserted ", maintaining, and updating" after "defining" in introductory provisions.

Subsec. (d). Pub. L. 117–58, §22205(4), inserted ", maintaining, and updating" after "defining" in introductory provisions.

Subsec. (e). Pub. L. 117–58, §22205(5), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to implementation of account structures and improvements and reporting of updated profit and loss statements for each of business lines and asset categories to Secretary.

Subsecs. (h), (i). Pub. L. 117–58, §22205(6), (7), redesignated subsec. (i) as (h) and struck out former subsec. (h). Prior to amendment, text of subsec. (h) read as follows: "Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall submit to the Secretary a

report assessing the account and reporting structure established under this section and providing any recommendations for further action. Not later than 180 days after the date of receipt of such report, the Secretary shall provide an assessment that supplements Amtrak's report and submit the Amtrak report with the supplemental assessment to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

[1] *See References in Text note below.*

§24318. Costs and revenues

(a) ALLOCATION.—Amtrak shall establish and maintain internal controls to ensure Amtrak's costs, revenues, and other compensation are appropriately allocated to the Northeast Corridor, including train services or infrastructure, or the National Network, including proportional shares of common and fixed costs.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of Amtrak to enter into an agreement with 1 or more States to allocate operating and capital costs under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(c) DEFINITION OF NORTHEAST CORRIDOR.—Notwithstanding section 24102, for purposes of this section, the term "Northeast Corridor" means the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and facilities and services used to operate and maintain that line.

(Added Pub. L. 114–94, div. A, title XI, §11202(a), Dec. 4, 2015, 129 Stat. 1628; amended Pub. L. 117–58, div. B, title II, §22206(a), Nov. 15, 2021, 135 Stat. 700.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 209 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (b), is section 209 of div. B of Pub. L. 110–432, which is set out as a note under section 24101 of this title.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58 struck out "Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015," before "Amtrak".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§24319. Grant process and reporting

(a) PROCEDURES FOR GRANT REQUESTS.—The Secretary of Transportation shall—

(1) establish and maintain substantive and procedural requirements, including schedules, for grant requests under this section; and

(2) report any changes to such procedures to—
(A) the Committee on Commerce, Science, and Transportation of the Senate;
(B) the Committee on Appropriations of the Senate;
(C) the Committee on Transportation and Infrastructure of the House of Representatives; and
(D) the Committee on Appropriations of the House of Representatives.

(b) GRANT REQUESTS.—Amtrak shall transmit to the Secretary a grant request annually, or as additionally required, for Federal funds appropriated to the Secretary of Transportation for the use of Amtrak.

(c) CONTENTS.—
(1) IN GENERAL.—Each grant request under subsection (b) shall, as applicable—
(A) categorize and identify, by source, the Federal funds and program income that will be used for the upcoming fiscal year for each of the Northeast Corridor and National Network in 1 of the categories or subcategories set forth in paragraph (2);
(B) describe the operations, services, programs, projects, and other activities to be funded within each of the categories set forth in paragraph (2), including—
(i) the estimated scope, schedule, and budget necessary to complete each project and program; and
(ii) the performance measures used to quantify expected and actual project outcomes and benefits, aggregated by fiscal year, project milestone, and any other appropriate grouping; and

(C) describe the status of efforts to improve Amtrak's safety culture.

(2) GRANT CATEGORIES.—
(A) OPERATING EXPENSES.—Each grant request to use Federal funds for operating expenses shall—
(i) include estimated net operating costs not covered by other Amtrak revenue sources;
(ii) specify Federal funding requested for each service line described in section 24320(b)(1); and
(iii) be itemized by route.

(B) DEBT SERVICE.—A grant request to use Federal funds for expenses related to debt, including payment of principle and interest, as allowed under section 205 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 49 U.S.C. 24101 note).
(C) CAPITAL.—A grant request to use Federal funds and program income for capital expenses shall include capital projects and programs primarily associated with—
(i) normalized capital replacement programs, including regularly recurring work programs implemented on a systematic basis on classes of physical railroad assets, such as track, structures, electric traction and power systems, rolling stock, and communications and signal systems, to maintain and sustain the condition and performance of such assets to support continued railroad operations;
(ii) improvement projects to support service and safety enhancements, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that result in enhanced or new infrastructure, equipment, or facilities;
(iii) backlog capital replacement projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that primarily replace or rehabilitate major infrastructure assets, including tunnels, bridges, stations, and similar assets, to reduce the state of good repair backlog on the Amtrak network;
(iv) strategic initiative projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that primarily improve overall operational performance, lower costs, or otherwise improve Amtrak's corporate efficiency; and
(v) statutory, regulatory, or other legally mandated projects, including discrete projects

implemented in accordance with a fixed scope, schedule, and budget that enable Amtrak to fulfill specific legal or regulatory mandates.

(D) CONTINGENCY.—A grant request to use Federal funds for operating and capital expense contingency shall include—

(i) contingency levels for specified activities and operations; and

(ii) a process for the utilization of such contingency.

(3) MODIFICATION OF CATEGORIES.—The Secretary of Transportation and Amtrak may jointly agree to modify the categories set forth in paragraph (2) if such modifications are necessary to improve the transparency, oversight, or delivery of projects funded through grant requests under this section.

(d) REVIEW AND APPROVAL.—

(1) THIRTY-DAY APPROVAL PROCESS.—

(A) IN GENERAL.—Not later than 30 days after the date that Amtrak submits a complete grant request under this section, the Secretary of Transportation shall finish a review of the request and provide notice to Amtrak that—

(i) the request is approved; or

(ii) the request is disapproved, including the reason for the disapproval and an explanation of any deficient items.

(B) GRANT AGREEMENT.—If a grant request is approved, the Secretary shall enter into a grant agreement with Amtrak.

(2) FIFTEEN-DAY MODIFICATION PERIOD.—Not later than 15 days after the date of a notice under paragraph (1)(A)(ii), Amtrak shall submit a modified request for the Secretary's review.

(3) MODIFIED REQUESTS.—Not later than 15 days after the date that Amtrak submits a modified request under paragraph (2), the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

(e) PAYMENTS TO AMTRAK.—

(1) IN GENERAL.—A grant agreement entered into under subsection (d) shall specify the operations, services, programs, projects, and other activities to be funded by the grant, consistent with the categories required for Amtrak in a grant request under subsection (c)(1)(A). The grant agreement shall include provisions, consistent with the requirements of this chapter, to measure Amtrak's performance and ensure accountability in delivering the operations, services, programs, projects, and other activities to be funded by the grant.

(2) SCHEDULE.—Except as provided in paragraph (3), in each fiscal year for which amounts are appropriated to the Secretary for the use of Amtrak, and for which the Secretary and Amtrak have entered into a grant agreement under subsection (d), the Secretary shall disburse grant funds to Amtrak on the following schedule:

(A) 50 percent on October 1.

(B) 25 percent on January 1.

(C) 25 percent on April 1.

(3) EXCEPTIONS.—The Secretary may make a payment to Amtrak of appropriated funds—

(A) using an otherwise allowable approach to the method prescribed for a specific project or

category of projects under paragraph (2) if the Secretary and Amtrak agree that a different payment method is necessary to more successfully implement and report on an operation, service, program, project, or other activity;

(B) more frequently than the schedule under paragraph (2) if Amtrak, for good cause, requests more frequent payment before the end of a payment period; or

(C) with a different frequency or in different percentage allocations in the event of a continuing resolution or in the absence of an appropriations Act for the duration of a fiscal year.

(f) AVAILABILITY OF AMOUNTS AND EARLY APPROPRIATIONS.—Amounts appropriated to the Secretary for the use of Amtrak shall remain available until expended. Amounts for capital acquisitions and improvements may be appropriated for a fiscal year before the fiscal year in which the amounts will be obligated.

(g) LIMITATIONS ON USE.—Amounts appropriated to the Secretary for the use of Amtrak may not be used to cross-subsidize operating losses or capital costs of commuter rail passenger or freight rail transportation.

(h) APPLICABLE LAWS AND REGULATIONS.—

(1) SINGLE AUDIT ACT OF 1984.—Notwithstanding section 24301(a)(3) of this title and section 7501(a)(13) of title 31, Amtrak shall be deemed a "non-Federal entity" for purposes of chapter 75 of title 31.

(2) REGULATIONS AND GUIDANCE.—The Secretary of Transportation may apply some or all of the requirements set forth in the regulations and guidance promulgated by the Secretary relating to the management, administration, cost principles, and audit requirements for Federal awards.

(i) AMTRAK GRANT REPORTING.—The Secretary of Transportation shall determine the varying levels of detail and information that will be included in reports for operations, services, program, projects, program income, cash on hand, and other activities within each of the grant categories described in subsection (c)(2).

(j) DEFINITION OF NORTHEAST CORRIDOR.—Notwithstanding section 24102, for purposes of this section, the term "Northeast Corridor" means the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and facilities and services used to operate and maintain that line.

(Added Pub. L. 114–94, div. A, title XI, §11202(a), Dec. 4, 2015, 129 Stat. 1628; amended Pub. L. 115–420, §4(b)(1), Jan. 3, 2019, 132 Stat. 5444; Pub. L. 117–58, div. B, title II, §22206(b), Nov. 15, 2021, 135 Stat. 700.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 205 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (c)(2)(B), is section 205 of div. B of Pub. L. 110–432, which is set out as a note under section 24101 of this title.

Single Audit Act of 1984, referred to in subsec. (h)(1), is Pub. L. 98–502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§7501 et seq.) of Title 31, Money and Finance, and provisions set out as notes under section 7501 of Title 31. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of Title 31 and Tables.

AMENDMENTS

2021—Pub. L. 117–58, §22206(b)(1), inserted "and reporting" after "process" in section catchline.

Subsec. (a). Pub. L. 117–58, §22206(b)(2), amended subsec. (a) generally. Prior to amendment, text read as follows: "Not later than 90 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish and transmit to the Committee on Commerce, Science,

and Transportation and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives substantive and procedural requirements, including schedules, for grant requests under this section."

Subsec. (b). Pub. L. 117–58, §22206(b)(3), substituted "a grant request annually, or as additionally required," for "grant requests".

Subsec. (c). Pub. L. 117–58, §22206(b)(4), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to contents of grant request.

Subsec. (d)(1)(A). Pub. L. 117–58, §22206(b)(5)(A), (B), inserted "complete" after "submits a" and substituted "shall finish" for "shall complete" in introductory provisions.

Subsec. (d)(1)(A)(ii). Pub. L. 117–58, §22206(b)(5)(C), struck out "incomplete or" before "deficient items".

Subsec. (e)(1). Pub. L. 117–58, §22206(b)(6)(A), substituted "programs, projects, and other activities to be funded by the grant, consistent with the categories required for Amtrak in a grant request under subsection (c)(1)(A)" for "and other activities to be funded by the grant" and "programs, projects, and other activities" for "or activities".

Subsec. (e)(3)(A) to (C). Pub. L. 117–58, §22206(b)(6)(B), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsecs. (h) to (j). Pub. L. 117–58, §22206(b)(7), (8), added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

2019—Subsec. (c)(4). Pub. L. 115–420 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CONSTRUCTION OF 2019 AMENDMENT

Pub. L. 115–420, §4(b)(2), Jan. 3, 2019, 132 Stat. 5444, provided that: "Nothing in this subsection [amending this section] or an amendment made by this subsection shall affect a grant request made under section 24319 of title 49, United States Code, before the date of enactment of this Act [Jan. 3, 2019]."

§24320. Amtrak 5-year service line and asset line plans

(a) IN GENERAL.—

(1) FINAL PLANS.—Not later than February 15, 2020, and biennially thereafter, Amtrak shall submit to Congress and the Secretary of Transportation final 5-year service line plans and 5-year asset line plans prepared in accordance with this section. These final plans shall form the basis for Amtrak's general and legislative annual report to the President and Congress required by section 24315(b). Each plan shall cover a period of 5 fiscal years, beginning with the first fiscal year after the date on which the plan is completed. During each year in which Amtrak is not required to submit a plan under this paragraph, Amtrak shall submit to Congress updated financial sources and uses statements and forecasts with the annual report required under section 24315(b).

(2) FISCAL CONSTRAINT.—Each plan prepared under this section shall be based on funding levels authorized or otherwise available to Amtrak in a fiscal year. In the absence of an authorization or appropriation of funds for a fiscal year, the plans shall be based on the amount of funding available in the previous fiscal year, plus inflation. Amtrak may include an appendix to the asset line plan required under subsection (c) that describes any funding needs in excess of amounts authorized or otherwise available to Amtrak in a fiscal year.

(b) AMTRAK 5-YEAR SERVICE LINE PLANS.—

(1) AMTRAK SERVICE LINES.—Amtrak shall prepare a 5-year service line plan for each of the following service lines and services:

(A) Northeast Corridor train services.

(B) Amtrak State-supported train services.

(C) Long-distance train services operated by Amtrak.

(D) Ancillary services operated by Amtrak, including commuter operations and other revenue generating activities as determined by the Secretary in coordination with Amtrak.

(E) Infrastructure access services for use of Amtrak-owned or Amtrak-controlled infrastructure and facilities.

(2) CONTENTS OF 5-YEAR SERVICE LINE PLANS.—The 5-year service line plan for each service line shall include, at a minimum—

(A) a statement of Amtrak's objectives, goals, and service plan for the service line, in consultation with any entities that are contributing capital or operating funding to support passenger rail services within those service lines, and aligned with Amtrak's 5-year asset line plans under subsection (c);

(B) a detailed description of any plans to permanently change a route's or service's frequency or station stops for the service line;

(C) all projected revenues and expenditures for the service line, including identification of revenues and expenditures incurred by—

(i) passenger operations;

(ii) non-passenger operations that are directly related to the service line; and

(iii) governmental funding sources, including revenues and other funding received from States;

(D) projected ridership levels for all passenger operations;

(E) estimates of long-term and short-term debt and associated principal and interest payments (both current and forecasts);

(F) annual sources and uses statements and forecasts and balance sheets;

(G) a statement describing the methodologies and significant assumptions underlying estimates and forecasts;

(H) specific performance measures that demonstrate year over year changes in the results of Amtrak's operations;

(I) financial performance for each route, if deemed applicable by the Secretary, within each service line, including descriptions of the cash operating loss or contribution;

(J) specific costs and savings estimates resulting from reform initiatives;

(K) prior fiscal year and projected equipment reliability statistics; and

(L) an identification and explanation of any major adjustments made from previously-approved plans.

(3) 5-YEAR SERVICE LINE PLANS PROCESS.—In meeting the requirements of this section, Amtrak shall—

(A) not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, submit to the Secretary, for approval, a consultation process for the development of each service line plan that requires Amtrak to—

(i) consult with the Secretary in the development of the service line plans;

(ii) for the Northeast Corridor service line plan, consult with the Northeast Corridor Commission and transmit to the Commission the final plan under subsection (a)(1), and consult with other entities, as appropriate;

(iii) for the State-supported route service line plan, consult with the State-Supported Route Committee established under section 24712 and submit the final service line plan required under subsection (a)(1) to the State-Supported Route Committee;

(iv) for the long-distance route service line plan, consult with any States or Interstate Compacts that provide funding for such routes, as appropriate; and

(v) for the infrastructure access service line plan, consult with the Northeast Corridor Commission and other entities, as appropriate, and submit the final asset line plan under subsection (a)(1) to the Northeast Corridor Commission;

(B) ensure that Amtrak's general and legislative annual report, required under section 24315(b), to the President and Congress is consistent with the information in the 5-year service line plans; and

(C) identify the appropriate Amtrak officials that are responsible for each service line.

(4) 5-YEAR SERVICE LINE PLANS UPDATES.—Amtrak may modify the content to be included in the service line plans described in paragraph (1), upon the approval of the Secretary, if the Secretary determines that such modifications are necessary to improve the transparency, oversight, and delivery of Amtrak services and the use of Federal funds by Amtrak.

(5) DEFINITION OF NORTHEAST CORRIDOR.—Notwithstanding section 24102, for purposes of this section, the term "Northeast Corridor" means the Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and facilities and services used to operate and maintain that line.

(c) AMTRAK 5-YEAR ASSET LINE PLANS.—

(1) ASSET LINES.—Amtrak shall prepare a 5-year asset line plan for each of the following asset lines:

(A) Transportation, including activities and resources associated with the operation and movement of Amtrak trains, onboard services, and amenities.

(B) Infrastructure, including all Amtrak-controlled Northeast Corridor assets and other Amtrak-owned infrastructure, and the associated facilities and maintenance-of-way equipment that support the operation, maintenance, and improvement of those assets.

(C) Equipment, including all Amtrak-controlled rolling stock, locomotives, and mechanical shop facilities that are used to overhaul equipment.

(D) Stations, including all Amtrak-controlled passenger rail stations and elements of other stations for which Amtrak has legal responsibility or intends to make capital investments.

(E) National assets, including national reservations, security, training and training centers, and other assets associated with Amtrak's national rail passenger transportation system.

(2) CONTENTS OF 5-YEAR ASSET LINE PLANS.—Each asset line plan shall include, at a minimum—

(A) a summary of Amtrak's 5-year strategic plan for each asset line, including goals, objectives, any relevant performance metrics, and statutory or regulatory actions affecting the assets;

(B) an inventory of existing Amtrak capital assets, to the extent practicable, including information regarding shared use or ownership, if applicable;

(C) a prioritized list of proposed capital investments that—

(i) categorizes each capital project as being primarily associated with—

(I) normalized capital replacement;

(II) backlog capital replacement;

(III) improvements to support service enhancements or growth;

(IV) strategic initiatives that will improve overall operational performance, lower costs, or otherwise improve Amtrak's corporate efficiency; or

(V) statutory, regulatory, or other legal mandates;

(ii) identifies each project or program that is associated with more than 1 category described in clause (i); and

(iii) describes the anticipated business outcome of each project or program identified under this subparagraph, including an assessment of—

(I) the potential effect on passenger operations, safety, reliability, and resilience;

(II) the potential effect on Amtrak's ability to meet regulatory requirements if the project or program is not funded; and

(III) the benefits and costs;

(D) annual sources and uses statements and forecasts for each asset line; and
(E) other elements that Amtrak elects to include.

(3) 5-YEAR ASSET LINE PLAN PROCESS.—In meeting the requirements of this subsection, Amtrak shall—

(A) not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, submit to the Secretary, for approval, a consultation process for the development of each asset line plan that requires Amtrak to—

(i) consult with each service line described in subsection (b)(1) in the preparation of each 5-year asset line plan and ensure integration of each 5-year asset line plan with the 5-year service line plans; and

(ii) consult with the Secretary of Transportation in the development of asset line plans and, as applicable, consult with the Northeast Corridor Commission, the State-Supported Route Committee, and owners of assets affected by 5-year asset line plans; and

(B) identify the appropriate Amtrak officials that are responsible for each asset line.

(4) 5-YEAR ASSET LINE PLAN UPDATES.—Amtrak may modify the content to be included in the asset line plans described in paragraph (1), on approval of the Secretary, if the Secretary determines that such modifications are necessary to improve the transparency, oversight, and delivery of Amtrak services and the use of Federal funds by Amtrak.

(5) EVALUATION OF NATIONAL ASSETS COSTS.—The Secretary shall—

(A) evaluate the costs and scope of all national assets, but shall not include corporate services (as defined pursuant to section 24317(b)); and

(B) determine the activities and costs that are—

(i) required in order to ensure the efficient operations of a national rail passenger system;

(ii) appropriate for allocation to 1 of the other Amtrak business lines; and

(iii) extraneous to providing an efficient national rail passenger system or are too costly relative to the benefits or performance outcomes they provide.

(6) DEFINITION OF NATIONAL ASSETS.—In this section, the term "national assets" means the Nation's core rail assets shared among Amtrak services, including national reservations, security, training and training centers, and other assets associated with Amtrak's national rail passenger transportation system.

(7) RESTRUCTURING OF NATIONAL ASSETS.—Not later than 1 year after the date of completion of the evaluation under paragraph (5), the Administrator of the Federal Railroad Administration, in consultation with the Amtrak Board of Directors, the governors of each relevant State, and the Mayor of the District of Columbia, or their designees, shall restructure or reallocate, or both, the national assets costs in accordance with the determination under that section, including making appropriate updates to Amtrak's cost accounting methodology and system.

(8) EXEMPTION.—

(A) IN GENERAL.—Upon written request from the Amtrak Board of Directors, the Secretary may exempt Amtrak from including in a plan required under this subsection any information described in paragraphs (1) and (2).

(B) PUBLIC AVAILABILITY.—The Secretary shall make available to the public on the Department's Internet Web site any exemption granted under subparagraph (A) and a detailed justification for granting such exemption.

(C) INCLUSION IN PLAN.—Amtrak shall include in the plan required under this subsection any request granted under subparagraph (A) and justification under subparagraph (B).

(d) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In preparing plans under this

section, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 203 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(Added Pub. L. 114–94, div. A, title XI, §11203(a), Dec. 4, 2015, 129 Stat. 1630; amended Pub. L. 117–58, div. B, title II, §§22204(b), 22207(a), Nov. 15, 2021, 135 Stat. 699, 703.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsecs. (b)(3)(A) and (c)(3)(A), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Pub. L. 117–58, §22207(a)(1), substituted "service line and asset line plans" for "business line and asset plans" in section catchline.

Subsec. (a)(1). Pub. L. 117–58, §22207(a)(2)(A), substituted ", 2020, and biennially thereafter" for "of each year" and "5-year service line plans and 5-year asset line plans" for "5-year business line plans and 5-year asset plans" and inserted at end "During each year in which Amtrak is not required to submit a plan under this paragraph, Amtrak shall submit to Congress updated financial sources and uses statements and forecasts with the annual report required under section 24315(b)."

Subsec. (a)(2). Pub. L. 117–58, §22207(a)(2)(B), substituted "asset line plan required under" for "asset plan required in".

Subsec. (b). Pub. L. 117–58, §22207(a)(3)(A), substituted "Service" for "Business" in heading.

Subsec. (b)(1). Pub. L. 117–58, §22207(a)(3)(B)(i), (ii), substituted "service" for "business" in heading and "service" for "business" in two places in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 117–58, §22207(a)(3)(B)(iii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "State-supported routes operated by Amtrak."

Subsec. (b)(1)(C). Pub. L. 117–58, §22207(a)(3)(B)(iv), substituted "train services" for "routes".

Subsec. (b)(1)(E). Pub. L. 117–58, §22207(a)(3)(B)(v), added subpar. (E).

Subsec. (b)(2). Pub. L. 117–58, §22207(a)(3)(C)(i), (ii), substituted "service" for "business" in heading and "service" for "business" wherever appearing in text.

Subsec. (b)(2)(A). Pub. L. 117–58, §22207(a)(3)(C)(iii), substituted "5-year asset line plans" for "Strategic Plan and 5-year asset plans".

Subsec. (b)(2)(B) to (E). Pub. L. 117–58, §22204(b), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively. Former subpar. (E) redesignated (F).

Subsec. (b)(2)(F). Pub. L. 117–58, §22207(a)(3)(C)(iv), substituted "sources and uses" for "profit and loss".

Pub. L. 117–58, §22204(b)(1), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Subsec. (b)(2)(G). Pub. L. 117–58, §22207(a)(3)(C)(vi), redesignated subpar. (H) as (G).

Pub. L. 117–58, §22207(a)(3)(C)(v), struck out subpar. (G). Prior to amendment, subpar. (G) read as follows: "annual cash flow forecasts;".

Pub. L. 117–58, §22204(b)(1), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Subsec. (b)(2)(H). Pub. L. 117–58, §22207(a)(3)(C)(vi), redesignated subpar. (I) as (H). Former subpar. (H) redesignated (G).

Pub. L. 117–58, §22204(b)(1), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).

Subsec. (b)(2)(I). Pub. L. 117–58, §22207(a)(3)(C)(vii), amended subpar. (I) generally. Prior to amendment, subpar. (I) read as follows: "financial performance for each route within each business line, including descriptions of the cash operating loss or contribution and productivity for each route;".

Pub. L. 117–58, §22207(a)(3)(C)(vi), redesignated subpar. (J) as (I). Former subpar. (I) redesignated (H).

Pub. L. 117–58, §22204(b)(1), redesignated subpar. (H) as (I). Former subpar. (I) redesignated (J).

Subsec. (b)(2)(J) to (L). Pub. L. 117–58, §22207(a)(3)(C)(vi), redesignated subpars. (K) to (M) as (J) to (L), respectively. Former subpar. (J) redesignated (I).

Pub. L. 117–58, §22204(b)(1), redesignated subpars. (I) to (K) as (J) to (L), respectively. Former subpar. (L) redesignated (M).

Subsec. (b)(2)(M). Pub. L. 117–58, §22204(b)(1), redesignated subpar. (L) as (M).

Subsec. (b)(3). Pub. L. 117–58, §22207(a)(3)(D)(i), (ii), substituted "service" for "business" in heading and "service" for "business" wherever appearing in text.

Subsec. (b)(3)(A). Pub. L. 117–58, §22207(a)(3)(D)(iii), (iv), inserted subpar. (A) designation and introductory provisions, redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, of subpar. (A), and realigned margins.

Subsec. (b)(3)(A)(iii). Pub. L. 117–58, §22207(a)(3)(D)(v)(I), inserted "and submit the final service line plan required under subsection (a)(1) to the State-Supported Route Committee" before semicolon at end.

Subsec. (b)(3)(A)(v). Pub. L. 117–58, §22207(a)(3)(D)(v)(II), (III), added cl. (v).

Subsec. (b)(3)(B), (C). Pub. L. 117–58, §22207(a)(3)(D)(vi), redesignated subpars. (E) and (F) as (B) and (C), respectively.

Subsec. (b)(4), (5). Pub. L. 117–58, §22207(a)(3)(E), (F), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 117–58, §22207(a)(4)(A), inserted "Line" after "Asset" in heading.

Subsec. (c)(1). Pub. L. 117–58, §22207(a)(4)(B)(i), (ii), substituted "lines" for "categories" in heading and "asset line plan for each of the following asset lines" for "asset plan for each of the following asset categories" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 117–58, §22207(a)(4)(B)(iv), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (c)(1)(B). Pub. L. 117–58, §22207(a)(4)(B)(iii), (v), redesignated subpar. (A) as (B) and inserted "and maintenance-of-way equipment" after "facilities". Former subpar. (B) redesignated (C).

Subsec. (c)(1)(C). Pub. L. 117–58, §22207(a)(4)(B)(iii), (vi), redesignated subpar. (B) as (C) and substituted "Equipment" for "Passenger rail equipment". Former subpar. (C) redesignated (D).

Subsec. (c)(1)(D), (E). Pub. L. 117–58, §22207(a)(4)(B)(iii), redesignated subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (c)(2). Pub. L. 117–58, §22207(a)(4)(C)(i), (ii), inserted "line" after "asset" in heading and introductory provisions.

Subsec. (c)(2)(A). Pub. L. 117–58, §22207(a)(4)(C)(iii), substituted "line" for "category".

Subsec. (c)(2)(D). Pub. L. 117–58, §22207(a)(4)(C)(v), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "annual profit and loss statements and forecasts and balance sheets for each asset category."

Subsec. (c)(2)(E). Pub. L. 117–58, §22207(a)(4)(C)(iv), (vi), added subpar. (E).

Subsec. (c)(3). Pub. L. 117–58, §22207(a)(4)(D)(i), inserted "line" after "asset" in heading.

Subsec. (c)(3)(A). Pub. L. 117–58, §22207(a)(4)(D)(ii), (iii), inserted subpar. (A) designation and introductory provisions, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and realigned margins.

Subsec. (c)(3)(A)(i). Pub. L. 117–58, §22207(a)(4)(D)(iv)(I), substituted "service" for "business" in two places and inserted "line" after "asset" in two places and "and" at end.

Subsec. (c)(3)(A)(ii). Pub. L. 117–58, §22207(a)(4)(D)(iv)(II), inserted "consult with the Secretary of Transportation in the development of asset line plans and," before "as applicable" and "line" after "5-year asset".

Subsec. (c)(3)(B). Pub. L. 117–58, §22207(a)(4)(D)(v), (vi), redesignated subpar. (C) as (B) and substituted "line" for "category".

Subsec. (c)(4), (5). Pub. L. 117–58, §22207(a)(4)(F), (G), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (c)(5)(A). Pub. L. 117–58, §22207(a)(4)(G), inserted ", but shall not include corporate services (as defined pursuant to section 24317(b))" after "national assets".

Subsec. (c)(6). Pub. L. 117–58, §22207(a)(4)(E), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (c)(7). Pub. L. 117–58, §22207(a)(4)(E), (H), redesignated par. (6) as (7) and substituted "paragraph (5)" for "paragraph (4)". Former par. (7) redesignated (8).

Subsec. (c)(8). Pub. L. 117–58, §22207(a)(4)(E), redesignated par. (7) as (8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title XI, §11203(b), Dec. 4, 2015, 129 Stat. 1634, as amended by Pub. L. 117–58, div. B, title II, §22207(c), Nov. 15, 2021, 135 Stat. 706, provided that: "The requirement for Amtrak to submit 5-year service line plans under section 24320(a)(1) of title 49, United States Code, shall take effect on February 15, 2017, the due date of the first service line plans. The requirement for Amtrak to submit 5-year asset line plans under section 24320(a)(1) of such title shall take effect on February 15, 2019, the due date of the first asset line plans."

ELIMINATION OF DUPLICATIVE REPORTING

Pub. L. 114–94, div. A, title XI, §11215, Dec. 4, 2015, 129 Stat. 1644, provided that: "Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall—

"(1) review existing Amtrak reporting requirements and identify where the existing requirements are duplicative with the business line and asset plans required by section 24320 of title 49, United States Code, or any other planning or reporting requirements under Federal law or regulation;

"(2) if the duplicative requirements identified under paragraph (1) are administrative, eliminate such requirements; and

"(3) submit to Congress a report with any recommendations for repealing any other duplicative requirements."

§24321. Food and beverage service

(a) WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 180 days after enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall establish a working group to provide recommendations to improve Amtrak's onboard food and beverage service.

(2) MEMBERSHIP.—The working group shall consist of individuals representing—

(A) Amtrak;

(B) the labor organizations representing Amtrak employees who prepare or provide on-board food and beverage service;

(C) nonprofit organizations representing Amtrak passengers; and

(D) States that are providing funding for State-supported routes.

(b) REPORT.—Not later than 1 year after the establishment of the working group pursuant to subsection (a), the working group shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing recommendations for improving Amtrak's food and beverage service, including—

(1) ways to improve the financial performance of Amtrak;

(2) ways to increase and retain ridership;

(3) the differing needs of passengers traveling on long-distance routes, State supported routes, and the Northeast Corridor;

(4) Amtrak passenger survey data about the food and beverages offered on Amtrak trains;

(5) ways to incorporate local food and beverage items on State-supported routes; and

(6) any other issue that the working group determines to be appropriate.

(c) IMPLEMENTATION.—Not later than 180 days after the submission of the report pursuant to subsection (b), Amtrak shall submit a plan for implementing the recommendations of the working group, and an explanation for any of the working group's recommendations it does not agree with and does not plan on implementing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) SAVINGS CLAUSE.—Amtrak shall ensure that no Amtrak employee who held a position on a long-distance or Northeast Corridor route as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, is involuntarily separated because of the development and implementation of the plan required under this section.

(Added Pub. L. 114–94, div. A, title XI, §11207(a), Dec. 4, 2015, 129 Stat. 1638; amended Pub. L.

116–159, div. B, title I, §1104(a), Oct. 1, 2020, 134 Stat. 727; Pub. L. 117–58, div. B, title II, §22208(b)(1), Nov. 15, 2021, 135 Stat. 706.)

EDITORIAL NOTES

REFERENCES IN TEXT

Enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred in subsec. (a)(1), probably means the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, which is the date of enactment of title II of div. B of Pub. L. 117–58 and was approved Nov. 15, 2021.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (d), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Pub. L. 117–58 amended section generally. Prior to amendment, section related to Amtrak's development and implementation of plan to eliminate operating loss associated with providing food and beverage service on board Amtrak trains.

2020—Subsecs. (d), (e). Pub. L. 116–159 redesignated subsec. (e) as (d) and struck out former subsec. (d). Text read as follows: "Beginning on the date that is 5 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, no Federal funds may be used to cover any operating loss associated with providing food and beverage service on a route operated by Amtrak or a rail carrier that operates a route in lieu of Amtrak pursuant to section 24711."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§24322. Rolling stock purchases

(a) IN GENERAL.—Prior to entering into any contract in excess of $100,000,000 for rolling stock and locomotive procurements Amtrak shall submit a business case analysis to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, on the utility of such procurements.

(b) CONTENTS.—The business case analysis shall—

(1) include a cost and benefit comparison that describes the total lifecycle costs and the anticipated benefits related to revenue, operational efficiency, reliability, and other factors;

(2) set forth the total payments by fiscal year;

(3) identify the specific source and amounts of funding for each payment, including Federal funds, State funds, Amtrak profits, Federal, State, or private loans or loan guarantees, and other funding;

(4) include an explanation of whether any payment under the contract will increase Amtrak's funding request in its general and legislative annual report required under section 24315(b) in a particular fiscal year; and

(5) describe how Amtrak will adjust the procurement if future funding is not available.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring Amtrak to disclose confidential information regarding a potential vendor's proposed pricing or other sensitive business information prior to contract execution or prohibiting Amtrak from entering into a contract after submission of a business case analysis under subsection (a).

(Added Pub. L. 114–94, div. A, title XI, §11208(a), Dec. 4, 2015, 129 Stat. 1639.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§24323. Prohibition on smoking on Amtrak trains

(a) PROHIBITION.—Beginning on the date of enactment of this section, Amtrak shall prohibit smoking, including the use of electronic cigarettes, onboard all Amtrak trains.

(b) ELECTRONIC CIGARETTE DEFINED.—In this section, the term "electronic cigarette" means a device that delivers nicotine or other substances to a user of the device in the form of a vapor that is inhaled to simulate the experience of smoking.

(Added Pub. L. 117–58, div. B, title II, §22209(a), Nov. 15, 2021, 135 Stat. 707.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

[CHAPTER 244—TRANSFERRED]

EDITORIAL NOTES

CODIFICATION

Former chapter 244 of this title was renumbered chapter 229 of this title and transferred to appear at the end of part B of subtitle V of this title. Sections 24401 to 24408 of this title were renumbered sections 22901 to 22908, respectively.

[§§24401 to 24408. Renumbered §§22901 to 22908]

[CHAPTER 245—REPEALED]

[§§24501 to 24506. Repealed. Pub. L. 105–134, title I, §106(a), Dec. 2, 1997, 111 Stat. 2573]

Section 24501, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 919; Pub. L. 103–429, §6(21), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–88, title III, §308(h), Dec. 29, 1995, 109 Stat. 947, related to status of Amtrak Commuter and applicable laws.

Section 24502, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 920, related to board of directors of Amtrak Commuter.

Section 24503, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 921, related to appointment and service of officers of Amtrak Commuter.

Section 24504, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 921, related to general authority of Amtrak Commuter.

Section 24505, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 921, related to Amtrak's rights and responsibilities as relating to commuter rail passenger transportation.

Section 24506, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 922, provided that certain powers and duties of Consolidated Rail Corporation were not affected by this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRACKAGE RIGHTS NOT AFFECTED

Pub. L. 105–134, title I, §106(c), Dec. 2, 1997, 111 Stat. 2573, provided that: "The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities."

CHAPTER 247—AMTRAK ROUTE SYSTEM

Sec.

24701. National rail passenger transportation system.
24702. Transportation requested by States, authorities, and other persons [1]
[24703 to 24705. Repealed.]
24706. Discontinuance.
[24707, 24708. Repealed.]
24709. International transportation.
24710. Long distance routes.[2]
24711. Competitive passenger rail service pilot program.
24712. State-supported routes operated by Amtrak.

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94, div. A, title XI, §11307(b), Dec. 4, 2015, 129 Stat. 1664, which directed the general amendment of the analysis for section 24711 of title 49, was executed to the analysis for this chapter, to reflect the probable intent of Congress. Prior to amendment, item 24711 read as follows: "Alternate passenger rail service pilot program".

Pub. L. 114–94, div. A, title XI, §11204(b)(1), Dec. 4, 2015, 129 Stat. 1637, added item 24712.

2008—Pub. L. 110–432, div. B, title II, §§201(b)(2), 210(b), 214(c), Oct. 16, 2008, 122 Stat. 4910, 4920, 4929, added items 24702, 24710, and 24711.

1997—Pub. L. 105–134, title I, §§101(a)(2), (b), (d), (e), 103–105(a), Dec. 2, 1997, 111 Stat. 2572, 2573, substituted "National rail passenger transportation system" for "Operation of basic system" in item 24701 and struck out item 24702 "Improving rail passenger transportation", item 24703 "Route and service criteria", item 24704 "Transportation requested by States, authorities, and other persons", item 24705 "Additional qualifying routes", item 24707 "Cost and performance review", and item 24708 "Special commuter transportation".

[1] So in original. Probably should be followed by a period.

[2] So in original. Does not conform to section catchline.

§24701. National rail passenger transportation system

Amtrak shall operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 923; Pub. L. 105–134, title I, §101(a)(1), Dec. 2, 1997, 111 Stat. 2572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

24701(a)	45:561(b).	Oct. 30, 1970, Pub. L. 91–518, §401(b), 84 Stat. 1335.
24701(b)	45:561(c).	Oct. 30, 1970, Pub. L. 91–518, §401(c), 84 Stat. 1335; Nov. 3, 1973, Pub. L. 93–146, §9, 87 Stat. 551.

In subsection (a), before clause (1), the text of 45:561(b) (1st sentence words after 3d comma) is omitted as obsolete because no regional transportation authority provided intercity rail passenger transportation after May 1, 1971. The words "On May 1, 1971" and "begin" are omitted as executed. The words "between points" and "either" are omitted as surplus. In clause (2), the words "under contract with Amtrak" are substituted for 45:561(b) (last sentence) for clarity and to eliminate unnecessary words. The words "at any time subsequent to May 1, 1971" are omitted as executed.

In subsection (b), the words "concerning auto-ferry service . . . railroad or any other" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–134 substituted section catchline for former catchline which read "Operation of basic system" and amended text generally. Prior to amendment, text read as follows:

"(a) BY AMTRAK.—Amtrak shall provide intercity rail passenger transportation within the basic system unless the transportation is provided by—

"(1) a rail carrier with which Amtrak did not make a contract under section 401(a) of the Rail Passenger Service Act; or

"(2) a regional transportation authority under contract with Amtrak.

"(b) BY OTHERS WITH CONSENT OF AMTRAK.—Except as provided in section 24306 of this title, a person may provide intercity rail passenger transportation over a route over which Amtrak provides scheduled intercity rail passenger transportation under a contract under section 401(a) of the Act only with the consent of Amtrak."

§24702. Transportation requested by States, authorities, and other persons

(a) CONTRACTS FOR TRANSPORTATION.—Amtrak may enter into a contract with a State, a regional or local authority, or another person for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.

(Added Pub. L. 110–432, div. B, title II, §201(b)(1), Oct. 16, 2008, 122 Stat. 4910.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 24702, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 923; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to carrying out plan to improve intercity rail passenger service prior to repeal by Pub. L. 105–134, title I, §101(b), Dec. 2, 1997, 111 Stat. 2572.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ACCESS TO AMTRAK EQUIPMENT AND SERVICES

Pub. L. 110–432, div. B, title II, §217, Oct. 16, 2008, 122 Stat. 4930, as amended by Pub. L. 114–94, div. A, title XI, §11006(b)(1), Dec. 4, 2015, 129 Stat. 1624, provided that: "If a State desires to select or selects an entity other than Amtrak to provide services required for the operation of an intercity passenger train route described in section 24102(7)(D) or 24702 of title 49, United States Code, the State may make an agreement

with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the State to utilize an entity other than Amtrak to provide services required for operation of the route. If the parties cannot agree upon terms, and the Surface Transportation Board finds that access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary to carry out this provision and that the operation of Amtrak's other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facilities and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability, and other terms for use of the facilities and equipment and provision of the services. Compensation shall be determined, as appropriate, in accordance with the methodology established pursuant to section 209 of this division [49 U.S.C. 24101 note], if available."

[§§24703 to 24705. Repealed. Pub. L. 105–134, title I, §§103–105(a), Dec. 2, 1997, 111 Stat. 2572, 2573]

Section 24703, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 924, provided route and service criteria for modifying or discontinuing routes.

Section 24704, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 925, related to application by States, regional or local authorities, or other persons requesting Amtrak to provide passenger rail service and criteria for decision.

Section 24705, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 926; Pub. L. 104–88, title III, §308(i), Dec. 29, 1995, 109 Stat. 947, related to providing service on routes recommended to be discontinued, criteria for deferring Secretary's recommendation, and providing short haul demonstration routes.

§24706. Discontinuance

(a) NOTICE OF DISCONTINUANCE.—(1) Except as provided in subsection (c), not later than 180 days before discontinuing service over a route, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share or assume the cost of any part of the train, route, or service to be discontinued.

(2) Notice of the discontinuance under paragraph (1) shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b) DISCONTINUANCE OR SUBSTANTIAL ALTERATION OF LONG-DISTANCE ROUTES .—Except as provided in subsection (c), in an emergency, or during maintenance or construction outages impacting Amtrak routes, Amtrak may not discontinue, reduce the frequency of, suspend, or substantially alter the route of rail service on any segment of any long-distance route in any fiscal year in which Amtrak receives adequate Federal funding for such route on the National Network.

(c) DISCONTINUANCE FOR LACK OF APPROPRIATIONS.—(1) Amtrak may discontinue service under subsection (a)(1) during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the service.

(d) CONGRESSIONAL NOTIFICATION OF DISCONTINUANCE.—Except as provided in subsection (c), not later than 210 days before discontinuing service over a route, Amtrak shall give written notice of such discontinuance to all of the members of Congress representing any State or district in which the discontinuance would occur.

(e) APPLICABILITY.—This section applies to all service over routes provided by Amtrak, notwithstanding any provision of section 24701 of this title or any other provision of this title except section 24702(b).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 927; Pub. L. 105–134, title I, §§101(c), 142(a), Dec. 2, 1997, 111 Stat. 2572, 2576; Pub. L. 110–432, div. B, title II, §201(d), Oct. 16, 2008, 122 Stat. 4910; Pub. L. 114–94, div. A, title XI, §11316(n)(1), Dec. 4, 2015, 129 Stat. 1678; Pub. L. 117–58, div. B, title II, §22210, Nov. 15, 2021, 135 Stat. 708.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24706(a)(1)	45:564(c)(4)(F)(ii).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §404(c)(4)(F); added Sept. 29, 1979, Pub. L. 96–73, §117, 93 Stat. 545; restated Aug. 13, 1981, Pub. L. 97–35, §1183(b), 95 Stat. 696.
24706(a)(2)	45:564(c)(4)(F)(i).	
24706(b)	45:564(c)(4)(F)(iii).	
24706(c)(1)	45:565(a) (2d sentence).	Oct. 30, 1970, Pub. L. 91–518, §405(a) (1st, 2d sentences), 84 Stat. 1337; restated June 22, 1972, Pub. L. 92–316, §7(a), 86 Stat. 230.
	45:565(a) (last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §405(a) (last sentence); added Apr. 7, 1986, Pub. L. 99–272, §4016, 100 Stat. 110.
24706(c)(2)	45:565(a) (1st sentence).	
	45:565(b) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, §405(b) (1st–3d sentences), 84 Stat. 1337.
	45:565(c) (1st sentence words before 2d comma).	Oct. 30, 1970, Pub. L. 91–518, §405(c), 84 Stat. 1337; restated June 22, 1972, Pub. L. 92–316, §7(c), 86 Stat. 230.
24706(c)(3)	45:565(b) (2d sentence).	
24706(c)(4)	45:565(b) (3d sentence).	
24706(c)(5)	45:565(c) (1st sentence words after 2d comma, last sentence).	
24706(c)(6)	45:565(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §405(g); added Aug. 13, 1981, Pub. L. 97–35, §1188(d), 95 Stat. 699.

In subsection (a)(1), the words "Except as provided in subsection (b) of this section" are added for clarity. The word "authority" is substituted for "agency" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), before clause (A), the words "Notwithstanding the provisions of clause (ii)" are omitted as surplus. In clauses (A) and (B), the words "the benefit of" are omitted as surplus. In clause (A), the words "for such fiscal year" are omitted as surplus.

In subsection (c)(1), before clause (A), the words "Amtrak or" are substituted for 45:565(c) (1st sentence words before 2d comma) to eliminate unnecessary words because operations in the basic system have begun. The words "whether occurring before, on, or after January 1, 1975" and "without being limited to, such provisions as may be necessary for" are omitted as surplus. In clause (A), the words "to such employees" are omitted as surplus.

In subsection (c)(3), the words "section 11347 of this title" are substituted for and coextensive with "section 5(2)(f) of the Interstate Commerce Act" in section 405(b) of the Rail Passenger Service Act (Public Law 91–518, 84 Stat. 1337) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92

Stat. 1466).

In subsection (c)(5), the words "be construed to" are omitted as surplus. The text of 45:565(c) (last sentence) is omitted as executed.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §22210(1), substituted "subsection (c), not later than 180 days" for "subsection (b) of this section, at least 180 days".

Subsecs. (b) to (e). Pub. L. 117–58, §22210(2)–(4), added subsecs. (b) and (d) and redesignated former subsecs. (b) and (c) as (c) and (e), respectively.

2015—Subsec. (a)(1). Pub. L. 114–94, §11316(n)(1)(A)(i), struck out "a discontinuance under section 24704 or or" after "before".

Subsec. (a)(2). Pub. L. 114–94, §11316(n)(1)(A)(ii), struck out "section 24704 or" after "under".

Subsec. (b)(1). Pub. L. 114–94, §11316(n)(1)(B), struck out "section 24704 or" after "under" in introductory provisions.

2008—Subsec. (c). Pub. L. 110–432 added subsec. (c).

1997—Subsec. (a)(1). Pub. L. 105–134, §101(c)(1)–(3), substituted "180 days" for "90 days" and "or discontinuing service over a route," for "24707(a) or (b) of this title," and inserted "or assume" after "agree to share".

Subsec. (a)(2). Pub. L. 105–134, §101(c)(4), which directed substitution of "paragraph (1)" for "section 24707(a) or (b) of this title", was executed by making the substitution for "24707(a) or (b) of this title" to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 105–134, §101(c)(5), which directed substitution of "subsection (a)(1)" for "section 24707(a) or (b) of this title", was executed by making the substitution for "24707(a) or (b) of this title" to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 105–134, §142(a), struck out subsec. (c) which related to employee protective arrangements.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 142(a) of Pub. L. 105–134 effective 180 days after Dec. 2, 1997, see section 142(c) of Pub. L. 105–134, set out in an Employee Protection Reforms note below.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

EMPLOYEE PROTECTION REFORMS

Pub. L. 105–134, title I, §§141, 142, Dec. 2, 1997, 111 Stat. 2575, 2576, provided that:

"SEC. 141. RAILWAY LABOR ACT PROCEDURES.

"(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act [Dec. 2, 1997], notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

"(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of

this Act [Dec. 2, 1997].

"(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act [Dec. 2, 1997].

"(d) DISPUTE RESOLUTION.—(1) With respect to the dispute described in subsection (a) which—

"(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act [Dec. 2, 1997]; and

"(B) is not submitted to arbitration as described in subsection (c),

Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board shall immediately select such individual.

"(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad.

"(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act [45 U.S.C. 160] shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

"(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

"(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

"(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

"(e) NO PRECEDENT FOR FREIGHT.—Nothing in this Act [see Short Title of 1997 Amendment note set out under section 20101 of this title], or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees and mass transportation employees as it existed on the day before the date of enactment of this Act [Dec. 2, 1997].

"SEC. 142. SERVICE DISCONTINUANCE.

"(a) REPEAL.—Section 24706(c) is repealed.

"(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act [Dec. 2, 1997] between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

"(c) SPECIAL EFFECTIVE DATE.—Subsections (a) [amending this section] and (b) of this section shall take effect 180 days after the date of the enactment of this Act [Dec. 2, 1997].

"(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees."

[§§24707, 24708. Repealed. Pub. L. 105–134, title I, §101(d), (e), Dec. 2, 1997, 111 Stat. 2572]

Section 24707, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 928, required annual route, financial, and performance reviews.

Section 24708, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 929, related to continuing, modifying, or discontinuing passenger transportation routes.

§24709. International transportation

Amtrak may develop and operate international intercity rail passenger transportation between the

United States and Canada and between the United States and Mexico. The Secretary of Homeland Security, in cooperation with Amtrak, shall maintain, consistent with the effective enforcement of the immigration and customs laws, en route customs inspection and immigration procedures for international intercity rail passenger transportation that will—

(1) be convenient for passengers; and

(2) result in the quickest possible international intercity rail passenger transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 929; Pub. L. 114–94, div. A, title XI, §11316(n)(2), Dec. 4, 2015, 129 Stat. 1679.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24709	45:545(e)(7) (less words between parentheses).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(e)(7) (less words between parentheses); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 551.
	45:545(i).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(i); added Oct. 28, 1974, Pub. L. 93–496, §4, 88 Stat. 1527; restated May 26, 1975, Pub. L. 94–25, §3, 89 Stat. 90; Sept. 29, 1979, Pub. L. 96–73, §106, 93 Stat. 539; Aug. 13, 1981, Pub. L. 97–35, §1176, 95 Stat. 692; Apr. 7, 1986, Pub. L. 99–272, §13031(h)(1), 100 Stat. 310.

In this section, before clause (1), the words "points within", "points in", and "including Montreal, Canada; Vancouver, Canada; and Nuevo Laredo, Mexico" in 45:545(e)(7) are omitted as surplus. The words "establish and" in 45:545(i) (1st sentence) are omitted as executed. The words "trains operated in" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94 substituted "The Secretary of Homeland Security," for "The Secretary of the Treasury and the Attorney General," in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

CROSS-BORDER PASSENGER RAIL SERVICE

Pub. L. 110–432, div. B, title IV, §406, Oct. 16, 2008, 122 Stat. 4958, provided that:

"(a) PLAN.—Not later than 1 year after the date of the enactment of this Act [Oct. 16, 2008], Amtrak shall, in consultation with the Secretary [of Transportation], the Secretary of Homeland Security, the Washington State Department of Transportation, and the owners of the relevant railroad infrastructure—

"(1) develop a strategic plan to facilitate expanded passenger rail service across the international border between the United States and Canada during the 2010 Olympic Games on the Amtrak passenger rail route between Vancouver, British Columbia, Canada, and Eugene, Oregon (commonly known as 'Amtrak Cascades');

"(2) develop recommendations for the Department of Homeland Security to process efficiently rail

passengers traveling on Amtrak Cascades across such international border during the 2010 Olympic Games; and

"(3) submit to Congress a report containing the strategic plan described in paragraph (1) and the recommendations described in paragraph (2).

"(b) TRAVEL FACILITATION.—Using existing authority or agreements, or upon reaching additional agreements with Canada, the Secretary [of Transportation] and other Federal agencies, as appropriate, are authorized to establish facilities and procedures to conduct preclearance of passengers traveling on Amtrak trains from Canada to the United States. The Secretary shall seek to establish such facilities and procedures—

"(1) in Vancouver, Canada, no later than June 1, 2009; and

"(2) in other areas as determined appropriate by the Secretary."

§24710. Long-distance routes

(a) ANNUAL EVALUATION.—Using the financial and performance metrics developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008, Amtrak shall—

(1) evaluate annually the financial and operating performance of each long-distance passenger rail route operated by Amtrak; and

(2) rank the overall performance of such routes for 2008 and identify each long-distance passenger rail route operated by Amtrak in 2008 according to its overall performance as belonging to the best performing third of such routes, the second best performing third of such routes, or the worst performing third of such routes.

(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak shall develop and post on its website a performance improvement plan for its long-distance passenger rail routes to achieve financial and operating improvements based on the data collected through the application of the financial and performance metrics developed under section 207 of that Act. The plan shall address—

(1) on-time performance;

(2) scheduling, frequency, routes, and stops;

(3) the feasibility of restructuring service into connected corridor service;

(4) performance-related equipment changes and capital improvements;

(5) on-board amenities and service, including food, first class, and sleeping car service;

(6) State or other non-Federal financial contributions;

(7) improving financial performance;

(8) anticipated Federal funding of operating and capital costs; and

(9) other aspects of Amtrak's long-distance passenger rail routes that affect the financial, competitive, and functional performance of service on Amtrak's long-distance passenger rail routes.

(c) IMPLEMENTATION.—Amtrak shall implement the performance improvement plan developed under subsection (b)—

(1) beginning in fiscal year 2010 for those routes identified as being in the worst performing third under subsection (a)(2);

(2) beginning in fiscal year 2011 for those routes identified as being in the second best performing third under subsection (a)(2); and

(3) beginning in fiscal year 2012 for those routes identified as being in the best performing third under subsection (a)(2).

(d) ENFORCEMENT.—The Federal Railroad Administration shall monitor the development, implementation, and outcome of improvement plans under this section. If the Federal Railroad Administration determines that Amtrak is not making reasonable progress in implementing its performance improvement plan or, after the performance improvement plan is implemented under subsection (c)(1) in accordance with the terms of that plan, Amtrak has not achieved the outcomes it has established for such routes, under the plan for any calendar year, the Federal Railroad Administration—

(1) shall notify Amtrak, the Inspector General of the Department of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate of its determination under this subsection;

(2) shall provide Amtrak with an opportunity for a hearing with respect to that determination; and

(3) may withhold appropriated funds otherwise available to Amtrak for the operation of a route or routes from among the worst performing third of routes currently served by Amtrak on which Amtrak is not making reasonable progress, other than funds made available for passenger safety or security measures.

(Added Pub. L. 110–432, div. B, title II, §210(a), Oct. 16, 2008, 122 Stat. 4918.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 207 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsecs. (a) and (b), is section 207 of Pub. L. 110–432, which is set out in a note under section 24101 of this title.

§24711. Competitive passenger rail service pilot program

(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall promulgate a rule to implement a pilot program for competitive selection of eligible petitioners described in subsection (b)(3) in lieu of Amtrak to operate not more than 3 long-distance routes (as defined in section 24102) operated by Amtrak on the date of enactment of such Act.

(b) PILOT PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall—

(A) allow a petitioner described in paragraph (3) to petition the Secretary to provide intercity rail passenger transportation over a long-distance route described in subsection (a) for an operation period of 4 years from the date of commencement of service by the winning bidder and, at the option of the Secretary, consistent with the rule promulgated under subsection (a), allow the contract to be renewed for 1 additional operation period of 4 years;

(B) require the Secretary to—

(i) notify the petitioner and Amtrak of receipt of the petition under subparagraph (A) and to publish in the Federal Register a notice of receipt not later than 30 days after the date of receipt;

(ii) establish a deadline, of not more than 120 days after the notice of receipt is published in the Federal Register under clause (i), by which both the petitioner and Amtrak, if Amtrak chooses to do so, would be required to submit a complete bid to provide intercity rail passenger transportation over the applicable route; and

(iii) upon selecting a winning bid, publish in the Federal Register the identity of the winning bidder, the long distance route that the bidder will operate, a detailed justification of the reasons why the Secretary selected the bid, and any other information the Secretary determines appropriate for public comment for a reasonable period of time not to exceed 30 days after the date on which the Secretary selects the bid;

(C) require that each bid—

(i) describe the capital needs, financial projections, and operational plans, including staffing plans, for the service, and such other factors as the Secretary considers appropriate; and

(ii) be made available by the winning bidder to the public after the bid award with any appropriate redactions for confidential or proprietary information;

(D) for a route that receives funding from a State or States, require that for each bid received from a petitioner described in paragraph (3), other than such State or States, the Secretary have the concurrence of the State or States that provide funding for that route; and

(E) for a winning bidder that is not or does not include Amtrak, require the Secretary to execute a contract not later than 270 days after the deadline established under subparagraph (B)(ii) and award to the winning bidder—

(i) subject to paragraphs (4) and (5), the right and obligation to provide intercity rail passenger transportation over that route subject to such performance standards as the Secretary may require; and

(ii) an operating subsidy, as determined by the Secretary, for—

(I) the first year at a level that does not exceed 90 percent of the level in effect for that specific route during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation; and

(II) any subsequent years at the level calculated under subclause (I), adjusted for inflation.

(2) LIMITATION.—The requirements under paragraph (1)(E), including the amounts of operating subsidies in the first and any subsequent years under paragraph (1)(E)(ii), shall not apply to a winning bidder that is or includes Amtrak.

(3) ELIGIBLE PETITIONERS.—The following parties are eligible to submit petitions under paragraph (1):

(A) A rail carrier or rail carriers that own the infrastructure over which Amtrak operates a long-distance route, or another rail carrier that has a written agreement with a rail carrier or rail carriers that own such infrastructure.

(B) A State, group of States, or State-supported joint powers authority or other sub-State governance entity responsible for provision of intercity rail passenger transportation with a written agreement with the rail carrier or rail carriers that own the infrastructure over which Amtrak operates a long-distance route and that host or would host the intercity rail passenger transportation.

(C) A State, group of States, or State-supported joint powers authority or other sub-State governance entity responsible for provision of intercity rail passenger transportation and a rail carrier with a written agreement with another rail carrier or rail carriers that own the infrastructure over which Amtrak operates a long-distance route and that host or would host the intercity rail passenger transportation.

(4) PERFORMANCE STANDARDS.—The performance standards required under paragraph (1)(E)(i) shall meet or exceed the performance required of or achieved by Amtrak on the applicable route during the last fiscal year.

(5) AGREEMENT GOVERNING ACCESS ISSUES.—Unless the winning bidder already has applicable access rights or agreements in place or includes a rail carrier that owns the infrastructure used in the operation of the route, a winning bidder that is not or does not include Amtrak shall enter into a written agreement governing access issues between the winning bidder and the rail carrier or rail carriers that own the infrastructure over which the winning bidder would operate and that host or would host the intercity rail passenger transportation.

(c) ACCESS TO FACILITIES; EMPLOYEES.—If the Secretary awards the right and obligation to provide intercity rail passenger transportation over a route described in this section to an eligible petitioner—

(1) the Secretary shall, if necessary to carry out the purposes of this section, require Amtrak to provide access to the Amtrak-owned reservation system, stations, and facilities directly related to operations of the awarded routes to the eligible petitioner awarded a contract under this section, in accordance with subsection (g);

(2) an employee of any person, except as provided in a collective bargaining agreement, used by such eligible petitioner in the operation of a route under this section shall be considered an employee of that eligible petitioner and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak; and

(3) the winning bidder shall provide hiring preference to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan submitted by the bidder, and shall be subject to the grant conditions under section 22905.

(d) CESSATION OF SERVICE.—If an eligible petitioner awarded a route under this section ceases to operate the service or fails to fulfill an obligation under a contract required under subsection (b)(1)(E), the Secretary, in collaboration with the Surface Transportation Board, shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including—

(1) the installment of an interim rail carrier;

(2) providing to the interim rail carrier under paragraph (1) an operating subsidy necessary to provide service; and

(3) rebidding the contract to operate the intercity rail passenger transportation.

(e) BUDGET AUTHORITY.—

(1) IN GENERAL.—The Secretary shall provide to a winning bidder that is not or does not include Amtrak and that is selected under this section any appropriations withheld under section 11101(e) of the Passenger Rail Reform and Investment Act of 2015, or any subsequent appropriation for the same purpose, necessary to cover the operating subsidy described in subsection (b)(1)(E)(ii).

(2) ATTRIBUTABLE COSTS.—If the Secretary selects a winning bidder that is not or does not include Amtrak, the Secretary shall provide to Amtrak an appropriate portion of the appropriations under section 11101(b) of the Passenger Rail Reform and Investment Act of 2015, or any subsequent appropriation for the same purpose, to cover any cost directly attributable to the termination of Amtrak service on the route and any indirect costs to Amtrak imposed on other Amtrak routes as a result of losing service on the route operated by the winning bidder. Any amount provided by the Secretary to Amtrak under this paragraph shall not be deducted from or have any effect on the operating subsidy described in subsection (b)(1)(E)(ii).

(f) REPORTING.—If the Secretary does not promulgate the final rule before the deadline under subsection (a), the Secretary shall, not later than 19 months after the date of enactment of the Passenger Rail Reform and Investment Act of 2015 and every 90 days thereafter until the rule is complete, notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives in writing—

(1) the reasons why the rule has not been issued;

(2) a plan for completing the rule as soon as reasonably practicable; and

(3) the estimated date of completion of the rule.

(g) DISPUTES.—

(1) PETITIONING SURFACE TRANSPORTATION BOARD.—If Amtrak and the eligible petitioner awarded a route under this section cannot agree upon terms to carry out subsection (c)(1), either party may petition the Surface Transportation Board for a determination as to—

(A) whether access to Amtrak's facility or equipment, or the provisions of services by Amtrak, is necessary under subsection (c)(1); and

(B) whether the operation of Amtrak's other services will not be unreasonably impaired by such access.

(2) SURFACE TRANSPORTATION BOARD DETERMINATION.—If the Surface Transportation Board determines access to Amtrak's facilities or equipment, or the provision of

services by Amtrak, is necessary under paragraph (1)(A) and the operation of Amtrak's other services will not be unreasonably impaired under paragraph (1)(B), the Board shall issue an order that—

(A) requires Amtrak to provide the applicable facilities, equipment, and services; and

(B) determines reasonable compensation, liability, and other terms for the use of the facilities and equipment and the provision of the services.

(h) LIMITATION.—Not more than 3 long-distance routes may be selected under this section for operation by a winning bidder that is not or does not include Amtrak.

(i) PRESERVATION OF RIGHT TO COMPETITION ON STATE-SUPPORTED ROUTES .—Nothing in this section shall be construed as prohibiting a State from introducing competition for intercity rail passenger transportation or services on its State-supported route or routes.

(j) SAVINGS CLAUSE.—Nothing in this section shall affect Amtrak's access rights to railroad rights-of-way and facilities.

(Added Pub. L. 110–432, div. B, title II, §214(a), Oct. 16, 2008, 122 Stat. 4927; amended Pub. L. 114–94, div. A, title XI, §11307(a), Dec. 4, 2015, 129 Stat. 1660; Pub. L. 115–420, §7(b)(3)(A)(i)(III), Jan. 3, 2019, 132 Stat. 5447.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsecs. (a) and (f), is the date of enactment of title XI of div. A of Pub. L. 114–94, which was approved Dec. 4, 2015.

Section 11101 of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (e), is section 11101 of title XI of div. A of Pub. L. 114–94, Dec. 4, 2015, 129 Stat. 1622, which is not classified to the Code.

AMENDMENTS

2019—Subsec. (c)(3). Pub. L. 115–420 substituted "22905" for "24405".

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to alternate passenger rail service pilot program.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

REPORT

Pub. L. 114–94, div. A, title XI, §11307(c), Dec. 4, 2015, 129 Stat. 1664, provided that: "Not later than 4 years after the date of implementation of the pilot program under section 24711 of title 49, United States Code, and quadrennially thereafter until the pilot program is discontinued, the Secretary [of Transportation] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the pilot program to date and any recommendations for further action."

EMPLOYEE TRANSITION ASSISTANCE

Pub. L. 110–432, div. B, title II, §215, Oct. 16, 2008, 122 Stat. 4929, provided that:

"(a) PROVISION OF FINANCIAL INCENTIVES.—For Amtrak employees who are adversely affected by the cessation of the operation of a long-distance route or any other route under section 24711 of title 49, United States Code, previously operated by Amtrak, the Secretary [of Transportation] shall develop a program

under which the Secretary may, at the Secretary's discretion, provide grants for financial incentives to be provided to Amtrak employees who voluntarily terminate their employment with Amtrak and relinquish any legal rights to receive termination-related payments under any contractual agreement with Amtrak.

"(b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, Amtrak must certify that—

"(1) a reasonable attempt was made to reassign an employee adversely affected under section 24711 of title 49, United States Code, or by the elimination of any route, to other positions within Amtrak in accordance with any contractual agreements;

"(2) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

"(3) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

"(4) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

"(c) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may be no greater than $100,000 per employee.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to make grants to Amtrak to provide financial incentives under subsection (a).

"(e) TERMINATION-RELATED PAYMENTS.—If Amtrak employees adversely affected by the cessation of Amtrak service resulting from the awarding of a grant to an operator other than Amtrak for the operation of a route under section 24711 of title 49, United States Code, or any other route, previously operated by Amtrak do not receive financial incentives under subsection (a), then the Secretary shall make grants to Amtrak from funds authorized by section 101 of this division [122 Stat. 4908] for termination-related payments to employees under existing contractual agreements."

§24712. State-supported routes operated by Amtrak

(a) STATE-SUPPORTED ROUTE COMMITTEE.—

(1) ESTABLISHMENT.—There is established the State-Supported Route Committee (referred to in this section as the "Committee") to promote mutual cooperation and planning pertaining to the current and future rail operations of Amtrak and related activities of trains operated by Amtrak on State-supported routes and to further implement section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall consist of—

(i) members representing Amtrak;

(ii) members representing the Department of Transportation, including the Federal Railroad Administration; and

(iii) members representing States.

(B) NON-VOTING MEMBERS.—The Committee may invite and accept other non-voting members to participate in Committee activities, as appropriate.

(3) DECISIONMAKING.—The Committee shall establish a bloc voting system under which, at a minimum—

(A) there are 3 separate voting blocs to represent the Committee's voting members, including—

(i) 1 voting bloc to represent the members described in paragraph (2)(A)(i);

(ii) 1 voting bloc to represent the members described in paragraph (2)(A)(ii); and

(iii) 1 voting bloc to represent the members described in paragraph (2)(A)(iii);

(B) each voting bloc has 1 vote;

(C) the vote of the voting bloc representing the members described in paragraph (2)(A)(iii) requires the support of at least two-thirds of that voting bloc's members; and

(D) the Committee makes decisions by unanimous consent of the 3 voting blocs.

(4) ABILITY TO CONDUCT CERTAIN BUSINESS.—If all of the members of 1 voting bloc described in paragraph (3) abstain from a Committee decision, agreement between the other 2 voting blocs consistent with the procedures set forth in such paragraph shall be deemed sufficient for purpose of achieving unanimous consent.

(5) MEETINGS; RULES AND PROCEDURES.—The Committee shall define and periodically update the rules and procedures governing the Committee's proceedings. The rules and procedures shall—

(A) incorporate and further describe the decisionmaking procedures to be used in accordance with paragraph (3); and

(B) be adopted in accordance with such decisionmaking procedures.

(6) COMMITTEE DECISIONS.—Decisions made by the Committee in accordance with the Committee's rules and procedures, once established, are binding on all Committee members.

(7) COST METHODOLOGY POLICY.—

(A) IN GENERAL.—Subject to subparagraph (B), the Committee may amend the cost methodology policy required and previously approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(B) REVISIONS TO COST METHODOLOGY POLICY.—

(i) REQUIREMENT TO REVISE AND UPDATE.—Subject to rules and procedures established pursuant to clause (iii), not later than March 31, 2022, the Committee shall revise and update the cost methodology policy required and previously approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 20901 [1] note). The Committee shall implement a revised cost methodology policy during fiscal year 2023. Not later than 30 days after the adoption of the revised cost methodology policy, the Committee shall submit a report documenting and explaining any changes to the cost methodology policy and plans for implementation of such policy, including a description of the improvements to the accounting information provided by Amtrak to the States, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The revised cost methodology policy shall ensure that States will be responsible for costs attributable to the provision of service for their routes.

(ii) IMPLEMENTATION IMPACTS ON FEDERAL FUNDING.—To the extent that a revision developed pursuant to clause (i) assigns to Amtrak costs that were previously allocated to States, Amtrak shall request with specificity such additional funding in the general and legislative annual report required under section 24315 or in any appropriate subsequent Federal funding request for the fiscal year in which the revised cost methodology policy will be implemented.

(iii) PROCEDURES FOR CHANGING METHODOLOGY.—Notwithstanding section 209(b) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 20901 [1] note), the rules and procedures implemented pursuant to paragraph (5) shall include—

(I) procedures for changing the cost methodology policy in accordance with clause (i); and

(II) procedures or broad guidelines for conducting financial planning, including operating and capital forecasting, reporting, data sharing, and governance.

(C) REQUIREMENTS.—The cost methodology policy shall—

(i) ensure equal treatment in the provision of like services of all States and groups of States;

(ii) assign to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route; and

(iii) promote increased efficiency in Amtrak's operating and capital activities.

(D) INDEPENDENT EVALUATION.—Not later than March 31 of each year, the Committee shall ensure that an independent entity selected by the Committee has completed an evaluation to determine whether State payments for the most recently concluded fiscal year are accurate and comply with the applicable cost allocation methodology.

(8) STAFFING.—The Committee may—

(A) appoint, terminate, and fix the compensation of an executive director and other Committee employees necessary for the Committee to carry out its duties; and

(B) enter into contracts necessary to carry out its duties, including providing Committee employees with retirement and other employee benefits under the condition that Non-Federal members or officers, the executive director, and employees of the Committee are not Federal employees for any purpose.

(9) AUTHORIZATION OF APPROPRIATIONS.—Amounts made available by the Secretary of Transportation for the Committee may be used to carry out this section.

(b) INVOICES AND REPORTS.—

(1) INVOICES.—Amtrak shall provide monthly invoices to the Committee and to each State that sponsors a State-supported route that identify the operating costs for such route, including fixed costs and third-party costs.

(2) REPORTS.—

(A) IN GENERAL.—The Committee shall determine the frequency and contents of—

(i) the financial and performance reports that Amtrak is required to provide to the Committee and the States; and

(ii) the planning and demand reports that the States are required to provide to the Committee and Amtrak.

(B) MONTHLY STATISTICAL REPORT.—

(i) DEVELOPMENT.—Consistent with the revisions to the policy required under subsection (a)(7)(B), the Committee shall develop a report that contains the general ledger data and operating statistics from Amtrak's accounting systems used to calculate payments to States.

(ii) PROVISION OF NECESSARY DATA.—Not later than 30 days after the last day of each month, Amtrak shall provide to the States and to the Committee the necessary data to complete the report developed pursuant to clause (i) for such month.

(c) DISPUTE RESOLUTION.—

(1) REQUEST FOR DISPUTE RESOLUTION.—If a dispute arises with respect to the rules and procedures implemented under subsection (a)(5), an invoice or a report provided under subsection (b), implementation or compliance with the cost allocation methodology developed under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note) or amended under subsection (a)(7) of this section, either Amtrak or the State may request that the Surface Transportation Board conduct dispute resolution under this subsection.

(2) PROCEDURES.—The Surface Transportation Board shall establish procedures for resolution of disputes brought before it under this subsection, which may include provision of professional mediation services.

(3) BINDING EFFECT.—A decision of the Surface Transportation Board under this subsection shall be binding on the parties to the dispute.

(4) OBLIGATION.—Nothing in this subsection shall affect the obligation of a State to pay an amount related to a State-supported route that a State sponsors that is not in dispute.

(d) ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide assistance to the parties in the course of negotiations for a contract for operation of a State-supported route.

(2) FINANCIAL ASSISTANCE.—From among available funds, the Secretary shall provide—

(A) financial assistance to Amtrak or 1 or more States to perform requested independent technical analysis of issues before the Committee; and

(B) administrative expenses that the Secretary determines necessary.

(e) PERFORMANCE METRICS.—In negotiating a contract for operation of a State-supported route, Amtrak and the State or States that sponsor the route shall consider including provisions that provide penalties and incentives for performance, including incentives to increase revenue, reduce costs, finalize contracts by the beginning of the fiscal year, and require States to promptly make payments for services delivered.

(f) STATEMENT OF GOALS AND OBJECTIVES.—

(1) IN GENERAL.—The Committee shall develop, and review and update, as necessary, a statement of goals, objectives, and associated recommendations concerning the future of State-supported routes operated by Amtrak. The statement shall identify the roles and responsibilities of Committee members and any other relevant entities, such as host railroads, in meeting the identified goals and objectives, or carrying out the recommendations. The Committee may consult with such relevant entities, as the Committee considers appropriate, when developing the statement.

(2) TRANSMISSION OF STATEMENT OF GOALS AND OBJECTIVES.—As applicable, based on updates, the Committee shall submit an updated statement developed under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(3) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the Committee shall be the forum where Amtrak and the States collaborate on the planning, improvement, and development of corridor routes across the National Network; and

(B) such collaboration should include regular consultation with interstate rail compact parties and other regional planning organizations that address passenger rail.

(g) NEW STATE-SUPPORTED ROUTES.—

(1) CONSULTATION.—In developing a new State-supported route, Amtrak shall consult with—

(A) the State or States and local municipalities through which such new service would operate;

(B) commuter authorities and regional transportation authorities in the areas that would be served by the planned route;

(C) host railroads;

(D) the Administrator of the Federal Railroad Administration; and

(E) other stakeholders, as appropriate.

(2) STATE COMMITMENTS.—Notwithstanding any other provision of law, before beginning construction necessary for, or beginning operation of, a State-supported route that is initiated on or after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall enter into a memorandum of understanding, or otherwise secure an agreement, with each State that would be providing funding for such route for sharing—

(A) ongoing operating costs and capital costs in accordance with the cost methodology policy referred to in subsection (a)(7) then in effect; or

(B) ongoing operating costs and capital costs in accordance with the maximum funding limitations described in section 22908(e).

(3) APPLICATION OF TERMS.—In this subsection, the terms "capital costs" and "operating

costs" shall apply in the same manner as such terms apply under the cost methodology policy developed pursuant to subsection (a)(7).

(h) COST METHODOLOGY POLICY UPDATE IMPLEMENTATION REPORT.—Not later than 18 months after the updated cost methodology policy required under subsection (a)(7)(B) is implemented, the Committee shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that assesses the implementation of the updated policy.

(i) IDENTIFICATION OF STATE-SUPPORTED ROUTE CHANGES.—Amtrak shall—

(1) not later than 120 days before the submission of the general and legislative annual report required under section 24315(b), consult with the Committee and any additional States through which a State-supported route may operate regarding any proposed changes to such route; and

(2) include in such report an update of any planned or proposed changes to State-supported routes, including the introduction of new State-supported routes, including—

(A) the timeframe in which such changes would take effect; and

(B) whether Amtrak has entered into commitments with the affected States pursuant subsection (g)(2).

(j) ECONOMIC ANALYSIS.—Not later than 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Committee shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that—

(1) describes the role of the State-supported routes in economic development; and

(2) examines the impacts of the State-supported routes on local station areas, job creation, transportation efficiency, State economies, and the national economy.

(k) RULE OF CONSTRUCTION.—The decisions of the Committee—

(1) shall pertain to the rail operations of Amtrak and related activities of trains operated by Amtrak on State-sponsored routes; and

(2) shall not pertain to the rail operations or related activities of services operated by other rail carriers on State-supported routes.

(l) DEFINITION OF STATE.—In this section, the term "State" means any of the 50 States, including the District of Columbia, that sponsor the operation of trains by Amtrak on a State-supported route, or a public entity that sponsors such operation on such a route.

(Added Pub. L. 114–94, div. A, title XI, §11204(a), Dec. 4, 2015, 129 Stat. 1634; amended Pub. L. 117–58, div. B, title II, §22211, Nov. 15, 2021, 135 Stat. 708; Pub. L. 117–328, div. L, title I, §158, Dec. 29, 2022, 136 Stat. 5125.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 209 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsecs. (a)(1), (7)(A), (B)(i), (iii), and (c)(1), is section 209 of div. B of Pub. L. 110–432, which is set out as a note under section 24101 of this title.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsecs. (g)(2) and (j), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2022—Subsec. (a)(8), (9). Pub. L. 117–328 added pars. (8) and (9).

2021—Subsec. (a)(1). Pub. L. 117–58, §22211(a)(1), substituted "There is established" for "Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish" and inserted "current and future" before "rail operations".

Subsec. (a)(4). Pub. L. 117–58, §22211(a)(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 117–58, §22211(a)(2), (4), redesignated par. (4) as (5) and substituted "define and periodically update" for "convene a meeting and shall define and implement" and struck out "not later than 180 days after the date of establishment of the Committee by the Secretary" after "Committee's proceedings" in introductory provisions. Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 117–58, §22211(a)(2), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 117–58, §22211(a)(2), (5), redesignated par. (6) as (7) and substituted "methodology policy" for "allocation methodology" in heading.

Subsec. (a)(7)(A). Pub. L. 117–58, §22211(a)(5)(B), substituted "methodology policy" for "allocation methodology".

Subsec. (a)(7)(B). Pub. L. 117–58, §22211(a)(5)(C), amended subpar. (B) generally. Prior to amendment, text read as follows: "The rules and procedures implemented under paragraph (4) shall include procedures for changing the cost allocation methodology."

Subsec. (a)(7)(C). Pub. L. 117–58, §22211(a)(5)(D)(i), substituted "methodology policy" for "allocation methodology" in introductory provisions.

Subsec. (a)(7)(C)(ii). Pub. L. 117–58, §22211(a)(5)(D)(iii)(I), substituted "assign" for "allocate".

Subsec. (a)(7)(C)(iii). Pub. L. 117–58, §22211(a)(5)(D)(ii), (iii)(II), (iv), added cl. (iii).

Subsec. (a)(7)(D). Pub. L. 117–58, §22211(a)(5)(E), added subpar. (D).

Subsec. (b). Pub. L. 117–58, §22211(b), amended subsec. (b) generally. Prior to amendment, text read as follows: "Not later than April 15, 2016, and monthly thereafter, Amtrak shall provide to each State that sponsors a State-supported route a monthly invoice of the cost of operating such route, including fixed costs and third-party costs. The Committee shall determine the frequency and contents of financial and performance reports that Amtrak shall provide to the States, as well as the planning and demand reports that the States shall provide to Amtrak."

Subsec. (c)(1). Pub. L. 117–58, §22211(c)(1), substituted "subsection (a)(5)" for "subsection (a)(4)" and "subsection (a)(7)" for "subsection (a)(6)".

Subsec. (c)(4). Pub. L. 117–58, §22211(c)(2), inserted "related to a State-supported route that a State sponsors that is" after "amount".

Subsec. (e). Pub. L. 117–58, §22211(d), inserted ", including incentives to increase revenue, reduce costs, finalize contracts by the beginning of the fiscal year, and require States to promptly make payments for services delivered" before period at end.

Subsec. (f)(1). Pub. L. 117–58, §22211(e)(1), inserted ", and review and update, as necessary," after "shall develop".

Subsec. (f)(2). Pub. L. 117–58, §22211(e)(2), substituted "As applicable, based on updates, the Committee shall submit an updated statement" for "Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Committee shall transmit the statement".

Subsec. (f)(3). Pub. L. 117–58, §22211(e)(3), added par. (3).

Subsecs. (g) to (l). Pub. L. 117–58, §22211(f), added subsecs. (g) to (j) and redesignated former subsecs. (g) and (h) as (k) and (l), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

[1] *So in original. Probably should be "24101".*

CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Sec.

24901. Definitions.
24902. Goals and requirements.
24903. General authority.
24904. Northeast Corridor planning.

24905. Northeast Corridor Commission.[1]
24906. Eliminating highway at-grade crossings.
24907. Note and mortgage.
24908. Transfer taxes and levies and recording charges.
24909. Authorization of appropriations.
24910. Rail cooperative research program.
24911. Federal-State partnership for intercity passenger rail.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title II, §22307(b), Nov. 15, 2021, 135 Stat. 730, substituted "Federal-State partnership for intercity passenger rail" for "Federal-State partnership for state of good repair" in item 24911.

2015—Pub. L. 114–94, div. A, title XI, §§11302(b), 11305(d)(2), 11306(b)(2), Dec. 4, 2015, 129 Stat. 1651, 1658, 1660, added items 24904 and 24911, redesignated former item 24904 as 24903, and substituted "Northeast Corridor Commission" for "Northeast Corridor Infrastructure and Operations Advisory Commission; Safety Committee" in item 24905.

2008—Pub. L. 110–432, div. B, title II, §212(b)(1), title III, §306(b), Oct. 16, 2008, 122 Stat. 4924, 4953, amended item 24905 generally, substituting "Northeast Corridor Infrastructure and Operations Advisory Commission; Safety Committee" for "Coordination board and safety committee", and added item 24910.

1997—Pub. L. 105–134, title IV, §405(a), Dec. 2, 1997, 111 Stat. 2586, struck out item 24903 "Program master plan for Boston-New York main line".

[1] *So in original. Does not conform to section catchline.*

§24901. Definitions

In this chapter—

(1) "final system plan" means the final system plan (including additions) adopted by the United States Railway Association under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(2) "rail carrier" means an express carrier and a rail carrier as defined in section 10102 of this title, including Amtrak.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 930.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24901(1)	(no source).	
24901(2)	(no source).	

This section is derived from 45:802 for clarity. That section contains definitions for the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 33). Title VII of that Act is the source of the source provisions restated in this chapter. However, other titles of that Act are not being restated because they are outside the scope of the restatement. Therefore, 45:802 is not being restated in this restatement and only the relevant definitions are accounted for in this chapter.

EDITORIAL NOTES

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in par. (1), is Pub. L. 93–236, Jan. 2, 1974, 87 Stat. 985, which is classified principally to chapter 16 (§701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

§24902. Goals and requirements

(a) MANAGING COSTS AND REVENUES.—Amtrak shall manage its operating costs, pricing policies, and other factors with the goal of having revenues derived each fiscal year from providing intercity rail passenger transportation over the Northeast Corridor route between the District of Columbia and Boston, Massachusetts, equal at least the operating costs of providing that transportation in that fiscal year.

(b) PRIORITIES IN SELECTING AND SCHEDULING PROJECTS.—When selecting and scheduling specific projects, Amtrak shall apply the following considerations, in the following order of priority:

(1) Safety-related items should be completed before other items because the safety of the passengers and users of the Northeast Corridor is paramount.

(2) Activities that benefit the greatest number of passengers should be completed before activities involving fewer passengers.

(3) Reliability of intercity rail passenger transportation must be emphasized.

(4) Trip-time requirements of this section must be achieved to the extent compatible with the priorities referred to in paragraphs (1)–(3) of this subsection.

(5) Improvements that will pay for the investment by achieving lower operating or maintenance costs should be carried out before other improvements.

(6) Construction operations should be scheduled so that the fewest possible passengers are inconvenienced, transportation is maintained, and the on-time performance of Northeast Corridor commuter rail passenger and rail freight transportation is optimized.

(7) Planning should focus on completing activities that will provide immediate benefits to users of the Northeast Corridor.

(c) COMPATIBILITY WITH FUTURE IMPROVEMENTS AND PRODUCTION OF MAXIMUM LABOR BENEFITS.—Improvements under this section shall be compatible with future improvements in transportation and shall produce the maximum labor benefit from hiring individuals presently unemployed.

(d) AUTOMATIC TRAIN CONTROL SYSTEMS.—A train operating on the Northeast Corridor main line or between the main line and Atlantic City shall be equipped with an automatic train control system designed to slow or stop the train in response to an external signal.

(e) HIGH-SPEED TRANSPORTATION.—If practicable, Amtrak shall establish intercity rail passenger transportation in the Northeast Corridor that carries out section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121).

(f) EQUIPMENT DEVELOPMENT.—Amtrak shall develop economical and reliable equipment compatible with track, operating, and marketing characteristics of the Northeast Corridor, including the capability to meet reliable trip times under section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121) in regularly scheduled revenue transportation in the Corridor, when the Northeast Corridor improvement program is completed. Amtrak must decide that equipment complies with this subsection before buying equipment with financial assistance of the Government. Amtrak shall submit a request for an authorization of appropriations for production of the equipment.

(g) AGREEMENTS FOR OFF-CORRIDOR ROUTING OF RAIL FREIGHT TRANSPORTATION.—(1) Amtrak may make an agreement with a rail freight carrier or a regional transportation authority under which the carrier will carry out an alternate off-corridor routing of rail freight transportation over rail lines in the Northeast Corridor between the District of Columbia and New York metropolitan areas, including intermediate points. The agreement shall be for at least 5 years.

(2) Amtrak shall apply to the Surface Transportation Board for approval of the agreement and all related agreements accompanying the application as soon as the agreement is made. If the Board finds that approval is necessary to carry out this chapter, the Board shall approve the application and related agreements not later than 90 days after receiving the application.

(3) If an agreement is not made under paragraph (1) of this subsection, Amtrak, with the consent of the other parties, may apply to the Surface Transportation Board. Not later than 90 days after the application, the Board shall decide on the terms of an agreement if it decides that doing so is necessary to carry out this chapter. The decision of the Board is binding on the other parties.

(h) COORDINATION.—(1) The Secretary of Transportation shall coordinate—

(A) transportation programs related to the Northeast Corridor to ensure that the programs are integrated and consistent with the Northeast Corridor improvement program; and

(B) amounts from departments, agencies, and instrumentalities of the Government to achieve urban redevelopment and revitalization in the vicinity of urban rail stations in the Northeast Corridor served by intercity and commuter rail passenger transportation.

(2) If the Secretary finds significant noncompliance with this section, the Secretary may deny financing to a noncomplying program until the noncompliance is corrected.

(i) COMPLETION.—Amtrak shall give the highest priority to completing the program.

(j) APPLICABLE PROCEDURES.—No State or local building, zoning, subdivision, or similar or related law, nor any other State or local law from which a project would be exempt if undertaken by the Federal Government or an agency thereof within a Federal enclave wherein Federal jurisdiction is exclusive, including without limitation with respect to all such laws referenced herein above requirements for permits, actions, approvals or filings, shall apply in connection with the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project (including without limitation maintenance, service, inspection or similar facilities acquired, constructed or used for high speed trainsets) or chapter 241, 243, or 247 of this title or (ii) any land (and right, title or interest created with respect thereto) on which such improvement is located and adjoining, surrounding or any related land. These exemptions shall remain in effect and be applicable with respect to such land and improvements for the benefit of any mortgagee before, upon and after coming into possession of such improvements or land, any third party purchasers thereof in foreclosure (or through a deed in lieu of foreclosure), and their respective successors and assigns, in each case to the extent the land or improvements are used, or held for use, for railroad purposes or purposes accessory thereto. This subsection shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 930; Pub. L. 104–205, title III, §334, Sept. 30, 1996, 110 Stat. 2974; Pub. L. 105–134, title IV, §405(b)(1), Dec. 2, 1997, 111 Stat. 2586; Pub. L. 112–141, div. C, title II, §32932(c)(3), July 6, 2012, 126 Stat. 829.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24902(a)	45:853(1)(A).	Feb. 5, 1976, Pub. L. 94–210, §703(1)(A), 90 Stat. 121; Oct. 5, 1978, Pub. L. 95–421, §8(1), 92 Stat. 927; May 30, 1980, Pub. L. 96–254, §202(1), (2), 94 Stat. 410; Jan. 14, 1983, Pub. L. 97–468, §301(1), 96 Stat. 2547.
	45:853(1)(B) (1st sentence).	Feb. 5, 1976, Pub. L. 94–210, §703(1)(B), 90 Stat. 121; Oct. 5, 1978, Pub. L. 95–421, §8(2), 92 Stat. 927.
	45:853(2)(A).	Feb. 5, 1976, Pub. L. 94–210, §703(2)(A), 90 Stat. 122; Oct. 5,

		1978, Pub. L. 95–421, §5(1), 92 Stat. 926.
	45:853(2)(B).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §703(2)(B); added Oct. 5, 1978, Pub. L. 95–421, §5(2), 92 Stat. 927.
	45:853(3)(A).	Feb. 5, 1976, Pub. L. 94–210, §703(3)(A), 90 Stat. 122; May 30, 1980, Pub. L. 96–254, §203(1), 94 Stat. 410.
	45:853(4) (1st sentence).	Feb. 5, 1976, Pub. L. 94–210, §703(1)(C), (4), 90 Stat. 121, 122.
	45:853(6).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §703(6); added May 30, 1980, Pub. L. 96–254, §203(2), 94 Stat. 411.
	45:855(b).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §705(b); added May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97–468, §301(5)(B), 96 Stat. 2550.
24902(b)	45:851(d)(1).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §701(d)(1); added May 30, 1980, Pub. L. 96–254, §205, 94 Stat. 412.
24902(c)(1)	45:853(1)(B) (last sentence).	
	45:855(b).	
24902(c)(2), (3)	45:854(i).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(i); added May 30, 1980, Pub. L. 96–254, §204(b), 94 Stat. 411.
	45:855(b).	
24902(d)	45:853(4) (last sentence).	
24902(e)	45:853(7).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §703(7); added May 30, 1980, Pub. L. 96–254, §209, 94 Stat. 414.
24902(f)	45:853(1)(C).	
24902(g)	45:431(k).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(k); added June 22, 1988, Pub. L. 100–342, §9, 102 Stat. 628.
24902(h)	45:853(1)(E).	Feb. 5, 1976, Pub. L. 94–210, §703(1)(E), 90 Stat. 121; May 30, 1980, Pub. L. 96–254, §202(3), 94 Stat. 410.
	45:855(b).	
24902(i)	45:853(5).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §703(5); added Oct. 5, 1978, Pub. L. 95–421, §8(3), 92 Stat. 927.
	45:855(b).	
24902(j)	45:853(3)(B).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §703(3)(B); added May 30, 1980, Pub. L. 96–254, §203(1), 94 Stat. 410.

	45:855(b).	
24902(k)	45:854(c)(1).	Feb. 5, 1976, Pub. L. 94–210, §704(c)(1), 90 Stat. 123; May 30, 1980, Pub. L. 96–254, §210(1), 94 Stat. 414.
	45:854(c)(2).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(c)(2); added May 30, 1980, Pub. L. 96–254, §210(2), 94 Stat. 414.
24902(*l*)	45:545(h) (last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(h) (last sentence); added Oct. 28, 1974, Pub. L. 93–496, §3, 88 Stat. 1527; Sept. 29, 1979, Pub. L. 96–73, §106, 93 Stat. 539.
	45:855(b).	

In this section, the word "program" is substituted for "project" for consistency in this chapter.

In subsection (a)(1)(A) and (B), the words "schedule" and "appropriate" are omitted as surplus.

In subsection (a)(2), the words "in order" and "rail" are omitted as surplus.

In subsection (a)(4)–(6), the words "the goals contained in" are omitted as surplus.

In subsection (a)(4), the text of 45:853(2)(B) is omitted as executed.

In subsection (a)(5), the words "to all users of rail freight service located" are omitted as surplus. The word "in" is substituted for "on" as being more appropriate. The words "all . . . which remain" are omitted as surplus.

In subsection (a)(6), the word "mobile" is added for consistency in this chapter. The word "on" is substituted for "aboard trains operated in" to eliminate unnecessary words. The word "passenger" after "rail" is added for consistency in this chapter. The word "Washington" is omitted as surplus.

In subsection (b), the words "each fiscal year" are substituted for "annual" for clarity. The text of 45:851(d)(1)(A) and (B) is omitted as obsolete.

In subsection (c)(1), the words "in his sole discretion" are omitted as surplus.

In subsection (c)(2)(B), the words "and in the amounts" are omitted as surplus.

In subsection (d), the words "department, agencies, and instrumentalities of the United States Government" are substituted for "relevant Federal agencies, including the Federal Communications Commission" for consistency in the revised title and with other titles of the United States Code. The words "shall assist Amtrak under subsection (a)(6) of this section" are substituted for "shall take such actions as are necessary to achieve this goal" for clarity. The words "including necessary licensing, construction, operation, and maintenance" are omitted as surplus.

In subsection (e), before clause (1), the words "of priority" are added for clarity. In clause (2), the words "Potential ridership should be considered" are omitted as surplus. In clause (5), the words "Reducing maintenance cost levels is desirable" are omitted as surplus. The words "before other improvements" are added for clarity.

In subsection (f), the words "accomplished in a manner which is", "the accomplishment in the . . . of additional", and "levels" are omitted as surplus.

In subsection (g), the words "after April 1, 1990" are omitted as executed. The words "betwen [sic] Washington, D.C., and Boston, Massachusetts" are omitted as surplus. The words "or between the main line and Atlantic City" are substituted for "on the feeder line referred to in section 854(a)(1)(B) of this title" for clarity. The text of 45:431(k)(2) is omitted as executed.

In subsection (h), the text of 45:853(1)(E) (1st–4th sentences) and the word "Thereafter" are omitted as executed. The words "carries out" are substituted for "achieves the service goals specified in" for consistency in this section.

In subsection (i), the words "rolling stock and related", "designed to be", "set forth", and "specified" are omitted as surplus. The text of 45:853(5) (last sentence words after "such equipment") is omitted as obsolete.

In subsection (j)(1), the words "Within 6 months after May 30, 1980, the Secretary shall develop plans" and the text of 45:853(3)(B)(v) are omitted as executed. The words "rail lines" are substituted for "lines" for clarity and consistency in this chapter. The words "Washington" and "on such terms and conditions as the parties may agree" are omitted as surplus.

In subsection (j)(2), the words "including the provision of service use of tracks and facilities as provided in

such application" are omitted as surplus.

In subsection (j)(3), the words "other parties" are substituted for "involved rail freight carriers" to eliminate unnecessary words. The words "conditions and" are omitted as surplus.

In subsection (k)(1), before clause (A), the words "take all steps necessary to" are omitted as surplus. In clause (A), the words "all", "implementation of", and "under this subchapter" are omitted as surplus. Clause (B) is substituted for 45:854(c)(2) to eliminate surplus and obsolete words.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsecs. (e) and (f), is section 703(1)(E) of Pub. L. 94–210, which was classified to section 853(1)(E) of Title 45, Railroads, and was repealed and reenacted as subsec. (h) of this section by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 932, 1379.

AMENDMENTS

2012—Subsec. (g)(2), (3). Pub. L. 112–141 substituted "Surface Transportation Board" for "Interstate Commerce Commission" and "Board" for "Commission" wherever appearing.

1997—Pub. L. 105–134 redesignated subsec. (b) as (a) and subsecs. (e) to (m) as (b) to (j), respectively, in subsec. (j) struck out "(m)" after "This subsection", and struck out former subsecs. (a), (c), and (d) which related to Northeast Corridor improvement plan, cost sharing for nonoperational facilities, and passenger radio mobile telephone service, respectively.

1996—Subsec. (m). Pub. L. 104–205 added subsec. (m).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR PLAN

Pub. L. 110–432, div. B, title II, §211, Oct. 16, 2008, 122 Stat. 4920, within 6 months after Oct. 16, 2008, required Amtrak to prepare capital spending plan to return the railroad right-of-way, facilities, stations, and equipment, of the Northeast Corridor main line to a state-of-good-repair by the end of fiscal year 2018 and required review and approval of the plan by the Secretary of Transportation, prior to repeal by Pub. L. 114–94, div. A, title XI, §11306(b)(3), Dec. 4, 2015, 129 Stat. 1660.

§24903. General authority

(a) GENERAL.—To carry out this chapter and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), Amtrak may—

(1) acquire, maintain, and dispose of any interest in property used to provide improved high-speed rail transportation under section 24902 of this title;

(2) acquire, by condemnation or otherwise, any interest in real property that Amtrak considers necessary to carry out the goals of section 24902;

(3) provide for rail freight, intercity rail passenger, and commuter rail passenger transportation over property acquired under this section;

(4) improve rail rights of way between Boston, Massachusetts, and the District of Columbia (including the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to achieve the goals of section 24902 of providing improved high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, and intermediate intercity markets;

(5) acquire, build, improve, and install passenger stations, communications and electric power facilities and equipment, public and private highway and pedestrian crossings, and other facilities and equipment necessary to provide improved high-speed rail passenger transportation over rights

of way improved under clause (4) of this subsection;

(6) make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over, rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), and chapter 224 of this title; and

(7) appoint a general manager of the Northeast Corridor improvement program.

(b) COMPENSATORY AGREEMENTS.—Rail freight and commuter rail passenger transportation provided under subsection (a)(3) of this section shall be provided under compensatory agreements with the responsible carriers.

(c) COMPENSATION FOR TRANSPORTATION OVER CERTAIN RIGHTS OF WAY AND FACILITIES.—(1) An agreement under subsection (a)(6) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Surface Transportation Board shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), and chapter 224 of this title and shall determine compensation (without allowing cross-subsidization between commuter rail passenger and intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Board shall assign to a rail carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

(3) This subsection does not prevent the parties from making an agreement under subsection (a)(6) of this section after the Board makes a decision under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 934, §24904; Pub. L. 103–429, §6(22), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 105–134, title IV, §405(b)(2), Dec. 2, 1997, 111 Stat. 2586; Pub. L. 110–432, div. B, title II, §212(b)(2), Oct. 16, 2008, 122 Stat. 4924; Pub. L. 112–141, div. C, title II, §32932(c)(4), July 6, 2012, 126 Stat. 829; renumbered §24903, Pub. L. 114–94, div. A, title XI, §11306(a)(1), Dec. 4, 2015, 129 Stat. 1658; Pub. L. 117–58, div. B, title I, §21301(j)(4)(F), Nov. 15, 2021, 135 Stat. 693.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24904(a) (words before (1))	45:851(a) (words before (1)).	Feb. 5, 1976, Pub. L. 94–210, §701(a)(1), (3)–(8), 90 Stat. 119.
24904(a)(1)	45:851(a)(1).	
	45:855(b).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §705(b); added May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97–468, §301(5)(B), 96 Stat. 2550.
24904(a)(2)	45:854(h).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(h); added May 30, 1980, Pub. L. 96–254, §204(b), 94 Stat. 411.

	45:855(b).	
24904(a)(3)	45:851(a)(3) (less proviso).	
24904(a)(4)	45:851(a)(4).	
24904(a)(5)	45:851(a)(5).	
24904(a)(6)	45:562(a)(2) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(a)(2); added Feb. 5, 1976, Pub. L. 94–210, §706(a), 90 Stat. 123; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412; Apr. 7, 1986, Pub. L. 99–272, §4017(b)(2)–(5), 100 Stat. 111.
	45:851(a)(6) (words before 8th comma).	
24904(a)(7)	45:851(a)(7).	
24904(a)(8)	45:851(a)(8).	
24904(b)	45:851(a)(3) (proviso).	
24904(c)(1)	45:851(a)(6) (words after 8th comma).	
24904(c)(2)	45:562(a)(2) (2d–5th sentences).	
24904(c)(3)	45:562(a)(2) (last sentence).	

In subsection (a), before clause (1), the words "the purposes of" are omitted as surplus. The words "this part" are substituted for "this subchapter, the Rail Passenger Service Act [45 U.S.C. 501 et seq.]" for clarity because subchapter III of chapter 17 of title 45, United States Code, and the Rail Passenger Service Act make up part C of subtitle V of the revised title. In clause (1), the words "by purchase, lease, exchange, gift, or otherwise, and to hold . . . sell, lease, or otherwise", "real or personal", and "which is necessary or" are omitted as surplus. The words "to provide" are substituted for "establishing and maintaining" for consistency in this chapter. In clause (2), the words "for the United States, by lease, purchase, condemnation, or otherwise" and "(including lands, easements, and rights-of-way, and any other property interests, including contract rights) are omitted as surplus. In clause (3), the words "the continuous operation and maintenance of" are omitted as surplus. In clause (4), the words "Washington" and "at its option" are omitted as surplus. In clause (5), the words "other safety facilities or equipment . . . any" and "which it determines are" are omitted as surplus. In clause (6), the words "Notwithstanding any other provision of this chapter", "tracks, rights-of-way and other", and "by the Corporation" in 45:562(a)(2) (1st sentence) and "other railroads" and "trackage rights, contract services, and other appropriate" in 45:851(a)(6) are omitted as surplus. In clause (7), the words "qualified individual to serve as the" are omitted as surplus. In clause (8), the words "on a basis which is consistent with, and" are omitted as surplus.

In subsection (c)(1), the words "shall provide for" are substituted for "to be on such terms and conditions as are necessary to" to eliminate unnecessary words. The word "reasonable" is substituted for "on an equitable and fair basis" for consistency in the revised title.

In subsection (c)(2), the words "If the parties do not" are substituted for "In the event of a failure to" for clarity. The words "to be provided", "consistent with equitable and fair compensation principles", "proper amount of", "the provision of", and "the date of" are omitted as surplus.

In subsection (c)(3), the words "either before or" are omitted as surplus because the National Railroad Passenger Corporation may make agreements on arrangements for rail freight or commuter rail transportation under subsection (a)(6) of this section and this subsection applies only when there is no agreement.

PUB. L. 103–429

This amends 49:24904(a)(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 934).

EDITORIAL NOTES

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsecs. (a) and (c)(2), is Pub. L. 93–236, Jan.

2, 1974, 87 Stat. 985, which is classified principally to chapter 16 (§701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsecs. (a)(6) and (c)(2), is Pub. L. 94–210, Feb. 5, 1976, 90 Stat. 31. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45 and Tables.

PRIOR PROVISIONS

A prior section 24903, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 933; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to program master plan for Boston-New York main line, prior to repeal by Pub. L. 105–134, title IV, §405(a), Dec. 2, 1997, 111 Stat. 2586.

AMENDMENTS

2021—Subsec. (a)(6). Pub. L. 117–58, §21301(j)(4)(F)(i), substituted ", the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), and chapter 224 of this title" for "and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.)".

Subsec. (c)(2). Pub. L. 117–58, §21301(j)(4)(F)(ii), substituted ", the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), and chapter 224 of this title" for "and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.)".

2015—Pub. L. 114–94 renumbered section 24904 of this title as this section.

2012—Subsec. (c)(2). Pub. L. 112–141 substituted "Surface Transportation Board" for "Interstate Commerce Commission" and "Board" for "Commission".

Subsec. (c)(3). Pub. L. 112–141, §32932(c)(4)(B), substituted "Board" for "Commission".

2008—Subsec. (c)(2). Pub. L. 110–432 inserted "commuter rail passenger and" after "between" in first sentence and struck out "freight" after "rail" in second sentence.

1997—Subsec. (a)(6) to (8). Pub. L. 105–134 inserted "and" at end of par. (6), substituted a period for "; and" at end of par. (7), and struck out par. (8) which read as follows: "make agreements with telecommunications common carriers, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), to continue existing, and establish new and improved, passenger radio mobile telephone service in the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2)."

1994—Subsec. (a)(2). Pub. L. 103–429 inserted ", by condemnation or otherwise," after "acquire".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§24904. Northeast Corridor planning

(a) NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN.—

(1) IN GENERAL.—Not later than March 31, 2022, the Northeast Corridor Commission established under section 24905 (referred to in this section as the "Commission") shall submit a service development plan to Congress.

(2) CONTENTS.—The plan required under paragraph (1) shall—

(A) identify key state-of-good-repair, capacity expansion, and capital improvement projects planned for the Northeast Corridor;

(B) provide a coordinated and consensus-based plan covering a 15-year period;

(C) identify service objectives and the capital investments required to meet such objectives;
(D) provide a delivery-constrained strategy that identifies—
(i) capital investment phasing;
(ii) an evaluation of workforce needs; and
(iii) strategies for managing resources and mitigating construction impacts on operations; and

(E) include a financial strategy that identifies funding needs and potential funding sources.

(3) UPDATES.—The Commission shall update the service development plan not less frequently than once every 5 years.

(b) NORTHEAST CORRIDOR CAPITAL INVESTMENT PLAN.—
(1) IN GENERAL.—Not later than November 1 of each year, the Commission shall—
(A) develop an annual capital investment plan for the Northeast Corridor; and
(B) submit the capital investment plan to—
(i) the Secretary of Transportation;
(ii) the Committee on Commerce, Science, and Transportation of the Senate; and
(iii) the Committee on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The plan required under paragraph (1) shall—
(A) reflect coordination across the entire Northeast Corridor;
(B) integrate the individual capital plans developed by Amtrak, States, and commuter authorities in accordance with the cost allocation policy developed and approved under section 24905(c);
(C) cover a period of 5 fiscal years, beginning with the fiscal year during which the plan is submitted;
(D) notwithstanding section 24902(b), document the projects and programs being undertaken to advance the service objectives and capital investments identified in the Northeast Corridor service development plan developed under subsection (a), and the asset condition needs identified in the Northeast Corridor asset management plans, after considering—
(i) the benefits and costs of capital investments in the plan;
(ii) project and program readiness;
(iii) the operational impacts; and
(iv) Federal and non-Federal funding availability;

(E) categorize capital projects and programs as primarily associated with 1 of the categories listed under section 24319(c)(2)(C);
(F) identify capital projects and programs that are associated with more than 1 category described in subparagraph (E); and
(G) include a financial plan that identifies—
(i) funding sources and financing methods;
(ii) the status of cost sharing agreements pursuant to the cost allocation policy developed under section 24905(c);
(iii) the projects and programs that the Commission expects will receive Federal financial assistance; and
(iv) the eligible entity or entities that the Commission expects—
(I) to receive the Federal financial assistance referred to in clause (iii); and
(II) to implement each capital project.

(3) REVIEW AND COORDINATION.—The Commission shall require that the information described in paragraph (2) be submitted in a timely manner to allow for a reasonable period of review by, and coordination with, affected agencies before the Commission submits the capital

investment plan pursuant to paragraph (1).

(c) FAILURE TO DEVELOP A CAPITAL INVESTMENT PLAN.—If a capital investment plan has not been developed by the Commission for a given fiscal year, then the funds assigned to the Northeast Corridor account established under section 24317(b) for that fiscal year may be spent only on capital projects and programs contained in the Commission's capital investment plan for the prior fiscal year.

(d) NORTHEAST CORRIDOR CAPITAL ASSET MANAGEMENT SYSTEM.—

(1) IN GENERAL.—Amtrak and other infrastructure owners that provide or support intercity rail passenger transportation along the Northeast Corridor shall develop an asset management system and use and update such system, as necessary, to develop submissions to the Northeast Corridor capital investment plan described in subsection (b).

(2) FEATURES.—The system required under paragraph (1) shall develop submissions that—

(A) are consistent with the transit asset management system (as defined in section 5326(a)(3)); and

(B) include—

(i) an inventory of all capital assets owned by the developer of the plan;

(ii) an assessment of condition of such capital assets;

(iii) a description of the resources and processes that will be necessary to bring or to maintain such capital assets in a state of good repair; and

(iv) a description of changes in the condition of such capital assets since the submission of the prior version of the plan.

(e) DEFINITION OF NORTHEAST CORRIDOR.—In this section, the term "Northeast Corridor" means the main line between Boston, Massachusetts, and the District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, including the facilities and services used to operate and maintain those lines.

(Added Pub. L. 114–94, div. A, title XI, §11306(a)(2), Dec. 4, 2015, 129 Stat. 1658; amended Pub. L. 117–58, div. B, title II, §22301, Nov. 15, 2021, 135 Stat. 714.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 24904 was renumbered section 24903 of this title.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §22301(1), (3), added subsec. (a) and struck out former subsec. (a), which required Northeast Corridor Commission to develop Northeast Corridor capital investment and financial plans.

Subsec. (b). Pub. L. 117–58, §22301(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 117–58, §22301(2), (4), redesignated subsec. (b) as (c) and substituted "spent only on capital projects and programs contained in the Commission's capital investment plan for the prior fiscal year." for "spent only on—

"(1) capital projects described in clause (i) or (iii) of subsection (a)(2)(E) of this section; or

"(2) capital projects described in subsection (a)(2)(E)(iv) or (v) of this section that are for the sole benefit of Amtrak."

Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 117–58, §22301(5), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to development of Northeast Corridor asset management system and Northeast Corridor asset management plan for each service territory.

Pub. L. 117–58, §22301(1), (2), redesignated subsec. (c) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: "Not less frequently than once every 10 years, the Commission shall update the Northeast Corridor service development plan."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§24905. Northeast Corridor Commission; Safety Committee

(a) NORTHEAST CORRIDOR COMMISSION.—

(1) Within 180 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Secretary of Transportation shall establish a Northeast Corridor Commission (referred to in this section as the "Commission") to promote mutual cooperation and planning pertaining to the rail operations, infrastructure investments, and related activities of the Northeast Corridor. The Commission shall be made up of—

(A) members representing Amtrak;

(B) members representing the Department of Transportation, including the Office of the Secretary, the Federal Railroad Administration, and the Federal Transit Administration;

(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

(D) non-voting representatives of freight and commuter railroad carriers authorities using the Northeast Corridor selected by the Secretary.

(2) The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission's memberships.

(3) The Commission shall establish a schedule and location for convening meetings, but shall meet no less than four times per fiscal year, and the Commission shall develop rules and procedures to govern the Commission's proceedings.

(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

(6) The members of the Commission shall elect co-chairs consisting of 1 member described in paragraph (1)(B) and 1 member described in paragraph (1)(C).

(7) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(8) Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(9) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(10) The Commission shall consult with other entities as appropriate.

(b) STATEMENT OF GOALS AND RECOMMENDATIONS.—

(1) STATEMENT OF GOALS.—The Commission shall develop and periodically update a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services operating with greater safety and reliability, reduced travel times, increased frequencies and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.

(2) RECOMMENDATIONS.—The Commission shall develop recommendations based on the statement developed under this section addressing, as appropriate—

(A) short-term and long-term capital investment needs;
(B) future funding requirements for capital improvements and maintenance;
(C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;
(D) opportunities for additional non-rail uses of the Northeast Corridor;
(E) scheduling and dispatching;
(F) safety and security enhancements;
(G) equipment design;
(H) marketing of rail services;
(I) future capacity requirements; and
(J) potential funding and financing mechanisms for projects of corridor-wide significance.

(3) SUBMISSION OF STATEMENT OF GOALS, RECOMMENDATIONS, AND PERFORMANCE REPORTS.—The Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—
(A) any updates made to the statement of goals developed under paragraph (1) not later than 60 days after such updates are made; and
(B) annual performance reports and recommendations for improvements, as appropriate, issued not later than March 31 of each year, for the prior fiscal year, which summarize—
(i) the operations and performance of commuter, intercity, and freight rail transportation, including ridership trends, along the Northeast Corridor;
(ii) the delivery of the first year of the capital investment plan described in section 24904; and
(iii) progress in assessing and eliminating the state-of-good-repair backlog.

(c) ALLOCATION OF COSTS.—
(1) POLICY.—The Commission shall—
(A) develop and maintain the standardized policy first approved on September 17, 2015, and update, as appropriate, for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation, as defined in section 24102 of this title, on the Northeast Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that—
(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;
(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and
(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including but not limited to, any capital infrastructure investments and in-kind services;

(B) develop timetables for implementing and maintaining the policy;
(C) submit updates to the policy and timetables developed under subparagraph (B) to the Surface Transportation Board, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives;
(D) support the efforts of the members of the Commission to implement the policy in accordance with the timetables developed pursuant to subparagraph (B); [1]
(E) with the consent of a majority of its members, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through nonbinding mediation to reach

an agreement under this section.

(2) IMPLEMENTATION.—

(A) IN GENERAL.—In accordance with the timetables developed pursuant to paragraph (1)(B), Amtrak and commuter authorities on the Northeast Corridor shall implement the policy developed under paragraph (1) in their agreements for usage of facilities or services.

(B) EFFECT OF FAILURE TO IMPLEMENT OR COMPLY WITH POLICY.—If the entities referred to in subparagraph (A) fail to implement the policy in accordance with paragraph (1)(D) or fail to comply with the policy thereafter, the Surface Transportation Board shall—

(i) determine the appropriate compensation in accordance with the procedures and procedural schedule applicable to a proceeding under section 24903(c), after taking into consideration the policy developed under paragraph (1); and

(ii) enforce its determination on the party or parties involved.

(3) REVISIONS.—The Commission may make necessary revisions to the policy developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed pursuant to section 203 of the Passenger Rail Investment and Improvement Act of 2008.

(4) REQUEST FOR DISPUTE RESOLUTION.—If a dispute arises with the implementation of, or compliance with, the policy developed under paragraph (1), the Commission, Amtrak, or commuter authorities on the Northeast Corridor may request that the Surface Transportation Board conduct dispute resolution. The Surface Transportation Board shall establish procedures for resolution of disputes brought before it under this paragraph, which may include the provision of professional mediation services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the use of the Commission and the Northeast Corridor Safety Committee such sums as may be necessary to carry out this section during fiscal years 2022 through 2026, in addition to any amounts withheld under section 22101(e) of the Passenger Rail Expansion and Rail Safety Act of 2021.

(e) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of—

(A) the Department of Transportation, including the Federal Railroad Administration;

(B) Amtrak;

(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

(D) commuter rail agencies;

(E) rail passengers;

(F) rail labor; and

(G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

(2) SUNSET.—The Committee established under this subsection ceases to exist on the date that the Secretary determines positive train control, as required by section 20157, is fully implemented along the Northeast Corridor.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 935; Pub. L. 110–432, div. B, title II, §212(a), Oct. 16, 2008, 122 Stat. 4921; Pub. L. 114–94, div. A, title XI, §11305(a)–(d)(1), Dec. 4, 2015, 129 Stat. 1656, 1657; Pub. L. 115–420, §§4(a), 6(a), Jan. 3, 2019, 132 Stat. 5444, 5445; Pub. L. 117–58, div. B, title II, §22302, Nov. 15, 2021, 135 Stat. 716.)

HISTORICAL AND REVISION NOTES

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24905(a)(1)	45:585(c).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §505(c); added Jan. 14, 1983, Pub. L. 97–468, §508(2), 96 Stat. 2554.
24905(a)(2)	45:585(a).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §505(a), (b); added Aug. 13, 1981, Pub. L. 97–35, §1137, 95 Stat. 650; Jan. 14, 1983, Pub. L. 97–468, §508(1), 96 Stat. 2554.
24905(a)(3)	45:585(b).	
24905(b)	45:431 (note).	June 22, 1988, Pub. L. 100–342, §11, 102 Stat. 629; Sept. 3, 1992, Pub. L. 102–365, §18, 106 Stat. 982.

In subsection (a)(2), before clause (A), the words "develop and" are omitted as surplus. In clause (B)(v), the word "rates" is substituted for "fares, tariffs" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3), the words "of opinions" and "(among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight service), with respect to all matters" are omitted as surplus. The words "for facilities and transportation matters under" are substituted for "those conferred on the Commission in" for clarity.

In subsection (b)(1), the words "Within 30 days after the date of enactment of this Act . . . shall establish" are omitted as executed.

In subsection (b)(3), the words "each Congress" are substituted for "the 103rd Congress, and biennially thereafter" to eliminate unnecessary words. The words "pursuant to the provisions of this section" are omitted as unnecessary.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (a)(1), is the date of enactment of div. B of Pub. L. 110–432, which was approved Oct. 16, 2008.

Section 203 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (c)(3), is set out as a note under section 24101 of this title.

Section 22101(e) of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (d), is section 22101(e) of title II of div. B of Pub. L. 117–58, Nov. 15, 2021, 135 Stat. 694, which is not classified to the Code.

AMENDMENTS

2021—Subsec. (a)(1)(D). Pub. L. 117–58, §22302(1), inserted "authorities" after "carriers".

Subsec. (b)(3)(B)(i). Pub. L. 117–58, §22302(2)(A)(i), inserted ", including ridership trends," after "transportation".

Subsec. (b)(3)(B)(ii). Pub. L. 117–58, §22302(2)(B)(i), inserted "first year of the" after "the delivery of the".

Subsec. (b)(3)(B)(iii). Pub. L. 117–58, §22302(2)(A)(ii), (B)(ii), (C), added cl. (iii).

Subsec. (c)(1). Pub. L. 117–58, §22302(3)(A)(i), substituted "Policy" for "Development of policy" in heading.

Subsec. (c)(1)(A). Pub. L. 117–58, §22302(3)(A)(ii), substituted "develop and maintain the standardized policy first approved on September 17, 2015, and update, as appropriate," for "develop a standardized policy".

Subsec. (c)(1)(B). Pub. L. 117–58, §22302(3)(A)(iii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "develop a proposed timetable for implementing the policy;".

Subsec. (c)(1)(C). Pub. L. 117–58, §22302(3)(A)(iv), substituted "updates to the policy and timetables" for "the policy and the timetable".

Subsec. (c)(1)(D). Pub. L. 117–58, §22302(3)(A)(v), amended subpar. (D) generally. Prior to amendment,

subpar. (D) read as follows: "not later than October 1, 2015, adopt and implement the policy in accordance with the timetable; and".

Subsec. (c)(2). Pub. L. 117–58, §22302(3)(B), amended par. (2) generally. Prior to amendment, text read as follows: "Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the policy developed under paragraph (1) in accordance with the timetable established therein. If the entities fail to implement such new agreements in accordance with paragraph (1)(D) or fail to comply with the policy thereafter, the Surface Transportation Board shall determine the appropriate compensation for such usage in accordance with the procedures and procedural schedule applicable to a proceeding under section 24903(c), after taking into consideration the policy developed under paragraph (1)(A), as applicable. The Surface Transportation Board shall enforce its determination on the party or parties involved."

Subsec. (c)(4). Pub. L. 117–58, §22302(3)(C), substituted "commuter authorities" for "public authorities providing commuter rail passenger transportation".

Subsec. (d). Pub. L. 117–58, §22302(4), substituted "2022 through 2026" for "2016 through 2020" and "section 22101(e) of the Passenger Rail Expansion and Rail Safety Act of 2021" for "section 11101(g) of the Passenger Rail Reform and Investment Act of 2015".

2019—Subsec. (e)(2). Pub. L. 115–420, §6(a), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The Secretary shall consult with the Committee about safety and security improvements on the Northeast Corridor main line. The Committee shall meet at least two times per year to consider safety and security matters on the main line and meet annually with the Commission on the topic of Northeast Corridor safety and security."

Subsec. (e)(3). Pub. L. 115–420, §4(a), struck out par. (3). Text read as follows: "At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety and security recommendations of the Committee and the comments of the Secretary on those recommendations."

2015—Pub. L. 114–94, §11305(d)(1)(A), struck out "Infrastructure and Operations Advisory" after "Corridor" in section catchline.

Subsec. (a). Pub. L. 114–94, §11305(d)(1)(B)(i), struck out "Infrastructure and Operations Advisory" after "Corridor" in heading.

Subsec. (a)(1). Pub. L. 114–94, §11305(a)(1)(A), (d)(1)(B)(ii), struck out "Infrastructure and Operations Advisory" after "Corridor" and inserted ", infrastructure investments," after "rail operations" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 114–94, §11305(a)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "members representing the Department of Transportation, including the Federal Railroad Administration;".

Subsec. (a)(1)(D). Pub. L. 114–94, §11305(a)(1)(C), inserted "and commuter" after "freight".

Subsec. (a)(6). Pub. L. 114–94, §11305(a)(2), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The Chairman of the Commission shall be elected by the members."

Subsec. (b)(1). Pub. L. 114–94, §11305(b)(1), inserted "and periodically update" after "develop".

Subsec. (b)(2)(A). Pub. L. 114–94, §11305(b)(2), struck out "beyond those specified in the state-of-good-repair plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008" after "needs".

Subsec. (b)(3). Pub. L. 114–94, §11305(b)(3), added par. (3).

Subsec. (c). Pub. L. 114–94, §11305(c)(1), substituted "Allocation of Costs" for "Access Costs" in heading.

Subsec. (c)(1). Pub. L. 114–94, §11305(c)(2)(A), (B), substituted "policy" for "formula" in heading and "The Commission" for "Within 2 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, the Commission" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 114–94, §11305(c)(2)(C), substituted "policy" for "formula" in introductory provisions.

Subsec. (c)(1)(B) to (E). Pub. L. 114–94, §11305(c)(2)(D), added subpars. (B) to (E) and struck out former subpars. (B) to (D) which read as follows:

"(B) develop a proposed timetable for implementing the formula before the end of the 6th year following the date of enactment of that Act;

"(C) transmit the proposed timetable to the Surface Transportation Board; and

"(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this

section."

Subsec. (c)(2). Pub. L. 114–94, §11305(c)(3), substituted "policy developed under" for "formula proposed in", "paragraph (1)(D) or fail to comply with the policy thereafter, the Surface Transportation Board shall" for "the timetable, the Commission shall petition the Surface Transportation Board to", and "for such usage in accordance with the procedures and procedural schedule applicable to a proceeding under section 24903(c), after taking into consideration the policy developed under paragraph (1)(A), as applicable" for "amounts for such services in accordance with section 24904(c) of this title".

Subsec. (c)(3). Pub. L. 114–94, §11305(c)(4), substituted "policy" for "formula".

Subsec. (c)(4). Pub. L. 114–94, §11305(c)(5), added par. (4).

Subsec. (d). Pub. L. 114–94, §11305(d)(1)(E), substituted "to the Secretary for the use of the Commission and the Northeast Corridor Safety Committee" for "to the Commission" and "to carry out this section during fiscal years 2016 through 2020, in addition to any amounts withheld under section 11101(g) of the Passenger Rail Reform and Investment Act of 2015" for "for the period encompassing fiscal years 2009 through 2013 to carry out this section".

Pub. L. 114–94, §11305(d)(1)(C), (D), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to transmission of statement of goals and recommendations.

Subsec. (e). Pub. L. 114–94, §11305(d)(1)(D), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(2). Pub. L. 114–94, §11305(d)(1)(F), substituted "on the main line and meet annually with the Commission on the topic of Northeast Corridor safety and security." for "on the main line."

Subsec. (f). Pub. L. 114–94, §11305(d)(1)(D), redesignated subsec. (f) as (e).

2008—Pub. L. 110–432 amended section generally. Prior to amendment, section related to Northeast Corridor Coordination Board and Northeast Corridor Safety Committee.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

[1] So in original. Probably should be followed by "and".

§24906. Eliminating highway at-grade crossings

(a) PLAN.—In consultation with the States on the main line of the Northeast Corridor, the Secretary of Transportation shall develop a plan not later than September 30, 1993, to eliminate all highway at-grade crossings of the main line by not later than December 31, 1997. The plan may provide that eliminating a crossing is not required if—

(1) impracticable or unnecessary; and

(2) using the crossing is consistent with conditions the Secretary considers appropriate to ensure safety.

(b) AMTRAK'S SHARE OF COSTS.—Amtrak shall pay 20 percent of the cost of eliminating each highway at-grade crossing under the plan.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 936.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24906(a)	45:650(a), (b).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §811; added Oct. 27, 1992, Pub. L. 102–533, §2, 106 Stat. 3515.
24906(b)	45:650(c).	

§24907. Note and mortgage

(a) GENERAL AUTHORITY.—To secure amounts expended by the United States Government to acquire and improve rail property designated under section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and (D)), the Secretary of Transportation may obtain a note of indebtedness from, and make a mortgage agreement with, Amtrak to establish a mortgage lien on the property for the Government. The note and mortgage may not supersede section 24903.

(b) EXEMPTIONS FROM LAWS AND REGULATIONS.—The note and agreement under subsection (a) of this section, and a transaction related to the note or agreement, are exempt from any United States, State, or local law or regulation that regulates securities or the issuance of securities. The note, agreement, or transaction under this section has the same immunities from other laws that section 601 of the Act (45 U.S.C. 791) gives to transactions that comply with or carry out the final system plan. The transfer of rail property because of the note, agreement, or transaction has the same exemptions, privileges, and immunities that the Act (45 U.S.C. 701 et seq.) gives to a transfer ordered or approved by the special court under section 303(b) of the Act (45 U.S.C. 743(b)).

(c) IMMUNITY FROM LIABILITY AND INDEMNIFICATION.—Amtrak, its board of directors, and its individual directors are not liable because Amtrak has given or issued the note or agreement to the Government under subsection (a) of this section. Immunity granted under this subsection also applies to a transaction related to the note or agreement. The Government shall indemnify Amtrak, its board, and individual directors against costs and expenses actually and reasonably incurred in defending a civil action testing the validity of the note, agreement, or transaction.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 936; Pub. L. 114–94, div. A, title XI, §11306(b)(1), Dec. 4, 2015, 129 Stat. 1660.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24907(a)	45:854(e).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(e)–(g); added Oct. 19, 1976, Pub. L. 94–555, §217(c), 90 Stat. 2627.
24907(b)	45:854(f).	
24907(c)	45:854(g).	

In subsection (a), the words "In order . . . protect and", "securing such expenditure", "infringe upon or", and "the authority conferred upon the National Railroad Passenger Corporation by" are omitted as surplus.

In subsections (b) and (c), the words "note" and "agreement" are substituted for "agreement, security, or obligation" for consistency because the Secretary of Transportation gets only notes and mortgage agreements under the source provisions restated in subsection (a) of this section.

In subsection (b), the words "obtained by the Secretary" and "the provisions of subtitle IV of title 49, the Securities Act of 1933 (15 U.S.C. 77a et seq.), and . . . other" are omitted as surplus. The words "has the same" are substituted for "shall enjoy all of the" for clarity. The words "conveyance or" are omitted, and the word "transfer" is substituted for "conveyances", for consistency in this subtitle. The words "(including section 303(e) thereof [45 U.S.C. 743(e)])" are omitted as surplus. The words "section 303(b)" are substituted for "section 306(b)" to correct a mistake in section 217(c) of the Rail Transportation Improvement Act (Public Law 94–555, 90 Stat. 2628).

In subsection (c), the words "to any party for any damages, or in any other matter" are omitted as surplus. The word "because" is substituted for 'by reason of the fact that" to eliminate unnecessary words. The words "related to the note or agreement" are substituted for "in connection with" for clarity. The words "all" and

"(including fees of accountants, experts, and attorneys)" are omitted as surplus. The words "a civil action" are substituted for "any litigation" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "legal" and "given, issued, or entered into" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsecs. (a) and (b), is Pub. L. 93–236, Jan. 2, 1974, 87 Stat. 985, which is classified principally to chapter 16 (§701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94 substituted "section 24903" for "section 24904 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of Title 45, Railroads.

§24908. Transfer taxes and levies and recording charges

A transfer of an interest in rail property under this chapter is exempt from a tax or levy related to the transfer that is imposed by the United States Government, a State, or a political subdivision of a State. On payment of the appropriate and generally applicable charge for the service performed, a transferee or transferor may record an instrument and, consistent with the final system plan, the release or removal of a pre-existing lien or encumbrance of record related to the interest transferred.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 937.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24908	45:743(e) (words "title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 851 et seq.] or of").	Jan. 2, 1974, Pub. L. 93–236, 87 Stat. 985, §303(e) (words "title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of"); added Feb. 5, 1976, Pub. L. 94–210, §601(d), 90 Stat. 84; Sept. 30, 1976, Pub. L. 94–436, §5 (related to title VII), 90 Stat. 1399.

The words "or conveyances", "(whether real, personal, or mixed)", "which are made at any time", "the purposes of", "imposts", "or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee", "now or hereafter", "to compensate . . . the cost of", "such deeds, bills of sale, liens, encumbrances, or other", and "the designations and applicable principles in" are omitted as surplus.

§24909. Authorization of appropriations

(a) GENERAL.—(1) Not more than $2,313,000,000 may be appropriated to the Secretary of Transportation to achieve the goals of section 24902(a)(1) [1] of this title. From this amount, the following amounts shall be expended by Amtrak:

(A) at least $27,000,000 for equipment modification and replacement that a State or a local or regional transportation authority must bear because of the electrification conversion system of the Northeast Corridor under this chapter.

(B) $30,000,000—

(i) to improve the main line track between the Northeast Corridor main line and Atlantic City, New Jersey, to ensure that the track, consistent with a plan New Jersey developed in consultation with Amtrak to provide rail passenger transportation between the Northeast Corridor main line and Atlantic City, New Jersey, would be of sufficient quality to allow safe rail passenger transportation at a minimum of 79 miles an hour not later than September 30, 1985; and

(ii) to promote rail passenger use of the track.

(C) necessary amounts to—

(i) develop Union Station in the District of Columbia;

(ii) install 189 track-miles, and renew 133 track-miles, of concrete ties with continuously welded rail between the District of Columbia and New York, New York;

(iii) install reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 track;

(iv) restore ditch drainage in concrete tie locations between the District of Columbia and New York, New York;

(v) undercut 83 track-miles between the District of Columbia and New York, New York;

(vi) rehabilitate bridges between the District of Columbia and New York, New York (including Hi line);

(vii) develop a maintenance of way equipment repair facility between the District of Columbia and New York, New York, and build maintenance of way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut;

(viii) stabilize the roadbed between the District of Columbia and New York, New York;

(ix) automate the Bush River Drawbridge at milepost 72.14;

(x) improve the New York Service Facility to develop rolling stock repair capability;

(xi) install a rail car washer facility at Philadelphia, Pennsylvania;

(xii) restore storage tracks and buildings at the Washington Service Facility;

(xiii) install centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania;

(xiv) improve track, including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution;

(xv) rehabilitate interlockings between the District of Columbia and New York, New York;

(xvi) paint the Connecticut River, Groton, and Pelham Bay bridges;

(xvii) provide additional catenary renewal and power supply upgrading between the District of Columbia and New York, New York;

(xviii) rehabilitate structural, electrical, and mechanical systems at the William H. Gray III 30th Street Station in Philadelphia, Pennsylvania;

(xix) install evacuation and fire protection facilities in tunnels in New York, New York;

(xx) improve the communication and signal systems between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line, and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line;

(xxi) improve the electric traction systems between Wilmington, Delaware, and Newark, New Jersey;

(xxii) install baggage rack restraints, seat back guards, and seat lock devices on 348 passenger cars operating in the Northeast Corridor;

(xxiii) install 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; and

(xxiv) acquire cab signal test boxes and install 9 wayside loop code transmitters for use within the Northeast Corridor.

(2) The following additional amounts may be appropriated to the Secretary for expenditure by Amtrak:

(A) not more than $150,000,000 to achieve the goal of section 24902(a)(3) [1] of this title.

(B) not more than $120,000,000 to acquire interests in property in the Northeast Corridor.

(C) not more than $650,000 to develop and use mobile radio frequencies for passenger radio mobile telephone service on high-speed rail passenger transportation.

(D) not more than $20,000,000 to acquire and improve interests in rail property designated under section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)).

(E) not more than $37,000,000 to carry out section 24902(a)(7) and (j) [1] of this title.

(b) EMERGENCY MAINTENANCE.—Not more than $25,000,000 of the amount appropriated under the Act of February 28, 1975 (Public Law 94–6, 89 Stat. 11), may be used by Amtrak for emergency maintenance on rail property designated under section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C)).

(c) PRIORITY IN USING CERTAIN AMOUNTS.—Amounts appropriated under subsection (a)(2)(B) and (D) of this section shall be used first to repay, with interest, obligations guaranteed under section 602 of the Rail Passenger Service Act, if the proceeds of those obligations were used to pay the expenses of acquiring interests in property referred to in subsection (a)(2)(B) and (D).

(d) PROHIBITION ON SUBSIDIZING COMMUTER AND FREIGHT OPERATING LOSSES .—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail or rail freight transportation.

(e) SUBSTITUTING AND DEFERRING CERTAIN IMPROVEMENTS.—(1) A project for which amounts are authorized under subsection (a)(1)(C) of this section is a part of the Northeast Corridor improvement program and is not a substitute for improvements specified in the document "Corridor Master Plan II, NECIP Restructured Program" of January, 1982. However, Amtrak may defer the project to carry out the improvement and rehabilitation for which amounts are authorized under subsection (a)(1)(B) of this section. The total cost of the project that Amtrak defers may not be substantially more than the amount Amtrak is required to expend or reserve under subsection (a)(1)(B).

(2) Section 24902 of this title is deemed not to be fulfilled until the projects under subsection (a)(1)(C) of this section are completed.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a)(1) and (2)(A) and (C)–(E) of this section remain available until expended.

(g) AUTHORIZATIONS INCREASED BY PRIOR YEAR DEFICIENCIES.—An amount greater than that authorized for a fiscal year may be appropriated to the extent that the amount appropriated for any prior fiscal year is less than the amount authorized for that year.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 937; Pub. L. 113–158, §2, Aug. 8, 2014, 128 Stat. 1838.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24909(a)(1)	45:854(a) (1st sentence).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(a) (1st sentence); added Aug. 13, 1981, Pub. L. 97–35, §1193(1), 95 Stat. 701.

	45:854(a) (2d sentence cl. (1) (less availability)).	Feb. 5, 1976, Pub. L. 94–210, §704(a) (2d sentence), 90 Stat. 122; Oct. 19, 1976, Pub. L. 94–555, §217(a), (b), 90 Stat. 2627; Oct. 5, 1978, Pub. L. 95–421, §9, 92 Stat. 928; May 30, 1980, Pub. L. 96–254, §204(a), 94 Stat. 411; Jan. 14, 1983, Pub. L. 97–468, §301(2), 96 Stat. 2548; June 22, 1988, Pub. L. 100–342, §6, 102 Stat. 627.
	45:855(b).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §705(b); added May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97–468, §301(5)(B), 96 Stat. 2550.
24909(a) (2)(A)	45:854(a) (2d sentence cl. (2) (less availability)).	
	45:855(b).	
24909(a) (2)(B)–(E)	45:854(a) (2d sentence cls. (3)(A)–(D) (1st sentence), (4)) (as 2d sentence cls. (3)(A)–(D) (1st sentence), (4) relate to other than availability).	
	45:855(b).	
24909(b)	45:854(d).	Feb. 5, 1976, Pub. L. 94–210, §704(d), 90 Stat. 123.
	45:855(b).	
24909(c)	45:854(a) (2d sentence cl. (3)(D) (last sentence)).	
24909(d)	45:854(b)(1) (related to 854).	Feb. 5, 1976, Pub. L. 94–210, §704(b)(1) (related to §704), 90 Stat. 123; Jan. 14, 1983, Pub. L. 97–468, §301(4)(A), 96 Stat. 2549.
24909(e)	45:854(b)(2).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(b)(2); added Jan. 14, 1983, Pub. L. 97–468, §301(4)(B), 96 Stat. 2549.
	45:855(b).	
24909(f)	45:854(a) (2d sentence cls. (1)–(3)(D) (1st sentence), (4)) (as 2d sentence cls. (1)–(3)(D) (1st sentence), (4) relate to availability).	
24909(g)	45:854(a) (3d sentence).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(a) (3d sentence); added Aug. 13, 1981, Pub. L. 97–35, §1193(2), 95 Stat. 702.
	45:854(a) (4th–last sentences).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(a) (4th–last sentences); added Jan. 14, 1983, Pub. L. 97–468, §301(3), 96 Stat. 2549.

In subsections (a) and (f), the text of 45:854(a) (2d sentence cl. (3)(A)) is omitted as executed.

In subsection (a)(1), before clause (A), the text of 45:854(a) (1st sentence) is omitted as surplus because of section 24902(a) of the revised title. In clause (B)(i), the words "if the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from . . . that such State has approved" and "and if such Corporation determines that such plan is feasible" are omitted as executed. The words "rehabilitation and other . . . (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service)" are omitted as surplus. In clause (C), before subclause (i), the words "with respect to the main line of the Northeast Corridor" are omitted as surplus. In subclauses (i), (ii), (iv)–(viii), (xv), and (xvii), the word "Washington" is omitted as surplus. In subclause (xx), the words "at locations" are omitted as surplus.

In subsection (a)(2)(C), the words "passenger radio mobile telephone service on high-speed rail passenger transportation" are substituted for "high-speed rail passenger rail telephone service" for consistency in this chapter.

In subsection (a)(2)(D), the word "rail" is added for consistency in the revised title.

In subsection (b), the words "After the conveyance of rail properties, pursuant to section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) and section 851(b) of this title" are omitted as executed. The words "remain available to" and "the purpose of performing" are omitted as surplus.

In subsection (c), the words "that portion of . . . issued by the National Railroad Passenger Corporation and" are omitted as surplus.

In subsection (e)(1), the words "to be appropriated", "undertaken or viewed as", "entitled", and "prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by Deleuw, Cather/Parsons, NECIP architect/engineer" are omitted as surplus. The words "for which amounts are authorized under" are substituted for "described in" for clarity. The words "for expenditure" are omitted as surplus.

In subsection (g), the text of 45:854(a) (3d, 5th, and last sentences) is omitted as executed. The words "An amount greater than that authorized for a fiscal year" are substituted for "Funds . . . in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983" to eliminate unnecessary and obsolete words. The words "under this section" are omitted as surplus. The words "amount authorized" are substituted for "limitation under such sentence" for consistency.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 24902 of this title, referred to in subsecs. (a)(1), (2)(A), (E), was amended by Pub. L. 105–134, title IV, §405(b)(1), Dec. 2, 1997, 111 Stat. 2586, and, as so amended, subsec. (a) of that section was repealed and subsecs. (b), (j), and (m) were redesignated (a), (g), and (j), respectively.

Act of February 28, 1975 (Public Law 94–6, 89 Stat. 11), referred to in subsec. (b), provided appropriations for interim operating assistance for Federal Railroad Administration of Department of Transportation in chapter II which is not classified to the Code.

Section 602 of the Rail Passenger Service Act, referred to in subsec. (c), was classified to section 602 of Title 45, Railroads, prior to repeal by Pub. L. 102–533, §7(c), Oct. 27, 1992, 106 Stat. 3519.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"William H. Gray III 30th Street Station" substituted for "30th Street Station" in subsec. (a)(1)(C)(xviii) pursuant to section 2 of Pub. L. 113–158, set out below.

Pub. L. 113–158, Aug. 8, 2014, 128 Stat. 1838, provided that:

"SECTION 1. REDESIGNATION.

"The railroad station located at 2955 Market Street in Philadelphia, Pennsylvania, commonly known as '30th Street Station', shall be known and designated as the 'William H. Gray III 30th Street Station'.

"SEC. 2. REFERENCES.

"Any reference in a law, map, regulation, document, paper, or other record of the United States to the railroad station referred to in section 1 shall be deemed to be a reference to the 'William H. Gray III 30th Street Station'."

[1] *See References in Text note below.*

§24910. Rail cooperative research program

(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

(1) address, among other matters, intercity rail passenger and freight rail services, including existing rail passenger and freight technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems;

(2) address ways to expand the transportation of international trade traffic by rail, enhance the efficiency of intermodal interchange at ports and other intermodal terminals, and increase capacity and availability of rail service for seasonal freight needs;

(3) consider research on the interconnectedness of commuter rail, passenger rail, freight rail, and other rail networks; and

(4) give consideration to regional concerns regarding rail passenger and freight transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

(b) CONTENT.—The program to be carried out under this section shall include research designed—

(1) to identify the unique aspects and attributes of rail passenger and freight service;

(2) to develop more accurate models for evaluating the impact of rail passenger and freight service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

(3) to develop a better understanding of modal choice as it affects rail passenger and freight transportation, including development of better models to predict utilization;

(4) to recommend priorities for technology demonstration and development;

(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

(6) to explore improvements in management, financing, and institutional structures;

(7) to address rail capacity constraints that affect passenger and freight rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger and freight service;

(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

(10) to review the impact of equipment and operational safety standards on the further development of high-speed passenger rail operations connected to or integrated with non-high-speed freight or passenger rail operations;

(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high-speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high-speed freight or passenger rail operations;

(12) to review rail crossing safety improvements, including improvements using new safety technology;

(13) to review and develop technology designed to reduce train horn noise and its effect on communities, including broadband horn technology; and

(14) to improve overall safety of intercity passenger and freight rail operations.

(c) ADVISORY BOARD.—

(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

(2) MEMBERSHIP.—The advisory board shall include—

(A) representatives of State transportation agencies;

(B) transportation and environmental economists, scientists, and engineers; and

(C) representatives of Amtrak, the Alaska Railroad, freight railroads, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

(3) SUNSET.—The advisory board established under this subsection ceases to exist effective January 1, 2019.

(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2010 through 2013 for carrying out this section.

(Added Pub. L. 110–432, div. B, title III, §306(a), Oct. 16, 2008, 122 Stat. 4952; amended Pub. L. 114–94, div. A, title XI, §11316(o), Dec. 4, 2015, 129 Stat. 1679; Pub. L. 115–420, §6(b), Jan. 3, 2019, 132 Stat. 5445.)

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (c)(3). Pub. L. 115–420 added par. (3).
2015—Subsec. (b)(14). Pub. L. 114–94 added par. (14).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§24911. Federal-State partnership for intercity passenger rail

(a) DEFINITIONS.—In this section:

(1) APPLICANT.—The term "applicant" means—

(A) a State (including the District of Columbia);

(B) a group of States;

(C) an Interstate Compact;

(D) a public agency or publicly chartered authority established by 1 or more States;

(E) a political subdivision of a State;

(F) Amtrak, acting on its own behalf or under a cooperative agreement with 1 or more States;

(G) a federally recognized Indian Tribe; or

(H) any combination of the entities described in subparagraphs (A) through (G).

(2) INTERCITY RAIL PASSENGER TRANSPORTATION.—The term "intercity rail passenger transportation" has the meaning given the term in section 24102.

(3) NORTHEAST CORRIDOR.—The term "Northeast Corridor" means—

(A) the main rail line between Boston, Massachusetts and the District of Columbia;

(B) the branch rail lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York; and

(C) facilities and services used to operate and maintain lines described in subparagraphs (A) and (B).

(b) GRANT PROGRAM AUTHORIZED.—The Secretary of Transportation shall develop and implement a program for issuing grants to applicants, on a competitive basis, to fund capital projects that reduce the state of good repair backlog, improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved;.[1]

(c) ELIGIBLE PROJECTS.—The following capital projects, including acquisition of real property interests, are eligible to receive grants under this section:

(1) A project to replace, rehabilitate, or repair infrastructure, equipment, or a facility used for providing intercity passenger rail service to bring such assets into a state of good repair.

(2) A project to improve intercity passenger rail service performance, including reduced trip times, increased train frequencies, higher operating speeds, improved reliability, expanded capacity, reduced congestion, electrification, and other improvements, as determined by the Secretary.

(3) A project to expand or establish new intercity passenger rail service.

(4) A group of related projects described in paragraphs (1) through (3).

(5) The planning, environmental studies, and final design for a project or group of projects described in paragraphs (1) through (4).

(d) PROJECT SELECTION CRITERIA.—In selecting a project for funding under this section—

(1) for projects located on the Northeast Corridor, the Secretary shall—

(A) make selections consistent with the Northeast Corridor Project Inventory published pursuant to subsection (e)(1), unless when necessary to address materially changed infrastructure or service conditions, changes in project sponsor capabilities or commitments, or other significant changes since the completion of the most recently issued Northeast Corridor Project Inventory; and

(B) for projects that benefit intercity and commuter rail services, only make such selections when Amtrak and the public authorities providing commuter rail passenger transportation at the eligible project location—

(i) are in compliance with section 24905(c)(2); and

(ii) identify funding for the intercity passenger rail share, the commuter rail share, and the local share of the eligible project before the commencement of the project;

(2) for projects not located on the Northeast Corridor, the Secretary shall—

(A) give preference to eligible projects—

(i) for which Amtrak is not the sole applicant;

(ii) that improve the financial performance, reliability, service frequency, or address the state of good repair of an Amtrak route; and

(iii) that are identified in, and consistent with, a corridor inventory prepared under the Corridor Identification and Development Program pursuant to section 25101; and

(B) take into account—

(i) the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project, including—

(I) effects on system and service performance, including as measured by applicable

metrics set forth in part 273 of title 49, Code of Federal Regulations (or successor regulations);

(II) effects on safety, competitiveness, reliability, trip or transit time, greenhouse gas emissions, and resilience;

(III) anticipated positive economic and employment impacts, including development in areas near passenger stations, historic districts, or other opportunity zones;

(IV) efficiencies from improved connections with other modes; and

(V) ability to meet existing or anticipated demand;

(ii) the degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project;

(iii) the applicant's past performance in developing and delivering similar projects, and previous financial contributions;

(iv) whether the applicant has, or will have—

(I) the legal, financial, and technical capacity to carry out the project;

(II) satisfactory continuing access to the equipment or facilities; and

(III) the capability and willingness to maintain the equipment or facilities;

(v) if applicable, the consistency of the project with planning guidance and documents set forth by the Secretary or otherwise required by law;

(vi) whether the proposed project serves historically unconnected or underconnected communities; and

(vii) any other relevant factors, as determined by the Secretary; and

(3) the Secretary shall reserve—

(A) not less than 45 percent of the amounts appropriated for grants under this section for projects not located along the Northeast Corridor, of which not less than 20 percent shall be for projects that benefit (in whole or in part) a long-distance route; and

(B) not less than 45 percent of the amounts appropriated for grants under this section for projects listed on the Northeast Corridor project inventory published pursuant to subsection (e)(1).

(e) LONG-TERM PLANNING.—Not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and every 2 years thereafter, the Secretary shall create a predictable project pipeline that will assist Amtrak, States, and the public with long-term capital planning by publishing a Northeast Corridor project inventory that—

(1) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels under this section;

(2) specifies the order in which the Secretary will provide grant funding to projects that have identified sponsors and are located along the Northeast Corridor, including a method and plan for apportioning funds to project sponsors for the 2-year period, which may be altered by the Secretary, as necessary, if recipients are not carrying out projects in accordance with the anticipated schedule;

(3) takes into consideration the appropriate sequence and phasing of projects described in the Northeast Corridor capital investment plan developed pursuant to section 24904(a); [2]

(4) is consistent with the most recent Northeast Corridor service development plan update described in section 24904(d);[3]

(5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary; and

(6) is developed in consultation with the Northeast Corridor Commission and the owners of Northeast Corridor infrastructure and facilities.

(f) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(1) TOTAL PROJECT COST.—The Secretary shall estimate the total cost of a project under this section based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.—The Federal share of total costs for a project under this section shall not exceed 80 percent, except as specified under paragraph (4).

(3) TREATMENT OF AMTRAK REVENUE.—If Amtrak is an applicant under this section, Amtrak may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(g) LETTERS OF INTENT; PHASED FUNDING AGREEMENTS.—

(1) LETTERS OF INTENT.—The Secretary may issue a letter of intent to a grantee under this section that—

(A) announces an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project; and

(B) states that the contingent commitment—

(i) is not an obligation of the Federal Government; and

(ii) is subject to the availability of appropriations for grants under this section and subject to Federal laws in force or enacted after the date of the contingent commitment.

(2) PHASED FUNDING AGREEMENTS.—

(A) IN GENERAL.—The Secretary may enter into a phased funding agreement with an applicant if—

(i) the project is highly rated, based on the evaluations and ratings conducted pursuant to this section and the applicable notice of funding opportunity; and

(ii) the Federal assistance to be provided for the project under this section is more than $80,000,000.

(B) TERMS.—A phased funding agreement shall—

(i) establish the terms of participation by the Federal Government in the project;

(ii) establish the maximum amount of Federal financial assistance for the project;

(iii) include the period of time for completing the project, even if such period extends beyond the period for which Federal financial assistance is authorized;

(iv) make timely and efficient management of the project easier in accordance with Federal law; and

(v) if applicable, specify when the process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and related environmental laws will be completed for the project.

(C) SPECIAL FINANCIAL RULES.—

(i) IN GENERAL.—A phased funding agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a phased funding agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the

time of borrowing. The applicant shall certify, to the satisfaction of the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the phased funding agreement. For purposes of this clause, a process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that results in the selection of the no build alternative is not within the applicant's control.

(v) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, except for interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

(3) CONGRESSIONAL NOTIFICATION.—

(A) IN GENERAL.—Not later than 30 days before issuing a phased funding agreement under paragraph (2) or a letter under paragraph (1), the Secretary shall submit written notification to—

(i) the Committee on Commerce, Science, and Transportation of the Senate;

(ii) the Committee on Appropriations of the Senate;

(iii) the Committee on Transportation and Infrastructure of the House of Representatives; and

(iv) the Committee on Appropriations of the House of Representatives.

(B) CONTENTS.—The notification submitted pursuant to subparagraph (A) shall include—

(i) a copy of the phased funding agreement or the proposed letter;

(ii) the criteria used under subsection (d) for selecting the project for a grant award; and

(iii) a description of how the project meets such criteria.

(4) APPROPRIATIONS REQUIRED.—

(A) IN GENERAL.—The Secretary may enter into phased funding agreements under this subsection that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

(B) APPROPRIATIONS REQUIRED.—An obligation or administrative commitment may be made under this section only when amounts are appropriated for such purpose.

(h) AVAILABILITY.—Amounts appropriated for carrying out this section shall remain available until expended.

(i) GRANT CONDITIONS.—Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the grant conditions under sections 22903 and 22905.

(j) ANNUAL REPORT ON PHASED FUNDING AGREEMENTS AND LETTERS OF INTENT .—Not later than the first Monday in February of each year, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives that includes—

(1) a proposal for the allocation of amounts to be available to finance grants for projects under this section among applicants for such amounts;

(2) evaluations and ratings, as applicable, for each project that has received a phased funding agreement or a letter of intent; and

(3) recommendations for each project that has received a phased funding agreement or a letter of intent for funding based on the evaluations and ratings, as applicable, and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information

currently available to the Secretary.

(k) REGIONAL PLANNING GUIDANCE CORRIDOR PLANNING.—The Secretary may withhold up to 5 percent of the total amount made available for this section to carry out planning and development activities related to section 25101, including—

(1) providing funding to public entities for the development of service development plans selected under the Corridor Identification and Development Program;

(2) facilitating and providing guidance for intercity passenger rail systems planning; and

(3) providing funding for the development and refinement of intercity passenger rail systems planning analytical tools and models.

(Added Pub. L. 114–94, div. A, title XI, §11302(a), Dec. 4, 2015, 129 Stat. 1648; amended Pub. L. 115–141, div. L, title I, Mar. 23, 2018, 132 Stat. 994; Pub. L. 115–420, §7(b)(3)(A)(i)(IV), Jan. 3, 2019, 132 Stat. 5447; Pub. L. 117–58, div. B, title II, §22307(a), Nov. 15, 2021, 135 Stat. 725.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (e), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

The National Environmental Policy Act of 1969, referred to in subsec. (g)(2)(B)(v), (C)(iv), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Pub. L. 117–58, §22307(a)(1), substituted "for intercity passenger rail" for "for state of good repair" in section catchline.

Subsec. (a)(1)(G). Pub. L. 117–58, §22307(a)(2)(A)(i), (iii), added subpar. (G). Former subpar. (G) redesignated (H) to reflect the probable intent of Congress, see below.

Subsec. (a)(1)(H). Pub. L. 117–58, §22307(a)(2)(A)(iv), which directed amendment of "subsection" (H), as redesignated, by substituting "(G)" for "(F)", was executed by making the substitution in subpar. (H), as redesignated, to reflect the probable intent of Congress.

Pub. L. 117–58, §22307(a)(2)(A)(ii), which directed the redesignation of "subsection" (G) as (H), was executed by redesignating subpar. (G) as (H), to reflect the probable intent of Congress.

Subsec. (a)(2) to (4). Pub. L. 117–58, §22307(a)(2)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "The term 'capital project' means—

"(A) a project primarily intended to replace, rehabilitate, or repair major infrastructure assets utilized for providing intercity rail passenger service, including tunnels, bridges, stations, and other assets, as determined by the Secretary; or

"(B) a project primarily intended to improve intercity passenger rail performance, including reduced trip times, increased train frequencies, higher operating speeds, and other improvements, as determined by the Secretary."

Subsec. (a)(5). Pub. L. 117–58, §22307(a)(2)(B), struck out par. (5). Prior to amendment, text read as follows: "The term 'qualified railroad asset' means infrastructure, equipment, or a facility that—

"(A) is owned or controlled by an eligible applicant;

"(B) is contained in the planning document developed under section 24904 and for which a cost-allocation policy has been developed under section 24905(c), or is contained in an equivalent planning document and for which a similar cost-allocation policy has been developed; and

"(C) was not in a state of good repair on the date of enactment of the Passenger Rail Reform and Investment Act of 2015."

Subsec. (b). Pub. L. 117–58, §22307(a)(3), substituted ", improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved;" for "with respect to qualified railroad assets".

Subsecs. (c) to (e). Pub. L. 117–58, §22307(a)(4), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which, respectively, related to projects eligible for grants under this section, set out various project

selection criteria, and gave conditions on funds to be used for Northeast Corridor projects.

Subsec. (f)(2). Pub. L. 117–58, §22307(a)(5), inserted ", except as specified under paragraph (4)" after "80 percent".

Subsec. (g). Pub. L. 117–58, §22307(a)(6)(A), inserted "; Phased Funding Agreements" after "Intent" in heading.

Subsec. (g)(1). Pub. L. 117–58, §22307(a)(6)(B), substituted "Letters of intent" for "In general" in heading and "may" for "shall, to the maximum extent practicable," in introductory provisions.

Subsec. (g)(2), (3). Pub. L. 117–58, §22307(a)(6)(C), (D), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (g)(3)(A). Pub. L. 117–58, §22307(a)(6)(E)(i), inserted "a phased funding agreement under paragraph (2) or" after "issuing" in introductory provisions.

Subsec. (g)(3)(B)(i). Pub. L. 117–58, §22307(a)(6)(E)(ii), inserted "the phased funding agreement or" after "a copy of".

Subsec. (g)(4). Pub. L. 117–58, §22307(a)(6)(F), designated existing provisions as subpar. (B), inserted heading, and added subpar. (A).

Pub. L. 117–58, §22307(a)(6)(C), redesignated par. (3) as (4).

Subsec. (i). Pub. L. 117–58, §22307(a)(7), substituted "sections 22903 and 22905" for "section 22905".

Subsecs. (j), (k). Pub. L. 117–58, §22307(a)(8), added subsecs. (j) and (k).

2019—Subsec. (i). Pub. L. 115–420 substituted "22905" for "24405".

2018—Subsec. (e)(1). Pub. L. 115–141 substituted "transportation at the eligible project location" for "transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

[1] So in original. The semicolon preceding the period probably should not appear.

[2] So in original. Probably should be "section 24904(b);".

[3] So in original. Probably should be "section 24904(a)(3);".

CHAPTER 251—PASSENGER RAIL PLANNING

Sec.

25101. Corridor Identification and Development Program.

§25101. Corridor Identification and Development Program

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall establish a program to facilitate the development of intercity passenger rail corridors. The program shall include—

(1) a process for eligible entities described in subsection (b) to submit proposals for the development of intercity passenger rail corridors;

(2) a process for the Secretary to review and select proposals in accordance with subsection (c);

(3) criteria for determining the level of readiness for Federal financial assistance of an intercity passenger rail corridor, which shall include—

(A) identification of a service operator which may include Amtrak or private rail carriers;

(B) identification of a service sponsor or sponsors;

(C) identification capital project sponsors;

(D) engagement with the host railroads; and

(E) other criteria as determined appropriate by the Secretary;

(4) a process for preparing service development plans in accordance with subsection (d), including the identification of planning funds, such as funds made available under section 24911(k) and interstate rail compact grants established under section 22210; [1]

(5) the creation of a pipeline of intercity passenger rail corridor projects under subsection (g);

(6) planning guidance to achieve the purposes of this section, including guidance for intercity passenger rail corridors not selected under this section; and

(7) such other features as the Secretary considers relevant to the successful development of intercity passenger rail corridors.

(b) ELIGIBLE ENTITIES.—The Secretary may receive proposals under this section from Amtrak, States, groups of States, entities implementing interstate compacts, regional passenger rail authorities, regional planning organizations, political subdivisions of a State, federally recognized Indian Tribes, and other public entities, as determined by the Secretary.

(c) CORRIDOR SELECTION.—In selecting intercity passenger rail corridors pursuant to subsection (a), the Secretary shall consider—

(1) whether the route was identified as part of a regional or interregional intercity passenger rail systems planning study;

(2) projected ridership, revenues, capital investment, and operating funding requirements;

(3) anticipated environmental, congestion mitigation, and other public benefits;

(4) projected trip times and their competitiveness with other transportation modes;

(5) anticipated positive economic and employment impacts, including development in the areas near passenger stations, historic districts, or other opportunity zones;

(6) committed or anticipated State, regional transportation authority, or other non-Federal funding for operating and capital costs;

(7) benefits to rural communities;

(8) whether the corridor is included in a State's approved State rail plan developed pursuant to chapter 227;

(9) whether the corridor serves historically unserved or underserved and low-income communities or areas of persistent poverty;

(10) whether the corridor would benefit or improve connectivity with existing or planned transportation services of other modes;

(11) whether the corridor connects at least 2 of the 100 most populated metropolitan areas;

(12) whether the corridor would enhance the regional equity and geographic diversity of intercity passenger rail service;

(13) whether the corridor is or would be integrated into the national rail passenger transportation system and whether the corridor would create benefits for other passenger rail routes and services; and

(14) whether a passenger rail operator, including a private rail carrier, has expressed support for the corridor.

(d) SERVICE DEVELOPMENT PLANS.—For each corridor proposal selected for development under this section, the Secretary shall partner with the entity that submitted the proposal, relevant States, and Amtrak, as appropriate, to prepare a service development plan (or to update an existing service development plan), which shall include—

(1) a detailed description of the proposed intercity passenger rail service, including train frequencies, peak and average operating speeds, and trip times;

(2) a corridor project inventory that—

(A) identifies the capital projects necessary to achieve the proposed intercity passenger rail service, including—

(i) the capital projects for which Federal investment will be sought;

(ii) the likely project applicants; and

(iii) the proposed Federal funding levels;

(B) specifies the order in which Federal funding will be sought for the capital projects identified under subparagraph (A), after considering the appropriate sequence and phasing of projects based on the anticipated availability of funds; and

(C) is developed in consultation with the entities listed in subsection (e);

(3) a schedule and any associated phasing of projects and related service initiation or changes;

(4) project sponsors and other entities expected to participate in carrying out the plan;

(5) a description of how the corridor would comply with Federal rail safety and security laws, orders, and regulations;

(6) the locations of existing and proposed stations;

(7) the needs for rolling stock and other equipment;

(8) a financial plan identifying projected—

(A) annual revenues;

(B) annual ridership;

(C) capital investments before service could be initiated;

(D) capital investments required to maintain service;

(E) annual operating and costs; and

(F) sources of capital investment and operating financial support;

(9) a description of how the corridor would contribute to the development of a multi-State regional network of intercity passenger rail;

(10) an intermodal plan describing how the new or improved corridor facilitates travel connections with other passenger transportation services;

(11) a description of the anticipated environmental benefits of the corridor; and

(12) a description of the corridor's impacts on highway and aviation congestion, energy consumption, land use, and economic development in the service area.

(e) CONSULTATION.—In partnering on the preparation of a service development plan under subsection (d), the Secretary shall consult with—

(1) Amtrak;

(2) appropriate State and regional transportation authorities and local officials;

(3) representatives of employee labor organizations representing railroad and other appropriate employees;

(4) host railroads for the proposed corridor; and

(5) other stakeholders, as determined by the Secretary.

(f) UPDATES.—Every 5 years, after the initial development of the service development plan under subsection (d), if at least 40 percent of the work to implement a service development plan prepared under subsection (d) has not yet been completed, the plan's sponsor, in consultation with the Secretary, shall determine whether such plan should be updated.

(g) PROJECT PIPELINE.—Not later than 1 year after the establishment of the program under this section, and by February 1st of each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives a project pipeline, in accordance with this section, that—

(1) identifies intercity passenger rail corridors selected for development under this section;

(2) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels, as applicable, consistent with the corridor project inventory;

(3) specifies the order in which the Secretary would provide Federal financial assistance, subject to the availability of funds, to projects that have identified sponsors, including a method and plan for apportioning funds to project sponsors for a 5-year period, which may be altered by the

Secretary, as necessary, if recipients are not carrying out projects on the anticipated schedule;

(4) takes into consideration the appropriate sequence and phasing of projects described in the corridor project inventory;

(5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary;

(6) is prioritized based on the level of readiness of the corridor; and

(7) reflects consultation with Amtrak.

(h) DEFINITION.—In this section, the term "intercity passenger rail corridor" means—

(1) a new intercity passenger rail route of less than 750 miles;

(2) the enhancement of an existing intercity passenger rail route of less than 750 miles;

(3) the restoration of service over all or portions of an intercity passenger rail route formerly operated by Amtrak; or

(4) the increase of service frequency of a long-distance intercity passenger rail route.

(Added Pub. L. 117–58, div. B, title II, §22308(a), Nov. 15, 2021, 135 Stat. 730.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (a), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

[1] So in original. Probably should be "section 22910;".

PART D—HIGH-SPEED RAIL

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part D, consisting of chapter 261, was redesignated part E of this subtitle by Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.

CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

Sec.

26101. High-speed rail corridor planning.
26102. High-speed rail technology improvements.
26103. Safety regulations and evaluation.
26104. Authorization of appropriations.
26105. Definitions.
26106. High-speed rail corridor development.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior chapter 261, consisting of sections 26101 and 26102, was renumbered chapter 281 of this title by Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.

AMENDMENTS

2021—Pub. L. 117–58, div. B, title II, §22419(b), Nov. 15, 2021, 135 Stat. 749, substituted "Safety regulations and evaluation" for "Safety regulations" in item 26103.

2008—Pub. L. 110–432, div. B, title V, §501(c), (e), Oct. 16, 2008, 122 Stat. 4960, 4963, substituted

"High-speed rail corridor planning" for "Corridor development" in item 26101 and added item 26106.

2005—Pub. L. 109–59, title IX, §9001(a)(2), Aug. 10, 2005, 119 Stat. 1919, substituted "development" for "planning" in item 26101.

§26101. High-speed rail corridor planning

(a) CORRIDOR PLANNING ASSISTANCE.—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

(2) No less than 20 percent of the publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources may not include funds from any Federal program.

(b) ELIGIBLE ACTIVITIES.—(1) A corridor planning activity is eligible for financial assistance under subsection (a) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements, or if it is an activity described in subparagraph (M). Eligible corridor planning activities include—

(A) environmental assessments;

(B) feasibility studies emphasizing commercial technology improvements or applications;

(C) economic analyses, including ridership, revenue, and operating expense forecasting;

(D) assessing the impact on rail employment of developing high-speed rail corridors;

(E) assessing community economic impacts;

(F) coordination with State and metropolitan area transportation planning and corridor planning with other States;

(G) operational planning;

(H) route selection analyses and purchase of rights-of-way for proposed high-speed rail service;

(I) preliminary engineering and design;

(J) identification of specific improvements to a corridor, including electrification, line straightening and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, coordination with other modes of transportation, parking and other means of passenger access, track, signal, station, and other capital work, and use of intermodal terminals;

(K) preparation of financing plans and prospectuses;

(L) creation of public/private partnerships; and

(M) the acquisition of locomotives, rolling stock, track, and signal equipment.

(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

(c) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

(1) the relationship of the corridor to the Secretary's national high-speed ground transportation policy;

(2) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 mph or greater;

(3) the integration of the corridor into metropolitan area and statewide transportation planning;

(4) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

(5) the anticipated effect of the corridor on the congestion of other modes of transportation;

(6) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act (42 U.S.C. 7401 et seq.);

(7) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

(8) the estimated level of ridership;

(9) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossings;

(10) rail transportation employment impacts;

(11) community economic impacts;

(12) the extent to which the projected revenues of the proposed high-speed rail service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses;

(13) whether a specific route has been selected, specific improvements identified, and capacity studies completed; and

(14) whether the corridor has been designated as a high-speed rail corridor by the Secretary.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4616; amended Pub. L. 109–59, title IX, §9001(a)(1), Aug. 10, 2005, 119 Stat. 1918; Pub. L. 110–432, div. B, title V, §501(a), Oct. 16, 2008, 122 Stat. 4959.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(6), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 26101 was renumbered section 28101 of this title.

AMENDMENTS

2008—Pub. L. 110–432, §501(a)(1), substituted "High-speed rail corridor planning" for "Corridor development" in section catchline.

Subsec. (a). Pub. L. 110–432, §501(a)(2), substituted "Corridor Planning" for "Corridor Development" in heading.

Subsecs. (a)(1), (b). Pub. L. 110–432, §501(a)(3), substituted "corridor planning" for "corridor development" wherever appearing.

Subsec. (c)(2). Pub. L. 110–432, §501(a)(4), substituted "planning" for "development".

2005—Pub. L. 109–59, §9001(a)(1)(A), substituted "development" for "planning" in section catchline.

Subsec. (a). Pub. L. 109–59, §9001(a)(1)(B), substituted "Development" for "Planning" in subsec. heading.

Subsec. (a)(1). Pub. L. 109–59, §9001(a)(1)(C), substituted "corridor development" for "corridor planning".

Subsec. (b)(1). Pub. L. 109–59, §9001(a)(1)(D)(i), inserted ", or if it is an activity described in subparagraph (M)" after "high-speed rail improvements" in introductory provisions.

Pub. L. 109–59, §9001(a)(1)(C), substituted "corridor development" for "corridor planning" in two places in introductory provisions.

Subsec. (b)(1)(F). Pub. L. 109–59, §9001(a)(1)(C), substituted "corridor development" for "corridor planning".

Subsec. (b)(1)(M). Pub. L. 109–59, §9001(a)(1)(D)(ii)–(iv), added subpar. (M).

Subsec. (b)(2). Pub. L. 109–59, §9001(a)(1)(C), substituted "corridor development" for "corridor planning".

Subsec. (c)(2). Pub. L. 109–59, §9001(a)(1)(E), substituted "development" for "planning".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONGRESSIONAL FINDINGS; PURPOSE

Pub. L. 103–440, title I, §102, Nov. 2, 1994, 108 Stat. 4615, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) high-speed rail offers safe and efficient transportation in certain densely traveled corridors linking

major metropolitan areas in the United States;

"(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

"(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

"(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

"(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

"(6) the private sector should participate in funding the development of high-speed rail systems;

"(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

"(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

"(9) Federal assistance is required for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

"(b) PURPOSE.—The purpose of this title [see Short Title of 1994 Amendment note set out under section 20101 of this title] is to encourage farsighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity corridors."

§26102. High-speed rail technology improvements

(a) AUTHORITY.—The Secretary may undertake activities for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized by subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4617.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 26102 was renumbered section 28102 of this title.

§26103. Safety regulations and evaluation

The Secretary—

(1) shall promulgate such safety regulations as may be necessary for high-speed rail services;

(2) shall, before promulgating such regulations, consult with developers of new high-speed rail technologies to develop a method for evaluating safety performance; and

(3) may solicit feedback from relevant safety experts or representatives of rail employees who perform work on similar technology or who may be expected to perform work on new technology, as appropriate.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4618; amended Pub. L. 117–58, div. B, title II, §22419(a), Nov. 15, 2021, 135 Stat. 749.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58 amended section generally. Prior to amendment, text read as follows: "The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services."

§26104. Authorization of appropriations

(a) FISCAL YEARS 2006 THROUGH 2013.—There are authorized to be appropriated to the Secretary—

(1) $30,000,000 for carrying out section 26101; and

(2) $30,000,000 for carrying out section 26102,

for each of the fiscal years 2006 through 2013.

(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4618; amended Pub. L. 105–178, title VII, §7201(a), June 9, 1998, 112 Stat. 469; Pub. L. 109–59, title IX, §9001(b), Aug. 10, 2005, 119 Stat. 1919; Pub. L. 110–432, div. B, title V, §501(b), Oct. 16, 2008, 122 Stat. 4960.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–432 substituted "$30,000,000" for "$70,000,000".

2005—Pub. L. 109–59 amended heading and text of section generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to authorization of appropriations for fiscal years 1995 through 2001 and availability of funds.

1998—Subsecs. (d) to (h). Pub. L. 105–178 added subsecs. (d) to (g) and redesignated former subsec. (d) as (h).

§26105. Definitions

For purposes of this chapter—

(1) the term "financial assistance" includes grants, contracts,,[1] cooperative agreements, and other transactions;

(2) the term "high-speed rail" means all forms of nonhighway ground transportation that run on rails or electromagnetic guideways providing transportation service which is—

(A) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

(B) made available to members of the general public as passengers,

but does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation;

(3) the term "publicly financed costs" means the costs funded after April 29, 1993, by Federal, State, and local governments;

(4) the term "Secretary" means the Secretary of Transportation;

(5) the term "State" means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

(6) the term "United States private business" means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4618; amended Pub. L. 105–178, title VII, §7201(b), June 9, 1998, 112 Stat. 470; Pub. L. 109–59, title IX, §9001(c), Aug. 10, 2005, 119 Stat. 1919.)

EDITORIAL NOTES

AMENDMENTS

2005—Par. (1). Pub. L. 109–59 substituted ", cooperative agreements, and other transactions" for "and cooperative agreements".

1998—Par. (2). Pub. L. 105–178 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the term 'high-speed rail' has the meaning given such term under section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976;".

[1] *So in original.*

§26106. High-speed rail corridor development

(a) IN GENERAL.—The Secretary of Transportation shall establish and implement a high-speed rail corridor development program.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) APPLICANT.—The term "applicant" means a State, a group of States, an Interstate Compact, a public agency established by one or more States and having responsibility for providing high-speed rail service, or Amtrak.

(2) CORRIDOR.—The term "corridor" means a corridor designated by the Secretary pursuant to section 104(d)(2) [1] of title 23.

(3) CAPITAL PROJECT.—The term "capital project" means a project or program in a State rail plan developed under chapter 227 of this title for acquiring, constructing, improving, or inspecting equipment, track, and track structures, or a facility of use in or for the primary benefit of high-speed rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to high-speed rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing.

(4) HIGH-SPEED RAIL.—The term "high-speed rail" means intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour.

(5) INTERCITY PASSENGER RAIL SERVICE.—The term "intercity passenger rail service" has the meaning given the term "intercity rail passenger transportation" in section 24102 of this title.

(6) STATE.—The term "State" means any of the 50 States or the District of Columbia.

(c) GENERAL AUTHORITY.—The Secretary may make grants under this section to an applicant to finance capital projects in high-speed rail corridors.

(d) APPLICATIONS.—Each applicant seeking to receive a grant under this section to develop a high-speed rail corridor shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(e) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall—

(A) establish criteria for selecting among projects that meet the criteria specified in paragraph (2);

(B) conduct a national solicitation for applications; and

(C) award grants on a competitive basis.

(2) GRANT CRITERIA.—The Secretary, in selecting the recipients of high-speed rail development grants to be provided under subsection (c), shall—

(A) require—

(i) that the project be part of a State rail plan developed under chapter 227 of this title, or under the plan required by section 211 of the Passenger Rail Investment and Improvement Act of 2008;

(ii) that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities;

(iii) that the project be based on the results of preliminary engineering studies or other planning, including corridor planning activities funded under section 26101 of this title;

(iv) that the applicant provides sufficient information upon which the Secretary can make the findings required by this subsection;

(v) that if an applicant has selected the proposed operator of its service, that the applicant provide written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

(vi) that each proposed project meet all safety and security requirements that are applicable to the project under law; and

(vii) that each project be compatible with, and operated in conformance with—

(I) plans developed pursuant to the requirements of section 135 of title 23; and

(II) the national rail plan (if it is available);

(B) select high-speed rail projects—

(i) that are anticipated to result in significant improvements to intercity rail passenger service, including, but not limited to, consideration of the project's—

(I) levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008;

(II) anticipated favorable impact on air or highway traffic congestion, capacity, or safety; and

(ii) for which there is a high degree of confidence that the proposed project is feasible and will result in the anticipated benefits, as indicated by—

(I) the project's precommencement compliance with environmental protection requirements;

(II) the readiness of the project to be commenced;

(III) the commitment of any affected host rail carrier to ensure the realization of the anticipated benefits; and

(IV) other relevant factors as determined by the Secretary;

(iii) for which the level of the anticipated benefits compares favorably to the amount of Federal funding requested under this section; and

(C) give greater consideration to projects—

(i) that are anticipated to result in benefits to other modes of transportation and to the public at large, including, but not limited to, consideration of the project's—

(I) encouragement of intermodal connectivity through provision of direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

(II) anticipated improvement of conventional intercity passenger, freight, or commuter rail operations;

(III) use of positive train control technologies;

(IV) environmental benefits, including projects that involve the purchase of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment;

(V) anticipated positive economic and employment impacts;

(VI) encouragement of State and private contributions toward station development, energy and environmental efficiency, and economic benefits; and

(VII) falling under the description in section 5302(a)(1)(G) [1] of this title as defined to support intercity passenger rail service; and

(ii) that incorporate equitable financial participation in the project's financing, including, but not limited to, consideration of—

(I) donated property interests or services;

(II) financial contributions by intercity passenger, freight, and commuter rail carriers commensurate with the benefit expected to their operations; and

(III) financial commitments from host railroads, non-Federal governmental entities, non-governmental entities, and others.

(3) GRANT CONDITIONS.—The Secretary shall require each recipient of a grant under this chapter to comply with the grant requirements of section 22905.

(4) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22506 [1] of this title, shall be deemed by the Secretary to have met the requirements of paragraph (2)(A)(i) of this subsection.

(f) FEDERAL SHARE.—The Federal share of the cost of a project financed under this section shall not exceed 80 percent of the project net capital cost.

(g) ISSUANCE OF REGULATIONS.—Within 1 year after the date of enactment of this section, the Secretary shall issue regulations to carry out this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $150,000,000 for fiscal year 2009;

(2) $300,000,000 for fiscal year 2010;

(3) $350,000,000 for fiscal year 2011;

(4) $350,000,000 for fiscal year 2012; and

(5) $350,000,000 for fiscal year 2013.

(Added Pub. L. 110–432, div. B, title V, §501(d), Oct. 16, 2008, 122 Stat. 4960; amended Pub. L. 115–420, §7(b)(3)(A)(ii), Jan. 3, 2019, 132 Stat. 5447.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 104 of title 23, referred to in subsec. (b)(2), was amended generally by Pub. L. 112–141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

Section 211 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (e)(2)(A)(i), is section 211 of Pub. L. 110–432, which was set out as a note under section 24902 of this title, prior to repeal by Pub. L. 114–94, div. A, title XI, §11306(b)(3), Dec. 4, 2015, 129 Stat. 1660.

Section 207 of the Passenger Rail Investment and Improvement Act of 2008, referred to subsec. (e)(2)(B)(i)(I), is section 207 of Pub. L. 110–432, which is set out in a note under section 24101 of this title.

Section 5302 of this title, referred to in subsec. (e)(2)(C)(i)(VII), was amended generally by Pub. L. 112–141, div. B, §20004, July 6, 2012, 126 Stat. 623, and, as so amended, no longer contains a subsec. (a)(1)(G), which described a type of capital project. However, capital project is defined elsewhere in that section.

The date of enactment of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (e)(4), is the date of enactment of Pub. L. 110–432, which was approved Oct. 16, 2008.

Section 22506 of this title, referred to in subsec. (e)(4), probably should be a reference to section 22706 of this title which requires the Secretary to prescribe procedures for submitting State rail plans for review. No section 22506 of this title has been enacted.

The date of enactment of this section, referred to in subsec. (g), is the date of enactment of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2019—Subsec. (e)(3). Pub. L. 115–420 substituted "22905" for "24405 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ADDITIONAL HIGH-SPEED RAIL PROJECTS

Pub. L. 110–432, div. B, title V, §502, Oct. 16, 2008, 122 Stat. 4963, as amended by Pub. L. 115–420, §7(b)(3)(B)(ii), Jan. 3, 2019, 132 Stat. 5447; Pub. L. 117–286, §4(a)(307), Dec. 27, 2022, 136 Stat. 4339, provided that:

"(a) SOLICITATION OF PROPOSALS.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Oct. 16, 2008], the Secretary [of Transportation] shall issue a request for proposals for projects for the financing, design, construction, operation, and maintenance of a high-speed intercity passenger rail system operating within a high-speed rail corridor, including—

"(A) the Northeast Corridor;

"(B) the California Corridor;

"(C) the Empire Corridor;

"(D) the Pacific Northwest Corridor;

"(E) the South Central Corridor;

"(F) the Gulf Coast Corridor;

"(G) the Chicago Hub Network;

"(H) the Florida Corridor;

"(I) the Keystone Corridor;

"(J) the Northern New England Corridor; and

"(K) the Southeast Corridor.

"(2) SUBMISSION.—Proposals shall be submitted to the Secretary not later than 270 days after the publication of such request for proposals under paragraph (1).

"(3) PERFORMANCE STANDARD.—Proposals submitted under paragraph (2) must meet any standards established by the Secretary. For corridors with existing intercity passenger rail service, proposals shall also be designed to achieve a reduction of existing minimum intercity rail service trip times between the main corridor city pairs by a minimum of 25 percent. In the case of a proposal submitted with respect to paragraph (1)(A), the proposal must be designed to achieve a 2-hour or less express service between Washington, District of Columbia, and New York City, New York.

"(4) CONTENTS.—A proposal submitted under this subsection shall include—

"(A) the names and qualifications of the persons submitting the proposal and the entities proposed to finance, design, construct, operate, and maintain the railroad, railroad equipment, and related facilities, stations, and infrastructure;

"(B) a detailed description of the proposed rail service, including possible routes, required infrastructure investments and improvements, equipment needs and type, train frequencies, peak and average operating speeds, and trip times;

"(C) a description of how the project would comply with Federal rail safety and security laws, orders, and regulations governing high-speed rail operations;

"(D) the locations of proposed stations, which maximize the usage of existing infrastructure to the extent possible, and the populations such stations are intended to serve;

"(E) the type of equipment to be used, including any technologies, to achieve trip time goals;

"(F) a description of any proposed legislation needed to facilitate all aspects of the project;

"(G) a financing plan identifying—

"(i) projected revenue, and sources thereof;

"(ii) the amount of any requested public contribution toward the project, and proposed sources;

"(iii) projected annual ridership projections for the first 10 years of operations;

"(iv) annual operations and capital costs;

"(v) the projected levels of capital investments required both initially and in subsequent years to maintain a state-of-good-repair necessary to provide the initially proposed level of service or higher levels of service;

"(vi) projected levels of private investment and sources thereof, including the identity of any person or entity that has made or is expected to make a commitment to provide or secure funding and the amount of such commitment; and

"(vii) projected funding for the full fair market compensation for any asset, property right or interest, or service acquired from, owned, or held by a private person or Federal entity that would be acquired, impaired, or diminished in value as a result of a project, except as otherwise agreed to by the private person or entity;

"(H) a description of how the project would contribute to the development of a national high-speed rail system and an intermodal plan describing how the system will facilitate convenient travel connections with other transportation services;

"(I) a description of how the project will ensure compliance with Federal laws governing the rights and status of employees associated with the route and service, including those specified in section 22905 of title 49, United States Code;

"(J) a description of how the design, construction, implementation, and operation of the project will accommodate and allow for future growth of existing and projected intercity, commuter, and freight rail service;

"(K) a description of how the project would comply with Federal and State environmental laws and regulations, of what the [sic] environmental impacts would result from the project, and how any adverse impacts would be mitigated; and

"(L) a description of the project's impacts on highway and aviation congestion, energy consumption, land use, and economic development in the service area.

"(b) DETERMINATION AND ESTABLISHMENT OF COMMISSIONS.—Not later than 60 days after receipt of the proposals under subsection (a), the Secretary shall—

"(1) make a determination as to whether any such proposals—

"(A) contain the information required under subsection (a)(3) and (4);

"(B) are sufficiently credible to warrant further consideration;

"(C) are likely to result in a positive impact on the Nation's transportation system; and

"(D) are cost-effective and in the public interest; and

"(2) establish a commission under subsection (c) for each corridor with one or more proposals that the Secretary determines satisfies the requirements of paragraph (1), and forward to each commission such proposals for review and consideration.

"(c) COMMISSIONS.—

"(1) MEMBERS.—Each commission referred to in subsection (b)(2) shall include—

"(A) the governors of the affected States, or their respective designees;

"(B) mayors of appropriate municipalities along the proposed corridor, or their respective designees;

"(C) a representative from each freight railroad carrier using the relevant corridor, if applicable;

"(D) a representative from each transit authority using the relevant corridor, if applicable;

"(E) representatives of nonprofit employee labor organizations representing affected railroad employees; and

"(D) [sic] the President of Amtrak or his or her designee.

"(2) APPOINTMENT AND SELECTION.—The Secretary shall appoint the members under paragraph (1). In selecting each commission's members to fulfill the requirements under paragraph (1)(B) and (E), the Secretary shall consult with the Chairmen and Ranking Members of the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

"(3) CHAIRPERSON AND VICE-CHAIRPERSON SELECTION.—The Chairperson and Vice-Chairperson shall be elected from among members of each commission.

"(4) QUORUM AND VACANCY.—

"(A) QUORUM.—A majority of the members of each commission shall constitute a quorum.

"(B) VACANCY.—Any vacancy in each commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

"(5) APPLICATION OF LAW.—Except where otherwise provided by this section, chapter 10 of title

5, United States Code, shall apply to each commission created under this section.

"(d) COMMISSION CONSIDERATION.—

"(1) IN GENERAL.—Each commission established under subsection (b)(2) shall be responsible for reviewing the proposal or proposals forwarded to it under that subsection and not later than 90 days after the establishment of the commission, shall transmit to the Secretary a report which includes—

"(A) a summary of each proposal received;

"(B) services to be provided under each proposal, including projected ridership, revenues, and costs;

"(C) proposed public and private contributions for each proposal;

"(D) the advantages offered by the proposal over existing intercity passenger rail services;

"(E) public operating subsidies or assets needed for the proposed project;

"(F) possible risks to the public associated with the proposal, including risks associated with project financing, implementation, completion, safety, and security;

"(G) a ranked list of the proposals recommended for further consideration under subsection (e) in accordance with each proposal's projected positive impact on the Nation's transportation system;

"(H) an identification of any proposed Federal legislation that would facilitate implementation of the projects and Federal legislation that would be required to implement the projects; and

"(I) any other recommendations by the commission concerning the proposed projects.

"(2) VERBAL PRESENTATION.—Proposers shall be given an opportunity to make a verbal presentation to the commission to explain their proposals.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the use of each commission established under subsection (b)(2) such sums as are necessary to carry out this section.

"(e) SELECTION BY SECRETARY.—

"(1) Not later than 60 days after receiving the recommended proposals of the commissions established under subsection (b)(2), the Secretary shall—

"(A) review such proposals and select any proposal which provides substantial benefits to the public and the national transportation system, is cost-effective, offers significant advantages over existing services, and meets other relevant factors determined appropriate by the Secretary; and

"(B) issue a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate containing any proposal with respect to subsection (a)(1)(A) that is selected by the Secretary under subparagraph (A) of this paragraph, all the information regarding the proposal provided to the Secretary under subsection (d), and any other relevant information deemed appropriate.

"(2) Following the submission of the report under paragraph (1)(B), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing any proposal with respect to subparagraphs (B) through (K) of subsection (a)(1) that are selected by the Secretary under paragraph (1) of this subsection, all the information regarding the proposal provided to the Secretary under subsection (d), and any other relevant information deemed appropriate.

"(3) The report required under paragraph (2) shall not be submitted by the Secretary until the report submitted under paragraph (1) has been considered through a hearing by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the report submitted under paragraph (1)(B).

"(f) PRELIMINARY ENGINEERING.—For planning and preliminary engineering activities that meet the criteria of section 26101 of title 49, United States Code, (other than subsections (a) and (b)(2)) that are undertaken after the Secretary submits reports to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate as required under subsection (e), not to exceed $5,000,000 is authorized to be appropriated from funds made available under section 26104(a) of such title. Only 1 proposal for each corridor under subsection (a) shall be eligible for such funds.

"(g) NO ACTIONS WITHOUT ADDITIONAL AUTHORITY.—No Federal agency may take any action to implement, establish, facilitate, or otherwise act upon any proposal submitted under this section, other than those actions specifically authorized by this section, without explicit statutory authority enacted after the date of enactment of this Act [Oct. 16, 2008].

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) INTERCITY PASSENGER RAIL.—The term 'intercity passenger rail' means intercity rail passenger transportation as defined in section 24102 of title 49, United States Code.

"(2) STATE.—The term 'State' means any of the 50 States or the District of Columbia.

"(3) NORTHEAST CORRIDOR.—The term 'Northeast Corridor' has the meaning given under section 24102 of title 49, United States Code.

"(4) HIGH-SPEED RAIL CORRIDOR.—The terms 'high-speed rail corridor' and 'corridor' mean a corridor designated by the Secretary pursuant to [former] section 104(d)(2) of title 23, United States Code, and the Northeast Corridor."

[1] See References in Text note below.

PART E—MISCELLANEOUS

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616, redesignated part D of this subtitle as part E.

CHAPTER 281—LAW ENFORCEMENT

Sec.

28101. Rail police officers.
28102. Limit on certain accident or incident liability.
28103. Limitations on rail passenger transportation liability.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–134, title I, §161(b), Dec. 2, 1997, 111 Stat. 2578, added item 28103.

1994—Pub. L. 103–440, title I, §103(a)(1), (b)(2), Nov. 2, 1994, 108 Stat. 4616, 4619, renumbered chapter 261 of this title as chapter 281 and items 26101 and 26102 as 28101 and 28102, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

UNITED STATES-CANADA ALASKA RAIL COMMISSION

Pub. L. 106–570, title III, Dec. 27, 2000, 114 Stat. 3043, provided that:

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Rails to Resources Act of 2000'.

"SEC. 302. FINDINGS.

"Congress finds that—

"(1) rail transportation is an essential component of the North American intermodal transportation system;

"(2) the development of economically strong and socially stable communities in the western United States and Canada was encouraged significantly by government policies promoting the development of integrated transcontinental, interstate and interprovincial rail systems in the States, territories and provinces of the two countries;

"(3) United States and Canadian federal support for the completion of new elements of the transcontinental, interstate and interprovincial rail systems was halted before rail connections were established to the State of Alaska and the Yukon Territory;

"(4) rail transportation in otherwise isolated areas facilitates controlled access and may reduce overall impact to environmentally sensitive areas;

"(5) the extension of the continental rail system through northern British Columbia and the Yukon Territory to the current terminus of the Alaska Railroad would significantly benefit the United States and Canadian visitor industries by facilitating the comfortable movement of passengers over long distances while minimizing effects on the surrounding areas; and

"(6) ongoing research and development efforts in the rail industry continue to increase the efficiency of rail transportation, ensure safety, and decrease the impact of rail service on the environment.

"SEC. 303. AGREEMENT FOR A UNITED STATES-CANADA BILATERAL COMMISSION.

"The President is authorized and urged to enter into an agreement with the Government of Canada to establish an independent joint commission to study the feasibility and advisability of linking the rail system in Alaska to the nearest appropriate point on the North American continental rail system.

"SEC. 304. COMPOSITION OF COMMISSION.

"(a) MEMBERSHIP.—

"(1) TOTAL MEMBERSHIP.—The Agreement should provide for the Commission to be composed of 24 members, of which 12 members are appointed by the President and 12 members are appointed by the Government of Canada.

"(2) GENERAL QUALIFICATIONS.—The Agreement should provide for the membership of the Commission, to the maximum extent practicable, to be representative of—

"(A) the interests of the local communities (including the governments of the communities), aboriginal peoples, and businesses that would be affected by the connection of the rail system in Alaska to the North American continental rail system; and

"(B) a broad range of expertise in areas of knowledge that are relevant to the significant issues to be considered by the Commission, including economics, engineering, management of resources, social sciences, fish and game management, environmental sciences, and transportation.

"(b) UNITED STATES MEMBERSHIP.—If the United States and Canada enter into an agreement providing for the establishment of the Commission, the President shall appoint the United States members of the Commission as follows:

"(1) Two members from among persons who are qualified to represent the interests of communities and local governments of Alaska.

"(2) One member representing the State of Alaska, to be nominated by the Governor of Alaska.

"(3) One member from among persons who are qualified to represent the interests of Native Alaskans residing in the area of Alaska that would be affected by the extension of rail service.

"(4) Three members from among persons involved in commercial activities in Alaska who are qualified to represent commercial interests in Alaska, of which one shall be a representative of the Alaska Railroad Corporation.

"(5) One member representing United States Class I rail carriers and one member representing United States rail labor.

"(6) Three members with relevant expertise, at least one of whom shall be an engineer with expertise in subarctic transportation and at least one of whom shall have expertise on the environmental impact of such transportation.

"(c) CANADIAN MEMBERSHIP.—The Agreement should provide for the Canadian membership of the Commission to be representative of broad categories of interests of Canada as the Government of Canada determines appropriate, consistent with subsection (a)(2).

"SEC. 305. GOVERNANCE AND STAFFING OF COMMISSION.

"(a) CHAIRMAN.—The Agreement should provide for the Chairman of the Commission to be elected from among the members of the Commission by a majority vote of the members.

"(b) COMPENSATION AND EXPENSES OF UNITED STATES MEMBERS.—

"(1) COMPENSATION.—Each member of the Commission appointed by the President who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. Each such member who is an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

"(2) TRAVEL EXPENSES.—The members of the Commission appointed by the President shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(c) STAFF.—

"(1) IN GENERAL.—The Agreement should provide for the appointment of a staff and an executive director to be the head of the staff.

"(2) COMPENSATION.—Funds made available for the Commission by the United States may be used to pay the compensation of the executive director and other personnel at rates fixed by the Commission that are not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(d) OFFICE.—The Agreement should provide for the office of the Commission to be located in a mutually agreed location within the impacted areas of Alaska, the Yukon Territory, and northern British Columbia.

"(e) MEETINGS.—The Agreement should provide for the Commission to meet at least biannually to review progress and to provide guidance to staff and others, and to hold, in locations within the affected areas of Alaska, the Yukon Territory and northern British Columbia, such additional informational or public meetings as the Commission deems necessary to the conduct of its business.

"(f) PROCUREMENT OF SERVICES.—The Agreement should authorize and encourage the Commission to procure by contract, to the maximum extent practicable, the services (including any temporary and intermittent services) that the Commission determines necessary for carrying out the duties of the Commission. In the case of any contract for the services of an individual, funds made available for the Commission by the United States may not be used to pay for the services of the individual at a rate that exceeds the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"SEC. 306. DUTIES.

"(a) STUDY.—

"(1) IN GENERAL.—The Agreement should provide for the Commission to study and assess, on the basis of all available relevant information, the feasibility and advisability of linking the rail system in Alaska to the North American continental rail system through the continuation of the rail system in Alaska from its northeastern terminus to a connection with the continental rail system in Canada.

"(2) SPECIFIC ISSUES.—The Agreement should provide for the study and assessment to include the consideration of the following issues:

"(A) Railroad engineering.

"(B) Land ownership.

"(C) Geology.

"(D) Proximity to mineral, timber, tourist, and other resources.

"(E) Market outlook.

"(F) Environmental considerations.

"(G) Social effects, including changes in the use or availability of natural resources.

"(H) Potential financing mechanisms.

"(3) ROUTE.—The Agreement should provide for the Commission, upon finding that it is feasible and advisable to link the rail system in Alaska as described in paragraph (1), to determine one or more recommended routes for the rail segment that establishes the linkage, taking into consideration cost, distance, access to potential freight markets, environmental matters, existing corridors that are already used for ground transportation, the route surveyed by the Army Corps of Engineers during World War II and such other factors as the Commission determines relevant.

"(4) COMBINED CORRIDOR EVALUATION.—The Agreement should also provide for the Commission to consider whether it would be feasible and advisable to combine the power transmission infrastructure and petroleum product pipelines of other utilities into one corridor with a rail extension of the rail system of Alaska.

"(b) REPORT.—The Agreement should require the Commission to submit to Congress and the Secretary of Transportation and to the Minister of Transport of the Government of Canada, not later than 3 years after the Commission commencement date, a report on the results of the study, including the Commission's findings regarding the feasibility and advisability of linking the rail system in Alaska as described in subsection (a)(1) and the Commission's recommendations regarding the preferred route and any alternative routes for the rail segment establishing the linkage.

"SEC. 307. COMMENCEMENT AND TERMINATION OF COMMISSION.

"(a) COMMENCEMENT.—The Agreement should provide for the Commission to begin to function on the date on which all members are appointed to the Commission as provided for in the Agreement.

"(b) TERMINATION.—The Commission should be terminated 90 days after the date on which the Commission submits its report under section 306.

"SEC. 308. FUNDING.

"(a) RAILS TO RESOURCES FUND.—The Agreement should provide for the following:

"(1) ESTABLISHMENT.—The establishment of an interest-bearing account to be known as the 'Rails to Resources Fund'.

"(2) CONTRIBUTIONS.—The contribution by the United States and the Government of Canada to the Fund of amounts that are sufficient for the Commission to carry out its duties.

"(3) AVAILABILITY.—The availability of amounts in the Fund to pay the costs of Commission activities.

"(4) DISSOLUTION.—Dissolution of the Fund upon the termination of the Commission and distribution of the amounts remaining in the Fund between the United States and the Government of Canada.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to any fund established for use by the Commission as described in subsection (a)(1) $6,000,000, to remain available until expended.

"SEC. 309. DEFINITIONS.

"In this title:

"(1) AGREEMENT.—The term 'Agreement' means an agreement described in section 303.

"(2) COMMISSION.—The term 'Commission' means a commission established pursuant to any Agreement."

§28101. Rail police officers

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Transportation, a rail police officer who is directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of any jurisdiction in which the rail carrier owns property, to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction, to protect—

(1) employees, passengers, or patrons of the rail carrier;

(2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and material moving by rail that are vital to the national defense.

(b) ASSIGNMENT.—A railroad police officer directly employed by or contracted by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee or agent, as applicable, of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in subsection (a).

(c) TRANSFERS.—

(1) IN GENERAL.—If a railroad police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State transfers primary employment or residence from the certifying or commissioning State to another State or jurisdiction, the railroad police officer, not later than 1 year after the date of transfer, shall apply to be certified or commissioned as a police office [1] under the laws of the State of new primary employment or residence.

(2) INTERIM PERIOD.—During the period beginning on the date of transfer and ending 1 year after the date of transfer, a railroad police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of the new jurisdiction in which the railroad police officer resides, to the same extent as provided in subsection (a).

(d) TRAINING.—

(1) IN GENERAL.—A State may recognize as meeting that State's basic police officer certification or commissioning requirements for qualification as a rail police officer under this

section any individual who successfully completes a program at a State-recognized police training academy in another State or at a Federal law enforcement training center and who is certified or commissioned as a police officer by that other State.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as superseding or affecting any State training requirements related to criminal law, criminal procedure, motor vehicle code, any other State law, or State-mandated comparative or annual in-service training academy or Federal law enforcement training center.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 939, §26101; renumbered §28101, Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616; amended Pub. L. 110–53, title XV, §1526(a), Aug. 3, 2007, 121 Stat. 452; Pub. L. 114–94, div. A, title XI, §11412(a), Dec. 4, 2015, 129 Stat. 1687.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
26101	45:446.	Nov. 29, 1990, Pub. L. 101–647, §1704, 104 Stat. 4846.

The words "to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction" are placed before clause (1) rather than at the end of clause (4), as in the source provision, to reflect the probable intent of Congress.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, §11412(a)(1), substituted "directly employed by or contracted by" for "employed by" in introductory provisions.

Subsec. (b). Pub. L. 114–94, §11412(a)(1), (2), substituted "directly employed by or contracted by" for "employed by" and inserted "or agent, as applicable," after "an employee".

Subsecs. (c), (d). Pub. L. 114–94, §11412(a)(3), added subsecs. (c) and (d).

2007—Pub. L. 110–53 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1994—Pub. L. 103–440 renumbered section 26101 of this title as this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

REGULATIONS

Pub. L. 114–94, div. A, title XI, §11412(b), Dec. 4, 2015, 129 Stat. 1688, provided that: "Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall revise the regulations in part 207 of title 49, Code of Federal Regulations (relating to railroad police officers), to permit a railroad to designate an individual, who is commissioned in the individual's State of legal residence or State of primary employment and directly employed by or contracted by a railroad to enforce State laws for the protection of railroad property, personnel, passengers, and cargo, to serve in the States in which the railroad owns property."

[1] *So in original. Probably should be "officer".*

§28102. Limit on certain accident or incident liability

(a) GENERAL.—When a publicly financed commuter transportation authority established under

Virginia law makes a contract to indemnify Amtrak for liability for operations conducted by or for the authority or to indemnify a rail carrier over whose tracks those operations are conducted, liability against Amtrak, the authority, or the carrier for all claims (including punitive damages) arising from an accident or incident in the District of Columbia related to those operations may not be more than the limits of the liability coverage the authority maintains to indemnify Amtrak or the carrier.

(b) MINIMUM REQUIRED LIABILITY COVERAGE.—A publicly financed commuter transportation authority referred to in subsection (a) of this section must maintain a total minimum liability coverage of at least $200,000,000.

(c) EFFECTIVENESS.—This section is effective only after Amtrak or a rail carrier seeking an indemnification contract under this section makes an operating agreement with a publicly financed commuter transportation authority established under Virginia law to provide access to its property for revenue transportation related to the operations of the authority.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 940, §26102; renumbered §28102, Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
26102(a)	45:649(a) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §810; added July 6, 1990, Pub. L. 101–322, §3, 104 Stat. 295.
26102(b)	45:649(a) (last sentence).	
26102(c)	45:649(b).	

In subsection (a), the words "Notwithstanding any other provision of law", "whether for compensatory or", and "occurring" are omitted as surplus.

In subsection (c), the words "an indemnification contract" are substituted for "coverage" for clarity.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–440 renumbered section 26102 of this title as this section.

§28103. Limitations on rail passenger transportation liability

(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed $200,000,000.

(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter

into contracts that allocate financial responsibility for claims.

(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least $200,000,000 per accident or incident.

(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the "Federal Employers' Liability Act") or under any workers compensation Act.

(e) DEFINITION.—For purposes of this section—

(1) the term "claim" means a claim made—

(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

(2) the term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

(3) the term "rail carrier" includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.

(Added Pub. L. 105–134, title I, §161(a), Dec. 2, 1997, 111 Stat. 2577.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Employers' Liability Act, referred to in subsec. (d), is act Apr. 22, 1908, ch. 149, 35 Stat. 65, which is classified generally to chapter 2 (§51 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 51 of Title 45 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ADJUSTMENT BASED ON CONSUMER PRICE INDEX

Pub. L. 114–94, div. A, title XI, §11415(b), Dec. 4, 2015, 129 Stat. 1689, provided that: "The liability cap under section 28103(a)(2) of title 49, United States Code, shall be adjusted on the date of enactment of this Act [Dec. 4, 2015] to reflect the change in the Consumer Price Index-All Urban Consumers between such date and December 2, 1997, and the Secretary [of Transportation] shall provide appropriate public notice of such adjustment. The adjustment of the liability cap shall be effective 30 days after such notice. Every fifth year after the date of enactment of this Act, the Secretary shall adjust such liability cap to reflect the change in the Consumer Price Index-All Urban Consumers since the last adjustment. The Secretary shall provide appropriate public notice of each such adjustment, and the adjustment shall become effective 30 days after such notice."

CHAPTER 283—STANDARD WORK DAY

Sec.

28301. General.
28302. Penalties.

§28301. General

(a) EIGHT HOUR DAY.—In contracts for labor and service, 8 hours shall be a day's work and the standard day's work for determining the compensation for services of an employee employed by a common carrier by railroad subject to subtitle IV of this title and actually engaged in any capacity in operating trains used for transporting passengers or property on railroads from—

(1) a State of the United States or the District of Columbia to any other State or the District of

Columbia;

(2) one place in a territory or possession of the United States to another place in the same territory or possession;

(3) a place in the United States to an adjacent foreign country; or

(4) a place in the United States through a foreign country to any other place in the United States.

(b) APPLICATION.—Subsection (a) of this section—

(1) does not apply to—

(A) an independently owned and operated railroad not exceeding one hundred miles in length;

(B) an electric street railroad; and

(C) an electric interurban railroad; but

(2) does apply to an independently owned and operated railroad less than one hundred miles in length—

(A) whose principal business is leasing or providing terminal or transfer facilities to other railroads; or

(B) engaged in transfers of freight between railroads or between railroads and industrial plants.

(Added Pub. L. 104–287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
28301	45:65. (uncodified).	Sept. 3, 5, 1916, ch. 436, §1, 39 Stat. 721. Sept. 3, 5, 1916, ch. 436, §§2, 3, 39 Stat. 721.

In subsection (a), the word "determining" is substituted for "reckoning" for clarity. The words "who are not or may hereafter be employed" are omitted as surplus. In clause (1), the words "or territory" are omitted because the existing territories of the United States are now connected to the United States by rail. In clause (2), the words "or possession of the United States" are added for consistency in the revised title and with other titles of the United States Code.

The text of sections 2 and 3 of the Act of September 3, 5, 1916 (ch. 436, 39 Stat. 721), is omitted to eliminate executed provisions.

§28302. Penalties

A person violating section 28301 of this title shall be fined under title 18, imprisoned not more than one year, or both.

(Added Pub. L. 104–287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
28302	45:66.	Sept. 3, 5, 1916, ch. 436, §4, 39 Stat. 722.

The words "shall be guilty of a misdemeanor" are omitted, and the words "shall be fined under title 18" are substituted for "shall be fined not less than $100 and not more than $1,000", for consistency with title 18. The words "upon conviction" are omitted as surplus.

CHAPTER 285—COMMUTER RAIL MEDIATION

Sec.

28501. Definitions [1]
28502. Surface Transportation Board mediation of trackage use requests.
28503. Surface Transportation Board mediation of rights-of-way use requests.
28504. Applicability of other laws.
28505. Rules and regulations.

[1] *So in original. Probably should be followed by a period.*

§28501. Definitions

In this chapter—

(1) the term "Board" means the Surface Transportation Board;

(2) the term "capital work" means maintenance, restoration, reconstruction, capacity enhancement, or rehabilitation work on trackage that would be treated, in accordance with generally accepted accounting principles, as a capital item rather than an expense;

(3) the term "commuter rail passenger transportation" has the meaning given that term in section 24102;

(4) the term "public transportation authority" means a local governmental authority (as defined in section 5302) established to provide, or make a contract providing for, commuter rail passenger transportation;

(5) the term "rail carrier" means a person, other than a governmental authority, providing common carrier railroad transportation for compensation subject to the jurisdiction of the Board under chapter 105;

(6) the term "segregated fixed guideway facility" means a fixed guideway facility constructed within the railroad right-of-way of a rail carrier but physically separate from trackage, including relocated trackage, within the right-of-way used by a rail carrier for freight transportation purposes; and

(7) the term "trackage" means a railroad line of a rail carrier, including a spur, industrial, team, switching, side, yard, or station track, and a facility of a rail carrier.

(Added Pub. L. 110–432, div. B, title IV, §401(a), Oct. 16, 2008, 122 Stat. 4955; amended Pub. L. 117–58, div. C, §30001(b)(4), Nov. 15, 2021, 135 Stat. 890.)

EDITORIAL NOTES

AMENDMENTS

2021—Par. (4). Pub. L. 117–58 substituted "section 5302" for "section 5302(a)(6)".

§28502. Surface Transportation Board mediation of trackage use requests

If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to use trackage of, and have related services provided by, the rail carrier for purposes of commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

(Added Pub. L. 110–432, div. B, title IV, §401(a), Oct. 16, 2008, 122 Stat. 4955.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 110–432, which was approved Oct. 16, 2008.

§28503. Surface Transportation Board mediation of rights-of-way use requests

If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to acquire an interest in a railroad right-of-way for the construction and operation of a segregated fixed guideway facility to provide commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

(Added Pub. L. 110–432, div. B, title IV, §401(a), Oct. 16, 2008, 122 Stat. 4956.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 110–432, which was approved Oct. 16, 2008.

§28504. Applicability of other laws

Nothing in this chapter shall be construed to limit a rail transportation provider's right under section 28103(b) to enter into contracts that allocate financial responsibility for claims.

(Added Pub. L. 110–432, div. B, title IV, §401(a), Oct. 16, 2008, 122 Stat. 4956.)

§28505. Rules and regulations

Within 1 year after the date of enactment of this section, the Board shall issue such rules and regulations as may be necessary to carry out this chapter.

(Added Pub. L. 110–432, div. B, title IV, §401(a), Oct. 16, 2008, 122 Stat. 4956.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 110–432, which was approved Oct. 16, 2008.

SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

PART A—GENERAL

Chapter		Sec.
301.	**Motor Vehicle Safety**	**30101**
303.	**National Driver Register**	**30301**
305.	**National Motor Vehicle Title Information System**	**30501**

PART B—COMMERCIAL

311. Commercial Motor Vehicle Safety **31101**[1]
313. Commercial Motor Vehicle Operators **31301**
315. Motor Carrier Safety **31501**
317. Participation in International Registration Plan and International Fuel Tax Agreement **31701**

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

321. General **32101**
323. Consumer Information **32301**
325. Bumper Standards **32501**
327. Odometers **32701**
329. Automobile Fuel Economy **32901**
331. Theft Prevention **33101**

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102, §2(17), Nov. 20, 1997, 111 Stat. 2205, substituted "National Motor Vehicle Title Information System" for "National Automobile Title Information System" in item for chapter 305.

[1] *So in original. Probably should be "31100".*

PART A—GENERAL

CHAPTER 301—MOTOR VEHICLE SAFETY

SUBCHAPTER I—GENERAL

Sec.
30101. Purpose and policy.
30102. Definitions.
30103. Relationship to other laws.
30104. Authorization of appropriations.
30105. Restriction on lobbying activities.
30106. Rented or leased motor vehicle safety and responsibility.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

30111. Standards.
30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment.
30113. General exemptions.
30114. Special exemptions.
30115. Certification of compliance.
30116. Defects and noncompliance found before sale to purchaser.
30117. Providing information to, and maintaining records on, purchasers.
30118. Notification of defects and noncompliance.
30119. Notification procedures.
30120. Remedies for defects and noncompliance.
30120A. Recall obligations and bankruptcy of a manufacturer.
30121. Provisional notification and civil actions to enforce.
30122. Making safety devices and elements inoperative.
30123. Tires.
30124. Nonuse of safety belts.
30125. Schoolbuses and schoolbus equipment.

30126. Used motor vehicles.
30127. Automatic occupant crash protection and seat belt use.
30128. Vehicle accident ejection protection.[1]
30129. Crash avoidance technology.
SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT
30141. Importing motor vehicles capable of complying with standards.
30142. Importing motor vehicles for personal use.
30143. Motor vehicles imported by individuals employed outside the United States.
30144. Importing motor vehicles on a temporary basis.
30145. Importing motor vehicles or equipment requiring further manufacturing.
30146. Release of motor vehicles and bonds.
30147. Responsibility for defects and noncompliance.
SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE
30161. Judicial review of standards.
30162. Petitions by interested persons for standards and enforcement.
30163. Actions by the Attorney General.
30164. Service of process; conditions on importation of vehicles and equipment.
30165. Civil penalty.
30166. Inspections, investigations, and records.
30167. Disclosure of information by the Secretary of Transportation.
[30168. Repealed.]
30169. Annual reports.
30170. Criminal penalties.
30171. Protection of employees providing motor vehicle safety information.
30172. Whistleblower incentives and protections.
SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT
30181. Policy.
30182. Powers and duties.
30183. Prohibition on certain disclosures.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title IV, §24208(b), Nov. 15, 2021, 135 Stat. 823, which directed amendment of the analysis for subchapter II of this chapter by adding item 30129 at the end, was executed by adding item 30129 to the analysis for this chapter to reflect the probable intent of Congress.

2015—Pub. L. 114–94, div. B, title XXIV, §24352(c), Dec. 4, 2015, 129 Stat. 1720, which directed amendment of the analysis for subchapter IV of this chapter by adding item 30172 at the end, was executed by adding item 30172 to the analysis for this chapter to reflect the probable intent of Congress.

2012—Pub. L. 112–141, div. C, title I, §§31202(b), 31204(b)(1), (2)(A), 31208(1), 31307(c), 31312(b), July 6, 2012, 126 Stat. 758, 760, 761, 769, 772, added items 30120A and 30171, item for subchapter V, and items 30181 to 30183, substituted "Nonuse of safety belts" for "Buzzers indicating nonuse of safety belts" in item 30124 and "Service of process; conditions on importation of vehicles and equipment" for "Service of process" in item 30164, and struck out item 30168 "Research, testing, development, and training".

2005—Pub. L. 109–59, title X, §10303(a), Aug. 10, 2005, 119 Stat. 1940, which directed amendment of the table of sections for chapter 301 by adding item 30128, without specifying the title to be amended, was executed to the table of sections for this chapter, to reflect the probable intent of Congress.

Pub. L. 109–59, title X, §10208(b), Aug. 10, 2005, 119 Stat. 1936, added item 30106.

2000—Pub. L. 106–414, §5(b)(2), Nov. 1, 2000, 114 Stat. 1804, added item 30170.

1998—Pub. L. 105–178, title VII, §7104(b), June 9, 1998, 112 Stat. 467, added item 30105.

[1] *So in original. Does not conform to section catchline.*

SUBCHAPTER I—GENERAL

§30101. Purpose and policy

The purpose of this chapter is to reduce traffic accidents and deaths and injuries resulting from traffic accidents. Therefore it is necessary—

(1) to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and

(2) to carry out needed safety research and development.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 941.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30101	15:1381.	Sept. 9, 1966, Pub. L. 89–563, §1, 80 Stat. 718.

The words "Congress hereby declares that", "to persons", and "Congress determines that" are omitted as surplus. The words "motor vehicle" before "equipment" are added for consistency. The words "and to expand the national driver register" are omitted because section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), the only section in this law related to the national driver register, was superseded by the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1740).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118–156, §1, Dec. 17, 2024, 138 Stat. 1716, provided that: "This Act [amending sections 31309 and 31311 of this title] may be cited as the 'Strengthening the Commercial Driver's License Information System Act'."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–260, div. N, title IV, §440, Dec. 27, 2020, 134 Stat. 2068, provided that: "This subtitle [subtitle C (§§440, 441) of title IV of div. N of Pub. L. 116–260, enacting provisions set out as a note under section 31102 of this title] may be cited as the 'Motor Carrier Safety Grant Relief Act of 2020'."

Pub. L. 116–260, div. U, title X, §1001(a), Dec. 27, 2020, 134 Stat. 2304, provided that: "This title [enacting provisions set out as a note under section 30301 of this title and amending provisions set out as a note under section 30301 of this title] may be cited as the 'REAL ID Modernization Act'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–323, §1, Dec. 17, 2018, 132 Stat. 4443, provided that: "This Act [amending provisions set out as a note under section 30301 of this title] may be cited as the 'REAL ID Act Modification for Freely Associated States Act'."

Pub. L. 115–106, §1, Jan. 8, 2018, 131 Stat. 2265, provided that: "This Act [amending section 31310 of this title] may be cited as the 'No Human Trafficking on Our Roads Act'."

Pub. L. 115–105, §1, Jan. 8, 2018, 131 Stat. 2263, provided that: "This Act [amending section 31305 of this title and enacting and amending provisions set out as notes under section 31149 of this title] may be cited as the 'Jobs for Our Heroes Act'."

Pub. L. 115–99, §1, Jan. 3, 2018, 131 Stat. 2242, provided that: "This Act [amending sections 31110 and 31313 of this title and enacting provisions set out as a note under section 102 of this title] may be cited as the 'Combating Human Trafficking in Commercial Vehicles Act'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–94, div. B, title XXIV, §24109(a), Dec. 4, 2015, 129 Stat. 1706, provided that: "This section [amending sections 30102, 30120, 30122, and 30166 of this title and enacting provisions set out as notes under section 30102 of this title] may be cited as the 'Raechel and Jacqueline Houck Safe Rental Car Act of

2015'."

Pub. L. 114–94, div. B, title XXIV, §24321, Dec. 4, 2015, 129 Stat. 1713, provided that: "This part [part II (§§24321, 24322) of subtitle C of title XXIV of div. B of Pub. L. 114–94, amending section 32302 of this title] may be cited as the 'Safety Through Informed Consumers Act of 2015'."

Pub. L. 114–94, div. B, title XXIV, §24331, Dec. 4, 2015, 129 Stat. 1713, provided that: "This part [part III (§§24331–24335) of subtitle C of title XXIV of div. B of Pub. L. 114–94, amending sections 30117 and 32304A of this title and enacting provisions set out as a note under section 30119 of this title] may be cited as the 'Tire Efficiency, Safety, and Registration Act of 2015' or the 'TESR Act'."

Pub. L. 114–94, div. B, title XXIV, §24351, Dec. 4, 2015, 129 Stat. 1716, provided that: "This part [part V (§§24351, 24352) of subtitle C of title XXIV of div. B of Pub. L. 114–94, enacting section 30172 of this title and provisions set out as a note under section 30172 of this title] may be cited as the 'Motor Vehicle Safety Whistleblower Act'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–196, §1, Oct. 19, 2012, 126 Stat. 1459, provided that: "This Act [amending section 31311 of this title] may be cited as the 'Military Commercial Driver's License Act of 2012'."

Pub. L. 112–141, div. C, title II, §32001, July 6, 2012, 126 Stat. 776, provided that "This title [see Tables for classification] may be cited as the 'Commercial Motor Vehicle Safety Enhancement Act of 2012'."

Pub. L. 112–141, div. C, title II, §32401, July 6, 2012, 126 Stat. 795, provided that "This subtitle [subtitle D (§§32401, 32402) of title II of div. C of Pub. L. 112–141, enacting section 31306a of this title and amending section 31306 of this title] may be cited as the 'Safe Roads Act of 2012'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–140, title I, §101, Dec. 19, 2007, 121 Stat. 1498, provided that: "This subtitle [subtitle A (§§101–113) of title I of Pub. L. 110–140, enacting section 32304A of this title, amending sections 32308, 32901 to 32904, 32905, 32906, 32908, and 32912 of this title, and enacting provisions set out as notes under sections 32902, 32904, and 32908 of this title] may be cited as the 'Ten-in-Ten Fuel Economy Act'."

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–59, title IV, §4001, Aug. 10, 2005, 119 Stat. 1714, provided that: "This title [see Tables for classification] may be cited as the 'Motor Carrier Safety Reauthorization Act of 2005'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–414, §1, Nov. 1, 2000, 114 Stat. 1800, provided that: "This Act [enacting section 30170 of this title, amending sections 30115, 30117, 30118, 30120, 30165, and 30166 of this title, and enacting provisions set out as notes under sections 30111, 30115, 30118, 30123, and 30127 of this title] may be cited as the 'Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–178, title VII, §7101, June 9, 1998, 112 Stat. 465, provided that: "This subtitle [subtitle A (§§7101–7107) of title VII of Pub. L. 105–178, enacting section 30105 of this title, amending sections 30104, 30114, 30120, 30123, 30127, 32102, 32304, and 32705 of this title, and enacting provisions set out as notes under this section and sections 30114 and 30127 of this title] may be cited as the 'National Highway Traffic Safety Administration Reauthorization Act of 1998'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–152, §1, July 2, 1996, 110 Stat. 1384, provided that: "This Act [amending sections 30501 to 30505 and 33109 of this title and enacting provisions set out as a note under section 30502 of this title] may be cited as the 'Anti-Car Theft Improvements Act of 1996'."

GLOBAL HARMONIZATION

Pub. L. 117–58, div. B, title IV, §24211, Nov. 15, 2021, 135 Stat. 825, provided that: "The Secretary [of Transportation] shall cooperate, to the maximum extent practicable, with foreign governments, nongovernmental stakeholder groups, the motor vehicle industry, and consumer groups with respect to global harmonization of vehicle regulations as a means for improving motor vehicle safety."

DRIVER PRIVACY

Pub. L. 114–94, div. B, title XXIV, subtitle C, part I, Dec. 4, 2015, 129 Stat. 1712, provided that:

"SEC. 24301. SHORT TITLE.

"This part may be cited as the 'Driver Privacy Act of 2015'.

"SEC. 24302. LIMITATIONS ON DATA RETRIEVAL FROM VEHICLE EVENT DATA RECORDERS.

"(a) OWNERSHIP OF DATA.—Any data retained by an event data recorder (as defined in section 563.5 of title 49, Code of Federal Regulations), regardless of when the motor vehicle in which it is installed was manufactured, is the property of the owner, or, in the case of a leased vehicle, the lessee of the motor vehicle in which the event data recorder is installed.

"(b) PRIVACY.—Data recorded or transmitted by an event data recorder described in subsection (a) may not be accessed by a person other than an owner or a lessee of the motor vehicle in which the event data recorder is installed unless—

"(1) a court or other judicial or administrative authority having jurisdiction—

"(A) authorizes the retrieval of the data; and

"(B) to the extent that there is retrieved data, the data is subject to the standards for admission into evidence required by that court or other administrative authority;

"(2) an owner or a lessee of the motor vehicle provides written, electronic, or recorded audio consent to the retrieval of the data for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle, or by agreeing to a subscription that describes how data will be retrieved and used;

"(3) the data is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of an owner or a lessee of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved data, except that the vehicle identification number may be disclosed to the certifying manufacturer;

"(4) the data is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash; or

"(5) the data is retrieved for traffic safety research, and the personally identifiable information of an owner or a lessee of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved data.

"SEC. 24303. VEHICLE EVENT DATA RECORDER STUDY.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Administrator of the National Highway Traffic Safety Administration shall submit to Congress a report that contains the results of a study conducted by the Administrator to determine the amount of time event data recorders installed in passenger motor vehicles should capture and record for retrieval vehicle-related data in conjunction with an event in order to provide sufficient information to investigate the cause of motor vehicle crashes.

"(b) RULEMAKING.—Not later than 2 years after submitting the report required under subsection (a), the Administrator of the National Highway Traffic Safety Administration shall promulgate regulations to establish the appropriate period during which event data recorders installed in passenger motor vehicles may capture and record for retrieval vehicle-related data to the time necessary to provide accident investigators with vehicle-related information pertinent to crashes involving such motor vehicles."

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION OUTREACH TO MANUFACTURER, DEALER, AND MECHANIC PERSONNEL

Pub. L. 112–141, div. C, title I, §31302, July 6, 2012, 126 Stat. 763, provided that: "The Secretary [of Transportation] shall publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel."

SIDE-IMPACT CRASH PROTECTION RULEMAKING

Pub. L. 109–59, title X, §10302, Aug. 10, 2005, 119 Stat. 1940, provided that:

"(a) RULEMAKING.—The Secretary [of Transportation] shall complete a rulemaking proceeding under chapter 301 of title 49, United States Code, to establish a standard designed to enhance passenger motor vehicle occupant protection, in all seating positions, in side impact crashes. The Secretary shall issue a final rule by July 1, 2008.

"(b) DEADLINES.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—

"(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and

"(2) establish a new deadline."

VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY; NONTRAFFIC INCIDENT DATA

COLLECTION

Pub. L. 109–59, title X, §§10304, 10305, Aug. 10, 2005, 119 Stat. 1940, 1941, provided that:

"SEC. 10304. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.

"(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act [Aug. 10, 2005] and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 15 months after the date of enactment of this Act.

"(b) SPECIFIC ISSUES TO BE COVERED.—The study required by subsection (a) shall—

"(1) include an analysis of backover prevention technology;

"(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and

"(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—

"(A) injuries and fatalities; and

"(B) damage to bumpers and other motor vehicle parts and damage to other objects.

"SEC. 10305. NONTRAFFIC INCIDENT DATA COLLECTION.

"(a) IN GENERAL.—In conjunction with the study required in section 10304, the National Highway Traffic Safety Administration shall establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic incidents.

"(b) DATA COLLECTION AND PUBLICATION.—The Secretary of Transportation shall publish the data collected under subsection (a) no less frequently than biennially."

STUDY ON INTERIOR DEVICE TO RELEASE TRUNK LID

Pub. L. 105–178, title VII, §7106(e), June 9, 1998, 112 Stat. 469, required the National Highway Traffic Safety Administration to conduct a study of the benefits to motor vehicle drivers of a regulation to require the installation in a motor vehicle of an interior device to release the trunk lid and to submit a report on the results of the study to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after June 9, 1998.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1991

Pub. L. 102–240, title II, part B, Dec. 18, 1991, 105 Stat. 2081, as amended by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, provided that:

"SEC. 2500. SHORT TITLE.

"This part may be cited as the 'National Highway Traffic Safety Administration Authorization Act of 1991'.

"[SEC. 2501. REPEALED. PUB. L. 103–272, §7(B), JULY 5, 1994, 108 STAT. 1379.]

"SEC. 2502. GENERAL PROVISIONS.

"(a) DEFINITIONS.—As used in this part—

"(1) the term 'bus' means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

"(2) the term 'multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

"(3) the term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

"(4) the term 'truck' means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment; and

"(5) the term 'Secretary' means the Secretary of Transportation.

"(b) PROCEDURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any action taken under section 2503 shall be taken in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act

of 1966 ([formerly] 15 U.S.C. 1381 et seq.).

"(2) SPECIFIC PROCEDURE.—

"(A) INITIATION.—To initiate an action under section 2503, the Secretary shall, not later than May 31, 1992, publish in the Federal Register an advance notice of proposed rulemaking or a notice of proposed rulemaking, except that if the Secretary is unable to publish such a notice by such date, the Secretary shall by such date publish in the Federal Register a notice that the Secretary will begin such action by a certain date which may not be later than January 31, 1993 and include in such notice the reasons for the delay. A notice of delayed action shall not be considered agency action subject to judicial review. If the Secretary publishes an advance notice of proposed rulemaking, the Secretary is not required to follow such notice with a notice of proposed rulemaking if the Secretary determines on the basis of such advanced notice and the comments received thereon that the contemplated action should not be taken under the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ([formerly] 15 U.S.C. 1381 et seq.), including the provisions of section 103 of such Act ([formerly] 15 U.S.C. 1392), and if the Secretary publishes the reasons for such determination consistent with chapter 5 of title 5, United States Code.

"(B) COMPLETION.—

"(i) PERIOD.—Action under paragraphs (1) through (4) of section 2503 which was begun under subparagraph (A) shall be completed within 26 months of the date of publication of an advance notice of proposed rulemaking or 18 months of the date of publication of a notice of proposed rulemaking. The Secretary may extend for any reason the period for completion of a rulemaking initiated by the issuance of a notice of proposed rulemaking for not more than 6 months if the Secretary publishes the reasons for such extension. The extension of such period shall not be considered agency action subject to judicial review.

"(ii) ACTION.—A rulemaking under paragraphs (1) through (4) of section 2503 shall be considered completed when the Secretary promulgates a final rule or when the Secretary decides not to promulgate a rule (which decision may include deferral of the action or reinitiation of the action). The Secretary may not decide against promulgation of a final rule because of lack of time to complete rulemaking. Any such rulemaking actions shall be published in the Federal Register, together with the reasons for such decisions, consistent with chapter 5 of title 5, United States Code, and the National Traffic and Motor Vehicle Safety Act of 1966 [formerly 15 U.S.C. 1381 et seq.].

"(iii) SPECIAL RULE.—

"(I) PERIOD.—Action under paragraph (5) of section 2503 which was begun under subparagraph (A) shall be completed within 24 months of the date of publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date for completion for not more than 6 months and shall publish in the Federal Register a notice stating the reasons for the extension and setting a date certain for completion of the action. The extension of the completion date shall not be considered agency action subject to judicial review.

"(II) ACTION.—A rulemaking under paragraph (5) of section 2503 shall be considered completed when the Secretary promulgates a final rule with standards on improved head injury protection.

"(C) STANDARD.—The Secretary may, as part of any action taken under section 2503, amend any motor vehicle safety standard or establish a new standard under the National Traffic and Motor Vehicle Safety Act of 1966 ([formerly] 15 U.S.C. 1381 et seq.).

"SEC. 2503. MATTERS BEFORE THE SECRETARY.

"The Secretary shall address the following matters in accordance with section 2502:

"(1) Protection against unreasonable risk of rollovers of passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

"(2) Extension of passenger car side impact protection to multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

"(3) Safety of child booster seats used in passenger cars and other appropriate motor vehicles.

"(4) Improved design for safety belts.

"(5) Improved head impact protection from interior components of passenger cars (i.e. roof rails, pillars, and front headers).

"[SECS. 2504, 2505. REPEALED. PUB. L. 103–272, §7(B), JULY 5, 1994, 108 STAT. 1379.]

"SEC. 2506. REAR SEATBELTS.

"The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act ([formerly] 15 U.S.C. 1901 et seq.), for fiscal year 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

"SEC. 2507. BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS.

"Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 [formerly 15 U.S.C. 1381 et seq.], shall publish an advance notice of proposed rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The Secretary shall complete such rulemaking (in accordance with section 2502(b)(2)(B)(ii)) not later than 36 months from the date of initiation of such advance notice of proposed rulemaking. In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall, as part of the rulemaking, consider any such brake system adopted by a manufacturer.

"[SEC. 2508. REPEALED. PUB. L. 103–272, §7(B), JULY 5, 1994, 108 STAT. 1379.]

"SEC. 2509. HEAD INJURY IMPACT STUDY.

"The Secretary, in the case of any head injury protection matters not subject to section 2503(5) for which the Secretary is on the date of enactment of this Act [Dec. 18, 1991] examining the need for rulemaking and is conducting research, shall provide a report to Congress by the end of fiscal year 1993 identifying those matters and their status. The report shall include a statement of any actions planned toward initiating such rulemaking no later than fiscal year 1994 or 1995 through use of either an advance notice of proposed rulemaking or a notice of proposed rulemaking and completing such rulemaking as soon as possible thereafter."

FUEL SYSTEM INTEGRITY STANDARD

Pub. L. 93–492, title I, §108, Oct. 27, 1974, 88 Stat. 1482, provided that:

"(a) RATIFICATION OF STANDARD.—Federal Motor Vehicle Safety Standard Number 301 (49 CFR 571.301–75; Docket No. 73–20, Notice 2) as published on March 21, 1974 (39 F.R. 10588–10590) shall take effect on the dates prescribed in such standard (as so published).

"(b) AMENDMENT OR REPEAL OF STANDARD.—The Secretary may amend the standard described in subsection (a) in order to correct technical errors in the standard, and may amend or repeal such standard if he determines such amendment or repeal will not diminish the level of motor vehicle safety."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11357. ADMINISTRATION OF TRAFFIC AND MOTOR VEHICLE SAFETY THROUGH NATIONAL HIGHWAY SAFETY BUREAU AND ITS DIRECTOR

Ex. Ord. No. 11357, June 6, 1967, 32 F.R. 8225, provided:

By virtue of the authority vested in me as President of the United States by Section 201 of the Highway Safety Act of 1966, as amended (80 Stat. 735, 943) [set out as a note under section 401 of Title 23, Highways], and by Section 3(f)(3) of the Department of Transportation Act (80 Stat. 932) [former 49 U.S.C. 1652(f)(3)], it is hereby ordered that the provisions of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718, 943) [formerly 15 U.S.C. 1381 et seq.], shall be carried out through the National Highway Safety Bureau and the Director thereof.

LYNDON B. JOHNSON.

§30102. Definitions

(a) GENERAL DEFINITIONS.—In this chapter—

(1) "covered rental vehicle" means a motor vehicle that—

(A) has a gross vehicle weight rating of 10,000 pounds or less;

(B) is rented without a driver for an initial term of less than 4 months; and

(C) is part of a motor vehicle fleet of 35 or more motor vehicles that are used for rental purposes by a rental company.

(2) "dealer" means a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.

(3) "defect" includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.

(4) "distributor" means a person primarily selling and distributing motor vehicles or motor vehicle equipment for resale.

(5) "interstate commerce" means commerce between a place in a State and a place in another State or between places in the same State through another State.

(6) "manufacturer" means a person—

(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(7) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(8) "motor vehicle equipment" means—

(A) any system, part, or component of a motor vehicle as originally manufactured;

(B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or

(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

(i) is not a system, part, or component of a motor vehicle; and

(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding users of motor vehicles against risk of accident, injury, or death.

(9) "motor vehicle safety" means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

(10) "motor vehicle safety standard" means a minimum standard for motor vehicle or motor vehicle equipment performance.

(11) "rental company" means a person who—

(A) is engaged in the business of renting covered rental vehicles; and

(B) uses for rental purposes a motor vehicle fleet of 35 or more covered rental vehicles, on average, during the calendar year.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(13) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(b) LIMITED DEFINITIONS.—(1) In sections 30117(b), 30118–30121, and 30166(f) of this title—

(A) "adequate repair" does not include repair resulting in substantially impaired operation of a motor vehicle or motor vehicle equipment;

(B) "first purchaser" means the first purchaser of a motor vehicle or motor vehicle equipment other than for resale;

(C) "original equipment" means motor vehicle equipment (including a tire) installed in or on a motor vehicle at the time of delivery to the first purchaser;

(D) "replacement equipment" means motor vehicle equipment (including a tire) that is not

original equipment;

(E) a brand name owner of a tire marketed under a brand name not owned by the manufacturer of the tire is deemed to be the manufacturer of the tire;

(F) a defect in original equipment, or noncompliance of original equipment with a motor vehicle safety standard prescribed under this chapter, is deemed to be a defect or noncompliance of the motor vehicle in or on which the equipment was installed at the time of delivery to the first purchaser;

(G) a manufacturer of a motor vehicle in or on which original equipment was installed when delivered to the first purchaser is deemed to be the manufacturer of the equipment; and

(H) a retreader of a tire is deemed to be the manufacturer of the tire.

(2) The Secretary of Transportation may prescribe regulations changing paragraph (1)(C), (D), (F), or (G) of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 941; Pub. L. 112–141, div. C, title I, §31201, July 6, 2012, 126 Stat. 757; Pub. L. 114–94, div. B, title XXIV, §24109(b), Dec. 4, 2015, 129 Stat. 1706.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30102(a)(1)	15:1391(7).	Sept. 9, 1966, Pub. L. 89–563, §102(1)–(3), (5)–(9), (11), (12), 80 Stat. 718, 719.
	15:1391(10).	Sept. 9, 1966, Pub. L. 89–563, §102(10), 80 Stat. 718; restated Oct. 27, 1974, Pub. L. 93–492, §110(a), 88 Stat. 1484.
	49 App.:1655(a)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, §6(a)(6)(A), 80 Stat. 938.
30102(a)(2)	15:1391(11).	
30102(a)(3)	15:1391(6).	
30102(a)(4)	15:1391(9).	
30102(a)(5)	15:1391(5).	
30102(a)(6)	15:1391(3).	
30102(a)(7)	15:1391(4).	Sept. 9, 1966, Pub. L. 89–563, §102(4), 80 Stat. 718; restated May 22, 1970, Pub. L. 91–265, §2, 84 Stat. 262.
30102(a)(8)	15:1391(1).	
30102(a)(9)	15:1391(2).	
30102(a)(10)	15:1391(8).	
30102(a)(11)	15:1391(12).	
30102(b)	15:1419.	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §159; added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1476.

In subsection (a), the definitions apply to the entire chapter because of references in 15:1421–1431 applying 15:1391–1420 to 15:1421–1431. Before clause (1), the words "As used" are omitted as surplus. In clause (1), the text of 15:1391(10) and 49 App.:1655(a)(6)(A) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. The words "selling and distributing" are substituted for "who is engaged in the sale and distribution of" to eliminate unnecessary words. The word "purposes" is omitted as surplus. In clause (3), the words "selling and distributing" are substituted for "engaged in the sale and distribution of" to eliminate unnecessary words. In clause (5)(A), the words "manufacturing or assembling" are substituted for "engaged in the manufacturing or assembling of" to

eliminate unnecessary words. In clause (7), the words "physician or other duly" and "drivers, passengers, and other" are omitted as surplus. In clause (8), the words "is also protected" and "to persons" are omitted as unnecessary. In clause (9), the words "which is practicable, which meets the need for motor vehicle safety and which provides objective criteria" are omitted as unnecessary because of 15:1392(a) which is restated in section 30111 of the revised title. In clauses (10) and (11), the words "the Northern Mariana Islands" are added because of section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 268), and as proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593). The words "the Canal Zone" are omitted because of the Panama Canal Treaty of 1977. In clause (10), the word "means" is substituted for "includes" as being more appropriate. The words "a State of the United States" are substituted for "each of the several States" for consistency. The words "the Commonwealth of" are omitted as surplus. In clause (11), the word "Federal" is omitted as surplus. The words "of the Commonwealth of Puerto Rico" are omitted as unnecessary because the district court of Puerto Rico is a district court of the United States under 28:119.

In subsection (b)(1), before clause (A), the words "The term" and "the term" are omitted as surplus. In clause (B), the words "of a motor vehicle or motor vehicle equipment" are added for clarity. In clause (E), the words "to be" are added for consistency. The words "marketed under such brand name" are omitted as surplus. In clause (F), the words "a motor vehicle safety standard prescribed under this chapter" are added for clarity and consistency. The word "noncompliance" is substituted for "failure to comply" for consistency in the chapter. In clause (G), the words "(rather than the manufacturer of such equipment)" are omitted as surplus. The words "deemed to be" are substituted for "considered" for consistency. In clause (H), the words "which have been" are omitted as surplus.

Subsection (b)(2) is substituted for "Except as otherwise provided in regulations of the Secretary" for clarity and because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94, §24109(b)(3), added par. (1). Former par. (1) redesignated (2).

Subsec. (a)(2) to (10). Pub. L. 114–94, §24109(b)(2), redesignated pars. (1) to (9) as (2) to (10), respectively. Former par. (10) redesignated (12).

Subsec. (a)(11). Pub. L. 114–94, §24109(b)(4), added par. (11). Former par. (11) redesignated (13).

Subsec. (a)(12), (13). Pub. L. 114–94, §24109(b)(1), redesignated pars. (10) and (11) as (12) and (13), respectively.

2012—Subsec. (a)(7)(C). Pub. L. 112–141 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. B, title XXIV, §24109(k), Dec. 4, 2015, 129 Stat. 1709, provided that: "The amendments made by this section [amending this section and sections 30120, 30122, and 30166 of this title] shall take effect on the date that is 180 days after the date of enactment of this Act [Dec. 4, 2015]."

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

RULE OF CONSTRUCTION

Pub. L. 114–94, div. B, title XXIV, §24109(i), Dec. 4, 2015, 129 Stat. 1708, provided that: "Nothing in this section [amending this section and sections 30120, 30122, and 30166 of this title and enacting provisions set out as notes under this section and section 30101 of this title] or the amendments made by this section—

"(1) may be construed to create or increase any liability, including for loss of use, for a manufacturer as a result of having manufactured or imported a motor vehicle subject to a notification of defect or

noncompliance under subsection (b) or (c) of section 30118 of title 49, United States Code; or

"(2) shall supersede or otherwise affect the contractual obligations, if any, between such a manufacturer and a rental company (as defined in section 30102(a) of title 49, United States Code)."

RULEMAKING

Pub. L. 114–94, div. B, title XXIV, §24109(j), Dec. 4, 2015, 129 Stat. 1708, provided that: "The Secretary [probably means Secretary of Transportation] may promulgate rules, as appropriate, to implement this section [amending this section and sections 30120, 30122, and 30166 of this title and enacting provisions set out as notes under this section and section 30101 of this title] and the amendments made by this section."

LOW-SPEED ELECTRIC BICYCLES

Pub. L. 107–319, §2, Dec. 4, 2002, 116 Stat. 2776, provided that: "For purposes of motor vehicle safety standards issued and enforced pursuant to chapter 301 of title 49, United States Code, a low-speed electric bicycle (as defined in section 38(b) of the Consumer Product Safety Act [15 U.S.C. 2085(b)]) shall not be considered a motor vehicle as defined by section 30102[(a)](6) [now 30102(a)(7)] of title 49, United States Code."

§30103. Relationship to other laws

(a) UNIFORMITY OF REGULATIONS.—The Secretary of Transportation may not prescribe a safety regulation related to a motor vehicle subject to subchapter I of chapter 135 of this title that differs from a motor vehicle safety standard prescribed under this chapter. However, the Secretary may prescribe, for a motor vehicle operated by a carrier subject to subchapter I of chapter 135, a safety regulation that imposes a higher standard of performance after manufacture than that required by an applicable standard in effect at the time of manufacture.

(b) PREEMPTION.—(1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

(2) A State may enforce a standard that is identical to a standard prescribed under this chapter.

(c) ANTITRUST LAWS.—This chapter does not—

(1) exempt from the antitrust laws conduct that is unlawful under those laws; or

(2) prohibit under the antitrust laws conduct that is lawful under those laws.

(d) WARRANTY OBLIGATIONS AND ADDITIONAL LEGAL RIGHTS AND REMEDIES .—Sections 30117(b), 30118–30121, 30166(f), and 30167(a) and (b) of this title do not establish or affect a warranty obligation under a law of the United States or a State. A remedy under those sections and sections 30161 and 30162 of this title is in addition to other rights and remedies under other laws of the United States or a State.

(e) COMMON LAW LIABILITY.—Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 943; Pub. L. 104–88, title III, §308(j), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30103(a)	15:1392(g).	Sept. 9, 1966, Pub. L. 89–563, §§103(g), 105(a)(6), 116, 80 Stat. 720, 721, 727.
30103(b)	15:1392(d).	Sept. 9, 1966, Pub. L. 89–563, §103(d),

		80 Stat. 719; Oct. 15, 1982, Pub. L. 97–331, §3, 96 Stat. 1619.
30103(c)	15:1405.	
30103(d)	15:1394(a)(6).	
	15:1410a(e).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§124(e), 160; added Oct. 27, 1974, Pub. L. 93–492, §§102(a), 106, 88 Stat. 1477, 1481.
	15:1420.	
30103(e)	15:1397(k).	Sept. 9, 1966, Pub. L. 89–563, §108(k), 80 Stat. 723; Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2818.

In subsection (a), the words "or the Transportation of Explosives Act, as amended (18 U.S.C. 831–835)" are omitted as obsolete because 18:831–835 have been repealed. The word "prescribe" is substituted for "adopt" for consistency. The words "or continue in effect" and "In prescribing safety regulations" are omitted as surplus. The word "prescribed" is substituted for "issued" for consistency. The words "to comply" and "Federal" are omitted as surplus. The words "in effect" are added for clarity.

In subsection (b)(1), the word "Federal" is omitted as surplus. The word "prescribe" is substituted for "either to establish, or to continue in effect" for consistency and to eliminate unnecessary words. The words "standard prescribed under this chapter" are substituted for "Federal standard" for clarity. The words "However, the United States . . . may prescribe" are substituted for "Nothing in this section shall be construed to prevent the Federal . . . from establishing" for consistency. The words "of a State" are substituted for "thereof" for clarity. The word "standard" is substituted for "safety requirement" for consistency. The words "performance requirement" are substituted for "standard of performance" to avoid using "standard" in 2 different ways.

Subsection (b)(2) is substituted for 15:1392(d) (2d sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words "be deemed to" and "of the United States" are omitted as surplus.

In subsection (d), the words "United States" are substituted for "Federal" in 15:1420 for consistency. The words "Consumer" in 15:1420, "not in lieu of" in 15:1410a(e) and 1420, and "not in substitution for" in 15:1394(a)(6) are omitted as surplus. The word "other" is added for clarity.

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted "subchapter I of chapter 135" for "subchapter II of chapter 105" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§30104. Authorization of appropriations

There is authorized to be appropriated to the Secretary $98,313,500 for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 944; Pub. L. 105–178, title VII, §7102(a), June 9, 1998, 112 Stat. 465; Pub. L. 106–39, §1(a), July 28, 1999, 113 Stat. 206.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30104	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2501(a), 105 Stat. 2081.

In this section, before clause (1), the words "to the Secretary of Transportation for the National Highway Traffic Safety Administration" are substituted for "For the National Highway Traffic Safety Administration" for clarity and consistency in the revised title and with other titles of the United States Code. The reference to fiscal year 1992 is omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–39 substituted "$98,313,500" for "$81,200,000".

1998—Pub. L. 105–178 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "The following amounts may be appropriated to the Secretary of Transportation for the National Highway Traffic Safety Administration to carry out this chapter:

"(1) $71,333,436 for the fiscal year ending September 30, 1993.

"(2) $74,044,106 for the fiscal year ending September 30, 1994.

"(3) $76,857,782 for the fiscal year ending September 30, 1995."

§30105. Restriction on lobbying activities

(a) IN GENERAL.—No funds appropriated to the Secretary for the National Highway Traffic Safety Administration shall be available for any activity specifically designed to urge a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body.

(b) APPEARANCE AS WITNESS NOT BARRED.—Subsection (a) does not prohibit officers or employees of the United States from testifying before any State or local legislative body in response to the invitation of any member of that legislative body or a State executive office.

(Added and amended Pub. L. 105–178, title VII, §7104(a), (c), June 9, 1998, 112 Stat. 466; Pub. L. 105–206, title IX, §9012(a), July 22, 1998, 112 Stat. 864.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178, §7104(c), as added by Pub. L. 105–206, inserted "for the National Highway Traffic Safety Administration" after "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

§30106. Rented or leased motor vehicle safety and responsibility

(a) IN GENERAL.—An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision

thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if—

(1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and

(2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).

(b) FINANCIAL RESPONSIBILITY LAWS.—Nothing in this section supersedes the law of any State or political subdivision thereof—

(1) imposing financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle; or

(2) imposing liability on business entities engaged in the trade or business of renting or leasing motor vehicles for failure to meet the financial responsibility or liability insurance requirements under State law.

(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action, or the conduct that caused the harm, occurred before such date of enactment.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) AFFILIATE.—The term "affiliate" means a person other than the owner that directly or indirectly controls, is controlled by, or is under common control with the owner. In the preceding sentence, the term "control" means the power to direct the management and policies of a person whether through ownership of voting securities or otherwise.

(2) OWNER.—The term "owner" means a person who is—

(A) a record or beneficial owner, holder of title, lessor, or lessee of a motor vehicle;

(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

(C) a lessor, lessee, or a bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession thereof, under a lease, bailment, or otherwise.

(3) PERSON.—The term "person" means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

(Added Pub. L. 109–59, title X, §10208(a), Aug. 10, 2005, 119 Stat. 1935.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

§30111. Standards

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe motor vehicle safety standards. Each standard shall be practicable, meet the need for motor vehicle safety,

and be stated in objective terms.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a motor vehicle safety standard under this chapter, the Secretary shall—

(1) consider relevant available motor vehicle safety information;

(2) consult with the agency established under the Act of August 20, 1958 (Public Law 85–684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees);

(3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which the standard will carry out section 30101 of this title.

(c) COOPERATION.—The Secretary may advise, assist, and cooperate with departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies in developing motor vehicle safety standards.

(d) EFFECTIVE DATES OF STANDARDS.—The Secretary shall specify the effective date of a motor vehicle safety standard prescribed under this chapter in the order prescribing the standard. A standard may not become effective before the 180th day after the standard is prescribed or later than one year after it is prescribed. However, the Secretary may prescribe a different effective date after finding, for good cause shown, that a different effective date is in the public interest and publishing the reasons for the finding.

(e) 5-YEAR PLAN FOR TESTING STANDARDS.—The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing motor vehicle safety standards prescribed under this chapter that the Secretary considers capable of being tested. In developing the plan and establishing testing priorities, the Secretary shall consider factors the Secretary considers appropriate, consistent with section 30101 of this title and the Secretary's other duties and powers under this chapter. The Secretary may change at any time those priorities to address matters the Secretary considers of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on December 18, 1991.

(f) MOTOR VEHICLE SAFETY GUIDELINES.—

(1) IN GENERAL.—No guidelines issued by the Secretary with respect to motor vehicle safety shall confer any rights on any person, State, or locality, nor shall operate to bind the Secretary or any person to the approach recommended in such guidelines. In any enforcement action with respect to motor vehicle safety, the Secretary shall allege a violation of a provision of this subtitle, a motor vehicle safety standard issued under this subtitle, or another relevant statute or regulation. The Secretary may not base an enforcement action on, or execute a consent order based on, practices that are alleged to be inconsistent with any such guidelines, unless the practices allegedly violate a provision of this subtitle, a motor vehicle safety standard issued under this subtitle, or another relevant statute or regulation.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to confer any authority upon or negate any authority of the Secretary to issue guidelines under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 944; Pub. L. 114–94, div. B, title XXIV, §24406, Dec. 4, 2015, 129 Stat. 1725.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30111(a)	15:1392(a), (b), (e) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, §§102(13), 103(a)–(c), (e), (f), 107 (related to standards), 80 Stat. 719, 721.
30111(b)	15:1391(13). 15:1392(f).	

30111(c)	15:1396 (related to standards).	
30111(d)	15:1392(c), (e) (last sentence).	
30111(e)	15:1392(j).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §103(j); added Dec. 18, 1991, Pub. L. 102–240, §2505, 105 Stat. 2084.

In subsection (a), the words "shall prescribe" are substituted for "shall establish by order" in 15:1392(a) and "may by order" in 15:1392(e) (1st sentence) for consistency. The words "amend or revoke" in 15:1392(e) (1st sentence) and 1397(b)(1) (last sentence) are omitted because they are included in "prescribe". The words "appropriate Federal" in 15:1392(a) and "Federal" in 15:1392(e) (1st sentence) are omitted as surplus. The words "established under this section" are omitted because of the restatement. The text of 15:1392(b) is omitted as surplus because 5:chs. 5, subch. II, and 7 apply unless otherwise stated.

In subsection (b)(1), the words "including the results of research, development, testing and evaluation activities conducted pursuant to this chapter" are omitted as surplus.

In subsection (b)(2), the words "agency established under the Act of August 20, 1958 (Public Law 85–684, 72 Stat. 635)" are substituted for 15:1391(13) and "the Vehicle Equipment Safety Commission" in 15:1392(f) because of the restatement. The citation in parenthesis is included only for information purposes.

In subsection (b)(4), the words "contribute to" are omitted as surplus.

In subsection (c), the words "departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies" are substituted for "other Federal departments and agencies, and State and other interested public and private agencies" for consistency. The words "planning and" are omitted as surplus.

In subsection (d), the words "The Secretary" are added for clarity. The words "effective date" are substituted for "the date . . . is to take effect" to eliminate unnecessary words. The words "under this chapter" are added for clarity. The words "However, the Secretary may prescribe a different effective date" are substituted for "unless the Secretary" for clarity. The word "different" is substituted for "earlier or later" to eliminate unnecessary words.

In subsection (e), the words "duties and powers" are substituted for "responsibilities", and the word "change" is substituted for "adjust", and for clarity and consistency in the revised title.

EDITORIAL NOTES

REFERENCES IN TEXT

Act of August 20, 1958, referred to in subsec. (b)(2), is set out as a note under former section 313 of Title 23, Highways.

AMENDMENTS

2015—Subsec. (f). Pub. L. 114–94 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

UNDERRIDE PROTECTION

Pub. L. 117–58, div. B, title III, §23011, Nov. 15, 2021, 135 Stat. 768, provided that:

"(a) DEFINITIONS.—In this section:

"(1) COMMITTEE.—The term 'Committee' means the Advisory Committee on Underride Protection established under subsection (d)(1).

"(2) MOTOR CARRIER.—The term 'motor carrier' has the meaning given the term in section 13102 of title 49, United States Code.

"(3) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the meaning given the term in section 32101 of title 49, United States Code.

"(4) UNDERRIDE CRASH.—The term 'underride crash' means a crash in which a trailer or semitrailer intrudes into the passenger compartment of a passenger motor vehicle.

"(b) REAR UNDERRIDE GUARDS.—

"(1) TRAILERS AND SEMITRAILERS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall promulgate such regulations as are necessary to revise

sections 571.223 and 571.224 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Numbers 223 and 224, respectively), to require trailers and semitrailers manufactured after the date on which those regulations are promulgated to be equipped with rear impact guards that are designed to prevent passenger compartment intrusion from a trailer or semitrailer when a passenger motor vehicle traveling at 35 miles per hour makes—

"(i) an impact in which the passenger motor vehicle impacts the center of the rear of the trailer or semitrailer;

"(ii) an impact in which 50 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer; and

"(iii) an impact in which 30 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer, if the Secretary determines that a revision of sections 571.223 and 571.224 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Numbers 223 and 224, respectively) to address such an impact would meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code.

"(B) EFFECTIVE DATE.—The regulations promulgated under subparagraph (A) shall require full compliance with each Federal Motor Vehicle Safety Standard revised pursuant to those regulations not later than 2 years after the date on which those regulations are promulgated.

"(2) ADDITIONAL RESEARCH.—The Secretary shall conduct additional research on the design and development of rear impact guards that can—

"(A) prevent underride crashes in cases in which the passenger motor vehicle is traveling at speeds of up to 65 miles per hour; and

"(B) protect passengers in passenger motor vehicles against severe injury in crashes in which the passenger motor vehicle is traveling at speeds of up to 65 miles per hour.

"(3) REVIEW OF STANDARDS.—Not later than 5 years after the date on which the regulations under paragraph (1)(A) are promulgated, the Secretary shall—

"(A) review the Federal Motor Vehicle Safety Standards revised pursuant to those regulations and any other requirements of those regulations relating to rear underride guards on trailers or semitrailers to evaluate the need for changes in response to advancements in technology; and

"(B) update those Federal Motor Vehicle Safety Standards and those regulations accordingly.

"(4) INSPECTIONS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to revise the regulations relating to minimum periodic inspection standards under appendix G to subchapter B of chapter III of title 49, Code of Federal Regulations, and the regulations relating to driver vehicle inspection reports under section 396.11 of that title to include requirements relating to rear impact guards and rear end protection that are consistent with the requirements described in section 393.86 of that title.

"(B) CONSIDERATIONS.—In revising the regulations described in subparagraph (A), the Secretary shall consider it to be a defect or a deficiency if a rear impact guard is missing an, or has a corroded or compromised, element that affects the structural integrity and protective feature of the rear impact guard.

"(c) SIDE UNDERRIDE GUARDS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall—

"(A) complete additional research on side underride guards to better understand the overall effectiveness of side underride guards;

"(B) assess the feasibility, benefits, and costs of, and any impacts on intermodal equipment, freight mobility (including port operations), and freight capacity associated with, installing side underride guards on newly manufactured trailers and semitrailers with a gross vehicle weight rating of 10,000 pounds or more;

"(C) consider the unique structural and operational aspects of—

"(i) intermodal chassis (as defined in section 340.2 of title 46, Code of Federal Regulations; and

"(ii) pole trailers (as defined in section 390.5 of title 49, Code of Federal Regulations; and

"(D) if warranted, develop performance standards for side underride guards.

"(2) INDEPENDENT RESEARCH.—If the Secretary enters into a contract with a third party to perform the research required under paragraph (1)(A), the Secretary shall ensure that the third party does not have any financial or contractual ties to, or relationships with—

"(A) a motor carrier that transports passengers or property for compensation;

"(B) the motor carrier industry; or

"(C) an entity producing or supplying underride guards.

"(3) PUBLICATION OF ASSESSMENT.—Not later than 90 days after completion of the assessment required under paragraph (1)(B), the Secretary shall—

"(A) issue a notice in the Federal Register containing the findings of the assessment; and

"(B) provide an opportunity for public comment.

"(4) REPORT TO CONGRESS.—Not later than 90 days after the conclusion of the public comment period under paragraph (3)(B), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

"(A) the results of the assessment under paragraph (1)(B);

"(B) a summary of any comments received by the Secretary under paragraph (3)(B); and

"(C) a determination as to whether the Secretary intends to develop performance requirements for side underride guards, including any analysis that led to that determination.

"(d) ADVISORY COMMITTEE ON UNDERRIDE PROTECTION.—

"(1) ESTABLISHMENT.—The Secretary shall establish an Advisory Committee on Underride Protection to provide advice and recommendations to the Secretary on safety regulations to reduce underride crashes and fatalities relating to underride crashes.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Committee shall be composed of not more than 20 members, appointed by the Secretary, who—

"(i) are not employees of the Department [of Transportation]; and

"(ii) are qualified to serve on the Committee because of their expertise, training, or experience.

"(B) REPRESENTATION.—The Committee shall include 2 representatives of each of the following:

"(i) Truck and trailer manufacturers.

"(ii) Motor carriers, including independent owner-operators.

"(iii) Law enforcement.

"(iv) Motor vehicle engineers.

"(v) Motor vehicle crash investigators.

"(vi) Truck safety organizations.

"(vii) The insurance industry.

"(viii) Emergency medical service providers.

"(ix) Families of underride crash victims.

"(x) Labor organizations.

"(3) COMPENSATION.—Members of the Committee shall serve without compensation.

"(4) MEETINGS.—The Committee shall meet not less frequently than annually.

"(5) SUPPORT.—On request of the Committee, the Secretary shall provide information, administrative services, and supplies necessary for the Committee to carry out the duties of the Committee.

"(6) REPORT.—The Committee shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a biennial report that—

"(A) describes the advice and recommendations made to the Secretary; and

"(B) includes an assessment of progress made by the Secretary in advancing safety regulations relating to underride crashes.

"(e) DATA COLLECTION.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall implement the recommendations described in the report of the Government Accountability Office entitled 'Truck Underride Guards: Improved Data Collection, Inspections, and Research Needed', published on March 14, 2019, and numbered GAO–19–264."

LIMOUSINE RESEARCH

Pub. L. 117–58, div. B, title III, §23015, Nov. 15, 2021, 135 Stat. 773, provided that:

"(a) DEFINITIONS.—In this section:

"(1) LIMOUSINE.—The term 'limousine' means a motor vehicle—

"(A) that has a seating capacity of 9 or more persons (including the driver);

"(B) with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds;

"(C) that the Secretary has determined by regulation has physical characteristics resembling—

"(i) a passenger car;

"(ii) a multipurpose passenger vehicle; or

"(iii) a truck with a gross vehicle weight rating of 10,000 pounds or less; and

"(D) that is not a taxi, nonemergency medical, or paratransit motor vehicle.

"(2) LIMOUSINE OPERATOR.—The term 'limousine operator' means a person who owns or leases, and uses, a limousine to transport passengers for compensation.

"(3) MOTOR VEHICLE SAFETY STANDARD.—The term 'motor vehicle safety standard' has the meaning given the term in section 30102(a) of title 49, United States Code.

"(4) STATE.—The term 'State' has the meaning given such term in section 30102(a) of title 49, United States Code.

"(b) CRASHWORTHINESS.—

"(1) RESEARCH.—Not later than 4 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall complete research into the development of motor vehicle safety standards for side impact protection, roof crush resistance, and air bag systems for the protection of occupants in limousines with alternative seating positions, including perimeter seating arrangements.

"(2) RULEMAKING OR REPORT.—

"(A) CRASHWORTHINESS STANDARDS.—

"(i) IN GENERAL.—Subject to clause (ii), not later than 2 years after the date on which the research under paragraph (1) is completed, the Secretary shall prescribe, for the protection of occupants in limousines with alternative seating positions, a final motor vehicle safety standard for each of the following:

"(I) Side impact protection.

"(II) Roof crush resistance.

"(III) Air bag systems.

"(ii) REQUIREMENTS AND CONSIDERATIONS.—The Secretary may only prescribe a motor vehicle safety standard described in clause (i) if the Secretary determines that the standard meets the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code.

"(B) REPORT.—If the Secretary determines that a motor vehicle safety standard described in subparagraph (A)(i) would not meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall publish in the Federal Register and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the reasons for not prescribing the standard.

"(c) EVACUATION.—

"(1) RESEARCH.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall complete research into safety features and standards that aid evacuation in the event that an exit in the passenger compartment of a limousine is blocked.

"(2) RULEMAKING OR REPORT.—

"(A) LIMOUSINE EVACUATION.—

"(i) IN GENERAL.—Subject to clause (ii), not later than 2 years after the date on which the research under paragraph (1) is completed, the Secretary shall prescribe a final motor vehicle safety standard based on the results of that research.

"(ii) REQUIREMENTS AND CONSIDERATIONS.—The Secretary may only prescribe a motor vehicle safety standard described in clause (i) if the Secretary determines that the standard meets the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code.

"(B) REPORT.—If the Secretary determines that a standard described in subparagraph (A)(i) would not meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall publish in the Federal Register and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the reasons for not prescribing the standard.

"(d) LIMOUSINE INSPECTION DISCLOSURE.—

"(1) IN GENERAL.—A limousine operator may not introduce a limousine into interstate commerce unless the limousine operator has prominently disclosed in a clear and conspicuous notice, including on the website of the operator if the operator has a website, the following:

"(A) The date of the most recent inspection of the limousine required under State or Federal law, if applicable.

"(B) The results of the inspection, if applicable.

"(C) Any corrective action taken by the limousine operator to ensure the limousine passed inspection, if applicable.

"(2) FEDERAL TRADE COMMISSION ENFORCEMENT.—

"(A) IN GENERAL.—The Federal Trade Commission shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subsection.

"(B) TREATMENT.—Any person who violates this subsection shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

"(3) SAVINGS PROVISION.—Nothing in this subsection limits the authority of the Federal Trade Commission under any other provision of law.

"(4) EFFECTIVE DATE.—This subsection shall take effect on the date that is 180 days after the date of enactment of this Act [Nov. 15, 2021]."

MOTOR VEHICLE SEAT BACK SAFETY STANDARDS

Pub. L. 117–58, div. B, title IV, §24204, Nov. 15, 2021, 135 Stat. 820, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], subject to subsection (b), the Secretary [of Transportation] shall issue an advanced notice of proposed rulemaking to update section 571.207 of title 49, Code of Federal Regulations.

"(b) COMPLIANCE DATE.—If the Secretary determines that a final rule is appropriate consistent with the considerations described in section 30111(b) of title 49, United States Code, in issuing a final rule pursuant to subsection (a), the Secretary shall establish a date for required compliance with the final rule of not later than 2 motor vehicle model years after the model year during which the effective date of the final rule occurs."

AUTOMATIC SHUTOFF

Pub. L. 117–58, div. B, title IV, §24205(a), (b), Nov. 15, 2021, 135 Stat. 820, 821, provided that:

"(a) DEFINITIONS.—In this section [enacting this note and provisions not set out in the Code]:

"(1) KEY.—The term 'key' has the meaning given the term in section 571.114 of title 49, Code of Federal Regulations (or a successor regulation).

"(2) MANUFACTURER.—The term 'manufacturer' has the meaning given the term in section 30102(a) of title 49, United States Code.

"(3) MOTOR VEHICLE.—

"(A) IN GENERAL.—The term 'motor vehicle' has the meaning given the term in section 30102(a) of title 49, United States Code.

"(B) EXCLUSIONS.—The term 'motor vehicle' does not include—

"(i) a motorcycle or trailer (as those terms are defined in section 571.3 of title 49, Code of Federal Regulations (or a successor regulation));

"(ii) any motor vehicle with a gross vehicle weight rating of more than 10,000 pounds;

"(iii) a battery electric vehicle; or

"(iv) a motor vehicle that requires extended periods with the engine in idle to operate in service mode or to operate equipment, such as an emergency vehicle (including a police vehicle, an ambulance, or a tow vehicle) and a commercial-use vehicle (including a refrigeration vehicle).

"(b) AUTOMATIC SHUTOFF SYSTEMS FOR MOTOR VEHICLES.—

"(1) FINAL RULE.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall issue a final rule amending section 571.114 of title 49, Code of Federal Regulations, to require manufacturers to install in each motor vehicle that is equipped with a keyless ignition device and an internal combustion engine a device or system to automatically shutoff the motor vehicle after the motor vehicle has idled for the period described in subparagraph (B).

"(B) DESCRIPTION OF PERIOD.—

"(i) IN GENERAL.—The period referred to in subparagraph (A) is the period designated by the Secretary as necessary to prevent, to the maximum extent practicable, carbon monoxide poisoning.

"(ii) DIFFERENT PERIODS.—The Secretary may designate different periods under clause (i) for different types of motor vehicles, depending on the rate at which the motor vehicle emits carbon monoxide, if—

"(I) the Secretary determines a different period is necessary for a type of motor vehicle for purposes of section 30111 of title 49, United States Code; and

"(II) requiring a different period for a type of motor vehicle is consistent with the prevention of carbon monoxide poisoning.

"(2) DEADLINE.—Unless the Secretary finds good cause to phase-in or delay implementation, the rule issued pursuant to paragraph (1) shall take effect on September 1 of the first calendar year beginning after the date on which the Secretary issues the rule."

REDUCTION OF DRIVER DISTRACTION

Pub. L. 117–58, div. B, title IV, §24209, Nov. 15, 2021, 135 Stat. 823, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall conduct research regarding the installation and use on motor vehicles of driver monitoring systems to minimize or eliminate—

"(1) driver distraction;

"(2) driver disengagement;

"(3) automation complacency by drivers; and

"(4) foreseeable misuse of advanced driver-assist systems.

"(b) REPORT.—Not later than 180 days after the date of completion of the research under subsection (a), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a detailed report describing the findings of the research.

"(c) RULEMAKING.—

"(1) IN GENERAL.—If, based on the research completed under subsection (a), the Secretary determines that—

"(A) 1 or more rulemakings are necessary to ensure safety, in accordance with the [sic] section 30111 of title 49, United States Code, the Secretary shall initiate the rulemakings by not later than 2 years after the date of submission of the report under subsection (b); and

"(B) an additional rulemaking is not necessary, or an additional rulemaking cannot meet the applicable requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the reasons for not prescribing additional Federal motor vehicle safety standards regarding the research conducted under subsection (a).

"(2) PRIVACY.—A rule issued pursuant to paragraph (1) shall incorporate appropriate privacy and data security safeguards, as determined by the Secretary."

HEADLAMPS

Pub. L. 117–58, div. B, title IV, §24212, Nov. 15, 2021, 135 Stat. 825, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ADAPTIVE DRIVING BEAM HEADLAMP.—The term 'adaptive driving beam headlamp' means a headlamp (as defined in Standard 108) that meets the performance requirements specified in SAE International Standard J3069, published on June 30, 2016.

"(2) STANDARD 108.—The term 'Standard 108' means Federal Motor Vehicle Safety Standard Number 108, contained in section 571.108 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act [Nov. 15, 2021]).

"(b) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary [of Transportation] shall issue a final rule amending Standard 108—

"(1) to include performance-based standards for vehicle headlamp systems—

"(A) to ensure that headlights are correctly aimed on the road; and

"(B) requiring those systems to be tested on-vehicle to account for headlight height and lighting performance; and

"(2) to allow for the use on vehicles of adaptive driving beam headlamp systems.

"(c) PERIODIC REVIEW.—Nothing in this section precludes the Secretary from—

"(1) reviewing Standard 108, as amended pursuant to subsection (b); and

"(2) revising Standard 108 to reflect an updated version of SAE International Standard J3069, as the Secretary determines to be—

"(A) appropriate; and

"(B) in accordance with section 30111 of title 49, United States Code."

ADVANCED IMPAIRED DRIVING TECHNOLOGY

Pub. L. 117–58, div. B, title IV, §24220, Nov. 15, 2021, 135 Stat. 831, as amended by Pub. L. 117–328, div. L, title I, §143, Dec. 29, 2022, 136 Stat. 5121, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) alcohol-impaired driving fatalities represent approximately 1/3 of all highway fatalities in the United States each year;

"(2) in 2019, there were 10,142 alcohol-impaired driving fatalities in the United States involving drivers with a blood alcohol concentration level of .08 or higher, and 68 percent of the crashes that resulted in those fatalities involved a driver with a blood alcohol concentration level of .15 or higher;

"(3) the estimated economic cost for alcohol-impaired driving in 2010 was $44,000,000,000;

"(4) according to the Insurance Institute for Highway Safety, advanced drunk and impaired driving prevention technology can prevent more than 9,400 alcohol-impaired driving fatalities annually; and

"(5) to ensure the prevention of alcohol-impaired driving fatalities, advanced drunk and impaired driving prevention technology must be standard equipment in all new passenger motor vehicles.

"(b) DEFINITIONS.—In this section:

"(1) ADVANCED DRUNK AND IMPAIRED DRIVING PREVENTION TECHNOLOGY.—The term 'advanced drunk and impaired driving prevention technology' means a system that—

"(A) can—

"(i) passively monitor the performance of a driver of a motor vehicle to accurately identify whether that driver may be impaired; and

"(ii) prevent or limit motor vehicle operation if an impairment is detected;

"(B) can—

"(i) passively and accurately detect whether the blood alcohol concentration of a driver of a motor vehicle is equal to or greater than the blood alcohol concentration described in section 163(a) of title 23, United States Code; and

"(ii) prevent or limit motor vehicle operation if a blood alcohol concentration above the legal limit is detected; or

"(C) is a combination of systems described in subparagraphs (A) and (B).

"(2) NEW.—The term 'new', with respect to a passenger motor vehicle, means that the passenger motor vehicle—

"(A) is a new vehicle (as defined in section 37.3 of title 49, Code of Federal Regulations (or a successor regulation)); and

"(B) has not been purchased for purposes other than resale.

"(3) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the meaning given the term in section 32101 of title 49, United States Code.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration.

"(c) ADVANCED DRUNK AND IMPAIRED DRIVING PREVENTION TECHNOLOGY SAFETY STANDARD.—Subject to subsection (e) and not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall issue a final rule prescribing a Federal motor vehicle safety standard under section 30111 of title 49, United States Code, that requires passenger motor vehicles manufactured after the effective date of that standard to be equipped with advanced drunk and impaired driving prevention technology.

"(d) REQUIREMENT.—To allow sufficient time for manufacturer compliance, the compliance date of the rule issued under subsection (c) shall be not earlier than 2 years and not more than 3 years after the date on which that rule is issued.

"(e) TIMING.—If the Secretary determines that the Federal motor vehicle safety standard required under subsection (c) cannot meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, by the applicable date, the Secretary—

"(1) may extend the time period to such date as the Secretary determines to be necessary, but not later than the date that is 3 years after the date described in subsection (c);

"(2) shall, not later than the date described in subsection (c) and not less frequently than annually thereafter until the date on which the rule under that subsection is issued, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing, as of the date of submission of the report—

"(A) the reasons for not prescribing a Federal motor vehicle safety standard under section 30111 of title 49, United States Code, that requires advanced drunk and impaired driving prevention technology in all new passenger motor vehicles;

"(B) the deployment of advanced drunk and impaired driving prevention technology in vehicles;

"(C) any information relating to the ability of vehicle manufacturers to include advanced drunk and impaired driving prevention technology in new passenger motor vehicles; and

"(D) an anticipated timeline for prescribing the Federal motor vehicle safety standard described in subsection (c); and

"(3) if the Federal motor vehicle safety standard required by subsection (c) has not been finalized by the date that is 10 years after the date of enactment of this Act [Nov. 15, 2021], shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representative a report describing—

"(A) the reasons why the Federal motor vehicle safety standard has not been finalized;

"(B) the barriers to finalizing the Federal motor vehicle safety standard; and

"(C) recommendations to Congress to facilitate the Federal motor vehicle safety standard.

"(f) SHORT TITLE.—This section may be cited as the 'Honoring the Abbas Family Legacy to Terminate Drunk Driving Act'."

RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT

Pub. L. 112–141, div. C, title I, §31601, July 6, 2012, 126 Stat. 775, provided that:

"(a) DEFINITIONS.—In this section:

"(1) AGRICULTURAL EQUIPMENT.—The term 'agricultural equipment' has the meaning given the term 'agricultural field equipment' in ASABE Standard 390.4, entitled 'Definitions and Classifications of Agricultural Field Equipment', which was published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

"(2) PUBLIC ROAD.—The term 'public road' has the meaning given the term in section 101(a)(27) of title 23, United States Code.

"(b) RULEMAKING.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary of Transportation, after consultation with representatives of the American Society of Agricultural and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

"(2) MINIMUM STANDARDS.—The rule promulgated pursuant to this subsection shall—

"(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

"(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be equivalent to ASABE Standard 279.14, entitled 'Lighting and Marking of Agricultural Equipment on Highways', which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

"(c) REVIEW.—Not less frequently than once every 5 years, the Secretary of Transportation shall—

"(1) review the standards established pursuant to subsection (b); and

"(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

"(d) LIMITATIONS.—

"(1) COMPLIANCE WITH SUCCESSOR STANDARDS.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

"(2) NO RETROFITTING REQUIRED.—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

"(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based."

UNATTENDED PASSENGER REMINDERS

Pub. L. 112–141, div. C, title I, §31504, July 6, 2012, 126 Stat. 775, as amended by Pub. L. 114–94, div. B, title XXIV, §24114, Dec. 4, 2015, 129 Stat. 1710, provided that:

"(a) SAFETY RESEARCH INITIATIVE.—The Secretary [of Transportation] shall initiate research into

effective ways to minimize the risk of hyperthermia or hypothermia to children or other unattended passengers in rear seating positions.

"(b) RESEARCH AREAS.—In carrying out subsection (a), the Secretary may conduct research into the potential viability of—

"(1) vehicle technology to provide an alert that a child or unattended passenger remains in a rear seating position after the vehicle motor is disengaged; or

"(2) public awareness campaigns to educate drivers on the risks of leaving a child or unattended passenger in a vehicle after the vehicle motor is disengaged; or

"(3) other ways to mitigate risk.

"(c) COORDINATION WITH OTHER AGENCIES.—The Secretary may collaborate with other Federal agencies in conducting the research under this section."

PEDESTRIAN SAFETY ENHANCEMENT

Pub. L. 111–373, Jan. 4, 2011, 124 Stat. 4086, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Pedestrian Safety Enhancement Act of 2010'.

"SEC. 2. DEFINITIONS.

"As used in this Act—

"(1) the term 'Secretary' means the Secretary of Transportation;

"(2) the term 'alert sound' (herein referred to as the 'sound') means a vehicle-emitted sound to enable pedestrians to discern vehicle presence, direction, location, and operation;

"(3) the term 'cross-over speed' means the speed at which tire noise, wind resistance, or other factors eliminate the need for a separate alert sound as determined by the Secretary;

"(4) the term 'motor vehicle' has the meaning given such term in section 30102(a)(6) [now 30102(a)(7)] of title 49, United States Code, except that such term shall not include a trailer (as such term is defined in section 571.3 of title 49, Code of Federal Regulations);

"(5) the term 'conventional motor vehicle' means a motor vehicle powered by a gasoline, diesel, or alternative fueled internal combustion engine as its sole means of propulsion;

"(6) the term 'manufacturer' has the meaning given such term in section 30102(a)(5) [now 30102(a)(6)] of title 49, United States Code;

"(7) the term 'dealer' has the meaning given such term in section 30102(a)(1) [now 30102(a)(2)] of title 49, United States Code;

"(8) the term 'defect' has the meaning given such term in section 30102(a)(2) [now 30102(a)(3)] of title 49, United States Code;

"(9) the term 'hybrid vehicle' means a motor vehicle which has more than one means of propulsion; and

"(10) the term 'electric vehicle' means a motor vehicle with an electric motor as its sole means of propulsion.

"SEC. 3. MINIMUM SOUND REQUIREMENT FOR MOTOR VEHICLES.

"(a) RULEMAKING REQUIRED.—Not later than 18 months after the date of enactment of this Act [Jan. 4, 2011] the Secretary shall initiate rulemaking, under section 30111 of title 49, United States Code, to promulgate a motor vehicle safety standard—

"(1) establishing performance requirements for an alert sound that allows blind and other pedestrians to reasonably detect a nearby electric or hybrid vehicle operating below the cross-over speed, if any; and

"(2) requiring new electric or hybrid vehicles to provide an alert sound conforming to the requirements of the motor vehicle safety standard established under this subsection.

"The motor vehicle safety standard established under this subsection shall not require either driver or pedestrian activation of the alert sound and shall allow the pedestrian to reasonably detect a nearby electric or hybrid vehicle in critical operating scenarios including, but not limited to, constant speed, accelerating, or decelerating. The Secretary shall allow manufacturers to provide each vehicle with one or more sounds that comply with the motor vehicle safety standard at the time of manufacture. Further, the Secretary shall require manufacturers to provide, within reasonable manufacturing tolerances, the same sound or set of sounds for all vehicles of the same make and model and shall prohibit manufacturers from providing any mechanism for anyone other than the manufacturer or the dealer to disable, alter, replace, or modify the sound or set of sounds, except that the manufacturer or dealer may alter, replace, or modify the sound or set of sounds in

order to remedy a defect or non-compliance with the motor vehicle safety standard. The Secretary shall promulgate the required motor vehicle safety standard pursuant to this subsection not later than 36 months after the date of enactment of this Act.

"(b) CONSIDERATION.—When conducting the required rulemaking, the Secretary shall—

"(1) determine the minimum level of sound emitted from a motor vehicle that is necessary to provide blind and other pedestrians with the information needed to reasonably detect a nearby electric or hybrid vehicle operating at or below the cross-over speed, if any;

"(2) determine the performance requirements for an alert sound that is recognizable to a pedestrian as a motor vehicle in operation; and

"(3) consider the overall community noise impact.

"(c) PHASE-IN REQUIRED.—The motor vehicle safety standard prescribed pursuant to subsection (a) of this section shall establish a phase-in period for compliance, as determined by the Secretary, and shall require full compliance with the required motor vehicle safety standard for motor vehicles manufactured on or after September 1st of the calendar year that begins 3 years after the date on which the final rule is issued.

"(d) REQUIRED CONSULTATION.—When conducting the required study and rulemaking, the Secretary shall—

"(1) consult with the Environmental Protection Agency to assure that the motor vehicle safety standard is consistent with existing noise requirements overseen by the Agency;

"(2) consult consumer groups representing individuals who are blind;

"(3) consult with automobile manufacturers and professional organizations representing them;

"(4) consult technical standardization organizations responsible for measurement methods such as the Society of Automotive Engineers, the International Organization for Standardization, and the United Nations Economic Commission for Europe, World Forum for Harmonization of Vehicle Regulations.

"(e) REQUIRED STUDY AND REPORT TO CONGRESS.—Not later than 48 months after the date of enactment of this Act, the Secretary shall complete a study and report to Congress as to whether there exists a safety need to apply the motor vehicle safety standard required by subsection (a) to conventional motor vehicles. In the event that the Secretary determines there exists a safety need, the Secretary shall initiate rulemaking under section 30111 of title 49, United States Code, to extend the standard to conventional motor vehicles.

"SEC. 4. FUNDING.

"Notwithstanding any other provision of law, $2,000,000 of any amounts made available to the Secretary of Transportation under under [sic] section 406 of title 23, United States Code, shall be made available to the Administrator of the National Highway Transportation Safety Administration for carrying out section 3 of this Act."

CHILD SAFETY STANDARDS FOR MOTOR VEHICLES

Pub. L. 110–189, Feb. 28, 2008, 122 Stat. 639, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Cameron Gulbransen Kids Transportation Safety Act of 2007' or the 'K.T. Safety Act of 2007'.

"SEC. 2. RULEMAKING REGARDING CHILD SAFETY.

"(a) POWER WINDOW SAFETY.—

"(1) CONSIDERATION OF RULE.—Not later than 18 months after the date of the enactment of this Act [Feb. 28, 2008], the Secretary of Transportation (referred to in this Act as the 'Secretary') shall initiate a rulemaking to consider prescribing or amending Federal motor vehicle safety standards to require power windows and panels on motor vehicles to automatically reverse direction when such power windows and panels detect an obstruction to prevent children and others from being trapped, injured, or killed.

"(2) DEADLINE FOR DECISION.—If the Secretary determines such safety standards are reasonable, practicable, and appropriate, the Secretary shall prescribe, under section 30111 of title 49, United States Code, the safety standards described in paragraph (1) not later than 30 months after the date of enactment of this Act. If the Secretary determines that no additional safety standards are reasonable, practicable, and appropriate, the Secretary shall—

"(A) not later than 30 months after the date of enactment of this Act, transmit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the reasons such standards were not prescribed; and

"(B) publish and otherwise make available to the public through the Internet and other means (such as the 'Buying a Safer Car' brochure) information regarding which vehicles are or are not equipped

with power windows and panels that automatically reverse direction when an obstruction is detected.

"(b) REARWARD VISIBILITY.—Not later than 12 months after the date of the enactment of this Act [Feb. 28, 2008], the Secretary shall initiate a rulemaking to revise Federal Motor Vehicle Safety Standard 111 (FMVSS 111) to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. The Secretary may prescribe different requirements for different types of motor vehicles to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. Such standard may be met by the provision of additional mirrors, sensors, cameras, or other technology to expand the driver's field of view. The Secretary shall prescribe final standards pursuant to this subsection not later than 36 months after the date of enactment of this Act.

"(c) PHASE-IN PERIOD.—

"(1) PHASE-IN PERIOD REQUIRED.—The safety standards prescribed pursuant to subsections (a) and (b) shall establish a phase-in period for compliance, as determined by the Secretary, and require full compliance with the safety standards not later than 48 months after the date on which the final rule is issued.

"(2) PHASE-IN PRIORITIES.—In establishing the phase-in period of the rearward visibility safety standards required under subsection (b), the Secretary shall consider whether to require the phase-in according to different types of motor vehicles based on data demonstrating the frequency by which various types of motor vehicles have been involved in backing incidents resulting in injury or death. If the Secretary determines that any type of motor vehicle should be given priority, the Secretary shall issue regulations that specify—

"(A) which type or types of motor vehicles shall be phased-in first; and

"(B) the percentages by which such motor vehicles shall be phased-in.

"(d) PREVENTING MOTOR VEHICLES FROM ROLLING AWAY.—

"(1) REQUIREMENT.—Each motor vehicle with an automatic transmission that includes a 'park' position manufactured for sale after September 1, 2010, shall be equipped with a system that requires the service brake to be depressed before the transmission can be shifted out of 'park'. This system shall function in any starting system key position in which the transmission can be shifted out of 'park'.

"(2) TREATMENT AS MOTOR VEHICLE SAFETY STANDARD.—A violation of paragraph (1) shall be treated as a violation of a motor vehicle safety standard prescribed under section 30111 of title 49, United States Code, and shall be subject to enforcement by the Secretary under chapter 301 of such title.

"(3) PUBLICATION OF NONCOMPLIANT VEHICLES.—

"(A) INFORMATION SUBMISSION.—Not later than 60 days after the date of the enactment of this Act [Feb. 28, 2008], for the current model year and annually thereafter through 2010, each motor vehicle manufacturer shall transmit to the Secretary the make and model of motor vehicles with automatic transmissions that include a 'park' position that do not comply with the requirements of paragraph (1).

"(B) PUBLICATION.—Not later than 30 days after receiving the information submitted under subparagraph (A), the Secretary shall publish and otherwise make available to the public through the Internet and other means the make and model of the applicable motor vehicles that do not comply with the requirements of paragraph (1). Any motor vehicle not included in the publication under this subparagraph shall be presumed to comply with such requirements.

"(e) DEFINITION OF MOTOR VEHICLE.—As used in this Act and for purposes of the motor vehicle safety standards described in subsections (a) and (b), the term 'motor vehicle' has the meaning given such term in section 30102(a)(6) [now 30102(a)(7)] of title 49, United States Code, except that such term shall not include—

"(1) a motorcycle or trailer (as such terms are defined in section 571.3 of title 49, Code of Federal Regulations); or

"(2) any motor vehicle that is rated at more than 10,000 pounds gross vehicular weight.

"(f) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

"(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act [Feb. 28, 2008], the Secretary shall establish and maintain a database of injuries and deaths in nontraffic, noncrash events involving motor vehicles.

"(2) CONTENTS.—The database established pursuant to paragraph (1) shall include information regarding—

"(A) the number, types, and causes of injuries and deaths resulting from the events described in

paragraph (1);

"(B) the make, model, and model year of motor vehicles involved in such events, when practicable; and

"(C) other variables that the Secretary determines will enhance the value of the database.

"(3) AVAILABILITY.—The Secretary shall make the information contained in the database established pursuant to paragraph (1) available to the public through the Internet and other means.

"SEC. 3. CHILD SAFETY INFORMATION PROGRAM.

"(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act [Feb. 28, 2008], the Secretary shall provide information about hazards to children in nontraffic, noncrash incident situations by—

"(1) supplementing an existing consumer information program relating to child safety; or

"(2) creating a new consumer information program relating to child safety.

"(b) PROGRAM REQUIREMENTS.—In carrying out the program under subsection (a), the Secretary shall—

"(1) utilize information collected pursuant to section 2(f) regarding nontraffic, noncrash injuries, and other relevant data the Secretary considers appropriate, to establish priorities for the program;

"(2) address ways in which parents and caregivers can reduce risks to small children arising from back over incidents, hyperthermia in closed motor vehicles, accidental actuation of power windows, and any other risks the Secretary determines should be addressed; and

"(3) make information related to the program available to the public through the Internet and other means.

"SEC. 4. DEADLINES.

"If the Secretary determines that the deadlines applicable under this Act cannot be met, the Secretary shall—

"(1) establish new deadlines; and

"(2) notify the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the new deadlines and describing the reasons the deadlines specified under this Act could not be met."

IMPROVING CRITERIA USED IN A RECALL

Pub. L. 106–414, §15, Nov. 1, 2000, 114 Stat. 1808, provided that:

"(a) REVIEW OF STANDARDS AND CRITERIA USED IN OPENING A DEFECT OR NONCOMPLIANCE INVESTIGATION.—The Secretary shall, not later than 30 days after the date of the enactment of this Act [Nov. 1, 2000], undertake a comprehensive review of all standards, criteria, procedures, and methods, including data management and analysis used by the National Highway Traffic Safety Administration in determining whether to open a defect or noncompliance investigation pursuant to subchapter II or IV of chapter 301 of title 49, United States Code, and shall undertake such steps as may be necessary to update and improve such standards, criteria, procedures, or methods, including data management and analysis.

"(b) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act [Nov. 1, 2000], the Secretary shall transmit to the Committee on Commerce [now Committee on Energy and Commerce] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Secretary's findings and actions under subsection (a)."

§30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment

(a) GENERAL.—(1) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.

(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be

used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of this paragraph.

(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.

(b) NONAPPLICATION.—This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with applicable motor vehicle safety standards prescribed under this chapter;

(B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter; or

(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);

(3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the outside of any container of the vehicle or equipment, and exported;

(4) a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;

(5) a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;

(6) a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;

(7) a motor vehicle under section 30144 of this title imported on a temporary basis;

(8) a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing;

(9) a motor vehicle that is at least 25 years old; or

(10) the introduction of a motor vehicle in interstate commerce solely for purposes of testing or evaluation by a manufacturer that agrees not to sell or offer for sale the motor vehicle at the conclusion of the testing or evaluation and that prior to the date of enactment of this paragraph—

(A) has manufactured and distributed motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

(B) has submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

(C) if applicable, has identified an agent for service of process in accordance with part 551 of such title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 945; Pub. L. 109–59, title X, §10309(b), Aug. 10, 2005, 119 Stat. 1942; Pub. L. 112–141, div. C, title I, §31207, July 6, 2012, 126 Stat. 761; Pub. L. 114–94, div. B, title XXIV, §24404, Dec. 4, 2015, 129 Stat. 1721.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30112(a)	15:1397(a)(1)(A).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(A), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, §103(a)(1), 88 Stat. 1477; Oct. 31, 1988, Pub. L. 100–562, §2(c), (d), 102 Stat. 2824.
	15:1397(c)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(c)(1), (i); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2818, 2823.
30112(b)(1)–(3)	15:1397(a)(2)(D), (b)(1) (1st sentence), (2).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(2)(D), (b)(1) (1st sentence), (2), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, §103(a)(1), 88 Stat. 1477, 1478.
	15:1397(b)(3).	Sept. 9, 1966, Pub. L. 89–563, §108(b)(3), 80 Stat. 723; Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(B), 88 Stat. 1478; Oct. 31, 1988, Pub. L. 100–562, §2(a), 102 Stat. 2818.
30112(b)(4)–(8)	(no source).	
30112(b)(9)	15:1397(i).	

In subsection (a), the words "Except as provided in this section . . . and subchapter III of this chapter" are substituted for 15:1397(c)(1) to eliminate unnecessary words and because of the restatement. The reference to section 30113 is added for clarity.

In subsection (b), before clause (1), the text of 15:1397(a)(2)(D) is omitted as obsolete because under section 30124 of the revised title a standard prescribed under this chapter may not allow compliance by use of a safety belt interlock or a continuous buzzer. In clause (2)(A), the words "despite exercising reasonable care" are substituted for "in the exercise of due care" for clarity and consistency in the revised title. The words "motor vehicle safety standards prescribed under this chapter" are substituted for "Federal motor vehicle safety standards" for clarity and consistency in this chapter. In clause (2)(B), the words "without knowing about the noncompliance" are substituted for "unless such person knows that such vehicle or equipment does not so conform" to eliminate unnecessary words and for consistency in the revised title. Clauses (4)–(8) are added to provide cross–references to sections restating exceptions to the general rule restated in subsection (a) of this section.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

The date of enactment of this paragraph, referred to in subsec. (b)(10), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

AMENDMENTS

2015—Subsec. (b)(10). Pub. L. 114–94 added par. (10).

2012—Subsec. (a)(3). Pub. L. 112–141, §31207(1), added par. (3).

Subsec. (b)(2)(C). Pub. L. 112–141, §31207(2), added subpar. (C).

2005—Subsec. (a). Pub. L. 109–59, which directed amendment of section 30112(a), without specifying the title to be amended, by designating existing provisions as par. (1) and adding par. (2), was executed to this

section, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30113. General exemptions

(a) DEFINITION.—In this section, "low-emission motor vehicle" means a motor vehicle meeting the standards for new motor vehicles applicable to the vehicle under section 202 of the Clean Air Act (42 U.S.C. 7521) when the vehicle is manufactured and emitting an air pollutant in an amount significantly below one of those standards.

(b) AUTHORITY TO EXEMPT AND PROCEDURES.—(1) The Secretary of Transportation may exempt, on a temporary basis, motor vehicles from a motor vehicle safety standard prescribed under this chapter or passenger motor vehicles from a bumper standard prescribed under chapter 325 of this title, on terms the Secretary considers appropriate. An exemption may be renewed. A renewal may be granted only on reapplication and must conform to the requirements of this subsection.

(2) The Secretary may begin a proceeding under this subsection when a manufacturer applies for an exemption or a renewal of an exemption. The Secretary shall publish notice of the application and provide an opportunity to comment. An application for an exemption or for a renewal of an exemption shall be filed at a time and in the way, and contain information, this section and the Secretary require.

(3) The Secretary may act under this subsection on finding that—

(A) an exemption is consistent with the public interest and this chapter or chapter 325 of this title (as applicable); and

(B)(i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(c) CONTENTS OF APPLICATIONS.—A manufacturer applying for an exemption under subsection (b) of this section shall include the following information in the application:

(1) if the application is made under subsection (b)(3)(B)(i) of this section, a complete financial statement describing the economic hardship and a complete description of the manufacturer's good faith effort to comply with each motor vehicle safety standard prescribed under this chapter, or a bumper standard prescribed under chapter 325 of this title, from which the manufacturer is requesting an exemption.

(2) if the application is made under subsection (b)(3)(B)(ii) of this section, a record of the research, development, and testing establishing the innovative nature of the safety feature and a detailed analysis establishing that the safety level of the feature at least equals the safety level of the standard.

(3) if the application is made under subsection (b)(3)(B)(iii) of this section, a record of the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard.

(4) if the application is made under subsection (b)(3)(B)(iv) of this section, a detailed analysis showing how the vehicle provides an overall safety level at least equal to the overall safety level

of nonexempt vehicles.

(d) ELIGIBILITY.—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section (including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1)) only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000. A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iii), or (iv) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.

(e) MAXIMUM PERIOD.—An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years. An exemption or renewal under subsection (b)(3)(B)(ii), (iii), or (iv) of this section may be granted for not more than 2 years.

(f) DISCLOSURE.—The Secretary may make public, by the 10th day after an application is filed, information contained in the application or relevant to the application unless the information concerns or is related to a trade secret or other confidential information not relevant to the application.

(g) NOTICE OF DECISION.—The Secretary shall publish in the Federal Register a notice of each decision granting an exemption under this section and the reasons for granting it.

(h) PERMANENT LABEL REQUIREMENT.—The Secretary shall require a permanent label to be fixed to a motor vehicle granted an exemption under this section. The label shall either name or describe each motor vehicle safety standard prescribed under this chapter or bumper standard prescribed under chapter 325 of this title from which the vehicle is exempt. The Secretary may require that written notice of an exemption be delivered by appropriate means to the dealer and the first purchaser of the vehicle other than for resale.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 945; Pub. L. 105–277, div. A, §101(g) [title III, §351(a)], Oct. 21, 1998, 112 Stat. 2681–439, 2681–475.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30113(a)	15:1410(g).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §123; added Apr. 10, 1968, Pub. L. 90–283, 82 Stat. 72; restated Oct. 25, 1972, Pub. L. 92–548, §3, 86 Stat. 1159.
30113(b)	15:1410(a) (1st sentence), (c)(1) (23d–last words), (2) (23d–last words).	
30113(c)	15:1410(e).	
30113(d)	15:1410(d).	
30113(e)	15:1410(c)(1) (1st–22d words), (2) (1st–22d words).	
30113(f)	15:1410(f).	
30113(g)	15:1410(a) (last sentence).	
30113(h)	15:1410(b).	

In subsection (a), the words "the term" and "type of" are omitted as surplus. The words "when the vehicle is manufactured" are substituted for "at the time of manufacture" for consistency.

In subsection (b)(1), the words "Except as provided in subsection (d) of this section" are omitted as surplus. The words "to such extent" are omitted as being included in "on terms the Secretary considers appropriate".

In subsection (b)(2), the words "The Secretary may begin a proceeding under this subsection . . . for an exemption or a renewal of an exemption" are added because of the restatement. The words "of the application" are added for clarity. The words "An application for an exemption or for a renewal of an exemption shall be

filed" are added because of the restatement.

In subsection (b)(3)(A), the words "such temporary" and "the objectives of" are omitted as surplus.

In subsection (b)(3)(B)(i), the words "to a manufacturer that" are substituted for "such manufacturer . . . and that the manufacturer" to eliminate unnecessary words. The words "from which it requests to be exempted" are omitted as surplus.

In subsection (b)(3)(B)(ii), the words "from which an exemption is sought" are omitted as surplus.

In subsection (b)(3)(B)(iii), the words "lower the safety level" are substituted for "degrade the safety" for clarity.

In subsection (b)(3)(B)(iv), the word "requiring" is omitted as surplus.

In subsection (c), before clause (1), the words "the following information" are added for clarity. In clause (1), the word "describing" is substituted for "the basis of showing" to eliminate unnecessary words. The words "each motor vehicle safety standard prescribed under this chapter from which the manufacturer is requesting an exemption" are substituted for "the standards" for clarity. In clauses (2) and (3), the words "a record" are substituted for "documentation" for consistency in the revised title. In clause (2), the words "establishing that the safety level of the feature at least equals the safety level of the standard" are substituted for "establishing that the level of safety of the new safety feature is equivalent to or exceeds the level of safety established in the standard from which the exemption is sought" because of the restatement. In clause (3), the word "level" is added, and the words "lowered . . . by exemption from the standard" are substituted for "degraded", for consistency in this section. In clause (4), the words "at least equal to" are substituted for "equivalent to or exceeding" for consistency.

In subsection (f), the text of 15:1410(f) (1st sentence) is omitted as executed. The words "under this section all" and "other information" are omitted as surplus. The words "to the application" are substituted for "thereto" for clarity. The words "business" and "for exemption" are omitted as surplus.

In subsection (g), the words "The Secretary" are added for clarity. The word "temporary" is omitted as surplus. The words "under this section" are added for clarity.

In subsection (h), the words "a . . . label to be fixed to a motor vehicle granted an exemption under this section" are substituted for "labeling of each exempted motor vehicle . . . and be affixed to such exempted vehicles" for clarity. The words "of such exempted motor vehicle in such manner as he deems" are omitted as surplus. The words "motor vehicle safety standard prescribed under this chapter" are substituted for "the standards" for clarity and consistency in this chapter.

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–277, §101(g) [title III, §351(a)(1)(A)], inserted "or passenger motor vehicles from a bumper standard prescribed under chapter 325 of this title," after "a motor vehicle safety standard prescribed under this chapter".

Subsec. (b)(3)(A). Pub. L. 105–277, §101(g) [title III, §351(a)(1)(B)], inserted "or chapter 325 of this title (as applicable)" after "this chapter".

Subsec. (c)(1). Pub. L. 105–277, §101(g) [title III, §351(a)(2)], inserted ", or a bumper standard prescribed under chapter 325 of this title," after "motor vehicle safety standard prescribed under this chapter".

Subsec. (d). Pub. L. 105–277, §101(g) [title III, §351(a)(3)], inserted "(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))" after "subsection (b)(3)(B)(i) of this section".

Subsec. (h). Pub. L. 105–277, §101(g) [title III, §351(a)(4)], inserted "or bumper standard prescribed under chapter 325 of this title" after "each motor vehicle safety standard prescribed under this chapter".

§30114. Special exemptions

(A) [1] Vehicles Used for Particular Purposes.[2] The Secretary of Transportation may exempt a motor vehicle or item of motor vehicle equipment from section 30112(a) of this title on terms the Secretary decides are necessary for research, investigations, demonstrations, training, competitive racing events, show, or display.

(b) EXEMPTION FOR LOW-VOLUME MANUFACTURERS.—

(1) IN GENERAL.—The Secretary shall—

(A) exempt from section 30112(a) of this title not more than 325 replica motor vehicles per

year that are manufactured or imported by a low-volume manufacturer; and

(B) except as provided in paragraph (4) of this subsection, limit any such exemption to the Federal Motor Vehicle Safety Standards applicable to motor vehicles and not motor vehicle equipment.

(2) REGISTRATION REQUIREMENT.—To qualify for an exemption under paragraph (1), a low-volume manufacturer shall register with the Secretary at such time, in such manner, and under such terms that the Secretary determines appropriate. The Secretary shall establish terms that ensure that no person may register as a low-volume manufacturer if the person is registered as an importer under section 30141 of this title.

(3) PERMANENT LABEL REQUIREMENT.—

(A) IN GENERAL.—The Secretary shall require a low-volume manufacturer to affix a permanent label to a motor vehicle exempted under paragraph (1) that identifies the specified standards and regulations for which such vehicle is exempt from section 30112(a), states that the vehicle is a replica, and designates the model year such vehicle replicates.

(B) WRITTEN NOTICE.—The Secretary may require a low-volume manufacturer of a motor vehicle exempted under paragraph (1) to deliver written notice of the exemption to—

(i) the dealer; and

(ii) the first purchaser of the motor vehicle, if the first purchaser is not an individual that purchases the motor vehicle for resale.

(C) REPORTING REQUIREMENT.—A low-volume manufacturer shall annually submit a report to the Secretary including the number and description of the motor vehicles exempted under paragraph (1) and a list of the exemptions described on the label affixed under subparagraph (A).

(4) EFFECT ON OTHER PROVISIONS.—Any motor vehicle exempted under this subsection shall also be exempted from sections 32304, 32502, and 32902 of this title and from section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

(5) LIMITATION AND PUBLIC NOTICE.—The Secretary shall have 90 days to review and approve or deny a registration submitted under paragraph (2). If the Secretary determines that any such registration submitted is incomplete, the Secretary shall have an additional 30 days for review. Any registration not approved or denied within 90 days after initial submission, or 120 days if the registration submitted is incomplete, shall be deemed approved. The Secretary shall have the authority to revoke an existing registration based on a failure to comply with requirements set forth in this subsection or a finding by the Secretary of a safety-related defect or unlawful conduct under this chapter that poses a significant safety risk. The registrant shall be provided a reasonable opportunity to correct all deficiencies, if such are correctable based on the sole discretion of the Secretary. An exemption granted by the Secretary to a low-volume manufacturer under this subsection may not be transferred to any other person, and shall expire at the end of the calendar year for which it was granted with respect to any volume authorized by the exemption that was not applied by the low-volume manufacturer to vehicles built during that calendar year. The Secretary shall maintain an up-to-date list of registrants and a list of the make and model of motor vehicles exempted under paragraph (1) on at least an annual basis and publish such list in the Federal Register or on a website operated by the Secretary.

(6) LIMITATION OF LIABILITY FOR ORIGINAL MANUFACTURERS, LICENSORS OR OWNERS OF PRODUCT CONFIGURATION, TRADE DRESS, OR DESIGN PATENTS.—The original manufacturer, its successor or assignee, or current owner, who grants a license or otherwise transfers rights to a low-volume manufacturer shall incur no liability to any person or entity under Federal or State statute, regulation, local ordinance, or under any Federal or State common law for such license or assignment to a low-volume manufacturer.

(7) DEFINITIONS.—In this subsection:

(A) LOW-VOLUME MANUFACTURER.—The term "low-volume manufacturer" means a

motor vehicle manufacturer, other than a person who is registered as an importer under section 30141 of this title, whose annual worldwide production, including by a parent or subsidiary of the manufacturer, if applicable, is not more than 5,000 motor vehicles.

(B) REPLICA MOTOR VEHICLE.—The term "replica motor vehicle" means a motor vehicle produced by a low-volume manufacturer and that—

(i) is intended to resemble the body of another motor vehicle that was manufactured not less than 25 years before the manufacture of the replica motor vehicle; and

(ii) is manufactured under a license for the product configuration, trade dress, trademark, or patent, for the motor vehicle that is intended to be replicated from the original manufacturer, its successors or assignees, or current owner of such product configuration, trade dress, trademark, or patent rights.

(8) CONSTRUCTION.—Except as provided in paragraphs (1) and (4), a registrant shall be considered a motor vehicle manufacturer for purposes of parts A and C of subtitle VI of this title. Nothing shall be construed to exempt a registrant from complying with the requirements under sections 30116 through 30120A of this title if the motor vehicle excepted under paragraph (1) contains a defect related to motor vehicle safety.

(9) STATE REGISTRATION.—Nothing in this subsection shall be construed to preempt, affect, or supersede any State titling or registration law or regulation for a replica motor vehicle, or exempt a person from complying with such law or regulation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 947; Pub. L. 105–178, title VII, §7107(a), June 9, 1998, 112 Stat. 469; Pub. L. 114–94, div. B, title XXIV, §24405(a), Dec. 4, 2015, 129 Stat. 1721.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30114	15:1397(j).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(j); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2824.

The word "conditions" is omitted as being included in "terms", and the word "studies" is omitted as being included in "research". The word "solely" is omitted as unnecessary.

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94 designated existing provisions as subsec. "(A)", inserted heading, and added subsec. (b).

1998—Pub. L. 105–178 substituted "competitive racing events, show, or display" for "or competitive racing events".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSITION RULE

Pub. L. 105–178, title VII, §7107(b), June 9, 1998, 112 Stat. 469, provided that: "A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act [June 9, 1998] may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect."

[1] *So in original. Probably should be "(a)".*

[2] *So in original. Probably should be followed by a dash.*

§30115. Certification of compliance

(a) IN GENERAL.—A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

(b) CERTIFICATION LABEL.—In the case of the certification label affixed by an intermediate or final stage manufacturer of a motor vehicle built in more than 1 stage, each intermediate or final stage manufacturer shall certify with respect to each applicable Federal motor vehicle safety standard—

(1) that it has complied with the specifications set forth in the compliance documentation provided by the incomplete motor vehicle manufacturer in accordance with regulations prescribed by the Secretary; or

(2) that it has elected to assume responsibility for compliance with that standard.

If the intermediate or final stage manufacturer elects to assume responsibility for compliance with the standard covered by the documentation provided by an incomplete motor vehicle manufacturer, the intermediate or final stage manufacturer shall notify the incomplete motor vehicle manufacturer in writing within a reasonable time of affixing the certification label. A violation of this subsection shall not be subject to a civil penalty under section 30165.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 947; Pub. L. 106–414, §9, Nov. 1, 2000, 114 Stat. 1805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30115	15:1397(a)(1)(C), (E) (related to 15:1403).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(C), (E) (related to §114), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (2)(B), 88 Stat. 1477, 1478.
	15:1403.	Sept. 9, 1966, Pub. L. 89–563, §114, 80 Stat. 726.

The words "fail to issue a certificate required by section 1403 of this title" in 15:1397(a)(1)(C) and the text of 15:1397(a)(1)(E) (related to 15:1403) are omitted as surplus. The word "certify" is substituted for "furnish . . . the certification" in 15:1403 to eliminate unnecessary words. The words "the time of" and "of such vehicle or equipment by such manufacturer or distributor" are omitted as surplus. The words "prescribed under this chapter" are added for clarity. The word "reasonable" is substituted for "due" in 15:1397(a)(1)(C) for consistency in the revised title. The words "to the effect that a motor vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards" are omitted because of the restatement. The words "shown by" are substituted for "in the form of" in 15:1403 for clarity.

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–414 designated existing provisions as subsec. (a), inserted heading, and added subsec.

(b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FOLLOW-UP REPORT

Pub. L. 106–414, §16, Nov. 1, 2000, 114 Stat. 1808, provided that, by one year after Nov. 1, 2000, the Secretary of Transportation would report to Congress on the implementation of the 2000 amendments.

§30116. Defects and noncompliance found before sale to purchaser

(a) ACTIONS REQUIRED OF MANUFACTURERS AND DISTRIBUTORS.—If, after a manufacturer or distributor sells a motor vehicle or motor vehicle equipment to a distributor or dealer and before the distributor or dealer sells the vehicle or equipment, it is decided that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with applicable motor vehicle safety standards prescribed under this chapter—

(1) the manufacturer or distributor immediately shall repurchase the vehicle or equipment at the price paid by the distributor or dealer, plus transportation charges and reasonable reimbursement of at least one percent a month of the price paid prorated from the date of notice of noncompliance or defect to the date of repurchase; or

(2) if a vehicle, the manufacturer or distributor immediately shall give to the distributor or dealer at the manufacturer's or distributor's own expense, the part or equipment needed to make the vehicle comply with the standards or correct the defect.

(b) DISTRIBUTOR OR DEALER INSTALLATION.—The distributor or dealer shall install the part or equipment referred to in subsection (a)(2) of this section. If the distributor or dealer installs the part or equipment with reasonable diligence after it is received, the manufacturer shall reimburse the distributor or dealer for the reasonable value of the installation and a reasonable reimbursement of at least one percent a month of the manufacturer's or distributor's selling price prorated from the date of notice of noncompliance or defect to the date the motor vehicle complies with applicable motor vehicle safety standards prescribed under this chapter or the defect is corrected.

(c) ESTABLISHING AMOUNT DUE AND CIVIL ACTIONS.—The parties shall establish the value of installation and the amount of reimbursement under this section. If the parties do not agree, or if a manufacturer or distributor refuses to comply with subsection (a) or (b) of this section, the distributor or dealer purchasing the motor vehicle or motor vehicle equipment may bring a civil action. The action may be brought in a United States district court for the judicial district in which the manufacturer or distributor resides, is found, or has an agent, to recover damages, court costs, and a reasonable attorney's fee. An action under this section must be brought not later than 3 years after the claim accrues.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30116(a)	15:1400(a) (less (2) (last 97 words)).	Sept. 9, 1966, Pub. L. 89–563, §111, 80 Stat. 724.
30116(b)	15:1400(a)(2) (last 97 words).	
30116(c)	15:1400(b), (c).	

In subsection (a)(1), the words "as the case may be", "from such distributor or dealer", "all . . . involved", and "by the manufacturer or distributor" are omitted as surplus.

In subsection (a)(2), the words "manufacturer's or distributor's" are substituted for "his" for clarity. The words "or parts" are omitted because of 1:1. The words "the vehicle comply with the standards or correct the defect" are substituted for "conforming" for clarity.

In subsection (b), the words "the part or equipment referred to in subsection (a)(2) of this section" are added because of the restatement. The words "If the distributor or dealer installs the part or equipment with reasonable diligence after it is received, the manufacturer shall reimburse the distributor or dealer" are substituted for "and for the installation involved the manufacturer shall reimburse such distributor or dealer . . . *Provided, however,* That the distributor or dealer proceeds with reasonable diligence with the installation after the required part, parts or equipment are received" to eliminate unnecessary words. The words "on or in such vehicle" are omitted as surplus. The words "notice of noncompliance or defect" are substituted for "notice of such nonconformance", and the words "complies with applicable motor vehicle safety standards prescribed under this chapter or the defect is corrected" are substituted for "is brought into conformance with applicable Federal standards", to eliminate unnecessary words and for consistency in the revised title.

In subsection (c), the words "the amount of reimbursement" are substituted for "such reasonable reimbursements" for clarity and because of the restatement. The words "by mutual agreement" are omitted as surplus. The words "If the parties do not agree" are substituted for "or failing such agreement", and the words "by the court pursuant to the provisions of subsection (b) of this section" are omitted, because of the restatement. The words "the requirements of", "then", "as the case may be", and "without respect to the amount in controversy" are omitted as surplus. The words "civil action" are substituted for "suit" because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "against such manufacturer or distributor" are omitted as surplus. The word "judicial" is added for consistency. The words "to recover damages, court costs, and a reasonable attorney's fee" are substituted for "and shall recover the damage by him sustained, as well as all court costs plus reasonable attorneys' fees", and the words "must be brought" are substituted for "shall be forever barred unless commenced", to eliminate unnecessary words. The word "claim" is substituted for "cause of action" for consistency.

§30117. Providing information to, and maintaining records on, purchasers

(a) PROVIDING INFORMATION AND NOTICE.—The Secretary of Transportation may require that each manufacturer of a motor vehicle or motor vehicle equipment provide technical information related to performance and safety required to carry out this chapter. The Secretary may require the manufacturer to give the following notice of that information when the Secretary decides it is necessary:

(1) to each prospective purchaser of a vehicle or equipment before the first sale other than for resale at each location at which the vehicle or equipment is offered for sale by a person having a legal relationship with the manufacturer, in a way the Secretary decides is appropriate.

(2) to the first purchaser of a vehicle or equipment other than for resale when the vehicle or equipment is bought, in printed matter placed in the vehicle or attached to or accompanying the equipment.

(b) MAINTAINING PURCHASER RECORDS AND PROCEDURES.—(1) A manufacturer of a motor vehicle or tire (except a retreaded tire) shall cause to be maintained a record of the name and address of the first purchaser of each vehicle or tire it produces and, to the extent prescribed by regulations of the Secretary, shall cause to be maintained a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces. The Secretary may prescribe by regulation the records to be maintained and reasonable procedures for maintaining the records under this subsection, including procedures to be followed by distributors and dealers to assist the manufacturer in obtaining the information required by this subsection. A procedure shall be reasonable for the type of vehicle or tire involved, and shall provide reasonable assurance that a customer list of a distributor or dealer, or similar information, will be made available to a person (except the distributor or dealer) only when necessary to carry out this subsection and sections 30118–30121, 30166(f), and 30167(a) and (b) of this title. Availability of assistance from a distributor or dealer does not affect an obligation of a manufacturer under this subsection.

(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may require a distributor or dealer to maintain a record under paragraph (1) of this subsection only if the business of the distributor or dealer is owned or controlled by a manufacturer of tires.

(B) The Secretary shall require each distributor and dealer whose business is not owned or controlled by a manufacturer of tires to give a registration form (containing the tire identification

number) to the first purchaser of a tire. The Secretary shall prescribe the form, which shall be standardized for all tires and designed to allow the purchaser to complete and return it directly to the manufacturer of the tire. The manufacturer shall give sufficient copies of forms to distributors and dealers.

(3) RULEMAKING.—

(A) IN GENERAL.—The Secretary shall initiate a rulemaking to require a distributor or dealer of tires that is not owned or controlled by a manufacturer of tires to maintain records of—

(i) the name and address of tire purchasers and lessors;

(ii) information identifying the tire that was purchased or leased; and

(iii) any additional records the Secretary considers appropriate.

(B) ELECTRONIC TRANSMISSION.—The rulemaking carried out under subparagraph (A) shall require a distributor or dealer of tires that is not owned or controlled by a manufacturer of tires to electronically transmit the records described in clauses (i), (ii), and (iii) of subparagraph (A) to the manufacturer of the tires or the designee of the manufacturer by secure means at no cost to tire purchasers or lessors.

(C) SATISFACTION OF REQUIREMENTS.—A regulation promulgated under subparagraph (A) may be considered to satisfy the requirements of paragraph (2)(B).

(c) ROLLOVER TESTS.—

(1) DEVELOPMENT.—Not later than 2 years from the date of the enactment of this subsection, the Secretary shall—

(A) develop a dynamic test on rollovers by motor vehicles for the purposes of a consumer information program; and

(B) carry out a program of conducting such tests.

(2) TEST RESULTS.—As the Secretary develops a test under paragraph (1)(A), the Secretary shall conduct a rulemaking to determine how best to disseminate test results to the public.

(3) MOTOR VEHICLES COVERED.—This subsection applies to motor vehicles, including passenger cars, multipurpose passenger vehicles, and trucks, with a gross vehicle weight rating of 10,000 pounds or less. A motor vehicle designed to provide temporary residential accommodations is not covered.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 948; Pub. L. 106–414, §12, Nov. 1, 2000, 114 Stat. 1806; Pub. L. 114–94, div. B, title XXIV, §24333, Dec. 4, 2015, 129 Stat. 1715.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30117(a)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(d)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(B) (related to §112(d)), (D) (related to §158(b)), (E) (related to §112(d)), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (2), (3), 88 Stat. 1477, 1478.
	15:1401(d).	Sept. 9, 1966, Pub. L. 89–563, §112(d), 80 Stat. 725; May 22, 1970, Pub. L. 91–265, §3, 84 Stat. 262.
30117(b)	15:1397(a)(1)(D) (related to 15:1418(b)).	
	15:1418(b)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §158(b)(1); added Oct. 27,

		1974, Pub. L. 93–492, §102(a), 88 Stat. 1476; Nov. 6, 1978, Pub. L. 95–599, §317, 92 Stat. 2752; Oct. 15, 1982, Pub. L. 97–331, §4(a)(1), 96 Stat. 1619.
	15:1418(b)(2), (3).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §158(b)(2), (3); added Oct. 15, 1982, Pub. L. 97–331, §4(a)(2), 96 Stat. 1620.

In this section, the text of 15:1397(a)(1)(B) (related to 15:1401(d)), (D) (related to 15:1418(b)), and (E) (related to 15:1401(d)) is omitted as surplus.

In subsection (a), before clause (1), the words "such performance data and other", "as may be", "the purposes of", "performance and technical", and "to carry out the purposes of this chapter" the 2d time they appear are omitted as surplus. In clause (1), the words "such manufacturer's" and "which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser and (B) sent by mail to such prospective purchaser upon his request" are omitted as surplus. The words "legal relationship" are substituted for "contractual, proprietary, or other legal relationship" to eliminate unnecessary words.

In subsection (b)(1), the word "cause to be maintained" is substituted for "cause the establishment and maintenance of" to eliminate unnecessary words. The words "prescribe by regulation" are substituted for "by rule, specify" for consistency and because "rule" and "regulation" are synonymous. The words "under this subsection" are added for clarity. The word "involved" is substituted for "for which they are prescribed" to eliminate unnecessary words. The words "the purpose of" and "except that . . . or not" are omitted as surplus. The words "from a distributor or dealer" are added for clarity.

In subsection (b)(3)(A), before clause (i), the words "At the end of the two-year period following the effective date of this paragraph" are omitted as expired. In clause (iii), the words "(or any combination of such groups)" are omitted as unnecessary.

In subsection (b)(3)(B), before clause (i), the words "may prescribe a requirement" are substituted for "may order by rule the imposition of requirements" for consistency and to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 106–414, which was approved Nov. 1, 2000.

AMENDMENTS

2015—Subsec. (b)(3). Pub. L. 114–94 amended par. (3) generally. Prior to amendment, par. (3) related to requirement for Secretary to evaluate record maintenance procedures under par. (2) and submit reports to Congress.

2000—Subsec. (c). Pub. L. 106–414 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

RETENTION OF SAFETY RECORDS BY MANUFACTURERS

Pub. L. 114–94, div. B, title XXIV, §24403, Dec. 4, 2015, 129 Stat. 1720, provided that:

"(a) RULE.—Not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], the Secretary of Transportation shall issue a final rule pursuant to section 30117 of title 49, United States Code, requiring each manufacturer of motor vehicles or motor vehicle equipment to retain all motor vehicle safety records required to be maintained by manufacturers under section 576.6 of title 49, Code of Federal Regulations, for a period of not less than 10 calendar years from the date on which they were generated or acquired by the manufacturer.

"(b) APPLICATION.—The rule required by subsection (a) shall apply with respect to any record described in such subsection that is in the possession of a manufacturer on the effective date of such rule."

15-PASSENGER VAN SAFETY

Pub. L. 109–59, title X, §10309(a), Aug. 10, 2005, 119 Stat. 1942, provided that:

"(1) IN GENERAL.—The Secretary of Transportation shall require the testing of 15-passenger vans as part of the rollover resistance program of the National Highway Traffic Safety Administration's new car assessment program.

"(2) 15-PASSENGER VAN DEFINED.—In this subsection, the term '15-passenger van' means a vehicle that seats 10 to 14 passengers, not including the driver."

§30118. Notification of defects and noncompliance

(a) NOTIFICATION BY SECRETARY.—The Secretary of Transportation shall notify the manufacturer of a motor vehicle or replacement equipment immediately after making an initial decision (through testing, inspection, investigation, or research carried out under this chapter, examining communications under section 30166(f) of this title, or otherwise) that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter. The notification shall include the information on which the decision is based. The Secretary shall publish a notice of each decision under this subsection in the Federal Register. Subject to section 30167(a) of this title, the notification and information are available to any interested person.

(b) DEFECT AND NONCOMPLIANCE PROCEEDINGS AND ORDERS.—(1) The Secretary may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter only after giving the manufacturer an opportunity to present information, views, and arguments showing that there is no defect or noncompliance or that the defect does not affect motor vehicle safety. Any interested person also shall be given an opportunity to present information, views, and arguments.

(2) If the Secretary decides under paragraph (1) of this subsection that the vehicle or equipment contains the defect or does not comply, the Secretary shall order the manufacturer to—

(A) give notification under section 30119 of this title to the owners, purchasers, and dealers of the vehicle or equipment of the defect or noncompliance; and

(B) remedy the defect or noncompliance under section 30120 of this title.

(c) NOTIFICATION BY MANUFACTURER.—A manufacturer of a motor vehicle or replacement equipment shall notify the Secretary by certified mail or electronic mail, and the owners, purchasers, and dealers of the vehicle or equipment as provided in section 30119(d) of this section, if the manufacturer—

(1) learns the vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety; or

(2) decides in good faith that the vehicle or equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(d) EXEMPTIONS.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(e) HEARINGS ABOUT MEETING NOTIFICATION REQUIREMENTS.—On the motion of the Secretary or on petition of any interested person, the Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the notification requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the notification requirements. If the Secretary decides that the manufacturer has not reasonably met the notification requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(f) REPORTS ON NOTIFICATION CAMPAIGNS.—

(1) IN GENERAL.—Each manufacturer that is conducting a campaign under subsection (b) or (c) or any other provision of law (including regulations) to notify manufacturers, distributors, owners, purchasers, or dealers of a defect or noncompliance shall submit to the Administrator of the National Highway Traffic Safety Administration—

(A) by the applicable date described in section 573.7(d) of title 49, Code of Federal Regulations (or a successor regulation), a quarterly report describing the campaign for each of 8 consecutive quarters, beginning with the quarter in which the campaign was initiated; and

(B) an annual report for each of the 3 years beginning after the date of completion of the last quarter for which a quarterly report is submitted under subparagraph (A).

(2) REQUIREMENTS.—Except as otherwise provided in this subsection, each report under this subsection shall comply with the requirements of section 573.7 of title 49, Code of Federal Regulations (or a successor regulation).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 950; Pub. L. 106–346, §101(a) [title III, §364], Oct. 23, 2000, 114 Stat. 1356, 1356A–37; Pub. L. 106–414, §2, Nov. 1, 2000, 114 Stat. 1800; Pub. L. 114–94, div. B, title XXIV, §24104(b), Dec. 4, 2015, 129 Stat. 1703; Pub. L. 117–58, div. B, title IV, §24202(a), Nov. 15, 2021, 135 Stat. 819.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30118(a)	15:1397(a)(1)(D) (related to 15:1412(a) (1st–3d sentences)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(D) (related to §§151, 152, 153(c) (1st sentence cl. (6)), 156, 157), 80 Stat. 722; restated Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1412(a) (1st–3d sentences).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§151, 152, 156 (related to notice), 157 (related to notice); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1470, 1475.
30118(b)	15:1397(a)(1)(D) (related to 15:1412(a) (last sentence), (b)).	
	15:1412(a) (last sentence), (b).	
30118(c)	15:1397(a)(1)(D) (related to 15:1411, 1413(c) (1st sentence cl. (6))).	
	15:1411.	
	15:1413(c) (1st sentence cl. (6)).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §153(c) (1st sentence cl. (6)); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1472; Oct. 15, 1982, Pub. L. 97–331, §4(b)(2), 96 Stat. 1620.
30118(d)	15:1397(a)(1)(D) (related to 15:1417).	
	15:1417 (related to notice).	

30118(e)	15:1397(a)(1)(D) (related to 15:1416). 15:1416 (related to notice).	

In this section, the text of 15:1397(a)(1)(D) (related to 15:1411, 1412, 1413(c) (1st sentence cl. (6)), and 1417) is omitted as surplus.

In subsection (a), the words "making an initial decision" are substituted for "determines" to distinguish the decision from the decision made under subsection (b) of this section. The words "of such determination", "to the manufacturer", and "of the Secretary" are omitted as surplus. The words "under this subsection" are added for clarity.

In subsection (b)(1), the words "may make a final decision" are substituted for "determines", and the words "prescribed under this chapter" are added, for clarity and consistency in this chapter.

In subsection (b)(2), before clause (A), the words "If the Secretary decides under paragraph (1) of this subsection that the vehicle or equipment contains a defect or does not comply" are added for clarity and because of the restatement. The words "after such presentations by the manufacturer and interested persons" are omitted as surplus. In clause (A), the words "of the defect or noncompliance" are added for clarity.

In subsection (c), before clause (1), the words "A manufacturer of a motor vehicle or replacement equipment" are substituted for "manufactured by him" in 15:1411 for clarity. The words "shall notify" are substituted for "he shall furnish notification to" to eliminate unnecessary words. The words "to the Secretary, if section 1411 of this title applies" in 15:1413(c) (1st sentence cl. (6)) are omitted because of the restatement. The words "of the vehicle or equipment" are added for clarity. The words "and he shall remedy the defect or failure to comply in accordance with section 1414 of this title" in 15:1411 are omitted as unnecessary because of the source provisions restated in section 30120 of the revised title.

In subsection (d), the words "any requirement under", "to give notice with respect to", and "as it relates" are omitted as surplus. The words "The Secretary may take action under this subsection only" are added because of the restatement.

In subsection (e), the words "(including a manufacturer)" are omitted as surplus. The word "information" is substituted for "data" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (f). Pub. L. 117–58 added subsec. (f).

2015—Subsec. (c). Pub. L. 114–94 inserted "or electronic mail" after "certified mail" in introductory provisions.

2000—Pub. L. 106–346, §101(a) [title III, §364], which directed amendment of this section in subsecs. (a), (b)(1), and (c), by inserting ", original equipment," before "or replacement equipment" wherever appearing, and in subsec. (c), by redesignating pars. (1) and (2) as subpars. (A) and (B), respectively, and realigning margins, by substituting "(1) IN GENERAL.—A manufacturer" for "A manufacturer", and by adding a new par (2) relating to duty of manufacturers, was repealed by Pub. L. 106–414, §2. See Construction of 2000 Amendment note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–414, §2, Nov. 1, 2000, 114 Stat. 1800, provided that: "The amendments made to section 30118 of title 49, United States Code, by section 364 of the Department of Transportation and Related Agencies Appropriations Act, 2001 [Pub. L. 106–346, §101(a) [title III, §364], Oct. 23, 2000, 114 Stat. 1356, 1356A–37] are repealed and such section shall be effective as if such amending section had not been enacted."

§30119. Notification procedures

(a) CONTENTS OF NOTIFICATION.—Notification by a manufacturer required under section 30118 of this title of a defect or noncompliance shall contain—

(1) a clear description of the defect or noncompliance;

(2) an evaluation of the risk to motor vehicle safety reasonably related to the defect or

noncompliance;

(3) the measures to be taken to obtain a remedy of the defect or noncompliance;

(4) a statement that the manufacturer giving notice will remedy the defect or noncompliance without charge under section 30120 of this title;

(5) the earliest date on which the defect or noncompliance will be remedied without charge, and for tires, the period during which the defect or noncompliance will be remedied without charge under section 30120 of this title;

(6) the procedure the recipient of a notice is to follow to inform the Secretary of Transportation when a manufacturer, distributor, or dealer does not remedy the defect or noncompliance without charge under section 30120 of this title; and

(7) other information the Secretary prescribes by regulation.

(b) EARLIEST REMEDY DATE.—The date specified by a manufacturer in a notification under subsection (a)(5) of this section or section 30121(c)(2) of this title is the earliest date that parts and facilities reasonably can be expected to be available to remedy the defect or noncompliance. The Secretary may disapprove the date.

(c) TIME FOR NOTIFICATION.—Notification required under section 30118 of this title shall be given within a reasonable time—

(1) prescribed by the Secretary, after the manufacturer receives notice of a final decision under section 30118(b) of this title; or

(2) after the manufacturer first decides that a safety-related defect or noncompliance exists under section 30118(c) of this title.

(d) MEANS OF PROVIDING NOTIFICATION.—(1) Notification required under section 30118 of this title about a motor vehicle shall be sent in the manner prescribed by the Secretary, by regulation—

(A) to each person registered under State law as the owner and whose name and address are reasonably ascertainable by the manufacturer through State records or other available sources; or

(B) if a registered owner is not notified under clause (A) of this paragraph, to the most recent purchaser known to the manufacturer.

(2) Notification required under section 30118 of this title about replacement equipment shall be sent in the manner prescribed by the Secretary, by regulation, to the most recent purchaser known to the manufacturer.

(3) In addition to the notification required under paragraphs (1) and (2), if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given by the manufacturer in the way required by the Secretary after consulting with the manufacturer. In deciding whether public notice is required, the Secretary shall consider—

(A) the magnitude of the risk to motor vehicle safety caused by the defect or noncompliance; and

(B) the cost of public notice compared to the additional number of owners the notice may reach.

(4) A dealer to whom a motor vehicle or replacement equipment was delivered shall be notified in the manner prescribed by the Secretary, by regulation.

(e) ADDITIONAL NOTIFICATION.—

(1) SECOND NOTIFICATION.—If the Secretary decides that a notification sent by a manufacturer under this section has not resulted in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer to send a 2d notification in the way the Secretary prescribes by regulation.

(2) ADDITIONAL NOTIFICATIONS.—If the Secretary determines, after taking into account the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

(A)(i) to send additional notifications in the manner prescribed by the Secretary, by regulation; or

(ii) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

(B) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.

(f) NOTIFICATION BY LESSOR TO LESSEE.—(1) In this subsection, "leased motor vehicle" means a motor vehicle that is leased to a person for at least 4 months by a lessor that has leased at least 5 motor vehicles in the 12 months before the date of the notification.

(2) A lessor that receives a notification required by section 30118 of this title about a leased motor vehicle shall provide a copy of the notification to the lessee in the way the Secretary prescribes by regulation.

(g) INFORMATION REGARDING COMPONENTS INVOLVED IN RECALL.—A manufacturer that is required to furnish a report under section 573.6 of title 49, Code of Federal Regulations (or any successor regulation) for a defect or noncompliance in a motor vehicle or in an item of original or replacement equipment shall, if such defect or noncompliance involves a specific component or components, include in such report, with respect to such component or components, the following information:

(1) The name of the component or components.

(2) A description of the component or components.

(3) The part number of the component or components, if any.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 951; Pub. L. 112–141, div. C, title I, §31310, July 6, 2012, 126 Stat. 771; Pub. L. 114–94, div. B, title XXIV, §24116, Dec. 4, 2015, 129 Stat. 1711.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30119(a)	15:1397(a)(1)(D) (related to 15:1413(a)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(D) (related to §§153(a)–(c) (1st sentence cls. (1)–(5), last sentence), 154(b)(2) (2d, last sentences)), 80 Stat. 722; restated Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1413(a).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§153(a), (b), 154(b)(2) (2d, last sentences); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1471, 1473.
30119(b)	15:1397(a)(1)(D) (related to 15:1414(b)(2) (2d, last sentences)).	
	15:1414(b)(2) (2d, last sentences).	
30119(c)	15:1397(a)(1)(D) (related to 15:1413(b)).	
	15:1413(b).	
30119(d)	15:1397(a)(1)(D) (related to 15:1413(c) (1st sentence cls. (1)–(5), last sentence).	

	15:1413(c) (1st sentence cls. (1)–(5), last sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §153(c) (1st sentence cls. (1)–(5), last sentence); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1471, 1472; Oct. 15, 1982, Pub. L. 97–331, §4(b), 96 Stat. 1620.
30119(e)	15:1413(d).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §153(d), (e); added Dec. 18, 1991, Pub. L. 102–240, §2504(a), 105 Stat. 2083.
30119(f)	15:1413(e).	

In this section, the text of 15:1397(a)(1)(D) (related to 15:1413(a)–(c) (1st sentence cls. (1)–(5), last sentence), 1414(b)(2) (2d, last sentences), and 1416) is omitted as surplus.

In subsection (a), before clause (1), the words "a motor vehicle or item of replacement equipment" are omitted as surplus. The words "by a manufacturer" are added for clarity. In clause (3), the words "a statement of" are omitted as surplus. In clause (4), the word "remedy" is substituted for "cause . . . to be remedied" to eliminate unnecessary words. In clause (5), the words "(specified in accordance with the second and third sentences of section 1414(b)(2) of this title)" are omitted as surplus. In clause (6), the words "a description of" are omitted as surplus. The words "under section 30120 of this title" are added for consistency with the source provisions restated in this subsection. In clause (7), the words "in addition to such . . . as" are omitted as surplus.

In subsection (b), the words "in a notification under subsection (a)(5) of this section or section 30121(c) of this title" are substituted for "In either case" because of the restatement. The words "may disapprove" are substituted for "shall be subject to disapproval by" to eliminate unnecessary words.

In subsection (c)(1), the words "Secretary's" and "that there is a defect or failure to comply" are omitted as surplus. The word "final" is added for clarity.

In subsection (c)(2), the words "decides that a safety-related defect or noncompliance exists" are substituted for "makes a determination with respect to a defect or failure to comply" for clarity.

In subsection (d), the text of 15:1413(c) (1st sentence words before cl. (1)) is incorporated into each paragraph as appropriate.

In subsection (d)(1)(A), the words "who is" and "of such vehicle" are omitted as surplus.

In subsection (d)(1)(B), the words "if a registered owner is not notified" are substituted for "unless the registered owner (if any) of such vehicle was notified" for clarity. The words "most recent purchaser" are substituted for "first purchaser (or if a more recent purchaser is" for clarity and to eliminate unnecessary words. The words "of each such vehicle containing such defect or failure to comply" are omitted as surplus.

In subsection (d)(3), the words "(or, if the manufacturer prefers, by certified mail)" are substituted for 15:1413(c) (last sentence) to eliminate unnecessary words.

In subsection (d)(4), the words "or dealers" are omitted because of 1:1. The words "of such manufacturer" are omitted as surplus.

In subsection (e), the word "replacement" is added for clarity and consistency with the source provisions being restated in subsection (d) of this section.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (g). Pub. L. 114–94 added subsec. (g).

2012—Subsec. (d)(1). Pub. L. 112–141, §31310(a)(1), substituted "in the manner prescribed by the Secretary, by regulation" for "by first class mail" in introductory provisions.

Subsec. (d)(2). Pub. L. 112–141, §31310(a)(2), substituted "shall be sent in the manner prescribed by the Secretary, by regulation," for "(except a tire) shall be sent by first class mail" and struck out second sentence which read as follows: "In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer."

Subsec. (d)(3). Pub. L. 112–141, §31310(a)(3), struck out first sentence which read "Notification required under section 30118 of this title about a tire shall be sent by first class mail (or, if the manufacturer prefers, by certified mail) to the most recent purchaser known to the manufacturer." and inserted "to the notification

required under paragraphs (1) and (2)" after "addition" and "by the manufacturer" after "given" in introductory provisions.

Subsec. (d)(4). Pub. L. 112–141, §31310(a)(4), substituted "in the manner prescribed by the Secretary, by regulation" for "by certified mail or quicker means if available".

Subsec. (e). Pub. L. 112–141, §31310(b), substituted "Additional" for "Second" in subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

IMPROVEMENTS IN AVAILABILITY OF RECALL INFORMATION

Pub. L. 114–94, div. B, title XXIV, §24103(a), Dec. 4, 2015, 129 Stat. 1702, provided that: "Not later than 2 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall implement current information technology, web design trends, and best practices that will help ensure that motor vehicle safety recall information available to the public on the Federal website is readily accessible and easy to use, including—

"(1) by improving the organization, availability, readability, and functionality of the website;

"(2) by accommodating high-traffic volume; and

"(3) by establishing best practices for scheduling routine website maintenance."

NOTIFICATION IMPROVEMENT

Pub. L. 114–94, div. B, title XXIV, §24104(a), Dec. 4, 2015, 129 Stat. 1703, provided that:

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall prescribe a final rule revising the regulations under section 577.7 of title 49, Code of Federal Regulations, to include notification by electronic means in addition to notification by first class mail.

"(2) DEFINITION OF ELECTRONIC MEANS.—In this subsection, the term 'electronic means' includes electronic mail and may include such other means of electronic notification, such as social media or targeted online campaigns, as determined by the Secretary."

PILOT GRANT PROGRAM FOR STATE NOTIFICATION TO CONSUMERS OF MOTOR VEHICLE RECALL STATUS

Pub. L. 114–94, div. B, title XXIV, §24105, Dec. 4, 2015, 129 Stat. 1704, provided that:

"(a) IN GENERAL.—Not later than October 1, 2016, the Secretary shall implement a 2-year pilot program to evaluate the feasibility and effectiveness of a State process for informing consumers of open motor vehicle recalls at the time of motor vehicle registration in the State.

"(b) GRANTS.—To carry out this program, the Secretary may make a grant to each eligible State, but not more than 6 eligible States in total, that agrees to comply with the requirements under subsection (c). Funds made available to a State under this section shall be used by the State for the pilot program described in subsection (a).

"(c) ELIGIBILITY.—To be eligible for a grant, a State shall—

"(1) submit an application in such form and manner as the Secretary prescribes;

"(2) agree to notify, at the time of registration, each owner or lessee of a motor vehicle presented for registration in the State of any open recall on that vehicle;

"(3) provide the open motor vehicle recall information at no cost to each owner or lessee of a motor vehicle presented for registration in the State; and

"(4) provide such other information as the Secretary may require.

"(d) AWARDS.—In selecting an applicant for an award under this section, the Secretary shall consider the State's methodology for determining open recalls on a motor vehicle, for informing consumers of the open recalls, and for determining performance.

"(e) PERFORMANCE PERIOD.—Each grant awarded under this section shall require a 2-year performance period.

"(f) REPORT.—Not later than 90 days after the completion of the performance period under subsection (e), a grantee shall provide to the Secretary a report of performance containing such information as the Secretary considers necessary to evaluate the extent to which open recalls have been remedied.

"(g) EVALUATION.—Not later than 180 days after the completion of the pilot program, the Secretary

shall evaluate the extent to which open recalls identified have been remedied.

"(h) DEFINITIONS.—In this section:

"(1) CONSUMER.—The term 'consumer' includes owner and lessee.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given the term under section 30102(a) of title 49, United States Code.

"(3) OPEN RECALL.—The term 'open recall' means a recall for which a notification by a manufacturer has been provided under section 30119 of title 49, United States Code, and that has not been remedied under section 30120 of that title.

"(4) REGISTRATION.—The term 'registration' means the process for registering motor vehicles in the State.

"(5) STATE.—The term 'State' has the meaning given the term under section 101(a) of title 23, United States Code."

TIRE RECALL DATABASE

Pub. L. 114–94, div. B, title XXIV, §24335, Dec. 4, 2015, 129 Stat. 1716, provided that:

"(a) IN GENERAL.—The Secretary shall establish a publicly available and searchable electronic database of tire recall information that is reported to the Administrator of the National Highway Traffic Safety Administration.

"(b) TIRE IDENTIFICATION NUMBER.—The database established under subsection (a) shall be searchable by Tire Identification Number (TIN) and any other criteria that assists consumers in determining whether a tire is subject to a recall."

§30120. Remedies for defects and noncompliance

(a) WAYS TO REMEDY.—(1) Subject to subsections (f) and (g) of this section, when notification of a defect or noncompliance is required under section 30118(b) or (c) of this title, the manufacturer of the defective or noncomplying motor vehicle or replacement equipment shall remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. Subject to subsections (b) and (c) of this section, the manufacturer shall remedy the defect or noncompliance in any of the following ways the manufacturer chooses:

(A) if a vehicle—

(i) by repairing the vehicle;

(ii) by replacing the vehicle with an identical or reasonably equivalent vehicle; or

(iii) by refunding the purchase price, less a reasonable allowance for depreciation.

(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.

(2) The Secretary of Transportation may prescribe regulations to allow the manufacturer to impose conditions on the replacement of a motor vehicle or refund of its price.

(b) TIRE REMEDIES.—(1) A manufacturer of a tire, including an original equipment tire, shall remedy a defective or noncomplying tire if the owner or purchaser presents the tire for remedy not later than 180 days after the later of—

(A) the day the owner or purchaser receives notification under section 30119 of this title; or

(B) if the manufacturer decides to replace the tire, the day the owner or purchaser receives notification that a replacement is available.

(2) If the manufacturer decides to replace the tire and the replacement is not available during the 180-day period, the owner or purchaser must present the tire for remedy during a subsequent 180-day period that begins only after the owner or purchaser receives notification that a replacement will be available during the subsequent period. If tires are available during the subsequent period, only a tire presented for remedy during that period must be remedied.

(c) ADEQUACY OF REPAIRS.—(1) If a manufacturer decides to repair a defective or noncomplying motor vehicle or replacement equipment and the repair is not done adequately within a reasonable time, the manufacturer shall—

(A) replace the vehicle or equipment without charge with an identical or reasonably equivalent vehicle or equipment; or

(B) for a vehicle, refund the purchase price, less a reasonable allowance for depreciation.

(2) Failure to repair a motor vehicle or replacement equipment adequately not later than 60 days after its presentation is prima facie evidence of failure to repair within a reasonable time. However, the Secretary may extend, by order, the 60-day period if good cause for an extension is shown and the reason is published in the Federal Register before the period ends. Presentation of a vehicle or equipment for repair before the date specified by a manufacturer in a notice under section 30119(a)(5) or 30121(c)(2) of this title is not a presentation under this subsection.

(3) If the Secretary determines that a manufacturer's remedy program is not likely to be capable of completion within a reasonable time, the Secretary may require the manufacturer to accelerate the remedy program if the Secretary finds—

(A) that there is a risk of serious injury or death if the remedy program is not accelerated; and

(B) that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

The Secretary may prescribe regulations to carry out this paragraph.

(d) FILING MANUFACTURER'S REMEDY PROGRAM.—A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remedying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register. A manufacturer's remedy program shall include a plan for reimbursing an owner or purchaser who incurred the cost of the remedy within a reasonable time in advance of the manufacturer's notification under subsection (b) or (c) of section 30118. The Secretary may prescribe regulations establishing what constitutes a reasonable time for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan. In the case of a remedy program involving the replacement of tires, the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle, and how to limit, to the extent reasonably within the control of the manufacturer, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses. The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary regarding the progress of any notification or remedy campaigns.

(e) HEARINGS ABOUT MEETING REMEDY REQUIREMENTS.—On the motion of the Secretary or on application by any interested person, the Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the remedy requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the remedy requirements. If the Secretary decides a manufacturer has not reasonably met the remedy requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(f) FAIR REIMBURSEMENT TO DEALERS.—

(1) IN GENERAL.—A manufacturer [1] shall pay fair reimbursement to a dealer providing a remedy without charge under this section if—

(A) at the time of providing service for each of the manufacturer's motor vehicles it services, the dealer notifies the owner or the individual requesting the service of any open recall; and

(B) the notification requirement under subparagraph (A) is specified in a franchise, operating, or other agreement between the dealer and the manufacturer.

(2) DEFINITION OF OPEN RECALL.—In this subsection, the term "open recall" means a recall for which a notification by a manufacturer has been provided under section 30119 and that has not been remedied under this section.

(g) NONAPPLICATION.—(1) The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than 15 calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than 5 calendar years, before notice is given under section 30118(c) of this title or an order is issued under section 30118(b) of this title, whichever is earlier.

(2) This section does not apply during any period in which enforcement of an order under section 30118(b) of this title is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(h) EXEMPTIONS.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(i) LIMITATION ON SALE OR LEASE OF NEW VEHICLES OR EQUIPMENT, OR RENTAL.—

(1) IN GENERAL.—If notification is required by an order under section 30118(b) of this title or is required under section 30118(c) of this title and the manufacturer has provided to a dealer (including retailers of motor vehicle equipment) notification about a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification or the manufacturer has provided to a rental company notification about a covered rental vehicle in the company's possession at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer or rental company may sell, lease, or rent the motor vehicle or item of replacement equipment only if—

(A) the defect or noncompliance is remedied as required by this section before delivery under the sale, lease, or rental agreement; or

(B) when the notification is required by an order under section 30118(b) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prohibit a dealer or rental company from offering the vehicle or equipment for sale, lease, or rent.

(3) SPECIFIC RULES FOR RENTAL COMPANIES.—

(A) IN GENERAL.—Except as otherwise provided under this paragraph, a rental company shall comply with the limitations on sale, lease, or rental set forth in subparagraph (C) and paragraph (1) as soon as practicable, but not later than 24 hours after the earliest receipt of the notice to owner under subsection (b) or (c) of section 30118 (including the vehicle identification number for the covered vehicle) by the rental company, whether by electronic means or first class mail.

(B) SPECIAL RULE FOR LARGE VEHICLE FLEETS.—Notwithstanding subparagraph (A), if a rental company receives a notice to owner covering more than 5,000 motor vehicles in its fleet, the rental company shall comply with the limitations on sale, lease, or rental set forth in subparagraph (C) and paragraph (1) as soon as practicable, but not later than 48 hours after the earliest receipt of the notice to owner under subsection (b) or (c) of section 30118 (including the vehicle identification number for the covered vehicle) by the rental company, whether by electronic means or first class mail.

(C) SPECIAL RULE FOR WHEN REMEDIES NOT IMMEDIATELY AVAILABLE.—If a notification required under subsection (b) or (c) of section 30118 indicates that the remedy for the defect or noncompliance is not immediately available and specifies actions to temporarily alter the vehicle that eliminate the safety risk posed by the defect or noncompliance, the rental company, after causing the specified actions to be performed, may rent (but may not sell or

lease) the motor vehicle. Once the remedy for the rental vehicle becomes available to the rental company, the rental company may not rent the vehicle until the vehicle has been remedied, as provided in subsection (a).

(D) INAPPLICABILITY TO JUNK AUTOMOBILES.—Notwithstanding paragraph (1), this subsection does not prohibit a rental company from selling a covered rental vehicle if such vehicle—

(i) meets the definition of a junk automobile under section 201 of the Anti-Car Theft Act of 1992 (49 U.S.C. 30501);

(ii) is retitled as a junk automobile pursuant to applicable State law; and

(iii) is reported to the National Motor Vehicle Information System, if required under section 204 of such Act (49 U.S.C. 30504).

(j) PROHIBITION ON SALES OF REPLACEMENT EQUIPMENT.—No person may sell or lease any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) in a condition that it may be reasonably used for its original purpose unless—

(1) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or

(2) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is set aside in a civil action to which section 30121(d) applies.

(k) RECALL COMPLETION RATES.—

(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall publish an annual list of recall completion rates for each recall campaign for which 8 quarterly reports have been submitted under subsection (f) of section 30118 as of the date of publication of the list.

(2) REQUIREMENTS.—The annual list under paragraph (1) shall include—

(A) for each applicable campaign—

(i) the total number of vehicles subject to recall; and

(ii) the percentage of vehicles that have been remedied; and

(B) for each manufacturer submitting an applicable quarterly report under section 30118(f)—

(i) the total number of recalls issued by the manufacturer during the year covered by the list;

(ii) the estimated number of vehicles of the manufacturer subject to recall during the year covered by the list; and

(iii) the percentage of vehicles that have been remedied.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 952; Pub. L. 105–178, title VII, §7106(a), June 9, 1998, 112 Stat. 467; Pub. L. 106–414, §§4, 6–8, Nov. 1, 2000, 114 Stat. 1803–1805; Pub. L. 112–141, div. C, title I, §31311, July 6, 2012, 126 Stat. 771; Pub. L. 114–94, div. B, title XXIV, §§24107, 24108, 24109(c), 24402, Dec. 4, 2015, 129 Stat. 1705, 1706, 1720; Pub. L. 117–58, div. B, title IV, §24202(b), Nov. 15, 2021, 135 Stat. 819.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30120(a)	15:1397(a)(1)(D) (related to 15:1414(a)(1) (1st sentence), (2)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(D) (related to §§154(a), (b)(1), (2) (1st sentence), (c), 156, 157), 80 Stat. 722; restated Oct. 27,

		1974, Pub. L. 93–492, §103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1414(a)(1) (1st sentence), (2).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§154(a), (b)(1), (2) (1st sentence), (c), 156 (related to remedy), 157 (related to remedy); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1472, 1474, 1475.
30120(b)	15:1397(a)(1)(D) (related to 15:1414(a)(5)).	
	15:1414(a)(5).	
30120(c)	15:1397(a)(1)(D) (related to 15:1414(b)(1), (2) (1st sentence)).	
	15:1414(b)(1), (2) (1st sentence).	
30120(d)	15:1397(a)(1)(D) (related to 15:1414(c)).	
	15:1414(c).	
30120(e)	15:1397(a)(1)(D) (related to 15:1416).	
	15:1416 (related to remedy).	
30120(f)	15:1397(a)(1)(D) (related to 15:1414(a)(3)).	
	15:1414(a)(3).	
30120(g)(1)	15:1397(a)(1)(D) (related to 15:1414(a)(4)).	
	15:1414(a)(4).	
30120(g)(2)	15:1397(a)(1)(D) (related to 15:1414(a)(1) (last sentence)).	
	15:1414(a)(1) (last sentence).	
30120(h)	15:1397(a)(1)(D) (related to 15:1417).	
	15:1417 (related to remedy).	
30120(i)	15:1414(d).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §154(d); added Dec. 18, 1991, Pub. L. 102–240, §2504(b), 105 Stat. 2083.

In this section, the text of 15:1397(a)(1)(D) (related to 15:1414(a), (b)(1), (2) (1st sentence), and (c), and 1416) is omitted as surplus.

In subsection (a)(1), before clause (A), the words "Subject to subsections (f) and (g) of this section" are added for clarity. The words "with an applicable Federal motor vehicle safety standard . . . which relates to motor vehicle safety" and "pursuant to such notification" are omitted as surplus. The words "shall remedy" are substituted for "shall cause such defect or failure to comply in such motor vehicle or such item of replacement equipment to be remedied" to eliminate unnecessary words. The words "the defect or noncompliance" are added for clarity. In clauses (A) and (B), the words "without charge" are omitted as unnecessary because of the words "without charge" in this subsection before this clause (A). In clause (A), the words "presented for remedy pursuant to such notification" and "of such motor vehicle in full" are omitted as surplus.

Subsection (a)(2) is substituted for 15:1414(a)(2)(A) (last sentence) for clarity.

In subsection (b)(1), before clause (A), the words "shall remedy a defective or noncomplying tire if" are substituted for "shall not be obligated to remedy such tire if such tire is not" to eliminate unnecessary words and for consistency. The words "pursuant to notification" are omitted as surplus. In clause (B), the words

"decides to replace the tire" are substituted for "elects replacement" for clarity.

Subsection (b)(2) is substituted for 15:1414(a)(5)(B) to eliminate unnecessary words.

In subsection (c)(1), the words before clause (A) are substituted for "Whenever a manufacturer has elected under subsection (a) of this section to cause the repair of a defect in a motor vehicle or item of replacement equipment or of a failure of such vehicle or item of replacement equipment to comply with a motor vehicle safety standard, and he has failed to cause such defect or failure to comply to be adequately repaired within a reasonable time, then (A) he shall" to eliminate unnecessary words. In clause (A), the word "replace" is substituted for "cause . . . to be replaced" for consistency. In clause (B), the word "refund" is substituted for "shall cause . . . to be refunded" for consistency. The words "in full" and "and if the manufacturer so elects)" are omitted as surplus.

In subsection (c)(2), the word "presentation" is substituted for "tender" for clarity. The words "for repair" are omitted as surplus. The last sentence is substituted for 15:1414(b)(2) (1st sentence) because of the restatement.

In subsection (e), the words "(including a manufacturer)" are omitted as surplus. The word "information" is substituted for "data" for consistency in the revised title.

In subsection (f), the word "fair" is substituted for "fair and equitable" to eliminate unnecessary words. The words "for such remedy" are omitted as surplus. The words "providing a" are substituted for "who effects" for consistency.

In subsection (g)(2), the words "In the case of notification required by an order" are omitted as unnecessary. The word "civil" is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (h), the words "any requirement under", "or to remedy", and "as it relates" are omitted as surplus. The words "The Secretary may take action under this subsection only" are added because of the restatement.

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 201 and 204 of the Anti-Car Theft Act of 1992, referred to in subsec. (i)(3)(D)(i), (iii), are sections 201 and 204 of Pub. L. 102–519, from which sections 30501 and 30504 of this title, respectively, are derived.

AMENDMENTS

2021—Subsec. (k). Pub. L. 117–58 added subsec. (k).

2015—Subsec. (b)(1). Pub. L. 114–94, §24108(1), substituted "180 days" for "60 days" in introductory provisions.

Subsec. (b)(2). Pub. L. 114–94, §24108(2), substituted "180-day" for "60-day" in two places.

Subsec. (f). Pub. L. 114–94, §24107(1), which directed amendment of subsec. (f) by inserting "(1) IN GENERAL. A manufacturer", without specifying the location of such insertion, and indenting appropriately, was executed by striking "A manufacturer" and inserting "(1) IN GENERAL.—A manufacturer" after the subsec. heading, to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 114–94, §24107(2), substituted "section if—" for "section." and added subpars. (A) and (B).

Subsec. (f)(2). Pub. L. 114–94, §24107(3), added par. (2).

Subsec. (g)(1). Pub. L. 114–94, §24402, substituted "15 calendar years" for "10 calendar years".

Subsec. (i). Pub. L. 114–94, §24109(c)(1), inserted ", or Rental" after "Equipment" in heading.

Subsec. (i)(1). Pub. L. 114–94, §24109(c)(2)(D), which directed substitution of "the dealer or rental company may sell, lease, or rent" for "the dealer may sell or lease,", was executed by making the substitution for "the dealer may sell or lease" to reflect the probable intent of Congress.

Pub. L. 114–94, §24109(c)(2)(A)–(C), inserted heading, inserted "or the manufacturer has provided to a rental company notification about a covered rental vehicle in the company's possession at the time of notification" after "time of notification" in introductory provisions, and realigned margins of subpars. (A) and (B).

Subsec. (i)(1)(A). Pub. L. 114–94, §24109(c)(2)(E), substituted "sale, lease, or rental agreement" for "sale or lease".

Subsec. (i)(2). Pub. L. 114–94, §24109(c)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "This subsection does not prohibit a dealer from offering for sale or lease the vehicle or equipment."

Subsec. (i)(3). Pub. L. 114–94, §24109(c)(4), added par. (3).

2012—Subsec. (a)(1)(B). Pub. L. 112–141, §31311(1), amended subpar. (B) generally. Prior to amendment,

subpar. (B) read as follows: "if replacement equipment, by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment."

Subsec. (i). Pub. L. 112–141, §31311(2), inserted "of New Vehicles or Equipment" after "Lease" in heading.

Subsec. (j). Pub. L. 112–141, §31311(3), which directed substitution of "REPLACEMENT" for " REPLACED" in heading, was executed by substituting "REPLACEMENT" for "REPLACED", to reflect the probable intent of Congress.

2000—Subsec. (c)(3). Pub. L. 106–414, §6(a), added par. (3).

Subsec. (d). Pub. L. 106–414, §7, inserted at end "In the case of a remedy program involving the replacement of tires, the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle, and how to limit, to the extent reasonably within the control of the manufacturer, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses. The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary regarding the progress of any notification or remedy campaigns."

Pub. L. 106–414, §6(b), inserted at end "A manufacturer's remedy program shall include a plan for reimbursing an owner or purchaser who incurred the cost of the remedy within a reasonable time in advance of the manufacturer's notification under subsection (b) or (c) of section 30118. The Secretary may prescribe regulations establishing what constitutes a reasonable time for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan."

Subsec. (g)(1). Pub. L. 106–414, §4, substituted "10 calendar years" for "8 calendar years" and "5 calendar years" for "3 calendar years".

Subsec. (j). Pub. L. 106–414, §8, added subsec. (j).

1998—Subsec. (i)(1). Pub. L. 105–178 inserted "(including retailers of motor vehicle equipment)" after "provided to a dealer" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 24109(c) of Pub. L. 114–94 effective on the date that is 180 days after Dec. 4, 2015, see section 24109(k) of Pub. L. 114–94, set out as a note under section 30102 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[1] *See 2015 Amendment note below.*

§30120A. Recall obligations and bankruptcy of a manufacturer

A manufacturer's filing of a petition in bankruptcy under chapter 7 or chapter 11 of title 11 does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.

(Added Pub. L. 112–141, div. C, title I, §31312(a), July 6, 2012, 126 Stat. 772; amended Pub. L. 114–94, div. B, title XXIV, §24106, Dec. 4, 2015, 129 Stat. 1705.)

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94 substituted "chapter 7 or chapter 11 of title 11" for "chapter 11 of title 11,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30121. Provisional notification and civil actions to enforce

(a) PROVISIONAL NOTIFICATION.—(1) The Secretary of Transportation may order a manufacturer to issue a provisional notification if a civil action about an order issued under section 30118(b) of this title has been brought under section 30163 of this title. The provisional notification shall contain—

(A) a statement that the Secretary has decided that a defect related to motor vehicle safety or noncompliance with a motor vehicle safety standard prescribed under this chapter exists and that the manufacturer is contesting the decision in a civil action in a United States district court;

(B) a clear description of the Secretary's stated basis for the decision;

(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(D) measures the Secretary considers necessary to avoid an unreasonable risk to motor vehicle safety resulting from the defect or noncompliance;

(E) a statement that the manufacturer will remedy the defect or noncompliance without charge under section 30120 of this title, but that the requirement to remedy without charge is conditioned on the outcome of the civil action; and

(F) other information the Secretary prescribes by regulation or includes in the order requiring the notice.

(2) A notification under this subsection does not relieve a manufacturer of liability for not giving notification required by an order under section 30118(b) of this title.

(b) CIVIL ACTIONS FOR NOT NOTIFYING.—(1) A manufacturer that does not notify owners and purchasers under section 30119(c) and (d) of this title is liable to the United States Government for a civil penalty, unless the manufacturer prevails in a civil action referred to in subsection (a) of this section or the court in that action enjoins enforcement of the order. Enforcement may be enjoined only if the court decides that the failure to notify is reasonable and that the manufacturer has demonstrated the likelihood of prevailing on the merits. If enforcement is enjoined, the manufacturer is not liable during the time the order is stayed.

(2) A manufacturer that does not notify owners and purchasers as required under subsection (a) of this section is liable for a civil penalty regardless of whether the manufacturer prevails in an action on the validity of the order issued under section 30118(b) of this title.

(c) ORDERS TO MANUFACTURERS.—If the Secretary prevails in a civil action referred to in subsection (a) of this section, the Secretary shall order the manufacturer—

(1) to notify each owner, purchaser, and dealer described in section 30119(d) of this title of the outcome of the action and other information the Secretary requires, and notification under this clause may be combined with notification required under section 30118(b) of this title;

(2) to specify the earliest date under section 30119(b) of this title on which the defect or noncompliance will be remedied without charge under section 30120 of this title; and

(3) if notification was required under subsection (a) of this section, to reimburse an owner or purchaser for reasonable and necessary expenses (in an amount that is not more than the amount specified in the order of the Secretary under subsection (a)) incurred for repairing the defect or noncompliance during the period beginning on the date that notification was required to be issued and ending on the date the owner or purchaser receives the notification under this subsection.

(d) VENUE.—Notwithstanding section 30163(c) of this title, a civil action about an order issued under section 30118(b) of this title must be brought in the United States district court for a judicial district in the State in which the manufacturer is incorporated or the District of Columbia. On motion of a party, the court may transfer the action to another district court if good cause is shown. All actions related to the same order under section 30118(b) shall be consolidated in an action in one judicial district under an order of the court in which the first action was brought. If the first action is transferred to another court, that court shall issue the consolidation order.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 954.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30121(a)	15:1397(a)(1)(D) (related to 15:1415(b)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(D) (related to §155), 80 Stat. 722; restated Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1415(b).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §155(b)–(d); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1474.
30121(b)	15:1397(a)(1)(D) (related to 15:1415(c)).	
	15:1415(c).	
30121(c)	15:1397(a)(1)(D) (related to 15:1415(d)).	
	15:1415(d).	
30121(d)	15:1397(a)(1)(D) (related to 15:1415(a)).	
	15:1415(a).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §155(a); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1474; Nov. 8, 1984, Pub. L. 98–620, §402(17), 98 Stat. 3358.

In this section, the text of 15:1397(a)(1)(D) (related to 15:1415) is omitted as surplus.

In subsection (a)(1), before clause (A), the words "and to which subsection (a) of this section applies" are omitted because of the restatement. In clause (A), the words "prescribed under this chapter" are substituted for "Federal", and the words "civil action" are substituted for "proceeding", for consistency. In clause (B), the words "that there is such a defect or failure" are omitted as surplus. In clause (D), the word "considers" is substituted for "which in the judgment of . . . are" to eliminate unnecessary words. In clause (E), the word "remedy" is substituted for "cause . . . to be remedied" to eliminate unnecessary words. The words "civil action" are substituted for "court proceeding" for consistency.

In subsection (b)(1), the words "with respect to such failure to notify" are omitted as surplus. The word "enjoins" is substituted for "restrains" for consistency. The words "of such an order" and "for which the effectiveness of" are omitted as surplus.

In subsection (b)(2), the words "by an order", "or not", and "(to which subsection (a) of the section applies)" are omitted as surplus.

In subsection (c), before clause (1), the words "a civil action referred to in subsection (a) of this section" are substituted for "(i) a manufacturer fails within the period specified in section 1413(b) of this title to comply with an order under section 1412(b) of this title to afford notification to owners and purchasers, (ii) a civil action to which subsection (a) of this section applies is commenced with respect to such order, and (iii) . . . in such action" to eliminate unnecessary words. In clause (1), the word "action" is substituted for "proceeding" for consistency. The words "containing" and "by an order" are omitted as surplus. In clause (2), the words

"under section 30119(b) of this title" are substituted for "(in accordance with the second and third sentences of section 1414(b) of this title)" for clarity. The words "under section 30120 of this title" are added for clarity. In clause (3), the words "which are . . . by such owner or purchaser", "the purpose of", and "to which the order relates" are omitted as surplus.

In subsection (d), the words "Notwithstanding section 30163(c) of this title" are added for clarity. The words "An action under section 1399(a) of this title to restrain a violation of an order . . . or under section 1398 of this title to collect a civil penalty with respect to a violation of such an order" and "to which the order applies" are omitted as surplus. The words "may transfer the action" are substituted for "orders a change of venue" for consistency with 28:1404. The words "(including enforcement actions)" are omitted as surplus. The words "that court shall issue the consolidation order" are substituted for "by order of such other court" for clarity.

§30122. Making safety devices and elements inoperative

(a) DEFINITION.—In this section, "motor vehicle repair business" means a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.

(b) PROHIBITION.—A manufacturer, distributor, dealer, rental company, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, rental company, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

(c) REGULATIONS.—The Secretary of Transportation may prescribe regulations—

(1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and

(2) to define "make inoperative".

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 956; Pub. L. 112–141, div. C, title I, §31202(a)(1), July 6, 2012, 126 Stat. 757; Pub. L. 114–94, div. B, title XXIV, §24109(d), Dec. 4, 2015, 129 Stat. 1707.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30122(a)	15:1397(a)(2)(A) (last sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(a)(2)(A)– (C); added Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), 88 Stat. 1477.
30122(b)	15:1397(a)(2)(A) (1st sentence).	
30122(c)	15:1397(a)(2)(B).	
30122(d)	15:1397(a)(2)(C).	

In subsections (a) and (c), the words "the term" are omitted as surplus.

In subsection (a), the words "in the business of" are omitted as surplus.

In subsection (b), the words "an applicable motor vehicle safety standard prescribed under this chapter" are substituted for "an applicable Federal motor vehicle safety standard" for consistency. The words "of design" the 2d time they appear and "rendered" are omitted as surplus.

In subsection (c)(1), the words "section 30101 of this title" are substituted for "the purposes of this chapter" as being more precise.

In subsection (d), the words "with respect . . . the rendering inoperative of" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 inserted "rental company," after "dealer," in two places.

2012—Subsec. (d). Pub. L. 112–141 struck out subsec. (d). Text read as follows: "This section does not apply to a safety belt interlock or buzzer designed to indicate a safety belt is not in use as described in section 30124 of this title."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective on the date that is 180 days after Dec. 4, 2015, see section 24109(k) of Pub. L. 114–94, set out as a note under section 30102 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30123. Tires

(a) REGROOVED TIRE LIMITATIONS.—(1) In this subsection, "regrooved tire" means a tire with a new tread produced by cutting into the tread of a worn tire.

(2) The Secretary may authorize the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce, of a regrooved tire or a motor vehicle equipped with regrooved tires if the Secretary decides the tires are designed and made in a way consistent with section 30101 of this title. A person may not sell, offer for sale, introduce for sale, or deliver for introduction in interstate commerce, a regrooved tire or a vehicle equipped with regrooved tires unless authorized by the Secretary.

(b) UNIFORM QUALITY GRADING SYSTEM, NOMENCLATURE, AND MARKETING PRACTICES.—The Secretary shall prescribe through standards a uniform quality grading system for motor vehicle tires to help consumers make an informed choice when purchasing tires. The Secretary also shall cooperate with industry and the Federal Trade Commission to the greatest extent practicable to eliminate deceptive and confusing tire nomenclature and marketing practices. A tire standard or regulation prescribed under this chapter supersedes an order or administrative interpretation of the Commission.

(c) MAXIMUM LOAD STANDARDS.—The Secretary shall require a motor vehicle to be equipped with tires that meet maximum load standards when the vehicle is loaded with a reasonable amount of luggage and the total number of passengers the vehicle is designed to carry. The vehicle shall be equipped with those tires by the manufacturer or by the first purchaser when the vehicle is first bought in good faith other than for resale.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 956; Pub. L. 105–178, title VII, §7106(b), June 9, 1998, 112 Stat. 467.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30123(a)	15:1421 (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, §§201–203, 204(c), 205, 80 Stat. 728, 729.
30123(b)	15:1421 (2d sentence).	
30123(c)	15:1421 (last sentence).	
30123(d)	15:1424(a).	Sept. 9, 1966, Pub. L. 89–563, §204(a), 80 Stat. 729; restated Oct. 27, 1974, Pub. L. 93–492, §110(c), 88 Stat. 1484.

	15:1424(c).	
30123(e)	15:1423.	
	15:1425.	
30123(f)	15:1422.	

In subsections (a) and (d)(2), the words "section 30101 of this title" are substituted for "the purposes of this chapter" as being more precise.

In subsection (a), the words "to a motor vehicle safety standard prescribed under this chapter" are substituted for "In all standards for . . . established under subchapter I of this chapter . . . thereto" for consistency and because of the restatement.

In subsection (b)(1)(A) and (B), the word "suitable" is omitted as surplus.

In subsection (b)(1)(C), the words "for a tire containing" are substituted for "unless the tire contains . . . in which case it shall also contain" to eliminate unnecessary words. The word "allowing" is substituted for "which would permit" for consistency.

In subsection (b)(3), the word "actual" is omitted as surplus.

In subsection (b)(5)(A), the word "statement" is substituted for "recital" for clarity. The words "complies with" are substituted for "conforms to", the words "prescribed under this chapter" are substituted for "Federal", and the word "or" is substituted for "except that in lieu of such recital", for consistency.

In subsection (b)(5)(B), the word "appropriate" is omitted as surplus.

In subsection (d)(2), the words "by order" are omitted as surplus. The words "a regrooved tire or a motor vehicle equipped with regrooved tires" are substituted for "any tire or motor vehicle equipped with any tire which has been regrooved" for consistency. The words "A person may not . . . unless authorized by the Secretary" are substituted for "No person shall" for clarity and consistency in the revised title. The word "introduce" is substituted for "introduction" after "or" to correct a mistake.

In subsection (e), the words "The Secretary shall prescribe through standards" are substituted for "within two years after September 9, 1966, the Secretary shall, through standards established under subchapter I of this chapter, prescribe by order, and publish in the Federal Register" in 15:1423 to eliminate unnecessary and executed words. The text of 15:1423 (2d sentence) is omitted as executed. The last sentence is substituted for 15:1425 to eliminate unnecessary words.

In subsection (f), the words "In standards established under subchapter I of this chapter" and "fully" are omitted as surplus. The words "The vehicle shall be equipped" are added for clarity.

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178 redesignated subsecs. (d) to (f) as (a) to (c), respectively, and struck out former subsecs. (a) to (c), which related to labeling requirements, contents of label, and additional information that may be required, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TIRE PRESSURE MONITORING SYSTEM

Pub. L. 114–94, div. B, title XXIV, §24115, Dec. 4, 2015, 129 Stat. 1710, provided that:

"(a) PROPOSED RULE.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall publish a proposed rule that—

"(1) updates the standards pertaining to tire pressure monitoring systems to ensure that a tire pressure monitoring system that is installed in a new motor vehicle after the effective date of such updated standards cannot be overridden, reset, or recalibrated in such a way that the system will no longer detect when the inflation pressure in one or more of the vehicle's tires has fallen to or below a significantly underinflated pressure level; and

"(2) does not contain any provision that has the effect of prohibiting the availability of direct or indirect tire pressure monitoring systems that meet the requirements of the standards updated pursuant to paragraph (1).

"(b) FINAL RULE.—Not later than 2 years after the date of enactment of this Act, after providing the public with sufficient opportunity for notice and comment on the proposed rule published pursuant to subsection (a), the Secretary shall issue a final rule based on the proposed rule described in subsection (a) that—

"(1) allows a manufacturer to install a tire pressure monitoring system that can be reset or recalibrated to accommodate—

"(A) the repositioning of tire sensor locations on vehicles with split inflation pressure recommendations;

"(B) tire rotation; or

"(C) replacement tires or wheels of a different size than the original equipment tires or wheels; and

"(2) to address the accommodations described in subparagraphs (A), (B), and (C) of paragraph (1), ensures that a tire pressure monitoring system that is reset or recalibrated according to the manufacturer's instructions would illuminate the low tire pressure warning telltale when a tire is significantly underinflated until the tire is no longer significantly underinflated.

"(c) SIGNIFICANTLY UNDERINFLATED PRESSURE LEVEL DEFINED.—In this section, the term 'significantly underinflated pressure level' means a pressure level that is—

"(1) below the level at which the low tire pressure warning telltale must illuminate, consistent with the TPMS detection requirements contained in S4.2(a) of section 571.138 of title 49, Code of Federal Regulations, or any corresponding similar or successor regulation or ruling (as determined by the Secretary); and

"(2) in the case of a replacement wheel or tire, below the recommended cold inflation pressure of the wheel or tire manufacturer."

IMPROVED TIRE INFORMATION

Pub. L. 106–414, §11, Nov. 1, 2000, 114 Stat. 1806, provided that, by 30 days after Nov. 1, 2000, the Secretary of Transportation would initiate a rulemaking proceeding to improve the labeling of tires required by this section to assist consumers in identifying tires that may be the subject of a decision or notice under section 30118 of this title and also provided the Secretary could authorize any additional action needed to inform the public of the importance of observing motor vehicle tire load limits and maintaining proper tire inflation levels, with the rulemaking completed by not later than June 1, 2002.

TIRE PRESSURE WARNING

Pub. L. 106–414, §13, Nov. 1, 2000, 114 Stat. 1806, provided that, not later than 1 year after Nov. 1, 2000, the Secretary of Transportation would complete a rulemaking for a regulation, effective not later than 2 years after the date of the completion of such rulemaking, to require a warning system in new motor vehicles to indicate significantly underinflated tires.

§30124. Nonuse of safety belts

A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 957; Pub. L. 112–141, div. C, title I, §31202(a)(2), July 6, 2012, 126 Stat. 757.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30124	15:1410b.	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §125; added Oct. 27, 1974, Pub. L. 93–492, §109, 88 Stat. 1482.

The text of 15:1410b(a) and (c)–(e) is omitted as obsolete. The text of 15:1410b(b)(2) and (3) and (f)(2) and (3) is omitted as unnecessary because of the restatement. The words "After the effective date of the amendment prescribed under subsection (a) of this section" are omitted as executed. The words "prescribed under this chapter" are substituted for "Federal" for consistency in this chapter.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 amended section generally. Prior to amendment, text read as follows: "A motor vehicle safety standard prescribed under this chapter may not require or allow a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt or a buzzer designed to indicate a safety belt is not in use, except a buzzer that operates only during the 8-second period after the ignition is turned to the 'start' or 'on' position."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30125. Schoolbuses and schoolbus equipment

(a) DEFINITIONS.—In this section—

(1) "schoolbus" means a passenger motor vehicle designed to carry a driver and more than 10 passengers, that the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school.

(2) "schoolbus equipment" means equipment designed primarily for a schoolbus or manufactured or sold to replace or improve a system, part, or component of a schoolbus or as an accessory or addition to a schoolbus.

(b) STANDARDS.—The Secretary shall prescribe motor vehicle safety standards for schoolbuses and schoolbus equipment manufactured in, or imported into, the United States. Standards shall include minimum performance requirements for—

(1) emergency exits;
(2) interior protection for occupants;
(3) floor strength;
(4) seating systems;
(5) crashworthiness of body and frame (including protection against rollover hazards);
(6) vehicle operating systems;
(7) windows and windshields; and
(8) fuel systems.

(c) TEST DRIVING BY MANUFACTURERS.—The Secretary may require by regulation a schoolbus to be test-driven by a manufacturer before introduction in commerce.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 957.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30125(a)	15:1391(14), (15).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §102(14), (15); added Oct. 27, 1974, Pub. L. 93–492, §201, 88 Stat. 1484.
30125(b)	15:1392(i)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §103(i)(1), (2); added Oct. 27, 1974, Pub. L. 93–492, §202, 88 Stat. 1484; July 8, 1976, Pub. L. 94–346, §2, 90 Stat. 815.

30125(c)	15:1392(i)(2). 15:1397(a)(1)(F).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(a)(1)(F); added Oct. 27, 1974, Pub. L. 93–492, §203, 88 Stat. 1485.

In subsection (a)(1), the words "the purpose of" are omitted as surplus.

In subsection (a)(2), the words "any similar part or component" are omitted as surplus.

In subsection (b), before clause (1), the text of 15:1392(i)(1)(A) (1st sentence) and (B) (words before 2d comma) is omitted as executed. The word "prescribe" is substituted for "promulgate", and the word "Federal" is omitted, for consistency. The words "Such proposed standards" and "those aspects of performance set out in clauses (i) through (viii) of subparagraph (A) of this paragraph" are omitted because of the restatement. The word "requirements" is substituted for "standards" to avoid using "standards" in 2 different ways. The text of 15:1392(i)(1)(B) (last 6 words) is omitted as executed.

In subsection (c), the text of 15:1397(a)(1)(F) is omitted as unnecessary because of the restatement.

§30126. Used motor vehicles

To ensure a continuing and effective national safety program, it is the policy of the United States Government to encourage and strengthen State inspection of used motor vehicles. Therefore, the Secretary of Transportation shall prescribe uniform motor vehicle safety standards applicable to all used motor vehicles. The standards shall be stated in terms of motor vehicle safety performance.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 958.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30126	15:1397(b)(1) (2d–last sentences).	Sept. 9, 1966, Pub. L. 89–563, §108(b)(1) (2d–last sentences), 80 Stat. 722.

The words "In order" are omitted as surplus. The words "United States Government" are substituted for "Congress" for clarity and consistency in the revised title. The words "Therefore, the Secretary of Transportation shall prescribe uniform motor vehicle safety standards applicable to all used motor vehicles" are substituted for 15:1397(b)(1) (4th sentence) to eliminate unnecessary and executed words. The text of 15:1397(b)(1) (last sentence) is omitted as unnecessary because of 5:ch. 5, subch. II. The text of 15:1397(b)(1) (3d sentence) is omitted as executed.

§30127. Automatic occupant crash protection and seat belt use

(a) DEFINITIONS.—In this section—

(1) "bus" means a motor vehicle with motive power (except a trailer) designed to carry more than 10 individuals.

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

(4) "truck" means a motor vehicle with motive power (except a trailer) designed primarily to transport property or special purpose equipment.

(b) INFLATABLE RESTRAINT REQUIREMENTS.—(1) Not later than September 1, 1993, the Secretary of Transportation shall prescribe under this chapter an amendment to Federal Motor

Vehicle Safety Standard 208 issued under the National Traffic and Motor Vehicle Safety Act of 1966. The amendment shall require that the automatic occupant crash protection system for both of the front outboard seating positions for each of the following vehicles be an inflatable restraint (with lap and shoulder belts) complying with the occupant protection requirements under section 4.1.2.1 of Standard 208:

(A) 95 percent of each manufacturer's annual production of passenger cars manufactured after August 31, 1996, and before September 1, 1997.

(B) 80 percent of each manufacturer's annual production of buses, multipurpose passenger vehicles, and trucks (except walk-in van-type trucks and vehicles designed to be sold only to the United States Postal Service) with a gross vehicle weight rating of not more than 8,500 pounds and an unloaded vehicle weight of not more than 5,500 pounds manufactured after August 31, 1997, and before September 1, 1998.

(C) 100 percent of each manufacturer's annual production of passenger cars manufactured after August 31, 1997.

(D) 100 percent of each manufacturer's annual production of vehicles described in clause (B) of this paragraph manufactured after August 31, 1998.

(2) Manufacturers may not use credits and incentives available before September 1, 1998, under the provisions of Standard 208 (as amended by this section) to comply with the requirements of paragraph (1)(D) of this subsection after August 31, 1998.

(c) OWNER MANUAL REQUIREMENTS.—In amending Standard 208, the Secretary of Transportation shall require, to be effective as soon as possible after the amendment is prescribed, that owner manuals for passenger cars, buses, multipurpose passenger vehicles, and trucks equipped with an inflatable restraint include a statement in an easily understandable format stating that—

(1) either or both of the front outboard seating positions of the vehicle are equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt;

(2) the "airbag" is a supplemental restraint and is not a substitute for lap and shoulder belts;

(3) lap and shoulder belts also must be used correctly by an occupant in a front outboard seating position to provide restraint or protection from frontal crashes as well as other types of crashes or accidents; and

(4) occupants should always wear their lap and shoulder belts, if available, or other safety belts, whether or not there is an inflatable restraint.

(d) SEAT BELT USE LAWS.—Congress finds that it is in the public interest for each State to adopt and enforce mandatory seat belt use laws and for the United States Government to adopt and enforce mandatory seat belt use regulations.

(e) TEMPORARY EXEMPTIONS.—(1) On application of a manufacturer, the Secretary of Transportation may exempt, on a temporary basis, motor vehicles of that manufacturer from any requirement under subsections (b) and (c) of this section on terms the Secretary considers appropriate. An exemption may be renewed.

(2) The Secretary of Transportation may grant an exemption under paragraph (1) of this subsection if the Secretary finds that there has been a disruption in the supply of any component of an inflatable restraint or in the use and installation of that component by the manufacturer because of an unavoidable event not under the control of the manufacturer that will prevent the manufacturer from meeting its anticipated production volume of vehicles with those restraints.

(3) Only an affected manufacturer may apply for an exemption. The Secretary of Transportation shall prescribe in the amendment to Standard 208 required under this section the information an affected manufacturer must include in its application under this subsection. The manufacturer shall specify in the application the models, lines, and types of vehicles affected. The Secretary may consolidate similar applications from different manufacturers.

(4) An exemption or renewal of an exemption is conditioned on the commitment of the manufacturer to recall the exempted vehicles for installation of the omitted inflatable restraints within a reasonable time that the manufacturer proposes and the Secretary of Transportation

approves after the components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements.

(5) The Secretary of Transportation shall publish in the Federal Register a notice of each application under this subsection and each decision to grant or deny a temporary exemption and the reasons for the decision.

(6) The Secretary of Transportation shall require a label for each exempted vehicle that can be removed only after recall and installation of the required inflatable restraint. The Secretary shall require that written notice of the exemption be provided to the dealer and the first purchaser of each exempted vehicle other than for resale, with the notice being provided in a way, and containing the information, the Secretary considers appropriate.

(f) APPLICATION.—(1) This section revises, but does not replace, Standard 208 as in effect on December 18, 1991, including the amendment of March 26, 1991 (56 Fed. Reg. 12472), to Standard 208, extending the requirements for automatic crash protection, with incentives for more innovative automatic crash protection, to trucks, buses, and multipurpose passenger vehicles. This section may not be construed as—

(A) affecting another provision of law carried out by the Secretary of Transportation applicable to passenger cars, buses, multipurpose passenger vehicles, or trucks; or

(B) establishing a precedent related to developing or prescribing a Government motor vehicle safety standard.

(2) This section and amendments to Standard 208 made under this section may not be construed as indicating an intention by Congress to affect any liability of a motor vehicle manufacturer under applicable law related to vehicles with or without inflatable restraints.

(g) REPORT.—(1) On October 1, 1992, and annually after that date through October 1, 2000, the Secretary of Transportation shall submit reports on the effectiveness of occupant restraint systems expressed as a percentage reduction in fatalities or injuries of restrained occupants compared to unrestrained occupants for—

(A) a combination of inflated restraints and lap and shoulder belts;

(B) inflated restraints only; and

(C) lap and shoulder belts only.

(2) In consultation with the Secretaries of Labor and Defense, the Secretary of Transportation also shall provide information and analysis on lap and shoulder belt use, nationally and in each State by—

(A) military personnel;

(B) Government, State, and local law enforcement officers;

(C) other Government and State employees; and

(D) the public.

(h) AIRBAGS FOR GOVERNMENT CARS.—In cooperation with the Administrator of General Services and the heads of appropriate departments, agencies, and instrumentalities of the Government, the Secretary of Transportation shall establish a program, consistent with applicable procurement laws of the Government and available appropriations, requiring that all passenger cars acquired—

(1) after September 30, 1994, for use by the Government be equipped, to the maximum extent practicable, with driver-side inflatable restraints; and

(2) after September 30, 1996, for use by the Government be equipped, to the maximum extent practicable, with inflatable restraints for both front outboard seating positions.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 958; Pub. L. 105–178, title VII, §7106(c), June 9, 1998, 112 Stat. 467.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

30127(a)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2502(a), 105 Stat. 2081.
30127(b)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2508(a)(1) (1st sentence), (b), 105 Stat. 2084, 2085.
30127(c)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2508(a)(2), 105 Stat. 2085.
30127(d)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2508(a)(3), 105 Stat. 2085.
30127(e)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2508(c), 105 Stat. 2086.
30127(f)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2508(a)(1) (last sentence), (d), 105 Stat. 2085, 2086.
30127(g)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2508(e), 105 Stat. 2086.
30127(h)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2508(f), 105 Stat. 2087.

In subsection (a), the definitions are derived from section 2502(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2081) and are restated because those definitions apply to the source provisions being restated in this section.

In subsection (b)(1), before clause (A), the words "Notwithstanding any other provision of law or rule" and "(to the extent such Act is not in conflict with the provisions of this section)" are omitted as unnecessary because of the restatement. The words "The amendment shall require" are substituted for "The amendment promulgated under subsection (a) shall establish the following schedule" for clarity. The words "manufactured on or after the dates specified in the applicable schedule established by subsection (b)", "The amendment shall take effect", and "Subject to the provisions of subsection (c)" are omitted as unnecessary because of the restatement. The words "for both of the front outboard seating positions for each" are substituted for "for the front outboard designated seating positions of each" for clarity. In clause (B), the word "new" is omitted as unnecessary because of the restatement. The word "only" is substituted for "exclusively" for consistency in the revised title.

In subsection (b)(2), the words "after August 31, 1998" are substituted for "on and after such date" for clarity.

In subsection (c), before clause (1), the words "In amending Standard 208, the Secretary of Transportation shall require" are substituted for "The amendment to such Standard 208 shall also require" for clarity and to eliminate unnecessary words.

In subsection (e)(3), the words "Only an affected manufacturer may apply for an exemption" are added for clarity. The words "consolidate similar applications from different manufacturers" are substituted for "consolidate applications of a similar nature of 1 or more manufacturers" for clarity.

In subsection (f)(1), before clause (A), the words "by the Secretary or any other person, including any court" are omitted as surplus. In clause (A), the word "affecting" is substituted for "altering or affecting" to eliminate an unnecessary word.

In subsection (f)(2), the words "by any person or court" are omitted as unnecessary. The word "affect" is substituted for "affect, change, or modify" to eliminate unnecessary words.

In subsection (g)(1), before clause (A), the words "and every 6 months after that date through" are substituted for "biannually . . . and continuing to" for clarity. The word "actual" is omitted as unnecessary. The word "expressed" is substituted for "defined" for clarity.

In subsection (g)(2)(C), the words "other Government and State employees" are substituted for "Federal and State employees other than law enforcement officers" for clarity and because of the restatement.

In subsection (h)(2), the words "for both front outboard seating positions" are substituted for "for both the driver and front seat outboard seating positions" for clarity and consistency in this section.

EDITORIAL NOTES

REFERENCES IN TEXT

The National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (b)(1), is Pub. L. 89–563, Sept. 9, 1966, 80 Stat. 718, which was classified generally to chapter 38 (§1381 et seq.) of Title 15, Commerce and Trade, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this chapter.

AMENDMENTS

1998—Subsec. (g)(1). Pub. L. 105–178 substituted "annually" for "every 6 months" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

LIMOUSINE COMPLIANCE WITH FEDERAL SAFETY STANDARDS

Pub. L. 117–58, div. B, title III, §23023, Nov. 15, 2021, 135 Stat. 782, provided that:

"(a) LIMOUSINE STANDARDS.—

"(1) SAFETY BELT AND SEATING SYSTEM STANDARDS FOR LIMOUSINES.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall prescribe a final rule that—

"(A) amends Federal Motor Vehicle Safety Standard Numbers 208, 209, and 210 to require to be installed in limousines on each designated seating position, including on side-facing seats—

"(i) an occupant restraint system consisting of integrated lap-shoulder belts; or

"(ii) an occupant restraint system consisting of a lap belt, if an occupant restraint system described in clause (i) does not meet the need for motor vehicle safety; and

"(B) amends Federal Motor Vehicle Safety Standard Number 207 to require limousines to meet standards for seats (including side-facing seats), seat attachment assemblies, and seat installation to minimize the possibility of failure by forces acting on the seats, attachment assemblies, and installations as a result of motor vehicle impact.

"(2) REPORT ON RETROFIT ASSESSMENT FOR LIMOUSINES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that assesses the feasibility, benefits, and costs with respect to the application of any requirement established under paragraph (1) to a limousine introduced into interstate commerce before the date on which the requirement takes effect.

"(b) MODIFICATIONS OF CERTAIN VEHICLES.—The final rule prescribed under subsection (a)(1) and any standards prescribed under subsection (b) or (c) of section 23015 shall apply to a person modifying a passenger motor vehicle (as defined in section 32101 of title 49, United States Code) that has already been purchased by the first purchaser (as defined in section 30102(b) of that title) by increasing the wheelbase of the vehicle to make the vehicle a limousine.

"(c) APPLICATION.—The requirements of this section apply notwithstanding section 30112(b)(1) of title 49, United States Code."

IMPROVEMENT OF DATA COLLECTION ON CHILD OCCUPANTS IN VEHICLE CRASHES

Pub. L. 114–94, div. B, title XXIV, §24407, Dec. 4, 2015, 129 Stat. 1726, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall revise the crash investigation data collection system of the National Highway Traffic Safety Administration to include the collection of the following data in connection with vehicle crashes whenever a child restraint system was in use in a vehicle involved in a crash:

"(1) The type or types of child restraint systems in use during the crash in any vehicle involved in the crash, including whether a five-point harness or belt-positioning booster. [sic]

"(2) If a five-point harness child restraint system was in use during the crash, whether the child restraint system was forward-facing or rear-facing in the vehicle concerned.

"(b) CONSULTATION.—In implementing subsection (a), the Secretary shall work with law enforcement officials, safety advocates, the medical community, and research organizations to improve the recordation of data described in subsection (a) in police and other applicable incident reports.

"(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on child occupant crash data collection in the crash investigation data collection system of the National Highway Traffic Safety Administration pursuant to the revision required by subsection (a)."

CHILD SAFETY SEATS

Pub. L. 112–141, div. C, title I, §31501, July 6, 2012, 126 Stat. 773, provided that:

"(a) SIDE IMPACT CRASHES.—Not later than 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

"(b) FRONTAL IMPACT TEST PARAMETERS.—

"(1) COMMENCEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend the standard seat assembly specifications under Federal Motor Vehicle Safety Standard Number 213 to better simulate a single representative motor vehicle rear seat.

"(2) FINAL RULE.—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1)."

CHILD RESTRAINT ANCHORAGE SYSTEMS

Pub. L. 112–141, div. C, title I, §31502, July 6, 2012, 126 Stat. 774, provided that:

"(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible.

"(b) FINAL RULE.—

"(1) IN GENERAL.—Except as provided under paragraph (2) and section 31505 [set out as a note below], the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

"(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate; and

"(B) the Committee on Energy and Commerce of the House of Representatives."

REAR SEAT BELT REMINDERS

Pub. L. 112–141, div. C, title I, §31503, July 6, 2012, 126 Stat. 774, provided that:

"(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.

"(b) FINAL RULE.—

"(1) IN GENERAL.—Except as provided under paragraph (2) and section 31505 [set out as a note below], the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

"(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate; and

"(B) the Committee on Energy and Commerce of the House of Representatives."

NEW DEADLINE

Pub. L. 112–141, div. C, title I, §31505, July 6, 2012, 126 Stat. 775, provided that: "If the Secretary [of Transportation] determines that any deadline for issuing a final rule under this Act [probably should be "this title", see Tables for classification] cannot be met, the Secretary shall—

"(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such

deadline cannot be met; and

"(2) establish a new deadline for that rule."

IMPROVING THE SAFETY OF CHILD RESTRAINTS

Pub. L. 107–318, Dec. 4, 2002, 116 Stat. 2772, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as 'Anton's Law'.

"SEC. 2. FINDINGS.

"Congress finds the following:

"(1) It is the policy of the Department of Transportation that all child occupants of motor vehicles, regardless of seating position, be appropriately restrained in order to reduce the incidence of injuries and fatalities resulting from motor vehicle crashes on the streets, roads, and highways.

"(2) Research has shown that very few children between the ages of 4 to 8 years old are in the appropriate restraint for their age when riding in passenger motor vehicles.

"(3) Children who have outgrown their child safety seats should ride in a belt-positioning booster seat until an adult seat belt fits properly.

"(4) Children who were properly restrained when riding in passenger motor vehicles suffered less severe injuries from accidents than children not properly restrained.

"SEC. 3. IMPROVEMENT OF SAFETY OF CHILD RESTRAINTS IN PASSENGER MOTOR VEHICLES.

"(a) IN GENERAL.—The Secretary of Transportation (hereafter referred to as the 'Secretary') shall initiate a rulemaking proceeding to establish performance requirements for child restraints, including booster seats, for the restraint of children weighing more than 50 pounds.

"(b) ELEMENTS FOR CONSIDERATION.—In the rulemaking proceeding required by subsection (a), the Secretary shall—

"(1) consider whether to include injury performance criteria for child restraints, including booster seats and other products for use in passenger motor vehicles for the restraint of children weighing more than 50 pounds, under the requirements established in the rulemaking proceeding;

"(2) consider whether to establish performance requirements for seat belt fit when used with booster seats and other belt guidance devices;

"(3) consider whether to address situations where children weighing more than 50 pounds only have access to seating positions with lap belts, such as allowing tethered child restraints for such children; and

"(4) review the definition of the term 'booster seat' in Federal motor vehicle safety standard No. 213 under section 571.213 of title 49, Code of Federal Regulations, to determine if it is sufficiently comprehensive.

"(c) COMPLETION.—The Secretary shall complete the rulemaking proceeding required by subsection (a) not later than 30 months after the date of the enactment of this Act [Dec. 4, 2002].

"SEC. 4. DEVELOPMENT OF ANTHROPOMORPHIC TEST DEVICE SIMULATING A 10-YEAR OLD CHILD.

"(a) DEVELOPMENT AND EVALUATION.—Not later than 24 months after the date of the enactment of this Act [Dec. 4, 2002], the Secretary shall develop and evaluate an anthropomorphic test device that simulates a 10-year old child for use in testing child restraints used in passenger motor vehicles.

"(b) ADOPTION BY RULEMAKING.—Within 1 year following the development and evaluation carried out under subsection (a), the Secretary shall initiate a rulemaking proceeding for the adoption of an anthropomorphic test device as developed under subsection (a).

"SEC. 5. REQUIREMENTS FOR INSTALLATION OF LAP AND SHOULDER BELTS.

"(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act [Dec. 4, 2002], the Secretary shall complete a rulemaking proceeding to amend Federal motor vehicle safety standard No. 208 under section 571.208 of title 49, Code of Federal Regulations, relating to occupant crash protection, in order to—

"(1) require a lap and shoulder belt assembly for each rear designated seating position in a passenger motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, except that if the Secretary determines that installation of a lap and shoulder belt assembly is not practicable for a particular designated seating position in a particular type of passenger motor vehicle, the Secretary may exclude the designated seating position from the requirement; and

"(2) apply that requirement to passenger motor vehicles in phases in accordance with subsection (b).

"(b) IMPLEMENTATION SCHEDULE.—The requirement prescribed under subsection (a)(1) shall be implemented in phases on a production year basis beginning with the production year that begins not later than 12 months after the end of the year in which the regulations are prescribed under subsection (a). The final rule shall apply to all passenger motor vehicles with a gross vehicle weight rating of 10,000 pounds or less that are manufactured in the third production year of the implementation phase-in under the schedule.

"SEC. 6. EVALUATION OF INTEGRATED CHILD SAFETY SYSTEMS.

"(a) EVALUATION.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2002], the Secretary shall initiate an evaluation of integrated or built-in child restraints and booster seats. The evaluation should include—

"(1) the safety of the child restraint and correctness of fit for the child;

"(2) the availability of testing data on the system and vehicle in which the child restraint will be used;

"(3) the compatibility of the child restraint with different makes and models;

"(4) the cost-effectiveness of mass production of the child restraint for consumers;

"(5) the ease of use and relative availability of the child restraint to children riding in motor vehicles; and

"(6) the benefits of built-in seats for improving compliance with State child occupant restraint laws.

"(b) REPORT.—Not later than 12 months after the date of enactment of this Act [Dec. 4, 2002], the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of this evaluation.

"SEC. 7. DEFINITIONS.

"As used in this Act, the following definitions apply:

"(1) CHILD RESTRAINT.—The term 'child restraint' means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

"(2) PRODUCTION YEAR.—The term 'production year' means the 12-month period between September 1 of a year and August 31 of the following year.

"(3) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the meaning given that term in [former] section 405(f)(5) of title 23, United States Code.

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $5,000,000 to the Secretary of Transportation for—

"(1) the evaluation required by section 6 of this Act; and

"(2) research of the nature and causes of injury to children involved in motor vehicle crashes.

"(b) LIMITATION.—Funds appropriated under subsection (a) shall not be available for the general administrative expenses of the Secretary."

Pub. L. 106–414, §14, Nov. 1, 2000, 114 Stat. 1806, provided that:

"(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act [Nov. 1, 2000], the Secretary of Transportation shall initiate a rulemaking for the purpose of improving the safety of child restraints, including minimizing head injuries from side impact collisions.

"(b) ELEMENTS FOR CONSIDERATION.—In the rulemaking required by subsection (a), the Secretary shall consider—

"(1) whether to require more comprehensive tests for child restraints than the current Federal motor vehicle safety standards requires, including the use of dynamic tests that—

"(A) replicate an array of crash conditions, such as side-impact crashes and rear-impact crashes; and

"(B) reflect the designs of passenger motor vehicles as of the date of the enactment of this Act [Nov. 1, 2000];

"(2) whether to require the use of anthropomorphic test devices that—

"(A) represent a greater range of sizes of children including the need to require the use of an anthropomorphic test device that is representative of a ten-year-old child; and

"(B) are Hybrid III anthropomorphic test devices;

"(3) whether to require improved protection from head injuries in side-impact and rear-impact crashes;

"(4) how to provide consumer information on the physical compatibility of child restraints and vehicle seats on a model-by-model basis;

"(5) whether to prescribe clearer and simpler labels and instructions required to be placed on child

restraints;

"(6) whether to amend Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213) to cover restraints for children weighing up to 80 pounds;

"(7) whether to establish booster seat performance and structural integrity requirements to be dynamically tested in 3-point lap and shoulder belts;

"(8) whether to apply scaled injury criteria performance levels, including neck injury, developed for Federal Motor Vehicle Safety Standard No. 208 to child restraints and booster seats covered by in Federal Motor Vehicle Safety Standard No. 213; and

"(9) whether to include child restraint in each vehicle crash tested under the New Car Assessment Program.

"(c) REPORT TO CONGRESS.—If the Secretary does not incorporate any element described in subsection (b) in the final rule, the Secretary shall explain, in a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce [now Committee on Energy and Commerce] submitted within 30 days after issuing the final rule, specifically why the Secretary did not incorporate any such element in the final rule.

"(d) COMPLETION.—Notwithstanding any other provision of law, the Secretary shall complete the rulemaking required by subsection (a) not later than 24 months after the date of the enactment of this Act [Nov. 1, 2000].

"(e) CHILD RESTRAINT DEFINED.—In this section, the term 'child restraint' has the meaning given the term 'Child restraint system' in section 571.213 of title 49, Code of Federal Regulations (as in effect on the date of the enactment of this Act [Nov. 1, 2000]).

"(f) FUNDING.—For each fiscal year, of the funds made available to the Secretary for activities relating to safety, not less than $750,000 shall be made available to carry out crash testing of child restraints.

"(g) CHILD RESTRAINT SAFETY RATINGS PROGRAM.—No later than 12 months after the date of the enactment of this Act [Nov. 1, 2000], the Secretary of Transportation shall issue a notice of proposed rulemaking to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraints. No later than 24 months after the date of the enactment of this Act the Secretary shall issue a final rule establishing a child restraint safety rating program and providing other consumer information which the Secretary determines would be useful [to] consumers who purchase child restraint systems.

"(h) BOOSTER SEAT STUDY.—In addition to consideration of booster seat performance and structural integrity contained in subsection (b)(7), not later than 12 months after the date of the enactment of this Act [Nov. 1, 2000], the Secretary of Transportation shall initiate and complete a study, taking into account the views of the public, on the use and effectiveness of automobile booster seats for children, compiling information on the advantages and disadvantages of using booster seats and determining the benefits, if any, to children from use of booster with lap and shoulder belts compared to children using lap and shoulder belts alone, and submit a report on the results of that study to the Congress.

"(i) BOOSTER SEAT EDUCATION PROGRAM.—The Secretary of Transportation within 1 year after the date of the enactment of this Act [Nov. 1, 2000] shall develop [a] 5 year strategic plan to reduce deaths and injuries caused by failure to use the appropriate booster seat in the 4 to 8 year old age group by 25 percent."

IMPROVING AIR BAG SAFETY

Pub. L. 105–178, title VII, §7103, June 9, 1998, 112 Stat. 465, provided that:

"(a) RULEMAKING TO IMPROVE AIR BAGS.—

"(1) NOTICE OF PROPOSED RULEMAKING.—Not later than September 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags.

"(2) FINAL RULE.—Notwithstanding any other provision of law, the Secretary shall complete the rulemaking required by this subsection by issuing, not later than September 1, 1999, a final rule with any provision the Secretary deems appropriate, consistent with paragraph (1) and the requirements of section 30111, title 49, United States Code. If the Secretary determines that the final rule cannot be completed by that date to meet the purposes of paragraph (1), the Secretary may extend the date for issuing the final rule to not later than March 1, 2000.

"(3) EFFECTIVE DATE.—The final rule issued under this subsection shall become effective in phases as rapidly as practicable, beginning not earlier than September 1, 2002, and no sooner than 30

months after the date of the issuance of the final rule, but not later than September 1, 2003. The final rule shall become fully effective for all vehicles identified in section 30127(b), title 49, United States Code, that are manufactured on and after September 1, 2005. Should the phase-in of the final rule required by this paragraph commence on September 1, 2003, then in that event, and only in that event, the Secretary is authorized to make the final rule fully effective on September 1, 2006, for all vehicles that are manufactured on and after that date.

"(4) COORDINATION OF EFFECTIVE DATES.—The requirements of S13 of Standard No. 208 shall remain in effect unless and until changed by the rule required by this subsection.

"(5) CREDIT FOR EARLY COMPLIANCE.—To encourage early compliance, the Secretary is directed to include in the notice of proposed rulemaking required by paragraph (1) means by which manufacturers may earn credits for future compliance. Credits, on a one-vehicle for one-vehicle basis, may be earned for vehicles certified as being in full compliance under section 30115 of title 49, United States Code, with the rule required by paragraph (2) which are either—

"(A) so certified in advance of the phase-in period; or

"(B) in excess of the percentage requirements during the phase-in period.

"(b) ADVISORY COMMITTEES.—Any government advisory committee, task force, or other entity involving air bags shall include representatives of consumer and safety organizations, insurers, manufacturers, and suppliers."

§30128. Vehicle rollover prevention and crash mitigation

(a) IN GENERAL.—The Secretary shall initiate rulemaking proceedings, for the purpose of establishing rules or standards that will reduce vehicle rollover crashes and mitigate deaths and injuries associated with such crashes for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

(b) ROLLOVER PREVENTION.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to reduce the occurrence of rollovers consistent with stability enhancing technologies. The Secretary shall issue a proposed rule in this proceeding by rule by October 1, 2006, and a final rule by April 1, 2009.

(c) OCCUPANT EJECTION PREVENTION.—

(1) IN GENERAL.—The Secretary shall also initiate a rulemaking proceeding to establish performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions. In formulating the standards the Secretary shall consider various ejection mitigation systems. The Secretary shall issue a final rule under this paragraph no later than October 1, 2009.

(2) DOOR LOCKS AND DOOR RETENTION.—The Secretary shall complete the rulemaking proceeding initiated to upgrade Federal Motor Vehicle Safety Standard No. 206, relating to door locks and door retention, no later than 30 months after the date of enactment of this section.

(d) PROTECTION OF OCCUPANTS.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to upgrade Federal Motor Vehicle Safety Standard No. 216 relating to roof strength for driver and passenger sides. The Secretary may consider industry and independent dynamic tests that realistically duplicate the actual forces transmitted during a rollover crash. The Secretary shall issue a proposed rule by December 31, 2005, and a final rule by July 1, 2008.

(e) DEADLINES.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—

(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and

(2) establish a new deadline.

(Added Pub. L. 109–59, title X, §10301(a), Aug. 10, 2005, 119 Stat. 1939.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

CODIFICATION

Section 10301(a) of Pub. L. 109–59, which directed that this section be added at the end of subchapter II of chapter 301, without specifying the title to be amended, was executed by adding this section at the end of subchapter II of this chapter, to reflect the probable intent of Congress.

§30129. Crash avoidance technology

(a) IN GENERAL.—The Secretary of Transportation shall promulgate a rule—

(1) to establish minimum performance standards with respect to crash avoidance technology; and

(2) to require that all passenger motor vehicles manufactured for sale in the United States on or after the compliance date described in subsection (b) shall be equipped with—

(A) a forward collision warning and automatic emergency braking system that—

(i) alerts the driver if—

(I) the distance to a vehicle ahead or an object in the path of travel ahead is closing too quickly; and

(II) a collision is imminent; and

(ii) automatically applies the brakes if the driver fails to do so; and

(B) a lane departure warning and lane-keeping assist system that—

(i) warns the driver to maintain the lane of travel; and

(ii) corrects the course of travel if the driver fails to do so.

(b) COMPLIANCE DATE.—The Secretary of Transportation shall determine the appropriate effective date, and any phasing-in of requirements, of the final rule promulgated pursuant to subsection (a).

(Added Pub. L. 117–58, div. B, title IV, §24208(a), Nov. 15, 2021, 135 Stat. 823.)

SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT

§30141. Importing motor vehicles capable of complying with standards

(a) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle if—

(1) on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under subsection (c) of this section, the Secretary decides—

(A) the vehicle is—

(i) substantially similar to a motor vehicle originally manufactured for import into and sale in the United States;

(ii) certified under section 30115 of this title;

(iii) the same model year (as defined under regulations of the Secretary of Transportation) as the model of the motor vehicle it is being compared to; and

(iv) capable of being readily altered to comply with applicable motor vehicle safety standards prescribed under this chapter; or

(B) if there is no substantially similar United States motor vehicle, the safety features of the vehicle comply with or are capable of being altered to comply with those standards based on destructive test information or other evidence the Secretary of Transportation decides is adequate;

(2) the vehicle is imported by a registered importer; and

(3) the registered importer pays the annual fee the Secretary of Transportation establishes under subsection (e) of this section to pay for the costs of carrying out the registration program for importers under subsection (c) of this section and any other fees the Secretary of Transportation establishes to pay for the costs of—

(A) processing bonds provided to the Secretary of the Treasury under subsection (d) of this section; and

(B) making the decisions under this subchapter.

(b) PROCEDURES ON DECIDING ON MOTOR VEHICLE CAPABILITY.—(1) The Secretary of Transportation shall establish by regulation procedures for making a decision under subsection (a)(1) of this section and the information a petitioner must provide to show clearly that the motor vehicle is capable of being brought into compliance with applicable motor vehicle safety standards prescribed under this chapter. In establishing the procedures, the Secretary shall provide for a minimum period of public notice and written comment consistent with ensuring expeditious, but complete, consideration and avoiding delay by any person. In making a decision under those procedures, the Secretary shall consider test information and other information available to the Secretary, including any information provided by the manufacturer. If the Secretary makes a negative decision, the Secretary may not make another decision for the same model until at least 3 calendar months have elapsed after the negative decision.

(2) The Secretary of Transportation shall publish each year in the Federal Register a list of all decisions made under subsection (a)(1) of this section. Each published decision applies to the model of the motor vehicle for which the decision was made. A positive decision permits another importer registered under subsection (c) of this section to import a vehicle of the same model under this section if the importer complies with all the terms of the decision.

(c) REGISTRATION.—(1) The Secretary of Transportation shall establish procedures for registering a person who complies with requirements prescribed by the Secretary by regulation under this subsection, including—

(A) recordkeeping requirements;

(B) inspection of records and facilities related to motor vehicles the person has imported, altered, or both; and

(C) requirements that ensure that the importer (or a successor in interest) will be able technically and financially to carry out responsibilities under sections 30117(b), 30118–30121, and 30166(f) of this title.

(2) The Secretary of Transportation shall deny registration to a person whose registration is revoked under paragraph (4) of this subsection.

(3) The Secretary of Transportation may deny registration to a person that is or was owned or controlled by, or under common ownership or control with, a person whose registration was revoked under paragraph (4) of this subsection.

(4) The Secretary of Transportation shall establish procedures for—

(A) revoking or suspending a registration issued under paragraph (1) of this subsection for not complying with a requirement of this subchapter or any of sections 30112, 30115, 30117–30122, 30125(c), 30127, or 30166 of this title or regulations prescribed under this subchapter or any of those sections;

(B) automatically suspending a registration for not paying a fee under subsection (a)(3) of this section in a timely manner or for knowingly filing a false or misleading certification under section

30146 of this title; and

(C) reinstating suspended registrations.

(d) BONDS.—(1) A person importing a motor vehicle under this section shall provide a bond to the Secretary of the Treasury (acting for the Secretary of Transportation) and comply with the terms the Secretary of Transportation decides are appropriate to ensure that the vehicle—

(A) will comply with applicable motor vehicle safety standards prescribed under this chapter within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(B) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) The amount of the bond provided under this subsection shall be at least equal to the dutiable value of the motor vehicle (as determined by the Secretary of the Treasury) but not more than 150 percent of that value.

(e) FEE REVIEW, ADJUSTMENT, AND USE.—The Secretary of Transportation shall review and make appropriate adjustments at least every 2 years in the amounts of the fees required to be paid under subsection (a)(3) of this section. The Secretary of Transportation shall establish the fees for each fiscal year before the beginning of that year. All fees collected remain available until expended without fiscal year limit to the extent provided in advance by appropriation laws. The amounts are only for use by the Secretary of Transportation—

(1) in carrying out this section and sections 30146(a)–(c)(1), (d), and (e) and 30147(b) of this title; and

(2) in advancing to the Secretary of the Treasury amounts for costs incurred under this section and section 30146 of this title to reimburse the Secretary of the Treasury for those costs.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 960; Pub. L. 103–429, §6(23), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30141(a)	15:1397(c)(3)(A), (C)(i).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(c)(2), (3)(A)–(D); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2818.
30141(b)	15:1397(c)(3)(C) (ii)–(iv).	
30141(c)	15:1397(c)(3)(D).	
30141(d)	15:1397(c)(2).	
30141(e)	15:1397(c)(3)(B).	

In subsection (a)(1)(A)(iv), the words "prescribed under this chapter" are substituted for "Federal" for consistency in this chapter.

In subsection (a)(3), before clause (A), the words "any other fees" are substituted for "such other annual fee or fees" to eliminate unnecessary words. In clause (B), the words "this subchapter" are substituted for "this section" for clarity. See H. Rept. No. 100–431, 100th Cong., 1st Sess., p. 19 (1987).

In subsection (b)(1), the words "procedures for making a decision under subsection (a)(1) of this section" are substituted for "procedures for considering such petitions" and "procedures for determinations made on the Secretary's initiative" because of the restatement. The words "(whether or not confidential)" are omitted as unnecessary because of the restatement.

In subsection (b)(2), the word "permits" is substituted for "shall be sufficient authority" for clarity. The word "conditions" is omitted as being included in "terms".

In subsection (c)(1), before clause (A), the words "under this subsection" are added for clarity. The word

"including" is substituted for "include, as a minimum" to eliminate unnecessary words. In clause (B), the words "(relating to discovery, notification, and remedy of defects)" are omitted as surplus.

In subsection (c)(3), the words "directly or indirectly" are omitted as unnecessary because of the restatement.

In subsection (d)(1), before clause (A), the word "conditions" is omitted as being included in "terms".

PUB. L. 103–429

This amends 49:30141(c)(4)(A) and 30165(a) to correct erroneous cross-references.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (c)(4)(A). Pub. L. 103–429 substituted "any of sections 30112" for "section 30112" and inserted "any of" before "those sections".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§30142. Importing motor vehicles for personal use

(a) GENERAL.—Section 30112(a) of this title does not apply to an imported motor vehicle if—

(1) the vehicle is imported for personal use, and not for resale, by an individual (except an individual described in sections 30143 and 30144 of this title);

(2) the vehicle is imported after January 31, 1990; and

(3) the individual takes the actions required under subsection (b) of this section to receive an exemption.

(b) EXEMPTIONS.—(1) To receive an exemption under subsection (a) of this section, an individual must—

(A) provide the Secretary of the Treasury (acting for the Secretary of Transportation) with—

(i) an appropriate bond in an amount determined under section 30141(d) of this title;

(ii) a copy of an agreement with an importer registered under section 30141(c) of this title for bringing the motor vehicle into compliance with applicable motor vehicle safety standards prescribed under this chapter; and

(iii) a certification that the vehicle meets the requirement of section 30141(a)(1)(A) or (B) of this title; and

(B) comply with appropriate terms the Secretary of Transportation imposes to ensure that the vehicle—

(i) will be brought into compliance with those standards within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(ii) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) For good cause shown, the Secretary of Transportation may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for import, to comply with paragraph (1)(A)(ii) of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 962.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30142(a)	15:1397(f)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(f); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2822.
30142(b)	15:1397(f)(2).	

In subsection (a)(2), the words "after January 31, 1990" are substituted for "after the effective date of the regulations initially issued to implement the amendments made to this section by the Imported Vehicle Safety Compliance Act of 1988" for clarity. See 49 C.F.R. part 591.

In subsection (a)(3), the words "the individual takes the actions required under subsection (b) of this section" are substituted for "if that individual takes the actions required by paragraph (2)" for clarity and because of the restatement.

In subsection (b)(1), the word "compliance" is substituted for "conformity" for consistency in this chapter.

In subsection (b)(1)(B), before subclause (i), the word "conditions" is omitted as being included in "terms".

§30143. Motor vehicles imported by individuals employed outside the United States

(a) DEFINITION.—In this section, "assigned place of employment" means—

(1) the principal location at which an individual is permanently or indefinitely assigned to work; and

(2) for a member of the uniformed services, the individual's permanent duty station.

(b) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle imported for personal use, and not for resale, by an individual—

(1) whose assigned place of employment was outside the United States as of October 31, 1988, and who has not had an assigned place of employment in the United States from that date through the date the vehicle is imported into the United States;

(2) who previously had not imported a motor vehicle into the United States under this section or section 108(g) of the National Traffic and Motor Vehicle Safety Act of 1966 or, before October 31, 1988, under section 108(b)(3) of that Act;

(3) who acquired, or made a binding contract to acquire, the vehicle before October 31, 1988;

(4) who imported the vehicle into the United States not later than October 31, 1992; and

(5) who satisfies section 108(b)(3) of that Act as in effect on October 30, 1988.

(c) CERTIFICATION.—Subsection (b) of this section is carried out by certification in the form the Secretary of Transportation or the Secretary of the Treasury may prescribe.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 963.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30143(a)	15:1397(g) (3d, last sentences).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(g); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2823.
30143(b), (c)	15:1397(g) (1st, 2d sentences).	

In subsection (b), before clause (1), the words "(including a member of the uniformed services)" are omitted as unnecessary because of the restatement. In clause (1), the words "from that date through the date the vehicle is imported into the United States" are substituted for "that date and the date of entry of such motor

vehicle" for clarity and consistency in this chapter. In clause (2), the words "under this section or section 108(g) of the National Traffic and Motor Vehicle Safety Act of 1966" are substituted for "this subsection" to preserve the exemption for motor vehicles imported under the source provisions between October 30, 1988, and the effective date of this restatement. In clause (4), the word "imports" is substituted for "enters" for clarity and consistency in this chapter. In clause (5) the word "satisfies" is substituted for "meets the terms, conditions, and other requirements . . . under" to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

Subsections (b)(3) and (g) of section 108 of the National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (b)(2), (5), are subsecs. (b)(3) and (g) of section 108 of Pub. L. 89–563, which were classified to subsecs. (b)(3) and (g), respectively, of section 1397 of Title 15, Commerce and Trade, were repealed and reenacted in sections 30112(b)(1)–(3) and 30143, respectively, of this title by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 945, 963, 1379.

§30144. Importing motor vehicles on a temporary basis

(a) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle imported on a temporary basis for personal use by an individual who is a member of—

(1)(A) the personnel of the government of a foreign country on assignment in the United States or a member of the Secretariat of a public international organization designated under the International Organizations Immunities Act (22 U.S.C. 288 et seq.); and

(B) the class of individuals for whom the Secretary of State has authorized free importation of motor vehicles; or

(2) the armed forces of a foreign country on assignment in the United States.

(b) VERIFICATION.—The Secretary of Transportation or the Secretary of the Treasury may require verification, that the Secretary of Transportation considers appropriate, that an individual is a member described under subsection (a) of this section. The Secretary of Transportation shall ensure that a motor vehicle imported under this section will be exported (at no cost to the United States Government) or abandoned to the Government when the individual no longer—

(1) resides in the United States; and

(2) is a member described under subsection (a) of this section.

(c) SALE IN THE UNITED STATES.—A motor vehicle imported under this section may not be sold when in the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 964; Pub. L. 104–287, §5(57), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30144(a)	15:1397(h) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(h); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2823.
30144(b)	15:1397(h) (2d, 3d sentences).	
30144(c)	15:1397(h) (last sentence).	

In subsection (a)(1)(B), the word "importation" is substituted for "entry" for clarity and consistency in this chapter.

In subsection (b), before clause (1), the words "that an individual is a member described under subsection (a) of this section" are substituted for "such status" for clarity. The word "imported" is substituted for "entered" for clarity and consistency in this chapter. In clause (2), the words "a member described under subsection (a) of this section" are substituted for "hold such status" for clarity.

PUB. L. 104–287

This amends 49:30144(a)(1)(A) to correct an erroneous cross-reference.

EDITORIAL NOTES

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (a)(1)(A), is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to subchapter XVIII (§288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables.

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–287 substituted "International Organizations" for "International Organization".

§30145. Importing motor vehicles or equipment requiring further manufacturing

Section 30112(a) of this title does not apply to a motor vehicle or motor vehicle equipment if the vehicle or equipment—

(1) requires further manufacturing to perform its intended function as decided under regulations prescribed by the Secretary of Transportation; and

(2) is accompanied at the time of importation by a written statement issued by the manufacturer indicating the applicable motor vehicle safety standard prescribed under this chapter with which it does not comply.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 964.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30145	15:1397(e).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(e); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2822.

In clause (2), the word "importation" is substituted for "entry" for clarity and consistency in this chapter. The words "of the incomplete motor vehicle or item of equipment" are omitted as unnecessary because of the restatement. The words "prescribed under this chapter" are substituted for "Federal" for consistency in this chapter.

§30146. Release of motor vehicles and bonds

(a) COMPLIANCE CERTIFICATION AND BOND.—(1) Except as provided in subsections (c) and (d) of this section, an importer registered under section 30141(c) of this title may license or register an imported motor vehicle for use on public streets, roads, or highways, or release custody of a motor vehicle imported by the registered importer or imported by an individual under section 30142 of this title and altered by the registered importer to meet applicable motor vehicle safety standards prescribed under this chapter to a person for license or registration for use on public streets, roads, or highways, only after 30 days after the registered importer certifies to the Secretary

of Transportation, in the way the Secretary prescribes, that the motor vehicle complies with each standard prescribed in the year the vehicle was manufactured and that applies in that year to that vehicle. A vehicle may not be released if the Secretary gives written notice before the end of the 30-day period that the Secretary will inspect the vehicle under subsection (c) of this section.

(2) The Secretaries of Transportation and the Treasury shall prescribe regulations—

(A) ensuring the release of a motor vehicle and bond required under section 30141(d) of this title at the end of the 30-day period, unless the Secretary of Transportation issues a notice of an inspection under subsection (c) of this section; and

(B) providing that the Secretary of Transportation shall release the vehicle and bond promptly after an inspection under subsection (c) of this section showing compliance with the standards applicable to the vehicle.

(3) Each registered importer shall include on each motor vehicle released under this subsection a label prescribed by the Secretary of Transportation identifying the importer and stating that the vehicle has been altered by the importer to comply with the standards applicable to the vehicle.

(b) RELIANCE ON MANUFACTURER'S CERTIFICATION.—In making a certification under subsection (a)(1) of this section, the registered importer may rely on the manufacturer's certification for the model to which the motor vehicle involved is substantially similar if the importer certifies that any alteration made by the importer did not affect the compliance of the safety features of the vehicle and the importer keeps records verifying the certification for the period the Secretary of Transportation prescribes.

(c) EVIDENCE OF COMPLIANCE.—(1) The Secretary of Transportation may require that the certification under subsection (a)(1) of this section be accompanied by evidence of compliance the Secretary considers appropriate or may inspect the certified motor vehicle, or both. If the Secretary gives notice of an inspection, an importer may release the vehicle only after—

(A) an inspection showing the motor vehicle complies with applicable motor vehicle safety standards prescribed under this chapter for which the inspection was made; and

(B) release of the vehicle by the Secretary.

(2) The Secretary of Transportation shall inspect periodically a representative number of motor vehicles for which certifications have been filed under subsection (a)(1) of this section. In carrying out a motor vehicle testing program under this chapter, the Secretary shall include a representative number of motor vehicles for which certifications have been filed under subsection (a)(1).

(d) CHALLENGING THE CERTIFICATION.—A motor vehicle or bond may not be released under subsection (a) of this section if the Secretary of Transportation, not later than 30 days after receiving a certification under subsection (a)(1) of this section, gives written notice that the Secretary believes or has reason to believe that the certification is false or contains a mispresentation.[1] The vehicle and bond may be released only after the Secretary is satisfied with the certification and any modification of the certification.

(e) BOND RELEASE.—A release of a bond required under section 30141(d) of this title is deemed an acceptance of a certification or completion of an inspection under this section but is not a decision by the Secretary of Transportation under section 30118(a) or (b) of this title of compliance with applicable motor vehicle safety standards prescribed under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 964.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30146(a)	15:1397(c)(3)(E)(i) (1st, 3d, last sentences), (vii).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(c)(3)(E); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2820.

30146(b)	15:1397(c)(3)(E)(ii).	
30146(c)	15:1397(c)(3)(E)(i) (2d sentence), (iii), (iv).	
30146(d)	15:1397(c)(3)(E)(vi).	
30146(e)	15:1397(c)(3)(E)(v).	

In subsection (a)(1), the words "Except as provided in subsections (c) and (d) of this section" are added because of the restatement.

In subsection (a)(2)(B), the words "showing compliance with the standards" are substituted for "showing no such failure to comply" for clarity.

[1] *So in original. Probably should be "misrepresentation."*

§30147. Responsibility for defects and noncompliance

(a) DEEMING DEFECT OR NONCOMPLIANCE TO CERTAIN VEHICLES AND IMPORTER AS MANUFACTURER.—(1) In carrying out sections 30117(b), 30118–30121, and 30166(f) of this title—

(A) for a defect or noncompliance with an applicable motor vehicle safety standard prescribed under this chapter for a motor vehicle originally manufactured for import into the United States, an imported motor vehicle having a valid certification under section 30146(a)(1) of this title and decided to be substantially similar to that motor vehicle shall be deemed as having the same defect or as not complying with the same standard unless the manufacturer or importer registered under section 30141(c) of this title demonstrates otherwise to the Secretary of Transportation; and

(B) the registered importer shall be deemed to be the manufacturer of any motor vehicle that the importer imports or brings into compliance with the standards for an individual under section 30142 of this title.

(2) The Secretary shall publish in the Federal Register notice of any defect or noncompliance under paragraph (1)(A) of this subsection.

(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—The Secretary shall require by regulation each registered importer (including any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under sections 30117(b), 30118–30121, and 30166(f) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 966.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30147(a)	15:1397(d)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(d); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2821.
30147(b)	15:1397(d)(2).	

In this section, the words "(relating to discovery, notification, and remedy of motor vehicle defects)" are omitted as surplus.

In subsection (a)(1)(A), the words "for a motor vehicle" are substituted for "in, or regarding, any motor vehicle" to eliminate unnecessary words.

In subsection (a)(1)(B), the word "compliance" is substituted for "conformity" for consistency in this chapter.

SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

§30161. Judicial review of standards

(a) FILING AND VENUE.—A person adversely affected by an order prescribing a motor vehicle safety standard under this chapter may apply for review of the order by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the order is issued.

(b) NOTIFYING SECRETARY.—The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the order was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied that the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside the order, and the additional evidence with the court.

(d) CERTIFIED COPIES OF RECORDS OF PROCEEDINGS.—The Secretary shall give any interested person a certified copy of the transcript of the record in a proceeding under this section on request and payment of costs. A certified copy of the record of the proceeding is admissible in a proceeding arising out of a matter under this chapter, regardless of whether the proceeding under this section has begun or becomes final.

(e) FINALITY OF JUDGMENT AND SUPREME COURT REVIEW.—A judgment of a court under this section is final and may be reviewed only by the Supreme Court under section 1254 of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 966.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30161(a)	15:1394(a)(1) (1st sentence), (3).	Sept. 9, 1966, Pub. L. 89–563, §105(a)(1)–(5), (b), 80 Stat. 720, 721.
30161(b)	15:1394(a)(1) (2d, last sentences).	
30161(c)	15:1394(a)(2).	
30161(d)	15:1394(b).	
30161(e)	15:1394(a)(4), (5).	

In subsection (a), the words "In a case of actual controversy as to the validity of" and "who will be . . . when it is effective" are omitted as surplus. The words "an order prescribing a motor vehicle safety standard under this chapter" are substituted for "any order under section 1392 of this title" for consistency. The words "apply for review" are added for clarity. The words "The petition must be filed" are substituted for "at any time" for clarity. The text of 15:1394(a)(3) is omitted as surplus because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words "or other officer designated by him for that purpose" are omitted as surplus because of 49:322(b). The words "in which the order was prescribed" are substituted for "on which the Secretary based his order" for consistency. The words "as provided in section 2112 of title 28" are omitted as surplus.

In subsection (c)(1), the words "in such manner and upon such terms and conditions as to the court may seem proper" are omitted as surplus. The words "is satisfied" are substituted for "shows to the satisfaction of" to eliminate unnecessary words. The words "and to be adduced upon the hearing" are omitted as unnecessary.

In subsection (c)(2), the words "with the court" are substituted for "the return of" for clarity.

In subsection (d), the words "thereof" and "criminal, exclusion of imports, or other" are omitted as surplus. The words "under this section" are substituted for "with respect to the order" for clarity. The word "previously" is omitted as surplus.

In subsection (e), the words "under this section is final and may be reviewed only" are substituted for "affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review" to eliminate unnecessary words. The text of 15:1394(a)(5) is omitted because of rule 43 of the Federal Rules of Appellate Procedure (28 App. U.S.C.).

§30162. Petitions by interested persons for standards and enforcement

(a) FILING.—Any interested person may file a petition with the Secretary of Transportation requesting the Secretary to begin a proceeding—

(1) to prescribe a motor vehicle safety standard under this chapter; or

(2) to decide whether to issue an order under section 30118(b) of this title.

(b) STATEMENT OF FACTS.—A petition under this section must state facts that the person claims establish that a motor vehicle safety standard or order referred to in subsection (a) of this section is necessary and briefly describe the order the Secretary should issue.

(c) PROCEEDINGS.—The Secretary may hold a public hearing or conduct an investigation or proceeding to decide whether to grant a petition under this section.

(d) ACTIONS OF SECRETARY.—

(1) IN GENERAL.—The Secretary shall determine whether to approve or deny a petition under this section by not later than 120 days after the petition is filed.

(2) APPROVAL.—If a petition under this section is approved, the Secretary shall begin the proceeding promptly.

(3) DENIAL.—If a petition under this section is denied, the Secretary shall publish the reasons for the denial in the Federal Register.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 967; Pub. L. 117–58, div. B, title IV, §24206, Nov. 15, 2021, 135 Stat. 822.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30162(a)	15:1410a(a).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §124(a)–(d); added Oct. 27, 1974, Pub. L. 93–492, §106, 88 Stat. 1481.
30162(b)	15:1410a(b).	
30162(c)	15:1410a(c).	
30162(d)	15:1410a(d).	

Subsection (a)(1) is substituted for "the issuance of an order pursuant to section 1392 of this title" for clarity and because of the restatement.

In subsection (b), the words "a motor vehicle safety standard" are added because of the restatement. The words "referred to in subsection (a) of this section" are added for clarity. The words "of the substance" are omitted as surplus.

In subsection (c), the words "as he deems appropriate in order" and "or not" are omitted as surplus.

In subsection (d), the words "described in subsection (b) of this section", "either", and "requested in the petition" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, §24206(1), substituted "A petition under this section" for "The petition".

Subsec. (c). Pub. L. 117–58, §24206(2), substituted "a petition under this section" for "the petition".

Subsec. (d). Pub. L. 117–58, §24206(3), designated first to third sentences of existing provisions as pars. (1) to (3), respectively, and inserted headings.

Subsec. (d)(1). Pub. L. 117–58, §24206(3)(C), substituted "The Secretary shall determine whether to approve or deny a petition under this section by" for "The Secretary shall grant or deny a petition".

Subsec. (d)(2). Pub. L. 117–58, §24206(3)(B), substituted "If a petition under this section is approved" for "If a petition is granted".

Subsec. (d)(3). Pub. L. 117–58, §24206(3)(A), substituted "If a petition under this section" for "If a petition".

§30163. Actions by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE.—The Attorney General may bring a civil action in a United States district court to enjoin—

(1) a violation of this chapter or a regulation prescribed or order issued under this chapter; and

(2) the sale, offer for sale, or introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of a motor vehicle or motor vehicle equipment for which it is decided, before the first purchase in good faith other than for resale, that the vehicle or equipment—

(A) contains a defect related to motor vehicle safety about which notice was given under section 30118(c) of this title or an order was issued under section 30118(b) of this title; or

(B) does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(b) PRIOR NOTICE.—When practicable, the Secretary of Transportation shall notify a person against whom a civil action under subsection (a) of this section is planned, give the person an opportunity to present that person's views, and, except for a knowing and willful violation of this chapter, give the person a reasonable opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter. Failure to give notice and an opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter does not prevent a court from granting appropriate relief.

(c) VENUE.—Except as provided in section 30121(d) of this title, a civil action under this section or section 30165(a) of this title may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (a) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 967.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30163(a)	15:1399(a) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, §110(a), (c), 80 Stat. 723, 724; Oct. 27, 1974, Pub. L. 93–492, §§102(b)(2), 103(c), 88 Stat. 1477, 1478.

	15:1424(b) (related to injunctions).	Sept. 9, 1966, Pub. L. 89–563, §204(b) (related to injunctions), 80 Stat. 729.
30163(b)	15:1399(a) (2d, last sentences).	
30163(c)	15:1399(c).	
30163(d)	15:1399(b).	Sept. 9, 1966, Pub. L. 89–563, §110(b), (d) (related to §110), 80 Stat. 723, 724.
30163(e)	15:1399(d) (related to 15:1399).	

In subsection (a), before clause (1), the text of 15:1424(b) (related to injunctions) is omitted because of the restatement. The words "The Attorney General may bring a civil action" are substituted for "upon petition by . . . the Attorney General" for consistency. The words "the appropriate United States attorney or . . . on behalf of the United States" are omitted as surplus. The words "for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure" are omitted as surplus. In clause (1), the words "a regulation prescribed or order issued under this chapter" are substituted for "(or rules, regulations or orders thereunder)" for clarity and consistency and because "rule" and "regulation" are synonymous. In clause (2), before subclause (A), the words "that the vehicle or equipment" are added for clarity. The words "of such vehicle" and "purposes" are omitted as surplus. In subclause (B), the words "does not comply with" are substituted for "is determined . . . not to conform to" for clarity and consistency.

In subsections (b), (c), and (e), the word "civil" is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (b), the words "comply with the applicable motor vehicle safety standard prescribed under this chapter" are substituted for "achieve compliance", and the words "a court" are added, for clarity.

In subsection (c), the words "any act or transaction constituting the" are omitted as surplus. The word "resides" is substituted for "is an inhabitant" for consistency in the revised title. The words "the action" are substituted for "such cases" for consistency.

In subsection (d), the words "the defendant may demand a jury trial" are substituted for "trial shall be by the court, or, upon demand of the accused, by a jury" to eliminate unnecessary words and for consistency in the revised title.

In subsection (e), the words "who are required to attend a United States district court" are omitted as surplus. The words "be served in" are substituted for "run into" for clarity.

§30164. Service of process; conditions on importation of vehicles and equipment

(a) DESIGNATING AGENTS.—A manufacturer offering a motor vehicle or motor vehicle equipment for import shall designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. The designation shall be in writing and filed with the Secretary of Transportation. The designation may be changed in the same way as originally made.

(b) SERVICE.—An agent may be served at the agent's office or usual place of residence. Service on the agent is deemed to be service on the manufacturer. If a manufacturer does not designate an agent, service may be made by posting the notice or process in the office of the Secretary.

(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide, upon request, such information that is necessary to identify and track the products as the Secretary, by rule, may specify, including—

(1) the product by name and the manufacturer's address; and

(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

(d) REGULATIONS ON THE IMPORT OF A MOTOR VEHICLE.—The Secretary may issue regulations that—

(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer's compliance with—

(A) the requirements under this section;

(B) paragraph (1) or (3) of section 30112(a) with respect to such motor vehicle or motor vehicle equipment;

(C) the provision of reports and records required to be maintained with respect to such motor vehicle or motor vehicle equipment under this chapter;

(D) a request for inspection of premises, vehicle, or equipment under section 30166;

(E) an order or voluntary agreement to remedy such vehicle or equipment; or

(F) any rules implementing the requirements described in this subsection;

(2) provide an opportunity for the manufacturer to present information before the Secretary's determination as to whether the manufacturer's imports should be restricted; and

(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.

(f) RULEMAKING.—In issuing regulations under this section, the Secretary shall seek to reduce duplicative requirements by coordinating with the Department of Homeland Security.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 968; Pub. L. 112–141, div. C, title I, §31208(2), July 6, 2012, 126 Stat. 761.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30164(a)	15:1399(e) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, §110(e), 80 Stat. 724.
30164(b)	15:1399(e) (last sentence).	

In subsection (a), the words "A manufacturer offering . . . shall" are substituted for "It shall be the duty of every manufacturer offering . . . to" to eliminate unnecessary words. The words "into the United States", "all . . . orders, decisions and requirements", and "for and on behalf of said manufacturer" are omitted as surplus. The words "The designation may be changed in the same way as originally made" are substituted for "which designation may from time to time be changed by like writing, similarly filed" for clarity.

In subsection (b), the words "An agent may be served" are substituted for "Service of all administrative and judicial processes, notices, orders, decisions and requirements may be made upon said manufacturer by service upon such designated agent" to eliminate unnecessary words. The words "Service on the agent is deemed to be service on the manufacturer" are substituted for "with like effects as if made personally upon said manufacturer", and the words "If a manufacturer does not designate an agent" are substituted for "and in default of such designation of such agent", for clarity. The words "of process, notice, order, requirement or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this subchapter or any standards prescribed pursuant to this subchapter" and "order, requirement or decision" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, referred to in

subsec. (e), is the date of enactment of title I of div. C of Pub. L. 112–141, which was approved July 6, 2012.

AMENDMENTS

2012—Pub. L. 112–141, §31208(2)(A), inserted "; conditions on importation of vehicles and equipment" after "process" in section catchline.

Subsecs. (c) to (f). Pub. L. 112–141, §31208(2)(B), added subsecs. (c) to (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30165. Civil penalty

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates any of section 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, 30141 through 30147, or 31137, or a regulation prescribed thereunder, is liable to the United States Government for a civil penalty of not more than $21,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is $105,000,000.

(2) SCHOOL BUSES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be $10,000 in the case of—

(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

(ii) a violation of section 30112(a)(2) of this title.

(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is $15,000,000.

(3) SECTION 30166.—Except as provided in paragraph (4), a person who violates section 30166 or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is $21,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is $105,000,000.

(4) FALSE OR MISLEADING REPORTS.—A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than $5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is $1,000,000.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE .—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such

determination shall include, as appropriate—

(1) the nature of the defect or noncompliance;

(2) knowledge by the person charged of its obligations under this chapter;

(3) the severity of the risk of injury;

(4) the occurrence or absence of injury;

(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

(6) actions taken by the person charged to identify, investigate, or mitigate the condition;

(7) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

(8) whether the person has been assessed civil penalties under this section during the most recent 5 years; and

(9) other appropriate factors.

(d) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 968; Pub. L. 103–429, §6(23), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 106–414, §5(a), Nov. 1, 2000, 114 Stat. 1803; Pub. L. 109–59, title X, §10309(c), Aug. 10, 2005, 119 Stat. 1942; Pub. L. 112–141, div. C, title I, §§31203(a), 31304(b), title II, §32301(c), July 6, 2012, 126 Stat. 758, 764, 788; Pub. L. 114–94, div. B, title XXIV, §24110(a), Dec. 4, 2015, 129 Stat. 1709.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30165(a)	15:1398(a).	Sept. 9, 1966, Pub. L. 89–563, §109(a), 80 Stat. 723; Oct. 27, 1974, Pub. L. 93–492, §103(b), 88 Stat. 1478.
	15:1424(b) (related to civil penalty).	Sept. 9, 1966, Pub. L. 89–563, §§109(b), 110(d) (related to §109), 204(b) (related to civil penalty), 80 Stat. 723, 724, 729.
30165(b)	15:1398(b) (1st, last sentences).	
30165(c)	15:1398(b) (2d sentence).	
30165(d)	15:1399(d) (related to 15:1398).	

In subsection (a), the text of 15:1424(b) (related to civil penalty) is omitted because of the restatement. The words "is liable to the United States Government for" are substituted for "shall be subject to" for consistency. The words "A separate violation occurs for" are substituted for "Such violation of a provision of section 1397 of this title, or regulations issued thereunder, shall constitute a separate violation with respect to" to eliminate unnecessary words.

In subsection (b)(2), the words "amount of a civil penalty imposed or compromised" are substituted for "amount of such penalty, when finally determined, or the amount agreed upon in compromise" to eliminate unnecessary words.

In subsection (d), the words "who are required to attend a United States district court" are omitted as surplus. The words "be served in" are substituted for "run into" for clarity.

PUB. L. 103–429

This amends 49:30141(c)(4)(A) and 30165(a) to correct erroneous cross-references.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94, §24110(a)(1), substituted "$21,000" for "$5,000" and "$105,000,000" for "$35,000,000".

Subsec. (a)(3). Pub. L. 114–94, §24110(a)(2), substituted "$21,000" for "$5,000" and "$105,000,000" for "$35,000,000".

2012—Subsec. (a)(1). Pub. L. 112–141, §32301(c), substituted "30141 through 30147, or 31137" for "or 30141 through 30147".

Pub. L. 112–141, §31203(a)(1)(A), substituted "30123(a)" for "30123(d)" and "$35,000,000" for "$15,000,000".

Subsec. (a)(3). Pub. L. 112–141, §31304(b)(1), substituted "Except as provided in paragraph (4), a person" for "A person".

Pub. L. 112–141, §31203(a)(1)(B), substituted "$35,000,000" for "$15,000,000".

Subsec. (a)(4). Pub. L. 112–141, §31304(b)(2), added par. (4).

Subsec. (c). Pub. L. 112–141, §31203(a)(2), amended subsec. (c) generally. Prior to amendment, text read as follows: "In determining the amount of a civil penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered."

2005—Subsec. (a)(2), (3). Pub. L. 109–59, which directed amendment of section 30165(a), without specifying the title to be amended, by adding par. (2) and redesignating former par. (2) as (3), was executed to this section, to reflect the probable intent of Congress.

2000—Subsec. (a). Pub. L. 106–414 amended heading and text generally. Prior to amendment, text read as follows: "A person that violates any of sections 30112, 30115, 30117–30122, 30123(d), 30125(c), 30127, 30141–30147, or 30166 of this title or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is $800,000."

1994—Subsec. (a). Pub. L. 103–429 substituted "any of sections 30112" for "section 30112" and inserted "any of" before "those sections" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. B, title XXIV, §24110(b), (c), Dec. 4, 2015, 129 Stat. 1709, provided that:

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section [amending this section] take effect on the date that the Secretary certifies to Congress that the National Highway Traffic Safety Administration has issued the final rule required by section 31203(b) of the Moving Ahead for Progress In the 21st Century Act (Public Law 112–141; 126 Stat. 758; 49 U.S.C. 30165 note) [Mar. 17, 2016].

"(c) PUBLICATION OF EFFECTIVE DATE.—The Secretary shall publish notice of the effective date under subsection (b) of this section in the Federal Register [81 F.R. 15413]."

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. C, title I, §31203(c), July 6, 2012, 126 Stat. 758, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date that is the earlier of the date on which final regulations are issued under subsection (b) [set out as a note below] or 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways]."

Amendment by sections 31304(b) and 32301(c) of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

CIVIL PENALTY CRITERIA

Pub. L. 112–141, div. C, title I, §31203(b), July 6, 2012, 126 Stat. 758, provided that: "Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of

Transportation] shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code."

§30166. Inspections, investigations, and records

(a) DEFINITION.—In this section, "motor vehicle accident" means an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.

(b) AUTHORITY TO INSPECT AND INVESTIGATE.—(1) The Secretary of Transportation may conduct an inspection or investigation—

(A) that may be necessary to enforce this chapter or a regulation prescribed or order issued under this chapter; or

(B) related to a motor vehicle accident and designed to carry out this chapter.

(2) The Secretary of Transportation shall cooperate with State and local officials to the greatest extent possible in an inspection or investigation under paragraph (1)(B) of this subsection.

(c) MATTERS THAT CAN BE INSPECTED AND IMPOUNDMENT.—In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—

(1) at reasonable times, may inspect and copy any record related to this chapter;

(2) on request, may inspect records of a manufacturer, distributor, dealer, or rental company to decide whether the manufacturer, distributor, dealer, or rental company has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter;

(3) at reasonable times, in a reasonable way, and on display of proper credentials and written notice to an owner, operator, or agent in charge, may—

(A) enter and inspect with reasonable promptness premises in which a motor vehicle or motor vehicle equipment is manufactured, held for introduction in interstate commerce (including at United States ports of entry), or held for sale after introduction in interstate commerce;

(B) enter and inspect with reasonable promptness premises at which a vehicle or equipment involved in a motor vehicle accident is located;

(C) inspect with reasonable promptness that vehicle or equipment; and

(D) impound for not more than 72 hours a vehicle or equipment involved in a motor vehicle accident;

(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.

(d) REASONABLE COMPENSATION.—When a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor vehicle equipment is inspected or temporarily impounded under subsection (c)(3) of this section, the Secretary of Transportation shall pay reasonable compensation to the owner of the vehicle if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle.

(e) RECORDS AND MAKING REPORTS.—The Secretary of Transportation reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor, dealer, or rental company to make reports, to enable the Secretary to decide whether the manufacturer, distributor, dealer, or rental company has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter. This subsection does not impose a recordkeeping requirement on a distributor [1] dealer, or rental company in addition to those imposed under subsection (f) of this section and section 30117(b) of this title or a regulation prescribed or order issued under subsection (f) or section 30117(b).

(f) PROVIDING COPIES OF COMMUNICATIONS ABOUT DEFECTS AND NONCOMPLIANCE.—

(1) IN GENERAL.—A manufacturer shall give the Secretary of Transportation, and the Secretary shall make available on a publicly accessible Internet website, a true or representative copy of each communication to the manufacturer's dealers, rental companies, or other owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.

(2) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, that—

(A) identifies the make, model, and model year of the affected vehicles;

(B) includes a concise summary of the subject matter of the communication; and

(C) shall be made available by the Secretary to the public on the Internet in a searchable format.

(g) ADMINISTRATIVE AUTHORITY ON REPORTS, ANSWERS, AND HEARINGS.—(1) In carrying out this chapter, the Secretary of Transportation may—

(A) require, by general or special order, any person to file reports or answers to specific questions, including reports or answers under oath; and

(B) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(h) CIVIL ACTIONS TO ENFORCE AND VENUE.—A civil action to enforce a subpena or order under subsection (g) of this section may be brought in the United States district court for any judicial district in which the proceeding is conducted. The court may punish a failure to obey an order of the court to comply with a subpena or order as a contempt of court.

(i) GOVERNMENTAL COOPERATION.—The Secretary of Transportation may request a department, agency, or instrumentality of the United States Government to provide records the Secretary considers necessary to carry out this chapter. The head of the department, agency, or instrumentality shall provide the record on request, may detail personnel on a reimbursable basis, and otherwise shall cooperate with the Secretary. This subsection does not affect a law limiting the authority of a department, agency, or instrumentality to provide information to another department, agency, or instrumentality.

(j) COOPERATION OF SECRETARY.—The Secretary of Transportation may advise, assist, and cooperate with departments, agencies, and instrumentalities of the Government, States, and other public and private agencies in developing a method for inspecting and testing to determine compliance with a motor vehicle safety standard.

(k) PROVIDING INFORMATION.—The Secretary of Transportation shall provide the Attorney General and, when appropriate, the Secretary of the Treasury, information obtained that indicates a violation of this chapter or a regulation prescribed or order issued under this chapter.

(l) REPORTING OF DEFECTS IN MOTOR VEHICLES AND PRODUCTS IN FOREIGN COUNTRIES.—

(1) REPORTING OF DEFECTS, MANUFACTURER DETERMINATION.—Not later than 5 working days after determining to conduct a safety recall or other safety campaign in a foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer shall report the determination to the Secretary.

(2) REPORTING OF DEFECTS, FOREIGN GOVERNMENT DETERMINATION.—Not later than 5 working days after receiving notification that the government of a foreign country has determined that a safety recall or other safety campaign must be conducted in the foreign country

on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer of the motor vehicle or motor vehicle equipment shall report the determination to the Secretary.

(3) REPORTING REQUIREMENTS.—The Secretary shall prescribe the contents of the notification required by this subsection.

(m) EARLY WARNING REPORTING REQUIREMENTS.—

(1) RULEMAKING REQUIRED.—Not later than 120 days after the date of the enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, the Secretary shall initiate a rulemaking proceeding to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the Secretary's ability to carry out the provisions of this chapter.

(2) DEADLINE.—The Secretary shall issue a final rule under paragraph (1) not later than June 30, 2002.

(3) REPORTING ELEMENTS.—

(A) WARRANTY AND CLAIMS DATA.—As part of the final rule promulgated under paragraph (1), the Secretary shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

(i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; or

(ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

(B) OTHER DATA.—As part of the final rule promulgated under paragraph (1), the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

(C) REPORTING OF POSSIBLE DEFECTS.—The manufacturer of a motor vehicle or motor vehicle equipment shall report to the Secretary, in such manner as the Secretary establishes by regulation, all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment in the United States, or in a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

(D) SETTLEMENTS.—Notwithstanding any order entered in a civil action restricting the disclosure of information, a manufacturer of a motor vehicle or motor vehicle equipment shall comply with the requirements of this subsection and any regulations promulgated pursuant to this subsection.

(4) HANDLING AND UTILIZATION OF REPORTING ELEMENTS.—

(A) SECRETARY'S SPECIFICATIONS.—In requiring the reporting of any information requested by the Secretary under this subsection, the Secretary shall specify in the final rule promulgated under paragraph (1)—

(i) how such information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety;

(ii) the systems and processes the Secretary will employ or establish to review and utilize such information; and

(iii) the manner and form of reporting such information, including in electronic form.

(B) INFORMATION IN POSSESSION OF MANUFACTURER.—The regulations promulgated by the Secretary under paragraph (1) may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain or submit records respecting information not in the possession of the manufacturer.

(C) DISCLOSURE.—None of the information collected pursuant to the final rule promulgated under paragraph (1) shall be disclosed pursuant to section 30167(b) unless the Secretary determines the disclosure of such information will assist in carrying out sections 30117(b) and 30118 through 30121.

(D) BURDENSOME REQUIREMENTS.—In promulgating the final rule under paragraph (1), the Secretary shall not impose requirements unduly burdensome to a manufacturer of a motor vehicle or motor vehicle equipment, taking into account the manufacturer's cost of complying with such requirements and the Secretary's ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

(5) PERIODIC REVIEW.—As part of the final rule promulgated pursuant to paragraph (1), the Secretary shall specify procedures for the periodic review and update of such rule.

(n) SALE OR LEASE OF DEFECTIVE OR NONCOMPLIANT TIRE.—

(1) IN GENERAL.—The Secretary shall, within 90 days of the date of the enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, issue a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under section 30118(c) or as required by an order under section 30118(b) to report such sale or lease to the Secretary.

(2) DEFECT OR NONCOMPLIANCE REMEDIED OR ORDER NOT IN EFFECT .—Regulations under paragraph (1) shall not require the reporting described in paragraph (1) where before delivery under a sale or lease of a tire—

(A) the defect or noncompliance of the tire is remedied as required by section 30120; or

(B) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) applies.

(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

(1) IN GENERAL.—The Secretary shall promulgate rules requiring a senior official responsible for safety in any company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

(A) the signing official has reviewed the submission; and

(B) based on the official's knowledge, the submission does not—

(i) contain any untrue statement of a material fact; or

(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).

(3) DEADLINE.—Not later than 1 year after the date of enactment of the Comprehensive Transportation and Consumer Protection Act of 2015, the Secretary shall issue a final rule under paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 969; Pub. L. 103–429, §6(24), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–88, title III, §308(j), Dec. 29, 1995, 109 Stat. 947; Pub. L. 104–287, §6(f)(3),

Oct. 11, 1996, 110 Stat. 3399; Pub. L. 106–414, §3(a)–(c), Nov. 1, 2000, 114 Stat. 1800–1802; Pub. L. 112–141, div. C, title I, §§31209, 31303(a), 31304(a), July 6, 2012, 126 Stat. 762, 764; Pub. L. 114–94, div. B, title XXIV, §§24109(e), 24112, Dec. 4, 2015, 129 Stat. 1707, 1709; Pub. L. 117–58, div. B, title IV, §24216(a), Nov. 15, 2021, 135 Stat. 830.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30166(a)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(3)(B)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(B) (related to §112(a)–(c)), (D) (related to §158(a)(1)), (E) (related to §112(a)–(c)), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (2), (3), 88 Stat. 1477, 1478.
	15:1401(a)(3)(B).	Sept. 9, 1966, Pub. L. 89–563, §112(a)–(c), 80 Stat. 725; restated Oct. 27, 1974, Pub. L. 93–492, §104(a), 88 Stat. 1478.
30166(b)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(1) (1st, last sentences)).	
	15:1401(a)(1) (1st, last sentences).	
30166(c)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(2), (b) (1st sentence 61st–last words), (c)(2)).	
	15:1401(a)(2), (b) (1st sentence 61st–last words), (c)(2).	
30166(d)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(3)(A)).	
	15:1401(a)(3)(A).	
30166(e)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(b) (1st sentence 1st–60th words, last sentence)).	
	15:1401(b) (1st sentence 1st–60th words, last sentence).	
30166(f)	15:1397(a)(1)(D) (related to 15:1418(a)(1)).	
	15:1418(a)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §158(a)(1); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1475.

30166(g)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(c)(1), (3), (5)). 15:1401(c)(1), (3), (5).	
30166(h)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(c)(4)). 15:1401(c)(4).	
30166(i)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(c)(6)). 15:1401(c)(6).	
30166(j)	15:1396 (related to inspecting and testing).	Sept. 9, 1966, Pub. L. 89–563, §107 (related to inspecting and testing), 80 Stat. 721.
30166(k)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(1) (2d sentence)). 15:1401(a)(1) (2d sentence).	

In this section, the words "regulation prescribed or order issued under this chapter" are substituted for "rules, regulations, or orders issued thereunder" and "regulations and orders promulgated thereunder" for consistency and because "rule" and "regulation" are synonymous. The text of 15:1397(a)(1)(B) and (E) (as 1397(a)(1)(B), (E) relates to 15:1401) is omitted as surplus.

In subsection (a), the words "As used" are omitted as surplus. The word "use" is omitted as being included in "operation".

In subsection (b)(1)(A), the words "this chapter" are substituted for "this subchapter" because of the restatement.

In subsection (b)(1)(B), the words "the facts, circumstances, conditions, and causes of" are omitted as surplus. The words "designed to carry out" are substituted for "which is for the purposes of carrying out" to eliminate unnecessary words.

In subsection (b)(2), the words "making", "appropriate", and "consistent with the purposes of this subsection" are omitted as surplus.

In subsection (c), before clause (1), the words "In carrying out this chapter" are substituted for "For purposes of carrying out paragraph (1)" in 15:1401(a)(2) and "In order to carry out the provisions of this subchapter" in 15:1401(c)(2) for clarity and consistency in this chapter. The words "an officer or employee designated by the Secretary of Transportation" are substituted for "officers or employees duly designated by the Secretary" in 15:1401(a)(2), "an officer or employee duly designated by the Secretary" in 15:1401(b), and "his duly authorized agent" in 15:1401(c)(2) for consistency. In clause (1), the words "may inspect and copy" are substituted for "shall . . . have access to, and for the purposes of examination the right to copy" in 15:1401(c)(2) to eliminate unnecessary words. The words "of any person having materials or information . . . any function of the Secretary under" are omitted as surplus. In clause (2), the word "may" is substituted for "permit such officer or employee to" in 15:1401(b) because of the restatement. The words "appropriate" and "relevant" are omitted as surplus. In clause (3)(A)–(C), the words "inspect with reasonable promptness" are substituted for 15:1401(a)(2) (last sentence) to eliminate unnecessary words and for consistency. In clause (3)(A), the word "premises" is substituted for "factory, warehouse, or establishment" for consistency. In clause (3)(D), the words "not more than" are substituted for "a period not to exceed" for consistency.

In subsection (d), the words "for the purpose of inspection" and "the authority of" are omitted as surplus. The words "is inspected or temporarily impounded under subsection (c)(3) of this section" are substituted for "Whenever, under the authority of paragraph (2)(B), the Secretary inspects or temporarily impounds for the purpose of inspection" for clarity and to correct the cross-reference in the source provision. The words "to its owner" are omitted as surplus.

In subsection (e), the words "establish and" are omitted as surplus. The words "This subsection does not impose" are substituted for "Nothing in this subsection shall be construed as imposing" for consistency and to eliminate unnecessary words.

In subsection (f), the words "notices, bulletins, and other" are omitted as surplus. The words "with a motor

vehicle safety standard prescribed under this chapter" are added for clarity. The text of 15:1397(a)(1)(D) (related to 15:1418(a)(1)) is omitted as surplus.

In subsection (g)(1), before clause (A), the words "or on the authorization of the Secretary, any officer or employee of the Department of Transportation" are omitted as surplus because of 49:322(b). In clause (A), the words "in writing", "in such form as the Secretary may prescribe", "relating to any function of the Secretary under this subchapter", and "shall be filed with the Secretary within such reasonable period as the Secretary may prescribe" are omitted as surplus. In clause (B), the words "sit and act at such times and places" are omitted as being included in "conduct hearings". The word "records" is substituted for "such books, papers, correspondence, memorandums, contracts, agreements, or other records" for consistency in the revised title and with other titles of the United States Code.

In subsection (h), the words "A civil action to enforce a subpena or order . . . may be brought in the United States district court for the judicial district in which the proceeding is conducted" are substituted for "any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary or such officer or employee . . . issue an order requiring compliance therewith" for clarity and to eliminate unnecessary words. The words "an order of the court to comply with a subpena or order" are substituted for "such order of the court" for clarity.

In subsection (i), the words "United States" are substituted for "Federal" for consistency. The words "to provide" are substituted for "from" because of the restatement. The words "his functions under" are omitted as surplus. The words "head of the" are added for consistency. The words "to the Department of Transportation . . . made by the Secretary" are omitted as surplus. The words "detail personnel on a reimbursable basis" are substituted for 15:1401(c)(6)(B) to eliminate unnecessary words and because of the restatement. The word "otherwise" is added for clarity. The words "be deemed to" and "provision of" are omitted as surplus.

In subsection (j), the words "departments, agencies, and instrumentalities of the Government, States, and other public and private agencies" are substituted for "other Federal departments and agencies, and State and other interested public and private agencies" for consistency.

In subsection (k), the words "for appropriate action" are omitted as surplus.

PUB. L. 103–429

This amends 49:30166(h) to clarify the restatement of 15:1401(c)(4) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 970).

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, referred to in subsecs. (m)(1) and (n)(1), is the date of enactment of Pub. L. 106–414, which was approved Nov. 1, 2000.

The date of enactment of the Comprehensive Transportation and Consumer Protection Act of 2015, referred to in subsec. (o)(3), probably means the date of enactment of div. B of Pub. L. 114–94, which was approved Dec. 4, 2015. That Act name is the heading for div. B of Pub. L. 114–94, but no such Short Title was enacted.

AMENDMENTS

2021—Subsec. (m)(3)(D). Pub. L. 117–58 added subpar. (D).

2015—Subsec. (c)(2). Pub. L. 114–94, §24109(e)(1), substituted "dealer, or rental company" for "or dealer" in two places.

Subsec. (e). Pub. L. 114–94, §24109(e)(2), substituted "dealer, or rental company" for "or dealer" wherever appearing.

Subsec. (f)(1). Pub. L. 114–94, §24109(e)(3), substituted ", rental companies, or other owners" for "or to owners".

Subsec. (o)(1). Pub. L. 114–94, §24112(1), substituted "shall promulgate" for "may promulgate" in introductory provisions.

Subsec. (o)(3). Pub. L. 114–94, §24112(2), added par. (3).

2012—Subsec. (c)(3)(A). Pub. L. 112–141, §31209(2)(A), inserted "(including at United States ports of entry)" after "held for introduction in interstate commerce".

Subsec. (c)(4). Pub. L. 112–141, §31209(1), (2)(B), (3), added par. (4).

Subsec. (f). Pub. L. 112–141, §31303(a), designated existing provisions as par. (1), inserted heading, substituted "A manufacturer shall give the Secretary of Transportation, and the Secretary shall make available on a publicly accessible Internet website," for "A manufacturer shall give the Secretary of Transportation",

and added par. (2).

Subsec. (o). Pub. L. 112–141, §31304(a), added subsec. (o).

2000—Subsecs. (l) to (n). Pub. L. 106–414 added subsecs. (l) to (n).

1996—Subsec. (d). Pub. L. 104–287 made technical amendment to directory language of Pub. L. 104–88, §308(j). See 1995 Amendment note below.

1995—Subsec. (d). Pub. L. 104–88, §308(j), as amended by Pub. L. 104–287, substituted "subchapter I of chapter 135" for "subchapter II of chapter 105".

1994—Subsec. (h). Pub. L. 103–429 substituted "any judicial district" for "the judicial district".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 24109(e) of Pub. L. 114–94 effective on the date that is 180 days after Dec. 4, 2015, see section 24109(k) of Pub. L. 114–94, set out as a note under section 30102 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–287, §6(f)(3), Oct. 11, 1996, 110 Stat. 3399, provided that the amendment made by that section is effective Dec. 29, 1995.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

PUBLIC AVAILABILITY OF RECALL INFORMATION

Pub. L. 112–141, div. C, title I, §31301, July 6, 2012, 126 Stat. 763, as amended by Pub. L. 114–94, div. B, title XXIV, §24103(c), Dec. 4, 2015, 129 Stat. 1702, provided that:

"(a) VEHICLE RECALL INFORMATION.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall require that motor vehicle safety recall information—

"(1) be available to the public on the Internet;

"(2) be searchable by vehicle make and model and vehicle identification number;

"(3) be in a format that preserves consumer privacy; and

"(4) includes [sic] information about each recall that has not been completed for each vehicle.

"(b) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in subsection (a), with respect to that manufacturer's motor vehicles, on a publicly accessible Internet website. Any rules promulgated under this subsection—

"(1) shall limit the information that must be made available under this section to include only those recalls issued not more than 15 years prior to the date of enactment of this Act;

"(2) may require information under paragraph (1) to be provided to a dealer or an owner of a vehicle at no charge; and

"(3) shall permit a manufacturer a reasonable period of time after receiving information from a dealer with respect to a vehicle to update the information about the vehicle on the publicly accessible Internet website.

"(c) PROMOTION OF PUBLIC AWARENESS.—The Secretary shall improve public awareness of safety recall information made publicly available by periodically updating the method of conveying that information to consumers, dealers, and manufacturers, such as through public service announcements."

[1] *So in original. Probably should be followed by a comma.*

§30167. Disclosure of information by the Secretary of Transportation

(a) CONFIDENTIALITY OF INFORMATION.—Information obtained under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only in the following ways:

(1) to other officers and employees carrying out this chapter.

(2) when relevant to a proceeding under this chapter.

(3) to the public if the confidentiality of the information is preserved.

(4) to the public when the Secretary of Transportation decides that disclosure is necessary to carry out section 30101 of this title.

(b) DEFECT AND NONCOMPLIANCE INFORMATION.—Subject to subsection (a) of this section, the Secretary shall disclose information obtained under this chapter related to a defect or noncompliance that the Secretary decides will assist in carrying out sections 30117(b) and 30118–30121 of this title or that is required to be disclosed under section 30118(a) of this title. A requirement to disclose information under this subsection is in addition to the requirements of section 552 of title 5.

(c) INFORMATION ABOUT MANUFACTURER'S INCREASED COSTS.—A manufacturer opposing an action of the Secretary under this chapter because of increased cost shall submit to the Secretary information about the increased cost, including the manufacturer's cost and the cost to retail purchasers, that allows the public and the Secretary to evaluate the manufacturer's statement. The Secretary shall evaluate the information promptly and, subject to subsection (a) of this section, shall make the information and evaluation available to the public. The Secretary shall publish a notice in the Federal Register that the information is available.

(d) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 970.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30167(a)	15:1397(a)(1)(B) (related to 15:1401(e) (1st sentence)), (D) (related to 15:1418(a)(2)(B)), (E) (related to 15:1401(e) (1st sentence)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(B) (related to §112(e)), (D) (related to §158(a)(2)), (E) (related to §112(e)), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (2), (3), 88 Stat. 1477, 1478.
	15:1401(e) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, §112(e), 80 Stat. 725; Oct. 27, 1974, Pub. L. 93–492, §104(b), 88 Stat. 1480.
	15:1402(b)(2) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §113; added Oct. 27, 1974, Pub. L. 93–492, §105, 88 Stat. 1480.
	15:1418(a)(2)(B).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §158(a)(2); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1476.
30167(b)	15:1397(a)(1)(D) (related to 15:1418(a)(2)(A), (C)).	
	15:1418(a)(2)(A), (C).	

30167(c)	15:1402(a), (b)(1), (c)–(e).	
30167(d)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(e) (last sentence)). 15:1401(e) (last sentence). 15:1402(b)(2) (last sentence).	

In this section, the text of 15:1397(a)(1)(B) (related to 15:1401(e)), (D) (related to 15:1418(a)(2)), and (E) (related to 15:1401(e)) is omitted as surplus.

In subsection (a), before clause (1), the words "Except as otherwise provided in section 1418(a)(2) and section 1402(b) of this title" in 15:1401(e) (1st sentence) are omitted, and the words "Information obtained under this chapter related to a confidential matter" are substituted for "all information reported to or otherwise obtained by the Secretary or his representative pursuant to this subchapter which information contains or relates to a trade secret or other matter" in 15:1401(e) (1st sentence) and "described in subparagraph (A)" in 15:1418(a)(2)(B), because of the restatement. The words "shall be considered confidential for the purpose of that section" are omitted as surplus. The words "may be disclosed only in the following ways" are substituted for "except that such information may be disclosed" in 15:1401(e) (1st sentence) and 15:1402(b)(2) (1st sentence) and "and shall not be disclosed; unless" in 15:1418(a)(2)(B) to eliminate unnecessary words. Clause (3) is substituted for 15:1402(b)(2) (1st sentence words before 2d comma) to eliminate unnecessary words.

In subsection (b), the words "Subject to" are substituted for "Except as provided in" for consistency. The words "to the public so much of any" and "which is" are omitted as surplus. The words "which relates to motor vehicle safety" and "with an applicable Federal motor vehicle safety standard" are omitted because of the restatement. The words "the purposes of" and "and not in lieu of" are omitted as surplus.

In subsection (c), the words "For purposes of this section, the term 'cost information' means" and "such cost information" are omitted because of the restatement. The words "alleged", "both", and "resulting from action by the Secretary, in such form" are omitted as surplus. The words "Such term includes" are omitted because of the restatement. The words "to evaluate" are substituted for "to make an informed judgment" to eliminate unnecessary words and for consistency in the subsection. The words "(in such detail as the Secretary may by regulation or order prescribe)" are omitted as surplus because of 49:322(a). The word "thereafter" is omitted as surplus. The word "evaluate" is substituted for "prepare an evaluation of" to eliminate unnecessary words. The words "The Secretary" are added for clarity. The text of 15:1402(d) is omitted as surplus because of 49:322(a). The text of 15:1402(e) is omitted as surplus because of the restatement.

In subsection (d), the words "by the Secretary or any officer or employee under his control" and "duly" are omitted as surplus. The words "to have the information" are added for clarity.

[§30168. Repealed. Pub. L. 112–141, div. C, title I, §31204(b)(2)(B), July 6, 2012, 126 Stat. 760]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 971; Pub. L. 104–287, §5(58), Oct. 11, 1996, 110 Stat. 3394, related to research, testing, development, and training.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30169. Annual reports

(a) GENERAL REPORT.—The Secretary of Transportation shall submit to the President to submit to Congress on July 1 of each year a report on the administration of this chapter for the prior calendar year. The report shall include—

(1) a thorough statistical compilation of accidents and injuries;

(2) motor vehicle safety standards in effect or prescribed under this chapter;

(3) the degree of observance of the standards;

(4) a summary of current research grants and contracts and a description of the problems to be considered under those grants and contracts;

(5) an analysis and evaluation of research activities completed and technological progress achieved;

(6) enforcement actions;

(7) the extent to which technical information was given the scientific community and consumer-oriented information was made available to the public; and

(8) recommendations for legislation needed to promote cooperation among the States in improving traffic safety and strengthening the national traffic safety program.

(b) REPORT ON IMPORTING MOTOR VEHICLES.—Not later than 18 months after regulations are first prescribed under section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988, the Secretary shall submit to Congress a report of the actions taken to carry out subchapter III of this chapter and the effectiveness of those actions, including any testing by the Secretary under section 30146(c)(2) of this title. After the first report, the Secretary shall submit a report to Congress under this subsection not later than July 31 of each year.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30169(a)	15:1408.	Sept. 9, 1966, Pub. L. 89–563, §120, 80 Stat. 728; May 22, 1970, Pub. L. 91–265, §5, 84 Stat. 263; Oct. 27, 1974, Pub. L. 93–492, §110(b), 88 Stat. 1484.
30169(b)	15:1397 (note).	Oct. 31, 1988, Pub. L. 100–562, §2(e)(4), 102 Stat. 2825.

In subsection (a), before clause (1), the words "prepare and", "comprehensive", and "but not be restricted to" are omitted as unnecessary. In clause (1), the words "occurring in such year" are omitted as surplus. In clause (2), the words "in such year" are omitted as surplus. The words "under this chapter" are substituted for "Federal" for consistency in this chapter. In clause (3), the words "applicable Federal motor vehicle" are omitted as surplus. In clause (4), the word "all" is omitted as surplus. In clause (5), the words "including relevant policy recommendations" and "during such year" are omitted as surplus. In clause (6), the words "a statement of . . . including judicial decisions, settlements, or pending litigation during such year" are omitted as surplus. In clause (7), the word "motoring" is omitted as surplus. In clause (8), the words "The report required by subsection (a) of this section shall contain such" are omitted because of the restatement. The words "additional . . . as the Secretary deems" and "several" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988, referred to in subsec. (b), is section 2(e)(1)(B) of Pub. L. 100–562, which was set out as a note under section 1397 of Title 15, Commerce and Trade, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 1st item on page 135 and the 2nd item on page 134 identify reporting provisions which, as subsequently amended,

are contained, respectively, in subsecs. (a) and (b) of this section), see section 3003 of Pub. L. 104–66, set out as a note under section 1113 of Title 31, Money and Finance.

§30170. Criminal Penalties

(a) CRIMINAL LIABILITY FOR FALSIFYING OR WITHHOLDING INFORMATION.—

(1) GENERAL RULE.—A person who violates section 1001 of title 18 with respect to the reporting requirements of section 30166, with the specific intention of misleading the Secretary with respect to motor vehicle or motor vehicle equipment safety related defects that have caused death or serious bodily injury to an individual (as defined in section 1365(g)(3) [1] of title 18), shall be subject to criminal penalties of a fine under title 18, or imprisoned for not more than 15 years, or both.

(2) SAFE HARBOR TO ENCOURAGE REPORTING AND FOR WHISTLE BLOWERS.—

(A) CORRECTION.—A person described in paragraph (1) shall not be subject to criminal penalties under this subsection if: (1) at the time of the violation, such person does not know that the violation would result in an accident causing death or serious bodily injury; and (2) the person corrects any improper reports or failure to report within a reasonable time.

(B) REASONABLE TIME AND SUFFICIENCY OF CORRECTION.—The Secretary shall establish by regulation what constitutes a reasonable time for the purposes of subparagraph (A) and what manner of correction is sufficient for purposes of subparagraph (A). The Secretary shall issue a final rule under this subparagraph within 90 days of the date of the enactment of this section.

(C) EFFECTIVE DATE.—Subsection (a) shall not take effect before the final rule under subparagraph (B) takes effect.

(b) COORDINATION WITH DEPARTMENT OF JUSTICE.—The Attorney General may bring an action, or initiate grand jury proceedings, for a violation of subsection (a) only at the request of the Secretary of Transportation.

(Added Pub. L. 106–414, §5(b)(1), Nov. 1, 2000, 114 Stat. 1803.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1365(g)(3) of title 18, referred to in subsec. (a)(1), was redesignated section 1365(h)(3) of title 18 by Pub. L. 107–307, §2(1), Dec. 2, 2002, 116 Stat. 2445.

The date of the enactment of this section, referred to in subsec. (a)(2)(B), is the date of enactment of Pub. L. 106–414, which was approved Nov. 1, 2000.

[1] *See References in Text note below.*

§30171. Protection of employees providing motor vehicle safety information

(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or

cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

(3) testified or is about to testify in such a proceeding;

(4) assisted or participated or is about to assist or participate in such a proceeding; or

(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of chapter 301 of this title, or any order, rule, regulation, standard, or ban under such provision.

(b) COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may file (or have any person file on his or her behalf), not later than 180 days after the date on which such violation occurs, a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

(i) to take affirmative action to abate the violation;

(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) to provide compensatory damages to the complainant.

(C) ATTORNEYS' FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.

(Added Pub. L. 112–141, div. C, title I, §31307(a), July 6, 2012, 126 Stat. 765.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30172. Whistleblower incentives and protections

(a) DEFINITIONS.—In this section:

(1) COVERED ACTION.—The term "covered action" means any administrative or judicial action, including any related administrative or judicial action, brought by the Secretary or the Attorney General under this chapter that in the aggregate results in monetary sanctions exceeding $1,000,000.

(2) MONETARY SANCTIONS.—The term "monetary sanctions" means monies, including penalties and interest, ordered or agreed to be paid.

(3) ORIGINAL INFORMATION.—The term "original information" means information that—

(A) is derived from the independent knowledge or analysis of an individual;

(B) is not known to the Secretary from any other source, unless the individual is the original source of the information; and

(C) is not exclusively derived from an allegation made in a judicial or an administrative action, in a governmental report, a hearing, an audit, or an investigation, or from the news media, unless the individual is a source of the information.

(4) PART SUPPLIER.—The term "part supplier" means a manufacturer of motor vehicle equipment.

(5) SUCCESSFUL RESOLUTION.—The term "successful resolution", with respect to a covered action, includes any settlement or adjudication of the covered action.

(6) WHISTLEBLOWER.—The term "whistleblower" means any employee or contractor of a motor vehicle manufacturer, part supplier, or dealership who voluntarily provides to the Secretary original information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter, which is likely to cause unreasonable risk of death or serious physical injury.

(b) AWARDS.—

(1) IN GENERAL.—If the original information that a whistleblower provided to the Secretary leads to the successful resolution of a covered action, the Secretary, subject to subsection (c), may pay an award or awards to one or more whistleblowers in an aggregate amount of—

(A) not less than 10 percent, in total, of collected monetary sanctions; and

(B) not more than 30 percent, in total, of collected monetary sanctions.

(2) PAYMENT OF AWARDS.—Any amount payable under paragraph (1) shall be paid from the monetary sanctions collected, and any monetary sanctions so collected shall be available for such payment.

(c) DETERMINATION OF AWARDS; DENIAL OF AWARDS.—

(1) DETERMINATION OF AWARDS.—

(A) DISCRETION.—The determination of whether, to whom, or in what amount to make an award shall be in the discretion of the Secretary subject to the provisions in subsection (b)(1).

(B) CRITERIA.—In determining an award made under subsection (b), the Secretary shall take into consideration—

(i) if appropriate, whether a whistleblower reported or attempted to report the information internally to an applicable motor vehicle manufacturer, part supplier, or dealership;

(ii) the significance of the original information provided by the whistleblower to the successful resolution of the covered action;

(iii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in the covered action; and

(iv) such additional factors as the Secretary considers relevant.

(2) DENIAL OF AWARDS.—No award under subsection (b) shall be made—

(A) to any whistleblower who is convicted of a criminal violation related to the covered action for which the whistleblower otherwise could receive an award under this section;

(B) to any whistleblower who, acting without direction from an applicable motor vehicle manufacturer, part supplier, or dealership, or agent thereof, deliberately causes or substantially contributes to the alleged violation of a requirement of this chapter;

(C) to any whistleblower who submits information to the Secretary that is based on the facts underlying the covered action submitted previously by another whistleblower;

(D) to any whistleblower who fails to provide the original information to the Secretary in such form as the Secretary may require by regulation; or

(E) if the applicable motor vehicle manufacturer, parts supplier, or dealership has an internal reporting mechanism in place to protect employees from retaliation, to any whistleblower who fails to report or attempt to report the information internally through such mechanism, unless—

(i) the whistleblower reasonably believed that such an internal report would have resulted in retaliation, notwithstanding section 30171(a);

(ii) the whistleblower reasonably believed that the information—

(I) was already internally reported;

(II) was already subject to or part of an internal inquiry or investigation; or

(III) was otherwise already known to the motor vehicle manufacturer, part supplier, or dealership; or

(iii) the Secretary has good cause to waive this requirement.

(d) REPRESENTATION.—A whistleblower may be represented by counsel.

(e) NO CONTRACT NECESSARY.—No contract with the Secretary is necessary for any whistleblower to receive an award under subsection (b).

(f) PROTECTION OF WHISTLEBLOWERS; CONFIDENTIALITY.—

(1) IN GENERAL.—Notwithstanding section 30167, and except as provided in paragraphs (4) and (5) of this subsection, the Secretary, and any officer or employee of the Department of

Transportation, shall not disclose any information, including information provided by a whistleblower to the Secretary, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, unless—

(A) required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Secretary or any entity described in paragraph (5);

(B) the whistleblower provides prior written consent for the information to be disclosed; or

(C) the Secretary, or other officer or employee of the Department of Transportation, receives the information through another source, such as during an inspection or investigation under section 30166, and has authority under other law to release the information.

(2) REDACTION.—The Secretary, and any officer or employee of the Department of Transportation, shall take reasonable measures to not reveal the identity of the whistleblower when disclosing any information under paragraph (1).

(3) SECTION 552(B)(3)(B).—For purposes of section 552 of title 5, paragraph (1) of this subsection shall be considered a statute described in subsection (b)(3)(B) of that section.

(4) EFFECT.—Nothing in this subsection is intended to limit the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

(5) AVAILABILITY TO GOVERNMENT AGENCIES.—

(A) IN GENERAL.—Without the loss of its status as confidential in the hands of the Secretary, all information referred to in paragraph (1) may, in the discretion of the Secretary, when determined by the Secretary to be necessary or appropriate to accomplish the purposes of this chapter and in accordance with subparagraph (B), be made available to the following:

(i) The Department of Justice.

(ii) An appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction.

(B) MAINTENANCE OF INFORMATION.—Each entity described in subparagraph (A) shall maintain information described in that subparagraph as confidential, in accordance with the requirements in paragraph (1).

(g) PROVISION OF FALSE INFORMATION.—A whistleblower who knowingly and intentionally makes any false, fictitious, or fraudulent statement or representation, or who makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall not be entitled to an award under this section and shall be subject to prosecution under section 1001 of title 18.

(h) APPEALS.—

(1) IN GENERAL.—Any determination made under this section, including whether, to whom, or in what amount to make an award, shall be in the discretion of the Secretary.

(2) APPEALS.—Any determination made by the Secretary under this section may be appealed by a whistleblower to the appropriate court of appeals of the United States not later than 30 days after the determination is issued by the Secretary.

(3) REVIEW.—The court shall review the determination made by the Secretary in accordance with section 706 of title 5.

(i) REGULATION.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations on the requirements of this section, consistent with this section.

(Added Pub. L. 114–94, div. B, title XXIV, §24352(a), Dec. 4, 2015, 129 Stat. 1716.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (i), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RULE OF CONSTRUCTION

Pub. L. 114–94, div. B, title XXIV, §24352(b), Dec. 4, 2015, 129 Stat. 1720, provided that:

"(1) ORIGINAL INFORMATION.—Information submitted to the Secretary of Transportation by a whistleblower in accordance with the requirements of section 30172 of title 49, United States Code, shall not lose its status as original information solely because the whistleblower submitted the information prior to the effective date of the regulations issued under subsection (i) of that section if that information was submitted after the date of enactment of this Act [Dec. 4, 2015].

"(2) AWARDS.—A whistleblower may receive an award under section 30172 of title 49, United States Code, regardless of whether the violation underlying the covered action occurred prior to the date of enactment of this Act, and may receive an award prior to the Secretary of Transportation promulgating the regulations under subsection (i) of that section."

SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

§30181. Policy

The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

(Added Pub. L. 112–141, div. C, title I, §31204(a), July 6, 2012, 126 Stat. 759.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§30182. Powers and duties

(a) IN GENERAL.—The Secretary of Transportation shall—

(1) conduct motor vehicle safety research, development, and testing programs and activities, including activities related to new and emerging technologies that impact or may impact motor vehicle safety;

(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

(A) accidents involving motor vehicles; and

(B) deaths or personal injuries resulting from those accidents.

(b) ACTIVITIES.—In carrying out a program under this section, the Secretary of Transportation may—

(1) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration in motor vehicle safety research programs and activities, including using program funds for planning, implementing, conducting, and presenting results of program activities, and for related expenses;

(2) obtain experimental and other motor vehicles and motor vehicle equipment for research or

testing;

(3)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

(4) award grants to States and local governments, interstate authorities, and nonprofit institutions;

(5) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and research organizations; and

(6) in coordination with Department [1] of State, enter into cooperative agreements and collaborative research and development agreements with foreign governments.

(c) USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

(d) FACILITIES.—The Secretary may plan, design, and construct a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than $1,500,000 for planning, design, or construction may be made only if 60 days prior notice of the planning, design, or construction is provided to the Committees on Science, Space, and Technology and Transportation and Infrastructure of the House of Representatives and the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. The notice shall include—

(1) a brief description of the facility being planned, designed, or constructed;

(2) the location of the facility;

(3) an estimate of the maximum cost of the facility;

(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

(5) a justification of the need for the facility.

(e) INCREASING COSTS OF APPROVED FACILITIES.—The estimated maximum cost of a facility noticed under subsection (d) may be increased by an amount equal to the percentage increase in construction costs from the date the notice is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the notice. The Secretary shall decide what increase in construction costs has occurred.

(f) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. The owner of a background patent may not be deprived of a right under the patent.

(Added Pub. L. 112–141, div. C, title I, §31204(a), July 6, 2012, 126 Stat. 759; amended Pub. L. 114–94, div. B, title XXIV, §24202(a), Dec. 4, 2015, 129 Stat. 1711.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b)(6). Pub. L. 114–94 added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[1] *So in original. Probably should be preceded by "the".*

§30183. Prohibition on certain disclosures

Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, may be made available to the public only in a manner that does not identify individuals.

(Added Pub. L. 112–141, div. C, title I, §31204(a), July 6, 2012, 126 Stat. 760.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

CHAPTER 303—NATIONAL DRIVER REGISTER

Sec.

30301. Definitions.
30302. National Driver Register.
30303. State participation.
30304. Reports by chief driver licensing officials.
30305. Access to Register information.
[30306. Repealed.]
30307. Criminal penalties.
30308. Authorization of appropriations.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title IV, §24218(b), Nov. 15, 2021, 135 Stat. 831, struck out item 30306 "National Driver Register Advisory Committee".

§30301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given that term in regulations prescribed by the Secretary of Transportation.

(2) "chief driver licensing official" means the official in a State who is authorized to—

(A) maintain a record about a motor vehicle operator's license issued by the State; and

(B) issue, deny, revoke, suspend, or cancel a motor vehicle operator's license issued by the State.

(3) "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(4) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a

vehicle operated only on a rail line.

(5) "motor vehicle operator's license" means a license issued by a State authorizing an individual to operate a motor vehicle on public streets, roads, or highways.

(6) "participating State" means a State that has notified the Secretary under section 30303 of this title of its participation in the National Driver Register.

(7) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) "State of record" means a State that has given the Secretary a report under section 30304 of this title about an individual who is the subject of a request for information made under section 30305 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 973.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30301	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §202, 96 Stat. 1740.

In clauses (4) and (5), the words "public streets, roads, or highways" are substituted for "highway" and " 'highway' means any road or street" for consistency in the revised title.

In clause (4), the words "rail line" are substituted for "rail or rails" for consistency in the revised title.

The definitions of "Secretary", "Register", and "Register system" are omitted as surplus because the complete name of the Secretary of Transportation and the National Driver Register are used the first time the terms appear in a section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PROTECTION OF DOMESTIC VIOLENCE AND CRIME VICTIMS FROM CERTAIN DISCLOSURES OF INFORMATION

Pub. L. 109–162, title VIII, §827, Jan. 5, 2006, 119 Stat. 3066, provided that: "In developing regulations or guidance with regard to identification documents, including driver's licenses, the Secretary of Homeland Security, in consultation with the Administrator of Social Security, shall consider and address the needs of victims, including victims of battery, extreme cruelty, domestic violence, dating violence, sexual assault, stalking or trafficking, who are entitled to enroll in State address confidentiality programs, whose addresses are entitled to be suppressed under State or Federal law or suppressed by a court order, or who are protected from disclosure of information pursuant to section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367)."

IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

Pub. L. 116–260, div. U, title X, §1001(c), Dec. 27, 2020, 134 Stat. 2306, provided that: "Notwithstanding any other provision of law (including regulations), beginning on the date of the enactment of this Act [Dec. 27, 2020], a State does not need to require an applicant for a driver's license or identification card to provide separate documentation of the applicant's Social Security account number in order to comply with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note)."

Pub. L. 116–136, div. B, title VI, §16006, Mar. 27, 2020, 134 Stat. 545, provided that: "The Secretary of Homeland Security, under the authority granted under section 205(b) of the REAL ID Act of 2005 (Public Law 109–13; 49 U.S.C. 30301 note) shall extend the deadline by which States are required to meet the driver license and identification card issuance requirements under section 202(a)(1) of such Act until not earlier than September 30, 2021."

Pub. L. 110–177, title V, §508, Jan. 7, 2008, 121 Stat. 2543, provided that:

"(a) MINIMUM DOCUMENT REQUIREMENTS.—

"(1) MINIMUM REQUIREMENTS.—For purposes of section 202(b)(6) of the REAL ID Act of 2005 [div. B of Pub. L. 109–13] (49 U.S.C. 30301 note), a State may, in the case of an individual described in

subparagraph (A) or (B) of paragraph (2), include in a driver's license or other identification card issued to that individual by the State, the address specified in that subparagraph in lieu of the individual's address of principle residence.

"(2) INDIVIDUALS AND INFORMATION.—The individuals and addresses referred to in paragraph (1) are the following:

"(A) In the case of a Justice of the United States, the address of the United States Supreme Court.

"(B) In the case of a judge of a Federal court, the address of the courthouse.

"(b) VERIFICATION OF INFORMATION.—For purposes of section 202(c)(1)(D) of the REAL ID Act of 2005 (49 U.S.C. 30301 note), in the case of an individual described in subparagraph (A) or (B) of subsection (a)(2), a State need only require documentation of the address appearing on the individual's driver's license or other identification card issued by that State to the individual."

Pub. L. 109–13, div. B, title II, May 11, 2005, 119 Stat. 311, as amended by Pub. L. 115–323, §2, Dec. 17, 2018, 132 Stat. 4443; Pub. L. 116–260, div. U, title X, §1001(b), Dec. 27, 2020, 134 Stat. 2304, provided that:

"SEC. 201. DEFINITIONS.

"In this title, the following definitions apply:

"(1) DRIVER'S LICENSE.—The term 'driver's license'—

"(A) means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code; and

"(B) includes driver's licenses stored or accessed via electronic means, such as mobile or digital driver's licenses, which have been issued in accordance with regulations prescribed by the Secretary.

"(2) IDENTIFICATION CARD.—The term 'identification card'—

"(A) means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State; and

"(B) includes identification cards stored or accessed via electronic means, such as mobile or digital identification cards, which have been issued in accordance with regulations prescribed by the Secretary.

"(3) OFFICIAL PURPOSE.—The term 'official purpose' includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

"SEC. 202. MINIMUM REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

"(a) MINIMUM STANDARDS FOR FEDERAL USE.—

"(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this division [May 11, 2005], a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

"(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary may prescribe by regulation.

"(3) LIMITATION.—The presentation of digital information from a mobile or digital driver's license or identification card to an official of a Federal agency for an official purpose may not be construed to grant consent for such Federal agency to seize the electronic device on which the license or card is stored or to examine any other information contained on such device.

"(b) MINIMUM DRIVER'S LICENSE AND IDENTIFICATION CARD REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on, or as part of, each driver's license and identification card issued to a person by the State:

"(1) The person's full legal name.

"(2) The person's date of birth.

"(3) The person's gender.

"(4) The person's driver's license or identification card number.

"(5) A digital photograph of the person, which may be the photograph taken by the State at the time the person applies for a driver's license or identification card or may be a digital photograph of the person that is already on file with the State.

"(6) The person's address of principal residence.

"(7) The person's signature.

"(8) Security features designed to prevent tampering, counterfeiting, or duplication of the driver's license or identification card for fraudulent purposes.

"(9) A common machine-readable technology, with defined minimum data elements.

"(c) MINIMUM ISSUANCE STANDARDS.—

"(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

"(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

"(B) Documentation showing the person's date of birth.

"(C) The person's social security account number or verification that the person is not eligible for a social security account number.

"(D) Documentation showing the person's name and address of principal residence.

"(2) SPECIAL REQUIREMENTS.—

"(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

"(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

"(i) is a citizen or national of the United States;

"(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

"(iii) has conditional permanent resident status in the United States;

"(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

"(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

"(vi) has a pending application for asylum in the United States;

"(vii) has a pending or approved application for temporary protected status in the United States;

"(viii) has approved deferred action status;

"(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; or

"(x) is a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau who has been admitted to the United States as a nonimmigrant pursuant to a Compact of Free Association between the United States and the Republic or Federated States.

"(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

"(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

"(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

"(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

"(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

"(3) ELECTRONIC PRESENTATION OF IDENTITY AND LAWFUL STATUS INFORMATION .—A State may accept information required under paragraphs (1) and (2) through the use of electronic transmission methods if—

"(A) the Secretary issues regulations regarding such electronic transmission that—

"(i) describe the categories of information eligible for electronic transmission; and

"(ii) include measures—

"(I) to ensure the authenticity of the information transmitted;

"(II) to protect personally identifiable information; and

"(III) to detect and prevent identity fraud; and

"(B) the State certifies to the Department of Homeland Security that its use of such electronic methods complies with regulations issued by the Secretary.

"(4) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

"(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of the information and documentation required to be presented by the person under paragraph (1) or (2).

"(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

"(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [Pub. L. 104–208, div. C, 8 U.S.C. 1324a note] (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

"(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

"(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

"(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

"(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

"(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

"(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

"(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

"(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of materials, records, and data from which drivers' licenses and identification cards are produced.

"(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate background checks.

"(9) Establish fraud detection and prevention training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

"(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

"(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card—

"(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and

"(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.

"(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.

"(13) Maintain a State motor vehicle database that contains, at a minimum—

"(A) all data fields printed on drivers' licenses and identification cards issued by the State; and

"(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

"SEC. 203. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

"(a) CRIMINAL PENALTY.—[Amended section 1028 of Title 18, Crimes and Criminal Procedure.]

"(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

"(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening

database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

"(2) FALSE DEFINED.—In this subsection, the term 'false' has the same meaning such term has under section 1028(d) of title 18, United States Code.

"[SEC. 204. REPEALED. PUB. L. 116–260, DIV. U, TITLE X, §1001(B)(3), DEC. 27, 2020, 134 STAT. 2305.]

"SEC. 205. AUTHORITY.

"(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

"(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

"SEC. 206. REPEAL.

"[Repealed section 7212 of Pub. L. 108–458, formerly set out below.]

"SEC. 207. LIMITATION ON STATUTORY CONSTRUCTION.

"Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

"SEC. 208. NOTIFICATION OF REQUIREMENTS AND DEADLINES.

"During the 15-month period beginning 90 days before the date on which Federal agencies will no longer accept, for official purposes, driver's licenses and identification cards that do not comply with the requirements under section 202, aircraft operators and third party reservation entities shall notify passengers about the requirements and enforcement deadlines under this Act [div. B of Pub. L. 109–13, see Short Title of 2005 Amendment note set out under section 1101 of Title 8, Aliens and Nationality]."

Pub. L. 108–458, title VII, §7212, Dec. 17, 2004, 118 Stat. 3827, which prohibited acceptance by a Federal agency, for any official purpose, of a driver's license or personal identification card issued by a State more than 2 years after the promulgation of minimum standards unless the driver's license or personal identification card conformed to such minimum standards, and directed the Secretary of Transportation, in consultation with the Secretary of Homeland Security, to establish such standards not later than 18 months after Dec. 17, 2004, was repealed by Pub. L. 109–13, div. B, title II, §206, May 11, 2005, 119 Stat. 316.

EVALUATION AND ASSESSMENT OF ALTERNATIVES

Pub. L. 105–178, title II, §2006(c), June 9, 1998, 112 Stat. 336, provided that:

"(1) EVALUATION.—The Secretary shall evaluate the implementation of chapter 303 of title 49, United States Code, and the programs under sections 31106 and 31309 of such title and identify alternatives to improve the ability of the States to exchange information about unsafe drivers and to identify drivers with multiple licenses.

"(2) TECHNOLOGY ASSESSMENT.—The Secretary, in conjunction with the American Association of Motor Vehicle Administrators, shall conduct an assessment of available electronic technologies to improve access to and exchange of motor vehicle driving records. The assessment may consider alternative unique motor vehicle driver identifiers that would facilitate accurate matching of drivers and their records.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report on the results of the evaluation and technology assessment, together with any recommendations for appropriate administrative and legislative actions.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (2) $250,000 in the aggregate for fiscal years beginning after September 30, 1998."

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§30302. National Driver Register

(a) ESTABLISHMENT AND CONTENTS.—The Secretary of Transportation shall establish as soon as practicable and maintain a National Driver Register to assist chief driver licensing officials of participating States in exchanging information about the motor vehicle driving records of individuals. The Register shall contain an index of the information reported to the Secretary under section 30304 of this title. The Register shall enable the Secretary (electronically or, until all States can participate electronically, by United States mail)—

(1) to receive information submitted under section 30304 of this title by the chief driver licensing official of a State of record;

(2) to receive a request for information made by the chief driver licensing official of a participating State under section 30305 of this title;

(3) to refer the request to the chief driver licensing official of a State of record; and

(4) in response to the request, to relay information provided by a chief driver licensing official of a State of record to the chief driver licensing official of a participating State, without interception of the information.

(b) ACCURACY OF INFORMATION.—The Secretary is not responsible for the accuracy of information relayed to the chief driver licensing official of a participating State. However, the Secretary shall maintain the Register in a way that ensures against inadvertent alteration of information during a relay. The Secretary shall make continual improvements to modernize the Register's data processing system.

(c) TRANSITION FROM PRIOR REGISTER.—(1) The Secretary shall provide by regulation for the orderly transition from the register maintained under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), to the Register maintained under this chapter.

(2)(A) The Secretary shall delete from the Register a report or information that was compiled under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), and transferred to the Register, after the earlier of—

(i) the date the State of record removes it from the State's file;

(ii) 7 years after the date the report or information is entered in the Register; or

(iii) the date a fully electronic Register system is established.

(B) The report or information shall be disposed of under chapter 33 of title 44.

(3) If the chief driver licensing official of a participating State finds that information provided for inclusion in the Register is erroneous or is related to a conviction of a traffic offense that subsequently is reversed, the official immediately shall notify the Secretary. The Secretary shall provide for the immediate deletion of the information from the Register.

(d) ASSIGNMENT OF PERSONNEL.—In carrying out this chapter, the Secretary shall assign personnel necessary to ensure the effective operation of the Register.

(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—

(1) AGREEMENT.—The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

(2) REQUIRED DEMONSTRATION.—Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's "Problem Driver Pointer System" (the system used by the Register to effect the exchange of motor vehicle driving records) and that the system is functioning properly.

(3) TRANSITION PERIOD.—Any agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative

changes the States may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary shall continue to fund these transferred functions.

(4) FEES.—The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization of performing these functions in such fiscal year.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 973; Pub. L. 105–178, title II, §2006(a), June 9, 1998, 112 Stat. 335; Pub. L. 112–141, div. C, title I, §31104, July 6, 2012, 126 Stat. 741.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30302	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §203, 96 Stat. 1741.

In subsection (a), before clause (1), the words "after the date of enactment of this title [Oct. 25, 1982]" are omitted as obsolete.

In subsection (c)(1), the words "The Secretary shall provide by regulation" are substituted for "The Secretary shall, within eighteen months after the date of enactment of this title [Oct. 25, 1982], promulgate a final rule which provides" to eliminate executed language, for consistency in the revised title, and because "rule" and "regulation" are synonymous.

The text of section 203(e) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1742) is omitted as unnecessary because of 49:322(a).

EDITORIAL NOTES

REFERENCES IN TEXT

Act of July 14, 1960, referred to in subsec. (c)(1), (2)(A), is set out below.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–141 inserted at end "The Secretary shall make continual improvements to modernize the Register's data processing system."

1998—Subsec. (e). Pub. L. 105–178 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

REGISTER OF REVOCATIONS OF MOTOR VEHICLE OPERATOR'S LICENSES

Pub. L. 86–660, July 14, 1960, 74 Stat. 526, as amended by Pub. L. 87–359, Oct. 4, 1961, 75 Stat. 779; Pub. L. 89–563, title IV, §401, Sept. 9, 1966, 80 Stat. 730, provided: "That the Secretary of Commerce shall establish and maintain a register identifying each individual reported to him by a State, or political subdivision thereof, as an individual with respect to whom such State or political subdivision has denied, terminated, or temporarily withdrawn (except a withdrawal for less than six months based on a series of nonmoving violations) an individual's license or privilege to operate a motor vehicle.

"SEC. 2. Only at the request of a State, a political subdivision thereof, or a Federal department or agency, shall the Secretary furnish information contained in the register established under the first section of this Act, and such information shall be furnished only to the requesting party and only with respect to an individual applicant for a motor vehicle operator's license or permit.

"SEC. 3. As used in this Act, the term 'State' includes each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and American Samoa."

§30303. State participation

(a) NOTIFICATION.—A State may become a participating State under this chapter by notifying the Secretary of Transportation of its intention to be bound by section 30304 of this title.

(b) WITHDRAWAL.—A participating State may end its status as a participating State by notifying the Secretary of its withdrawal from participation in the National Driver Register.

(c) FORM AND WAY OF NOTIFICATION.—Notification by a State under this section shall be made in the form and way the Secretary prescribes by regulation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 974.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30303	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §204, 96 Stat. 1742.

In subsection (c), the words "in the form and way" are substituted for "in such form, and according to such procedures" to eliminate unnecessary words.

§30304. Reports by chief driver licensing officials

(a) INDIVIDUALS COVERED.—As soon as practicable, the chief driver licensing official of each participating State shall submit to the Secretary of Transportation a report containing the information specified by subsection (b) of this section for each individual—

(1) who is denied a motor vehicle operator's license by that State for cause;

(2) whose motor vehicle operator's license is revoked, suspended, or canceled by that State for cause; or

(3) who is convicted under the laws of that State of any of the following motor vehicle-related offenses or comparable offenses:

(A) operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance.

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

(C) failing to give aid or provide identification when involved in an accident resulting in death or personal injury.

(D) perjury or knowingly making a false affidavit or statement to officials about activities governed by a law or regulation on the operation of a motor vehicle.

(b) CONTENTS.—(1) Except as provided in paragraph (2) of this subsection, a report under subsection (a) of this section shall contain—

(A) the individual's legal name, date of birth, sex, and, at the Secretary's discretion, height, weight, and eye and hair color;

(B) the name of the State providing the information; and

(C) the social security account number if used by the State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number if different from the social security account number.

(2) A report under subsection (a) of this section about an event that occurs during the 2-year period before the State becomes a participating State is sufficient if the report contains all of the

information that is available to the chief driver licensing official when the State becomes a participating State.

(c) TIME FOR FILING.—If a report under subsection (a) of this section is about an event that occurs—

(1) during the 2-year period before the State becomes a participating State, the report shall be submitted not later than 6 months after the State becomes a participating State; or

(2) after the State becomes a participating State, the report shall be submitted not later than 31 days after the motor vehicle department of the State receives any information specified in subsection (b)(1) of this section that is the subject of the report.

(d) EVENTS OCCURRING BEFORE PARTICIPATION.—This section does not require a State to report information about an event that occurs before the 2-year period before the State becomes a participating State.

(e) DRIVER RECORD INQUIRY.—Before issuing a motor vehicle operator's license to an individual or renewing such a license, a State shall request from the Secretary information from the National Driver Register under section 30302 and the commercial driver's license information system under section 31309 on the individual's driving record.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 975; Pub. L. 106–159, title II, §204, Dec. 9, 1999, 113 Stat. 1762.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30304	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §205, 96 Stat. 1742.

In subsection (a), before clause (1), the words "after the date of enactment of this title [Oct. 25, 1982]" are omitted as obsolete.

In subsection (b)(1)(A), the words "(including day, month, and year)" are omitted as surplus.

In subsection (b)(2), the words "A report under subsection (a) of this section" are substituted for "any report concerning an occurrence specified in subsection (a)(1), (2), or (3) of this section" to eliminate unnecessary words.

In subsection (c), before clause (1), the words "required to be transmitted by a chief driver licensing official of a State" are omitted as surplus. In clause (1), the words "specified in subsection (a)(1), (2), or (3) of this section" are omitted as surplus. In clause (2), the words "the motor vehicle department of the State receives any information specified in subsection (b)(1) of this section that is the subject of the report" are substituted for "receipt by a State motor vehicle department of any information specified in subsection (b)(1), (2), or (3) of this section which is the subject of such report" because of the restatement.

EDITORIAL NOTES

AMENDMENTS

1999—Subsec. (e). Pub. L. 106–159 added subsec. (e).

§30305. Access to Register information

(a) REFERRALS OF INFORMATION REQUESTS.—(1) To carry out duties related to driver licensing, driver improvement, or transportation safety, the chief driver licensing official of a participating State may request the Secretary of Transportation to refer, electronically or by United States mail, a request for information about the motor vehicle driving record of an individual to the chief driver licensing official of a State of record.

(2) The Secretary of Transportation shall relay, electronically or by United States mail, information received from the chief driver licensing official of a State of record in response to a

request under paragraph (1) of this subsection to the chief driver licensing official of the participating State requesting the information. However, the Secretary may refuse to relay information to the chief driver licensing official of a participating State that does not comply with section 30304 of this title.

(b) REQUESTS TO OBTAIN INFORMATION.—(1) The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual who is the subject of an accident investigation conducted by the Board or the Administrator. The Chairman and the Administrator may receive the information.

(2) An individual who is employed, or is seeking employment, as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to provide information about the individual under subsection (a) of this section to the individual's employer or prospective employer. An employer or prospective employer may receive the information and shall make the information available to the individual. Information may not be obtained from the National Driver Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(3) An individual who has received, or is applying for, an airman's certificate may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Administrator of the Federal Aviation Administration. The Administrator may receive the information and shall make the information available to the individual for review and written comment. The Administrator may use the information to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards prescribed by the Administrator to be issued an airman medical certificate. The Administrator may not otherwise divulge or use the information. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(4) An individual who is employed, or is seeking employment, by a rail carrier as an operator of a locomotive may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the individual's employer or prospective employer or to the Secretary of Transportation. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(5) An individual who holds, or is applying for, a license or certificate of registry under section 7101 of title 46, or a merchant mariner's document under section 7302 of title 46, may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Secretary of the department in which the Coast Guard is operating. The Secretary may receive the information and shall make the information available to the individual for review and written comment before denying, suspending, or revoking the license, certificate, or document of the individual based on the information and before using the information in an action taken under chapter 77 of title 46. The Secretary may not otherwise divulge or use the information, except for purposes of section 7101, 7302, or 7703 of title 46. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(6) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in

section 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in section 30304(b).

(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(8)(A) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the prospective employer of the individual, the authorized agent of the prospective employer, or the Secretary of Transportation.

(B) An air carrier that is the prospective employer of an individual described in subparagraph (A), or an authorized agent of such an air carrier, may request and receive information about that individual from the National Driver Register through an organization approved by the Secretary for purposes of requesting, receiving, and transmitting such information directly to the prospective employer of such an individual or the authorized agent of the prospective employer. This paragraph shall be carried out in accordance with paragraphs (2) and (11) of section 44703(h) and the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(C) Information may not be obtained from the National Driver Register under this paragraph if the information was entered in the Register more than 5 years before the request unless the information is about a revocation or suspension still in effect on the date of the request.

(9) An individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive order, may request the chief driver licensing official of a State to provide information about the individual pursuant to subsection (a) of this section to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information or for Federal employment in a position requiring access to national security information. A Federal department or agency that receives information about an individual under the preceding sentence may use such information only for purposes of the authorized investigation and only in accordance with applicable law.

(10) A request under this subsection shall be made in the form and way the Secretary of Transportation prescribes by regulation.

(11) An individual may request the chief driver licensing official of a State to obtain information about the individual under subsection (a) of this section—

(A) to learn whether information about the individual is being provided;

(B) to verify the accuracy of the information; or

(C) to obtain a certified copy of the information.

(12) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.

(13) The Administrator of the Federal Motor Carrier Safety Administration may request the chief driver licensing official of a State to provide information under subsection (a) of this section about an individual in connection with a safety investigation under the Administrator's jurisdiction.

(c) RELATIONSHIP TO OTHER LAWS.—A request for, or receipt of, information from the Register is subject to sections 552 and 552a of title 5, and other applicable laws of the United States or a State, except that—

(1) the Secretary of Transportation may not relay or otherwise provide information specified in section 30304(b)(1)(A) or (C) of this title to a person not authorized by this section to receive the information;

(2) a request for, or receipt of, information by a chief driver licensing official, or by a person authorized by subsection (b) of this section to request and receive the information, is deemed to be a routine use under section 552a(b) of title 5; and

(3) receipt of information by a person authorized by this section to receive the information is deemed to be a disclosure under section 552a(c) of title 5, except that the Secretary of Transportation is not required to retain the accounting made under section 552a(c)(1) for more than 7 years after the disclosure.

(d) AVAILABILITY OF INFORMATION PROVIDED UNDER PRIOR LAW.—Information provided by a State under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), and under this chapter, shall be available under this section during the transition from the register maintained under that Act to the Register maintained under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 976; Pub. L. 104–264, title V, §502(b), Oct. 9, 1996, 110 Stat. 3262; Pub. L. 104–324, title II, §207(b), Oct. 19, 1996, 110 Stat. 3908; Pub. L. 105–102, §2(18), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–178, title II, §2006(b), June 9, 1998, 112 Stat. 335; Pub. L. 108–375, div. A, title X, §1061, Oct. 28, 2004, 118 Stat. 2056; Pub. L. 114–94, div. A, title V, §5512, Dec. 4, 2015, 129 Stat. 1556; Pub. L. 115–254, div. B, title V, §563, Oct. 5, 2018, 132 Stat. 3384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30305	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §206, 96 Stat. 1743; Dec. 30, 1987, Pub. L. 100–223, §305, 101 Stat. 1525; June 22, 1988, Pub. L. 100–342, §4(b), 102 Stat. 626; Aug. 18, 1990, Pub. L. 101–380, §4105(a), 104 Stat. 512.

In subsection (a)(1), the words "on and after the date of enactment of this title [Oct. 25, 1982]" are omitted as obsolete.

In subsection (b)(1), the word "Administrator" is substituted for "Bureau of Motor Carrier Safety" for consistency.

Subsection (d) is substituted for the last 2 sentences (added twice by mistake) in paragraphs (1) and (2) and for the last sentence in paragraphs (3), (4), and (7)(C) of section 206(b) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1744) for clarity and to avoid repeating the provision unnecessarily.

PUB. L. 105–102, §2(18)(A)

This amends 49:30305(b)(8), as redesignated by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908), to correct an erroneous cross-reference.

PUB. L. 105–102, §2(18)(B)

This amends 49:30305(b) to redesignate paragraph (8), as redesignated by section 502(b)(1) of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264, 110 Stat. 3262), as paragraph (9), because section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908), redesignated paragraph (7) as paragraph (8) but did not redesignate paragraph (8) as paragraph (9).

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Credit Reporting Act, referred to in subsec. (b)(8)(B), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Executive Order No. 12968, referred to in subsec. (b)(9), is set out as a note under section 3161 of Title 50, War and National Defense.

Executive Order No. 10450, referred to in subsec. (b)(9), is set out as a note under section 7311 of Title 5, Government Organization and Employees.

Act of July 14, 1960, referred to in subsec. (d), is set out as a note under section 30302 of this title.

AMENDMENTS

2018—Subsec. (b)(8). Pub. L. 115–254 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about a revocation or suspension still in effect on the date of the request."

2015—Subsec. (b)(13). Pub. L. 114–94 added par. (13).

2004—Subsec. (b)(9) to (12). Pub. L. 108–375 added par. (9) and redesignated former pars. (9) to (11) as (10) to (12), respectively.

1998—Subsec. (b)(2). Pub. L. 105–178, §2006(b)(1)(A), inserted before period at end ", unless the information is about a revocation or suspension still in effect on the date of the request".

Subsec. (b)(6). Pub. L. 105–178, §2006(b)(2)(B), added par. (6). Former par. (6) redesignated (10).

Subsec. (b)(8). Pub. L. 105–178, §2006(b)(1)(C), directed amendment identical to that made by Pub. L. 105–102, §2(18)(B). See 1997 Amendment note below.

Pub. L. 105–178, §2006(b)(1)(B)(ii), realigned margins.

Pub. L. 105–178, §2006(b)(1)(B)(i), directed amendment identical to that made by Pub. L. 105–102, §2(18)(A). See 1997 Amendment note below.

Subsec. (b)(9). Pub. L. 105–178, §2006(b)(1)(C), directed amendment identical to that made by Pub. L. 105–102, §2(18)(B). See 1997 Amendment note below.

Subsec. (b)(10). Pub. L. 105–178, §2006(b)(2)(A), redesignated par. (6) as (10) and transferred it to appear after par. (9).

Subsec. (b)(11). Pub. L. 105–178, §2006(b)(2)(C), added par. (11).

1997—Subsec. (b)(8). Pub. L. 105–102, §2(18)(B), redesignated par. (8), relating to request, as (9).

Pub. L. 105–102, §2(18)(A), in par. (8), relating to individual seeking employment as pilot, substituted "subsection (a) of this section" for "paragraph (2)".

Subsec. (b)(9). Pub. L. 105–102, §2(18)(B), redesignated par. (8), relating to request, as (9).

1996—Subsec. (b)(7). Pub. L. 104–324, §207(b), added par. (7). Former par. (7), relating to individual seeking employment as pilot, redesignated (8).

Pub. L. 104–264, §502(b), added par. (7). Former par. (7), relating to request, redesignated (8).

Subsec. (b)(8). Pub. L. 104–324, §207(b), redesignated par. (7), relating to individual seeking employment as pilot, as (8).

Pub. L. 104–264, §502(b), redesignated par. (7), relating to request, as (8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Pub. L. 104–264, title V, §502(d), Oct. 9, 1996, 110 Stat. 3263, provided that: "The amendments made by this section [amending this section and sections 44936 and 46301 of this title] shall apply to any air carrier

hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following the date of the enactment of this Act [Oct. 9, 1996]."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[§30306. Repealed. Pub. L. 117–58, div. B, title IV, §24218(a), Nov. 15, 2021, 135 Stat. 831]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 978; Pub. L. 117–286, §4(a)(308), Dec. 27, 2022, 136 Stat. 4340, related to establishment, duties, and membership of the National Driver Register Advisory Committee.

§30307. Criminal penalties

(a) GENERAL PENALTY.—A person (except an individual described in section 30305(b)(6) [1] of this title) shall be fined under title 18, imprisoned for not more than one year, or both, if—

(1) the person receives under section 30305 of this title information specified in section 30304(b)(1)(A) or (C) of this title;

(2) disclosure of the information is not authorized by section 30305 of this title; and

(3) the person willfully discloses the information knowing that disclosure is not authorized.

(b) INFORMATION PENALTY.—A person knowingly and willfully requesting, or under false pretenses obtaining, information specified in section 30304(b)(1)(A) or (C) of this title from a person receiving the information under section 30305 of this title shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 979.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30307	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §208, 96 Stat. 1746; Dec. 30, 1987, Pub. L. 100–223, §305(b)(1), 101 Stat. 1526.

In this section, the words "fined under title 18" are substituted for "fined not more than $10,000" for consistency with title 18.

In subsection (a), before clause (1), the reference to "section 30305(b)(6) of this title" is used to carry out the probable intent of Congress. Section 305(b)(1) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1526) amended section 206(b) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1744) by "redesignating paragraphs (3) and (4), and any reference thereto, as paragraphs (4) and (5), respectively". Because the reference to "section 206(b)(4)" in section 208 of the National Driver Register Act of 1982 appears to have been incorrect before that amendment, and would continue to be incorrect if the reference is redesignated as required by the amendment, a reference to section 30305(b)(6) is used in this section to carry out the probable intent of Congress.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 30305(b) of this title, referred to in subsec. (a), was amended by Pub. L. 105–178, title II, §2006(b)(2)(A), (B), June 9, 1998, 112 Stat. 336, which added a new par. (6) and redesignated former par. (6) as (10).

[1] *See References in Text note below.*

§30308. Authorization of appropriations

(a) GENERAL.—The Secretary of Transportation shall make available from amounts made available to carry out section 402 of title 23 $4,000,000 for each of the fiscal years ending September 30, 1993, and September 30, 1994, $2,550,000 for each of fiscal years 1995, 1996, and 1997, and $1,855,000 for the period of October 1, 1997, through March 31, 1998, to carry out this chapter.

(b) AVAILABILITY OF AMOUNTS.—Amounts authorized under this section remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 979; Pub. L. 103–331, title III, §343, Sept. 30, 1994, 108 Stat. 2496; Pub. L. 103–429, §6(25), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–59, title III, §343, Nov. 28, 1995, 109 Stat. 610; Pub. L. 104–287, §5(59), Oct. 11, 1996, 110 Stat. 3394; Pub. L. 105–18, title II, §8004, June 12, 1997, 111 Stat. 195; Pub. L. 105–130, §6(c), Dec. 1, 1997, 111 Stat. 2559.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30308	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §211, 96 Stat. 1747; Dec. 18, 1991, Pub. L. 102–240, §2007, 105 Stat. 2080.

In subsection (a), the text of section 211(a) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1747) is omitted as executed. The words "and the provisions of Public Law 86–660 (74 Stat. 526)" and references to fiscal years 1983–1987 and 1992 are omitted as obsolete. The word "section" in the source provision is translated as if it were "title" to reflect the apparent intent of Congress.

PUB. L. 103–429

This amends 49:30308(b) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 979).

PUB. L. 104–287

This amends 49:30308 to correct a grammatical error.

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–130 substituted "1994," for "1994, and" and inserted "and $1,855,000 for the period of October 1, 1997, through March 31, 1998," after "1997,".

Pub. L. 105–18 substituted ", 1996, and 1997" for "and 1996".

1996—Subsec. (a). Pub. L. 104–287 inserted a comma after "September 30, 1994".

1995—Subsec. (a). Pub. L. 104–59 substituted "and $2,550,000 for each of fiscal years 1995 and 1996" for "and $2,550,000 for fiscal year 1995".

1994—Subsec. (a). Pub. L. 103–331 inserted "and $2,550,000 for fiscal year 1995" after "1994".

Subsec. (b). Pub. L. 103–429 substituted "authorized" for "appropriated".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

CHAPTER 305—NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM

Sec.

30501. Definitions.
30502. National Motor Vehicle Title Information System.
30503. State participation.
30504. Reporting requirements.
30505. Penalties and enforcement.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, amended directory language of Pub. L. 104–152. See 1996 Amendment note below.

1996—Pub. L. 104–152, §2(c), July 2, 1996, 110 Stat. 1384, as amended by Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, substituted "National Motor Vehicle Title Information System" for "National Automobile Title Information System" in chapter heading and in item 30502.

§30501. Definitions

In this chapter—

(1) "automobile" has the same meaning given that term in section 32901(a) of this title.

(2) "certificate of title" means a document issued by a State showing ownership of an automobile.

(3) "insurance carrier" means an individual or entity engaged in the business of underwriting automobile insurance.

(4) "junk automobile" means an automobile that—

(A) is incapable of operating on public streets, roads, and highways; and

(B) has no value except as a source of parts or scrap.

(5) "junk yard" means an individual or entity engaged in the business of acquiring or owning junk automobiles for—

(A) resale in their entirety or as spare parts; or

(B) rebuilding, restoration, or crushing.

(6) "operator" means the individual or entity authorized or designated as the operator of the National Motor Vehicle Title Information System under section 30502(b) of this title, or the Attorney General, if there is no authorized or designated individual or entity.

(7) "salvage automobile" means an automobile that is damaged by collision, fire, flood, accident, trespass, or other event, to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage.

(8) "salvage yard" means an individual or entity engaged in the business of acquiring or owning salvage automobiles for—

(A) resale in their entirety or as spare parts; or

(B) rebuilding, restoration, or crushing.

(9) "State" means a State of the United States or the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 979; Pub. L. 104–152, §§2(c), 3(a), July 2, 1996, 110 Stat. 1384; Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30501	15:2041.	Oct. 25, 1992, Pub. L. 102–519, §201, 106 Stat. 3389.

In subsection (a)(2), the word "showing" is substituted for "evidencing" to use a more commonly understood term.

In subsection (a)(3), (5), and (8), the words "individual or entity" are substituted for "individual, corporation, or other entity" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4) and (7), the words "public streets, roads, and highways" are substituted for "roads or highways" for clarity and consistency in the revised title.

In subsection (a)(6), the words "National Automobile Title Information System" are substituted for "information system" for clarity. The words "no authorized or designated individual or entity" are substituted for "no such individual or entity is authorized" for clarity

In subsection (a)(7), the word "event" is substituted for "occurrence" for clarity and consistency.

The text of 15:2041(9) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section.

EDITORIAL NOTES

AMENDMENTS

1997—Par. (6). Pub. L. 105–102 amended directory language of Pub. L. 104–152, §2(c). See 1996 Amendment note below.

1996—Par. (6). Pub. L. 104–152, §3(a), substituted "Attorney General" for "Secretary of Transportation".

Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, §3(b), substituted "National Motor Vehicle Title Information System" for "National Automobile Title Information System".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

§30502. National Motor Vehicle Title Information System

(a) ESTABLISHMENT OR DESIGNATION.—(1) In cooperation with the States and not later than December 31, 1997, the Attorney General shall establish a National Motor Vehicle Title Information System that will provide individuals and entities referred to in subsection (e) of this section with instant and reliable access to information maintained by the States related to automobile titling described in subsection (d) of this section. However, if the Attorney General decides that the existing information system meets the requirements of subsections (d) and (e) of this section and will permit the Attorney General to carry out this chapter as early as possible, the Attorney General, in consultation with the Secretary of Transportation, may designate an existing information system as the National Motor Vehicle Title Information System.

(2) In cooperation with the Secretary of Transportation and the States, the Attorney General shall ascertain the extent to which title and related information to be included in the system established under paragraph (1) of this subsection will be adequate, timely, reliable, uniform, and capable of

assisting in efforts to prevent the introduction or reintroduction of stolen vehicles and parts into interstate commerce.

(b) OPERATION.—The Attorney General may authorize the operation of the System established or designated under subsection (a)(1) of this section by agreement with one or more States, or by designating, after consulting with the States, a third party that represents the interests of the States.

(c) USER FEES.—Operation of the System established or designated under subsection (a)(1) of this section shall be paid for by user fees and should be self-sufficient and not be dependent on amounts from the United States Government. The amount of fees the operator collects and keeps under this subsection subject to annual appropriation laws, excluding fees the operator collects and pays to an entity providing information to the operator, may be not more than the costs of operating the System.

(d) INFORMATION REQUIREMENTS.—The System established or designated under subsection (a)(1) of this section shall permit a user of the System at least to establish instantly and reliably—

(1) the validity and status of a document purporting to be a certificate of title;

(2) whether an automobile bearing a known vehicle identification number is titled in a particular State;

(3) whether an automobile known to be titled in a particular State is or has been a junk automobile or a salvage automobile;

(4) for an automobile known to be titled in a particular State, the odometer mileage disclosure required under section 32705 of this title for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the State; and

(5) whether an automobile bearing a known vehicle identification number has been reported as a junk automobile or a salvage automobile under section 30504 of this title.

(e) AVAILABILITY OF INFORMATION.—(1) The operator shall make available—

(A) to a participating State on request of that State, information in the System about any automobile;

(B) to a Government, State, or local law enforcement official on request of that official, information in the System about a particular automobile, junk yard, or salvage yard;

(C) to a prospective purchaser of an automobile on request of that purchaser, including an auction company or entity engaged in the business of purchasing used automobiles, information in the System about that automobile; and

(D) to a prospective or current insurer of an automobile on request of that insurer, information in the System about that automobile.

(2) The operator may release only the information reasonably necessary to satisfy the requirements of paragraph (1) of this subsection. The operator may not collect an individual's social security account number or permit users of the System to obtain an individual's address or social security account number.

(f) IMMUNITY.—Any person performing any activity under this section or sections 30503 or 30504 in good faith and with the reasonable belief that such activity was in accordance with this section or section 30503 or 30504, as the case may be, shall be immune from any civil action respecting such activity which is seeking money damages or equitable relief in any court of the United States or a State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 980; Pub. L. 104–152, §§2(a), (c), 3, 4, July 2, 1996, 110 Stat. 1384; Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30502(a)	15:2042(a)(1).	Oct. 25, 1992, Pub. L. 102–519, §202,

		106 Stat. 3390.
30502(b)	15:2042(a)(2).	
30502(c)	15:2042(a)(3).	
30502(d)	15:2042(b).	
30502(e)	15:2042(c).	

In subsection (a)(1), the words "January 31, 1996" are substituted for "January 1996" for clarity. The words "National Automobile Title Information System" are substituted for "National Motor Vehicle Title Information System" for clarity and consistency because the defined term in the source provisions being restated is "automobile". The words "individuals and entities referred to in subsection (e) of this section" are substituted for "States and others", the words "information maintained by the States related to automobile titling described in subsection (d) of this section" are substituted for "information maintained by other States pertaining to the titling of automobiles", and the words "existing information system" are substituted for "such system", for clarity.

In subsection (a)(2), the words "In cooperation with" are substituted for "working with" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b), the word "agreement" is substituted for "contract through an agreement" to eliminate unnecessary words. The word "designating" is substituted for "redesignating" for clarity.

In subsection (c), the words "user fees" are substituted for "a system of user fees" to eliminate unnecessary words. The words "amounts from the United States Government" are substituted for "Federal funds" for clarity and consistency in the revised titles and with other titles of the Code. The word "pays" are substituted for "passed on" for clarity. The word "entity" is substituted for "State or other entity" to eliminate unnecessary words.

In subsection (d)(4), the words "the odometer mileage disclosure required" are substituted for "the odometer reading information", and the words "any later mileage information" are substituted for "any such later odometer information", for consistency with section 32705 of the revised title.

In subsection (e)(2), the words "The operator may release only the information necessary" are substituted for "Notwithstanding any provision of paragraphs (1) through (4), the operator shall release no information other than what is necessary" to eliminate unnecessary words. The words "social security account number" are substituted for "social security number" for consistency with 42:405.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102 amended directory language of Pub. L. 104–152, §2(c). See 1996 Amendment notes below.

1996—Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted "Motor Vehicle" for "Automobile" in section catchline.

Subsecs. (a), (b). Pub. L. 104–152, §3(a), which directed the amendment of this section by striking each reference to "Secretary of Transportation" or "Secretary" and inserting "Attorney General", and Pub. L. 104–152, §3(b), which directed the striking of each reference to "Attorney General" and inserting "Secretary of Transportation", were executed simultaneously, to reflect the probable intent of Congress. See below.

Subsec. (a)(1). Pub. L. 104–152, §3, substituted "Attorney General shall" for "Secretary of Transportation shall", "Attorney General decides" for "Secretary decides", "permit the Attorney General" for "permit the Secretary", and "Attorney General, in consultation with the Secretary of Transportation" for "Secretary, in consultation with the Attorney General".

Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted "National Motor Vehicle Title Information System" for "National Automobile Title Information System" in two places.

Pub. L. 104–152, §2(a), substituted "December 31, 1967" for "January 31, 1966".

Subsec. (a)(2). Pub. L. 104–152, §3, substituted "Secretary of Transportation" for "Attorney General" and "Attorney General" for "Secretary".

Subsec. (b). Pub. L. 104–152, §3(a), substituted "Attorney General" for "Secretary".

Subsec. (f). Pub. L. 104–152, §4, added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVENESS OF SYSTEM

Pub. L. 104–152, §6(c), July 2, 1996, 110 Stat. 1385, provided that: "The information system established under section 30502 of title 49, United States Code, shall be effective as provided in the rules promulgated by the Attorney General."

§30503. State participation

(a) STATE INFORMATION.—Each State shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

(b) VERIFICATION CHECKS.—Each State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

(1) communicating to the operator—

(A) the vehicle identification number of the automobile for which the certificate of title is sought;

(B) the name of the State that issued the most recent certificate of title for the automobile; and

(C) the name of the individual or entity to whom the certificate of title was issued; and

(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

(c) GRANTS TO STATES.—(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

(d) REPORT TO CONGRESS.—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 981; Pub. L. 104–152, §§2(b), (c), 3(a), 6(a), July 2, 1996, 110 Stat. 1384, 1385; Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30503(a)	15:2043(a)(1).	Oct. 25, 1992, Pub. L. 102–519, §203, 106 Stat. 3391.
30503(b)	15:2043(a)(2).	
30503(c)	15:2043(b).	

30503(d)	15:2043(c).	

In subsection (a), the words "for use in operating . . . established or designated" are substituted for "for use in establishing . . . established" for clarity and for consistency with the source provisions restated in section 30502 of the revised title.

In subsection (b), before clause (1), the words "The check" are substituted for "Such instant title verification check" to eliminate unnecessary words. In subclauses (A) and (B), the words "of the automobile" are substituted for "of the vehicle" for consistency in the revised chapter.

In subsection (c)(1)(B), the words "section 30502(d) of this title" are substituted for "subsection (b)" to reflect the apparent intent of Congress.

In subsection (c)(2)(A), before subclause (i), the words "is not more than the lesser of" are substituted for "does not exceed . . . whichever is lower" for clarity. In subclause (i), the words "paragraph (1)(B) of this subsection" are substituted for "subsection (d)(1)(B)" to reflect the apparent intent of Congress.

In subsection (c)(2)(B), the word "fair" is omitted as being included in "reasonable".

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–102 amended directory language of Pub. L. 104–152, §2(c). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted "National Motor Vehicle Title Information System" for "National Automobile Title Information System".

Subsec. (c)(1). Pub. L. 104–152, §3(a), substituted "Attorney General" for "Secretary of Transportation".

Subsec. (c)(2). Pub. L. 104–152, §6(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary may make grants to participating States to be used in making titling information maintained by those States available to the operator if—

"(A) the grant to a State is not more than the lesser of—

"(i) 25 percent of the cost of making titling information maintained by that State available to the operator as determined by the Secretary under paragraph (1)(B) of this subsection; or

"(ii) $300,000; and

"(B) the Secretary decides that the grants are reasonable and necessary to establish the System."

Subsec. (d). Pub. L. 104–152, §§2(b), 3(a), substituted "October 1, 1998" for "January 1, 1997" and substituted "Attorney General" for "Secretary" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

§30504. Reporting requirements

(a) JUNK YARD AND SALVAGE YARD OPERATORS.—(1) Beginning at a time established by the Attorney General that is not sooner than the 3d month before the establishment or designation of the National Motor Vehicle Title Information System under section 30502 of this title, an individual or entity engaged in the business of operating a junk yard or salvage yard shall file a monthly report with the operator of the System. The report shall contain an inventory of all junk automobiles or salvage automobiles obtained by the junk yard or salvage yard during the prior month. The inventory shall contain—

(A) the vehicle identification number of each automobile obtained;

(B) the date on which the automobile was obtained;

(C) the name of the individual or entity from whom the automobile was obtained; and

(D) a statement of whether the automobile was crushed or disposed of for sale or other

purposes.

(2) Paragraph (1) of this subsection does not apply to an individual or entity—

(A) required by State law to report the acquisition of junk automobiles or salvage automobiles to State or local authorities if those authorities make that information available to the operator; or

(B) issued a verification under section 33110 of this title stating that the automobile or parts from the automobile are not reported as stolen.

(b) INSURANCE CARRIERS.—Beginning at a time established by the Attorney General that is not sooner than the 3d month before the establishment or designation of the System, an individual or entity engaged in business as an insurance carrier shall file a monthly report with the operator. The report may be filed directly or through a designated agent. The report shall contain an inventory of all automobiles of the current model year or any of the 4 prior model years that the carrier, during the prior month, has obtained possession of and has decided are junk automobiles or salvage automobiles. The inventory shall contain—

(1) the vehicle identification number of each automobile obtained;

(2) the date on which the automobile was obtained;

(3) the name of the individual or entity from whom the automobile was obtained; and

(4) the name of the owner of the automobile at the time of the filing of the report.

(c) PROCEDURES AND PRACTICES.—The Attorney General shall establish by regulation procedures and practices to facilitate reporting in the least burdensome and costly fashion.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 982; Pub. L. 104–152, §§2(c), 3(a), July 2, 1996, 110 Stat. 1384; Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30504(a)	15:2044(a).	Oct. 25, 1992, Pub. L. 102–519, §204(a), (b), (d), 106 Stat. 3392, 3393.
30504(b)	15:2044(b).	
30504(c)	15:2044(d).	

In subsections (a)(1), before clause (A), the words "Beginning at a time established by the Secretary of Transportation that is not sooner than the 3d month before the establishment or designation of" are substituted for "Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of" for clarity and consistency with the source provisions restated in section 30502 of the revised title. The words "engaged in the business" are substituted for "in the business" for consistency in the revised chapter. The words "junk yard or salvage yard" are substituted for "automobile junk yard or automobile salvage yard" because of the definitions of "junk yard" and "salvage yard" in section 30501 of the revised title. The words "with the operator of the System" are substituted for "with the operator" for clarity. In clauses (A), (C), and (D), the words "each automobile" are substituted for "each vehicle", and the words "the automobile" are substituted for "the vehicle", for consistency in the revised title.

In subsection (a)(2)(B), the word "automobile" is substituted for "vehicle" for consistency in the revised title.

In subsections (b), before clause (1), the words "Beginning at a time established by the Secretary that is not sooner than the 3d month before the establishment or designation of" are substituted for "Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of" for clarity and consistency with the source provisions restated in section 30502 of the revised title. In clauses (1), (3), and (4), the words "each automobile" are substituted for "each vehicle", and the words "the automobile" are substituted for "the vehicle", for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–102 amended directory language of Pub. L. 104–152, §2(c). See 1996 Amendment note below.

1996—Subsec. (a)(1). Pub. L. 104–152, §3(a), substituted "Attorney General" for "Secretary of Transportation".

Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted "National Motor Vehicle Title Information System" for "National Automobile Title Information System".

Subsecs. (b), (c). Pub. L. 104–152, §3(a), substituted "Attorney General" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

§30505. Penalties and enforcement

(a) PENALTY.—An individual or entity violating this chapter is liable to the United States Government for a civil penalty of not more than $1,000 for each violation.

(b) COLLECTION AND COMPROMISE.—(1) The Attorney General shall impose a civil penalty under this section. The Attorney General shall bring a civil action to collect the penalty. The Attorney General may compromise the amount of the penalty. In determining the amount of the penalty or compromise, the Attorney General shall consider the appropriateness of the penalty to the size of the business of the individual or entity charged and the gravity of the violation.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual or entity liable for the penalty.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 983; Pub. L. 104–152, §3(a), July 2, 1996, 110 Stat. 1384.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30505	15:2044(c).	Oct. 25, 1992, Pub. L. 102–519, §204(c), 106 Stat. 3393.

In subsection (a), the words "An individual or entity violating this chapter is liable to the United States Government for a civil penalty of" are substituted for "Whoever violates this section may be assessed a civil penalty of not to exceed" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words "individual or entity" are substituted for "person" for clarity and consistency with the source provisions restated in the revised chapter.

In subsection (b)(1), the words "The Secretary of Transportation shall impose a civil penalty under this section. The Attorney General shall bring a civil action to collect the penalty" are substituted for "Any such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General of the United States" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words "penalty imposed or compromised" are substituted for "such penalty, finally determined, or the amount agreed upon in compromise", and the words "liable for the penalty" are substituted for "charged", for clarity and consistency in the revised title and other titles of the Code.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–152 substituted "Attorney General shall impose" for "Secretary of Transportation shall impose", "Attorney General may compromise" for "Secretary may compromise", and "Attorney General shall consider" for "Secretary shall consider".

PART B—COMMERCIAL

CHAPTER 311—COMMERCIAL MOTOR VEHICLE SAFETY

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EDITORIAL NOTES

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2015—Pub. L. 114–94, div. A, title V, §§5101(d), (e)(3), (4), 5103(b), Dec. 4, 2015, 129 Stat. 1525, 1527, substituted "Motor carrier safety assistance program" for "Grants to States" in item 31102, "Commercial motor vehicle operators grant program" for "United States Government's share of costs" in item 31103, and "Authorization of appropriations" for "Availability of amounts" in item 31104, struck out items 31107 "Border enforcement grants" and 31109 "Performance and registration information system management", and added item 31110.

2012—Pub. L. 112–141, div. C, title II, §§32105(b), 32301(d), July 6, 2012, 126 Stat. 781, 788, added items 31134 and 31137 and struck out former item 31137 "Monitoring device and brake maintenance regulations".

2005—Pub. L. 109–59, title IV, §§4109(b)(2), 4110(b), 4111(b), 4116(e), 4117(b), 4118(b), 4119(b), Aug. 10, 2005, 119 Stat. 1721, 1722, 1724, 1728, 1729, 1732, 1733, substituted "GENERAL AUTHORITY AND STATE GRANTS" for "STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS" in subchapter I heading, "Border enforcement grants" for "Contract authority funding for information systems" in item 31107, and "Motor carrier research and technology program" for "Authorization of appropriations" in item 31108 and added items 31109 and 31149 to 31151, subchapter IV heading, and item 31161.

1999—Pub. L. 106–159, title II, §211(b), Dec. 9, 1999, 113 Stat. 1766, added item 31148.

1998—Pub. L. 105–178, title IV, §§4002(b), 4004(d), 4008(c), (d), 4010, June 9, 1998, 112 Stat. 395, 400, 404, 407, inserted "AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS" after "GRANTS" in subchapter I heading, added item 31100, substituted "Information systems" for "Commercial motor vehicle information system program" in item 31106 and "Contract authority funding for information systems" for "Truck and bus accident grant program" in item 31107, struck out items 31134 "Commercial Motor Vehicle Safety Regulatory Review Panel" and 31140 "Submission of State laws and regulations for review", subchapter IV heading "MISCELLANEOUS", and items 31161 "Procedures to ensure timely correction of safety violations" and 31162 "Compliance review priority".

SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59, title IV, §4110(a)(1), Aug. 10, 2005, 119 Stat. 1721, substituted "GENERAL AUTHORITY AND STATE GRANTS" for "STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS" in subchapter heading.

1998—Pub. L. 105–178, title IV, §4004(c), June 9, 1998, 112 Stat. 400, inserted "AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS" after "GRANTS" in subchapter heading.

§31100. Purpose

The purpose of this subchapter is to ensure that the Secretary, States, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient transportation system by—

(1) focusing resources on strategic safety investments to promote safe for-hire and private transportation, including transportation of passengers and hazardous materials, to identify high-risk carriers and drivers, and to invest in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes;

(2) increasing administrative flexibility and developing and enforcing effective, compatible, and cost-beneficial motor carrier, commercial motor vehicle, and driver safety regulations and practices, including improving enforcement of State and local traffic safety laws and regulations;

(3) assessing and improving statewide program performance by setting program outcome goals, improving problem identification and countermeasures planning, designing appropriate performance standards, measures, and benchmarks, improving performance information and analysis systems, and monitoring program effectiveness;

(4) ensuring that drivers of commercial motor vehicles and enforcement personnel obtain adequate training in safe operational practices and regulatory requirements; and

(5) advancing promising technologies and encouraging adoption of safe operational practices.

(Added Pub. L. 105–178, title IV, §4002(a), June 9, 1998, 112 Stat. 395.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMPLIANCE, SAFETY, ACCOUNTABILITY REFORM

Pub. L. 114–94, div. A, title V, subtitle B, part II, Dec. 4, 2015, 129 Stat. 1538, provided that:

"SEC. 5221. CORRELATION STUDY.

"(a) IN GENERAL.—The Administrator of the Federal Motor Carrier Safety Administration (referred to in this part as the 'Administrator') shall commission the National Research Council of the National Academies to conduct a study of—

"(1) the Compliance, Safety, Accountability program of the Federal Motor Carrier Safety Administration (referred to in this part as the 'CSA program'); and

"(2) the Safety Measurement System utilized by the CSA program (referred to in this part as the 'SMS').

"(b) SCOPE OF STUDY.—In carrying out the study commissioned pursuant to subsection (a), the National Research Council—

"(1) shall analyze—

"(A) the accuracy with which the Behavior Analysis and Safety Improvement Categories (referred to in this part as 'BASIC')—

"(i) identify high risk carriers; and

"(ii) predict or are correlated with future crash risk, crash severity, or other safety indicators for motor carriers, including the highest risk carriers;

"(B) the methodology used to calculate BASIC percentiles and identify carriers for enforcement, including the weights assigned to particular violations and the tie between crash risk and specific regulatory violations, with respect to accurately identifying and predicting future crash risk for motor carriers;

"(C) the relative value of inspection information and roadside enforcement data;

"(D) any data collection gaps or data sufficiency problems that may exist and the impact of those gaps and problems on the efficacy of the CSA program;

"(E) the accuracy of safety data, including the use of crash data from crashes in which a motor carrier was free from fault;

"(F) whether BASIC percentiles for motor carriers of passengers should be calculated separately from motor carriers of freight;

"(G) the differences in the rates at which safety violations are reported to the Federal Motor Carrier Safety Administration for inclusion in the SMS by various enforcement authorities, including States, territories, and Federal inspectors; and

"(H) how members of the public use the SMS and what effect making the SMS information public has had on reducing crashes and eliminating unsafe motor carriers from the industry; and

"(2) shall consider—

"(A) whether the SMS provides comparable precision and confidence, through SMS alerts and percentiles, for the relative crash risk of individual large and small motor carriers;

"(B) whether alternatives to the SMS would identify high risk carriers more accurately; and

"(C) the recommendations and findings of the Comptroller General of the United States and the Inspector General of the Department [of Transportation], and independent review team reports, issued before the date of enactment of this Act [Dec. 4, 2015].

"(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall—

"(1) submit a report containing the results of the study commissioned pursuant to subsection (a) to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

"(C) the Inspector General of the Department; and

"(2) publish the report on a publicly accessible Internet Web site of the Department.

"(d) CORRECTIVE ACTION PLAN.—

"(1) IN GENERAL.—Not later than 120 days after the Administrator submits the report under subsection (c), if that report identifies a deficiency or opportunity for improvement in the CSA program or in any element of the SMS, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a corrective action plan that—

"(A) responds to the deficiencies or opportunities identified by the report;

"(B) identifies how the Federal Motor Carrier Safety Administration will address such deficiencies or opportunities; and

"(C) provides an estimate of the cost, including with respect to changes in staffing, enforcement, and data collection, necessary to address such deficiencies or opportunities.

"(2) PROGRAM REFORMS.—The corrective action plan submitted under paragraph (1) shall include an implementation plan that—

"(A) includes benchmarks;

"(B) includes programmatic reforms, revisions to regulations, or proposals for legislation; and

"(C) shall be considered in any rulemaking by the Department that relates to the CSA program, including the SMS or data analysis under the SMS.

"(e) INSPECTOR GENERAL REVIEW.—Not later than 120 days after the Administrator submits a corrective action plan under subsection (d), the Inspector General of the Department shall—

"(1) review the extent to which such plan addresses—

"(A) recommendations contained in the report submitted under subsection (c); and

"(B) relevant recommendations issued by the Comptroller General or the Inspector General before the date of enactment of this Act; and

"(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the responsiveness of the corrective action plan to the recommendations described in paragraph (1).

"SEC. 5222. BEYOND COMPLIANCE.

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], the Administrator shall allow recognition, including credit or an improved SMS percentile, for a motor carrier that—

"(1) installs advanced safety equipment;

"(2) uses enhanced driver fitness measures;

"(3) adopts fleet safety management tools, technologies, and programs; or

"(4) satisfies other standards determined appropriate by the Administrator.

"(b) IMPLEMENTATION.—The Administrator shall carry out subsection (a) by—

"(1) incorporating a methodology into the CSA program; or

"(2) establishing a safety BASIC in the SMS.

"(c) PROCESS.—

"(1) IN GENERAL.—The Administrator, after providing notice and an opportunity for comment, shall develop a process for identifying and reviewing advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs, and other standards for use by motor carriers to receive recognition, including credit or an improved SMS percentile, for purposes of subsection (a).

"(2) CONTENTS.—A process developed under paragraph (1) shall—

"(A) provide for a petition process for reviewing advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs, and other standards; and

"(B) seek input and participation from industry stakeholders, including commercial motor vehicle drivers, technology manufacturers, vehicle manufacturers, motor carriers, law enforcement, safety advocates, and the Motor Carrier Safety Advisory Committee.

"(d) QUALIFICATION.—The Administrator, after providing notice and an opportunity for comment, shall develop technical or other performance standards with respect to advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs, and other standards for purposes of subsection (a).

"(e) MONITORING.—The Administrator may authorize qualified entities to monitor motor carriers that receive recognition, including credit or an improved SMS percentile, under this section through a no-cost contract structure.

"(f) DISSEMINATION OF INFORMATION.—The Administrator shall maintain on a publicly accessible Internet Web site of the Department information on—

"(1) the advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs, and other standards eligible for recognition, including credit or an improved SMS percentile;

"(2) any petitions for review of advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs, and other standards; and

"(3) any relevant statistics relating to the use of advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs, and other standards.

"(g) REPORT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the—

"(1) number of motor carriers receiving recognition, including credit or an improved SMS percentile, under this section; and

"(2) safety performance of such carriers.

"SEC. 5223. DATA CERTIFICATION.

"(a) IN GENERAL.—On and after the date that is 1 day after the date of enactment of this Act [Dec. 4, 2015], no information regarding analysis of violations, crashes in which a determination is made that the motor carrier or the commercial motor vehicle driver is not at fault, alerts, or the relative percentile for each BASIC developed under the CSA program may be made available to the general public until the Inspector General of the Department certifies that—

"(1) the report required under section 5221(c) has been submitted in accordance with that section;

"(2) any deficiencies identified in the report required under section 5221(c) have been addressed;

"(3) if applicable, the corrective action plan under section 5221(d) has been implemented;

"(4) the Administrator of the Federal Motor Carrier Safety Administration has fully implemented or satisfactorily addressed the issues raised in the report titled 'Modifying the Compliance, Safety, Accountability Program Would Improve the Ability to Identify High Risk Carriers' of the Government Accountability Office and dated February 2014 (GAO–14–114); and

"(5) the Secretary [of Transportation] has initiated modification of the CSA program in accordance with section 5222.

"(b) LIMITATION ON THE USE OF CSA ANALYSIS.—Information regarding alerts and the relative percentile for each BASIC developed under the CSA program may not be used for safety fitness determinations until the Inspector General of the Department makes the certification under subsection (a).

"(c) CONTINUED PUBLIC AVAILABILITY OF DATA.—Notwithstanding any other provision of this section, inspection and violation information submitted to the Federal Motor Carrier Safety Administration by commercial motor vehicle inspectors and qualified law enforcement officials, out-of-service rates, and absolute measures shall remain available to the public.

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section—

"(A) the Federal Motor Carrier Safety Administration and State and local commercial motor vehicle enforcement agencies may use the information referred to in subsection (a) for purposes of investigation and enforcement prioritization;

"(B) a motor carrier and a commercial motor vehicle driver may access information referred to in subsection (a) that relates directly to the motor carrier or driver, respectively; and

"(C) a data analysis of motorcoach operators may be provided online with a notation indicating that the ratings or alerts listed are not intended to imply any Federal safety rating of the carrier.

"(2) NOTATION.—The notation described in paragraph (1)(C) shall include the following: 'Readers should not draw conclusions about a carrier's overall safety condition simply based on the data displayed in this system. Unless a motor carrier has received an UNSATISFACTORY safety rating under part 385 of title 49, Code of Federal Regulations, or has otherwise been ordered to discontinue operations by the Federal Motor Carrier Safety Administration, it is authorized to operate on the Nation's roadways.'.

"(3) RULE OF CONSTRUCTION.—Nothing in this section may be construed to restrict the official use by State enforcement agencies of the data collected by State enforcement personnel.

"SEC. 5224. DATA IMPROVEMENT.

"(a) FUNCTIONAL SPECIFICATIONS.—The Administrator shall develop functional specifications to ensure the consistent and accurate input of data into systems and databases relating to the CSA program.

"(b) FUNCTIONALITY.—The functional specifications developed pursuant to subsection (a)—

"(1) shall provide for the hardcoding and smart logic functionality for roadside inspection data collection systems and databases; and

"(2) shall be made available to public and private sector developers.

"(c) EFFECTIVE DATA MANAGEMENT.—The Administrator shall ensure that internal systems and databases accept and effectively manage data using uniform standards.

"(d) CONSULTATION WITH THE STATES.—Before implementing the functional specifications developed pursuant to subsection (a) or the standards described in subsection (c), the Administrator shall seek input from the State agencies responsible for enforcing section 31102 of title 49, United States Code.

"SEC. 5225. ACCIDENT REVIEW.

"(a) IN GENERAL.—Not later than 1 year after a certification under section 5223, the Secretary shall task the Motor Carrier Safety Advisory Committee with reviewing the treatment of preventable crashes under the SMS.

"(b) DUTIES.—Not later than 6 months after being tasked under subsection (a), the Motor Carrier Safety Advisory Committee shall make recommendations to the Secretary on a process to allow motor carriers and drivers to request that the Administrator make a determination with respect to the preventability of a crash, if such a process has not yet been established by the Secretary.

"(c) REPORT.—The Secretary shall—

"(1) review and consider the recommendations provided by the Motor Carrier Safety Advisory Committee; and

"(2) report to Congress on how the Secretary intends to address the treatment of preventable crashes.

"(d) PREVENTABLE DEFINED.—In this section, the term 'preventable' has the meaning given that term in Appendix B of part 385 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act [Dec. 4, 2015]."

ADMINISTRATION OF GRANT PROGRAMS

Pub. L. 112–141, div. C, title II, §32603(i), July 6, 2012, 126 Stat. 808, provided that: "The Secretary [of Transportation] is authorized to identify and implement processes to reduce the administrative burden on the States and the Department of Transportation concerning the application and management of the grant programs authorized under chapter 311 and chapter 313 of title 49, United States Code."

TRUCKING SECURITY

Pub. L. 109–347, title VII, §703, Oct. 13, 2006, 120 Stat. 1944, provided that:

"(a) LEGAL STATUS VERIFICATION FOR LICENSED UNITED STATES COMMERCIAL DRIVERS .—Not later than 18 months after the date of the enactment of this Act [Oct. 13, 2006], the Secretary of Transportation, in cooperation with the Secretary [of Homeland Security], shall issue regulations to implement the recommendations contained in the memorandum of the Inspector General of the Department of Transportation issued on June 4, 2004 (Control No. 2004–054).

"(b) COMMERCIAL DRIVER'S LICENSE ANTIFRAUD PROGRAMS.—Not later than 18 months after the date of the enactment of this Act [Oct. 13, 2006], the Secretary of Transportation, in cooperation with the Secretary [of Homeland Security], shall issue a regulation to implement the recommendations contained in the Report on Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program (MH–2006–037).

"(c) VERIFICATION OF COMMERCIAL MOTOR VEHICLE TRAFFIC.—

"(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this Act [Oct. 13, 2006], the Secretary [of Homeland Security], in consultation with the Secretary of Transportation, shall draft guidelines for Federal, State, and local law enforcement officials, including motor carrier safety enforcement personnel, on how to identify noncompliance with Federal laws uniquely applicable to commercial motor vehicles and commercial motor vehicle operators engaged in cross-border traffic and communicate such noncompliance to the appropriate Federal authorities. Such guidelines shall be coordinated with the training and outreach activities of the Federal Motor Carrier Safety Administration under section 4139 of SAFETEA-LU (Public Law 109–59) [set out below].

"(2) VERIFICATION.—Not later than 18 months after the date of the enactment of this Act [Oct. 13, 2006], the Administrator of the Federal Motor Carrier Safety Administration shall modify the final rule regarding the enforcement of operating authority (Docket No. FMCSA–2002–13015) to establish a system or process by which a carrier's operating authority can be verified during a roadside inspection."

OUTREACH AND EDUCATION

Pub. L. 109–59, title IV, §4127, Aug. 10, 2005, 119 Stat. 1741, as amended by Pub. L. 111–147, title IV,

§422(g), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2202(g), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112–5, title II, §202(g), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112–30, title I, §122(f), Sept. 16, 2011, 125 Stat. 349; Pub. L. 112–102, title II, §202(f), Mar. 30, 2012, 126 Stat. 274; Pub. L. 112–140, title II, §202(f), June 29, 2012, 126 Stat. 395; Pub. L. 112–141, div. C, title II, §32603(f), div. G, title II, §112002(e), July 6, 2012, 126 Stat. 808, 983; Pub. L. 113–159, title I, §1102(f), Aug. 8, 2014, 128 Stat. 1844; Pub. L. 114–21, title I, §1102(f), May 29, 2015, 129 Stat. 222; Pub. L. 114–41, title I, §1102(f), July 31, 2015, 129 Stat. 449; Pub. L. 114–73, title I, §1102(f), Oct. 29, 2015, 129 Stat. 572; Pub. L. 114–87, title I, §1102(f), Nov. 20, 2015, 129 Stat. 681, which provided for an outreach and education program, was repealed by Pub. L. 114–94, div. A, title V, §5103(c)(4), Dec. 4, 2015, 129 Stat. 1527. See section 31110(c) of this title.

SAFETY DATA IMPROVEMENT PROGRAM

Pub. L. 109–59, title IV, §4128, Aug. 10, 2005, 119 Stat. 1742, which provided for grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary of Transportation, was repealed by Pub. L. 114–94, div. A, title V, §5101(e)(6), Dec. 4, 2015, 129 Stat. 1525, effective Oct. 1, 2016.

OPERATING AUTHORITY ENFORCEMENT ASSISTANCE FOR STATES

Pub. L. 109–59, title IV, §4139(a), Aug. 10, 2005, 119 Stat. 1745, provided that:

"(1) TRAINING AND OUTREACH.—Not later than 180 days after the date of enactment of this Act [Aug. 10, 2005], the Administrator of the Federal Motor Carrier Safety Administration shall conduct outreach and provide training as necessary to State personnel engaged in the enforcement of Federal motor carrier safety regulations to ensure their awareness of the process to be used for verification of the operating authority of motor carriers, including motor carriers of passengers, and to ensure proper enforcement when motor carriers are found to be in violation of operating authority requirements.

"(2) ASSESSMENT.—The Inspector General of the Department of Transportation may periodically assess the implementation and effectiveness of the training and outreach program."

MOTOR CARRIER SAFETY ADVISORY COMMITTEE

Pub. L. 109–59, title IV, §4144, Aug. 10, 2005, 119 Stat. 1748, as amended by Pub. L. 111–147, title IV, §422(i), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2202(i), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112–5, title II, §202(i), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112–30, title I, §122(h), Sept. 16, 2011, 125 Stat. 349; Pub. L. 112–102, title II, §202(h), Mar. 30, 2012, 126 Stat. 274; Pub. L. 112–140, title II, §202(h), June 29, 2012, 126 Stat. 395; Pub. L. 112–141, div. C, title II, §32912, July 6, 2012, 126 Stat. 818; Pub. L. 117–58, div. B, title III, §23002, Nov. 15, 2021, 135 Stat. 758; Pub. L. 117–286, §4(a)(309), Dec. 27, 2022, 136 Stat. 4340, provided that:

"(a) ESTABLISHMENT AND DUTIES.—The Secretary [of Transportation] shall establish in the Federal Motor Carrier Safety Administration a motor carrier safety advisory committee. The committee shall—

"(1) provide advice and recommendations to the Administrator of the Federal Motor Carrier Safety Administration about needs, objectives, plans, approaches, content, and accomplishments of the motor carrier safety programs carried out by the Administration; and

"(2) provide advice and recommendations to the Administrator on motor carrier safety regulations.

"(b) MEMBERS, CHAIRMAN, PAY, AND EXPENSES.—

"(1) IN GENERAL.—The committee shall be composed of not more than 20 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. The members shall include representatives of the motor carrier industry, including small business motor carriers, safety advocates, and safety enforcement officials. Representatives of a single enumerated interest group may not constitute a majority of the members of the advisory committee.

"(2) CHAIRMAN.—The Administrator shall designate the chairman of the committee.

"(3) PAY.—A member of the committee shall serve without pay; except that the Administrator may allow a member, when attending meetings of the committee or a subcommittee of the committee, expenses authorized under section 5703 of title 5, relating to per diem, travel, and transportation expenses.

"(c) SUPPORT STAFF, INFORMATION, AND SERVICES.—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

"(d) TERMINATION DATE.—Notwithstanding chapter 10 of title 5, United States Code, the advisory committee shall terminate on September 30, 2025."

[Pub. L. 119–75, div. I, §5006, Feb. 3, 2026, 140 Stat. 630, provided that: "Section 4144(d) of the Motor

Carrier Safety Reauthorization Act of 2005 (49 U.S.C. 31100 note; Public Law 109–59) [set out above] shall be applied by substituting 'September 30, 2026' for 'September 30, 2025'."]

MOTOR CARRIER SAFETY STRATEGY

Pub. L. 106–159, title I, §104, Dec. 9, 1999, 113 Stat. 1754, provided that:

"(a) SAFETY GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving commercial motor vehicle, operator, and carrier safety. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

"(1) Reducing the number and rates of crashes, injuries, and fatalities involving commercial motor vehicles.

"(2) Improving the consistency and effectiveness of commercial motor vehicle, operator, and carrier enforcement and compliance programs.

"(3) Identifying and targeting enforcement efforts at high-risk commercial motor vehicles, operators, and carriers.

"(4) Improving research efforts to enhance and promote commercial motor vehicle, operator, and carrier safety and performance.

"(b) CONTENTS OF STRATEGY.—

"(1) MEASURABLE GOALS.—The strategy and annual plans under subsection (a) shall include, at a minimum, specific numeric or measurable goals designed to achieve the strategic goals of subsection (a). The purposes of the numeric or measurable goals are as follows:

"(A) To increase the number of inspections and compliance reviews to ensure that all high-risk commercial motor vehicles, operators, and carriers are examined.

"(B) To eliminate, with meaningful safety measures, the backlog of rulemakings.

"(C) To improve the quality and effectiveness of data bases by ensuring that all States and inspectors accurately and promptly report complete safety information.

"(D) To eliminate, with meaningful civil and criminal penalties for violations, the backlog of enforcement cases.

"(E) To provide for a sufficient number of Federal and State safety inspectors, and provide adequate facilities and equipment, at international border areas.

"(2) RESOURCE NEEDS.—In addition, the strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each activity. Such estimates shall also include the staff skills and training needed for timely and effective accomplishment of each goal.

"(3) SAVINGS CLAUSE.—In developing and assessing progress toward meeting the measurable goals set forth in this subsection, the Secretary and the Federal Motor Carrier Safety Administrator shall not take any action that would impinge on the due process rights of motor carriers and drivers.

"(c) SUBMISSION WITH THE PRESIDENT'S BUDGET.—Beginning with fiscal year 2001 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan at the same time as the President's budget submission.

"(d) ANNUAL PERFORMANCE.—

"(1) ANNUAL PERFORMANCE AGREEMENT.—For each of fiscal years 2001 through 2003, the following officials shall enter into annual performance agreements:

"(A) The Secretary and the Federal Motor Carrier Safety Administrator.

"(B) The Administrator and the Deputy Federal Motor Carrier Safety Administrator.

"(C) The Administrator and the Chief Safety Officer of the Federal Motor Carrier Safety Administration.

"(D) The Administrator and the regulatory ombudsman of the Administration designated by the Administrator under subsection (f).

"(2) GOALS.—Each annual performance agreement entered into under paragraph (1) shall include the appropriate numeric or measurable goals of subsection (b).

"(3) PROGRESS ASSESSMENT.—Consistent with the current performance appraisal system of the Department of Transportation, the Secretary shall assess the progress of each official (other than the Secretary) referred to in paragraph (1) toward achieving the goals in his or her performance agreement. The Secretary shall convey the assessment to such official, including identification of any deficiencies that should be remediated before the next progress assessment.

"(4) ADMINISTRATION.—In deciding whether or not to award a bonus or other achievement award to an official of the Administration who is a party to a performance agreement required by this subsection, the Secretary shall give substantial weight to whether the official has made satisfactory progress toward

meeting the goals of his or her performance agreement.

"(e) ACHIEVEMENT OF GOALS.—

"(1) PROGRESS ASSESSMENT.—No less frequently than semiannually, the Secretary and the Administrator shall assess the progress of the Administration toward achieving the strategic goals of subsection (a). The Secretary and the Administrator shall convey their assessment to the employees of the Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

"(2) REPORT TO CONGRESS.—The Secretary shall report annually to Congress the contents of each performance agreement entered into under subsection (d) and the official's performance relative to the goals of the performance agreement. In addition, the Secretary shall report to Congress on the performance of the Administration relative to the goals of the motor carrier safety strategy and annual plan under subsection (a).

"(f) EXPEDITING REGULATORY PROCEEDINGS.—The Administrator shall designate a regulatory ombudsman to expedite rulemaking proceedings. The Secretary and the Administrator shall each delegate to the ombudsman such authority as may be necessary for the ombudsman to expedite rulemaking proceedings of the Administration to comply with statutory and internal departmental deadlines, including authority to—

"(1) make decisions to resolve disagreements between officials in the Administration who are participating in a rulemaking process; and

"(2) ensure that sufficient staff are assigned to rulemaking projects to meet all deadlines."

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

Pub. L. 106–159, title I, §105, Dec. 9, 1999, 113 Stat. 1756, provided that:

"(a) ESTABLISHMENT.—The Secretary may establish a commercial motor vehicle safety advisory committee to provide advice and recommendations on a range of motor carrier safety issues.

"(b) COMPOSITION.—The members of the advisory committee shall be appointed by the Secretary and shall include representatives of the motor carrier industry, drivers, safety advocates, manufacturers, safety enforcement officials, law enforcement agencies of border States, and other individuals affected by rulemakings under consideration by the Department of Transportation. Representatives of a single interest group may not constitute a majority of the members of the advisory committee.

"(c) FUNCTION.—The advisory committee shall provide advice to the Secretary on commercial motor vehicle safety regulations and other matters relating to activities and functions of the Federal Motor Carrier Safety Administration.

"(d) TERMINATION DATE.—The advisory committee shall remain in effect until September 30, 2003."

STUDY OF COMMERCIAL MOTOR VEHICLE CRASH CAUSATION

Pub. L. 106–159, title II, §224, Dec. 9, 1999, 113 Stat. 1770, provided that:

"(a) OBJECTIVES.—The Secretary shall conduct a comprehensive study to determine the causes of, and contributing factors to, crashes that involve commercial motor vehicles. The study shall also identify data requirements and collection procedures, reports, and other measures that will improve the Department of Transportation's and States' ability to—

"(1) evaluate future crashes involving commercial motor vehicles;

"(2) monitor crash trends and identify causes and contributing factors; and

"(3) develop effective safety improvement policies and programs.

"(b) DESIGN.—The study shall be designed to yield information that will help the Department and the States identify activities and other measures likely to lead to significant reductions in the frequency, severity, and rate per mile traveled of crashes involving commercial motor vehicles, including vehicles described in section 31132(1)(B) of title 49, United States Code. As practicable, the study shall rank such activities and measures by the reductions each would likely achieve, if implemented.

"(c) CONSULTATION.—In designing and conducting the study, the Secretary shall consult with persons with expertise on—

"(1) crash causation and prevention;

"(2) commercial motor vehicles, drivers, and carriers, including passenger carriers;

"(3) highways and noncommercial motor vehicles and drivers;

"(4) Federal and State highway and motor carrier safety programs;

"(5) research methods and statistical analysis; and

"(6) other relevant topics.

"(d) PUBLIC COMMENT.—The Secretary shall make available for public comment information about the objectives, methodology, implementation, findings, and other aspects of the study.

"(e) REPORTS.—

"(1) IN GENERAL.—The Secretary shall promptly transmit to Congress the results of the study, together with any legislative recommendations.

"(2) REVIEW AND UPDATE.—The Secretary shall review the study at least once every 5 years and update the study and report as necessary.

"(f) FUNDING.—Of the amounts made available for each of fiscal years 2001, 2002, and 2003 under section 4003(i) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178, 49 U.S.C. 31104 note] (112 Stat. 395–398), as added by section 103(b)(1) of this Act, $5,000,000 per fiscal year shall be available only to carry out this section."

DATA COLLECTION AND ANALYSIS

Pub. L. 106–159, title II, §225, Dec. 9, 1999, 113 Stat. 1771, directed the Secretary, in cooperation with the States, to carry out a program to improve the collection and analysis of data on crashes, including crash causation, involving commercial motor vehicles and to transmit a report on the program and authorized appropriations for fiscal years 2001, 2002, and 2003.

§31101. Definitions

In this subchapter—

(1) "commercial motor vehicle" means (except in section 31106) a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle—

(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

(B) is designed to transport more than 10 passengers including the driver; or

(C) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

(2) "employee" means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment by a commercial motor carrier; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(3) "employer"—

(A) means a person engaged in a business affecting commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the vehicle in commerce; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 984; Pub. L. 105–178, title IV, §4003(a), June 9, 1998, 112 Stat. 395.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31101	49 App.:2301(1), (3)–(6).	Jan. 6, 1983, Pub. L. 97–424, §401(1), (3)–(6), 96 Stat. 2154, 2155.
	49 App.:2301(2).	Jan. 6, 1983, Pub. L. 97–424, §401(2),

		96 Stat. 2154; Oct. 30, 1984, Pub. L. 98–554, §228(a), (b), 98 Stat. 2852.

Before clause (1), the words "unless the context otherwise requires" are omitted as unnecessary. The text of 49 App.:2301(4) is omitted as unnecessary because of 1:1. The text of 49 App.:2301(5) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (1), before subclause (A), the words "(except in section 31106)" are added because the source provisions being restated in section 31106 of the revised title contain a definition of "commercial motor vehicle".

In clause (4), the words "the Commonwealth of" are omitted for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

1998—Par. (1)(A). Pub. L. 105–178, §4003(a)(1), inserted "or gross vehicle weight" after "rating" and substituted "10,001 pounds, whichever is greater" for "10,000 pounds".

Par. (1)(C). Pub. L. 105–178, §4003(a)(2), inserted "and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS CLAUSE

Pub. L. 105–178, title IV, §4003(h), June 9, 1998, 112 Stat. 398, provided that: "Amendments made by this section [amending this section and sections 31102 to 31104 of this title] shall not affect any funds made available before the date of enactment of this Act [June 9, 1998]."

§31102. Motor carrier safety assistance program

(a) IN GENERAL.—The Secretary of Transportation shall administer a motor carrier safety assistance program funded under section 31104.

(b) GOAL.—The goal of the program is to ensure that the Secretary, States, local governments, other political jurisdictions, federally recognized Indian tribes, and other persons work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

(1) making targeted investments to promote safe commercial motor vehicle transportation, including the transportation of passengers and hazardous materials;

(2) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and in fatalities resulting from such crashes;

(3) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

(4) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.

(c) STATE PLANS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall prescribe procedures for a State to submit a multiple-year plan, and annual updates thereto, under which the State agrees to assume responsibility for improving motor carrier safety by adopting and enforcing State regulations, standards, and orders that are compatible with the regulations, standards, and orders of the Federal Government on commercial motor vehicle safety and hazardous materials transportation safety.

(2) CONTENTS.—The Secretary shall approve a State plan if the Secretary determines that the plan is adequate to comply with the requirements of this section, and the plan—

(A) implements performance-based activities, including deployment and maintenance of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;

(B) designates a lead State commercial motor vehicle safety agency responsible for administering the plan throughout the State;

(C) contains satisfactory assurances that the lead State commercial motor vehicle safety agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(D) contains satisfactory assurances that the State will devote adequate resources to the administration of the plan and enforcement of the regulations, standards, and orders;

(E) provides a right of entry (or other method a State may use that the Secretary determines is adequate to obtain necessary information) and inspection to carry out the plan;

(F) provides that all reports required under this section be available to the Secretary on request;

(G) provides that the lead State commercial motor vehicle safety agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations that the Secretary prescribes;

(H) requires all registrants of commercial motor vehicles to demonstrate knowledge of applicable safety regulations, standards, and orders of the Federal Government and the State;

(I) provides that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standards through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

(J) ensures that activities described in subsection (h), if financed through grants to the State made under this section, will not diminish the effectiveness of the development and implementation of the programs to improve motor carrier, commercial motor vehicle, and driver safety as described in subsection (b);

(K) ensures that the lead State commercial motor vehicle safety agency will coordinate the plan, data collection, and information systems with the State highway safety improvement program required under section 148(c) of title 23;

(L) ensures participation in appropriate Federal Motor Carrier Safety Administration information technology and data systems and other information systems by all appropriate jurisdictions receiving motor carrier safety assistance program funding;

(M) ensures that information is exchanged among the States in a timely manner;

(N) provides satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

(O) provides satisfactory assurances that the State will address national priorities and performance goals, including—

(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

(ii) activities aimed at providing an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances; and

(iii) when conducted with an appropriate commercial motor vehicle inspection, criminal interdiction activities, and appropriate strategies for carrying out those interdiction activities, including interdiction activities that affect the transportation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) and listed in part 1308 of title 21, Code of Federal Regulations, as updated and republished from time to time) by any occupant of a commercial motor vehicle;

(P) provides that the State has established and dedicated sufficient resources to a program to

ensure that—

(i) the State collects and reports to the Secretary accurate, complete, and timely motor carrier safety data; and

(ii) the State participates in a national motor carrier safety data correction system prescribed by the Secretary;

(Q) ensures that the State will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued under those sections;

(R) ensures consistent, effective, and reasonable sanctions;

(S) ensures that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel;

(T) provides that the State will include in the training manuals for the licensing examination to drive noncommercial motor vehicles and commercial motor vehicles information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

(U) provides that the State will enforce the registration requirements of sections 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier without a registration issued under those sections or to be operated beyond the scope of the motor carrier's registration;

(V) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors;

(W) except in the case of an imminent hazard or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a bus station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop (excluding a weigh station);

(X) ensures that the State will transmit to its roadside inspectors notice of each Federal exemption granted under section 31315(b) of this title and sections 390.23 and 390.25 of title 49, Code of Federal Regulations, and provided to the State by the Secretary, including the name of the person that received the exemption and any terms and conditions that apply to the exemption;

(Y) except as provided in subsection (d), provides that the State—

(i) will conduct safety audits of interstate and, at the State's discretion, intrastate new entrant motor carriers under section 31144(g); and

(ii) if the State authorizes a third party to conduct safety audits under section 31144(g) on its behalf, the State verifies the quality of the work conducted and remains solely responsible for the management and oversight of the activities;

(Z) provides that the State agrees to fully participate in the performance and registration information systems management under section 31106(b) not later than October 1, 2020, by complying with the conditions for participation under paragraph (3) of that section, or demonstrates to the Secretary an alternative approach for identifying and immobilizing a motor carrier with serious safety deficiencies in a manner that provides an equivalent level of safety;

(AA) in the case of a State that shares a land border with another country, provides that the State—

(i) will conduct a border commercial motor vehicle safety program focusing on international commerce that includes enforcement and related projects; or

(ii) will forfeit all funds calculated by the Secretary based on border-related activities if the State declines to conduct the program described in clause (i) in its plan; and

(BB) in the case of a State that meets the other requirements of this section and agrees to comply with the requirements established in subsection (l)(3), provides that the State may fund

operation and maintenance costs associated with innovative technology deployment under subsection (l)(3) with motor carrier safety assistance program funds authorized under section 31104(a)(1).

(3) PUBLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall publish each approved State multiple-year plan, and each annual update thereto, on a publically accessible Internet Web site of the Department of Transportation not later than 30 days after the date the Secretary approves the plan or update.

(B) LIMITATION.—Before publishing an approved State multiple-year plan or annual update under subparagraph (A), the Secretary shall redact any information identified by the State that, if disclosed—

(i) would reasonably be expected to interfere with enforcement proceedings; or

(ii) would reveal enforcement techniques or procedures that would reasonably be expected to risk circumvention of the law.

(d) EXCLUSION OF U.S. TERRITORIES.—The requirement that a State conduct safety audits of new entrant motor carriers under subsection (c)(2)(Y) does not apply to a territory of the United States unless required by the Secretary.

(e) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws, including regulations, with Federal motor carrier safety regulations to be enforced under subsections (b) and (c). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish motor vehicle safety.

(f) MAINTENANCE OF EFFORT.—

(1) BASELINE.—Except as provided under paragraphs (2) and (3) and in accordance with section 5107 of the FAST Act, a State plan under subsection (c) shall provide that the total expenditure of amounts of the lead State commercial motor vehicle safety agency responsible for administering the plan will be maintained at a level each fiscal year that is at least equal to—

(A) the average level of that expenditure for fiscal years 2004 and 2005; or

(B) the level of that expenditure for the year in which the Secretary implements a new allocation formula under section 5106 of the FAST Act.

(2) ADJUSTED BASELINE AFTER FISCAL YEAR 2017.—At the request of a State, the Secretary may evaluate additional documentation related to the maintenance of effort and may make reasonable adjustments to the maintenance of effort baseline after the year in which the Secretary implements a new allocation formula under section 5106 of the FAST Act, and this adjusted baseline will replace the maintenance of effort requirement under paragraph (1).

(3) WAIVERS.—At the request of a State, the Secretary may waive or modify the requirements of this subsection for a total of 1 fiscal year if the Secretary determines that the waiver or modification is reasonable, based on circumstances described by the State, to ensure the continuation of commercial motor vehicle enforcement activities in the State.

(4) LEVEL OF STATE EXPENDITURES.—In estimating the average level of a State's expenditures under paragraph (1), the Secretary—

(A) may allow the State to exclude State expenditures for federally sponsored demonstration and pilot programs and strike forces;

(B) may allow the State to exclude expenditures for activities related to border enforcement and new entrant safety audits; and

(C) shall require the State to exclude State matching amounts used to receive Federal financing under section 31104.

(g) USE OF UNIFIED CARRIER REGISTRATION FEES AGREEMENT.—Amounts generated

under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State's match required under section 31104 or maintenance of effort required by subsection (f).

(h) USE OF GRANTS TO ENFORCE OTHER LAWS.—When approved as part of a State's plan under subsection (c), the State may use motor carrier safety assistance program funds received under this section—

(1) if the activities are carried out in conjunction with an appropriate inspection of a commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations, for—

(A) enforcement of commercial motor vehicle size and weight limitations at locations, excluding fixed-weight facilities, such as near steep grades or mountainous terrains, where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

(B) detection of and enforcement actions taken as a result of criminal activity, including the trafficking of human beings, in a commercial motor vehicle or by any occupant, including the operator, of the commercial motor vehicle; and

(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles, if—

(A) the number of motor carrier safety activities, including roadside safety inspections, conducted in the State is maintained at a level at least equal to the average level of such activities conducted in the State in fiscal years 2014 and 2015; and

(B) the State does not use more than 10 percent of the basic amount the State receives under a grant awarded under section 31104(a)(1) for enforcement activities relating to noncommercial motor vehicles necessary to promote the safe operation of commercial motor vehicles unless the Secretary determines that a higher percentage will result in significant increases in commercial motor vehicle safety.

(i) EVALUATION OF PLANS AND AWARD OF GRANTS.—

(1) AWARDS.—The Secretary shall establish criteria for the application, evaluation, and approval of State plans under this section. Subject to subsection (j), the Secretary may allocate the amounts made available under section 31104(a)(1) among the States.

(2) OPPORTUNITY TO CURE.—If the Secretary disapproves a plan under this section, the Secretary shall give the State a written explanation of the reasons for disapproval and allow the State to modify and resubmit the plan for approval.

(j) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary, by regulation, shall prescribe allocation criteria for funds made available under section 31104(a)(1).

(2) ANNUAL ALLOCATIONS.—On October 1 of each fiscal year, or as soon as practicable thereafter, and after making a deduction under section 31104(c), the Secretary shall allocate amounts made available under section 31104(a)(1) to carry out this section for the fiscal year among the States with plans approved under this section in accordance with the criteria prescribed under paragraph (1).

(3) ELECTIVE ADJUSTMENTS.—Subject to the availability of funding and notwithstanding fluctuations in the data elements used by the Secretary to calculate the annual allocation amounts, after the creation of a new allocation formula under section 5106 of the FAST Act, the Secretary may not make elective adjustments to the allocation formula that decrease a State's Federal funding levels by more than 3 percent in a fiscal year. The 3 percent limit shall not apply to the withholding provisions of subsection (k).

(k) PLAN MONITORING.—

(1) IN GENERAL.—On the basis of reports submitted by the lead State agency responsible for administering a State plan approved under this section and an investigation by the Secretary, the Secretary shall periodically evaluate State implementation of and compliance with the State plan.

(2) WITHHOLDING OF FUNDS.—

(A) DISAPPROVAL.—If, after notice and an opportunity to be heard, the Secretary finds that a State plan previously approved under this section is not being followed or has become inadequate to ensure enforcement of State regulations, standards, or orders described in subsection (c)(1), or the State is otherwise not in compliance with the requirements of this section, the Secretary may withdraw approval of the State plan and notify the State. Upon the receipt of such notice, the State plan shall no longer be in effect and the Secretary shall withhold all funding to the State under this section.

(B) NONCOMPLIANCE WITHHOLDING.—In lieu of withdrawing approval of a State plan under subparagraph (A), the Secretary may, after providing notice to the State and an opportunity to be heard, withhold funding from the State to which the State would otherwise be entitled under this section for the period of the State's noncompliance. In exercising this option, the Secretary may withhold—

(i) up to 5 percent of funds during the fiscal year that the Secretary notifies the State of its noncompliance;

(ii) up to 10 percent of funds for the first full fiscal year of noncompliance;

(iii) up to 25 percent of funds for the second full fiscal year of noncompliance; and

(iv) not more than 50 percent of funds for the third and any subsequent full fiscal year of noncompliance.

(3) JUDICIAL REVIEW.—A State adversely affected by a determination under paragraph (2) may seek judicial review under chapter 7 of title 5. Notwithstanding the disapproval of a State plan under paragraph (2)(A) or the withholding of funds under paragraph (2)(B), the State may retain jurisdiction in an administrative or a judicial proceeding that commenced before the notice of disapproval or withholding if the issues involved are not related directly to the reasons for the disapproval or withholding.

(l) HIGH PRIORITY PROGRAM.—

(1) IN GENERAL.—The Secretary shall administer a high priority program funded under section 31104(a)(2) for the purposes described in paragraphs (2) through (5).

(2) ACTIVITIES RELATED TO MOTOR CARRIER SAFETY.—The Secretary may make discretionary grants to and enter into cooperative agreements with States, local governments, federally recognized Indian tribes, other political jurisdictions as necessary, and any person to carry out high priority activities and projects that augment motor carrier safety activities and projects planned in accordance with subsections (b) and (c), including activities and projects that—

(A) increase public awareness and education on commercial motor vehicle safety;

(B) target unsafe driving of commercial motor vehicles and noncommercial motor vehicles in areas identified as high risk crash corridors;

(C) improve the safe and secure movement of hazardous materials;

(D) improve safe transportation of goods and persons in foreign commerce;

(E) demonstrate new technologies to improve commercial motor vehicle safety;

(F) support participation in performance and registration information systems management under section 31106(b)—

(i) for entities not responsible for submitting the plan under subsection (c); or

(ii) for entities responsible for submitting the plan under subsection (c)—

(I) before October 1, 2020, to achieve compliance with the requirements of participation; and

(II) beginning on October 1, 2020, or once compliance is achieved, whichever is sooner, for special initiatives or projects that exceed routine operations required for participation;

(G) conduct safety data improvement projects—

(i) that complete or exceed the requirements under subsection (c)(2)(P) for entities not responsible for submitting the plan under subsection (c); or

(ii) that exceed the requirements under subsection (c)(2)(P) for entities responsible for submitting the plan under subsection (c);

(H) support, through the use of funds otherwise available for such purposes—

(i) the recognition, prevention, and reporting of human trafficking, including the trafficking of human beings—

(I) in a commercial motor vehicle; or

(II) by any occupant, including the operator, of a commercial motor vehicle;

(ii) the detection of criminal activity or any other violation of law relating to human trafficking; and

(iii) enforcement of laws relating to human trafficking;

(I) otherwise support the recognition, prevention, and reporting of human trafficking; and

(J) otherwise improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations.

(3) INNOVATIVE TECHNOLOGY DEPLOYMENT GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish an innovative technology deployment grant program to make discretionary grants to eligible States for the innovative technology deployment of commercial motor vehicle information systems and networks.

(B) PURPOSES.—The purposes of the program shall be—

(i) to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial motor vehicle operations, including commercial motor vehicle, commercial driver, and carrier-specific information systems and networks; and

(ii) to support and maintain commercial motor vehicle information systems and networks—

(I) to link Federal motor carrier safety information systems with State commercial motor vehicle systems;

(II) to improve the safety and productivity of commercial motor vehicles and drivers; and

(III) to reduce costs associated with commercial motor vehicle operations and Federal and State commercial motor vehicle regulatory requirements.

(C) ELIGIBILITY.—To be eligible for a grant under this paragraph, a State shall—

(i) have a commercial motor vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of commercial motor vehicle information systems and networks capabilities;

(ii) certify to the Secretary that its commercial motor vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

(I) are consistent with the national intelligent transportation systems and commercial motor vehicle information systems and networks architectures and available standards; and

(II) promote interoperability and efficiency to the extent practicable; and

(iii) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation

systems architecture, applicable standards, and protocols for commercial motor vehicle information systems and networks.

(D) USE OF FUNDS.—Grant funds received under this paragraph may be used—

(i) for deployment activities and activities to develop new and innovative advanced technology solutions that support commercial motor vehicle information systems and networks;

(ii) for planning activities, including the development or updating of program or top level design plans in order to become eligible or maintain eligibility under subparagraph (C);

(iii) for the operation and maintenance costs associated with innovative technology;

(iv) for the detection of, and enforcement actions taken as a result of, criminal activity (including the trafficking of human beings)—

(I) in a commercial motor vehicle; or

(II) by any occupant, including the operator, of a commercial motor vehicle; and

(v) in addition to any funds otherwise made available for the recognition, prevention, and reporting of human trafficking, to support the recognition, prevention, and reporting of human trafficking.

(E) SECRETARY AUTHORIZATION.—The Secretary is authorized to award a State funding for the operation and maintenance costs associated with innovative technology deployment with funds made available under sections 31104(a)(1) and 31104(a)(2).

(4) IMMOBILIZATION GRANT PROGRAM.—

(A) DEFINITION OF PASSENGER-CARRYING COMMERCIAL MOTOR VEHICLE .—In this paragraph, the term "passenger-carrying commercial motor vehicle" has the meaning given the term "commercial motor vehicle" in section 31301.

(B) ESTABLISHMENT.—The Secretary shall establish an immobilization grant program under which the Secretary shall provide to States discretionary grants for the immobilization or impoundment of passenger-carrying commercial motor vehicles that—

(i) are determined to be unsafe; or

(ii) fail inspection.

(C) LIST OF CRITERIA FOR IMMOBILIZATION.—The Secretary, in consultation with State commercial motor vehicle entities, shall develop a list of commercial motor vehicle safety violations and defects that the Secretary determines warrant the immediate immobilization of a passenger-carrying commercial motor vehicle.

(D) ELIGIBILITY.—A State shall be eligible to receive a grant under this paragraph only if the State has the authority to require the immobilization or impoundment of a passenger-carrying commercial motor vehicle—

(i) with respect to which a motor vehicle safety violation included in the list developed under subparagraph (C) is determined to exist; or

(ii) that is determined to have a defect included in that list.

(E) USE OF FUNDS.—A grant provided under this paragraph may be used for—

(i) the immobilization or impoundment of passenger-carrying commercial motor vehicles described in subparagraph (D);

(ii) safety inspections of those passenger-carrying commercial motor vehicles; and

(iii) any other activity relating to an activity described in clause (i) or (ii), as determined by the Secretary.

(F) SECRETARY AUTHORIZATION.—The Secretary may provide to a State amounts for the costs associated with carrying out an immobilization program using funds made available

under section 31104(a)(2).

(5) COMMERCIAL MOTOR VEHICLE ENFORCEMENT TRAINING AND SUPPORT GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall administer a commercial motor vehicle enforcement training and support grant program funded under section 31104(a)(3), under which the Secretary shall make discretionary grants to eligible entities described in subparagraph (C) for the purposes described in subparagraph (B).

(B) PURPOSES.—The purposes of the grant program under subparagraph (A) are—

(i) to train non-Federal employees who conduct commercial motor vehicle enforcement activities; and

(ii) to develop related training materials.

(C) ELIGIBLE ENTITIES.—An entity eligible for a discretionary grant under the program described in subparagraph (A) is a nonprofit organization that has—

(i) expertise in conducting a training program for non-Federal employees; and

(ii) the ability to reach and involve in a training program a target population of commercial motor vehicle safety enforcement employees.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 984; Pub. L. 104–88, title I, §104(a), Dec. 29, 1995, 109 Stat. 918; Pub. L. 105–178, title IV, §4003(b), (c), June 9, 1998, 112 Stat. 395, 396; Pub. L. 106–159, title II, §207, Dec. 9, 1999, 113 Stat. 1764; Pub. L. 109–59, title IV, §§4106, 4307(b), Aug. 10, 2005, 119 Stat. 1717, 1774; Pub. L. 112–141, div. C, title II, §32601(a), July 6, 2012, 126 Stat. 805; Pub. L. 114–94, div. A, title V, §5101(a), Dec. 4, 2015, 129 Stat. 1514; Pub. L. 117–58, div. B, title III, §§23001(c), 23003–23005, Nov. 15, 2021, 135 Stat. 758–760.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31102(a)	49 App.:2302(a).	Jan. 6, 1983, Pub. L. 97–424, §402(a), (c), 96 Stat. 2155, 2156.
31102(b)	49 App.:2302(b), (d).	Jan. 6, 1983, Pub. L. 97–424, §402(b), (d), 96 Stat. 2155, 2156; Dec. 18, 1991, Pub. L. 102–240, §4002(a), (b), 105 Stat. 2140.
31102(c)	49 App.:2302(e).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §402(e); added Dec. 18, 1991, Pub. L. 102–240, §4002(c), 105 Stat. 2142.
31102(d)	49 App.:2302(c).	

In this section, the word "rules" is omitted as being synonymous with "regulations".

In subsection (a), the words "Subject to this section and the availability of amounts" are substituted for "Under the terms and conditions of this section, subject to the availability of funds" to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the word "prescribe" is substituted for "formulate" for consistency in the revised title. Clause (D) is substituted for 49 App.:2302(d) to state the requirements of a plan in one place and to eliminate unnecessary words. In clause (K), the words "into law and practice" are omitted a unnecessary. In clause (O)(i), the words "highways of the United States" are substituted for "our Nation's highways" for consistency in the revised title and with other titles of the United States Code. In subclause (iii), the word "especially" is omitted as unnecessary.

In subsection (b)(3)(B), the words "Government financing" are substituted for "Federal funding" for clarity and consistency in the revised title.

In subsection (c), before clause (1), the words "type of" are omitted as unnecessary. In clause (1), the word "leave" is substituted for "exit" for clarity and consistency in the revised title.

In subsection (d), the words "the regulations, standards, or orders" are substituted for "Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or compatible State rules, regulations, standards, or orders" for consistency and to eliminate unnecessary words. The last sentence is substituted for 49 App.:2302(c) (last sentence) for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 5106 and 5107 of the FAST Act, referred to in subsecs. (f)(1), (2) and (j)(3), are sections 5106 and 5107 of Pub. L. 114–94, which are set out as notes below.

AMENDMENTS

2021—Subsec. (h)(2)(A). Pub. L. 117–58, §23001(c), substituted "2014 and 2015" for "2004 and 2005".

Subsec. (l)(1). Pub. L. 117–58, §23005(1), substituted "(2) through (5)" for "(2) and (3)".

Subsec. (l)(2)(H) to (J). Pub. L. 117–58, §23003(1), added subpars. (H) and (I) and redesignated former subpar. (H) as (J).

Subsec. (l)(3)(D)(iv), (v). Pub. L. 117–58, §23003(2), added cls. (iv) and (v).

Subsec. (l)(4). Pub. L. 117–58, §23004, added par. (4).

Subsec. (l)(5). Pub. L. 117–58, §23005(2), added par. (5).

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to grants to States for programs to improve motor carrier safety.

2012—Subsec. (b). Pub. L. 112–141, §32601(a)(1), amended heading generally, substituting "Motor Carrier Safety Assistance Program" for "State Plan Procedures and Contents".

Subsec. (b)(1). Pub. L. 112–141, §32601(a)(3), added par. (1). Former par. (1) redesignated (2).

Subsec. (b)(2). Pub. L. 112–141, §32601(a)(2), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Subsec. (b)(2)(I). Pub. L. 112–141, §32601(a)(4)(A), substituted "demonstrate" for "make a declaration of".

Subsec. (b)(2)(M). Pub. L. 112–141, §32601(a)(4)(B), amended subpar. (M) generally. Prior to amendment, subpar. (M) read as follows: "ensures participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section;".

Subsec. (b)(2)(Q). Pub. L. 112–141, §32601(a)(4)(C), inserted "and dedicated sufficient resources to" after "has established".

Subsec. (b)(2)(Y). Pub. L. 112–141, §32601(a)(4)(D)–(F), added subpar. (Y).

Subsec. (b)(3). Pub. L. 112–141, §32601(a)(2), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 112–141, §32601(a)(5), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "In estimating the average level of State expenditure under paragraph (1)(E) of this subsection, the Secretary—

"(A) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

"(B) shall require the State to exclude Government amounts and State matching amounts used to receive Government financing under subsection (a) of this section."

Pub. L. 112–141, §32601(a)(2), redesignated par. (3) as (4).

2005—Subsec. (b)(1)(A). Pub. L. 109–59, §4106(a)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "implements performance-based activities by fiscal year 2000;".

Subsec. (b)(1)(E). Pub. L. 109–59, §4106(a)(2), added subpar. (E) and struck out former subpar. (E) which read as follows: "provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (c) of this section will be maintained at a level at least equal to the average level of that expenditure for its last 3 full fiscal years before December 18, 1991;".

Subsec. (b)(1)(Q). Pub. L. 109–59, §4106(a)(3), added subpar. (Q) and struck out former subpar. (Q) which read as follows: "provides that the State will establish a program to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104;".

Subsec. (b)(1)(R). Pub. L. 109–59, §4106(a)(4), aligned margins.

Subsec. (b)(1)(U) to (X). Pub. L. 109–59, §4106(a)(5)–(7), added subpars. (U) to (X).

Subsec. (b)(3). Pub. L. 109–59, §4307(b), substituted "paragraph (1)(E)" for "paragraph (1)(D)" in

introductory provisions.

Subsec. (c). Pub. L. 109–59, §4106(b)(1), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "A State may use amounts received under a grant under subsection (a) of this section for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

"(1) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.

"(2) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

"(3) enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles."

Subsec. (e). Pub. L. 109–59, §4106(b)(2), added subsec. (e).

1999—Subsec. (b)(1)(A). Pub. L. 106–159, §207(1), realigned subpar. (A) margins.

Subsec. (b)(1)(R). Pub. L. 106–159, §207(2), added subpar. (R) and struck out former subpar. (R) which read as follows: "ensures that the State will cooperate in the enforcement of registration and financial responsibility requirements under sections 31138 and 31139, or regulations issued thereunder;".

1998—Subsec. (a). Pub. L. 105–178, §4003(b)(1), inserted "improving motor carrier safety and" after "implementation of programs for" and ", hazardous materials transportation safety," after "commercial motor vehicle safety".

Subsec. (b)(1). Pub. L. 105–178, §4003(b)(2), in introductory provisions, substituted "assume responsibility for improving motor carrier safety and to adopt and enforce" for "adopt and assume responsibility for enforcing" and inserted ", hazardous materials transportation safety," after "commercial motor vehicle safety".

Subsec. (b)(1)(A) to (I). Pub. L. 105–178, §4003(c)(6), (7), added subpar. (A) and redesignated former subpars. (A) to (H) as (B) to (I), respectively. Former subpar. (I) redesignated (J).

Subsec. (b)(1)(J). Pub. L. 105–178, §4003(c)(6), redesignated subpar. (I) as (J). Former subpar. (J) redesignated (K).

Pub. L. 105–178, §4003(c)(1), substituted "subsection (c)(1)" for "subsection (c)".

Subsec. (b)(1)(K) to (M). Pub. L. 105–178, §4003(c)(6), redesignated subpars. (J) to (L) as (K) to (M), respectively. Former subpar. (M) redesignated (N).

Pub. L. 105–178, §4003(c)(2), added subpars. (K) to (M) and struck out former subpars. (K) to (M) which read as follows:

"(K) ensures that fines imposed and collected by the State for violations of commercial motor vehicle safety regulations will be reasonable and appropriate and that, to the maximum extent practicable, the State will attempt to implement the recommended fine schedule published by the Commercial Vehicle Safety Alliance;

"(L) ensures that the State agency will coordinate the plan prepared under this section with the State highway safety plan under section 402 of title 23;

"(M) ensures participation by the 48 contiguous States in SAFETYNET not later than January 1, 1994;".

Subsec. (b)(1)(N). Pub. L. 105–178, §4003(c)(6), redesignated subpar. (M) as (N). Former subpar. (N) redesignated (O).

Subsec. (b)(1)(O). Pub. L. 105–178, §4003(c)(6), redesignated subpar. (N) as (O). Former subpar. (O) redesignated (P).

Pub. L. 105–178, §4003(c)(3), inserted "in support of national priorities and performance goals, including" after "activities" in introductory provisions, substituted "activities aimed at removing" for "to remove" in cl. (i), substituted "activities aimed at providing" for "to provide" and inserted "and" after semicolon in cl. (ii), added cl. (iii), and struck out former cls. (iii) and (iv) which read as follows:

"(iii) to promote enforcement of the requirements related to the licensing of commercial motor vehicle drivers, including checking the status of commercial drivers' licenses; and

"(iv) to improve enforcement of hazardous material transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspection of the loads of commercial motor vehicles transporting hazardous material;".

Subsec. (b)(1)(P). Pub. L. 105–178, §4003(c)(6), redesignated subpar. (O) as (P). Former subpar. (P) redesignated (Q).

Pub. L. 105–178, §4003(c)(4), added subpar. (P) and struck out former subpar. (P) which read as follows: "provides satisfactory assurances that the State will promote effective—

"(i) interdiction activities affecting the transportation of controlled substances by commercial motor

vehicle drivers and training on appropriate strategies for carrying out those interdiction activities; and

"(ii) use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous material transportation safety; and".

Subsec. (b)(1)(Q). Pub. L. 105–178, §4003(c)(6), redesignated subpar. (P) as (Q). Former subpar. (Q) redesignated (R).

Pub. L. 105–178, §4003(c)(5)(A), substituted "sections 31138 and 31139" for "sections 31140 and 31146".

Subsec. (b)(1)(R). Pub. L. 105–178, §4003(c)(6), redesignated subpar. (Q) as (R).

Subsec. (b)(1)(S), (T). Pub. L. 105–178, §4003(c)(5)(B), (8), added subpars. (S) and (T).

1995—Subsec. (b)(1)(Q). Pub. L. 104–88 added subpar. (Q).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title V, §5101(f), Dec. 4, 2015, 129 Stat. 1526, provided that: "The amendments made by this section [amending this section and sections 31103, 31104, 31106, and 31144 of this title, repealing sections 31107 and 31109 of this title, amending provisions set out as a note under section 31133 of this title, and repealing provisions set out as notes under this section and sections 31100, 31106, 31136, and 31301 of this title] shall take effect on October 1, 2016."

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

REPORT ON HUMAN TRAFFICKING VIOLATIONS INVOLVING COMMERCIAL MOTOR VEHICLES

Pub. L. 117–58, div. B, title III, §23020, Nov. 15, 2021, 135 Stat. 777, provided that: "Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], and every 3 years thereafter, the Secretary [of Transportation], acting through the Department of Transportation Advisory Committee on Human Trafficking established under section 5(a) of the Combating Human Trafficking in Commercial Vehicles Act (Public Law 115–99; 131 Stat. 2243), shall coordinate with the Attorney General to prepare and submit to Congress a report relating to human trafficking violations involving commercial motor vehicles, which shall include recommendations for countering human trafficking, including an assessment of previous best practices by transportation stakeholders."

RELIEF FOR RECIPIENTS OF FINANCIAL ASSISTANCE AWARDS FOR FISCAL YEARS 2019 AND 2020

Pub. L. 116–260, div. N, title IV, §441, Dec. 27, 2020, 134 Stat. 2068, provided that:

"(a) DEFINITION OF SECRETARY.—In this section, the term 'Secretary' means the Secretary of Transportation.

"(b) RELIEF FOR RECIPIENTS OF FINANCIAL ASSISTANCE AWARDED FOR FISCAL YEARS 2019 AND 2020.—

"(1) IN GENERAL.—Notwithstanding any provision of chapter 311 of title 49, United States Code (including any applicable period of availability under section 31104(f) of that title), and any regulations promulgated under that chapter and subject to paragraph (2), the period of availability during which a recipient may expend amounts made available to the recipient under a grant or cooperative agreement described in subparagraphs (A) through (E) shall be—

"(A) for a grant made under section 31102 of that title (other than subsection (l) of that section)—

"(i) the fiscal year in which the Secretary approves the financial assistance agreement with respect to the grant; and

"(ii) the following 2 fiscal years;

"(B) for a grant made or a cooperative agreement entered into under section 31102(l)(2) of that title—

"(i) the fiscal year in which the Secretary approves the financial assistance agreement with respect to the grant or cooperative agreement; and

"(ii) the following 3 fiscal years;

"(C) for a grant made under section 31102(l)(3) of that title—

"(i) the fiscal year in which the Secretary approves the financial assistance agreement with respect to the grant; and

"(ii) the following 5 fiscal years;

"(D) for a grant made under section 31103 of that title—

"(i) the fiscal year in which the Secretary approves the financial assistance agreement with respect to the grant; and

"(ii) the following 2 fiscal years; and

"(E) for a grant made or a cooperative agreement entered into under section 31313 of that title—

"(i) the year in which the Secretary approves the financial assistance agreement with respect to the grant or cooperative agreement; and

"(ii) the following 5 fiscal years.

"(2) APPLICABILITY.—

"(A) AMOUNTS AWARDED FOR FISCAL YEARS 2019 AND 2020.—The periods of availability described in paragraph (1) shall apply only—

"(i) to amounts awarded for fiscal year 2019 or 2020 under a grant or cooperative agreement described in subparagraphs (A) through (E) of that paragraph; and

"(ii) for the purpose of expanding the period of availability during which the recipient may expend the amounts described in clause (i).

"(B) AMOUNTS AWARDED FOR OTHER YEARS.—The periods of availability described in paragraph (1) shall not apply to any amounts awarded under a grant or cooperative agreement described in subparagraphs (A) through (E) of that paragraph for any fiscal year other than fiscal year 2019 or 2020, and those amounts shall be subject to the period of availability otherwise applicable to those amounts under Federal law."

TRANSITION

Pub. L. 114–94, div. A, title V, §5101(g), Dec. 4, 2015, 129 Stat. 1526, provided that: "Notwithstanding the amendments made by this section [see Effective Date of 2015 Amendment note above], the Secretary [of Transportation] shall carry out sections 31102, 31103, and 31104 of title 49, United States Code, and any sections repealed under subsection (e) [repealing sections 31107 and 31109 of this title and provisions set out as notes under this section and sections 31100, 31106, 31136, and 31301 of this title], as necessary, as those sections were in effect on the day before October 1, 2016, with respect to applications for grants, cooperative agreements, or contracts under those sections submitted before October 1, 2016."

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM ALLOCATION

Pub. L. 114–94, div. A, title V, §5106, Dec. 4, 2015, 129 Stat. 1530, as amended by Pub. L. 117–286, §4(a)(310), Dec. 27, 2022, 136 Stat. 4340, provided that:

"(a) WORKING GROUP.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall establish a motor carrier safety assistance program formula working group (in this section referred to as the 'working group').

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—Subject to subparagraph (B), the working group shall consist of representatives of the following:

"(i) The Federal Motor Carrier Safety Administration.

"(ii) The lead State commercial motor vehicle safety agencies responsible for administering the plan required by section 31102 of title 49, United States Code.

"(iii) An organization representing State agencies responsible for enforcing a program for inspection of commercial motor vehicles.

"(iv) Such other persons as the Secretary considers necessary.

"(B) COMPOSITION.—Representatives of State commercial motor vehicle safety agencies shall comprise at least 51 percent of the membership.

"(3) NEW ALLOCATION FORMULA.—The working group shall analyze requirements and factors for the establishment of a new allocation formula for the motor carrier safety assistance program under section 31102 of title 49, United States Code.

"(4) RECOMMENDATION.—Not later than 1 year after the date the working group is established

under paragraph (1), the working group shall make a recommendation to the Secretary regarding a new allocation formula for the motor carrier safety assistance program.

"(5) EXEMPTION.—Chapter 10 of title 5, United States Code, shall not apply to the working group established under this subsection.

"(6) PUBLICATION.—The Administrator of the Federal Motor Carrier Safety Administration shall publish on a publicly accessible Internet Web site of the Federal Motor Carrier Safety Administration—

"(A) detailed summaries of the meetings of the working group; and

"(B) the final recommendation of the working group provided to the Secretary.

"(b) NOTICE OF PROPOSED RULEMAKING.—After receiving the recommendation of the working group under subsection (a)(4), the Secretary shall publish in the Federal Register a notice seeking public comment on the establishment of a new allocation formula for the motor carrier safety assistance program.

"(c) BASIS FOR FORMULA.—The Secretary shall ensure that the new allocation formula for the motor carrier safety assistance program is based on factors that reflect, at a minimum—

"(1) the relative needs of the States to comply with section 31102 of title 49, United States Code;

"(2) the relative administrative capacities of and challenges faced by States in complying with that section;

"(3) the average of each State's new entrant motor carrier inventory for the 3-year period prior to the date of enactment of this Act;

"(4) the number of international border inspection facilities and border crossings by commercial vehicles in each State; and

"(5) any other factors the Secretary considers appropriate.

"(d) FUNDING AMOUNTS PRIOR TO DEVELOPMENT OF NEW ALLOCATION FORMULA.—

"(1) INTERIM FORMULA.—Prior to the development of the new allocation formula for the motor carrier safety assistance program, the Secretary may calculate the interim funding amounts for that program in fiscal year 2017 (and later fiscal years, as necessary) under section 31104(a)(1) of title 49, United States Code, as amended by this subtitle, by using the following methodology:

"(A) The Secretary shall calculate the funding amount to a State using the allocation formula the Secretary used to award motor carrier safety assistance program funding in fiscal year 2016 under section 31102 of title 49, United States Code.

"(B) The Secretary shall average the funding awarded or other equitable amounts to a State in fiscal years 2013, 2014, and 2015 for—

"(i) border enforcement grants under section 31107 of title 49, United States Code; and

"(ii) new entrant audit grants under section 31144(g)(5) of that title.

"(C) The Secretary shall add the amounts calculated in subparagraphs (A) and (B).

"(2) ADJUSTMENTS.—Subject to the availability of funding and notwithstanding fluctuations in the data elements used by the Secretary, the initial amounts resulting from the calculation described in paragraph (1) shall be adjusted to ensure that, for each State, the amount shall not be less than 97 percent of the average amount of funding received or other equitable amounts in fiscal years 2013, 2014, and 2015 for—

"(A) motor carrier safety assistance program funds awarded to the State under section 31102 of title 49, United States Code;

"(B) border enforcement grants awarded to the State under section 31107 of title 49, United States Code; and

"(C) new entrant audit grants awarded to the State under section 31144(g)(5) of title 49, United States Code.

"(3) IMMEDIATE RELIEF.—On the date of enactment of this Act, and for the 3 fiscal years following the implementation of the new allocation formula, the Secretary shall terminate the withholding of motor carrier safety assistance program funds from a State if the State was subject to the withholding of such funds for matters of noncompliance immediately prior to the date of enactment of this Act.

"(4) FUTURE WITHHOLDINGS.—Beginning on the date that the new allocation formula for the motor carrier safety assistance program is implemented, the Secretary shall impose all future withholdings in accordance with section 31102(k) of title 49, United States Code, as amended by this subtitle.

"(e) TERMINATION OF WORKING GROUP.—The working group established under subsection (a) shall terminate on the date of the implementation of the new allocation formula for the motor carrier safety assistance program."

MAINTENANCE OF EFFORT CALCULATION

Pub. L. 114–94, div. A, title V, §5107, Dec. 4, 2015, 129 Stat. 1532, provided that:

"(a) BEFORE NEW ALLOCATION FORMULA.—

"(1) FISCAL YEAR 2017.—If a new allocation formula for the motor carrier safety assistance program has not been established under this subtitle [subtitle A (§§5101–5107) of title V of div. A of Pub. L. 114–94, see Tables for classification] for fiscal year 2017, the Secretary [of Transportation] shall calculate for fiscal year 2017 the maintenance of effort baseline required under section 31102(f) of title 49, United States Code, as amended by this subtitle, by averaging the expenditures for fiscal years 2004 and 2005 required by section 31102(b)(4) of title 49, United States Code, as that section was in effect on the day before the date of enactment of this Act [Dec. 4, 2015].

"(2) SUBSEQUENT FISCAL YEARS.—The Secretary may use the methodology for calculating the maintenance of effort baseline specified in paragraph (1) for fiscal year 2018 and subsequent fiscal years if a new allocation formula for the motor carrier safety assistance program has not been established for that fiscal year.

"(b) BEGINNING WITH NEW ALLOCATION FORMATION.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3)(B), beginning on the date that a new allocation formula for the motor carrier safety assistance program is established under this subtitle, upon the request of a State, the Secretary may waive or modify the baseline maintenance of effort required of the State by section 31102(f) of title 49, United States Code, as amended by this subtitle, for the purpose of establishing a new baseline maintenance of effort if the Secretary determines that a waiver or modification—

"(A) is equitable due to reasonable circumstances;

"(B) will ensure the continuation of commercial motor vehicle enforcement activities in the State; and

"(C) is necessary to ensure that the total amount of State maintenance of effort and matching expenditures required under sections 31102 and 31104 of title 49, United States Code, as amended by this subtitle, does not exceed a sum greater than the average of the total amount of State maintenance of effort and matching expenditures required under those sections for the 3 fiscal years prior to the date of enactment of this Act.

"(2) ADJUSTMENT METHODOLOGY.—If requested by a State, the Secretary may modify the maintenance of effort baseline referred to in paragraph (1) for the State according to the following methodology:

"(A) The Secretary shall establish the maintenance of effort baseline for the State using the average baseline of fiscal years 2004 and 2005, as required by section 31102(b)(4) of title 49, United States Code, as that section was in effect on the day before the date of enactment of this Act.

"(B) The Secretary shall calculate the average required match by a lead State commercial motor vehicle safety agency for fiscal years 2013, 2014, and 2015 for motor carrier safety assistance grants established at 20 percent by section 31103 of title 49, United States Code, as that section was in effect on the day before the date of enactment of this Act.

"(C) The Secretary shall calculate the estimated match required under section 31104(b) of title 49, United States Code, as amended by this subtitle.

"(D) The Secretary shall subtract the amount in subparagraph (B) from the amount in subparagraph (C) and—

"(i) if the number is greater than 0, the Secretary shall subtract the number from the amount in subparagraph (A); or

"(ii) if the number is not greater than 0, the Secretary shall calculate the maintenance of effort using the methodology in subparagraph (A).

"(3) MAINTENANCE OF EFFORT AMOUNT.—

"(A) IN GENERAL.—The Secretary shall use the amount calculated under paragraph (2) as the baseline maintenance of effort required under section 31102(f) of title 49, United States Code, as amended by this subtitle.

"(B) DEADLINE.—If a State does not request a waiver or modification under this subsection before September 30 during the first fiscal year that the Secretary implements a new allocation formula for the motor carrier safety assistance program under this subtitle, the Secretary shall calculate the maintenance of effort using the methodology described in paragraph (2)(A).

"(4) MAINTENANCE OF EFFORT DESCRIBED.—The maintenance of effort calculated under this section is the amount required under section 31102(f) of title 49, United States Code, as amended by this subtitle.

"(c) TERMINATION OF EFFECTIVENESS.—The authority of the Secretary under this section shall terminate effective on the date that a new maintenance of effort baseline is calculated based on a new allocation formula for the motor carrier safety assistance program implemented under section 31102 of title

49, United States Code."

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301–4308) of title IV of Pub. L. 109–59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109–59, set out as a note under section 13902 of this title.

MAINTENANCE OF EFFORT

Pub. L. 106–159, title I, §103(c), Dec. 9, 1999, 113 Stat. 1753, which related to maintenance of effort as condition on grants to States, was repealed by Pub. L. 114–94, div. A, title V, §5101(e)(8), Dec. 4, 2015, 129 Stat. 1525, effective Oct. 1, 2016.

STATE COMPLIANCE WITH CDL REQUIREMENTS

Pub. L. 106–159, title I, §103(e), Dec. 9, 1999, 113 Stat. 1754, which related to State compliance with CDL requirements and withholding of funds for noncompliance, was repealed by Pub. L. 114–94, div. A, title V, §5101(e)(9), Dec. 4, 2015, 129 Stat. 1525, effective Oct. 1, 2016.

EFFECTS OF MCSAP GRANT REDUCTIONS

Pub. L. 105–178, title IV, §4032, June 9, 1998, 112 Stat. 419, required the Secretary of Transportation to conduct a study and submit a report not later than two years after June 9, 1998, on the effects of reductions of grants under this section and authorized the Secretary to adjust State allocations under section 31103 of this title based on the study.

§31103. Commercial motor vehicle operators grant program

(a) IN GENERAL.—The Secretary shall administer a commercial motor vehicle operators grant program funded under section 31104.

(b) PURPOSE.—The purpose of the grant program is to train individuals in the safe operation of commercial motor vehicles (as defined in section 31301).

(c) VETERANS.—In administering grants under this section, the Secretary shall award priority to grant applications for programs to train former members of the armed forces (as defined in section 101 of title 10) in the safe operation of such vehicles.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 987; Pub. L. 105–178, title IV, §4003(d), June 9, 1998, 112 Stat. 397; Pub. L. 109–59, title IV, §4307(a), Aug. 10, 2005, 119 Stat. 1774; Pub. L. 112–141, div. C, title II, §32933(c), (d), July 6, 2012, 126 Stat. 830; Pub. L. 114–94, div. A, title V, §5101(b), Dec. 4, 2015, 129 Stat. 1523.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31103	49 App.:2303.	Jan. 6, 1983, Pub. L. 97–424, §403, 96 Stat. 2156; Dec. 18, 1991, Pub. L. 102–240, §4002(d), 105 Stat. 2142.

The word "rules" is omitted as being synonymous with "regulations".

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to United States Government's share of costs incurred by a State.

2012—Subsec. (a). Pub. L. 112–141, §32933(c), substituted "section 31102(b)(2)(E)" for "section 31102(b)(1)(E)".

Subsec. (b). Pub. L. 112–141, §32933(d), struck out "authorized by section 31104(f)(2)" after "public education activities".

2005—Subsec. (a). Pub. L. 109–59 substituted "31102(b)(1)(E)" for "31102(b)(1)(D)" and inserted before last sentence "Amounts generated under the unified carrier registration agreement under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State's share not provided by the United States."

1998—Pub. L. 105–178 designated existing provisions as subsec. (a), inserted subsec. heading, inserted "improve commercial motor vehicle safety and" after "implementing programs to", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2016, subject to a transition provision, see section 5101(f), (g) of Pub. L. 114–94, set out as Effective Date of 2015 Amendment and Transition notes under section 31102 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

RELIEF FOR RECIPIENTS OF FINANCIAL ASSISTANCE AWARDS FOR FISCAL YEARS 2019 AND 2020

Period of availability during which a recipient may expend grant amounts under this section extended for amounts awarded for fiscal years 2019 and 2020, see section 441 of div. N of Pub. L. 116–260, set out as a note under section 31102 of this title.

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301–4308) of title IV of Pub. L. 109–59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109–59, set out as a note under section 13902 of this title.

§31104. Authorization of appropriations

(a) FINANCIAL ASSISTANCE PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account)—

(1) subject to subsection (c), to carry out the motor carrier safety assistance program under section 31102 (other than the high priority program under subsection (l) of that section)—

(A) $390,500,000 for fiscal year 2022;
(B) $398,500,000 for fiscal year 2023;
(C) $406,500,000 for fiscal year 2024;
(D) $414,500,000 for fiscal year 2025; and
(E) $422,500,000 for fiscal year 2026;

(2) subject to subsection (c), to carry out the high priority program under section 31102(l) (other than the commercial motor vehicle enforcement training and support grant program under paragraph (5) of that section)—

(A) $57,600,000 for fiscal year 2022;
(B) $58,800,000 for fiscal year 2023;
(C) $60,000,000 for fiscal year 2024;
(D) $61,200,000 for fiscal year 2025; and
(E) $62,400,000 for fiscal year 2026;

(3) to carry out the commercial motor vehicle enforcement training and support grant program

under section 31102(l)(5), $5,000,000 for each of fiscal years 2022 through 2026;

(4) to carry out the commercial motor vehicle operators grant program under section 31103—

(A) $1,100,000 for fiscal year 2022;

(B) $1,200,000 for fiscal year 2023;

(C) $1,300,000 for fiscal year 2024;

(D) $1,400,000 for fiscal year 2025; and

(E) $1,500,000 for fiscal year 2026; and

(5) subject to subsection (c), to carry out the financial assistance program for commercial driver's license implementation under section 31313—

(A) $41,800,000 for fiscal year 2022;

(B) $42,650,000 for fiscal year 2023;

(C) $43,500,000 for fiscal year 2024;

(D) $44,350,000 for fiscal year 2025; and

(E) $45,200,000 for fiscal year 2026.

(b) REIMBURSEMENT AND PAYMENT TO RECIPIENTS FOR GOVERNMENT SHARE OF COSTS.—

(1) IN GENERAL.—Amounts made available under subsection (a) shall be used to reimburse financial assistance recipients proportionally for the Federal Government's share of the costs incurred.

(2) REIMBURSEMENT AMOUNTS.—

(A) REIMBURSEMENT PERCENTAGE.—

(i) IN GENERAL.—The Secretary shall reimburse a recipient, in accordance with a financial assistance agreement made under section 31102 (except subsection (l)(5) of that section), 31103, or 31313, an amount that is at least 85 percent of the costs incurred by the recipient in a fiscal year in developing and implementing programs under such sections.

(ii) COMMERCIAL MOTOR VEHICLE ENFORCEMENT TRAINING AND SUPPORT GRANT PROGRAM.—The Secretary shall reimburse a recipient, in accordance with a financial assistance agreement made under section 31102(l)(5), an amount that is equal to 100 percent of the costs incurred by the recipient in a fiscal year in developing and implementing a training program under that section.

(B) LIMITATION.—The Secretary shall pay the recipient an amount not more than the Federal Government share of the total costs approved by the Federal Government in the financial assistance agreement.

(C) IN-KIND CONTRIBUTIONS.—The Secretary shall include a recipient's in-kind contributions in determining the reimbursement.

(3) VOUCHERS.—Each recipient shall submit vouchers at least quarterly for costs the recipient incurs in developing and implementing programs under sections 31102, 31103, and 31313.

(c) DEDUCTIONS FOR PROGRAM SUPPORT.—On October 1 of each fiscal year, or as soon after that date as practicable, the Secretary may deduct from amounts made available under paragraphs (1), (2), and (5) of subsection (a) for that fiscal year not more than 1.50 percent of those amounts for program support in that fiscal year.

(d) GRANTS AND COOPERATIVE AGREEMENTS AS CONTRACTUAL OBLIGATIONS .—The approval of a financial assistance agreement by the Secretary under section 31102, 31103, or 31313 is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs in carrying out the provisions of the grant or cooperative agreement.

(e) ELIGIBLE ACTIVITIES.—The Secretary shall establish criteria for eligible activities to be funded with financial assistance agreements under this section and publish those criteria in a notice of funding availability before the financial assistance program application period.

(f) PERIOD OF AVAILABILITY OF FINANCIAL ASSISTANCE AGREEMENT FUNDS FOR RECIPIENT EXPENDITURES.—The period of availability for a recipient to expend funds under a grant or cooperative agreement authorized under subsection (a) is as follows:

(1) For grants made for carrying out section 31102, other than section 31102(l), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 2 fiscal years.

(2) For grants made or cooperative agreements entered into for carrying out section 31102(l)(2), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 2 fiscal years.

(3) For grants made for carrying out section 31102(l)(3), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

(4) For grants made for carrying out section 31102(l)(5), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

(5) For grants made for carrying out section 31103, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 2 fiscal years.

(6) For grants made or cooperative agreements entered into for carrying out section 31313, for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years.

(g) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(h) AVAILABILITY OF FUNDING.—Amounts made available under this section shall remain available until expended.

(i) REALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts not expended by a recipient during the period of availability shall be released back to the Secretary for reallocation for any purpose under section 31102, 31103, or 31313 or this section to ensure, to the maximum extent possible, that all such amounts are obligated.

(2) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Amounts made available for the motor carrier safety assistance program established under section 31102 (other than amounts made available to carry out section 31102(l)) that are not expended by a recipient during the period of availability shall be released back to the Secretary for reallocation under that program.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 987; Pub. L. 105–130, §7, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105–178, title IV, §4003(e)–(g), June 9, 1998, 112 Stat. 397; Pub. L. 108–88, §7(b), Sept. 30, 2003, 117 Stat. 1120; Pub. L. 108–202, §11(b), Feb. 29, 2004, 118 Stat. 490; Pub. L. 108–224, §9(b), Apr. 30, 2004, 118 Stat. 638; Pub. L. 108–263, §9(b), June 30, 2004, 118 Stat. 709; Pub. L. 108–280, §9(b), July 30, 2004, 118 Stat. 886; Pub. L. 108–310, §7(b), Sept. 30, 2004, 118 Stat. 1153; Pub. L. 109–14, §6(b), May 31, 2005, 119 Stat. 330; Pub. L. 109–20, §6(b), July 1, 2005, 119 Stat. 352; Pub. L. 109–35, §6(b), July 20, 2005, 119 Stat. 385; Pub. L. 109–37, §6(b), July 22, 2005, 119 Stat. 400; Pub. L. 109–40, §6(b), July 28, 2005, 119 Stat. 417; Pub. L. 109–59, title IV, §§4101(a), (b), 4107(a), Aug. 10, 2005, 119 Stat. 1714, 1719; Pub. L. 110–244, title III, §301(a), June 6, 2008, 122 Stat. 1616; Pub. L. 111–147, title IV, §422(a), (b), (d), Mar. 18, 2010, 124 Stat. 86, 87; Pub. L. 111–322, title II, §2202(a), (b), (d), Dec. 22, 2010, 124 Stat. 3524, 3525; Pub. L. 112–5, title II, §202(a), (b), (d), Mar. 4, 2011, 125 Stat. 16, 17; Pub. L. 112–30, title I, §122(a), (b), (d), Sept. 16, 2011, 125 Stat. 348, 349; Pub. L. 112–102, title II, §202(a), (b), (d), Mar. 30, 2012, 126 Stat. 273, 274; Pub. L. 112–140, title II, §202(a), (b), (d), June 29, 2012, 126 Stat. 394, 395; Pub. L. 112–141, div. C, title II, §32603(a), (b), (d), div. G, title II, §112002(a), (b), July 6, 2012, 126 Stat. 807, 808, 982; Pub. L. 113–159, title I, §1102(a), (b), (d), Aug. 8, 2014, 128 Stat. 1843, 1844; Pub. L. 114–21, title I, §1102(a), (b), (d), May 29, 2015, 129 Stat. 221, 222; Pub. L. 114–41, title I, §1102(a), (b), (d), July 31, 2015, 129 Stat. 448, 449; Pub. L. 114–73, title I, §1102(a), (b), (d), Oct. 29, 2015, 129 Stat. 571, 572; Pub. L. 114–87, title I, §1102(a), (b), (d), Nov. 20, 2015, 129 Stat. 680,

681; Pub. L. 114–94, div. A, title V, §§5101(c), 5103(c)(1), 5105(a), (c), Dec. 4, 2015, 129 Stat. 1523, 1527, 1529; Pub. L. 117–58, div. B, title III, §23001(b), Nov. 15, 2021, 135 Stat. 757.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31104(a)	49 App.:2304(a).	Jan. 6, 1983, Pub. L. 97–424, §404(a), 96 Stat. 2156; restated Oct. 27, 1986, Pub. L. 99–570, §12014, 100 Stat. 3207–186; Dec. 18, 1991, Pub. L. 102–240, §4002(e), 105 Stat. 2142.
31104(b)	49 App.:2304(c).	Jan. 6, 1983, Pub. L. 97–424, §404(c), 96 Stat. 2156; Oct. 27, 1986, Pub. L. 99–570, §12014, 100 Stat. 3207–186; restated Dec. 18, 1991, Pub. L. 102–240, §4002(f), 105 Stat. 2142.
	49 App.:2304(e).	Jan. 6, 1983, Pub. L. 97–424, §404(b), (d), (e), 96 Stat. 2156; restated Oct. 27, 1986, Pub. L. 99–570, §12014, 100 Stat. 3207–186.
31104(c)	49 App.:2304(b).	
31104(d)	49 App.:2304(d).	
31104(e)	49 App.:2304(f)(1).	Jan. 6, 1983, Pub. L. 97–424, §404(f), 96 Stat. 2156; Oct. 27, 1986, Pub. L. 99–570, §12014, 100 Stat. 3207–186; restated Dec. 18, 1991, Pub. L. 102–240, §4002(g), 105 Stat. 2142.
31104(f)	49 App.:2304(f)(2).	
31104(g)(1)	49 App.:2304(g) (less last sentences of (5) and (6)).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2155, §404(g), (h); added Dec. 18, 1991, Pub. L. 102–240, §4002(h), (i), 105 Stat. 2143.
31104(g)(2)	49 App.:2304(g)(5) (last sentence).	
31104(g)(3)	49 App.:2304(g)(6) (last sentence).	
31104(h)	49 App.:2304(h).	
31104(i)	49 App.:2304 (note).	Dec. 18, 1991, Pub. L. 102–240, §4002(k), 105 Stat. 2144.
31104(j)	49 App.:2302 (note).	Dec. 18, 1991, Pub. L. 102–240, §4002(*l*), 105 Stat. 2144.

In subsection (a), the text of 49 App.:2304(a)(1) and the references to fiscal years ending September 30, 1987–1992, are omitted as obsolete.

In subsection (b), the text of 49 App.:2304(e) is omitted as superseded by 49 App.:2304(c) restated by section 4002(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2142) and restated in this subsection.

In subsection (b)(2), the words "Amounts made available under section 404(a)(2) of the Surface Transportation Assistance Act of 1982 before October 1, 1991" are substituted for "Funds made available under this subchapter" for clarity and because of the restatement.

In subsection (c), the words "Funds authorized to be appropriated" are omitted because of the omission of 49 App.:2304(a)(1) as obsolete.

In subsection (e), the words "for administrative expenses incurred in carrying out section 31102 of this title" are substituted for "for administration of this section" for clarity and consistency with the source provisions restated in this section and section 31102 of the revised title.

In subsection (i), before clause (1), the words "Not later than 6 months after December 18, 1991" are omitted as obsolete. The words "for grants under section 31102(a) of this title" are substituted for "under the motor carrier safety assistance program" for clarity and because of the restatement. The words "In prescribing those regulations" are substituted for "In conducting such a revision" because of the restatement.

In subsection (j), the words "Not later than 9 months after December 18, 1991" are omitted as obsolete. The word "final" is omitted as unnecessary. The words "regulations to be enforced under section 31102(a) of this title" are substituted for "under the motor carrier safety assistance program" for clarity and because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §23001(b)(1), added subsec. (a) and struck out former subsec. (a) which authorized appropriations for various programs for fiscal years 2017 to 2020.

Subsec. (b)(2)(A). Pub. L. 117–58, §23001(b)(2)(C), (D), designated first sentence of subsec. (b)(2) as (b)(2)(A)(i), inserted subpar. and cl. headings, inserted "(except subsection (l)(5) of that section)" after "section 31102", and added cl. (ii).

Subsec. (b)(2)(B). Pub. L. 117–58, §23001(b)(2)(B), designated second sentence of subsec. (b)(2) as (b)(2)(B) and inserted heading.

Subsec. (b)(2)(C). Pub. L. 117–58, §23001(b)(2)(A), designated third sentence of subsec. (b)(2) as (b)(2)(C) and inserted heading.

Subsec. (c). Pub. L. 117–58, §23001(b)(3), in heading, struck out "Partner Training and" before "Program Support" and, in text, substituted "(5)" for "(4)", struck out "partner training and" before "program support", and struck out at end "The Secretary shall use at least 75 percent of those deducted amounts to train non-Federal Government employees and to develop related training materials in carrying out such programs."

Subsec. (f)(1). Pub. L. 117–58, §23001(b)(4)(A), substituted "for the next 2 fiscal years" for "for the next fiscal year".

Subsec. (f)(4). Pub. L. 117–58, §23001(b)(4)(D), added par. (4). Former par. (4) redesignated (5).

Pub. L. 117–58, §23001(b)(4)(B), substituted "for the next 2 fiscal years" for "for the next fiscal year".

Subsec. (f)(5), (6). Pub. L. 117–58, §23001(b)(4)(C), redesignated pars. (4) and (5) as (5) and (6), respectively.

Subsec. (i). Pub. L. 117–58, §23001(b)(5), designated existing provisions as par. (1), inserted heading, substituted "Except as provided in paragraph (2), amounts not expended" for "Amounts not expended", and added par. (2).

2015—Pub. L. 114–94, §5101(c), amended section generally. Prior to amendment, section related to availability of appropriated amounts.

Subsec. (a)(10). Pub. L. 114–94, §5105(a), added par. (10) and struck out former par. (10) which read as follows: "$218,000,000 for fiscal year 2015; and".

Pub. L. 114–41, §1102(a)(2), added par. (10) and struck out former par. (10) which read as follows: "$181,567,123 for the period beginning on October 1, 2014, and ending on July 31, 2015."

Pub. L. 114–21, §1102(a), amended par. (10) generally. Prior to amendment, par. (10) read as follows: "$145,134,247 for the period beginning on October 1, 2014, and ending on May 31, 2015."

Subsec. (a)(11). Pub. L. 114–94, §5105(a), added par. (11) and struck out former par. (11) which read as follows: "$38,715,847 for the period beginning on October 1, 2015, and ending on December 4, 2015."

Pub. L. 114–87, §1102(a), amended par. (11) generally. Prior to amendment, par. (11) read as follows: "$30,377,049 for the period beginning on October 1, 2015, and ending on November 20, 2015."

Pub. L. 114–73, §1102(a), amended par. (11) generally. Prior to amendment, par. (11) read as follows: "$17,273,224 for the period beginning on October 1, 2015, and ending on October 29, 2015."

Pub. L. 114–41, §1102(a), added par. (11).

Subsec. (i). Pub. L. 114–94, §5103(c)(1), redesignated subsec. (j) as (i) and struck out former subsec. (i) which related to authorization of appropriations for certain administrative expenses of the Federal Motor Carrier Safety Administration. See section 31110 of this title.

Subsec. (i)(1)(J). Pub. L. 114–41, §1102(b)(2), added subpar. (J) and struck out former subpar. (J) which

read as follows: "$215,715,068 for the period beginning on October 1, 2014, and ending on July 31, 2015."

Pub. L. 114–21, §1102(b), amended subpar. (J) generally. Prior to amendment, subpar. (J) read as follows: "$172,430,137 for the period beginning on October 1, 2014, and ending on May 31, 2015."

Subsec. (i)(1)(K). Pub. L. 114–87, §1102(b), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: "$36,090,164 for the period beginning on October 1, 2015, and ending on November 20, 2015."

Pub. L. 114–73, §1102(b), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: "$20,521,858 for the period beginning on October 1, 2015, and ending on October 29, 2015."

Pub. L. 114–41, §1102(b), added subpar. (K).

Subsec. (j). Pub. L. 114–94, §5103(c)(1)(B), redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Subsec. (j)(2). Pub. L. 114–94, §5105(c), substituted "2016 for States," for "2015 and up to $2,663,934 for the period beginning on October 1, 2015, and ending on December 4, 2015, for States,".

Subsec. (k). Pub. L. 114–94, §5103(c)(1)(B), redesignated subsec. (k) as (j).

Subsec. (k)(2). Pub. L. 114–87, §1102(d), substituted "and up to $2,663,934 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and up to $2,090,164 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73, §1102(d), substituted "and up to $2,090,164 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and up to $1,188,525 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41, §1102(d), substituted "each of fiscal years 2006 through 2015 and up to $1,188,525 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "each of fiscal years 2006 through 2014 and up to $12,493,151 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21, §1102(d), substituted "and up to $12,493,151 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and up to $9,986,301 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

2014—Subsec. (a)(10). Pub. L. 113–159, §1102(a), added par. (10).

Subsec. (i)(1)(J). Pub. L. 113–159, §1102(b), added subpar. (J).

Subsec. (k)(2). Pub. L. 113–159, §1102(d), inserted "and up to $9,986,301 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "2014".

2012—Subsec. (a)(7). Pub. L. 112–141, §32603(a)(1), struck out "and" at end.

Subsec. (a)(8). Pub. L. 112–141, §112002(a), amended par. (8) generally. Prior to amendment, par. (8) read as follows: "$159,000,000 for the period beginning on October 1, 2011, and ending on June 30, 2012."

Pub. L. 112–141, §32603(a)(2), (3), added par. (8) and struck out former par. (8) which read as follows: "$212,000,000 for fiscal year 2012."

Pub. L. 112–140, §§1(c), 202(a), temporarily amended par. (8) generally, authorizing $161,120,000 for the period beginning on Oct. 1, 2011, and ending on July 6, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §202(a), amended par. (8) generally. Prior to amendment, par. (8) read as follows: "$106,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012."

Subsec. (a)(9). Pub. L. 112–141, §32603(a)(3), added par. (9).

Subsec. (i)(1)(F). Pub. L. 112–141, §112002(b)(2), struck out open quotation marks and duplicate subpar. (F) designation after "(F)".

Subsec. (i)(1)(G). Pub. L. 112–141, §32603(b)(1), struck out "and" at end.

Subsec. (i)(1)(H). Pub. L. 112–141, §112002(b)(1), amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: "$183,108,000 for the period beginning on October 1, 2011, and ending on June 30, 2012."

Pub. L. 112–141, §32603(b)(2), (3), added subpar. (H) and struck out former subpar. (H) which read as follows: "$244,144,000 for fiscal year 2012."

Pub. L. 112–140, §§1(c), 202(b), temporarily amended subpar. (H) generally, authorizing $185,549,440 for the period beginning on Oct. 1, 2011, and ending on July 6, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §202(b), amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: "$122,072,000 for the period beginning on October 1, 2011, and ending on March 31, 2012."

Subsec. (i)(1)(I). Pub. L. 112–141, §32603(b)(3), added subpar. (I).

Subsec. (k)(2). Pub. L. 112–141, §32603(d), substituted "2014" for "2011 and $11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,".

Pub. L. 112–140, §§1(c), 202(d), temporarily substituted "2011 and $11,400,000 for the period beginning

on October 1, 2011, and ending on July 6, 2012," for "2011 and $11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102, §202(d), substituted "2011 and $11,250,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "2011 and $7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

2011—Subsec. (a)(7). Pub. L. 112–5, §202(a), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$88,753,000 for the period beginning October 1, 2010, and ending on March 4, 2011."

Subsec. (a)(8). Pub. L. 112–30, §122(a), added par. (8).

Subsec. (i)(1)(G). Pub. L. 112–5, §202(b), amended subpar. (G) generally, substituting "(G) $244,144,000 for fiscal year 2011." for "(G) '(G) $103,678,000 for the period beginning October 1, 2010, and ending on March 4, 2011."

Subsec. (i)(1)(H). Pub. L. 112–30, §122(b), added subpar. (H).

Subsec. (k)(2). Pub. L. 112–30, §122(d), substituted "2011 and $7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "2011".

Pub. L. 112–5, §202(d), substituted "through 2011" for "through 2010 and $6,370,000 for the period beginning October 1, 2010, and ending on March 4, 2011".

2010—Subsec. (a)(6). Pub. L. 111–147, §422(a), added par. (6).

Subsec. (a)(7). Pub. L. 111–322, §2202(a), substituted "$88,753,000 for the period beginning October 1, 2010, and ending on March 4, 2011." for "$52,679,000 for the period beginning on October 1, 2010, and ending on December 31, 2010."

Pub. L. 111–147, §422(a), added par. (7).

Subsec. (i)(1)(F). Pub. L. 111–147, §422(b), added subpar. (F).

Subsec. (i)(1)(G). Pub. L. 111–322, §2202(b), substituted "$103,678,000 for the period beginning October 1, 2010, and ending on March 4, 2011." for "$61,036,000 for the period beginning on October 1, 2010, and ending on December 31, 2010."

Pub. L. 111–147, §422(b), added subpar (G).

Subsec. (k)(2). Pub. L. 111–322, §2202(d), substituted "2010 and $6,370,000 for the period beginning October 1, 2010, and ending on March 4, 2011" for "2009, $15,000,000 for fiscal year 2010, and $3,781,000 for the period beginning on October 1, 2010, and ending on December 31, 2010".

Pub. L. 111–147, §422(d), substituted "2009, $15,000,000 for fiscal year 2010, and $3,781,000 for the period beginning on October 1, 2010, and ending on December 31, 2010" for "2009".

2008—Subsec. (f). Pub. L. 110–244 struck out par. (1) designation and heading before "On October" and struck out par. (2) which permitted the Secretary to designate certain allocated amounts for high-priority and border activities.

2005—Subsec. (a). Pub. L. 109–59, §4101(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text contained pars. (1) to (8) making amounts available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 for fiscal years 1998 to 2004 and part of 2005.

Subsec. (a)(8). Pub. L. 109–40 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "Not more than $138,904,110 for the period of October 1, 2004, through July 27, 2005."

Pub. L. 109–37 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "Not more than $136,589,041 for the period of October 1, 2004, through July 21, 2005."

Pub. L. 109–35 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "Not more than $135,200,000 for the period of October 1, 2004, through July 19, 2005."

Pub. L. 109–20 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "Not more than $126,402,740 for the period of October 1, 2004, through June 30, 2005."

Pub. L. 109–14 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "Not more than $112,512,329 for the period of October 1, 2004, through May 31, 2005."

Subsecs. (i), (j). Pub. L. 109–59, §4101(b), added subsecs. (i) and (j).

Subsec. (k). Pub. L. 109–59, §4107(a), added subsec. (k).

2004—Subsec. (a)(7). Pub. L. 108–280 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "Not more than $140,833,333 for the period of October 1, 2003, through July 31, 2004."

Pub. L. 108–263 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "Not more than $126,519,126 for the period of October 1, 2003, through June 30, 2004."

Pub. L. 108–224 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "Not more than $98,352,000 for the period of October 1, 2003, through April 30, 2004."

Pub. L. 108–202 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "Not more than

$68,750,000 for the period of October 1, 2003, through February 29, 2004."

Subsec. (a)(8). Pub. L. 108–310 added par. (8).

2003—Subsec. (a)(7). Pub. L. 108–88 added par. (7).

1998—Subsec. (a). Pub. L. 105–178, §4003(e), amended heading and text of subsec. (a) generally, substituting provisions relating to appropriations for fiscal years 1998 to 2003 for provisions relating to appropriations for fiscal years ending Sept. 30, 1993 to 1997 and for period of Oct. 1, 1997 through Mar. 31, 1998.

Subsec. (b). Pub. L. 105–178, §4003(f), struck out par. (1) designation and par. (2) which read as follows: "Amounts made available under section 404(a)(2) of the Surface Transportation Assistance Act of 1982 before October 1, 1991, that are not obligated on October 1, 1992, are available for reallocation and obligation under paragraph (1) of this subsection."

Subsec. (f). Pub. L. 105–178, §4003(g)(1), added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: "On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate under criteria the Secretary establishes the amounts available for that fiscal year among the States with plans approved under section 31102 of this title. However, the Secretary may designate specific eligible States among which to allocate those amounts in allocating amounts available—

"(1) for research, development, and demonstration under subsection (g)(1)(F) of this section; and

"(2) for public education under subsection (g)(1)(G) of this section."

Subsec. (g). Pub. L. 105–178, §4003(g)(1), (2), redesignated subsec. (h) as (g) and struck out former subsec. (g) which related to specific allocations.

Subsec. (h). Pub. L. 105–178, §4003(g)(4), redesignated subsec. (j) as (h). Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 105–178, §4003(g)(3), struck out heading and text of subsec. (i). Text read as follows: "The Secretary shall prescribe regulations to develop an improved formula and process for allocating amounts made available for grants under section 31102(a) of this title among States eligible for those amounts. In prescribing those regulations, the Secretary shall—

"(1) consider ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous material transportation safety;

"(2) place special emphasis on incentives to States that conduct traffic safety enforcement activities that are coupled with motor carrier safety inspections; and

"(3) consider ways to provide incentives to States that increase compatibility of State commercial motor vehicle safety and hazardous material transportation regulations with Government safety regulations and promote other factors intended to promote effectiveness and efficiency the Secretary decides are appropriate."

Subsec. (j). Pub. L. 105–178, §4003(g)(4), redesignated subsec. (j) as (h).

1997—Subsec. (a). Pub. L. 105–130 substituted "Not more" for "not more" in pars. (1) to (5) and added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by sections 5103(c)(1) and 5105(a), (c) of Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Amendment by section 5101(c) of Pub. L. 114–94 effective Oct. 1, 2016, subject to a transition provision, see section 5101(f), (g) of Pub. L. 114–94, set out as Effective Date of 2015 Amendment and Transition notes under section 31102 of this title.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 32603(a), (b) of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as a note under section 101 of Title 23, Highways.

Amendment by section 112002(a), (b) of Pub. L. 112–141 effective July 1, 2012, see section 114001 of Pub. L. 112–141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a

note under section 101 of Title 23, Highways.

FUNDING

Pub. L. 109–59, title IV, §4116(d), Aug. 10, 2005, 119 Stat. 1728, as amended by Pub. L. 114–94, div. A, title V, §5103(c)(2), Dec. 4, 2015, 129 Stat. 1527, provided that: "Amounts made available pursuant to section 31110 of title 49, United States Code, shall be used by the Secretary [of Transportation] to carry out section 31149 of title 49, United States Code."

INCREASED AUTHORIZATIONS FOR MOTOR CARRIER SAFETY GRANTS

Pub. L. 105–178, title IV, §4003(i), as added by Pub. L. 106–159, title I, §103(b)(1), Dec. 9, 1999, 113 Stat. 1753, provided that: "The amount made available to incur obligations to carry out section 31102 of title 49, United States Code, by section 31104(a) of such title for each of fiscal years 2001 through 2003 shall be increased by $65,000,000."

§31105. Employee protections

(a) PROHIBITIONS.—(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

(A)(i) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order, or has testified or will testify in such a proceeding; or

(ii) the person perceives that the employee has filed or is about to file a complaint or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;

(B) the employee refuses to operate a vehicle because—

(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition;

(C) the employee accurately reports hours on duty pursuant to chapter 315;

(D) the employee cooperates, or the person perceives that the employee is about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(E) the employee furnishes, or the person perceives that the employee is or is about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

(2) Under paragraph (1)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.

(b) FILING COMPLAINTS AND PROCEDURES.—(1) An employee alleging discharge, discipline, or discrimination in violation of subsection (a) of this section, or another person at the employee's request, may file a complaint with the Secretary of Labor not later than 180 days after the alleged violation occurred. All complaints initiated under this section shall be governed by the legal burdens of proof set forth in section 42121(b). On receiving the complaint, the Secretary of Labor shall notify, in writing, the person alleged to have committed the violation of the filing of the complaint.

(2)(A) Not later than 60 days after receiving a complaint, the Secretary of Labor shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify, in

writing, the complainant and the person alleged to have committed the violation of the findings. If the Secretary of Labor decides it is reasonable to believe a violation occurred, the Secretary of Labor shall include with the decision findings and a preliminary order for the relief provided under paragraph (3) of this subsection.

(B) Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

(C) A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary of Labor shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(3)(A) If the Secretary of Labor decides, on the basis of a complaint, a person violated subsection (a) of this section, the Secretary of Labor shall order the person to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

(iii) pay compensatory damages, including backpay with interest and compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(B) If the Secretary of Labor issues an order under subparagraph (A) of this paragraph and the complainant requests, the Secretary of Labor may assess against the person against whom the order is issued the costs (including attorney fees) reasonably incurred by the complainant in bringing the complaint. The Secretary of Labor shall determine the costs that reasonably were incurred.

(C) Relief in any action under subsection (b) may include punitive damages in an amount not to exceed $250,000.

(c) DE NOVO REVIEW.—With respect to a complaint under paragraph (1),[1] if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(d) JUDICIAL REVIEW AND VENUE.—A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. Review shall conform to chapter 7 of title 5. The review shall be heard and decided expeditiously. An order of the Secretary of Labor subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

(e) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued under subsection (b) of this section, the Secretary of Labor shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(h) DISCLOSURE OF IDENTITY.—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose

the name of an employee who has provided information about an alleged violation of this part, or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosure shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding motor carrier vehicle security problems, deficiencies, or vulnerabilities.

(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

(j) DEFINITION.—In this section, "employee" means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(1) directly affects commercial motor vehicle safety or security in the course of employment by a commercial motor carrier; and

(2) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 990; Pub. L. 110–53, title XV, §1536, Aug. 3, 2007, 121 Stat. 464.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31105(a)	49 App.:2305(a), (b).	Jan. 6, 1983, Pub. L. 97–424, §405(a)–(d), 96 Stat. 2157.
31105(b)	49 App.:2305(c).	
31105(c)	49 App.:2305(d).	
31105(d)	49 App.:2305(e).	Jan. 6, 1983, Pub. L. 97–424, §405(e), 96 Stat. 2158; Nov. 8, 1984, Pub. L. 98–620, §402(51), 98 Stat. 3361.

In subsection (a)(1), before clause (A), the words "in any manner" are omitted as surplus. The word "conditions" is omitted as included in "terms". In clauses (A) and (B), the word "rule" is omitted as being synonymous with "regulation". In clause (A), the word "begun" is substituted for "instituted or caused to be instituted" for consistency in the revised title and to eliminate unnecessary words. In clause (B), the words before subclause (i) are substituted for "for refusing to operate a vehicle when" and "or because of" for clarity and consistency. In subclause (ii), the words "vehicle's unsafe condition" are substituted for "unsafe condition of such equipment" for consistency.

Subsection (a)(2) is substituted for 49 App.:2305(b) (2d, last sentences) for clarity and to eliminate unnecessary words.

In subsection (b)(1), the words "alleging such discharge, discipline, or discrimination" are omitted as surplus.

In subsection (b)(2)(B), the words "Not later than 30 days after the notice under subparagraph (A) of this paragraph" are substituted for "Thereafter" and "within thirty days" for clarity.

In subsection (b)(2)(C), the words "Before the final order is issued" are substituted for "In the interim" for clarity.

Subsection (b)(3)(A) is substituted for 49 App.:2305(c)(2)(B) (1st sentence) for clarity and to eliminate unnecessary words. In clause (ii), the word "conditions" is omitted as included in "terms". The provision for back pay is moved from clause (ii) to clause (iii) for clarity.

In subsection (b)(3)(B), the words "a sum equal to the aggregate amount of all" and "and expenses" are omitted as surplus. The words "in bringing the complaint" are substituted for "for, or in connection with, the bringing of the complaint upon which the order was issued" to eliminate unnecessary words.

In subsection (c), the words "or aggrieved" and "with respect to which the order was issued, allegedly" are omitted as surplus. The words "in accordance with the provisions of chapter 7 of title 5 and" are omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (d), the text of 49 App.:2305(e) (last sentence) is omitted as unnecessary.

EDITORIAL NOTES

AMENDMENTS

2007—Pub. L. 110–53 amended text of section generally. Prior to amendment, section related to, in subsec. (a), prohibition against discharge or discipline of, or discrimination against, an employee regarding pay, terms, or privileges of employment for certain actions, in subsec. (b), procedures for filing of complaint, in subsec. (c), judicial review and venue, and, in subsec. (d), civil action to enforce an order.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EMPLOYEE PROTECTIONS

Pub. L. 105–178, title IV, §4023, June 9, 1998, 112 Stat. 415, provided that, not later than 2 years after June 9, 1998, the Secretary of Transportation, in conjunction with the Secretary of Labor, was to report to Congress on the effectiveness of existing statutory employee protections under this section, with recommendations to address any statutory changes necessary to strengthen the enforcement of these provisions.

[1] *So in original. Probably should be "subsection (b)(1),".*

§31106. Information systems

(a) INFORMATION SYSTEMS AND DATA ANALYSIS.—

(1) IN GENERAL.—Subject to the provisions of this section, the Secretary shall establish and operate motor carrier, commercial motor vehicle, and driver information systems and data analysis programs to support safety regulatory and enforcement activities required under this title.

(2) NETWORK COORDINATION.—In cooperation with the States, the information systems under this section shall be coordinated into a network providing accurate identification of motor carriers and drivers, commercial motor vehicle registration and license tracking, and motor carrier, commercial motor vehicle, and driver safety performance data.

(3) DATA ANALYSIS CAPACITY AND PROGRAMS.—The Secretary shall develop and maintain under this section data analysis capacity and programs that provide the means to—

(A) identify and collect necessary motor carrier, commercial motor vehicle, and driver data;

(B) evaluate the safety fitness of motor carriers and drivers;

(C) develop strategies to mitigate safety problems and to use data analysis to address and measure the effectiveness of such strategies and related programs;

(D) determine the cost-effectiveness of Federal and State safety compliance and enforcement programs and other countermeasures;

(E) adapt, improve, and incorporate other information and information systems as the Secretary determines appropriate;

(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate

across all information systems and initiatives;

(G) establish and implement a national motor carrier safety data correction system; and

(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.

(4) STANDARDS.—To implement this section, the Secretary shall prescribe technical and operational standards to ensure—

(A) uniform, timely, and accurate information collection and reporting by the States and other entities as determined appropriate by the Secretary;

(B) uniform Federal, State, and local policies and procedures necessary to operate the information system; and

(C) the reliability and availability of the information to the Secretary and States.

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT.—

(1) INFORMATION CLEARINGHOUSE.—The Secretary shall include, as part of the motor carrier information system authorized by this section, a program to establish and maintain a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles, the registrants of such vehicles, and the motor carriers operating such vehicles. The clearinghouse and repository may include information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on motor carrier, commercial motor vehicle, and driver safety performance.

(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

(B) possess or seek the authority to possess for a time period no longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

(C) establish and implement a process—

(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(i)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.

(c)(1) IN GENERAL.—In coordination with the information system under section 31309, the Secretary is authorized to establish a program to improve commercial motor vehicle driver safety. The objectives of the program shall include—

(A) enhancing the exchange of driver licensing information among the States, the Federal Government, and foreign countries;

(B) providing information to the judicial system on commercial motor vehicle drivers;

(C) evaluating any aspect of driver performance that the Secretary determines appropriate; and

(D) developing appropriate strategies and countermeasures to improve driver safety.

(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.

(d) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to, and entering into contracts and cooperative agreements with, States, local governments, associations, institutions, corporations, and other persons.

(e)(1) INFORMATION AVAILABILITY AND PRIVACY PROTECTION POLICY.—The Secretary shall develop a policy on making information available from the information systems authorized by this section and section 31309. The policy shall be consistent with existing Federal information laws, including regulations, and shall provide for review and correction of such information in a timely manner.

(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 991; Pub. L. 105–178, title IV, §4004(a), June 9, 1998, 112 Stat. 398; Pub. L. 109–59, title IV, §§4108(a), 4109(a), Aug. 10, 2005, 119 Stat. 1720; Pub. L. 112–141, div. C, title II, §§32103(b), 32306, 32508, 32602, July 6, 2012, 126 Stat. 780, 793, 805, 807; Pub. L. 114–94, div. A, title V, §§5101(e)(2), 5102, Dec. 4, 2015, 129 Stat. 1525, 1526.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31106(a)	49 App.:2306(f).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2155, §407; added Dec. 18, 1991, Pub. L. 102–240, §4003, 105 Stat. 2144.
31106(b)	49 App.:2306(a) (2)–(5).	
31106(c)	49 App.:2306(b).	
31106(d)	49 App.:2306(a)(1).	
31106(e)	49 App.:2306(c).	
31106(f)	49 App.:2306(d).	
31106(g)	49 App.:2306(e).	

In subsection (b)(2), the word "schedule" is substituted for "system" for clarity.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94, §5102, substituted "Systems Management" for "Program" in heading.

Subsec. (b)(4). Pub. L. 114–94, §5101(e)(2), struck out par. (4). Text read as follows: "From the funds authorized by section 31104(i), the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of this subsection."

2012—Subsec. (a)(3)(H). Pub. L. 112–141, §32103(b), added subpar. (H).

Subsec. (b)(3)(C). Pub. L. 112–141, §32602, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(i)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order."

Subsec. (c). Pub. L. 112–141, §32306, struck out subsec. heading "COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM", designated existing provisions as par. (1) and inserted par. heading, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), and added par. (2).

Subsec. (e). Pub. L. 112–141, §32508, designated existing provisions as par. (1) and added par. (2).

2005—Subsec. (a)(3)(F), (G). Pub. L. 109–59, §4108(a), added subpars. (F) and (G).

Subsec. (b)(2) to (4). Pub. L. 109–59, §4109(a), added pars. (2) to (4) and struck out former pars. (2) to (4), which related to design of program with State licensing systems in par. (2), conditions of participation in par. (3), and funding for fiscal years 1998 to 2003 in par. (4).

1998—Pub. L. 105–178 amended section catchline and text generally, substituting, in subsec. (a), provisions relating to information systems and data analysis for provisions relating to definition of commercial motor vehicle, in subsec. (b), provisions relating to performance and registration information program for provisions relating to information system, in subsec. (c), provisions relating to commercial motor vehicle driver safety program for provisions relating to demonstration project, in subsec. (d), provisions relating to cooperative agreements, grants, and contracts for provisions relating to review of State systems, and in subsec. (e), provisions relating to information availability and privacy protection policy for provisions relating to regulations, and striking out subsecs. (f) and (g), which related to report to Congress and authorization of appropriations, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 5102 of Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Amendment by section 5101(e)(2) of Pub. L. 114–94 effective Oct. 1, 2016, see section 5101(f) of Pub. L. 114–94, set out as a note under section 31102 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT

Pub. L. 109–59, title IV, §4126, Aug. 10, 2005, 119 Stat. 1738, as amended by Pub. L. 114–94, div. A, title V, §5105(f)(1), Dec. 4, 2015, 129 Stat. 1529, which required the Secretary of Transportation to carry out a commercial vehicle information systems and networks program and provided for grants for deployment, was repealed by Pub. L. 114–94, div. A, title V, §5101(e)(5), Dec. 4, 2015, 129 Stat. 1525, effective Oct. 1, 2016.

[§31107. Repealed. Pub. L. 114–94, div. A, title V, §5101(e)(3), Dec. 4, 2015, 129 Stat. 1525]

Section, added Pub. L. 109–59, title IV, §4110(a)(2), Aug. 10, 2005, 119 Stat. 1721; amended Pub. L. 112–141, div. C, title II, §32603(h), July 6, 2012, 126 Stat. 808, related to border enforcement grants.

A prior section 31107, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 992; Pub. L. 105–178, title IV, §4004(b), June 9, 1998, 112 Stat. 400; Pub. L. 106–159, title I, §103(d), Dec. 9, 1999, 113 Stat. 1754; Pub. L. 108–88, §7(c)(1), Sept. 30, 2003, 117 Stat. 1120; Pub. L. 108–202, §11(c)(1), Feb. 29, 2004, 118 Stat. 490; Pub. L. 108–224, §9(c)(1), Apr. 30, 2004, 118 Stat. 638; Pub. L. 108–263, §9(c)(1), June 30, 2004, 118 Stat. 709; Pub. L. 108–280, §9(c)(1), July 30, 2004, 118 Stat. 886; Pub. L. 108–310, §7(c)(1), Sept. 30, 2004, 118

Stat. 1153; Pub. L. 109–14, §6(c)(1), May 31, 2005, 119 Stat. 330; Pub. L. 109–20, §6(c)(1), July 1, 2005, 119 Stat. 352; Pub. L. 109–35, §6(c)(1), July 20, 2005, 119 Stat. 385; Pub. L. 109–37, §6(c)(1), July 22, 2005, 119 Stat. 400; Pub. L. 109–40, §6(c)(1), July 28, 2005, 119 Stat. 417, related to contract authority funding for information systems, prior to repeal by Pub. L. 109–59, title IV, §4110(a)(2), Aug. 10, 2005, 119 Stat. 1721.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2016, subject to a transition provision, see section 5101(f), (g) of Pub. L. 114–94, set out as Effective Date of 2015 Amendment and Transition notes under section 31102 of this title.

§31108. Motor carrier research and technology program

(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program.

(2) MULTIYEAR PLAN.—The program must include a multi-year research plan that focuses on nonredundant innovative research and shall be coordinated with other research programs or projects ongoing or planned within the Department of Transportation, as appropriate.

(3) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out under the program research, development, technology, and technology transfer activities with respect to—

(A) the causes of accidents, injuries, and fatalities involving commercial motor vehicles;

(B) means of reducing the number and severity of accidents, injuries, and fatalities involving commercial motor vehicles;

(C) improving the safety and efficiency of commercial motor vehicles through technological innovation and improvement;

(D) improving technology used by enforcement officers when conducting roadside inspections and compliance reviews to increase efficiency and information transfers; and

(E) increasing the safety and security of hazardous materials transportation.

(4) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

(5) TRAINING.—The Secretary may use the funds made available to carry out this section for training or education of commercial motor vehicle safety personnel, including training in accident reconstruction and detection of controlled substances or other contraband and stolen cargo or vehicles.

(6) PROCEDURES.—The Secretary may carry out this section—

(A) independently;

(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

(C) by making grants to, or entering into contracts and cooperative agreements with, any Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

(7) DEVELOPMENT AND PROMOTION OF USE OF PRODUCTS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To advance innovative solutions to problems involving commercial motor

vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

(B) Federal laboratories.

(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

(3) COST SHARING.—

(A) FEDERAL SHARE.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent; except that, if there is substantial public interest or benefit associated with any such activity, the Secretary may approve a greater Federal share.

(B) TREATMENT OF DIRECTLY INCURRED NON-FEDERAL COSTS.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 993; Pub. L. 109–59, title IV, §4111(a), Aug. 10, 2005, 119 Stat. 1722.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31108	(uncodified).	Dec. 18, 1991, Pub. L. 102–240, §4002(j), 105 Stat. 2144.

The words "safety duties and powers" are substituted for "safety functions" for clarity and consistency in the revised title. The reference to fiscal year 1992 is omitted as obsolete.

EDITORIAL NOTES

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (b)(4), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally. Prior to amendment, text read as follows: "Not more than $_____ may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 19__, to carry out the safety duties and powers of the Federal Highway Administration."

[§31109. Repealed. Pub. L. 114–94, div. A, title V, §5101(e)(4), Dec. 4, 2015, 129 Stat. 1525]

Section, added Pub. L. 109–59, title IV, §4109(b)(1), Aug. 10, 2005, 119 Stat. 1721, related to performance and registration information system management.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2016, subject to a transition provision, see section 5101(f), (g) of Pub. L. 114–94, set out as Effective Date of 2015 Amendment and Transition notes under section 31102 of this title.

§31110. Authorization of appropriations

(a) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

(1) $360,000,000 for fiscal year 2022;
(2) $367,500,000 for fiscal year 2023;
(3) $375,000,000 for fiscal year 2024;
(4) $382,500,000 for fiscal year 2025; and
(5) $390,000,000 for fiscal year 2026.

(b) USE OF FUNDS.—The funds authorized by this section shall be used for—

(1) personnel costs;
(2) administrative infrastructure;
(3) rent;
(4) information technology;
(5) programs for research and technology, information management, regulatory development, and the administration of performance and registration information systems management under section 31106(b);
(6) programs for outreach and education under subsection (c);
(7) other operating expenses;
(8) conducting safety reviews of new operators; and
(9) such other expenses as may from time to time become necessary to implement statutory mandates of the Federal Motor Carrier Safety Administration not funded from other sources.

(c) OUTREACH AND EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary may conduct, through any combination of grants, contracts, cooperative agreements, and other activities, an internal and external outreach and education program to be administered by the Administrator of the Federal Motor Carrier Safety Administration. The program authorized under this subsection may support, in addition to funds otherwise available for such purposes, the recognition, prevention, and reporting of human trafficking, while deferring to existing resources, as practicable.
(2) FEDERAL SHARE.—The Federal share of an outreach and education project for which a grant, contract, or cooperative agreement is made under this subsection may be up to 100 percent of the cost of the project.
(3) FUNDING.—From amounts made available under subsection (a), the Secretary shall make available not more than $4,000,000 each fiscal year to carry out this subsection.

(d) CONTRACT AUTHORITY; INITIAL DATE OF AVAILABILITY.—Amounts authorized from the Highway Trust Fund (other than the Mass Transit Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal

year for which they are authorized, whichever occurs first.

(e) FUNDING AVAILABILITY.—Amounts made available under this section shall remain available until expended.

(f) CONTRACTUAL OBLIGATION.—The approval of funds by the Secretary under this section is a contractual obligation of the Federal Government for payment of the Federal Government's share of costs.

(Added Pub. L. 114–94, div. A, title V, §5103(a), Dec. 4, 2015, 129 Stat. 1526; amended Pub. L. 115–99, §3, Jan. 3, 2018, 131 Stat. 2242; Pub. L. 117–58, div. B, title III, §23001(a), Nov. 15, 2021, 135 Stat. 756.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58 added subsec. (a) and struck out former subsec. (a) which authorized appropriations for administrative expenses of the Federal Motor Carrier Safety Administration for fiscal years 2016 to 2020.

2018—Subsec. (c)(1). Pub. L. 115–99 inserted at end "The program authorized under this subsection may support, in addition to funds otherwise available for such purposes, the recognition, prevention, and reporting of human trafficking, while deferring to existing resources, as practicable."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

§31111. Length limitations

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AUTOMOBILE TRANSPORTER.—The term "automobile transporter" means any vehicle combination designed and used for the transport of assembled highway vehicles, including truck camper units. An automobile transporter shall not be prohibited from the transport of cargo or general freight on a backhaul, so long as it complies with weight limitations for a truck tractor and semitrailer combination.

(2) MAXI-CUBE VEHICLE.—The term "maxi-cube vehicle" means a truck tractor combined with a semitrailer and a separable property-carrying unit designed to be loaded and unloaded through the semitrailer, with the length of the separable property-carrying unit being not more than 34 feet and the length of the vehicle combination being not more than 65 feet.

(3) TRUCK TRACTOR.—The term "truck tractor" means—

(A) a non-property-carrying power unit that operates in combination with a semitrailer or trailer; or

(B) a power unit that carries as property motor vehicles when operating in combination with a semitrailer in transporting motor vehicles or any other commodity, including cargo or general freight on a backhaul.

(4) DRIVEAWAY SADDLEMOUNT VEHICLE TRANSPORTER COMBINATION.—The term "driveaway saddlemount vehicle transporter combination" means a vehicle combination

designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it. Such combination may include one fullmount.

(5) BACKHAUL.—The term "backhaul" means the return trip of a vehicle transporting cargo or general freight, especially when carrying goods back over all or part of the same route.

(6) TRAILER TRANSPORTER TOWING UNIT.—The term "trailer transporter towing unit" means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

(7) TOWAWAY TRAILER TRANSPORTER COMBINATION.—The term "towaway trailer transporter combination" means a combination of vehicles consisting of a trailer transporter towing unit and 2 trailers or semitrailers—

(A) with a total weight that does not exceed 26,000 pounds; and

(B) in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(b) GENERAL LIMITATIONS.—(1) Except as provided in this section, a State may not prescribe or enforce a regulation of commerce that—

(A) imposes a vehicle length limitation of less than 45 feet on a bus, of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination, or of less than 28 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under subsection (e) of this section;

(B) imposes an overall length limitation on a commercial motor vehicle operating in a truck tractor-semitrailer or truck tractor-semitrailer-trailer combination;

(C) has the effect of prohibiting the use of a semitrailer or trailer of the same dimensions as those that were in actual and lawful use in that State on December 1, 1982;

(D) imposes a vehicle length limitation of not less than or more than 97 feet on all driveaway saddlemount vehicle transporter combinations;

(E) has the effect of prohibiting the use of an existing semitrailer or trailer, of not more than 28.5 feet in length, in a truck tractor-semitrailer-trailer combination if the semitrailer or trailer was operating lawfully on December 1, 1982, within a 65-foot overall length limit in any State;

(F) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events;

(G) imposes a vehicle length limitation of less than 80 feet on a stinger-steered automobile transporter with a front overhang of less than 4 feet and a rear overhang of less than 6 feet; or

(H) has the effect of imposing an overall length limitation of less than 82 feet on a towaway trailer transporter combination.

(2) A length limitation prescribed or enforced by a State under paragraph (1)(A) of this subsection applies only to a semitrailer or trailer and not to a truck tractor.

(c) MAXI-CUBE AND VEHICLE COMBINATION LIMITATIONS.—A State may not prohibit a maxi-cube vehicle or a commercial motor vehicle combination consisting of a truck tractor and 2 trailing units on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary under subsection (e) of this section.

(d) EXCLUSION OF SAFETY AND ENERGY CONSERVATION DEVICES.—Length calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle. However, such a device may not have by its design or use the ability to carry cargo.

(e) QUALIFYING HIGHWAYS.—The Secretary by regulation shall designate as qualifying Federal-aid Primary System highways those highways of the Federal-aid Primary System in existence on June 1, 1991, that can accommodate safely the applicable vehicle lengths provided in this section.

(f) EXEMPTIONS.—(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from either or both provisions.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the Secretary shall exempt the segment from either or both of those provisions. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (e) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as an amendment to the final regulations.

(g) ACCOMMODATING SPECIALIZED EQUIPMENT.—In prescribing regulations to carry out this section, the Secretary may make decisions necessary to accommodate specialized equipment, including automobile and vessel transporters and maxi-cube vehicles.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 993; Pub. L. 104–88, title I, §104(b), Dec. 29, 1995, 109 Stat. 919; Pub. L. 105–178, title IV, §4005, June 9, 1998, 112 Stat. 400; Pub. L. 109–59, title IV, §4141, Aug. 10, 2005, 119 Stat. 1746; Pub. L. 110–244, title III, §301(r), June 6, 2008, 122 Stat. 1617; Pub. L. 114–94, div. A, title V, §§5520, 5523(a), (b), Dec. 4, 2015, 129 Stat. 1558–1560.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31111(a)(1)	49 App.:2311(f)(2).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat.

		2097, §411(f)(2); added Oct. 18, 1986, Pub. L. 99–500, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 1783–308, and Oct. 30, 1986, Pub. L. 99–591, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 3341–308; Dec. 22, 1987, Pub. L. 100–202, §106, 101 Stat. 1329–433.
31111(a)(2)	49 App.:2311(f)(1).	Jan. 6, 1983, Pub. L. 97–424, §411(f)(1), 96 Stat. 2160; Oct. 18, 1986, Pub. L. 99–500, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 1783–308; Oct. 30, 1986, Pub. L. 99–591, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 3341–308; Dec. 22, 1987, Pub. L. 100–202, §106, 101 Stat. 1329–433.
31111(b)	49 App.:2311(a).	Jan. 6, 1983, Pub. L. 97–424, §411(a), 96 Stat. 2159; Oct. 30, 1984, Pub. L. 98–554, §104(a), 98 Stat. 2831; Dec. 18, 1991, Pub. L. 102–240, §4006(b)(1), 105 Stat. 2151.
	49 App.:2311(b).	Jan. 6, 1983, Pub. L. 97–424, §411(b), (g), (h), 96 Stat. 2159, 2160.
31111(c)	49 App.:2311(c).	Jan. 6, 1983, Pub. L. 97–424, §411(c), 96 Stat. 2159; Oct. 30, 1984, Pub. L. 98–554, §104(b), 98 Stat. 2831; Oct. 18, 1986, Pub. L. 99–500, §101(*l*) [H.R. 5205, §324(b)], 100 Stat. 1783–308; Oct. 30, 1986, Pub. L. 99–591, §101(*l*) [H.R. 5205, §324(b)], 100 Stat. 3341–308; Dec. 22, 1987, Pub. L. 100–202, §106, 101 Stat. 1329–433.
31111(d)	49 App.:2311(h).	
31111(e)	49 App.:2311(e).	Jan. 6, 1983, Pub. L. 97–424, §411(e), 96 Stat. 2160; Dec. 18, 1991, Pub. L. 102–240, §4006(c), 105 Stat. 2151.
31111(f)	49 App.:2311(i).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §411(i); added Oct. 30, 1984, Pub. L. 98–554, §102, 98 Stat. 2829.
31111(g)	49 App.:2311(d).	Jan. 6, 1983, Pub. L. 97–424, §411(d), 96 Stat. 2160; Apr. 2, 1987, Pub. L. 100–17, §133(a)(7), 101 Stat. 171; Nov. 5, 1990, Pub. L. 101–516, §327(a), 104 Stat. 2182.
	49 App.:2311(g).	

In this section, the words "Dwight D. Eisenhower System of Interstate and Defense Highways" are substituted for "National System of Interstate and Defense Highways" because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsection (a), the word "property" is substituted for "cargo" for consistency in the revised title.

Subsection (b)(1) is substituted for 49 App.:2311(a) and (b) (2d–last sentences) to eliminate unnecessary words and for consistency in the revised title and with other titles of the United States Code. Hyphens are used

in describing the combinations "truck tractor-semitrailer" and "truck tractor-semitrailer-trailer" for consistency. In clause (D), the word "actually" is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:2311(b) (1st sentence) because of the restatement.

In subsection (d), the words "such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors and other devices" are omitted as unnecessary and because most items listed relate to width rather than length.

In subsection (e), the words "by regulation" are added for clarity. The words "subject to the provisions of subsections (a) and (c) of this section" are omitted as surplus. The text of 49 App.:2311(e)(2) and (3) is omitted as executed.

In subsection (f), the word "commercial" is added before "motor vehicle" for consistency.

In subsection (f)(4)(C), the reference to regulations prescribed under subsection (e) is substituted for the reference in the source to regulations issued under subsection (a) to be more precise. The word "amendment" is substituted for "revision" for consistency in the revised title.

Subsection (g) is substituted for 49 App.:2311(d) to eliminate unnecessary words. The Secretary's general authority to prescribe regulations is provided in 49:322(a). The word "vessel" is substituted for "boat" because of 1:3. The text of 49 App.:2311(g) is omitted as executed.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94, §5520(a), struck out "specifically" before "for the transport" and inserted at end "An automobile transporter shall not be prohibited from the transport of cargo or general freight on a backhaul, so long as it complies with weight limitations for a truck tractor and semitrailer combination."

Subsec. (a)(3)(B). Pub. L. 114–94, §5520(b), struck out "only" before "motor vehicles when operating" and inserted "or any other commodity, including cargo or general freight on a backhaul" before period at end.

Subsec. (a)(5). Pub. L. 114–94, §5520(c), added par. (5).

Subsec. (a)(6), (7). Pub. L. 114–94, §5523(a), added pars. (6) and (7).

Subsec. (b)(1)(G). Pub. L. 114–94, §5520(d), added subpar. (G).

Subsec. (b)(1)(H). Pub. L. 114–94, §5523(b), added subpar. (H).

2008—Subsec. (a)(4). Pub. L. 110–244, §301(r)(1), in heading, substituted "Driveaway saddlemount" for "Drive-away saddlemount with fullmount", and, in text, substituted "driveaway saddlemount" for "drive-away saddlemount with fullmount" and inserted at end "Such combination may include one fullmount."

Subsec. (b)(1)(D). Pub. L. 110–244, §301(r)(2), substituted "all driveaway saddlemount" for "a driveaway saddlemount with fullmount".

2005—Subsec. (a)(4). Pub. L. 109–59, §4141(a), added par. (4).

Subsec. (b)(1)(D) to (F). Pub. L. 109–59, §4141(b), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

1998—Subsec. (a). Pub. L. 105–178, §4005(1), substituted "section, the following definitions apply:" for "section—" in introductory provisions.

Subsec. (a)(1). Pub. L. 105–178, §4005(5), added par. (1). Former par. (1) redesignated (2).

Pub. L. 105–178, §4005(2), inserted "MAXI-CUBE VEHICLE.—The term" after "(1)".

Subsec. (a)(2). Pub. L. 105–178, §4005(4), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Pub. L. 105–178, §4005(3), inserted "TRUCK TRACTOR.—The term" after "(2)".

Subsec. (a)(3). Pub. L. 105–178, §4005(4), redesignated par. (2) as (3).

1995—Subsec. (b)(1)(E). Pub. L. 104–88 added subpar. (E).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§31112. Property-carrying unit limitation

(a) DEFINITIONS.—In this section—

(1) "property-carrying unit" means any part of a commercial motor vehicle combination (except the truck tractor) used to carry property, including a trailer, a semitrailer, or the property-carrying section of a single unit truck, but not including a trailer or a semitrailer transported as part of a towaway trailer transporter combination (as defined in section 31111(a)).

(2) the length of the property-carrying units of a commercial motor vehicle combination is the length measured from the front of the first property-carrying unit to the rear of the last property-carrying unit.

(b) GENERAL LIMITATIONS.—A State may not allow by any means the operation, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under section 31111(e) of this title, of any commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than one property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

(1) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State before June 2, 1991; or

(2) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State before June 2, 1991.

(c) SPECIAL RULES FOR WYOMING, OHIO, ALASKA, IOWA, NEBRASKA, KANSAS, AND OREGON.—In addition to the vehicles allowed under subsection (b) of this section—

(1) Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if the vehicle configurations comply with the single axle, tandem axle, and bridge formula limits in section 127(a) of title 23 and are not more than 117,000 pounds gross vehicle weight;

(2) Ohio may allow the operation of commercial motor vehicle combinations with 3 property-carrying units of 28.5 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated in Ohio on the 1-mile segment of Ohio State Route 7 that begins at and is south of exit 16 of the Ohio Turnpike;

(3) Alaska may allow the operation of commercial motor vehicle combinations that were not in actual operation on June 1, 1991, but were in actual operation before July 6, 1991;

(4) Iowa may allow the operation on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or on Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska of commercial motor vehicle combinations with trailer length, semitrailer length, and property-carrying unit length allowed by law or regulation and in actual lawful operation on a regular or periodic basis (including continued seasonal operation) in South Dakota or Nebraska, respectively, before June 2, 1991;

(5) Nebraska and Kansas may allow the operation of a truck tractor and 2 trailers or semitrailers not in actual lawful operation on a regular or periodic basis on June 1, 1991, if the length of the property-carrying units does not exceed 81 feet 6 inches and such combination is used only to transport equipment utilized by custom harvesters under contract to agricultural producers to harvest one or more of wheat, soybeans, and milo during the harvest months for such crops, as defined by the relevant state;[1] and

(6) Oregon may allow the operation of a truck tractor and 2 property-carrying units not in actual lawful operation on a regular or periodic basis on June 1, 1991, if—

(A) the length of the property-carrying units does not exceed 82 feet 8 inches;

(B) the combination is used only to transport sugar beets; and

(C) the operation occurs on United States Route 20, United States Route 26, United States Route 30, or Oregon Route 201 in the vicinity, or between any, of—

(i) Vale, Oregon;

(ii) Ontario, Oregon; or

(iii) Nyssa, Oregon.

(d) ADDITIONAL LIMITATIONS.—(1) A commercial motor vehicle combination whose operation in a State is not prohibited under subsections (b) and (c) of this section may continue to operate in the State on highways described in subsection (b) only if at least in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 1991. However, subject to regulations prescribed by the Secretary under subsection (g)(2) of this section, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

(2) This section does not prevent a State from further restricting in any way or prohibiting the operation of any commercial motor vehicle combination subject to this section, except that a restriction or prohibition shall be consistent with this section and sections 31113(a) and (b) and 31114 of this title.

(3) A State making a minor adjustment of a temporary and emergency nature as authorized by paragraph (1) of this subsection or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by paragraph (2) of this subsection shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

(4) [2] Nebraska may continue to allow to be operated under paragraphs (b)(1) and (b)(2) of this section,[3] the State of Nebraska may allow longer combination vehicles that were not in actual operation on June 1, 1991 to be operated within its boundaries to transport sugar beets from the field where such sugar beets are harvested to storage, market, factory or stockpile or from stockpile to storage, market or factory. This provision shall expire on February 28, 1998.

(e) LIST OF STATE LENGTH LIMITATIONS.—(1) Not later than February 16, 1992, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in subsection (b) of this section. The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

(2) Not later than March 17, 1992, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under paragraph (1) of this subsection. The Secretary shall review for accuracy all information submitted by a State under paragraph (1) and shall solicit and consider public comment on the accuracy of the information.

(3) A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis before June 2, 1991.

(4) Except as revised under this paragraph or paragraph (5) of this subsection, the list shall be published as final in the Federal Register not later than June 15, 1992. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under paragraph (2) of this subsection. After publication of the final list, commercial motor vehicle combinations prohibited under subsection (b) of this section may not operate on the Dwight D. Eisenhower System of Interstate and Defense Highways and other Federal-aid Primary System highways designated by the Secretary except as published on the list. The list may be combined by the Secretary with the list required under section 127(d) of title 23.

(5) On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under paragraph (4) of this subsection. If the Secretary decides there is

reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction.

(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—This section may not be construed—

(1) to allow the operation on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways of a longer combination vehicle prohibited under section 127(d) of title 23;

(2) to affect in any way the operation of a commercial motor vehicle having only one property-carrying unit; or

(3) to affect in any way the operation in a State of a commercial motor vehicle with more than one property-carrying unit if the vehicle was in actual operation on a regular or periodic basis (including seasonal operation) in that State before June 2, 1991, that was authorized under State law or regulation or lawful State permit.

(g) REGULATIONS.—(1) In carrying out this section only, the Secretary shall define by regulation loads that cannot be dismantled easily or divided easily.

(2) Not later than June 15, 1992, the Secretary shall prescribe regulations establishing criteria for a State to follow in making minor adjustments under subsection (d) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 995; Pub. L. 104–59, title III, §312(a)(3), Nov. 28, 1995, 109 Stat. 584; Pub. L. 104–205, title III, §352, Sept. 30, 1996, 110 Stat. 2980; Pub. L. 105–66, title III, §343, Oct. 27, 1997, 111 Stat. 1449; Pub. L. 109–59, title IV, §4112, Aug. 10, 2005, 119 Stat. 1724; Pub. L. 114–94, div. A, title V, §5523(c)(1), Dec. 4, 2015, 129 Stat. 1560; Pub. L. 114–113, div. L, title I, §137, Dec. 18, 2015, 129 Stat. 2851; Pub. L. 116–6, div. G, title IV, §423, Feb. 15, 2019, 133 Stat. 474.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31112(a)(1)	49 App.:2311(j)(7).	Jan 6, 1983, Pub. L. 97–424, 96 Stat. 2159, §411(j); added Dec. 18, 1991, Pub. L. 102–240, §4006(a), 105 Stat. 2148.
31112(a)(2)	49 App.:2311(j)(3).	
31112(b)	49 App.:2311(j)(1).	
31112(c)	49 App.:2311(j)(2).	
31112(d)	49 App.:2311(j)(4).	
31112(e)	49 App.:2311(j)(5).	
31112(f)	49 App.:2311(j)(6).	
31112(g)(1)	49 App.:2311(j)(9).	
31112(g)(2)	49 App.:2311(j)(8).	

In this section, the word "property" is substituted for "cargo", and the word "law" is substituted for "statute", for consistency in the revised title. The words "Dwight D. Eisenhower System of Interstate and Defense Highways" are substituted for "National System of Interstate and Defense Highways" because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsections (b), before clause (1), and (g)(1), the words "dismantled easily or divided easily" are substituted for "easily dismantled or divided" for clarity.

In subsection (e)(4), the words "Except as revised under this paragraph or paragraph (5) of this subsection" are substituted for "Except as modified pursuant to subparagraph (B) or (E) of this subsection" for clarity.

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (c). Pub. L. 116–6 substituted "Kansas, and Oregon" for "and Kansas" in heading and added par. (6).

2015—Subsec. (a)(1). Pub. L. 114–94 inserted before period at end ", but not including a trailer or a semitrailer transported as part of a towaway trailer transporter combination (as defined in section 31111(a))".

Subsec. (c). Pub. L. 114–113, §137(b)(1), substituted "Nebraska, and Kansas" for "and Nebraska" in heading.

Subsec. (c)(3). Pub. L. 114–113, §137(b)(2), substituted a semicolon for "; and" at end.

Subsec. (c)(4). Pub. L. 114–113, §137(b)(3), substituted "; and" for period at end.

Subsec. (c)(5). Pub. L. 114–113, §137(a), substituted "Nebraska and Kansas may" for "Nebraska may" and "the relevant state" for "the State of Nebraska".

2005—Subsec. (c). Pub. L. 109–59, §4112(b), substituted "Iowa, and Nebraska" for "and Iowa" in heading.

Subsec. (c)(5). Pub. L. 109–59, §4112(a), added par. (5).

1997—Subsec. (d)(4). Pub. L. 105–66 substituted "February 28, 1998" for "September 30, 1997".

1996—Subsec. (d)(4). Pub. L. 104–205, which directed amendment of this section by adding a new subsection designated par. (4) without specifying where, was executed by adding par. (4) to subsec. (d) to reflect the probable intent of Congress.

1995—Subsec. (c). Pub. L. 104–59 substituted "Alaska, and Iowa" for "and Alaska" in heading and added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Pub. L. 118–154, §1(b), (c), Dec. 17, 2024, 138 Stat. 1691, provided that:

"(b) DESIGNATION.—United States Route 20 in each of the States of Oregon, Idaho, Montana, Wyoming, Nebraska, Iowa, Illinois, Indiana, Ohio, Pennsylvania, New York, and Massachusetts shall be known and designated as the 'National Medal of Honor Highway'.

"(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in subsection (b) shall be deemed to be a reference to the 'National Medal of Honor Highway'."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

[1] So in original. Probably should be "State."

[2] See 1996 Amendment note below.

[3] So in original.

§31113. Width limitations

(a) GENERAL LIMITATIONS.—(1) Except as provided in subsection (e) of this section, a State (except Hawaii) may not prescribe or enforce a regulation of commerce that imposes a vehicle width limitation of more or less than 102 inches on a commercial motor vehicle operating on—

(A) a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section);

(B) a qualifying Federal-aid highway designated by the Secretary of Transportation, with traffic lanes designed to be at least 12 feet wide; or

(C) a qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary decides the designation is consistent with highway safety.

(2) Notwithstanding paragraph (1) of this subsection, a State may continue to enforce a regulation of commerce in effect on April 6, 1983, that applies to a commercial motor vehicle of more than 102

inches in width, until the date on which the State prescribes a regulation of commerce that complies with this subsection.

(3) A Federal-aid highway (except an interstate highway) not designated under this subsection on June 5, 1984, may be designated under this subsection only with the agreement of the chief executive officer of the State in which the highway is located.

(b) EXCLUSION OF SAFETY AND ENERGY CONSERVATION DEVICES.—Width calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle.

(c) SPECIAL USE PERMITS.—A State may grant a special use permit to a commercial motor vehicle that is more than 102 inches in width.

(d) STATE ENFORCEMENT.—Consistent with this section, a State may enforce a commercial motor vehicle width limitation of 102 inches on a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section) or other qualifying Federal-aid highway designated by the Secretary.

(e) EXEMPTIONS.—(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having the width provided in subsection (a) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having the width provided for in subsection (a) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a width provided in subsection (a) of this section, the Secretary shall exempt the segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (a) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as an amendment to the final regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 997.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31113(a)	49 App.:2316(a), (f).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §416(a), (d), (f); added Apr. 5, 1983, Pub. L. 98–17, §1(a), 97 Stat. 59; Oct. 30, 1984, Pub. L. 98–554, §§103(1), 104(d), (e), 105, 98 Stat. 2830, 2831.
31113(b)	49 App.:2316(b).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §416(b), (c); added Apr. 5, 1983, Pub. L. 98–17, §1(a), 97 Stat. 59.
31113(c)	49 App.:2316(c).	
31113(d)	49 App.:2316(d).	
31113(e)	49 App.:2316(e).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §416(e); added Oct. 30, 1984, Pub. L. 98–554, §103(2), 98 Stat. 2830.

In this section, the word "commercial" is added before "motor vehicle" for consistency. The words "Dwight D. Eisenhower System of Interstate and Defense Highways" are substituted for "National System of Interstate and Defense Highways" because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsection (a)(1), before clause (A), the text of 49 App.:2316(f) is omitted as obsolete. The word "prescribe" is substituted for "establish, maintain" for consistency in the revised title and with other titles of the United States Code. The words "a commercial motor vehicle operating on" are added for clarity.

In subsection (b), the words "or energy conservation" are added for consistency with section 31111(d) of the revised title and because of the reference to "efficient operation".

In subsection (e)(4)(C), the word "amendment" is substituted for "revision" for consistency in the revised title.

§31114. Access to the Interstate System

(a) PROHIBITION ON DENYING ACCESS.—A State may not enact or enforce a law denying to a commercial motor vehicle subject to this subchapter or subchapter I of this chapter reasonable access between—

(1) the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under section 31111(f) or 31113(e) of this title) and other qualifying Federal-aid Primary System highways designated by the Secretary of Transportation; and

(2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers, motor carriers of passengers, any towaway trailer transporter combination (as defined in section 31111(a)), or any truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

(b) EXCEPTION.—This section does not prevent a State or local government from imposing reasonable restrictions, based on safety considerations, on a truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 999; Pub. L. 114–94, div. A, title V, §5523(c)(2), Dec. 4, 2015, 129 Stat. 1560.)

HISTORICAL AND REVISION NOTES

Revised

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31114(a)	49 App.:2312(a).	Jan. 6, 1983, Pub. L. 97–424, §412, 96 Stat. 2160; Oct. 30, 1984, Pub. L. 98–554, §§104(c), 106, 98 Stat. 2831, 2832; Dec. 18, 1991, Pub. L. 102–240, §4006(b)(2), 105 Stat. 2151.
31114(b)	49 App.:2312(b).	

In subsection (a), the words "Dwight D. Eisenhower System of Interstate and Defense Highways" are substituted for "Interstate and Defense Highway System" for consistency in the revised chapter.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114–94 inserted "any towaway trailer transporter combination (as defined in section 31111(a))," after "passengers,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§31115. Enforcement

On the request of the Secretary of Transportation, the Attorney General shall bring a civil action for appropriate injunctive relief to ensure compliance with this subchapter or subchapter I of this chapter. The action may be brought in a district court of the United States in any State in which the relief is required. On a proper showing, the court shall issue a temporary restraining order or preliminary or permanent injunction. An injunction under this section may order a State or person to comply with this subchapter, subchapter I, or a regulation prescribed under this subchapter or subchapter I.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 999.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31115	49 App.:2313.	Jan. 6, 1983, Pub. L. 97–424, §413, 96 Stat. 2160; Oct. 30, 1984, Pub. L. 98–554, §214, 98 Stat. 2844.

The words "to assure compliance with the terms of this chapter" and "In any action under this section" are omitted as surplus. The last sentence is substituted for 49 App.:2313 (last sentence) for clarity and to eliminate unnecessary words.

SUBCHAPTER III—SAFETY REGULATION

§31131. Purposes and findings

(a) PURPOSES.—The purposes of this subchapter are—

(1) to promote the safe operation of commercial motor vehicles;

(2) to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety; and

(3) to ensure increased compliance with traffic laws and with the commercial motor vehicle safety and health regulations and standards prescribed and orders issued under this chapter.

(b) FINDINGS.—Congress finds—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the United States Government in ensuring that commercial motor vehicle operations are conducted safely and healthfully.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 999.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31131(a)	49 App.:2501.	Oct. 30, 1984, Pub. L. 98–554, §§202, 203, 98 Stat. 2832.
31131(b)	49 App.:2502.	

In subsection (a)(3), the words "this chapter" are substituted for "this Act" because title II of the Act of October 30, 1984 (Public Law 98–554, 98 Stat. 2832), amended and enacted provisions restated in this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXEMPTIONS FROM REQUIREMENTS OF THIS SUBCHAPTER FOR CERTAIN FARM VEHICLES

For provisions relating to exemptions from certain requirements of this subchapter with respect to certain farm vehicles and individuals operating those vehicles, see section 32934 of Pub. L. 112–141, set out as a note under section 31136 of this title.

TRAFFIC LAW INITIATIVE

Pub. L. 106–159, title II, §220, Dec. 9, 1999, 113 Stat. 1769, provided that:

"(a) IN GENERAL.—In cooperation with one or more States, the Secretary may carry out a program to develop innovative methods of improving motor carrier compliance with traffic laws. Such methods may include the use of photography and other imaging technologies.

"(b) REPORT.—The Secretary shall transmit to Congress a report on the results of any program conducted under this section, together with any recommendations as the Secretary determines appropriate."

§31132. Definitions

In this subchapter—

(1) "commercial motor vehicle" means a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds,

whichever is greater;

(B) is designed or used to transport more than 8 passengers (including the driver) for compensation;

(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

(2) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of the employment by the Government, a State, or a political subdivision of a State.

(3) "employer"—

(A) means a person engaged in a business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "interstate commerce" means trade, traffic, or transportation in the United States between a place in a State and—

(A) a place outside that State (including a place outside the United States); or

(B) another place in the same State through another State or through a place outside the United States.

(5) "intrastate commerce" means trade, traffic, or transportation in a State that is not interstate commerce.

(6) "medical examiner" means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.

(7) "regulation" includes a standard or order.

(8) "State" means a State of the United States, the District of Columbia, and, in sections 31136 and 31140–31142 [1] of this title, a political subdivision of a State.

(9) "State law" includes a law enacted by a political subdivision of a State.

(10) "State regulation" includes a regulation prescribed by a political subdivision of a State.

(11) "United States" means the States of the United States and the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1000; Pub. L. 104–88, title I, §104(f), Dec. 29, 1995, 109 Stat. 919; Pub. L. 105–178, title IV, §4008(a), June 9, 1998, 112 Stat. 404; Pub. L. 109–59, title IV, §4116(c), Aug. 10, 2005, 119 Stat. 1728.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31132	49 App.:2503.	Oct. 30, 1984, Pub. L. 98–554, §204, 98 Stat. 2833.

The text of 49 App.:2503(6) is omitted as unnecessary because of 1:1. The text of 49 App.:2503(8) is omitted as surplus because the complete name of the Commercial Motor Vehicle Safety Regulatory Review

Panel is used the first time the term appears in a section. The text of 49 App.:2503(9) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 31140 of this title, referred to in par. (8), was repealed by Pub. L. 105–178, title IV, §4008(d), June 9, 1998, 112 Stat. 404.

AMENDMENTS

2005—Pars. (6) to (11). Pub. L. 109–59 added par. (6) and redesignated former pars. (6) to (10) as (7) to (11), respectively.

1998—Par. (1)(A). Pub. L. 105–178, §4008(a)(1), inserted "or gross vehicle weight" after "rating" and ", whichever is greater" after "pounds".

Par. (1)(B). Pub. L. 105–178, §4008(a)(2), which directed substitution of "more than 8 passengers (including the driver) for compensation;" for "passengers" and all that follows through semicolon at end, was executed by making the substitution for "passengers for compensation, but excluding vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;" to reflect the probable intent of Congress.

1995—Par. (1)(B) to (D). Pub. L. 104–88 added subpars. (B) and (C), redesignated former subpar. (C) as (D), and struck out former subpar. (B) which read as follows: "is designed to transport more than 15 passengers including the driver; or".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

[1] *See References in Text note below.*

§31133. General powers of the Secretary of Transportation

(a) GENERAL.—In carrying out this subchapter and regulations prescribed under section 31102 of this title, the Secretary of Transportation may—

(1) conduct and make contracts for inspections and investigations;
(2) compile statistics;
(3) make reports;
(4) issue subpenas;
(5) require production of records and property;
(6) take depositions;
(7) hold hearings;
(8) prescribe recordkeeping and reporting requirements;
(9) conduct or make contracts for studies, development, testing, evaluation, and training; and
(10) perform other acts the Secretary considers appropriate.

(b) CONSULTATION.—In conducting inspections and investigations under subsection (a) of this section, the Secretary shall consult, as appropriate, with employers and employees and their authorized representatives and offer them a right of accompaniment.

(c) DELEGATION.—The Secretary may delegate to a State receiving a grant under section 31102 of this title those duties and powers related to enforcement (including conducting investigations) of this subchapter and regulations prescribed under this subchapter that the Secretary considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1001; Pub. L. 105–178, title IV, §4006(a), June 9, 1998, 112 Stat. 401.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31133(a)	49 App.:2510(a), (b) (1st sentence).	Oct. 30, 1984, Pub. L. 98–554, §211, 98 Stat. 2841.
31133(b)	49 App.:2510(c).	
31133(c)	49 App.:2510(b) (last sentence).	

In subsection (a), the words before clause (1) are substituted for "In carrying out the Secretary's functions under this chapter, the Secretary is authorized to" and "to carry out the provisions of this chapter, or regulations issued pursuant to section 2302 of this Appendix" to eliminate unnecessary words. Clause (10) is substituted for "perform such acts . . . as the Secretary determines necessary". The text of 49 App.:2510(a) is omitted as covered by 49 App.:2510(b) (1st sentence).

In subsection (b), the words "In conducting inspections and investigations" are substituted for "To carry out the Secretary's inspection and investigation functions" to eliminate unnecessary words. The words "or the Secretary's agent" are omitted as unnecessary.

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–178 inserted "and make contracts for" after "conduct".

STATUTORY NOTES AND RELATED SUBSIDIARIES

BORDER STAFFING STANDARDS

Pub. L. 106–159, title II, §218, Dec. 9, 1999, 113 Stat. 1767, as amended by Pub. L. 114–94, div. A, title V, §5101(e)(10), Dec. 4, 2015, 129 Stat. 1525, provided that:

"(a) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall develop and implement appropriate staffing standards for Federal and State motor carrier safety inspectors in international border areas.

"(b) FACTORS TO BE CONSIDERED.—In developing standards under subsection (a), the Secretary shall consider volume of traffic, hours of operation of the border facility, types of commercial motor vehicles, types of cargo, delineation of responsibility between Federal and State inspectors, and such other factors as the Secretary determines appropriate.

"(c) MAINTENANCE OF EFFORT.—The standards developed and implemented under subsection (a) shall ensure that the United States and each State will not reduce its respective level of staffing of motor carrier safety inspectors in international border areas from its average level staffing for fiscal year 2000.

"(d) BORDER COMMERCIAL MOTOR VEHICLE AND SAFETY ENFORCEMENT PROGRAMS.—

"(1) ENFORCEMENT.—If, on October 1, 2001, and October 1 of each fiscal year thereafter, the Secretary has not ensured that the levels of staffing required by the standards developed under subsection (a) are deployed, the Secretary should designate the amount made available for allocation under section 31104(a)(1) of title 49, United States Code, for such fiscal year for States, local governments, and other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects.

"(2) ALLOCATION.—If the Secretary makes a designation of an amount under paragraph (1), such amount shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies."

§31134. Requirement for registration and USDOT number

(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or

person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

(b) WITHHOLDING REGISTRATION.—The Secretary shall register an employer or person under subsection (a) only if the Secretary determines that—

(1) the employer or person seeking registration is willing and able to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

(2)(A) [1] during the 3-year period before the date of the filing of the application, the employer or person is not or was not related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter who, during such 3-year period, is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

(3) the employer or person has disclosed to the Secretary any relationship involving common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter.

(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person issued under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

(1) the employer's or person's authority to operate pursuant to chapter 139 of this title is subject to revocation or suspension under sections [2] 13905(d)(1) or 13905(f) of this title;

(2) the employer or person has knowingly failed to comply with the requirements listed in subsection (b)(1);

(3) the employer or person has not disclosed any relationship through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

(4) the employer or person refused to submit to the safety review required by section 31144(g) of this title.

(d) PERIODIC REGISTRATION UPDATE.—The Secretary may require an employer to update a registration under this section not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(e) STATE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of a State to issue a Department of Transportation number under State law to a person operating in intrastate commerce.

(Added Pub. L. 112–141, div. C, title II, §32105(a), July 6, 2012, 126 Stat. 780.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 31134, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1001; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389, related to Commercial Motor Vehicle Safety Regulatory Review Panel, prior to repeal by Pub. L. 105–178, title IV, §4008(c), June 9, 1998, 112 Stat. 404.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[1] *So in original. There is no subpar. (B).*

[2] *So in original. Probably should be "section".*

§31135. Duties of employers and employees

(a) IN GENERAL.—Each employer and employee shall comply with regulations on commercial motor vehicle safety prescribed by the Secretary of Transportation under this subchapter that apply to the employer's or employee's conduct.

(b) NONCOMPLIANCE.—

(1) MOTOR CARRIERS.—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

(2) PATTERN.—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

(A) may withhold, suspend, amend, or revoke any part of the motor carrier's, employer's, or person's registration in accordance with section 13905 or 31134; and

(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

(3) OFFICERS.—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator has engaged in a pattern or practice of, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, while serving as an officer or such motor carrier, employer, or owner or operator, the Secretary may suspend, amend, or revoke any part of a registration granted to the officer individually under section 13902 or 31134.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall by regulation establish standards to implement subsection (b).

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTOR CARRIER.—The term "motor carrier" has the meaning such term has under section 13102.

(2) OFFICER.—The term "officer" means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of a motor carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1003; Pub. L. 109–59, title IV, §4113(a), Aug. 10, 2005, 119 Stat. 1724; Pub. L. 112–141, div. C, title II, §32112, July 6, 2012, 126 Stat. 783.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31135	49 App.:2504.	Oct. 30, 1984, Pub. L. 98–554, §205, 98 Stat. 2834.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–141 added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "If the Secretary finds that an officer of a motor carrier engages or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, while serving as an officer of any motor carrier, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905."

2005—Pub. L. 109–59 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§31136. United States Government regulations

(a) MINIMUM SAFETY STANDARDS.—Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;

(2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and, after the national registry maintained by the Department of Transportation under section 31149(d) is established, are listed on such registry;

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators; and

(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.

(b) ELIMINATING AND AMENDING EXISTING REGULATIONS.—The Secretary may not eliminate or amend an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying material found to be hazardous under section 5103 of this title until an equivalent or more stringent regulation has been prescribed under section 5103.

(c) PROCEDURES AND CONSIDERATIONS.—(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

(A) costs and benefits; and

(B) State laws and regulations on commercial motor vehicle safety, to minimize their

unnecessary preemption.

(d) EFFECT OF EXISTING REGULATIONS.—If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) EXEMPTIONS.—The Secretary may grant in accordance with section 31315 waivers and exemptions from, or conduct pilot programs with respect to, any regulations prescribed under this section.

(f) REGULATORY IMPACT ANALYSIS.—

(1) IN GENERAL.—Within each regulatory impact analysis of a proposed or final major rule issued by the Federal Motor Carrier Safety Administration, the Secretary shall, whenever practicable—

(A) consider the effects of the proposed or final rule on different segments of the motor carrier industry; and

(B) formulate estimates and findings based on the best available science.

(2) SCOPE.—To the extent feasible and appropriate, and consistent with law, an analysis described in paragraph (1) shall—

(A) use data that is representative of commercial motor vehicle operators or motor carriers, or both, that will be impacted by the proposed or final rule; and

(B) consider the effects on commercial truck and bus carriers of various sizes and types.

(g) PUBLIC PARTICIPATION.—

(1) IN GENERAL.—If a proposed rule under this part is likely to lead to the promulgation of a major rule, the Secretary, before publishing such proposed rule, shall—

(A) issue an advance notice of proposed rulemaking; or

(B) proceed with a negotiated rulemaking.

(2) REQUIREMENTS.—Each advance notice of proposed rulemaking issued under paragraph (1) shall—

(A) identify the need for a potential regulatory action;

(B) identify and request public comment on the best available science or technical information relevant to analyzing potential regulatory alternatives;

(C) request public comment on the available data and costs with respect to regulatory alternatives reasonably likely to be considered as part of the rulemaking; and

(D) request public comment on available alternatives to regulation.

(3) WAIVER.—This subsection does not apply to a proposed rule if the Secretary, for good cause, finds (and incorporates the finding and a brief statement of reasons for such finding in the proposed or final rule) that an advance notice of proposed rulemaking is impracticable, unnecessary, or contrary to the public interest.

(h) RULE OF CONSTRUCTION.—Nothing in subsection (f) or (g) may be construed to limit the contents of an advance notice of proposed rulemaking.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1003; Pub. L. 104–59, title III, §344, Nov. 28, 1995, 109 Stat. 610; Pub. L. 104–287, §5(60), Oct. 11, 1996, 110 Stat. 3394; Pub. L. 105–178, title IV, §4007(c), June 9, 1998, 112 Stat. 403; Pub. L. 109–59, title IV, §4116(b), Aug. 10, 2005, 119 Stat. 1728; Pub. L. 112–141, div. C, title II, §32911, July 6, 2012, 126 Stat. 818; Pub. L. 114–94, div. A, title V, §5202, Dec. 4, 2015, 129 Stat. 1534.)

HISTORICAL AND REVISION NOTES

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31136(a)	49 App.:2505(a), (g).	Oct. 30, 1984, Pub. L. 98–554, §206(a)–(g), 98 Stat. 2834.
31136(b)	49 App.:2505(b).	
31136(c)	49 App.:2505(c).	
31136(d)	49 App.:2505(d), (e).	
31136(e)	49 App.:2505(f).	
31136(f)	49 App.:2505(h).	Oct. 30, 1984, Pub. L. 98–554, §206(h), 98 Stat. 2835; restated Nov. 18, 1988, Pub. L. 100–690, §9102(a), 102 Stat. 4528.

In subsection (a), the text of 49 App.:2505(g) is omitted because 5:ch. 7 applies unless otherwise stated. Before clause (1), the words "Not later than 18 months after October 30, 1984" are omitted because the time period specified has expired. The words "Subject to section 30103(a) of this title" are added to alert the reader to that section.

In subsection (c)(1), the words "except that the time periods specified in this subsection shall apply to the issuance of such regulations" are omitted because the time periods referred to do not appear in subsection (c) as enacted. The reference was probably to the time periods in a prior version of subsection (c). See S. 2174, 98th Cong., 2d Sess., §6(b) (as reported by the Committee on Commerce, Science, and Transportation of the Senate on May 2, 1984, in S. Rept. 98–424).

In subsection (d), the text of 49 App.:2505(d) is omitted as obsolete.

In subsection (f)(2)(C)(i), the words "an operator" are substituted for "such person" because only a natural person can have a medical or physical condition.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (f). Pub. L. 114–94 added subsec. (f) and redesignated and transferred former subsec. (f) of this section to subsec. (g) of section 31315 of this title.

Subsecs. (g), (h). Pub. L. 114–94, §5202(2), added subsecs. (g) and (h).

2012—Subsec. (a)(5). Pub. L. 112–141 added par. (5).

2005—Subsec. (a)(3). Pub. L. 109–59 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and".

1998—Subsec. (e). Pub. L. 105–178 amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) consisted of pars. (1) to (3) relating to waivers.

1996—Subsec. (e)(2)(A), (J), (3). Pub. L. 104–287 substituted "November 28, 1995" for "the date of the enactment of this paragraph".

1995—Subsec. (e)(1) to (3). Pub. L. 104–59 designated existing text as par. (1) and inserted heading, and added pars. (2) and (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective on the 365th day following Aug. 10, 2005, see section 4116(f) of Pub. L. 109–59, set out as an Effective Date note under section 31149 of this title.

AUTOMATIC EMERGENCY BRAKING

Pub. L. 117–58, div. B, title III, §23010, Nov. 15, 2021, 135 Stat. 766, provided that:

"(a) DEFINITIONS.—In this section:

"(1) AUTOMATIC EMERGENCY BRAKING SYSTEM.—The term 'automatic emergency braking system' means a system on a commercial motor vehicle that, based on a predefined distance and closing rate with respect to an obstacle in the path of the commercial motor vehicle—

"(A) alerts the driver of the obstacle; and

"(B) if necessary to avoid or mitigate a collision with the obstacle, automatically applies the brakes of the commercial motor vehicle.

"(2) COMMERCIAL MOTOR VEHICLE.—The term 'commercial motor vehicle' has the meaning given the term in section 31101 of title 49, United States Code.

"(b) FEDERAL MOTOR VEHICLE SAFETY STANDARD.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall—

"(A) prescribe a motor vehicle safety standard under section 30111 of title 49, United States Code, that requires any commercial motor vehicle subject to section 571.136 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Number 136) (or a successor regulation) that is manufactured after the effective date of the standard prescribed under this subparagraph to be equipped with an automatic emergency braking system; and

"(B) as part of the standard under subparagraph (A), establish performance requirements for automatic emergency braking systems.

"(2) CONSIDERATIONS.—Prior to prescribing the motor vehicle safety standard under paragraph (1)(A), the Secretary shall—

"(A) conduct a review of automatic emergency braking systems in use in applicable commercial motor vehicles and address any identified deficiencies with respect to those automatic emergency braking systems in the rulemaking proceeding to prescribe the standard, if practicable; and

"(B) consult with representatives of commercial motor vehicle drivers regarding the experiences of drivers with automatic emergency braking systems in use in applicable commercial motor vehicles, including any malfunctions or unwarranted activations of those automatic emergency braking systems.

"(c) FEDERAL MOTOR CARRIER SAFETY REGULATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a regulation under section 31136 of title 49, United States Code, that requires that an automatic emergency braking system installed in a commercial motor vehicle manufactured after the effective date of the standard prescribed under subsection (b)(1)(A) that is in operation on or after that date and is subject to section 571.136 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Number 136) (or a successor regulation) be used at any time during which the commercial motor vehicle is in operation.

"(d) REPORT ON AUTOMATIC EMERGENCY BRAKING IN OTHER COMMERCIAL MOTOR VEHICLES.—

"(1) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a study on equipping a variety of commercial motor vehicles not subject to section 571.136 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Number 136) (or a successor regulation) as of that date of enactment with automatic emergency braking systems to avoid or mitigate a collision with an obstacle in the path of the commercial motor vehicle, including an assessment of the feasibility, benefits, and costs associated with installing automatic emergency braking systems on a variety of newly manufactured commercial motor vehicles with a gross vehicle weight rating greater than 10,001 pounds.

"(2) INDEPENDENT RESEARCH.—If the Secretary enters into a contract with a third party to perform research relating to the study required under paragraph (1), the Secretary shall ensure that the third party does not have any financial or contractual ties to, or relationships with—

"(A) a motor carrier that transports passengers or property for compensation;

"(B) the motor carrier industry; or

"(C) an entity producing or supplying automatic emergency braking systems.

"(3) PUBLIC COMMENT.—Not later than 90 days after the date on which the study under paragraph (1) is completed, the Secretary shall—

"(A) issue a notice in the Federal Register containing the findings of the study; and

"(B) provide an opportunity for public comment.

"(4) REPORT TO CONGRESS.—Not later than 90 days after the conclusion of the public comment period under paragraph (3)(B), the Secretary shall submit to the Committee on Commerce, Science, and

Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report that includes—

"(A) the results of the study under paragraph (1);

"(B) a summary of any comments received under paragraph (3)(B); and

"(C) a determination as to whether the Secretary intends to develop performance requirements for automatic emergency braking systems for applicable commercial motor vehicles, including any analysis that led to that determination.

"(5) RULEMAKING.—Not later than 2 years after the date on which the study under paragraph (1) is completed, the Secretary shall—

"(A) determine whether a motor vehicle safety standard relating to equipping the commercial motor vehicles described in that paragraph with automatic emergency braking systems would meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code; and

"(B) if the Secretary determines that a motor vehicle safety standard described in subparagraph (A) would meet the requirements and considerations described in that subparagraph, initiate a rulemaking to prescribe such a motor vehicle safety standard."

WINDSHIELD TECHNOLOGY

Pub. L. 114–94, div. A, title V, §5301, Dec. 4, 2015, 129 Stat. 1543, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall revise the regulations in section 393.60(e) of title 49, Code of Federal Regulations (relating to the prohibition on obstructions to the driver's field of view) to exempt from that section the voluntary mounting on a windshield of vehicle safety technology likely to achieve a level of safety that is equivalent to or greater than the level of safety that would be achieved absent the exemption.

"(b) VEHICLE SAFETY TECHNOLOGY DEFINED.—In this section, the term 'vehicle safety technology' includes a fleet-related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, and active cruise control system and any other technology that the Secretary considers applicable.

"(c) RULE OF CONSTRUCTION.—For purposes of this section, any windshield mounted technology with a short term exemption under part 381 of title 49, Code of Federal Regulations, on the date of enactment of this Act, shall be considered likely to achieve a level of safety that is equivalent to or greater than the level of safety that would be achieved absent an exemption under subsection (a)."

OPERATORS OF HI-RAIL VEHICLES

Pub. L. 114–94, div. A, title V, §5519, Dec. 4, 2015, 129 Stat. 1558, provided that:

"(a) IN GENERAL.—In the case of a commercial motor vehicle driver subject to the hours of service requirements in part 395 of title 49, Code of Federal Regulations, who is driving a hi-rail vehicle, the maximum on duty time under section 395.3 of such title for such driver shall not include time in transportation to or from a duty assignment if such time in transportation—

"(1) does not exceed 2 hours per calendar day or a total of 30 hours per calendar month; and

"(2) is fully and accurately accounted for in records to be maintained by the motor carrier and such records are made available upon request of the Federal Motor Carrier Safety Administration or the Federal Railroad Administration.

"(b) HI-RAIL VEHICLE DEFINED.—In this section, the term 'hi-rail vehicle' means an internal rail flaw detection vehicle equipped with flange hi-rails."

EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN WELDING TRUCKS USED IN PIPELINE INDUSTRY

Pub. L. 114–94, div. A, title V, §5524, Dec. 4, 2015, 129 Stat. 1560, provided that:

"(a) COVERED MOTOR VEHICLE DEFINED.—In this section, the term 'covered motor vehicle' means a motor vehicle that—

"(1) is traveling in the State in which the vehicle is registered or another State;

"(2) is owned by a welder;

"(3) is a pick-up style truck;

"(4) is equipped with a welding rig that is used in the construction or maintenance of pipelines; and

"(5) has a gross vehicle weight and combination weight rating and weight of 15,000 pounds or less.

"(b) FEDERAL REQUIREMENTS.—A covered motor vehicle, including the individual operating such vehicle and the employer of such individual, shall be exempt from the following:

"(1) Any requirement relating to registration as a motor carrier, including the requirement to obtain

and display a Department of Transportation number, established under chapters 139 and 311 of title 49, United States Code.

"(2) Any requirement relating to driver qualifications established under chapter 311 of title 49, United States Code.

"(3) Any requirement relating to driving of commercial motor vehicles established under chapter 311 of title 49, United States Code.

"(4) Any requirement relating to parts and accessories and inspection, repair, and maintenance of commercial motor vehicles established under chapter 311 of title 49, United States Code.

"(5) Any requirement relating to hours of service of drivers, including maximum driving and on duty time, established under chapter 315 of title 49, United States Code."

RELIABLE HOME HEATING

Pub. L. 113–125, June 30, 2014, 128 Stat. 1388, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Reliable Home Heating Act'.

"SEC. 2. AUTHORITY TO EXTEND EMERGENCY DECLARATIONS FOR PURPOSES OF TEMPORARILY EXEMPTING MOTOR CARRIERS PROVIDING EMERGENCY RELIEF FROM CERTAIN SAFETY REGULATIONS.

"(a) DEFINED TERM.—In this Act, the term 'residential heating fuel' includes—

"(1) heating oil;

"(2) natural gas; and

"(3) propane.

"(b) AUTHORIZATION.—If the Governor of a State declares a state of emergency caused by a shortage of residential heating fuel and, at the conclusion of the initial 30-day emergency period (or a second 30-day emergency period authorized under this subsection), the Governor determines that the emergency shortage has not ended, any extension of such state of emergency by the Governor, up to 2 additional 30-day periods, shall be recognized by the Federal Motor Carrier Safety Administration as a period during which parts 390 through 399 of chapter III of title 49, Code of Federal Regulations, shall not apply to any motor carrier or driver operating a commercial motor vehicle to provide residential heating fuel in the geographic area so designated as under a state of emergency.

"(c) RULEMAKING.—The Secretary of Transportation shall amend section 390.23(a)(1)(ii) of title 49, Code of Federal Regulations, to conform to the provision set forth in subsection (b).

"(d) SAVINGS PROVISION.—Nothing in this section may be construed to modify the authority granted to the Federal Motor Carrier Safety Administration's Field Administrator under section 390.23(a) of title 49, Code of Federal Regulations, to offer temporary exemptions from parts 390 through 399 of such title.

"SEC. 3. ENERGY INFORMATION ADMINISTRATION NOTIFICATION REQUIREMENT.

"The Administrator of the Energy Information Administration, using data compiled from the Administration's Weekly Petroleum Status Reports, shall notify the Governor of each State in a Petroleum Administration for Defense District if the inventory of residential heating fuel within such district has been below the most recent 5-year average for more than 3 consecutive weeks.

"SEC. 4. REVIEW.

"Not later than 12 months after the date of enactment of this Act [June 30, 2014], the Secretary of Transportation shall conduct a study of, and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a report on the impacts of safety from the extensions issued by Governors according to this Act. In conducting the study, the Secretary shall review, at a minimum—

"(1) the safety implications of extending exemptions; and

"(2) a review of the exemption process to ensure clarity and efficiency during emergencies."

MOTORCOACH ENHANCED SAFETY

Pub. L. 112–141, div. C, title II, subtitle G, July 6, 2012, 126 Stat. 809, provided that:

"SEC. 32701. SHORT TITLE.

"This subtitle may be cited as the 'Motorcoach Enhanced Safety Act of 2012'.

"SEC. 32702. DEFINITIONS.

"In this subtitle:

"(1) ADVANCED GLAZING.—The term 'advanced glazing' means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

"(2) BUS.—The term 'bus' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways]).

"(3) COMMERCIAL MOTOR VEHICLE.—Except as otherwise specified, the term 'commercial motor vehicle' has the meaning given the term in section 31132(1) of title 49, United States Code.

"(4) DIRECT TIRE PRESSURE MONITORING SYSTEM.—The term 'direct tire pressure monitoring system' means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

"(5) MOTOR CARRIER.—The term 'motor carrier' means—

"(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

"(B) a motor private carrier (as defined in section 13102(15) of that title).

"(6) MOTORCOACH.—The term 'motorcoach' has the meaning given the term 'over-the-road bus' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (49 U.S.C. 5310 note), but does not include—

"(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

"(B) a school bus, including a multifunction school activity bus.

"(7) MOTORCOACH SERVICES.—The term 'motorcoach services' means passenger transportation by motorcoach for compensation.

"(8) MULTIFUNCTION SCHOOL ACTIVITY BUS.—The term 'multifunction school activity bus' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

"(9) PORTAL.—The term 'portal' means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

"(10) PROVIDER OF MOTORCOACH SERVICES.—The term 'provider of motorcoach services' means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

"(11) PUBLIC TRANSPORTATION.—The term 'public transportation' has the meaning given the term in section 5302 of title 49, United States Code.

"(12) SAFETY BELT.—The term 'safety belt' has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.

"(a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

"(b) REGULATIONS REQUIRED WITHIN 2 YEARS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe regulations that address the following commercial motor vehicle standards, if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code:

"(1) ROOF STRENGTH AND CRUSH RESISTANCE.—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

"(2) ANTI-EJECTION SAFETY COUNTERMEASURES.—The Secretary shall consider requiring advanced glazing standards for each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.

"(3) ROLLOVER CRASH AVOIDANCE.—The Secretary shall consider requiring motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

"(c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

"(1) IN GENERAL.—The Secretary shall consider requiring motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary, if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

"(2) PERFORMANCE REQUIREMENTS.—In any standard adopted under paragraph (1), the Secretary shall include performance requirements to meet the objectives identified in paragraph (1) of this subsection.

"(d) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall consider—

"(1) issuing a rule to upgrade performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

"(2) if the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

"(C) the Committee on Energy and Commerce of the House of Representatives.

"(e) APPLICATION OF REGULATIONS.—

"(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), (c), or (d) shall—

"(A) apply to all motorcoaches manufactured more than 3 years after the date on which the regulation is published as a final rule;

"(B) take into account the impact to seating capacity of changes to size and weight of motorcoaches and the ability to comply with State and Federal size and weight requirements; and

"(C) be based on the best available science.

"(2) RETROFIT ASSESSMENT FOR EXISTING MOTORCOACHES.—

"(A) IN GENERAL.—The Secretary may assess the feasibility, benefits, and costs with respect to the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1).

"(B) REPORT.—The Secretary shall submit a report on the assessment to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives not later than 2 years after the date of enactment of this Act.

"SEC. 32704. FIRE PREVENTION AND MITIGATION.

"(a) RESEARCH AND TESTING.—The Secretary shall conduct research and testing to determine the most prevalent causes of motorcoach fires and the best methods to prevent such fires and to mitigate the effect of such fires, both inside and outside the motorcoach. Such research and testing shall consider flammability of exterior components, smoke suppression, prevention of and resistance to wheel well fires, automatic fire suppression, passenger evacuation, causation and prevention of motorcoach fires, and improved fire extinguishers.

"(b) STANDARDS.—Not later than 3 years after the date of enactment of this Act, the Secretary may issue fire prevention and mitigation standards for motorcoaches, based on the results of the Secretary's research and testing, taking into account highway size and weight restrictions applicable to motorcoaches, if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

"SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.

"(a) SAFETY RESEARCH INITIATIVES.—Not later than 3 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

"(1) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection technologies for motorcoach interiors to reduce serious injuries for all passengers of motorcoaches.

"(2) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall research and test enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs.

"(3) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

"(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

"SEC. 32706. CONCURRENCE OF RESEARCH AND RULEMAKING.

"(a) REQUIREMENTS.—To the extent feasible, the Secretary shall ensure that research programs are carried out concurrently, and in a manner that concurrently assesses results, potential countermeasures, costs, and benefits.

"(b) AUTHORITY TO COMBINE RULEMAKINGS.—When considering each of the rulemaking provisions, the Secretary may initiate a single rulemaking proceeding encompassing all aspects or may combine the rulemakings as the Secretary deems appropriate.

"(c) CONSIDERATIONS.—If the Secretary undertakes separate rulemaking proceedings, the Secretary shall—

"(1) consider whether each added aspect of rulemaking may contribute to addressing the safety need determined to require rulemaking;

"(2) consider the benefits obtained through the safety belts rulemaking in section 32703(a); and

"(3) avoid duplicative benefits, costs, and countermeasures.

"SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.

"(a) SAFETY REVIEWS.—[Amended section 31144 of this title.]

"(b) DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

"(1) DEFINITIONS.—In this subsection:

"(A) MOTORCOACH.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'motorcoach' has the meaning given the term 'over-the-road bus' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (49 U.S.C. 5310 note).

"(ii) EXCLUSIONS.—The term 'motorcoach' does not include—

"(I) a bus used in public transportation that is provided by a State or local government; or

"(II) a school bus (as defined in section 30125(a)(1) of title 49, United States Code), including a multifunction school activity bus.

"(B) MOTORCOACH SERVICES AND OPERATIONS.—The term 'motorcoach services and operations' means passenger transportation by a motorcoach for compensation.

"(2) REQUIREMENTS FOR THE DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish, through notice and opportunity for public to comment, requirements to improve the accessibility to the public of safety rating information of motorcoach services and operations.

"(B) DISPLAY.—In establishing the requirements under subparagraph (A), the Secretary shall consider requirements for each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary's jurisdiction under section 13501 of title 49, United States Code, to prominently display safety fitness information pursuant to section 31144 of title 49, United States Code—

"(i) in each terminal of departure;

"(ii) in the motorcoach and visible from a position exterior to the vehicle at the point of departure, if the motorcoach does not depart from a terminal; and

"(iii) at all points of sale for such motorcoach services and operations.

"SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.

"Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and

costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

"SEC. 32709. COMMERCIAL DRIVER'S LICENSE PASSENGER ENDORSEMENT REQUIREMENTS.

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall review and assess the current knowledge and skill testing requirements for a commercial driver's license passenger endorsement to determine what improvements to the knowledge test, the examination of driving skills, and the application of such requirements are necessary to ensure the safe operation of commercial motor vehicles designed or used to transport passengers.

"(b) REPORT.—Not later than 120 days after completion of the review and assessment under subsection (a), the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

"(1) a report on the review and assessment conducted under subsection (a);

"(2) a plan to implement any changes to the knowledge and skills tests; and

"(3) a timeframe by which the Secretary will implement the changes.

"SEC. 32710. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.

"Not later than 3 years after the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking proceeding to consider requiring States to establish a program for annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

"(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;

"(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—

"(A) mitigating the risks described in paragraph (1); and

"(B) ensuring the safe and proper operation condition of such vehicles; and

"(3) the costs and benefits of a mandatory inspection program.

"SEC. 32711. REGULATIONS.

"Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code."

EXEMPTIONS FROM REQUIREMENTS FOR COVERED FARM VEHICLES

Pub. L. 112–141, div. C, title II, §32934, July 6, 2012, 126 Stat. 830, as amended by Pub. L. 114–94, div. A, title V, §5518, Dec. 4, 2015, 129 Stat. 1558, provided that:

"(a) FEDERAL REQUIREMENTS.—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

"(1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.

"(2) Any requirement relating to drug-testing established under chapter 313 of title 49, United States Code.

"(3) Any requirement relating to medical certificates established under—

"(A) subchapter III of chapter 311 of title 49, United States Code; or

"(B) chapter 313 of title 49, United States Code.

"(4) Any requirement relating to hours of service established under—

"(A) subchapter III of chapter 311 of title 49, United States Code; or

"(B) chapter 315 of title 49, United States Code.

"(5) Any requirement relating to vehicle inspection, repair, and maintenance established under—

"(A) subchapter III of chapter 311 of title 49, United States Code; or

"(B) chapter 315 of title 49, United States Code.

"(b) STATE REQUIREMENTS.—

"(1) IN GENERAL.—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from—

"(A) a requirement described in subsection (a) or a compatible State requirement; or

"(B) any other minimum standard provided by a State relating to the operation of that vehicle.

"(2) EXCEPTION.—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

"(c) COVERED FARM VEHICLE DEFINED.—

"(1) IN GENERAL.—In this section, the term 'covered farm vehicle' means a motor vehicle (including

an articulated motor vehicle)—

"(A) that—

"(i) is traveling in the State in which the vehicle is registered or another State;

"(ii) is operated by—

"(I) a farm owner or operator;

"(II) a ranch owner or operator; or

"(III) an employee or family member of an individual specified in subclause (I) or (II);

"(iii) is transporting to or from a farm or ranch—

"(I) agricultural commodities;

"(II) livestock; or

"(III) machinery or supplies;

"(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

"(v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

"(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

"(i) 26,001 pounds or less; or

"(ii) greater than 26,001 pounds and traveling within the State or within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

"(2) INCLUSION.—In this section, the term 'covered farm vehicle' includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and—

"(A) is operated pursuant to a crop share farm lease agreement;

"(B) is owned by a tenant with respect to that agreement; and

"(C) is transporting the landlord's portion of the crops under that agreement.

"(d) SAFETY STUDY.—The Secretary of Transportation shall conduct a study of the exemption required by subsection (a) as follows:

"(1) Data and analysis of covered farm vehicles shall include—

"(A) the number of vehicles that are operated subject to each of the regulatory exemptions permitted under subsection (a);

"(B) the number of drivers that operate covered farm vehicles subject to each of the regulatory exemptions permitted under subsection (a);

"(C) the number of crashes involving covered farm vehicles;

"(D) the number of occupants and non-occupants injured in crashes involving covered farm vehicles;

"(E) the number of fatalities of occupants and non-occupants killed in crashes involving farm vehicles;

"(F) crash investigations and accident reconstruction investigations of all fatalities in crashes involving covered farm vehicles;

"(G) overall operating mileage of covered farm vehicles;

"(H) numbers of covered farm vehicles that operate in neighboring States; and

"(I) any other data the Secretary deems necessary to analyze and include.

"(2) A listing of State regulations issued and maintained in each State that are identical to the Federal regulations that are subject to exemption in subsection (a).

"(3) The Secretary shall report the findings of the study to the appropriate committees of Congress not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways].

"(e) CONSTRUCTION.—Nothing in this section shall be construed as authority for the Secretary of Transportation to prescribe regulations."

HOURS OF SERVICE RULES FOR OPERATORS PROVIDING TRANSPORTATION TO MOVIE PRODUCTION SITES

Pub. L. 109–59, title IV, §4133, Aug. 10, 2005, 119 Stat. 1744, provided that: "Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily hours of service for an operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of such operator shall be those in effect under the regulations in effect under such sections on April 27, 2003."

INTERSTATE VAN OPERATIONS

Pub. L. 109–59, title IV, §4136, Aug. 10, 2005, 119 Stat. 1745, provided that: "The Federal motor carrier safety regulations that apply to interstate operations of commercial motor vehicles designed to transport between 9 and 15 passengers (including the driver) shall apply to all interstate operations of such carriers regardless of the distance traveled."

AUTHORITY TO PROMULGATE SAFETY STANDARDS FOR RETROFITTING

Pub. L. 106–159, title I, §101(f), Dec. 9, 1999, 113 Stat. 1752, provided that: "The authority under title 49, United States Code, to promulgate safety standards for commercial motor vehicles and equipment subsequent to initial manufacture is vested in the Secretary and may be delegated."

CERTAIN EXEMPTIONS

Pub. L. 106–159, title II, §229, as added and amended by Pub. L. 109–59, title IV, §§4115(a), (c), 4130–4132, 4147, Aug. 10, 2005, 119 Stat. 1726, 1743, 1744, 1749; Pub. L. 110–244, title III, §301(i), June 6, 2008, 122 Stat. 1616; Pub. L. 112–141, div. C, title II, §32101(d), July 6, 2012, 126 Stat. 778; Pub. L. 114–94, div. A, title V, §§5508(c), 5522, Dec. 4, 2015, 129 Stat. 1554, 1559; Pub. L. 117–58, div. B, title III, §23018, Nov. 15, 2021, 135 Stat. 777, provided that:

"(a) EXEMPTIONS.—

"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES .—Regulations prescribed by the Secretary [of Transportation] under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to—

"(A) drivers transporting agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;

"(B) drivers transporting farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point;

"(C) drivers transporting farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point; or

"(D) drivers transporting livestock (as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) including insects) within a 150 air-mile radius from the final destination of the livestock.

"(2) TRANSPORTATION AND OPERATION OF GROUND WATER WELL DRILLING RIGS .—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation and operation of a ground water well drilling rig, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time. Except as required in section 395.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this sentence [Aug. 10, 2005], no additional off-duty time shall be required in order to operate such vehicle.

"(3) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation of construction materials and equipment, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

"(4) OPERATORS OF UTILITY SERVICE VEHICLES.—

"(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations shall not apply to a driver of a utility service vehicle.

"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of two or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.

"(5) SNOW AND ICE REMOVAL.—A State may waive the requirements of chapter 313 of title 49, United States Code, with respect to a vehicle that is being operated within the boundaries of an eligible unit of local government by an employee of such unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting. Such waiver authority shall only apply in a case where the employee is

needed to operate the vehicle because the employee of the eligible unit of local government who ordinarily operates the vehicle and who has a commercial drivers license is unable to operate the vehicle or is in need of additional assistance due to a snow emergency.

"(b) PREEMPTION.—Except as provided in subsection (a)(4), nothing contained in this section shall require the preemption of State laws and regulations concerning the safe operation of commercial motor vehicles as the result of exemptions from Federal requirements provided under this section.

"(c) REVIEW BY THE SECRETARY.—The Secretary [of Transportation] may conduct a rulemaking proceeding to determine whether granting any exemption provided by subsection (a) (other than paragraph (1), (2), or (4)) is not in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles. If, at any time as a result of such a proceeding, the Secretary determines that granting such exemption would not be in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles, the Secretary may prevent the exemption from going into effect, modify the exemption, or revoke the exemption. The Secretary may develop a program to monitor the exemption, including agreements with carriers to permit the Secretary to examine insurance information maintained by an insurer on a carrier.

"(d) REPORT.—The Secretary shall monitor the commercial motor vehicle safety performance of drivers of vehicles that are subject to an exemption under this section. If the Secretary determines that public safety has been adversely affected by an exemption granted under this section, the Secretary shall report to Congress on the determination.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) 7 OR 8 CONSECUTIVE DAYS.—The term '7 or 8 consecutive days' means the period of 7 or 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

"(2) 24-HOUR PERIOD.—The term '24-hour period' means any 24 consecutive hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

"(3) GROUND WATER WELL DRILLING RIG.—The term 'ground water well drilling rig' means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

"(4) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—The term 'transportation of construction materials and equipment' means the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles, by a driver to or from an active construction site (a construction site between initial mobilization of equipment and materials to the site to the final completion of the construction project) within a 75 air mile radius of the normal work reporting location of the driver, except that a State, upon notice to the Secretary, may establish a different air mile radius limitation for purposes of this paragraph if such limitation is between 50 and 75 air miles and applies only to movements that take place entirely within the State. This paragraph does not apply to the transportation of material found by the Secretary to be hazardous under section 5103 of title 49, United States Code, in a quantity requiring placarding under regulations issued to carry out such section.

"(5) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term 'eligible unit of local government' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law which has a total population of 3,000 individuals or less.

"(6) UTILITY SERVICE VEHICLE.—The term 'utility service vehicle' means any commercial motor vehicle—

"(A) used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

"(B) while engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

"(C) except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects).

"(8) FARM SUPPLIES FOR AGRICULTURAL PURPOSES.—The term 'farm supplies for agricultural purposes' means products directly related to the growing or harvesting of agricultural

commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.

"(f) EMERGENCY CONDITION REQUIRING IMMEDIATE RESPONSE.—

"(1) PROPANE OR PIPELINE EMERGENCY.—A regulation prescribed under section 31136 or 31502 of title 49, United States Code, shall not apply to a driver of a commercial motor vehicle which is used primarily in the transportation of propane winter heating fuel or a driver of a motor vehicle used to respond to a pipeline emergency if such regulations would prevent the driver from responding to an emergency condition requiring immediate response.

"(2) DEFINITION.—An emergency condition requiring immediate response is any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property. In the case of propane such conditions shall include (but are not limited to) the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. An 'emergency condition requiring an immediate response' does not include requests to re-fill empty gas tanks. In the case of pipelines such conditions include (but are not limited to) indication of an abnormal pressure event, leak, release or rupture."

PROTECTION OF EXISTING EXEMPTIONS

Pub. L. 105–178, title IV, §4007(d), June 9, 1998, 112 Stat. 404, provided that: "The amendments made by this section [amending this section and section 31315 of this title] shall not apply to or otherwise affect a waiver, exemption, or pilot program in effect on the day before the date of enactment of this Act [June 9, 1998] under chapter 313 or section 31136(e) of title 49, United States Code."

APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES

Pub. L. 105–178, title IV, §4008(b), June 9, 1998, 112 Stat. 404, provided that: "Effective on the last day of the 1-year period beginning on the date of enactment of this Act [June 9, 1998], regulations prescribed under section 31136 of title 49, United States Code, shall apply to operators of commercial motor vehicles described in section 31132(1)(B) of such title (as amended by subsection (a)) to the extent that those regulations did not apply to those operators on the day before such effective date, except to the extent that the Secretary determines, through a rulemaking proceeding, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations."

IMPROVED INTERSTATE SCHOOL BUS SAFETY

Pub. L. 105–178, title IV, §4024, June 9, 1998, 112 Stat. 416, as amended by Pub. L. 107–110, title X, §1076(ii), Jan. 8, 2002, 115 Stat. 2094, required the Secretary to initiate a rulemaking, not later than 6 months after June 9, 1998, regarding applicability of commercial motor carrier safety regulations to interstate school transportation operations by local educational agencies.

FEDERAL HIGHWAY ADMINISTRATION RULEMAKING

Pub. L. 104–88, title IV, §408, Dec. 29, 1995, 109 Stat. 958, provided that:

"(a) ADVANCE NOTICE.—The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

"(b) RULEMAKING.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within 1 year after issuance of the advance notice under subsection (a) is published and shall issue a final rule dealing with those issues within 2 years after the last day of such 1-year period."

EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

Pub. L. 104–59, title III, §345, Nov. 28, 1995, 109 Stat. 613, which related to exemption from certain regulatory or statutory requirements for transportation of agricultural commodities and farm supplies, transportation and operation of ground water well drilling rigs, transportation of construction materials and equipment, utility service vehicles, and vehicles operated for snow or ice removal, was repealed by Pub. L.

109–59, title IV, §4115(d), Aug. 10, 2005, 119 Stat. 1726. The text of former section 345 of Pub. L. 104–59 was inserted as part of section 229 of Pub. L. 106–159, as added by section 4115(a) of Pub. L. 109–59, and is set out above.

WINTER HOME HEATING OIL DELIVERY STATE FLEXIBILITY PROGRAM

Pub. L. 104–59, title III, §346, Nov. 28, 1995, 109 Stat. 615, as amended by Pub. L. 105–178, title I, §1211(j), June 9, 1998, 112 Stat. 192; Pub. L. 105–206, title IX, §9003(d)(3), July 22, 1998, 112 Stat. 839, which related to a pilot program for evaluating effects of maximum on-duty time regulations on winter home heating oil delivery, was repealed by Pub. L. 114–94, div. A, title V, §5101(e)(11), Dec. 4, 2015, 129 Stat. 1526, effective Oct. 1, 2016.

§31137. Electronic logging devices and brake maintenance regulations

(a) USE OF ELECTRONIC LOGGING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be [1] equipped with an electronic logging device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

(2) ensuring that an electronic logging device is not used to harass a vehicle operator.

(b) ELECTRONIC LOGGING DEVICE REQUIREMENTS.—

(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

(A) require an electronic logging device—

(i) to accurately record commercial driver hours of service;

(ii) to record the location of a commercial motor vehicle;

(iii) to be tamper resistant; and

(iv) to be synchronized to the operation of the vehicle engine or be capable of recognizing when the vehicle is being operated;

(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

(C) except as provided in paragraph (3), apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

(B) establishing a secure process for standardized—

(i) and unique vehicle operator identification;

(ii) data access;

(iii) data transfer for vehicle operators between motor vehicles;

(iv) data storage for a motor carrier; and

(v) data transfer and transportability for law enforcement officials;

(C) establishing a standard security level for an electronic logging device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(3) EXCEPTION.—A motor carrier, when transporting a motor home or recreation vehicle trailer within the definition of the term "driveaway-towaway operation" (as defined in section 390.5 of title 49, Code of Federal Regulations), may comply with the hours of service requirements by requiring each driver to use—

(A) a paper record of duty status form; or

(B) an electronic logging device.

(c) CERTIFICATION CRITERIA.—

(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of electronic logging devices to ensure that the device meets the performance requirements under this section.

(2) EFFECT OF NONCERTIFICATION.—Electronic logging devices that are not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(d) ADDITIONAL CONSIDERATIONS.—The Secretary, in prescribing the regulations described in subsection (a), shall consider how such regulations may—

(1) reduce or eliminate requirements for drivers and motor carriers to retain supporting documentation associated with paper-based records of duty status if—

(A) data contained in an electronic logging device supplants such documentation; and

(B) using such data without paper-based records does not diminish the Secretary's ability to audit and review compliance with the Secretary's hours of service regulations; and

(2) include such measures as the Secretary determines are necessary to protect the privacy of each individual whose personal data is contained in an electronic logging device.

(e) USE OF DATA.—

(1) IN GENERAL.—The Secretary may utilize information contained in an electronic logging device only to enforce the Secretary's motor carrier safety and related regulations, including record-of-duty status regulations.

(2) MEASURES TO PRESERVE CONFIDENTIALITY OF PERSONAL DATA.—The Secretary shall institute appropriate measures to preserve the confidentiality of any personal data contained in an electronic logging device and disclosed in the course of an action taken by the Secretary or by law enforcement officials to enforce the regulations referred to in paragraph (1).

(3) ENFORCEMENT.—The Secretary shall institute appropriate measures to ensure any information collected by electronic logging devices is used by enforcement personnel only for the purpose of determining compliance with hours of service requirements.

(f) DEFINITIONS.—In this section:

(1) ELECTRONIC LOGGING DEVICE.—The term "electronic logging device" means an electronic device that—

(A) is capable of recording a driver's hours of service and duty status accurately and automatically; and

(B) meets the requirements established by the Secretary through regulation.

(2) TAMPER RESISTANT.—The term "tamper resistant" means resistant to allowing any individual to cause an electronic device to record the incorrect date, time, and location for changes to on-duty driving status of a commercial motor vehicle operator under part 395 of title 49, Code of Federal Regulations, or to subsequently alter the record created by that device.

(g) BRAKES AND BRAKE SYSTEMS MAINTENANCE REGULATIONS.—The Secretary shall maintain regulations on improved standards or methods to ensure that brakes and brake systems

of commercial motor vehicles are maintained properly and inspected by appropriate employees. At a minimum, the regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting the brakes and brake systems.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1004; Pub. L. 112–141, div. C, title II, §§32301(b), 32931(a), July 6, 2012, 126 Stat. 786, 829; Pub. L. 114–94, div. A, title V, §§5507, 5508(b)(2), Dec. 4, 2015, 129 Stat. 1553, 1554.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31137(a)	49 App.:2505 (note).	Nov. 18, 1988, Pub. L. 100–690, §9104(b), 102 Stat. 4529.
31137(b)	49 App.:2521.	Oct. 30, 1984, Pub. L. 98–554, 98 Stat. 2829, §231; added Nov. 18, 1988, Pub. L. 100–690, §9110, 102 Stat. 4531.

In subsection (b), the text of 49 App.:2521(a) is omitted as executed.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (a), is the date of enactment of title II of div. C of Pub. L. 112–141, which was approved July 6, 2012.

AMENDMENTS

2015—Pub. L. 114–94, §5508(b)(2), amended directory language of Pub. L. 112–141, §32301(b)(3). See 2012 Amendment note for subsecs. (a) to (f) below.

Subsec. (b)(1)(C). Pub. L. 114–94, §5507(1), substituted "except as provided in paragraph (3), apply to" for "apply to".

Subsec. (b)(3). Pub. L. 114–94, §5507(2), added par. (3).

2012—Pub. L. 112–141, §32301(b)(1), substituted "Electronic logging devices and brake maintenance regulations" for "Monitoring device and brake maintenance regulations" in section catchline.

Subsecs. (a) to (f). Pub. L. 112–141, §32301(b)(3), as amended by Pub. L. 114–94, §5508(b)(2), added subsecs. (a) to (f) and struck out former subsec. (a). Prior to amendment, text of subsec. (a) read as follows: "If the Secretary of Transportation prescribes a regulation about the use of monitoring devices on commercial motor vehicles to increase compliance by operators of the vehicles with hours of service regulations of the Secretary, the regulation shall ensure that the devices are not used to harass vehicle operators. However, the devices may be used to monitor productivity of the operators." Former subsec. (b) redesignated (g).

Subsec. (g). Pub. L. 112–141, §32931(a), which directed substitution of "The Secretary shall maintain" for "Not later than December 1, 1990, the Secretary shall prescribe", was executed by making the substitution for "Not later than December 31, 1990, the Secretary shall prescribe", to reflect the probable intent of Congress.

Pub. L. 112–141, §32301(b)(2), redesignated subsec. (b) as (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 5507 of Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title V, §5508(b), Dec. 4, 2015, 129 Stat. 1554, provided that the amendment made by section 5508(b)(2) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

[1] *So in original. Probably should be preceded by "to".*

§31138. Minimum financial responsibility for transporting passengers

(a) GENERAL REQUIREMENT.—

(1) TRANSPORTATION OF PASSENGERS FOR COMPENSATION.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(2) TRANSPORTATION OF PASSENGERS NOT FOR COMPENSATION.—The Secretary may prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for commercial purposes, but not for compensation, by motor vehicle in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(b) MINIMUM AMOUNTS.—The level of financial responsibility established under subsection (a) of this section for a motor vehicle with a seating capacity of—

(1) at least 16 passengers shall be at least $5,000,000; and

(2) not more than 15 passengers shall be at least $1,500,000.

(c) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance, including high self-retention.

(B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(4) OTHER PERSONS.—The Secretary may require a person, other than a motor carrier (as defined in section 13102), transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) in an amount not less than the greater of the amount required by subsection (b)(1) or the amount required for such person to transport passengers under the laws of the State or States in which the person is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of the motor vehicle, or for loss or damage to property, or both.

(d) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of

Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).

(e) NONAPPLICATION.—This section does not apply to a motor vehicle—

(1) transporting only school children and teachers to or from school;

(2) providing taxicab service (as defined in section 13102);

(3) carrying not more than 15 individuals in a single, daily round trip to and from work; or

(4) providing transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; except that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1005; Pub. L. 104–88, title I, §104(c), (d), Dec. 29, 1995, 109 Stat. 919; Pub. L. 107–298, §3(b)(2), Nov. 26, 2002, 116 Stat. 2343; Pub. L. 109–59, title IV, §§4120(a), 4121, Aug. 10, 2005, 119 Stat. 1733, 1734; Pub. L. 110–244, title III, §305(a), June 6, 2008, 122 Stat. 1619.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31138(a)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, §18(a), 96 Stat. 1121.
31138(b)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, §18(b), (c), 96 Stat. 1121.
31138(c)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, §18(d), 96 Stat. 1121; Oct. 30, 1984, Pub. L. 98–554, §224, 98 Stat. 2847.
31138(d)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, §18(e), 96 Stat. 1122.
31138(e)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, §18(f), (g), 96 Stat. 1122.

In subsection (b), before clause (1), the text of section 18(b)(1) (words beginning with "except") and (2) (words beginning with "except") and (c) of the Bus Regulatory Reform Act of 1982 (Public Law 97–261, 96 Stat. 1121) is omitted as expired. The word "minimal" is omitted as surplus.

In subsection (c)(1), the words "The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section" are omitted as surplus.

In subsection (d)(4), the words "The Attorney General shall bring a civil action . . . to collect a penalty referred to the Attorney General for collection under this subsection" are substituted for "Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States" for consistency in the revised title.

In subsection (d)(5), the words "when finally determined (or agreed upon in compromise)" are omitted as surplus.

In subsection (e), before clause (1), the text of section 18(g) of the Bus Regulatory Reform Act of 1982 (Public Law 97–261, 96 Stat. 1122) is omitted as unnecessary because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–244, §305(a)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by commercial motor vehicle in the United States between a place in a State and—

"(1) a place in another State;

"(2) another place in the same State through a place outside of that State; or

"(3) a place outside the United States."

Subsec. (c)(4). Pub. L. 110–244, §305(a)(2), struck out "commercial" before "motor vehicle" in two places.

2005—Subsec. (a). Pub. L. 109–59, §4120(a)(1), struck out "for compensation" after "passengers" and inserted "commercial" before "motor vehicle" in introductory provisions.

Subsec. (c)(4). Pub. L. 109–59, §4120(a)(2), added par. (4).

Subsec. (d)(5). Pub. L. 109–59, §4121, substituted "Highway Trust Fund (other than the Mass Transit Account)" for "Treasury as miscellaneous receipts".

2002—Subsec. (e)(2). Pub. L. 107–298 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "providing taxicab service, having a seating capacity of not more than 6 passengers, and not being operated on a regular route or between specified places;".

1995—Subsec. (c)(3). Pub. L. 104–88, §104(c), added par. (3).

Subsec. (e)(4). Pub. L. 104–88, §104(d), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

MINIMUM FINANCIAL RESPONSIBILITY

Pub. L. 114–94, div. A, title V, §5509, Dec. 4, 2015, 129 Stat. 1554, provided that:

"(a) TRANSPORTING PROPERTY.—If the Secretary [of Transportation] proceeds with a rulemaking to determine whether to increase the minimum levels of financial responsibility required under section 31139 of title 49, United States Code, the Secretary shall consider, prior to issuing a final rule—

"(1) the rulemaking's potential impact on—

"(A) the safety of motor vehicle transportation; and

"(B) the motor carrier industry;

"(2) the ability of the insurance industry to provide the required amount of insurance;

"(3) the extent to which current minimum levels of financial responsibility adequately cover—

"(A) medical care;

"(B) compensation; and

"(C) other identifiable costs;

"(4) the frequency with which insurance claims exceed current minimum levels of financial responsibility in fatal accidents; and

"(5) the impact of increased levels on motor carrier safety and accident reduction.

"(b) TRANSPORTING PASSENGERS.—

"(1) IN GENERAL.—Prior to initiating a rulemaking to change the minimum levels of financial responsibility under section 31138 of title 49, United States Code, the Secretary shall complete a study

specific to the minimum financial responsibility requirements for motor carriers of passengers.

"(2) STUDY CONTENTS.—A study under paragraph (1) shall include, to the extent practicable—

"(A) a review of accidents, injuries, and fatalities in the over-the-road bus and school bus industries;

"(B) a review of insurance held by over-the-road bus and public and private school bus companies, including companies of various sizes, and an analysis of whether such insurance is adequate to cover claims;

"(C) an analysis of whether and how insurance affects the behavior and safety record of motor carriers of passengers, including with respect to crash reduction; and

"(D) an analysis of the anticipated impacts of an increase in financial responsibility on insurance premiums for passenger carriers and service availability.

"(3) CONSULTATION.—In conducting a study under paragraph (1), the Secretary shall consult with—

"(A) representatives of the over-the-road bus and private school bus transportation industries, including representatives of bus drivers; and

"(B) insurers of motor carriers of passengers.

"(4) REPORT.—If the Secretary undertakes a study under paragraph (1), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study."

§31139. Minimum financial responsibility for transporting property

(a) DEFINITIONS.—In this section—

(1) "farm vehicle" means a vehicle—

(A) designed or adapted and used only for agriculture;

(B) operated by a motor private carrier (as defined in section 10102 of this title); and

(C) operated only incidentally on highways.

(2) "interstate commerce" includes transportation between a place in a State and a place outside the United States, to the extent the transportation is in the United States.

(3) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) GENERAL REQUIREMENT AND MINIMUM AMOUNT.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor carrier or motor private carrier (as such terms are defined in section 13102 of this title) in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least $750,000.

(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier (as defined in section 13102) to file with the Secretary the evidence of financial responsibility specified in subsection (b) in an amount not less than the greater of the minimum amount required by this section or the amount required for such motor private carrier to transport property under the laws of the State or States in which the motor private carrier is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of the motor vehicle, or for loss or damage to property, or both.

(d) REQUIREMENTS FOR HAZARDOUS MATTER AND OIL.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation by motor vehicle in interstate or intrastate commerce of—

(A) hazardous material (as defined by the Secretary);

(B) oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency); or

(C) hazardous wastes (as defined by the Administrator).

(2)(A) Except as provided in subparagraph (B) of this paragraph, the level of financial responsibility established under paragraph (1) of this subsection shall be at least $5,000,000 for the transportation—

(i) of hazardous substances (as defined by the Administrator) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities of more than 3,500 water gallons;

(ii) in bulk of class A explosives, poison gas, liquefied gas, or compressed gas; or

(iii) of large quantities of radioactive material.

(B) The Secretary of Transportation by regulation may reduce the minimum level in subparagraph (A) of this paragraph (to an amount not less than $1,000,000) for transportation described in subparagraph (A) in any of the territories of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands if—

(i) the chief executive officer of the territory requests the reduction;

(ii) the reduction will prevent a serious disruption in transportation service and will not adversely affect public safety; and

(iii) insurance of $5,000,000 is not readily available.

(3) The level of financial responsibility established under paragraph (1) of this subsection for the transportation of a material, oil, substance, or waste not subject to paragraph (2) of this subsection shall be at least $1,000,000. However, if the Secretary of Transportation finds it will not adversely affect public safety, the Secretary by regulation may reduce the amount for—

(A) a class of vehicles transporting such a material, oil, substance, or waste in intrastate commerce (except in bulk); and

(B) a farm vehicle transporting such a material or substance in interstate commerce (except in bulk).

(e) FOREIGN MOTOR CARRIERS AND PRIVATE CARRIERS.—Regulations prescribed under this section may allow foreign motor carriers and foreign motor private carriers (as those terms are defined in section 10530 of this title) providing transportation of property under a certificate of registration issued under section 10530 to meet the minimum levels of financial responsibility under this section only when those carriers are providing transportation for property in the United States.

(f) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance.

(B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(D) qualification as a self-insurer.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of

financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(g) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).

(h) NONAPPLICATION.—This section does not apply to a motor vehicle having a gross vehicle weight rating of less than 10,000 pounds if the vehicle is not used to transport in interstate or foreign commerce—

(1) class A or B explosives;

(2) poison gas; or

(3) a large quantity of radioactive material.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1006; Pub. L. 104–88, title I, §104(e), Dec. 29, 1995, 109 Stat. 919; Pub. L. 109–59, title IV, §§4120(b), 4121, Aug. 10, 2005, 119 Stat. 1733, 1734; Pub. L. 110–244, title III, §§301(f), 305(b), June 6, 2008, 122 Stat. 1616, 1620.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31139(a)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, §30(h), 94 Stat. 823; Jan. 6, 1983, Pub. L. 97–424, §406(c), 96 Stat. 2159; Oct. 30, 1984, Pub. L. 98–554, §222(b), 98 Stat. 2847; Nov. 18, 1988, Pub. L. 100–690, §9112, 102 Stat. 4534.
31139(b)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, §30(a), 94 Stat. 820; Jan. 6, 1983, Pub. L. 97–424, §406(a), 96 Stat. 2158.
31139(c)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, §30(b), 94 Stat. 821; Jan. 6, 1983, Pub. L. 97–424, §406(a), 96 Stat. 2158; Oct. 30, 1984, Pub. L. 98–554, §222(a), 98 Stat. 2846; Nov. 16, 1990, Pub. L. 101–615, §23, 104 Stat. 3272.

31139(d)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, 94 Stat. 793, §30(g); added Nov. 18, 1988, Pub. L. 100–690, §9112, 102 Stat. 4534.
31139(e)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, §30(c), 94 Stat. 822; Jan. 6, 1983, Pub. L. 97–424, §406(b), 96 Stat. 2158. July 1, 1980, Pub. L. 96–296, §30(e), 94 Stat. 822.
31139(f)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, §30(d), 94 Stat. 822.
31139(g)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, §30(f), 94 Stat. 823; Jan. 6, 1983, Pub. L. 97–424, §406(d), 96 Stat. 2159.

In subsection (a), before clause (1), the text of section 30(h)(3) of the Motor Carrier Act of 1980 (Public Law 96–296, 94 Stat. 823) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In clause (3), the words "(including its use in the terms 'interstate' and 'intrastate')" are omitted as surplus.

In subsections (b)(2) and (c)(2) and (3), the word "minimal" is omitted as surplus.

In subsection (b)(2), the words "for any vehicle" are omitted as surplus. The words beginning with "except" are omitted as expired. The text of section 30(a)(3) of the Act (Public Law 96–296, 94 Stat. 821) is omitted because the regulations have been issued. See 49 C.F.R. part 387.

In subsection (c)(2), the text of section 30(b)(2)(B) of the Act (Public Law 96–296, 94 Stat. 821) is omitted as expired.

In subsection (c)(3), before clause (A), the text of section 30(b)(3)(A) of the Act (Public Law 96–296, 94 Stat. 821) is omitted as expired. The text of section 30(b)(4) of the Act (Public Law 96–296, 94 Stat. 822) is omitted because the regulations have been issued. See 49 C.F.R. part 387. The words "for any vehicle . . . in interstate or intrastate commerce" are omitted as unnecessary because of the reference to paragraph (1).

In subsection (e)(1), the words "The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section" are omitted as surplus. The text of section 30(e) of the Act (Public Law 96–296, 94 Stat. 822) is omitted as executed.

In subsection (f)(4), the words "The Attorney General shall bring a civil action . . . to collect a penalty referred to the Attorney General for collection under this subsection" are substituted for "Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States" for consistency in the revised title.

In subsection (f)(5), the words "when finally determined (or agreed upon in compromise)" are omitted as surplus.

In subsection (g)(1) and (2), the words "any quantity of" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–244, §305(b)(1), in introductory provisions, substituted "motor carrier or motor private carrier (as such terms are defined in section 13102 of this title)" for "commercial motor vehicle".

Subsec. (c). Pub. L. 110–244, §305(b)(2), struck out "commercial" before "motor vehicle".

Subsec. (g)(5). Pub. L. 110–244, §301(f), amended Pub. L. 109–59, §4121. See 2005 Amendment note below.

2005—Subsec. (b)(1). Pub. L. 109–59, §4120(b)(1), struck out "for compensation" after "property" and inserted "commercial" before "motor vehicle" in introductory provisions.

Subsecs. (c) to (f). Pub. L. 109–59, §4120(b)(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, §4120(b)(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(5). Pub. L. 109–59, §4121, as amended by Pub. L. 110–244, §301(f), substituted "Highway

Trust Fund (other than the Mass Transit Account)" for "Treasury as miscellaneous receipts".

Subsec. (h). Pub. L. 109–59, §4120(b)(2), redesignated subsec. (g) as (h).

1995—Subsec. (e)(3). Pub. L. 104–88 added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 301(f) of Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

[§31140. Repealed. Pub. L. 105–178, title IV, §4008(d), June 9, 1998, 112 Stat. 404]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1008, related to submission of State laws and regulations for review by Secretary of Transportation and Commercial Motor Vehicle Safety Regulatory Review Panel.

§31141. Review and preemption of State laws and regulations

(a) PREEMPTION AFTER DECISION.—A State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.

(b) SUBMISSION OF REGULATION.—A State receiving funds made available under section 31104 that enacts a State law or issues a regulation on commercial motor vehicle safety shall submit a copy of the law or regulation to the Secretary immediately after the enactment or issuance.

(c) REVIEW AND DECISIONS BY SECRETARY.—

(1) REVIEW.—The Secretary shall review State laws and regulations on commercial motor vehicle safety. The Secretary shall decide whether the State law or regulation—

(A) has the same effect as a regulation prescribed by the Secretary under section 31136;

(B) is less stringent than such regulation; or

(C) is additional to or more stringent than such regulation.

(2) REGULATIONS WITH SAME EFFECT.—If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced.

(3) LESS STRINGENT REGULATIONS.—If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced.

(4) ADDITIONAL OR MORE STRINGENT REGULATIONS.—If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced unless the Secretary also decides that—

(A) the State law or regulation has no safety benefit;

(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

(5) CONSIDERATION OF EFFECT ON INTERSTATE COMMERCE.—In deciding under paragraph (4) whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.

(d) WAIVERS.—(1) A person (including a State) may petition the Secretary for a waiver of a decision of the Secretary that a State law or regulation may not be enforced under this section. The Secretary shall grant the waiver, as expeditiously as possible, if the person demonstrates to the satisfaction of the Secretary that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles.

(2) Before deciding whether to grant or deny a petition for a waiver under this subsection, the Secretary shall give the petitioner an opportunity for a hearing on the record.

(e) WRITTEN NOTICE OF DECISIONS.—Not later than 10 days after making a decision under subsection (c) of this section that a State law or regulation may not be enforced, the Secretary shall give written notice to the State of that decision.

(f) JUDICIAL REVIEW AND VENUE.—(1) Not later than 60 days after the Secretary makes a decision under subsection (c) of this section, or grants or denies a petition for a waiver under subsection (d) of this section, a person (including a State) adversely affected by the decision, grant, or denial may file a petition for judicial review. The petition may be filed in the court of appeals of the United States for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) The court has jurisdiction to review the decision, grant, or denial and to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5.

(3) A judgment of a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(4) The remedies provided for in this subsection are in addition to other remedies provided by law.

(g) INITIATING REVIEW PROCEEDINGS.—To review a State law or regulation on commercial motor vehicle safety under this section, the Secretary may initiate a regulatory proceeding on the Secretary's own initiative or on petition of an interested person (including a State).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1008; Pub. L. 105–178, title IV, §4008(e), June 9, 1998, 112 Stat. 404.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31141(a)	49 App.:2507(a).	Oct. 30, 1984, Pub. L. 98–554, §208(a)–(g), (i), 98 Stat. 2836, 2838.
31141(b)	49 App.:2507(b).	
31141(c)	49 App.:2507(c).	
31141(d)	49 App.:2507(d).	
31141(e)	49 App.:2507(e).	
31141(f)	49 App.:2507(f).	
31141(g)	49 App.:2507(g).	
31141(h)	49 App.:2507(h).	Oct. 30, 1984, Pub. L. 98–554, §208(h), 98 Stat. 2838; Nov. 18, 1988, Pub. L. 100–690, §9109, 102 Stat. 4530.
	49 App.:2507(i).	

In this section, language about whether a State law or regulation may be "in effect" is omitted as redundant to language about whether it may be "enforced". The words "regulatory proceeding" are substituted for

"rulemaking proceeding" for consistency in the revised title and because "rule" is synonymous with "regulation".

In subsection (a), the words "with respect to commercial motor vehicles" are omitted as surplus.

In subsection (b)(1), the words "Not later than 18 months after October 30, 1984, and . . . thereafter" are omitted as obsolete.

In subsection (g)(1), the words "court of appeals of the United States for the District of Columbia Circuit" are substituted for "United States court of appeals for the District of Columbia" to be more precise.

In subsection (g)(2), the words "Upon the filing of a petition under paragraph (1) of this subsection" are omitted as surplus.

Subsection (g)(3) is substituted for 49 App.:2507(g)(3) for consistency in this part and to eliminate unnecessary words.

In subsection (h), the text of 49 App.:2507(h) and the words "After the last day of the 48-month period beginning on October 30, 1984" are omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–178, §4008(e)(1), added subsecs. (b) and (c) and struck out headings and text of former subsecs. (b) and (c) which related to analysis and decisions by Commercial Motor Vehicle Safety Regulatory Review Panel and to review and decisions by Secretary, respectively.

Subsecs. (e) to (h). Pub. L. 105–178, §4008(e)(2), (3), redesignated subsecs. (f) to (h) as (e) to (g), respectively, and struck out heading and text of former subsec. (e). Text read as follows: "The Secretary may consolidate regulatory proceedings under this section if the Secretary decides that the consolidation will not adversely affect a party to a proceeding."

§31142. Inspection of vehicles

(a) INSPECTION OF SAFETY EQUIPMENT.—On the instruction of an authorized enforcement official of a State or of the United States Government, a commercial motor vehicle is required to pass an inspection of all safety equipment required under the regulations issued under section 31136.

(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of an inspection. The standards shall provide for annual or more frequent inspections of a commercial motor vehicle unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system. Regulations prescribed under this subsection are deemed to be regulations prescribed under section 31136 of this title.

(c) PREEMPTION.—(1) Except as provided in paragraph (2) of this subsection, this subchapter and section 31102 of this title do not—

(A) prevent a State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs of commercial motor vehicles;

(B) prevent a State from enforcing a program for inspection of commercial motor vehicles that the Secretary decides is as effective as the Government standards prescribed under subsection (b) of this section;

(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or

(D) require a State that is enforcing a program described in clause (B) or (C) of this paragraph to enforce a Government standard prescribed under subsection (b) of this section or to adopt a provision on inspection of commercial motor vehicles in addition to that program to comply with the Government standards.

(2) The Government standards prescribed under subsection (b) of this section shall preempt a program of a State described in paragraph (1)(C) of this subsection as the program applies to the inspection of commercial motor vehicles in that State. The State may not enforce the program if the

Secretary—

(A) decides, after notice and an opportunity for a hearing, that the State is not enforcing the program in a way that achieves the objectives of this section; and

(B) after making a decision under clause (A) of this paragraph, provides the State with a 6-month period to improve the enforcement of the program to achieve the objectives of this section.

(d) INSPECTION TO BE ACCEPTED AS ADEQUATE IN ALL STATES.—A periodic inspection of a commercial motor vehicle under the Government standards prescribed under subsection (b) of this section or a program described in subsection (c)(1)(B) or (C) of this section that is being enforced shall be recognized as adequate in every State for the period of the inspection. This subsection does not prohibit a State from making random inspections of commercial motor vehicles.

(e) EFFECT OF GOVERNMENT STANDARDS.—The Government standards prescribed under subsection (b) of this section may not be enforced as the standards apply to the inspection of commercial motor vehicles in a State enforcing a program described in subsection (c)(1)(B) or (C) of this section if the Secretary decides that it is in the public interest and consistent with public safety for the Government standards not to be enforced as they apply to that inspection.

(f) APPLICATION OF STATE REGULATIONS TO GOVERNMENT-LEASED VEHICLES AND OPERATORS.—A State receiving financial assistance under section 31102 of this title in a fiscal year may enforce in that fiscal year a regulation on commercial motor vehicle safety adopted by the State as the regulation applies to commercial motor vehicles and operators leased to the Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1010; Pub. L. 105–178, title IV, §4008(f), (g), June 9, 1998, 112 Stat. 405.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31142(a)	49 App.:2509(a).	Oct. 30, 1984, Pub. L. 98–554, §210(a)–(f), 98 Stat. 2839.
31142(b)	49 App.:2509(b), (c).	
31142(c)	49 App.:2509(d).	
31142(d)	49 App.:2509(e).	
31142(e)	49 App.:2509(f).	
31142(f)	49 App.:2509(g).	Oct. 30, 1984, Pub. L. 98–554, 98 Stat. 2829, §210(g); added Nov. 16, 1990, Pub. L. 101–615, §24, 104 Stat. 3273.

In this section, language about whether a State law or regulation may be "in effect" is omitted as redundant to language about whether it may be "enforced".

In subsection (b), the words "shall prescribe regulations on" are substituted for "shall, by rule, establish" for consistency in the revised title and with other titles of the United States Code and because "rule" is synonymous with "regulation". The words "For purposes of this chapter" are omitted as unnecessary. The text of 49 App.:2509(c) is omitted as executed.

In subsection (c)(1), before clause (A), the words "this subchapter and section 31102 of this title do not" are substituted for "nothing in section 2302 of this Appendix or section 2507 of this Appendix or any other provision of this chapter shall be construed as" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178, §4008(f), substituted "the regulations issued under section 31136" for "part 393 of title 49, Code of Federal Regulations".

Subsec. (c)(1)(C). Pub. L. 105–178, §4008(g), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "prevent a State from enforcing a program for inspection of commercial motor vehicles that meets the requirements for membership in the Commercial Vehicle Safety Alliance, as those requirements were in effect on October 30, 1984; or".

STATUTORY NOTES AND RELATED SUBSIDIARIES

STATE INSPECTION OF PASSENGER-CARRYING COMMERCIAL MOTOR VEHICLES

Pub. L. 117–58, div. B, title III, §23008, Nov. 15, 2021, 135 Stat. 764, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall solicit additional comment on the advance notice of proposed rulemaking entitled 'State Inspection Programs for Passenger-Carrier Vehicles' (81 Fed. Reg. 24769 (April 27, 2016)).

"(b) FINAL RULE.—

"(1) IN GENERAL.—After reviewing all comments received in response to the solicitation under subsection (a), if the Secretary determines that data and information exist to support moving forward with a final rulemaking action, the Secretary shall issue a final rule relating to the advance notice of proposed rulemaking described in that subsection.

"(2) CONSIDERATIONS.—In determining whether to issue a final rule under paragraph (1), the Secretary shall consider the impact of continuing to allow self-inspection as a means to satisfy periodic inspection requirements on the safety of passenger carrier operations."

UPDATE OF ANNUAL INSPECTION REGULATIONS

Pub. L. 117–328, div. L, title I, §131, Dec. 29, 2022, 136 Stat. 5119, provided that: "The Federal Motor Carrier Safety Administration shall update annual inspection regulations under Appendix G to subchapter B of chapter III of title 49, Code of Federal Regulations, as recommended by GAO–19–264."

Similar provisions were contained in the following appropriation acts:

Pub. L. 117–103, div. L, title I, §131, Mar. 15, 2022, 136 Stat. 706.

Pub. L. 116–260, div. L, title I, §131, Dec. 27, 2020, 134 Stat. 1844.

Pub. L. 116–94, div. H, title I, §132, Dec. 20, 2019, 133 Stat. 2955.

§31143. Investigating complaints and protecting complainants

(a) INVESTIGATING COMPLAINTS.—The Secretary of Transportation shall conduct a timely investigation of a nonfrivolous written complaint alleging that a substantial violation of a regulation prescribed under this subchapter is occurring or has occurred within the prior 60 days. The Secretary shall give the complainant timely notice of the findings of the investigation. The Secretary is not required to conduct separate investigations of duplicative complaints.

(b) PROTECTING COMPLAINANTS.—Notwithstanding section 552 of title 5, the Secretary may disclose the identity of a complainant only if disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical means within the Secretary's authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss because of the disclosure.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1012.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31143(a)	49 App.:2511(a).	Oct. 30, 1984, Pub. L. 98–554, §212, 98 Stat. 2841.
31143(b)	49 App.:2511(b).	

STATUTORY NOTES AND RELATED SUBSIDIARIES

TELEPHONE HOTLINE FOR REPORTING SAFETY VIOLATIONS

Pub. L. 105–178, title IV, §4017, June 9, 1998, 112 Stat. 413, as amended by Pub. L. 106–159, title II, §213, Dec. 9, 1999, 113 Stat. 1766, provided that:

"(a) IN GENERAL.—For a period of not less than 2 years beginning on or before the 90th day following the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall establish, maintain, and promote the use of a nationwide toll-free telephone system to be used by drivers of commercial motor vehicles and others to report potential violations of Federal motor carrier safety regulations.

"(b) MONITORING.—The Secretary shall monitor reports received by the telephone system and may consider nonfrivolous information provided by such reports in setting priorities for motor carrier safety audits and other enforcement activities.

"(c) STAFFING.—The toll-free telephone system shall be staffed 24 hours a day 7 days a week by individuals knowledgeable about Federal motor carrier safety regulations and procedures.

"(d) PROTECTION OF PERSONS REPORTING VIOLATIONS.—

"(1) PROHIBITION.—A person reporting a potential violation to the telephone system while acting in good faith may not be discharged, disciplined, or discriminated against regarding pay, terms, or privileges of employment because of the reporting of such violation.

"(2) APPLICABILITY OF SECTION 31105 OF TITLE 49.—For purposes of section 31105 of title 49, United States Code, a violation or alleged violation of paragraph (1) shall be treated as a violation of section 31105(a) of such title.

"(e) FUNDING.—From amounts set aside under [former] section 104(a)(1)(B) of title 23, United States Code, the Secretary may use not more than $250,000 for fiscal year 1999 and $375,000 for each of fiscal years 2000 through 2003 to carry out this section."

§31144. Safety fitness of owners and operators

(a) IN GENERAL.—The Secretary shall—

(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator—

(A) in operations that affect interstate commerce within the United States; and

(B) in operations in Canada and Mexico if the owner or operator also conducts operations within the United States;

(2) periodically update such safety fitness determinations;

(3) make such final safety fitness determinations readily available to the public; and

(4) prescribe by regulation penalties for violations of this section consistent with section 521.

(b) PROCEDURE.—The Secretary shall maintain by regulation a procedure for determining the safety fitness of an owner or operator. The procedure shall include, at a minimum, the following elements:

(1) Specific initial and continuing requirements with which an owner or operator must comply to demonstrate safety fitness.

(2) A methodology the Secretary will use to determine whether an owner or operator is fit.

(3) Specific time frames within which the Secretary will determine whether an owner or operator is fit.

(c) PROHIBITED TRANSPORTATION.—

(1) IN GENERAL.—Except as provided in section 521(b)(5)(A) and this subsection, an owner or operator who the Secretary determines is not fit may not operate commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—With regard to owners or operators of commercial motor vehicles designed or used to transport passengers, an owner or

operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—With regard to owners or operators of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit. A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.

(4) SECRETARY'S DISCRETION.—Except for owners or operators described in paragraphs (2) and (3), the Secretary may allow an owner or operator who is not fit to continue operating for an additional 60 days after the 61st day after the date of the Secretary's fitness determination, if the Secretary determines that such owner or operator is making a good faith effort to become fit.

(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.

(d) DETERMINATION OF UNFITNESS BY STATE.—If a State that receives motor carrier safety assistance program funds under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of a commercial motor vehicle that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicle in the State, the Secretary shall prohibit the owner or operator from operating such vehicle in interstate commerce until the State determines that the owner or operator is fit.

(e) REVIEW OF FITNESS DETERMINATIONS.—

(1) IN GENERAL.—Not later than 45 days after an unfit owner or operator requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport passengers requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(f) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use to provide any transportation service an owner or operator who the Secretary has determined is not fit until the Secretary determines such owner or operator is fit.

(g) SAFETY REVIEWS OF NEW OPERATORS.—

(1) SAFETY REVIEW.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the

case may be, begins operations under such registration.

(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary shall require, by regulation, each owner and each operator granted new registration to transport passengers under section 13902 or 31134 to undergo a safety review not later than 120 days after the owner or operator, as the case may be, begins operations under such registration.

(2) ELEMENTS.—In the regulations issued pursuant to paragraph (1), the Secretary shall establish the elements of the safety review, including basic safety management controls. In establishing such elements, the Secretary shall consider their effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(3) PHASE-IN OF REQUIREMENT.—The Secretary shall phase in the requirements of paragraph (1) in a manner that takes into account the availability of certified motor carrier safety auditors.

(4) NEW ENTRANT AUTHORITY.—Notwithstanding any other provision of this title, any new operating authority granted after the date on which section 31148(b) is first implemented shall be designated as new entrant authority until the safety review required by paragraph (1) is completed.

[(5) Repealed. Pub. L. 114–94, div. A, title V, §5101(e)(1), Dec. 4, 2015, 129 Stat. 1525.]

(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

(A) IN GENERAL.—In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.

(i) PERIODIC SAFETY REVIEWS OF OWNERS AND OPERATORS OF INTERSTATE FOR-HIRE COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.—

(1) SAFETY REVIEW.—

(A) IN GENERAL.—The Secretary shall—

(i) determine the safety fitness of each motor carrier of passengers who the Secretary registers under section 13902 or 31134 through a simple and understandable rating system

that allows passengers to compare the safety performance of each such motor carrier; and

(ii) assign a safety fitness rating to each such motor carrier.

(B) APPLICABILITY.—Subparagraph (A) shall apply—

(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each motor carrier of passengers on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting motor carriers of passengers.

(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall—

(A) reassess the safety fitness rating of each motor carrier of passengers not less frequently than once every 3 years; and

(B) annually assess the safety fitness of certain motor carriers of passengers that serve primarily urban areas with high passenger loads.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1012; Pub. L. 104–88, title I, §104(g), Dec. 29, 1995, 109 Stat. 920; Pub. L. 105–178, title IV, §4009(a), June 9, 1998, 112 Stat. 405; Pub. L. 106–159, title II, §210(a), Dec. 9, 1999, 113 Stat. 1764; Pub. L. 109–59, title IV, §§4107(b), 4114, title VII, §7112(b), (c), Aug. 10, 2005, 119 Stat. 1720, 1725, 1899; Pub. L. 110–244, title III, §301(b), (c), June 6, 2008, 122 Stat. 1616; Pub. L. 111–147, title IV, §422(e), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2202(e), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112–5, title II, §202(e), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112–30, title I, §122(e), Sept. 16, 2011, 125 Stat. 349; Pub. L. 112–102, title II, §202(e), Mar. 30, 2012, 126 Stat. 274; Pub. L. 112–140, title II, §202(e), June 29, 2012, 126 Stat. 395; Pub. L. 112–141, div. C, title II, §§32102(a), 32202, 32603(e), 32707(a), 32921(b), div. G, title II, §112002(d), July 6, 2012, 126 Stat. 778, 784, 808, 813, 828, 983; Pub. L. 113–159, title I, §1102(e), Aug. 8, 2014, 128 Stat. 1844; Pub. L. 114–21, title I, §1102(e), May 29, 2015, 129 Stat. 222; Pub. L. 114–41, title I, §1102(e), July 31, 2015, 129 Stat. 449; Pub. L. 114–73, title I, §1102(e), Oct. 29, 2015, 129 Stat. 572; Pub. L. 114–87, title I, §1102(e), Nov. 20, 2015, 129 Stat. 681; Pub. L. 114–94, div. A, title V, §§5101(e)(1), 5105(d), 5508(b)(4), Dec. 4, 2015, 129 Stat. 1525, 1529, 1554.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31144(a)(1)	49 App.:2512(a), (b).	Oct. 30, 1984, Pub. L. 98–554, §215, 98 Stat. 2844.
31144(a)(2)	49 App.:2512(c).	
31144(b)	49 App.:2512(d).	

In subsection (a), the word "regulation" is substituted for "rule" for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1), the words "after notice and opportunity for comment" are omitted as unnecessary because of 5:553. The text of 49 App.:2512(b) is omitted as executed.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Motorcoach Enhanced Safety Act of 2012, referred to in subsec. (i)(1)(B), is the date of enactment of subtitle G of title II of div. C of Pub. L. 112–141, which was approved July 6, 2012.

AMENDMENTS

2015—Subsec. (g)(5). Pub. L. 114–94, §5101(e)(1), struck out par. (5) which provided for grants to States for new entrant audits.

Subsec. (g)(5)(B). Pub. L. 114–94, §5105(d), amended subpar. (B) generally. Prior to amendment, text read as follows: "The Secretary shall set aside from amounts made available by section 31104(a) up to $32,000,000 per fiscal year and up to $5,683,060 for the period beginning on October 1, 2015, and ending on December 4, 2015, for audits of new entrant motor carriers conducted pursuant to this paragraph."

Pub. L. 114–87 substituted "and up to $5,683,060 for the period beginning on October 1, 2015, and ending on December 4, 2015," for "and up to $4,459,016 for the period beginning on October 1, 2015, and ending on November 20, 2015,".

Pub. L. 114–73 substituted "and up to $4,459,016 for the period beginning on October 1, 2015, and ending on November 20, 2015," for "and up to $2,535,519 for the period beginning on October 1, 2015, and ending on October 29, 2015,".

Pub. L. 114–41 substituted "per fiscal year and up to $2,535,519 for the period beginning on October 1, 2015, and ending on October 29, 2015," for "per fiscal year and up to $26,652,055 for the period beginning on October 1, 2014, and ending on July 31, 2015,".

Pub. L. 114–21 substituted "and up to $26,652,055 for the period beginning on October 1, 2014, and ending on July 31, 2015," for "and up to $21,304,110 for the period beginning on October 1, 2014, and ending on May 31, 2015,".

Subsec. (g)(6). Pub. L. 114–94, §5508(b)(4), amended Pub. L. 112–141, §32921(b). See 2012 Amendment note below.

2014—Subsec. (g)(5)(B). Pub. L. 113–159 inserted "and up to $21,304,110 for the period beginning on October 1, 2014, and ending on May 31, 2015," after "per fiscal year".

2012—Subsec. (g)(1). Pub. L. 112–141, §32102(a), amended par. (1) generally. Prior to amendment, text read as follows: "The Secretary shall require, by regulation, each owner and each operator granted new operating authority, after the date on which section 31148(b) is first implemented, to undergo a safety review within the first 18 months after the owner or operator, as the case may be, begins operations under such authority."

Subsec. (g)(5)(B). Pub. L. 112–141, §112002(d), struck out "and up to $21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," after "year".

Pub. L. 112–141, §32603(e), amended subpar. (B) generally. Prior to amendment, text read as follows: "The Secretary shall set aside from amounts made available by section 31104(a) up to $29,000,000 per fiscal year for audits of new entrant motor carriers conducted pursuant to this paragraph."

Pub. L. 112–140, §§1(c), 202(e), temporarily substituted "and up to $22,040,000 for the period beginning on October 1, 2011, and ending on July 6, 2012," for "and up to $21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012,". See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112–102 substituted "and up to $21,750,000 for the period beginning on October 1, 2011, and ending on June 30, 2012," for "and up to $14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,".

Subsec. (g)(6). Pub. L. 112–141, §32921(b), as amended by Pub. L. 114–94, §5508(b)(4), added par. (6).

Subsec. (h). Pub. L. 112–141, §32202, added subsec. (h).

Subsec. (i). Pub. L. 112–141, §32707(a), added subsec. (i).

2011—Subsec. (g)(5)(B). Pub. L. 112–30 substituted "fiscal year and up to $14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012," for "fiscal year".

Pub. L. 112–5 struck out "(and up to $12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)" after "year".

2010—Subsec. (g)(5)(B). Pub. L. 111–322 substituted "(and up to $12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)" for "(and up to $7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)".

Pub. L. 111–147 inserted "(and up to $7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)" after "fiscal year".

2008—Pub. L. 110–244 amended Pub. L. 109–59, §§4107(b), 4114(c)(1), 7112. See 2005 Amendment notes below.

2005—Subsec. (a). Pub. L. 109–59, §4114(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521."

Subsec. (c). Pub. L. 109–59, §7112(c), which directed amendment of this section by redesignating the second subsec. (c), relating to safety reviews of new operators, as (f), was repealed by Pub. L. 110–244, §301(b)(2).

Pub. L. 109–59, §4107(b)(1), as amended by Pub. L. 110–244, §301(b)(1), redesignated subsec. (c), relating to safety reviews of new operators, as (f).

Subsec. (c)(1). Pub. L. 109–59, §7112(b)(1), substituted "section 521(b)(5)(A)" for "sections 521(b)(5)(A) and 5113".

Subsec. (c)(3). Pub. L. 109–59, §7112(b)(2), inserted at end "A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124."

Subsec. (c)(5). Pub. L. 109–59, §4114(b), added par. (5).

Subsec. (d). Pub. L. 109–59, §4114(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (d) as (e).

Subsec. (e). Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–59, §7112(c), which directed amendment of this section by redesignating the second subsec. (c), relating to safety reviews of new operators, as (f), was repealed by Pub. L. 110–244, §301(b)(2).

Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 109–59, §4107(b)(1), as amended by Pub. L. 110–244, §301(b)(1), redesignated subsec. (c), relating to safety reviews of new operators, as (f).

Subsec. (f)(5). Pub. L. 109–59, §4107(b)(2), as amended by Pub. L. 110–244, §301(b)(1), added par. (5).

Subsec. (g). Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (f) as (g).

1999—Subsec. (c). Pub. L. 106–159 added subsec. (c) relating to safety reviews of new operators.

1998—Pub. L. 105–178 reenacted section catchline without change and amended text generally, substituting, in subsec. (a), general provisions for provisions relating to procedure and, in subsec. (b), provisions relating to procedure for provisions relating to findings and action on registrations, and adding subsecs. (c) to (e).

1995—Subsec. (a)(1). Pub. L. 104–88, §104(g)(1)–(3), in first sentence substituted "The Secretary" for "In cooperation with the Interstate Commerce Commission, the Secretary" and "section 13902" for "sections 10922 and 10923" and in subpar. (C) struck out "and the Commission" after "Secretary".

Subsec. (b). Pub. L. 104–88, §104(g)(4), added subsec. (b) and struck out former subsec. (b) which read as follows: "FINDINGS AND ACTION ON APPLICATIONS.—The Commission shall—

"(1) find an applicant for authority to operate as a motor carrier unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section; and

"(2) deny the application."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 5105(d) of Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Amendment by section 5101(e)(1) of Pub. L. 114–94 effective Oct. 1, 2016, see section 5101(f) of Pub. L. 114–94, set out as a note under section 31102 of this title.

Pub. L. 114–94, div. A, title V, §5508(b), Dec. 4, 2015, 129 Stat. 1554, provided that the amendment made by section 5508(b)(4) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by sections 32202, 32603(e), and 32707(a) effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as a note under section 101 of Title 23, Highways.

Pub. L. 112–141, div. C, title II, §32102(b), July 6, 2012, 126 Stat. 778, provided that: "The amendments made by subsection (a) [amending this section] shall take effect 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as notes under section 101 of Title 23, Highways]."

Amendment by section 32921(b) of Pub. L. 112–141 effective 2 years after the date of enactment of Pub. L. 112–141, see section 32921(c) of Pub. L. 112–141, set out as an Effective Date of 2012 Amendment note under section 13902 of this title.

Amendment by section 112002(d) of Pub. L. 112–141 effective July 1, 2012, see section 114001 of Pub. L. 112–141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112–140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112–140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112–141 to be executed as if Pub. L. 112–140 had not been enacted, see section 1(c) of Pub. L. 112–140, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

IMPROVING FEDERAL-STATE MOTOR CARRIER SAFETY ENFORCEMENT COORDINATION

Pub. L. 117–58, div. B, title III, §23014, Nov. 15, 2021, 135 Stat. 773, provided that:

"(a) DEFINITIONS.—In this section:

"(1) COVERED STATE.—The term 'covered State' means a State that receives Federal funds under the motor carrier safety assistance program established under section 31102 of title 49, United States Code.

"(2) IMMINENT HAZARD.—The term 'imminent hazard' has the same meaning as in section 521 of title 49, United States Code.

"(b) REVIEW AND ENFORCEMENT OF STATE OUT-OF-SERVICE ORDERS.—As soon as practicable after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall publish in the Federal Register a process under which the Secretary shall review each out-of-service order issued by a covered State in accordance with section 31144(d) of title 49, United States Code, by not later than 30 days after the date on which the out-of-service order is submitted to the Secretary by the covered State.

"(c) REVIEW AND ENFORCEMENT OF STATE IMMINENT HAZARD DETERMINATIONS.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a process under which the Secretary shall review imminent hazard determinations made by covered States.

"(2) ENFORCEMENT.—On reviewing an imminent hazard determination under paragraph (1), the Secretary shall pursue enforcement under section 521 of title 49, United States Code, as the Secretary determines to be appropriate."

HIGH RISK CARRIER REVIEWS

Pub. L. 114–94, div. A, title V, §5305(a), (b), Dec. 4, 2015, 129 Stat. 1544, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 4 consecutive months.

"(b) REPORT.—The Secretary shall post on a public Web site a report on the actions the Secretary has taken to comply with this section, including the number of high risk carriers identified and the high risk

carriers reviewed."

Pub. L. 109–59, title IV, §4138, Aug. 10, 2005, 119 Stat. 1745, which required completion of high risk carrier compliance reviews, was repealed by Pub. L. 114–94, div. A, title V, §5305(c), Dec. 4, 2015, 129 Stat. 1544.

MINIMUM REQUIREMENTS

Pub. L. 106–159, title II, §210(b), Dec. 9, 1999, 113 Stat. 1765, as amended by Pub. L. 112–141, div. C, title II, §32101(c), July 6, 2012, 126 Stat. 777, provided that: "The Secretary shall initiate a rulemaking to establish minimum requirements for applicant motor carriers, including foreign motor carriers, seeking Federal interstate operating authority to ensure applicant carriers are knowledgeable about applicable Federal motor carrier safety standards. As part of that rulemaking, the Secretary shall establish a proficiency examination for applicant motor carriers as well as other requirements to ensure such applicants understand applicable safety regulations, commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations before being granted operating authority."

§31145. Coordination of Governmental activities and paperwork

The Secretary of Transportation shall coordinate the activities of departments, agencies, and instrumentalities of the United States Government to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to ensure maximum coordination and to avoid overlap and the imposition of unreasonable burdens on persons subject to regulations under this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1012.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31145	49 App.:2517(b).	Oct. 30, 1984, Pub. L. 98–554, §220(b), 98 Stat. 2846.

§31146. Relationship to other laws

Except as provided in section 31136(b) of this title, this subchapter and the regulations prescribed under this subchapter do not affect chapter 51 of this title or a regulation prescribed under chapter 51.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1013.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31146	49 App.:2518.	Oct. 30, 1984, Pub. L. 98–554, §221, 98 Stat. 2846.

§31147. Limitations on authority

(a) TRAFFIC REGULATIONS.—This subchapter does not authorize the Secretary of Transportation to prescribe traffic safety regulations or preempt State traffic regulations. However, the Secretary may prescribe traffic regulations to the extent their subject matter was regulated under parts 390–399 of title 49, Code of Federal Regulations, on October 30, 1984.

(b) REGULATING THE MANUFACTURING OF VEHICLES.—This subchapter does not authorize the Secretary to regulate the manufacture of commercial motor vehicles for any purpose, including fuel economy, safety, or emission control.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1013.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31147(a)	49 App.:2519(a).	Oct. 30, 1984, Pub. L. 98–554, §229, 98 Stat. 2853.
31147(b)	49 App.:2519(b).	

In subsection (a), the word "prescribe" is substituted for "establish or maintain" for consistency in the revised title and with other titles of the United States Code.

§31148. Certified motor carrier safety auditors

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall complete a rulemaking to improve training and provide for the certification of motor carrier safety auditors, including private contractors, to conduct safety inspection audits and reviews described in subsection (b).

(b) CERTIFIED INSPECTION AUDIT REQUIREMENT.—Not later than 1 year after completion of the rulemaking required by subsection (a), any safety inspection audit or review required by, or based on the authority of, this chapter or chapter 5, 313, or 315 of this title and performed after December 31, 2002, shall be conducted by—

(1) a motor carrier safety auditor certified under subsection (a); or

(2) a Federal or State employee who, on the date of the enactment of this section, was qualified to perform such an audit or review.

(c) EXTENSION.—If the Secretary determines that subsection (b) cannot be implemented within the 1-year period established by that subsection and notifies the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination and the reasons therefor, the Secretary may extend the deadline for compliance with subsection (b) by not more than 12 months.

(d) APPLICATION WITH OTHER AUTHORITY.—The Secretary may not delegate the Secretary's authority to private contractors to issue ratings or operating authority, and nothing in this section authorizes any private contractor to issue ratings or operating authority.

(e) OVERSIGHT RESPONSIBILITY.—The Secretary shall have authority over any motor carrier safety auditor certified under subsection (a), including the authority to decertify a motor carrier safety auditor.

(Added Pub. L. 106–159, title II, §211(a), Dec. 9, 1999, 113 Stat. 1765.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a) and (b)(2), is the date of enactment of Pub. L. 106–159, which was approved Dec. 9, 1999.

STATUTORY NOTES AND RELATED SUBSIDIARIES

INSPECTOR STANDARDS

Pub. L. 114–94, div. A, title V, §5205, Dec. 4, 2015, 129 Stat. 1537, provided that: "Not later than 90 days after the date of enactment of this Act [Dec. 4, 2015], the Administrator of the Federal Motor Carrier Safety Administration shall revise the regulations under part 385 of title 49, Code of Federal Regulations, as necessary, to incorporate by reference the certification standards for roadside inspectors issued by the Commercial Vehicle Safety Alliance."

§31149. Medical program

(a) MEDICAL REVIEW BOARD.—

(1) ESTABLISHMENT AND FUNCTION.—The Secretary of Transportation shall establish a Medical Review Board to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on medical standards and guidelines for the physical qualifications of operators of commercial motor vehicles, medical examiner education, and medical research.

(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of medical specialties relevant to the driver fitness requirements of the Federal Motor Carrier Safety Administration.

(b) CHIEF MEDICAL EXAMINER.—The Secretary shall appoint a chief medical examiner who shall be an employee of the Federal Motor Carrier Safety Administration and who shall hold a position under section 3104 of title 5, United States Code, relating to employment of specially qualified scientific and professional personnel, and shall be paid under section 5376 of title 5, United States Code, relating to pay for certain senior-level positions.

(c) MEDICAL STANDARDS AND REQUIREMENTS.—

(1) IN GENERAL.—The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

(A) establish, review, and revise—

(i) medical standards for operators of commercial motor vehicles that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

(ii) requirements for periodic physical examinations of such operators performed by medical examiners who have, at a minimum, self-certified that they have completed training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation;

(B) require each such operator to have a current valid medical certificate;

(C) conduct periodic reviews of a select number of medical examiners on the national registry to ensure that proper examinations of such operators are being conducted;

(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

(i) the completion of specific courses and materials;

(ii) certification, including, at a minimum, self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

(iii) an examination that requires a passing grade; and

(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary;

(E) require medical examiners to transmit electronically, on a monthly basis, the name of the applicant, a numerical identifier, and additional information contained on the medical examiner's certificate for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, to the chief medical examiner;

(F) periodically review a representative sample of the medical examination reports associated with the name and numerical identifiers of applicants transmitted under subparagraph (E) for errors, omissions, or other indications of improper certification; and

(G) annually review the implementation of commercial driver's license requirements by not

fewer than 10 States to assess the accuracy, validity, and timeliness of—

(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

(ii) the processing of the submissions by State licensing agencies.

(2) MONITORING PERFORMANCE.—The Secretary shall investigate patterns of errors or improper certification by a medical examiner. If the Secretary finds that a medical examiner has issued a medical certificate to an operator of a commercial motor vehicle who fails to meet the applicable standards at the time of the examination or that a medical examiner has falsely claimed to have completed training in physical and medical examination standards as required by this section, the Secretary may remove such medical examiner from the registry and may void the medical certificate of the applicant or holder.

(d) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary, acting through the Federal Motor Carrier Safety Administration—

(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examinations and issue medical certificates;

(2) shall remove from the registry the name of any medical examiner that fails to meet or maintain the qualifications established by the Secretary for being listed in the registry or otherwise does not meet the requirements of this section or regulation issued under this section;

(3) shall accept as valid only medical certificates issued by persons on the national registry of medical examiners; and

(4) may make participation of medical examiners in the national registry voluntary if such a change will enhance the safety of operators of commercial motor vehicles.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(Added Pub. L. 109–59, title IV, §4116(a), Aug. 10, 2005, 119 Stat. 1726; amended Pub. L. 112–141, div. C, title II, §32302(b), (c)(1), July 6, 2012, 126 Stat. 789.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (c)(1)(D), is Pub. L. 112–141, div. C, title II, July 6, 2012, 126 Stat. 776. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 30101 of this title and Tables.

AMENDMENTS

2012—Subsec. (c)(1)(D). Pub. L. 112–141, §32302(b), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to, at a minimum, self-certify that they have completed specific training, including refresher courses, to be listed in the registry;".

Subsec. (c)(1)(E). Pub. L. 112–141, §32302(c)(1)(A), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "require medical examiners to transmit the name of the applicant and numerical identifier, as determined by the Administrator of the Federal Motor Carrier Safety Administration, for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, electronically to the chief medical examiner on monthly basis; and".

Subsec. (c)(1)(G). Pub. L. 112–141, §32302(c)(1)(B), (C), added subpar. (G).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 32302(b) of Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L.

112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

Pub. L. 112–141, div. C, title II, §32302(c)(2)(B), July 6, 2012, 126 Stat. 789, as amended by Pub. L. 114–94, div. A, title V, §5508(b)(3), Dec. 4, 2015, 129 Stat. 1554, provided that: "The amendments made by section 32302(c)(1) of this Act [amending this section] shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A)."

[Pub. L. 114–94, div. A, title V, §5508(b), Dec. 4, 2015, 129 Stat. 1554, provided that the amendment made by section 5508(b)(3) to section 32302(c)(2)(B) of Pub. L. 112–141, set out above, is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.]

EFFECTIVE DATE

Pub. L. 109–59, title IV, §4116(f), Aug. 10, 2005, 119 Stat. 1728, as amended by Pub. L. 110–244, title III, §301(d), June 6, 2008, 122 Stat. 1616, provided that: "The amendments made by subsections (a) and (b) [enacting this section and amending section 31136 of this title] shall take effect on the 365th day following the date of enactment of this Act [Aug. 10, 2005]."

[Amendment by Pub. L. 110–244 to section 4116(f) of Pub. L. 109–59, set out above, effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as an Effective Date of 2008 note under section 101 of Title 23, Highways.]

MEDICAL CERTIFICATION OF VETERANS FOR COMMERCIAL DRIVER'S LICENSES

Pub. L. 114–94, div. A, title V, §5403, Dec. 4, 2015, 129 Stat. 1548, as amended by Pub. L. 115–105, §2(a), (b), Jan. 8, 2018, 131 Stat. 2263, provided that:

"(a) IN GENERAL.—In the case of a veteran operator approved by a qualified examiner, the qualified examiner of such operator may, subject to the requirements of subsection (b), perform a medical examination and provide a medical certificate for purposes of compliance with the requirements of section 31149 of title 49, United States Code.

"(b) CERTIFICATION.—The certification described under subsection (a) shall include—

"(1) assurances that the examiner performing the medical examination meets the requirements of a qualified examiner under this section; and

"(2) certification that the physical condition of the operator is adequate to enable such operator to operate a commercial motor vehicle safely.

"(c) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary [of Transportation], in consultation with the Secretary of Veterans Affairs, shall develop a process for qualified examiners to perform a medical examination and provide a medical certificate under subsection (a) and include such examiners on the national registry of medical examiners established under section 31149(d) of title 49, United States Code.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) QUALIFIED EXAMINER.—The term 'qualified examiner' means an individual who—

"(A) is employed by the Department of Veterans Affairs as an advanced practice nurse, doctor of chiropractic, doctor of medicine, doctor of osteopathy, physician assistant, or other medical professional;

"(B) is licensed, certified, or registered in a State to perform physical examinations;

"(C) is familiar with the standards for, and physical requirements of, an operator required to be medically certified under section 31149 of title 49, United States Code; and

"(D) has never, with respect to such section, been found to have acted fraudulently, including by fraudulently awarding a medical certificate.

"(2) VETERAN.—The term 'veteran' has the meaning given the term in section 101 of title 38, United States Code.

"(3) VETERAN OPERATOR APPROVED BY A QUALIFIED EXAMINER.—The term 'veteran operator approved by a qualified examiner' means an operator of a commercial motor vehicle who—

"(A) is a veteran who is enrolled in the health care system established under section 1705(a) of title 38, United States Code; and

"(B) is required to have a current valid medical certificate pursuant to section 31149 of title 49, United States Code.

"(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to change any statutory penalty associated with fraud or abuse."

[Pub. L. 115–105, §2(c), Jan. 8, 2018, 131 Stat. 2264, provided that: "The amendments made by this section [amending section 5403 of Pub. L. 114–94, set out above] shall be incorporated into any rulemaking proceeding related to section 5403 of the FAST Act (49 U.S.C. 31149 note; 129 Stat. 1548) that is being

conducted as of the date of the enactment of this Act [Jan. 8, 2018]."]

DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS

Pub. L. 112–141, div. C, title II, §32302(a), July 6, 2012, 126 Stat. 788, provided that: "Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code."

INTERNAL OVERSIGHT POLICY

Pub. L. 112–141, div. C, title II, §32302(c)(2)(A), July 6, 2012, 126 Stat. 789, provided that: "Not later than 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32302(c)(1) of this Act."

§31150. Safety performance history screening

(a) IN GENERAL.—The Secretary of Transportation shall provide persons conducting preemployment screening services for the motor carrier industry electronic access to the following reports contained in the Motor Carrier Management Information System:

(1) Commercial motor vehicle accident reports.

(2) Inspection reports that contain no driver-related safety violations.

(3) Serious driver-related safety violation inspection reports.

(b) CONDITIONS ON PROVIDING ACCESS.—Before providing a person access to the Motor Carrier Management Information System under subsection (a), the Secretary shall—

(1) ensure that any information that is released to such person will be in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all other applicable Federal law;

(2) ensure that such person will not conduct a screening without the operator-applicant's written consent;

(3) ensure that any information that is released to such person will not be released to any person or entity, other than the motor carrier requesting the screening services or the operator-applicant, unless expressly authorized or required by law; and

(4) provide a procedure for the operator-applicant to correct inaccurate information in the System in a timely manner.

(c) DESIGN.—The process for providing access to the Motor Carrier Management Information System under subsection (a) shall be designed to assist the motor carrier industry in assessing an individual operator's crash and serious safety violation inspection history as a preemployment condition. Use of the process shall not be mandatory and may only be used during the preemployment assessment of an operator-applicant.

(d) SERIOUS DRIVER-RELATED SAFETY VIOLATION DEFINED.—In this section, the term "serious driver-related violation" means a violation by an operator of a commercial motor vehicle that the Secretary determines will result in the operator being prohibited from continuing to operate a commercial motor vehicle until the violation is corrected.

(Added Pub. L. 109–59, title IV, §4117(a), Aug. 10, 2005, 119 Stat. 1728.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Credit Reporting Act, referred to in subsec. (b)(1), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code,

see Short Title note set out under section 1601 of Title 15 and Tables.

§31151. Roadability

(a) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—

(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.

(2) INTERMODAL EQUIPMENT SAFETY REGULATIONS.—The Secretary shall issue the regulations under this section as a subpart of the Federal motor carrier safety regulations.

(3) CONTENTS.—The regulations issued under this section shall include, at a minimum—

(A) a requirement to identify intermodal equipment providers responsible for the inspection and maintenance of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(B) a requirement to match intermodal equipment readily to an intermodal equipment provider through a unique identifying number;

(C) a requirement that an intermodal equipment provider identified under subparagraph (A) systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, intermodal equipment described in subparagraph (A) that is intended for interchange with a motor carrier;

(D) a requirement to ensure that each intermodal equipment provider identified under subparagraph (A) maintains a system of maintenance and repair records for such equipment;

(E) requirements that—

(i) a specific list of intermodal equipment components or items be identified for the visual or audible inspection of which a driver is responsible before operating the equipment over the road; and

(ii) the inspection under clause (i) be conducted as part of the Federal requirement in effect on the date of enactment of this section that a driver be satisfied that the intermodal equipment components are in good working order before the equipment is operated over the road;

(F) a requirement that a facility at which an intermodal equipment provider regularly makes intermodal equipment available for interchange have an operational process and space readily available for a motor carrier to have an equipment defect identified pursuant to subparagraph (E) repaired or the equipment replaced prior to departure;

(G) a program for the evaluation and audit of compliance by intermodal equipment providers with applicable Federal motor carrier safety regulations;

(H) a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal motor carrier safety regulations; and

(I) a prohibition on intermodal equipment providers from placing intermodal equipment in service on the public highways to the extent such providers or their equipment are found to pose an imminent hazard;

(J) a process by which motor carriers and agents of motor carriers shall be able to request the Federal Motor Carrier Safety Administration to undertake an investigation of an intermodal equipment provider identified under subparagraph (A) that is alleged to be not in compliance with the regulations under this section;

(K) a process by which equipment providers and agents of equipment providers shall be able to request the Administration to undertake an investigation of a motor carrier that is alleged to be not in compliance with the regulations issued under this section;

(L) a process by which a driver or motor carrier transporting intermodal equipment is required to report to the intermodal equipment provider or the provider's designated agent any actual damage or defect in the intermodal equipment of which the driver or motor carrier is

aware at the time the intermodal equipment is returned to the intermodal equipment provider or the provider's designated agent;

(M) a requirement that any actual damage or defect identified in the process established under subparagraph (L) be repaired before the equipment is made available for interchange to a motor carrier and that repairs of equipment made pursuant to the requirements of this subparagraph and reports made pursuant to the subparagraph (L) process be documented in the maintenance records for such equipment; and

(N) a procedure under which motor carriers, drivers and intermodal equipment providers may seek correction of their motor carrier safety records through the deletion from those records of violations of safety regulations attributable to deficiencies in the intermodal chassis or trailer for which they should not have been held responsible.

(b) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary or an employee of the Department of Transportation designated by the Secretary may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials.

(c) OUT-OF-SERVICE UNTIL REPAIR.—Any intermodal equipment that is determined under this section to fail to comply with applicable Federal safety regulations may be placed out of service by the Secretary or a Federal, State, or government official designated by the Secretary and may not be used on a public highway until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment taken out of service shall be documented in the maintenance records for such equipment.

(d) PREEMPTION GENERALLY.—Except as provided in subsection (e), a law, regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization relating to commercial motor vehicle safety is preempted if such law, regulation, order, or other requirement exceeds or is inconsistent with a requirement imposed under or pursuant to this section.

(e) PRE-EXISTING STATE REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State requirement for the periodic inspection of intermodal chassis by intermodal equipment providers that was in effect on January 1, 2005, shall remain in effect only until the date on which requirements prescribed under this section take effect.

(2) NONPREEMPTION DETERMINATIONS.—

(A) IN GENERAL.—Notwithstanding subsection (d), a State requirement described in paragraph (1) is not preempted by a Federal requirement prescribed under this section if the Secretary determines that the State requirement is as effective as the Federal requirement and does not unduly burden interstate commerce.

(B) APPLICATION REQUIRED.—Subparagraph (A) applies to a State requirement only if the State applies to the Secretary for a determination under this paragraph with respect to the requirement before the date on which the regulations issued under this section take effect. The Secretary shall make a determination with respect to any such application within 6 months after the date on which the Secretary receives the application.

(C) AMENDED STATE REQUIREMENTS.—Any amendment to a State requirement not preempted under this subsection because of a determination by the Secretary under subparagraph (A) may not take effect unless—

(i) it is submitted to the Secretary before the effective date of the amendment; and

(ii) the Secretary determines that the amendment would not cause the State requirement to be less effective than the Federal requirement and would not unduly burden interstate commerce.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) INTERMODAL EQUIPMENT.—The term "intermodal equipment" means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis.

(2) INTERMODAL EQUIPMENT INTERCHANGE AGREEMENT.—The term "intermodal equipment interchange agreement" means the Uniform Intermodal Interchange and Facilities Access Agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

(3) INTERMODAL EQUIPMENT PROVIDER.—The term "intermodal equipment provider" means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

(4) INTERCHANGE.—The term "interchange"—

(A) means the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider; but

(B) does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations.

(Added Pub. L. 109–59, title IV, §4118(a), Aug. 10, 2005, 119 Stat. 1729; amended Pub. L. 110–244, title III, §301(e), June 6, 2008, 122 Stat. 1616; Pub. L. 112–141, div. C, title II, §32931(b), July 6, 2012, 126 Stat. 829.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(3)(E)(ii), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141, §32931(b)(1), amended par. (1) generally. Prior to amendment, text read as follows: "Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained."

Subsec. (a)(4). Pub. L. 112–141, §32931(b)(2), struck out par. (4). Text read as follows: "Not later than 120 days after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding for issuance of the regulations under this section."

2008—Subsec. (a)(3)(E)(ii). Pub. L. 110–244 substituted "section" for "Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

SUBCHAPTER IV—MISCELLANEOUS

EDITORIAL NOTES

PRIOR PROVISIONS

A prior subchapter IV consisted of sections 31161 and 31162, prior to repeal by Pub. L. 105–178, title IV, §4010, June 9, 1998, 112 Stat. 407.

§31161. International cooperation

The Secretary of Transportation is authorized to use funds made available by section 31110 to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.

(Added Pub. L. 109–59, title IV, §4119(a), Aug. 10, 2005, 119 Stat. 1733; amended Pub. L. 114–94, div. A, title V, §5103(c)(3), Dec. 4, 2015, 129 Stat. 1527.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 31161 and 31162 were repealed by Pub. L. 105–178, title IV, §4010, June 9, 1998, 112 Stat. 407.

Section 31161, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1013, related to procedures to ensure timely correction of safety violations.

Section 31162, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1014, related to compliance review priority.

AMENDMENTS

2015—Pub. L. 114–94 substituted "section 31110" for "section 31104(i)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS

Sec.

31301. Definitions.
31302. Commercial driver's license requirement.
31303. Notification requirements.
31304. Employer responsibilities.
31305. General driver fitness, testing, and training.
31306. Alcohol and controlled substances testing.
31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.[1]
31307. Minimum training requirements for operators of longer combination vehicles.
31308. Commercial driver's license.
31309. Commercial driver's license information system.
31310. Disqualifications.
31311. Requirements for State participation.
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31313. Commercial driver's license program implementation financial assistance program.
31314. Withholding amounts for State noncompliance.
31315. Waivers, exemptions, and pilot programs.
31316. Limitation on statutory construction.
31317. Procedure for prescribing regulations.

EDITORIAL NOTES

AMENDMENTS

2015—Pub. L. 114–94, div. A, title V, §5104(b), Dec. 4, 2015, 129 Stat. 1529, substituted "Commercial

driver's license program implementation financial assistance program" for "Grants for commercial driver's license program implementation" in item 31313.

2012—Pub. L. 112–141, div. C, title II, §§32304(d), 32402(b), 32604(b)(2), July 6, 2012, 126 Stat. 792, 802, 809, added items 31305, 31306a, and 31313 and struck out former items 31305 "General driver fitness and testing" and 31313 "Grants for commercial driver's license program improvements".

2005—Pub. L. 109–59, title IV, §4124(b), Aug. 10, 2005, 119 Stat. 1738, added item 31313.

1999—Pub. L. 106–159, title II, §203(b), Dec. 9, 1999, 113 Stat. 1762, added item 31312.

1998—Pub. L. 105–178, title IV, §§4007(b), 4011(b)(2), (f), June 9, 1998, 112 Stat. 403, 407, 408, substituted "Commercial driver's license requirement" for "Limitation on the number of driver's licenses" in item 31302 and "Waivers, exemptions, and pilot programs" for "Waiver authority" in item 31315 and struck out items 31312 "Grants for testing and ensuring the fitness of operators of commercial motor vehicles" and 31313 "Grants for issuing commercial drivers' licenses and complying with State participation requirements".

[1] *So in original. Does not conform to section catchline.*

§31301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given the term "alcoholic beverage" in section 158(c) of title 23.

(2) "commerce" means trade, traffic, and transportation—

(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or

(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(3) "commercial driver's license" means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.

(4) "commercial motor vehicle" means a motor vehicle used in commerce to transport passengers or property that—

(A) has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater, or a lesser gross vehicle weight rating or gross vehicle weight the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

(B) is designed to transport at least 16 passengers including the driver; or

(C) is used to transport material found by the Secretary to be hazardous under section 5103 of this title, except that a vehicle shall not be included as a commercial motor vehicle under this subclause if—

(i) the vehicle does not satisfy the weight requirements of subclause (A) of this clause;

(ii) the vehicle is transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Secretary or is transporting a consumer commodity or limited quantity of hazardous material as defined in section 171.8 of title 49, Code of Federal Regulations; and

(iii) the Secretary does not deny the application of this exception to the vehicle (individually or as part of a class of motor vehicles) in the interest of safety.

(5) except in section 31306, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(6) "driver's license" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

(7) "employee" means an operator of a commercial motor vehicle (including an independent

contractor when operating a commercial motor vehicle) who is employed by an employer.

(8) "employer" means a person (including the United States Government, a State, or a political subdivision of a State) that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle.

(9) "felony" means an offense under a law of the United States or a State that is punishable by death or imprisonment for more than one year.

(10) "foreign commercial driver" means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.

(11) "hazardous material" has the same meaning given that term in section 5102 of this title.

(12) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated only on a rail line or custom harvesting farm machinery.

(13) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law on motor vehicle traffic control (except a parking violation) and involving a fatality, other than a violation to which section 31310(b)(1)(E) or 31310(c)(1)(E) applies;

(D) driving a commercial motor vehicle when the individual has not obtained a commercial driver's license;

(E) driving a commercial motor vehicle when the individual does not have in his or her possession a commercial driver's license unless the individual provides, by the date that the individual must appear in court or pay any fine with respect to the citation, to the enforcement authority that issued the citation proof that the individual held a valid commercial driver's license on the date of the citation;

(F) driving a commercial motor vehicle when the individual has not met the minimum testing standards—

(i) under section 31305(a)(3) for the specific class of vehicle the individual is operating; or

(ii) under section 31305(a)(5) for the type of cargo the vehicle is carrying; and

(G) any other similar violation of a State or local law on motor vehicle traffic control (except a parking violation) that the Secretary designates by regulation as serious.

(14) "State" means a State of the United States and the District of Columbia.

(15) "United States" means the States of the United States and the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1014; Pub. L. 105–178, title IV, §4011(a), June 9, 1998, 112 Stat. 407; Pub. L. 106–159, title II, §201(a)(3), (c), Dec. 9, 1999, 113 Stat. 1759, 1760; Pub. L. 112–141, div. C, title II, §32203(a), July 6, 2012, 126 Stat. 784.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31301(1)	49 App.:2716(1), (13).	Oct. 27, 1986, Pub. L. 99–570, §12019(1)–(4), (6)–(15), 100 Stat. 3207–187, 3207–188.
31301(2)	49 App.:2716(3).	
31301(3)	49 App.:2716(4).	
31301(4)	49 App.:2716(6).	
31301(5)	49 App.:2716(7).	
31301(6)	49 App.:2716(2).	

31301(7)	49 App.:2716(8).	
31301(8)	49 App.:2716(9).	
31301(9)	49 App.:2716(10).	
31301(10)	49 App.:2716(11).	
31301(11)	49 App.:2716(5).	Oct. 27, 1986, Pub. L. 99–570, §12019(5), 100 Stat. 3207–188; Apr. 2, 1987, Pub. L. 100–17, §133(c)(2), 101 Stat. 172; Dec. 18, 1991, Pub. L. 102–240, §4010, 105 Stat. 2156.
31301(12)	49 App.:2716(12).	
31301(13)	49 App.:2716(14).	
31301(14)	49 App.:2716(15).	

In clause (1), the text of 49 App.:2716(13) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (4)(A), the words "at least 26,001 pounds" are substituted for "26,001 or more pounds", and the word "prescribes" is substituted for "determines appropriate", for consistency in the revised title.

In clause (4)(B), the words "at least 16 passengers" are substituted for "more than 15 passengers" for consistency.

Clause (4)(C)(i) is substituted for "and which has a gross vehicle weight rating of less than 26,001 pounds (or such gross vehicle weight rating as determined appropriate by the Secretary under subparagraph (A))" to eliminate unnecessary words. In subclause (iii), the words "deny the application of this exception" are substituted for "waive the application of the preceding sentence" for clarity and because of the restatement.

In clause (11), the words "public streets, roads, or" are added for consistency in the revised title.

In clause (12)(C), the words "involving a fatality" are substituted for "arising in connection with a fatal traffic accident" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2012—Pars. (10) to (15). Pub. L. 112–141 added par. (10) and redesignated former pars. (10) to (14) as (11) to (15), respectively.

1999—Par. (12)(C). Pub. L. 106–159, §201(a)(3), inserted ", other than a violation to which section 31310(b)(1)(E) or 31310(c)(1)(E) applies" after "a fatality".

Par. (12)(D) to (G). Pub. L. 106–159, §201(c), added subpars. (D) to (F) and redesignated former subpar. (D) as (G).

1998—Par. (4)(A). Pub. L. 105–178, §4011(a)(1), inserted "or gross vehicle weight" after "rating" first two places that term appears and ", whichever is greater," after "26,001 pounds".

Par. (4)(C)(ii). Pub. L. 105–178, §4011(a)(2), inserted "is" before "transporting" in two places and before "not otherwise regulated".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER'S LICENSES

Pub. L. 114–94, div. A, title V, §5401(b), Dec. 4, 2015, 129 Stat. 1547, provided that: "Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation], in consultation with the Secretary of Defense, shall implement the recommendations contained in the report submitted under section 32308 of MAP–21 [Pub. L. 112–141] (49 U.S.C. 31301 note) that are not implemented as a result of the amendment in subsection (a) [amending section 31305 of this title]."

Pub. L. 112–141, div. C, title II, §32308, July 6, 2012, 126 Stat. 794, provided that:

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation], in coordination with the Secretary of Defense, and in consultation with the States and other relevant stakeholders, shall commence a study to assess Federal and State regulatory, economic, and administrative challenges faced by members and former members of the Armed Forces, who received safety training and operated qualifying motor vehicles during their service, in obtaining commercial driver's licenses (as defined in section 31301(3) of title 49, United States Code).

"(2) REQUIREMENTS.—The study under this subsection shall—

"(A) identify written and behind-the-wheel safety training, qualification standards, knowledge and skills tests, or other operating experience members of the Armed Forces must meet that satisfy the minimum standards prescribed by the Secretary of Transportation for the operation of commercial motor vehicles under section 31305 of title 49, United States Code;

"(B) compare the alcohol and controlled substances testing requirements for members of the Armed Forces with those required for holders of a commercial driver's license;

"(C) evaluate the cause of delays in reviewing applications for commercial driver's licenses of members and former members of the Armed Forces;

"(D) identify duplicative application costs;

"(E) identify residency, domicile, training and testing requirements, and other safety or health assessments that affect or delay the issuance of commercial driver's licenses to members and former members of the Armed Forces; and

"(F) include other factors that the Secretary determines to be appropriate to meet the requirements of the study.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the commencement of the study under subsection (a), the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Financial Services of the House of Representatives that contains the findings and recommendations from the study.

"(2) ELEMENTS.—The report under paragraph (1) shall include—

"(A) findings related to the study requirements under subsection (a)(2);

"(B) recommendations for the Federal and State legislative, regulatory, and administrative actions necessary to address challenges identified in subparagraph (A); and

"(C) a plan to implement the recommendations for which the Secretary has authority.

"(c) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and in cooperation with the States, shall implement the recommendations identified in subsection (b) and establish accelerated licensing procedures to assist veterans to acquire commercial driver's licenses.

"(d) ACCELERATED LICENSING PROCEDURES.—The procedures established under subsection (a) shall be designed to be applicable to any veteran who—

"(1) is attempting to acquire a commercial driver's license; and

"(2) obtained, during military service, documented driving experience that, in the determination of the Secretary, makes the use of accelerated licensing procedures appropriate.

"(e) DEFINITIONS.—In this section:

"(1) COMMERCIAL DRIVER'S LICENSE.—The term 'commercial driver's license' has the meaning given that term in section 31301 of title 49, United States Code.

"(2) STATE.—The term 'State' has the meaning given that term in section 31301 of title 49, United States Code.

"(3) VETERAN.—The term 'veteran' has the meaning given that term in section 101 of title 38, United States Code."

EXEMPTIONS FROM REQUIREMENTS OF THIS CHAPTER FOR CERTAIN FARM VEHICLES

For provisions relating to exemptions from certain requirements of this chapter with respect to certain farm vehicles and individuals operating those vehicles, see section 32934 of Pub. L. 112–141, set out as a note under section 31136 of this title.

GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS

Pub. L. 109–59, title IV, §4134, Aug. 10, 2005, 119 Stat. 1744, as amended by Pub. L. 111–147, title IV, §422(h), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2202(h), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112–5, title II, §202(h), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112–30, title I, §122(g), Sept. 16, 2011, 125

Stat. 349; Pub. L. 112–102, title II, §202(g), Mar. 30, 2012, 126 Stat. 274; Pub. L. 112–140, title II, §202(g), June 29, 2012, 126 Stat. 395; Pub. L. 112–141, div. C, title II, §32603(g), July 6, 2012, 126 Stat. 808; Pub. L. 113–159, title I, §1102(g), Aug. 8, 2014, 128 Stat. 1844; Pub. L. 114–21, title I, §1102(g), May 29, 2015, 129 Stat. 222; Pub. L. 114–41, title I, §1102(g), July 31, 2015, 129 Stat. 449; Pub. L. 114–73, title I, §1102(g), Oct. 29, 2015, 129 Stat. 572; Pub. L. 114–87, title I, §1102(g), Nov. 20, 2015, 129 Stat. 681; Pub. L. 114–94, div. A, title V, §5105(e), Dec. 4, 2015, 129 Stat. 1529, which established a grant program for persons to train operators of commercial motor vehicles, was repealed by Pub. L. 114–94, div. A, title V, §5101(e)(7), Dec. 4, 2015, 129 Stat. 1525, effective Oct. 1, 2016.

CDL TASK FORCE

Pub. L. 109–59, title IV, §4135, Aug. 10, 2005, 119 Stat. 1744, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall convene a task force to study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program, including such issues as—

"(1) State enforcement practices;

"(2) operational procedures to detect and deter fraud;

"(3) needed improvements for seamless information sharing between States;

"(4) effective methods for accurately sharing electronic data between States;

"(5) adequate proof of citizenship;

"(6) updated technology; and

"(7) timely notification from judicial bodies concerning traffic and criminal convictions of commercial driver's license holders.

"(b) MEMBERSHIP.—Members of the task force should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary, on behalf of the task force, shall complete a report of the task forces [sic] findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial drivers [sic] license program and submit such the [sic] report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(d) FUNDING.—From the funds amounts made available by section 4101(c)(1) [119 Stat. 1715], $200,000 shall be available for each of fiscal years 2006 and 2007 to carry out this section."

EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

For provisions relating to waiver of requirements of this chapter with respect to vehicles used for snow or ice removal, see section 229(a)(5) of Pub. L. 106–159, set out as a note under section 31136 of this title.

§31302. Commercial driver's license requirement

No individual shall operate a commercial motor vehicle without a valid commercial driver's license issued in accordance with section 31308. An individual operating a commercial motor vehicle may have only one driver's license at any time and may have only one learner's permit at any time.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1015; Pub. L. 105–178, title IV, §4011(b)(1), June 9, 1998, 112 Stat. 407; Pub. L. 109–59, title IV, §4122(1), Aug. 10, 2005, 119 Stat. 1734.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31302	49 App.:2701.	Oct. 27, 1986, Pub. L. 99–570, §12002, 100 Stat. 3207–170.

The words "Effective July 1, 1987" are omitted as executed. The words after "issued a driver's license" are

omitted as expired.

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–59 inserted "and may have only one learner's permit at any time" before period at end.

1998—Pub. L. 105–178 amended section catchline and text generally. Prior to amendment, text read as follows: "An individual operating a commercial motor vehicle may have only one driver's license at any time, except during the 10-day period beginning on the date the individual is issued a driver's license."

§31303. Notification requirements

(a) VIOLATIONS.—An individual operating a commercial motor vehicle, having a driver's license issued by a State, and violating a State or local law on motor vehicle traffic control (except a parking violation) shall notify the individual's employer of the violation. If the violation occurred in a State other than the issuing State, the individual also shall notify a State official designated by the issuing State. The notifications required by this subsection shall be made not later than 30 days after the date the individual is found to have committed the violation.

(b) REVOCATIONS, SUSPENSIONS, AND CANCELLATIONS.—An employee who has a driver's license revoked, suspended, or canceled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify the employee's employer of the action not later than 30 days after the date of the action.

(c) PREVIOUS EMPLOYMENT.—(1) Subject to paragraph (2) of this subsection, an individual applying for employment as an operator of a commercial motor vehicle shall notify the prospective employer, at the time of the application, of any previous employment as an operator of a commercial motor vehicle.

(2) The Secretary of Transportation shall prescribe by regulation the period for which notice of previous employment must be given under paragraph (1) of this subsection. However, the period may not be less than the 10-year period ending on the date of the application.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31303	49 App.:2702.	Oct. 27, 1986, Pub. L. 99–570, §12003, 100 Stat. 3207–171.

In this section, the words "Effective July 1, 1987" are omitted as executed.

In subsection (c)(1), the words "operates a commercial motor vehicle and" and "with an employer" are omitted as surplus.

§31304. Employer responsibilities

(a) IN GENERAL.—An employer may not allow an employee to operate a commercial motor vehicle in the United States during a period that the employer knows or should reasonably know that the employee—

(1) has a driver's license revoked, suspended, or canceled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or

(2) has more than one driver's license (except as allowed under section 31302 of this title).

(b) DRIVER VIOLATION RECORDS.—

(1) PERIODIC REVIEW.—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period;

(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

(C) by a combination of inquiries to States and reports from driver record notification systems.

(2) RECORD KEEPING.—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

(3) EXCEPTIONS TO RECORD REVIEW REQUIREMENT.—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

(4) DRIVER RECORD NOTIFICATION SYSTEM DEFINED.—In this section, the term "driver record notification system" means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee's driver's license due to a conviction for a moving violation, a failure to appear, an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016; Pub. L. 112–141, div. C, title II, §§32303(a), 32307, July 6, 2012, 126 Stat. 790, 794.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31304	49 App.:2703.	Oct. 27, 1986, Pub. L. 99–570, §12004, 100 Stat. 3207–171.

In this section, before clause (1), the words "Effective July 1, 1987" are omitted as executed. The words "permit, or authorize" are omitted as surplus. Clause (2) is substituted for 49 App.:2703(2) to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141, §32303(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (a). Pub. L. 112–141, §32307, in introductory provisions, struck out "knowingly" before "allow an employee" and substituted "that the employer knows or should reasonably know that" for "in which".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS

Pub. L. 112–141, div. C, title II, §32303(b), July 6, 2012, 126 Stat. 791, provided that: "Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided."

§31305. General driver fitness, testing, and training

(a) MINIMUM STANDARDS FOR TESTING AND FITNESS.—The Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle. The regulations—

(1) shall prescribe minimum standards for written and driving tests of an individual operating a commercial motor vehicle;

(2) shall require an individual who operates or will operate a commercial motor vehicle to take a driving test in a vehicle representative of the type of vehicle the individual operates or will operate;

(3) shall prescribe minimum testing standards for the operation of a commercial motor vehicle and may prescribe different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that an individual taking the tests has a working knowledge of—

(A) regulations on the safe operation of a commercial motor vehicle prescribed by the Secretary and contained in title 49, Code of Federal Regulations; and

(B) safety systems of the vehicle;

(5) shall ensure that an individual who operates or will operate a commercial motor vehicle carrying a hazardous material—

(A) is qualified to operate the vehicle under regulations on motor vehicle transportation of hazardous material prescribed under chapter 51 of this title;

(B) has a working knowledge of—

(i) those regulations;

(ii) the handling of hazardous material;

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of hazardous material; and

(iv) appropriate response procedures to follow in those emergencies; and

(C) is licensed by a State to operate the vehicle after having first been determined under section 5103a of this title as not posing a security risk warranting denial of the license.

(6) shall establish minimum scores for passing the tests;

(7) shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49, Code of Federal Regulations, to the extent the regulations apply to the individual; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to an individual passing the tests; and

(B) the individual to have a copy of the certification in the individual's possession when the individual is operating a commercial motor vehicle.

(b) REQUIREMENTS FOR OPERATING VEHICLES.—(1) Except as provided in paragraph (2) of this subsection, an individual may operate a commercial motor vehicle only if the individual has

passed written and driving tests that meet the minimum standards prescribed by the Secretary under subsection (a) of this section to operate the vehicle and has a commercial driver's license to operate the vehicle.

(2) The Secretary may prescribe regulations providing that an individual may operate a commercial motor vehicle for not more than 90 days if the individual—

(A) passes a driving test for operating a commercial motor vehicle that meets the minimum standards prescribed under subsection (a) of this section; and

(B) has a driver's license that is not suspended, revoked, or canceled.

(c) STANDARDS FOR TRAINING.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

(1) addressing the knowledge and skills that—

(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another class;

(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements;

(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.

(d) STANDARDS FOR TRAINING AND TESTING OF OPERATORS WHO ARE MEMBERS OF THE ARMED FORCES, RESERVISTS, OR VETERANS.—

(1) IN GENERAL.—Not later than December 31, 2016, the Secretary shall modify the regulations prescribed under subsections (a) and (c) to—

(A) exempt a covered individual from all or a portion of a driving test if the covered individual had experience in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle;

(B) ensure that a covered individual may apply for an exemption under subparagraph (A)—

(i) while serving in the armed forces or reserve components; and

(ii) during the 1-year period beginning on the date on which such individual separates from service in the armed forces or reserve components; and

(C) credit the training and knowledge a covered individual received in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle for purposes of satisfying minimum standards for training and knowledge.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ARMED FORCES.—The term "armed forces" has the meaning given that term in section 101(a) of title 10.

(B) COVERED INDIVIDUAL.—The term "covered individual" means an individual over the age of 21 years who is—

(i) a current or former member of the armed forces; or

(ii) a current or former member of one of the reserve components.

(C) RESERVE COMPONENTS.—The term "reserve components" means—
(i) the Army National Guard of the United States;
(ii) the Army Reserve;
(iii) the Navy Reserve;
(iv) the Marine Corps Reserve;
(v) the Air National Guard of the United States;
(vi) the Air Force Reserve; and
(vii) the Coast Guard Reserve.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016; Pub. L. 106–159, title II, §201(d), Dec. 9, 1999, 113 Stat. 1760; Pub. L. 107–56, title X, §1012(b), Oct. 26, 2001, 115 Stat. 397; Pub. L. 112–141, div. C, title II, §32304(a), (c), July 6, 2012, 126 Stat. 791, 792; Pub. L. 114–94, div. A, title V, §5401(a), Dec. 4, 2015, 129 Stat. 1546; Pub. L. 115–105, §3, Jan. 8, 2018, 131 Stat. 2264.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31305(a)	49 App.:2704(a).	Oct. 27, 1986, Pub. L. 99–570, §12005(a), (b), 100 Stat. 3207–171.
31305(b)	49 App.:2704(b).	

In this section, the word "Federal" is omitted as unnecessary.

In subsection (a), before clause (1), the words "Not later than July 15, 1988" are omitted as obsolete. In clause (3), the words "if the Secretary considers appropriate to carry out the objectives of this title" are omitted as unnecessary.

In subsection (b)(1), the words "taken and" are omitted as unnecessary. The text of 49 App.:2704(b)(3) is omitted as obsolete.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (c), is the date of enactment of title II of div. C of Pub. L. 112–141, which was approved July 6, 2012.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–105, §3(1), substituted "Operators Who Are Members of the Armed Forces, Reservists, or Veterans" for "Veteran Operators" in heading.

Subsec. (d)(1)(B). Pub. L. 115–105, §3(2), substituted "subparagraph (A)—" for "subparagraph (A) during, at least,", added cl. (i), and inserted "(ii) during" before "the 1-year period".

Subsec. (d)(2)(B)(i). Pub. L. 115–105, §3(3)(A), inserted "current or" before "former".

Subsec. (d)(2)(B)(ii). Pub. L. 115–105, §3(3), inserted "current or" before "former" and "one of" before "the reserve components".

2015—Subsec. (d). Pub. L. 114–94 added subsec. (d).

2012—Pub. L. 112–141, §32304(c), substituted "General driver fitness, testing, and training" for "General driver fitness and testing" in section catchline.

Subsec. (c). Pub. L. 112–141, §32304(a), added subsec. (c).

2001—Subsec. (a)(5)(C). Pub. L. 107–56 added subpar. (C).

1999—Subsec. (b)(1). Pub. L. 106–159 struck out "to operate the vehicle" after "written and driving tests" and inserted "to operate the vehicle and has a commercial driver's license to operate the vehicle" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

LICENSING TESTING

Pub. L. 117–146, §20, June 16, 2022, 136 Stat. 1283, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [June 16, 2022], the Administrator of the Federal Motor Carrier Safety Administration (referred to in this section as the 'Administrator') shall conduct a review of the discretionary waiver authority described in the document issued by the Administrator entitled 'Waiver for States Concerning Third Party CDL Skills Test Examiners In Response to the COVID–19 Emergency' and dated August 31, 2021, for safety concerns.

"(b) PERMANENT WAIVER.—If the Administrator finds no safety concerns after conducting a review under subsection (a), the Administrator shall—

"(1) notwithstanding any other provision of law, make the waiver permanent; and

"(2) not later than 90 days after completing the review under subsection (a), revise section 384.228 of title 49, Code of Federal Regulations, to provide that the discretionary waiver authority referred to in subsection (a) shall be permanent.

"(c) REPORT.—If the Administrator declines to move forward with a rulemaking for revision under subsection (b), the Administrator shall explain the reasons for declining to move forward with the rulemaking in a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."

MODIFICATION OF RESTRICTIONS ON CERTAIN COMMERCIAL DRIVER'S LICENSES

Pub. L. 117–58, div. B, title III, §23019, Nov. 15, 2021, 135 Stat. 777, provided that: "The Administrator of the Federal Motor Carrier Safety Administration shall revise section 383.3(f)(3)(ii) of title 49, Code of Federal Regulations (or a successor regulation), to provide that a restricted commercial driver's license issued to an employee in a farm-related service industry shall be limited to the applicable seasonal periods defined by the State issuing the restricted commercial driver's license, subject to the condition that the total number of days in any calendar year during which the restricted commercial driver's license is valid does not exceed 210."

REPORT ON COMMERCIAL DRIVER'S LICENSE SKILLS TEST DELAYS

Pub. L. 114–94, div. A, title V, §5506, Dec. 4, 2015, 129 Stat. 1553, provided that: "Not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], and each year thereafter, the Administrator of the Federal Motor Carrier Safety Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

"(1) describes, for each State, the status of skills testing for applicants for a commercial driver's license, including—

"(A) the average wait time from the date an applicant requests to take a skills test to the date the applicant has the opportunity to complete such test;

"(B) the average wait time from the date an applicant, upon failure of a skills test, requests a retest to the date the applicant has the opportunity to complete such retest;

"(C) the actual number of qualified commercial driver's license examiners available to test applicants; and

"(D) the number of testing sites available through the State department of motor vehicles and whether this number has increased or decreased from the previous year; and

"(2) describes specific steps that the Administrator is taking to address skills testing delays in States that have average skills test or retest wait times of more than 7 days from the date an applicant requests to test or retest to the date the applicant has the opportunity to complete such test or retest."

HAZARDOUS MATERIALS ENDORSEMENT EXEMPTION

Pub. L. 114–94, div. A, title VII, §7208, Dec. 4, 2015, 129 Stat. 1593, provided that: "The Secretary [of Transportation] shall allow a State, at the discretion of the State, to waive the requirement for a holder of a Class A commercial driver's license to obtain a hazardous materials endorsement under part 383 of title 49, Code of Federal Regulations, if the license holder—

"(1) is acting within the scope of the license holder's employment as an employee of a custom

harvester operation, agrichemical business, farm retail outlet and supplier, or livestock feeder; and

"(2) is operating a service vehicle that is—

"(A) transporting diesel in a quantity of 3,785 liters (1,000 gallons) or less; and

"(B) clearly marked with a 'flammable' or 'combustible' placard, as appropriate."

COMMERCIAL MOTOR VEHICLE OPERATOR REQUIREMENTS RELATING TO SLEEP DISORDERS

Pub. L. 113–45, §1, Oct. 15, 2013, 127 Stat. 557, provided that:

"(a) IN GENERAL.—The Secretary of Transportation may implement or enforce a requirement providing for the screening, testing, or treatment (including consideration of all possible treatment alternatives) of individuals operating commercial motor vehicles for sleep disorders only if the requirement is adopted pursuant to a rulemaking proceeding.

"(b) APPLICABILITY.—Subsection (a) shall not apply to a requirement that was in force before September 1, 2013.

"(c) SLEEP DISORDERS DEFINED.—In this section, the term 'sleep disorders' includes obstructive sleep apnea."

OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS

Pub. L. 109–59, title IV, §4129, Aug. 10, 2005, 119 Stat. 1742, provided that:

"(a) REVISION OF FINAL RULE.—Not later than 90 days after the date of the enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall begin revising the final rule published in the Federal Register on September 3, 2003, relating to persons with diabetes, to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal motor carrier safety regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

"(b) NO PERIOD OF COMMERCIAL DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—After the earlier of the date of issuance of the revised final rule under subsection (a) or the 90th day following the date of enactment of this Act [Aug. 10, 2005], the Secretary may not require individuals with insulin-treated diabetes mellitus who are applying for an exemption from the physical qualification standards to have experience operating commercial motor vehicles while using insulin in order to be exempted from the physical qualification standards to operate a commercial motor vehicle in interstate commerce.

"(c) MINIMUM PERIOD OF INSULIN USE.—Subject to subsection (b), the Secretary shall require individuals with insulin-treated diabetes mellitus to have a minimum period of insulin use to demonstrate stable control of diabetes before operating a commercial motor vehicle in interstate commerce. Such demonstration shall be consistent with the findings reported in July 2000, by the expert medical panel established by the Secretary, in 'A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century'. For individuals who have been newly diagnosed with type 1 diabetes, the minimum period of insulin use may not exceed 2 months, unless directed by the treating physician. For individuals who have type 2 diabetes and are converting to insulin use, the minimum period of insulin use may not exceed 1 month, unless directed by the treating physician.

"(d) LIMITATIONS.—Insulin-treated individuals may not be held by the Secretary to a higher standard of physical qualification in order to operate a commercial motor vehicle in interstate commerce than other individuals applying to operate, or operating, a commercial motor vehicle in interstate commerce; except to the extent that limited operating, monitoring, and medical requirements are deemed medically necessary under regulations issued by the Secretary."

CDL SCHOOL BUS ENDORSEMENT

Pub. L. 106–159, title II, §214, Dec. 9, 1999, 113 Stat. 1766, provided that: "The Secretary shall conduct a rulemaking to establish a special commercial driver's license endorsement for drivers of school buses. The endorsement shall, at a minimum—

"(1) include a driving skills test in a school bus; and

"(2) address proper safety procedures for—

"(A) loading and unloading children;

"(B) using emergency exits; and
"(C) traversing highway rail grade crossings."

MEDICAL CERTIFICATE

Pub. L. 106–159, title II, §215, Dec. 9, 1999, 113 Stat. 1767, provided that: "The Secretary shall initiate a rulemaking to provide for a Federal medical qualification certificate to be made a part of commercial driver's licenses."

INSULIN TREATED DIABETES MELLITUS

Pub. L. 105–178, title IV, §4018, June 9, 1998, 112 Stat. 413, provided that:

"(a) DETERMINATION.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall determine whether a practicable and cost-effective screening, operating, and monitoring protocol could likely be developed for insulin treated diabetes mellitus individuals who want to operate commercial motor vehicles in interstate commerce that would ensure a level of safety equal to or greater than that achieved with the current prohibition on individuals with insulin treated diabetes mellitus driving such vehicles.

"(b) COMPILATION AND EVALUATION.—Prior to making the determination in subsection (a), the Secretary shall compile and evaluate research and other information on the effects of insulin treated diabetes mellitus on driving performance. In preparing the compilation and evaluation, the Secretary shall, at a minimum—

"(1) consult with States that have developed and are implementing a screening process to identify individuals with insulin treated diabetes mellitus who may obtain waivers to drive commercial motor vehicles in intrastate commerce;

"(2) evaluate the Department's policy and actions to permit certain insulin treated diabetes mellitus individuals who meet selection criteria and who successfully comply with the approved monitoring protocol to operate in other modes of transportation;

"(3) assess the possible legal consequences of permitting insulin treated diabetes mellitus individuals to drive commercial motor vehicles in interstate commerce;

"(4) analyze available data on the safety performance of diabetic drivers of motor vehicles;

"(5) assess the relevance of intrastate driving and experiences of other modes of transportation to interstate commercial motor vehicle operations; and

"(6) consult with interested groups knowledgeable about diabetes and related issues.

"(c) REPORT TO CONGRESS.—If the Secretary determines that no protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress the basis for such determination.

"(d) INITIATION OF RULEMAKING.—If the Secretary determines that a protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress a description of the elements of such protocol and shall promptly initiate a rulemaking proceeding to implement such protocol."

PERFORMANCE-BASED CDL TESTING

Pub. L. 105–178, title IV, §4019, June 9, 1998, 112 Stat. 414, provided that:

"(a) REVIEW.—Not later than 1 year after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall complete a review of the procedures established and implemented by States under section 31305 of title 49, United States Code, to determine if the current system for testing is an accurate measure and reflection of an individual's knowledge and skills as an operator of a commercial motor vehicle and to identify methods to improve testing and licensing standards, including identifying the benefits and costs of a graduated licensing system.

"(b) REGULATIONS.—The Secretary may issue regulations under section 31305 of title 49, United States Code, reflecting the results of the review."

DRIVER FATIGUE

Pub. L. 105–178, title IV, §4021, June 9, 1998, 112 Stat. 414, provided that:

"(a) TECHNOLOGIES TO REDUCE FATIGUE OF COMMERCIAL MOTOR VEHICLE OPERATORS.—

"(1) DEVELOPMENT OF TECHNOLOGIES.—As part of the activities of the Secretary [of Transportation] relating to the fatigue of commercial motor vehicle operators, the Secretary shall encourage the research, development, and demonstration of technologies that may aid in reducing such fatigue.

"(2) MATTERS TO BE TAKEN INTO ACCOUNT.—In carrying out paragraph (1), the Secretary shall take into account—

"(A) the degree to which the technology will be cost efficient;

"(B) the degree to which the technology can be effectively used in diverse climatic regions of the Nation; and

"(C) the degree to which the application of the technology will further emissions reductions, energy conservation, and other transportation goals.

"(3) FUNDING.—The Secretary may use amounts made available under section 5001(a)(2) of this Act [112 Stat. 419].

"(b) NONSEDATING MEDICATIONS.—The Secretary shall review available information on the effects of medications (including antihistamines) on driver fatigue, awareness, and performance and shall consider encouraging, if appropriate, the use of nonsedating medications (including nonsedating antihistamines) as a means of reducing the adverse effects of the use of other medications by drivers."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 14286. ENFORCING COMMONSENSE RULES OF THE ROAD FOR AMERICA'S TRUCK DRIVERS

Ex. Ord. No. 14286, Apr. 28, 2025, 90 F.R. 18759, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. America's truck drivers are essential to the strength of our economy, the security of our Nation, and the livelihoods of the American people. Every day, truckers perform the demanding and dangerous work of transporting the Nation's goods to businesses, customers, and communities safely, reliably, and efficiently.

Proficiency in English, which I designated as our official national language in Executive Order 14224 of March 1, 2025 (Designating English as the Official Language of the United States) [5 U.S.C. 601 note], should be a non-negotiable safety requirement for professional drivers. They should be able to read and understand traffic signs, communicate with traffic safety, border patrol, agricultural checkpoints, and cargo weight-limit station officers. Drivers need to provide feedback to their employers and customers and receive related directions in English. This is common sense.

That is why Federal law requires that, to operate a commercial vehicle, a driver must "read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records." Yet this requirement has not been enforced in years, and America's roadways have become less safe.

My Administration will enforce the law to protect the safety of American truckers, drivers, passengers, and others, including by upholding the safety enforcement regulations that ensure that anyone behind the wheel of a commercial vehicle is properly qualified and proficient in our national language, English.

SEC. 2. *Policy*. It is the policy of my Administration to support America's truckers and safeguard our roadways by enforcing the commonsense English-language requirement for commercial motor vehicle drivers and removing needless regulatory burdens that undermine the working conditions of America's truck drivers. This order will help ensure a safe, secure, and efficient motor carrier industry.

SEC. 3. *Upholding English Proficiency Requirements for Commercial Motor Vehicle Operators*. (a) The Secretary of Transportation, acting through the Administrator of the Federal Motor Carrier Safety Administration (FMCSA), shall, within 60 days of the date of this order [Apr. 28, 2025], rescind the guidance document titled, "English Language Proficiency Testing and Enforcement Policy MC-ECE-2016-006," issued on June 15, 2016, and issue new guidance to FMCSA and enforcement personnel outlining revised inspection procedures necessary to ensure compliance with the requirements of 49 CFR 391.11(b)(2).

(b) In carrying out subsection (a) of this section, the Secretary of Transportation, through the Administrator of the FMCSA, shall take all necessary and appropriate actions, consistent with applicable law, to ensure that the out-of-service criteria are revised such that a violation of the English language proficiency requirement results in the driver being placed out-of-service, including by working with the relevant entities responsible for establishing the out-of-service criteria.

SEC. 4. *Strengthening Commercial Driver's License Security for Safer Commercial Motor Vehicle Operations*. The Secretary of Transportation, through the Administrator of the FMCSA, shall:

(a) review non-domiciled commercial driver's licenses (CDLs) issued by relevant State agencies to identify any unusual patterns or numbers or other irregularities with respect to non-domiciled CDL issuance; and

(b) evaluate and take appropriate actions to improve the effectiveness of current protocols for verifying the authenticity and validity of both domestic and international commercial driving credentials.

SEC. 5. *Supporting America's Truck Drivers*. Within 60 days of the date of this order, the Secretary of Transportation shall identify and begin carrying out additional administrative, regulatory, or enforcement

actions to improve the working conditions of America's truck drivers.

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Department of Transportation shall provide funding for this order's publication in the Federal Register.

DONALD J. TRUMP.

§31306. Alcohol and controlled substances testing

(a) DEFINITION.—In this section and section 31306a, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) TESTING PROGRAM FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES .—(1)(A) In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for the use of a controlled substance in violation of law or a United States Government regulation and to conduct reasonable suspicion, random, and post-accident testing of such operators for the use of alcohol in violation of law or a United States Government regulation.

(B) The regulations prescribed under subparagraph (A) shall permit motor carriers—

(i) to conduct preemployment testing of commercial motor vehicle operators for the use of alcohol; and

(ii) to use hair testing as an acceptable alternative to urine testing—

(I) in conducting preemployment testing for the use of a controlled substance; and

(II) in conducting random testing for the use of a controlled substance if the operator was subject to hair testing for preemployment testing.

(C) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of an operator of a commercial motor vehicle be conducted when loss of human life occurs in an accident involving a commercial motor vehicle;

(B) may require that post-accident testing of such an operator be conducted when bodily injury or significant property damage occurs in any other serious accident involving a commercial motor vehicle; and

(C) shall provide an exemption from hair testing for commercial motor vehicle operators with established religious beliefs that prohibit the cutting or removal of hair.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any

amendments to those guidelines, for urine testing, and technical guidelines for hair testing, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested;

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section; and

(D) laboratory protocols and cut-off levels for hair testing to detect the use of a controlled substance;

(3) require that a laboratory involved in testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that any test indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) TESTING AS PART OF MEDICAL EXAMINATION.—The Secretary of Transportation may provide that testing under subsection (a) of this section for operators subject to subpart E of part 391 of title 49, Code of Federal Regulations, be conducted as part of the medical examination required under that subpart.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which those operators shall be required to participate in a program. This section does not prevent a motor carrier from establishing a program under this section in cooperation with another motor carrier.

(f) SANCTIONS.—The Secretary of Transportation shall decide on appropriate sanctions for a commercial motor vehicle operator who is found, based on tests conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law or a Government regulation but who is not under the influence of alcohol or a controlled substance as provided in this chapter.

(g) EFFECT ON STATE AND LOCAL GOVERNMENT REGULATIONS.—A State or local government may not prescribe or continue in effect a law, regulation, standard, or order that is

inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section may not be construed to preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(h) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—In prescribing regulations under this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(i) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by commercial motor vehicle employees.

(j) APPLICATION OF PENALTIES.—This section does not supersede a penalty applicable to an operator of a commercial motor vehicle under this chapter or another law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1017; Pub. L. 104–59, title III, §342(c), Nov. 28, 1995, 109 Stat. 609; Pub. L. 112–141, div. C, title II, §32402(a)(1), July 6, 2012, 126 Stat. 795; Pub. L. 114–94, div. A, title V, §5402(a), Dec. 4, 2015, 129 Stat. 1547.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31306(a)	49 App.:2717(g).	Oct. 27, 1986, Pub. L. 99–570, 100 Stat. 3207–170, §12020; added Oct. 28, 1991, Pub. L. 102–143, §5(a)(1), 105 Stat. 959.
31306(b)(1)	49 App.:2717(a).	
31306(b)(2)	49 App.:2717(b)(1).	
31306(c)	49 App.:2717(d).	
31306(d)	49 App.:2717(b)(2).	
31306(e)	49 App.:2717(c).	
31306(f)	49 App.:2717(f)(2).	
31306(g)	49 App.:2717(e)(1).	
31306(h)	49 App.:2717(e)(3).	
31306(i)	49 App.:2717(e)(2).	
31306(j)	49 App.:2717(f)(1).	

In subsection (b)(2)(B), the words "may require" are substituted for "as determined by the Secretary" for clarity and to eliminate unnecessary words.

In subsection (c)(2), before subclause (A), the word "subsequent" is omitted as surplus.

In subsection (c)(3), the words "of any individual" are omitted as surplus.

In subsection (c)(4), the words "by any individual" are omitted as surplus.

In subsection (c)(5), the word "tested" is substituted for "assayed" for consistency. The words "2d confirmation test" are substituted for "independent test" for clarity and consistency.

In subsection (c)(6), the word "Secretary" is substituted for "Department" for consistency in the revised title and with other titles of the Code.

In subsection (d), the words "The Secretary of Transportation may provide" are substituted for "Nothing in subsection (a) of this section shall preclude the Secretary from providing" for clarity and to eliminate unnecessary words.

In subsection (g), the words "rule" and "ordinance" are omitted as being included in "law, regulation, standard, or order". The words "whether the provisions apply specifically to commercial motor vehicle employees, or to the general public" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b)(1)(A). Pub. L. 114–94, §5402(a)(1)(B), struck out at end "The regulations shall permit such motor carriers to conduct preemployment testing of such employees for the use of alcohol."

Subsec. (b)(1)(B), (C). Pub. L. 114–94, §5402(a)(1)(A), (C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (b)(2)(C). Pub. L. 114–94, §5402(a)(2), added subpar. (C).

Subsec. (c)(2). Pub. L. 114–94, §5402(a)(3)(A), inserted "for urine testing, and technical guidelines for hair testing," before "including mandatory guidelines" in introductory provisions.

Subsec. (c)(2)(D). Pub. L. 114–94, §5402(a)(3)(B)–(D), added subpar. (D).

2012—Subsec. (a). Pub. L. 112–141 inserted "and section 31306a" after "this section".

1995—Subsec. (b)(1)(A). Pub. L. 104–59 added subpar. (A) and struck out former subpar. (A) which read as follows: "In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a United States Government regulation."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

HAIR TESTING GUIDELINES

Pub. L. 115–271, title VIII, §8106, Oct. 24, 2018, 132 Stat. 4106, provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Oct. 24, 2018], and annually thereafter until the date that the Secretary of Health and Human Services publishes in the Federal Register a final notice of scientific and technical guidelines for hair testing in accordance with section 5402(b) of the Fixing America's Surface Transportation Act (Public Law 114–94; 129 Stat. 1312) [set out below], the Secretary of Health and Human Services shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on—

"(1) the status of the hair testing guidelines;

"(2) an explanation for why the hair testing guidelines have not been issued; and

"(3) an estimated date of completion of the hair testing guidelines.

"(b) REQUIREMENT.—To the extent practicable and consistent with the objective of the hair testing described in subsection (a) to detect illegal or unauthorized use of substances by the individual being tested, the final notice of scientific and technical guidelines under that subsection, as determined by the Secretary of Health and Human Services, shall eliminate the risk of positive test results, of the individual being tested, caused solely by the drug use of others and not caused by the drug use of the individual being tested."

Pub. L. 114–94, div. A, title V, §5402(b), Dec. 4, 2015, 129 Stat. 1548, provided that: "Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary of Health and Human Services shall issue scientific and technical guidelines for hair testing as a method of detecting the use of a controlled substance for purposes of section 31306 of title 49, United States Code."

DRUG TEST RESULTS STUDY

Pub. L. 106–159, title II, §226, Dec. 9, 1999, 113 Stat. 1771, provided that:

"(a) IN GENERAL.—The Secretary shall conduct a study of the feasibility and merits of—

"(1) requiring medical review officers or employers to report all verified positive controlled substances test results on any driver subject to controlled substances testing under part 382 of title 49, Code of Federal Regulations, including the identity of each person tested and each controlled substance found, to the State that issued the driver's commercial driver's license; and

"(2) requiring all prospective employers, before hiring any driver, to query the State that issued the driver's commercial driver's license on whether the State has on record any verified positive controlled substances test on such driver.

"(b) STUDY FACTORS.—In carrying out the study under this section, the Secretary shall assess—

"(1) methods for safeguarding the confidentiality of verified positive controlled substances test results;

"(2) the costs, benefits, and safety impacts of requiring States to maintain records of verified positive controlled substances test results; and

"(3) whether a process should be established to allow drivers—

"(A) to correct errors in their records; and

"(B) to expunge information from their records after a reasonable period of time.

"(c) REPORT.—Not later than 2 years after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall submit to Congress a report on the study carried out under this section, together with such recommendations as the Secretary determines appropriate."

POST-ACCIDENT ALCOHOL TESTING

Pub. L. 105–178, title IV, §4020, June 9, 1998, 112 Stat. 414, required the Secretary of Transportation to conduct a study of the feasibility of utilizing law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators under this section to obtain more timely information and provided the study would also assess the impact of post-accident alcohol testing requirements on motor carrier employers, including any burden that employers may encounter in meeting the testing requirements under this section, and required the Secretary to transmit to Congress a report and recommendations on the study not later than 18 months after June 9, 1998.

§31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish, operate, and maintain a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

(2) PURPOSES.—The purposes of the clearinghouse shall be—

(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators; and

(B) to enhance the safety of our United States roadways by reducing accident and injuries involving the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall operate and maintain the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

(b) DESIGN OF CLEARINGHOUSE.—

(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

(B) the findings and recommendations contained in the Government Accountability Office's May 2008 report to Congress entitled "Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.".

(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

(B) registering and authenticating authorized users of the clearinghouse;

(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

(D) preventing the unauthorized access of information from the clearinghouse;

(E) storing and transmitting data;

(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

(H) updating an individual's record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other noncompliance—

(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer's inquiry about the employee; and

(B) for an employee who is listed as having multiple employers.

(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

(5) FUTURE NEEDS.—

(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

(iii) the potential interoperability of the clearinghouse with such systems.

(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

(i) the clearinghouse's capability for interoperability with—

(I) the National Driver Register established under section 30302;

(II) the Commercial Driver's License Information System established under section 31309;

(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

(IV) other data systems, as appropriate; and

(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

(1) by an authorized user of the clearinghouse to—

(A) request a record from the clearinghouse; and

(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

(d) PRIVACY.—A release of information from the clearinghouse shall—

(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

(3) not be made to any person or entity unless expressly authorized or required by law.

(e) FEES.—

(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

(f) EMPLOYER REQUIREMENTS.—

(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall continue to comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

(3) EMPLOYMENT PROHIBITIONS.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall utilize the clearinghouse to determine whether any employment prohibitions exist and shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(4) ANNUAL REVIEW.—After the clearinghouse is established under subsection (a), at a date

determined to be appropriate by the Secretary and published in the Federal Register, an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

(g) REPORTING OF RECORDS.—

(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

(A) a record relating to the individual is received by the clearinghouse;

(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

(A) the submission of records to the clearinghouse is timely and accurate;

(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

(6) RETENTION OF RECORDS.—The Secretary shall—

(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

(h) AUTHORIZED USERS.—

(1) EMPLOYERS.—The Secretary shall establish a process for an employer, or an employer's designated agent, to request and receive an individual's record from the clearinghouse.

(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

(i) obtains the prior written or electronic consent of the individual for access to the record;

and

(ii) submits proof of the individual's consent to the Secretary.

(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

(i) a record of each request made by the employer for records from the clearinghouse; and

(ii) the information received pursuant to the request.

(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate whether a prohibition applies with respect to the individual to operate a commercial motor vehicle for the employer.

(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

(i) protect the privacy of the individual and the confidentiality of the record; and

(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating whether a prohibition applies with respect to the individual to operate a commercial motor vehicle for the employer.

(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

(i) protect the privacy of the individual and the confidentiality of the record; and

(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

(i) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

(j) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

(A) to determine whether the clearinghouse contains a record pertaining to the individual;

(B) to verify the accuracy of a record;

(C) to update an individual's record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

(D) to determine whether the clearinghouse received requests for the individual's information.

(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual's record.

(k) PENALTIES.—

(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (1) or (2) of subsection (h).

(l) COMPATIBILITY OF STATE AND LOCAL LAWS.—

(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

(A) the reporting of valid positive results from alcohol screening tests and drug tests;

(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

(A) verified positive alcohol or drug test result;

(B) refusal to provide a specimen for the test; or

(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(m) DEFINITIONS.—In this section—

(1) AUTHORIZED USER.—The term "authorized user" means an employer, State licensing authority, or other person granted access to the clearinghouse under subsection (h).

(2) CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.—The term "chief commercial driver's licensing official" means the official in a State who is authorized to—

(A) maintain a record about commercial driver's licenses issued by the State; and

(B) take action on commercial driver's licenses issued by the State.

(3) CLEARINGHOUSE.—The term "clearinghouse" means the clearinghouse established under subsection (a).

(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term "commercial motor vehicle operator" means an individual who—

(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

(5) EMPLOYER.—The term "employer" means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

(6) MEDICAL REVIEW OFFICER.—The term "medical review officer" means a licensed physician who is responsible for—

(A) receiving and reviewing a laboratory result generated under the testing program;

(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

(C) interpreting the results of a controlled substances test.

(7) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(8) SERVICE AGENT.—The term "service agent" means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

(9) TESTING PROGRAM.—The term "testing program" means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.

(Added Pub. L. 112–141, div. C, title II, §32402(a)(2), July 6, 2012, 126 Stat. 795.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Safe Roads Act of 2012, referred to in subsec. (a)(1), is the date of enactment of subtitle D of title II of div. C of Pub. L. 112–141, which was approved July 6, 2012.

Section 226 of the Motor Carrier Safety Improvement Act of 1999, referred to in subsec. (b)(1)(A), is section 226 of Pub. L. 106–159, which is set out as a note under section 31306 of this title.

The Privacy Act of 1974, referred to in subsec. (d)(1), is Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 552a of Title 5 and Tables.

The Fair Credit Reporting Act, referred to in subsec. (d)(2), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§31307. Minimum training requirements for operators of longer combination vehicles

(a) DEFINITION.—In this section, "longer combination vehicle" means a vehicle consisting of a truck tractor and more than one trailer or semitrailer that operates on the Dwight D. Eisenhower System of Interstate and Defense Highways with a gross vehicle weight of more than 80,000 pounds.

(b) REQUIREMENTS.—The Secretary of Transportation shall maintain regulations establishing minimum training requirements for operators of longer combination vehicles. The training shall include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1020; Pub. L. 112–141, div. C, title II, §32931(c), July 6, 2012, 126 Stat. 829; Pub. L. 114–94, div. A, title V, §5508(b)(5), Dec. 4, 2015, 129 Stat. 1554.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31307(a)	49 App.:2302 (note).	Dec. 18, 1991, Pub. L. 102–240,

31307(b)	49 App.:2302 (note).	§4007(f), 105 Stat. 2153. Dec. 18, 1991, Pub. L. 102–240, §4007(b), 105 Stat. 2152.

In subsection (a), the words "a vehicle consisting" are substituted for "any combination" for clarity. The words "Dwight D. Eisenhower System of Interstate and Defense Highways" are substituted for "National System of Interstate and Defense Highways" because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsection (b), the words "Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding" are omitted as executed.

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94, §5508(b)(5), amended Pub. L. 112–141, §32931(c). See 2012 Amendment note below.

2012—Subsec. (b). Pub. L. 112–141, §32931(c), as amended by Pub. L. 114–94, §5508(b)(5), substituted "The Secretary of Transportation shall maintain" for "Not later than December 18, 1994, the Secretary of Transportation shall prescribe".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title V, §5508(b), Dec. 4, 2015, 129 Stat. 1554, provided that the amendment made by section 5508(b)(5) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§31308. Commercial driver's license

After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses and learner's permits by the States and for information to be contained on each of the licenses and permits. The standards shall require at a minimum that—

(1) an individual issued a commercial driver's license—

(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);

(2) before a commercial driver's license learner's permit may be issued to an individual, the individual must pass a written test, that complies with the minimum standards prescribed by the Secretary under section 31305(a), on the operation of the commercial motor vehicle that the individual will be operating under the permit;

(3) the license or learner's permit be tamperproof to the maximum extent practicable and each license or learner's permit issued after January 1, 2001, include unique identifiers (which may include biometric identifiers) to minimize fraud and duplication; and

(4) the license or learner's permit contain—

(A) the name and address of the individual issued the license or learner's permit and a physical description of the individual;

(B) the social security account number or other number or information the Secretary decides is appropriate to identify the individual;

(C) the class or type of commercial motor vehicle the individual is authorized to operate under the license or learner's permit;

(D) the name of the State that issued the license or learner's permit; and

(E) the dates between which the license or learner's permit is valid.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1020; Pub. L. 105–178, title IV, §4011(c)(1), June 9, 1998, 112 Stat. 407; Pub. L. 109–59, title IV, §4122(2), Aug. 10, 2005, 119 Stat. 1734; Pub. L. 110–244, title III, §301(g), June 6, 2008, 122 Stat. 1616; Pub. L. 112–141, div. C, title II, §32304(b), July 6, 2012, 126 Stat. 791.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31308	49 App.:2705.	Oct. 27, 1986, Pub. L. 99–570, §12006, 100 Stat. 3207–175.

The words "Not later than July 15, 1988" are omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

2012—Par. (1). Pub. L. 112–141 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "an individual issued a commercial driver's license pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a) of this title;".

2008—Pub. L. 110–244 amended Pub. L. 109–59, §4122(2)(A). See 2005 Amendment note below.

2005—Pub. L. 109–59, §4122(2)(B), substituted "the licenses and permits" for "the licenses" in introductory provisions.

Pub. L. 109–59, §4122(2)(A), as amended by Pub. L. 110–244, inserted "and learner's permits" after "licenses" in introductory provisions.

Par. (2). Pub. L. 109–59, §4122(2)(D), added par. (2). Former par. (2) redesignated (3).

Pars. (3), (4). Pub. L. 109–59, §4122(2)(C), (E), redesignated pars. (2) and (3) as (3) and (4), respectively, and inserted "or learner's permit" after "license" wherever appearing.

1998—Par. (2). Pub. L. 105–178 inserted before semicolon "and each license issued after January 1, 2001, include unique identifiers (which may include biometric identifiers) to minimize fraud and duplication".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

DEADLINE FOR ISSUANCE OF REGULATIONS

Pub. L. 105–178, title IV, §4011(c)(2), June 9, 1998, 112 Stat. 407, provided that: "Not later than 180 days after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall issue regulations to carry out the amendment made by paragraph (1) [amending this section]."

COMMERCIAL LEARNER'S PERMIT FOR INDIVIDUALS UNDER AGE 18

Pub. L. 114–113, div. L, title I, §132, Dec. 18, 2015, 129 Stat. 2850, provided that: "None of the funds limited or otherwise made available under this Act, or any other Act, hereafter, shall be used by the Secretary to enforce any regulation prohibiting a State from issuing a commercial learner's permit to individuals under

the age of eighteen if the State had a law authorizing the issuance of commercial learner's permits to individuals under eighteen years of age as of May 9, 2011."

§31309. Commercial driver's license information system

(a) GENERAL REQUIREMENT.—The Secretary of Transportation (referred to in this section as the "Secretary") shall maintain an information system (referred to in this section as the "information system") that will serve as a clearinghouse and depository of information about the licensing, identification, and disqualification of operators of commercial motor vehicles. The information system shall be coordinated with activities carried out under section 31106. The Secretary shall consult with the States in carrying out this section.

(b) CONTENTS.—

(1) IN GENERAL.—At a minimum, the information system shall include for each operator of a commercial motor vehicle—

(A) information the Secretary considers appropriate to ensure identification of the operator;

(B) the name, address, and physical description of the operator;

(C) the social security account number of the operator or other number or information the Secretary considers appropriate to identify the operator;

(D) the name of the State that issued the license or learner's permit to the operator;

(E) the dates between which the license or learner's permit is valid; and

(F) whether the operator had a commercial motor vehicle driver's license or learner's permit revoked, suspended, or canceled by a State, lost the right to operate a commercial motor vehicle in a State for any period, or has been disqualified from operating a commercial motor vehicle.

(2) REQUIREMENT.—The information system must accommodate any unique identifiers required to minimize fraud or duplication of a commercial driver's license or learner's permit under section 31308(3).

(c) AVAILABILITY OF INFORMATION.—Information in the information system shall be made available and subject to review and correction in accordance with the policy developed under section 31106(e).

(d) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified entity (referred to in this section as the "authorized operator")—

(1) to operate, maintain, develop, modernize, and enhance the information system; and

(2) to collect fees on behalf of the Secretary in accordance with subsection (e); and

(3) to use any fees collected in accordance with that subsection.

(e) FEE SYSTEM.—

(1) IN GENERAL.—The Secretary or the authorized operator, as applicable, may charge a reasonable fee for use of the information system.

(2) AMOUNT OF FEES.—The total amount of fees collected under this subsection shall equal, as nearly as possible, the total amount necessary for the purposes and uses described in paragraph (3)(B).

(3) USE OF FEES.—Fees collected under this subsection shall—

(A) be credited to—

(i) an appropriation account; or

(ii) an account designated by the authorized operator; and

(B) be available only for the purposes of operating, maintaining, developing, modernizing, or enhancing, or any other use relating to, the information system, including for personnel and administration costs relating to the information system.

(4) AVAILABILITY OF AMOUNTS.—Fees collected under this subsection shall remain

available until expended for a purpose or use described in paragraph (3)(B).

(5) AUTHORIZED OPERATOR.—If the Secretary designates an authorized operator under subsection (d)—

(A) the Secretary shall not be charged a fee for access to, use of, or data in the information system; and

(B) the Secretary shall have access to fee statements on a quarterly basis.

(f) MODERNIZATION PLAN.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, the Secretary shall develop and publish a comprehensive national plan to modernize the information system that—

(A) complies with applicable Federal information technology security standards;

(B) provides for the electronic exchange of all information including the posting of convictions;

(C) contains self auditing features to ensure that data is being posted correctly and consistently by the States;

(D) integrates the commercial driver's license and the medical certificate; and

(E) provides a schedule for modernization of the information system.

(2) CONSULTATION.—The plan shall be developed in consultation with representatives of the motor carrier industry, State safety enforcement agencies, and State licensing agencies designated by the Secretary.

(3) STATE FUNDING OF FUTURE EFFORTS.—The plan shall specify that States will fund future efforts to modernize the information system.

(4) DEADLINE FOR STATE PARTICIPATION.—

(A) IN GENERAL.—The plan shall specify—

(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

(ii) that States must use the systems to receive and submit conviction and disqualification data.

(B) FACTORS TO CONSIDER.—In establishing the date under subparagraph (A), the Secretary shall consider the following:

(i) Availability and cost of technology and equipment needed to comply with subparagraph (A).

(ii) Time necessary to install, and test the operation of, such technology and equipment.

(5) IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) and modernize the information system to meet the requirements of the plan.

(g) FUNDING.—At the Secretary's discretion, a State may use, subject to subsections (a)(2) and (b) of section 31313, the funds made available to the State under that section to modernize its commercial driver's license information system to be compatible with the modernized information system under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1020; Pub. L. 105–178, title IV, §4011(d), June 9, 1998, 112 Stat. 407; Pub. L. 109–59, title IV, §§4122(2)(E), 4123(a), Aug. 10, 2005, 119 Stat. 1734; Pub. L. 110–244, title III, §301(h), June 6, 2008, 122 Stat. 1616; Pub. L. 112–141, div. C, title II, §§32305(a), 32933(e), July 6, 2012, 126 Stat. 792, 830; Pub. L. 118–156, §2(a), Dec. 17, 2024, 138 Stat. 1716.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

31309(a)	49 App.:2706(a).	Oct. 27, 1986, Pub. L. 99–570, §12007, 100 Stat. 3207–175.
31309(b)	49 App.:2706(b).	
31309(c)	49 App.:2706(c).	
31309(d)(1)	49 App.:2706(d).	
31309(d)(2)	49 App.:2706 (note).	Nov. 18, 1988, Pub. L. 100–690, §9105(a), 102 Stat. 4530.
31309(e)	49 App.:2706(e).	
31309(f)	49 App.:2706(f), (g).	
	49 App.:2706 (note).	Nov. 18, 1988, Pub. L. 100–690, §9105(b), 102 Stat. 4530.

In subsection (a), the words "Not later than January 1, 1989" are omitted as obsolete. The words "shall consult with" are substituted for "consult" for clarity.

In subsection (b), the text of 49 App.:2706(b)(1) is omitted as executed. The words "utilizing such system" are omitted as surplus.

In subsection (f), the text of 49 App.:2706(g) and section 9105(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4530) is omitted as obsolete.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–156, §2(a)(1), inserted "(referred to in this section as the 'Secretary')" after "Secretary of Transportation", "(referred to in this section as the 'information system')" after "an information system", and "information" before "system shall be coordinated".

Subsec. (b)(1). Pub. L. 118–156, §2(a)(2)(A), inserted heading, struck out "under this section" after "information system" in introductory provisions, and realigned margins of subpars. (A) to (F).

Subsec. (b)(2). Pub. L. 118–156, §2(a)(2)(B), inserted heading and struck out "under this section" after "information system".

Subsec. (d). Pub. L. 118–156, §2(a)(6), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "The Secretary may establish a fee system for using the information system. Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the information system in that fiscal year. The Secretary shall deposit fees collected under this subsection in the Highway Trust Fund (except the Mass Transit Account)."

Subsec. (e). Pub. L. 118–156, §2(a)(6), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 118–156, §2(a)(3)(A)(i), struck out "under this section" after "the information system" in introductory provisions.

Subsec. (e)(1)(E). Pub. L. 118–156, §2(a)(3)(A)(ii), inserted "information" after "of the".

Subsec. (e)(3). Pub. L. 118–156, §2(a)(3)(B), struck out "commercial driver's" before "information system".

Subsec. (e)(5). Pub. L. 118–156, §2(a)(3)(C), struck out "under this section" after "information system".

Subsec. (f). Pub. L. 118–156, §2(a)(5), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 118–156, §2(a)(4), (5), redesignated subsec. (f) as (g) and substituted "subsections (a)(2) and (b) of section 31313" for "section 31313(a)" and "that section" for "section 31313".

2012—Subsec. (b)(2). Pub. L. 112–141, §32933(e), substituted "section 31308(3)" for "section 31308(2)".

Subsec. (e)(4)(A). Pub. L. 112–141, §32305(a)(1), amended subpar. (A) generally. Prior to amendment, text read as follows: "The Secretary shall establish in the plan a date by which all States must be operating commercial driver's license information systems that are compatible with the modernized information system under this section."

Subsec. (f). Pub. L. 112–141, §32305(a)(2), substituted "use, subject to section 31313(a)," for "use".

2008—Subsec. (f). Pub. L. 110–244 substituted "31313" for "31318".

2005—Subsec. (b)(1)(D) to (F), (2). Pub. L. 109–59, §4122(2)(E), inserted "or learner's permit" after "license".

Subsecs. (e), (f). Pub. L. 109–59, §4123(a), added subsecs. (e) and (f).

1998—Subsec. (a). Pub. L. 105–178, §4011(d)(1), (2), substituted "maintain an information system" for "make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section, an information system" and inserted "The system shall be coordinated with activities carried out under section 31106." before "The Secretary shall consult".

Subsec. (b). Pub. L. 105–178, §4011(d)(3), (8), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: "If the Secretary decides that an information system used by a State or States about the driving status of operators of motor vehicles or another State-operated information system could be used to carry out this section, and the State or States agree to the use of the system for carrying out this section, the Secretary may make an agreement with the State or States to use the system as provided in this section and section 31311(c) of this title. An agreement made under this subsection shall contain terms the Secretary considers necessary to carry out this chapter."

Subsec. (c). Pub. L. 105–178, §4011(d)(3), (8), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "If the Secretary does not make an agreement under subsection (b) of this section, the Secretary shall establish an information system about the driving status and licensing of operators of commercial motor vehicles as provided in this section."

Subsec. (d). Pub. L. 105–178, §4011(d)(8), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (b).

Subsec. (d)(2). Pub. L. 105–178, §4011(d)(4), added par. (2) and struck out former par. (2) which read as follows: "Not later than December 31, 1990, the Secretary shall prescribe regulations on minimum uniform standards for a biometric identification system to ensure the identification of operators of commercial motor vehicles."

Subsec. (e). Pub. L. 105–178, §4011(d)(8), redesignated subsec. (e) as (c).

Pub. L. 105–178, §4011(d)(5), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

"(1) On request of a State, the Secretary or the operator of the information system, as the case may be, may make available to the State information in the information system under this section.

"(2) On request of an employee, the Secretary or the operator of the information system, as the case may be, may make available to the employee information in the information system about the employee.

"(3) On request of an employer or prospective employer of an employee and after notification to the employee, the Secretary or the operator of the information system, as the case may be, may make available to the employer or prospective employer information in the information system about the employee.

"(4) On the request of the Secretary, the operator of the information system shall make available to the Secretary information about the driving status and licensing of operators of commercial motor vehicles (including information required by subsection (d)(1) of this section)."

Subsec. (f). Pub. L. 105–178, §4011(d)(8), redesignated subsec. (f) as (d).

Pub. L. 105–178, §4011(d)(6), (7), substituted "The Secretary may establish" for "If the Secretary establishes an information system under this section, the Secretary shall establish".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

GRANTS FOR MODERNIZATION OF COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEMS

Pub. L. 109–59, title IV, §4123(c)–(e), Aug. 10, 2005, 119 Stat. 1735, 1736, as amended by Pub. L. 111–147, title IV, §422(f), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2202(f), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112–5, title II, §202(f), Mar. 4, 2011, 125 Stat. 17, provided that:

"(c) GRANTS.—

"(1) IN GENERAL.—The Secretary [of Transportation] may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code, if the State is in substantial compliance with the requirements of section 31311 of such title and this section, as determined by the Secretary.

"(2) CRITERIA.—The Secretary shall establish criteria for the distribution of grants and notify each

State annually of such criteria.

"(3) USE OF GRANT.—A State may use a grant under this subsection only to implement improvements that are consistent with the modernization plan developed by the Secretary.

"(4) GOVERNMENT SHARE.—A grant under this subsection to a State or organization may not be for more than 80 percent of the costs incurred by the State or organization in a fiscal year in modernizing the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code. In determining these costs, the Secretary shall include in-kind contributions of the State.

"(d) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(1) $5,000,000 for fiscal year 2006;

"(2) $7,000,000 for fiscal year 2007;

"(3) $8,000,000 for fiscal year 2008;

"(4) $8,000,000 for fiscal year 2009;

"(5) $8,000,000 for fiscal year 2010; and

"(6) $8,000,000 for fiscal year 2011.

"(e) CONTRACT AUTHORITY AND AVAILABILITY.—

"(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (d) shall remain available until expended.

"(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (d) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (d) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant."

IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM

Pub. L. 105–178, title IV, §4022, June 9, 1998, 112 Stat. 415, provided that:

"(a) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall carry out a pilot program in cooperation with 1 or more States to improve upon the timely exchange of pertinent driver performance and safety records data to motor carriers.

"(2) PURPOSE.—The purpose of the program shall be to—

"(A) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation's oversight;

"(B) assess the feasibility, costs, safety impact, pricing impact, and benefits of record exchanges; and

"(C) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

"(3) COMPLETION DATE.—The pilot program shall end on the last day of the 18-month period beginning on the date of initiation of the pilot program.

"(b) RULEMAKING.—After completion of the pilot program, the Secretary shall initiate, if appropriate, a rulemaking to revise the information system under section 31309 of title 49, United States Code, to take into account the results of the pilot program."

§31310. Disqualifications

(a) BLOOD ALCOHOL CONCENTRATION LEVEL.—In this section, the blood alcohol concentration level at or above which an individual when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol is .04 percent.

(b) FIRST VIOLATION OR COMMITTING FELONY.—(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the Secretary of Transportation shall disqualify from operating a commercial motor vehicle for at least one year an individual—

(A) committing a first violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing a first violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing a felony (except a felony described in subsection (d) of this section);

(D) committing a first violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended, or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle; or

(E) convicted of causing a fatality through negligent or criminal operation of a commercial motor vehicle.

(2) If the vehicle involved in a violation referred to in paragraph (1) of this subsection is transporting hazardous material required to be placarded under section 5103 of this title, the Secretary shall disqualify the individual for at least 3 years.

(c) SECOND AND MULTIPLE VIOLATIONS.—(1) Subject to paragraph (2) of this subsection, the Secretary shall disqualify from operating a commercial motor vehicle for life an individual—

(A) committing more than one violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing more than one felony arising out of different criminal episodes;

(D) committing more than one violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended, or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle;

(E) convicted of more than one offense of causing a fatality through negligent or criminal operation of a commercial motor vehicle; or

(F) committing any combination of single violations or use described in subparagraphs (A) through (E).

(2) The Secretary may prescribe regulations establishing guidelines (including conditions) under which a disqualification for life under paragraph (1) of this subsection may be reduced to a period of not less than 10 years.

(d) LIFETIME DISQUALIFICATION WITHOUT REINSTATEMENT.—

(1) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(2) HUMAN TRAFFICKING VIOLATIONS.—The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving an act or practice described in paragraph (9) [1] of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)).

(e) SERIOUS TRAFFIC VIOLATIONS.—(1) The Secretary shall disqualify from operating a commercial motor vehicle for at least 60 days an individual who, in a 3-year period, commits 2 serious traffic violations involving a commercial motor vehicle operated by the individual.

(2) The Secretary shall disqualify from operating a commercial motor vehicle for at least 120 days an individual who, in a 3-year period, commits 3 serious traffic violations involving a commercial motor vehicle operated by the individual.

(f) EMERGENCY DISQUALIFICATION.—

(1) LIMITED DURATION.—The Secretary shall disqualify an individual from operating a

commercial motor vehicle for not to exceed 30 days if the Secretary determines that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 521 or section 5102).

(2) AFTER NOTICE AND HEARING.—The Secretary shall disqualify an individual from operating a commercial motor vehicle for more than 30 days if the Secretary determines, after notice and an opportunity for a hearing, that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 521 or section 5102).

(g) NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.—

(1) ISSUANCE OF REGULATIONS.—The Secretary shall issue regulations providing for the disqualification by the Secretary from operating a commercial motor vehicle of an individual who holds a commercial driver's license and who has been convicted of—

(A) a serious offense involving a motor vehicle (other than a commercial motor vehicle) that has resulted in the revocation, cancellation, or suspension of the individual's license; or

(B) a drug or alcohol related offense involving a motor vehicle (other than a commercial motor vehicle).

(2) REQUIREMENTS FOR REGULATIONS.—Regulations issued under paragraph (1) shall establish the minimum periods for which the disqualifications shall be in effect, but in no case shall the time periods for disqualification for noncommercial motor vehicle violations be more stringent than those for offenses or violations involving a commercial motor vehicle. The Secretary shall determine such periods based on the seriousness of the offenses on which the convictions are based.

(h) STATE DISQUALIFICATION.—Notwithstanding subsections (b) through (g) of this section, the Secretary does not have to disqualify an individual from operating a commercial motor vehicle if the State that issued the individual a license authorizing the operation has disqualified the individual from operating a commercial motor vehicle under subsections (b) through (g). Revocation, suspension, or cancellation of the license is deemed to be disqualification under this subsection.

(i) OUT-OF-SERVICE ORDERS.—(1)(A) To enforce section 392.5 of title 49, Code of Federal Regulations, the Secretary shall prescribe regulations establishing and enforcing an out-of-service period of 24 hours for an individual who violates section 392.5. An individual may not violate an out-of-service order issued under those regulations.

(B) The Secretary shall prescribe regulations establishing and enforcing requirements for reporting out-of-service orders issued under regulations prescribed under subparagraph (A) of this paragraph. Regulations prescribed under this subparagraph shall require at least that an operator of a commercial motor vehicle who is issued an out-of-service order to report the issuance to the individual's employer and to the State that issued the operator a driver's license.

(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

(B) an operator of a commercial motor vehicle found to have committed a 2d violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject

for each offense to imprisonment for a term not to exceed one year or a fine under title 18, or both.

(j) GRADE-CROSSING VIOLATIONS.—

(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.

(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1022; Pub. L. 104–88, title IV, §403(a), Dec. 29, 1995, 109 Stat. 956; Pub. L. 106–159, title II, §201(a)(1), (2), (b), Dec. 9, 1999, 113 Stat. 1758, 1759; Pub. L. 109–59, title IV, §4102(b), Aug. 10, 2005, 119 Stat. 1715; Pub. L. 112–141, div. C, title II, §§32204, 32507, 32931(d), July 6, 2012, 126 Stat. 785, 804, 829; Pub. L. 115–106, §2, Jan. 8, 2018, 131 Stat. 2265.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31310(a)	49 App.:2707(f).	Oct. 27, 1986, Pub. L. 99–570, §12008, 100 Stat. 3207–177.
31310(b)	49 App.:2707(a)(1).	
31310(c)	49 App.:2707(a)(2).	
31310(d)	49 App.:2707(b).	
31310(e)	49 App.:2707(c).	
31310(f)	49 App.:2707(e).	
31310(g)(1)	49 App.:2707(d).	
31310(g)(2)	49 App.:2718.	Oct. 27, 1986, Pub. L. 99–570, 100 Stat. 3207–170, §12020; added Dec. 18, 1991, Pub. L. 102–240, §4009(a), 105 Stat. 2156.

In subsection (a), the text of 49 App.:2707(f)(1)–(4) (words before 2d comma) is omitted as executed and obsolete. The words "and section 2708 of the Appendix" are omitted as surplus.

In subsection (b)(2), the words "involved in a violation" are substituted for "operated or used in connection with the violation or the commission of the felony" to eliminate unnecessary words. The words "by the Secretary" are omitted as surplus.

Subsection (c)(1)(D) is substituted for 49 App.:2707(a)(2)(A)(iv) for clarity and to eliminate unnecessary words.

In subsection (g)(1)(A), the words "Not later than 1 year after October 27, 1986" are omitted as obsolete.

In subsection (g)(2), before clause (A), the words "Not later than December 18, 1992, the Secretary shall prescribe regulations" are substituted for "The Secretary shall issue regulations" and 49 App.:2718(c) to eliminate executed words. The word "individuals" is substituted for "persons" for clarity and consistency in the revised title and with other titles of the United States Code. In clause (C), the words "permits, authorizes" are omitted as being included in "allows".

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraph (9) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)), referred to in subsec. (d)(2), was redesignated par. (11) of section 103 of that Act by Pub. L. 115–427, §2(1), Jan. 9, 2019, 132 Stat. 5503, and is classified to section 7102(11) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–106 substituted "Lifetime Disqualification Without Reinstatement" for "Controlled Substance Violations" in heading, inserted par. (1) designation and heading, and added par. (2).

2012—Subsec. (f). Pub. L. 112–141, §32507, inserted "section 521 or" before "section 5102" in pars. (1) and (2).

Subsec. (g)(1). Pub. L. 112–141, §32931(d), which directed substitution of "The" for "Not later than 1 year after the date of enactment of this Act, the", was executed by making the substitution for "Not later than 1 year after the date of the enactment of this Act, the", to reflect the probable intent of Congress.

Subsec. (k). Pub. L. 112–141, §32204, added subsec. (k).

2005—Subsec. (i)(2). Pub. L. 109–59, §4102(b)(1), substituted "The Secretary" for "Not later than December 18, 1992, the Secretary" in introductory provisions.

Subsec. (i)(2)(A). Pub. L. 109–59, §4102(b)(2), substituted "180 days" for "90 days" and "$2,500" for "$1,000".

Subsec. (i)(2)(B). Pub. L. 109–59, §4102(b)(3), substituted "2 years" for "one year" and "$5,000;" for "$1,000; and".

Subsec. (i)(2)(C). Pub. L. 109–59, §4102(b)(4), substituted "$25,000; and" for "$10,000."

Subsec. (i)(2)(D). Pub. L. 109–59, §4102(b)(5), added subpar. (D).

1999—Subsec. (b)(1)(D), (E). Pub. L. 106–159, §201(a)(1), added subpars. (D) and (E).

Subsec. (c)(1)(D), (E). Pub. L. 106–159, §201(a)(2)(A), (C), added subpars. (D) and (E). Former subpar. (D) redesignated (F).

Subsec. (c)(1)(F). Pub. L. 106–159, §201(a)(2)(B), (D), redesignated subpar. (D) as (F) and substituted "subparagraphs (A) through (E)" for "clauses (A)–(C) of this paragraph".

Subsecs. (f), (g). Pub. L. 106–159, §201(b)(2), added subsecs. (f) and (g). Former subsecs. (f) and (g) redesignated (h) and (i), respectively.

Subsec. (h). Pub. L. 106–159, §201(b)(1), (3), redesignated subsec. (f) as (h) and substituted "(b) through (g)" for "(b)–(e)" in two places. Former subsec. (h) redesignated (j).

Subsecs. (i), (j). Pub. L. 106–159, §201(b)(1), redesignated subsecs. (g) and (h) as (i) and (j), respectively.

1995—Subsec. (h). Pub. L. 104–88 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

REGULATIONS

Pub. L. 104–88, title IV, §403(b), Dec. 29, 1995, 109 Stat. 956, provided that: "The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than 1 year after the date of the enactment of this Act [Dec. 29, 1995]."

[1] *See References in Text note below.*

§31311. Requirements for State participation

(a) GENERAL.—To avoid having amounts withheld from apportionment under section 31314 of this title, a State shall comply with the following requirements:

(1) The State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the Secretary of Transportation under section 31305(a) of this title.

(2) The State may issue a commercial driver's license to an individual only if the individual passes written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards.

(3) The State shall have in effect and enforce a law providing that an individual with a blood alcohol concentration level at or above the level established by section 31310(a) of this title when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(4) The State shall authorize an individual to operate a commercial motor vehicle only by issuing a commercial driver's license containing the information described in section 31308(3) of this title.[1]

(5) Not later than the time period prescribed by the Secretary by regulation, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, of the proposed issuance of the license and other information the Secretary may require to ensure identification of the individual applying for the license.

(6) Before issuing a commercial driver's license to an individual or renewing such a license, the State shall request from any other State that has issued a driver's license to the individual all information about the driving record of the individual.

(7) Not later than 30 days after issuing a commercial driver's license, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, of the issuance.

(8) Not later than 10 days after disqualifying the holder of a commercial driver's license from operating a commercial motor vehicle (or after revoking, suspending, or canceling the license) for at least 60 days, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, and the State that issued the license, of the disqualification, revocation, suspension, or cancellation, and the violation that resulted in the disqualification, revocation, suspension, or cancellation shall be recorded.

(9) If an individual violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual—

(A) has a commercial driver's license issued by another State; or

(B) is operating a commercial vehicle without a commercial driver's license and has a driver's license issued by another State,

the State in which the violation occurred shall notify a State official designated by the issuing State of the violations not later than 10 days after the date the individual is found to have committed the violation.

(10)(A) The State may not issue a commercial driver's license to an individual during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or canceled.

(B) The State may not issue a special license or permit (including a provisional or temporary license) to an individual who holds a commercial driver's license that permits the individual to drive a commercial motor vehicle during a period in which—

(i) the individual is disqualified from operating a commercial motor vehicle; or

(ii) the individual's driver's license is revoked, suspended, or canceled.

(11) The State may issue a commercial driver's license to an individual who has a commercial driver's license issued by another State only if the individual first returns the driver's license issued by the other State.

(12)(A) Except as provided in subparagraphs (B) and (C), the State may issue a commercial driver's license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State.

(B) Under regulations prescribed by the Secretary, the State may issue a commercial driver's

license to an individual who—

(i) operates or will operate a commercial motor vehicle; and

(ii) is not domiciled in a State that issues commercial driver's licenses.

(C) The State may issue a commercial driver's license to an individual who—

(i) operates or will operate a commercial motor vehicle;

(ii) is an active duty member of—

(I) the armed forces (as that term is defined in section 101(a) of title 10); or

(II) the reserve components (as that term is defined in section 31305(d)(2) of this title); and

(iii) is not domiciled in the State, but whose temporary or permanent duty station is located in the State.

(13) The State shall impose penalties consistent with this chapter that the State considers appropriate and the Secretary approves for an individual operating a commercial motor vehicle.

(14) The State shall allow an individual to operate a commercial motor vehicle in the State if—

(A) the individual has a commercial driver's license issued by another State under the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(B) the license is not revoked, suspended, or canceled; and

(C) the individual is not disqualified from operating a commercial motor vehicle.

(15) The State shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under subsections (b)–(e), (i)(1)(A) and (i)(2) of section 31310.

(16)(A) Before issuing a commercial driver's license to an individual, the State shall request the Secretary for information from the National Driver Register maintained under chapter 303 of this title (after the Secretary decides the Register is operational) on whether the individual—

(i) has been disqualified from operating a motor vehicle (except a commercial motor vehicle);

(ii) has had a license (except a license authorizing the individual to operate a commercial motor vehicle) revoked, suspended, or canceled for cause in the 3-year period ending on the date of application for the commercial driver's license; or

(iii) has been convicted of an offense specified in section 30304(a)(3) of this title.

(B) The State shall give full weight and consideration to that information in deciding whether to issue the individual a commercial driver's license.

(17) The State shall adopt and enforce regulations prescribed by the Secretary under as [2] 31310(j) of this title.

(18) The State shall maintain, as part of its driver information system, a record of each violation of a State or local motor vehicle traffic control law while operating a motor vehicle (except a parking violation) for each individual who holds a commercial driver's license. The record shall be available upon request to the individual, the Secretary, employers, prospective employers, State licensing and law enforcement agencies, and their authorized agents.

(19) The State shall—

(A) record in the driving record of an individual who has a commercial driver's license issued by the State; and

(B) make available to all authorized persons and governmental entities having access to such record,

all information the State receives under paragraph (9) with respect to the individual and every violation by the individual involving a motor vehicle (including a commercial motor vehicle) of a State or local law on traffic control (except a parking violation), not later than 10 days after the

date of receipt of such information or the date of such violation, as the case may be. The State may not allow information regarding such violations to be withheld or masked in any way from the record of an individual possessing a commercial driver's license.

(20) The State shall revoke, suspend, or cancel the commercial driver's license of an individual in accordance with regulations issued by the Secretary to carry out section 31310(g).

(21) The State shall operate a commercial driver's license information system that is compatible with the modernized commercial driver's license information system under section 31309.

(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

(A) for a driver holding a foreign commercial driver's license—

(i) each conviction relating to the operation of a commercial motor vehicle; and

(ii) each conviction relating to the operation of a non-commercial motor vehicle; and

(B) for an unlicensed driver or a driver holding a foreign non-commercial driver's license, each conviction relating to the operation of a commercial motor vehicle.

(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.

(24) Before renewing or issuing a commercial driver's license to an individual, the State shall request information pertaining to the individual from the drug and alcohol clearinghouse maintained under section 31306a.

(25) Not later than 5 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.

(b) STATE SATISFACTION OF REQUIREMENTS.—A State may satisfy the requirements of subsection (a) of this section that the State disqualify an individual from operating a commercial motor vehicle by revoking, suspending, or canceling the driver's license issued to the individual.

(c) NOTIFICATION.—Not later than 30 days after being notified by a State of the proposed issuance of a commercial driver's license to an individual, the Secretary or the operator of the information system under section 31309 of this title, as the case may be, shall notify the State whether the individual has a commercial driver's license issued by another State or has been disqualified from operating a commercial motor vehicle by another State or the Secretary.

(d) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

(1) IN GENERAL.—A State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

(A) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

(B) other actions that the State will take to comply with the requirements under subsection (a).

(3) PRIORITY.—

(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize actions to address any deficiencies

highlighted by the Secretary as critical in the most recent audit of the program.

(B) DEADLINE FOR COMPLIANCE WITH REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the requirements of subsection (a) not later than September 30, 2015.

(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

(A) review each plan submitted under paragraph (1);

(B)(i) approve a plan if the Secretary determines that the plan meets the requirements under this subsection and promotes the goals of this chapter; and

(ii) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4), the Secretary shall—

(A) provide a written explanation of the disapproval to the State; and

(B) allow the State to modify the plan and resubmit it for approval.

(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

(e) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

(2) make the results of the comparison available to the public.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1023; Pub. L. 104–88, title IV, §403(c), Dec. 29, 1995, 109 Stat. 956; Pub. L. 105–178, title IV, §4011(e), June 9, 1998, 112 Stat. 408; Pub. L. 106–159, title II, §202, Dec. 9, 1999, 113 Stat. 1760; Pub. L. 109–59, title IV, §4123(b), Aug. 10, 2005, 119 Stat. 1735; Pub. L. 112–141, div. C, title II, §§32203(b), 32302(d), 32305(b), July 6, 2012, 126 Stat. 784, 790, 792; Pub. L. 112–196, §2, Oct. 19, 2012, 126 Stat. 1459; Pub. L. 114–94, div. A, title V, §5401(d), Dec. 4, 2015, 129 Stat. 1547; Pub. L. 118–156, §2(b), Dec. 17, 2024, 138 Stat. 1718.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31311	49 App.:2708.	Oct. 27, 1986, Pub. L. 99–570, §12009, 100 Stat. 3207–179; Dec. 18, 1991, Pub. L. 102–240, §4009(b), 105 Stat. 2156.

Subsection (a)(15) is substituted for 49 App.:2708(a)(15)–(19) for consistency with section 31310(b)–(e) of the revised title and to avoid repeating the language restated in section 31310(b)–(e).

In subsection (b), the words "in accordance with the requirements of such subsection" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Par. (3) of section 31308 of this title, referred to in subsec. (a)(4), was redesignated par. (4) by Pub. L. 109–59, title IV, §4122(2)(C), Aug. 10, 2005, 119 Stat. 1734.

The date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (a)(23), (25), is the date of enactment of title II of div. C of Pub. L. 112–141, which was approved July

6, 2012.

AMENDMENTS

2024—Subsec. (a)(21). Pub. L. 118–156 substituted "The State shall operate" for "By the date established by the Secretary under section 31309(e)(4), the State shall be operating".

2015—Subsec. (a)(12)(C)(ii). Pub. L. 114–94 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "is a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary; and".

2012—Subsec. (a)(5). Pub. L. 112–141, §32305(b)(1)(A), substituted "Not later than the time period prescribed by the Secretary by regulation," for "At least 60 days before issuing a commercial driver's license (or a shorter period the Secretary prescribes by regulation),".

Subsec. (a)(12). Pub. L. 112–196 amended par. (12) generally. Prior to amendment, par. (12) read as follows: "The State may issue a commercial driver's license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State, except that, under regulations the Secretary shall prescribe, the State may issue a commercial driver's license to an individual who operates or will operate a commercial motor vehicle and is not domiciled in a State that issues commercial drivers' licenses."

Subsec. (a)(22). Pub. L. 112–141, §32203(b), added par. (22).

Subsec. (a)(23), (24). Pub. L. 112–141, §32305(b)(1)(B), added pars. (23) and (24).

Subsec. (a)(25). Pub. L. 112–141, §32302(d), added par. (25).

Subsecs. (d), (e). Pub. L. 112–141, §32305(b)(2), added subsecs. (d) and (e).

2005—Subsec. (a)(15). Pub. L. 109–59, §4123(b)(1), substituted "(i)(1)(A) and (i)(2)" for "(g)(1)(A), and (g)(2)".

Subsec. (a)(17). Pub. L. 109–59, §4123(b)(2), substituted "as 31310(j)" for "section 31310(h)".

Subsec. (a)(21). Pub. L. 109–59, §4123(b)(3), added par. (21).

1999—Subsec. (a)(6). Pub. L. 106–159, §202(a), inserted "or renewing such a license" after "to an individual" and struck out "commercial" after "has issued a".

Subsec. (a)(8). Pub. L. 106–159, §202(b), inserted ", and the violation that resulted in the disqualification, revocation, suspension, or cancellation shall be recorded" before the period at end.

Subsec. (a)(9). Pub. L. 106–159, §202(c), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "If an individual operating a commercial motor vehicle violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual has a driver's license issued by another State, the State in which the violation occurred shall notify a State official designated by the issuing State of the violation not later than 10 days after the date the individual is found to have committed the violation."

Subsec. (a)(10). Pub. L. 106–159, §202(d), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(13). Pub. L. 106–159, §202(e), inserted "consistent with this chapter that" after "penalties", substituted "vehicle." for "vehicle when the individual—", and struck out pars. (A) to (C) which read as follows:

"(A) does not have a commercial driver's license;

"(B) has a driver's license revoked, suspended, or canceled; or

"(C) is disqualified from operating a commercial motor vehicle."

Subsec. (a)(18) to (20). Pub. L. 106–159, §202(f)–(h), added pars. (18) to (20).

1998—Subsec. (a)(15). Pub. L. 105–178, §4011(e)(1), substituted "subsections (b)–(e), (g)(1)(A), and (g)(2) of section 31310" for "section 31310(b)–(e) of this title".

Subsec. (a)(17), (18). Pub. L. 105–178, §4011(e)(2), (3), redesignated par. (18) as (17) and struck out former par. (17) which read as follows: "The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(g)(1)(A) and (2) of this title."

1995—Subsec. (a)(18). Pub. L. 104–88 added par. (18).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

REGULATIONS

Pub. L. 114–94, div. A, title V, §5401(c), Dec. 4, 2015, 129 Stat. 1547, provided that: "Not later than December 31, 2015, the Secretary [of Transportation] shall issue final regulations to implement the exemption to the domicile requirement under section 31311(a)(12)(C) of title 49, United States Code."

STATE-TO-STATE NOTIFICATION OF VIOLATIONS DATA

Pub. L. 106–159, title II, §221, Dec. 9, 1999, 113 Stat. 1769, provided that:

"(a) DEVELOPMENT.—In cooperation with the States, the Secretary shall develop a uniform system to support the electronic transmission of data State-to-State on convictions for all motor vehicle traffic control law violations by individuals possessing a commercial drivers' licenses as required by paragraphs (9) and (19) of section 31311(a) of title 49, United States Code.

"(b) STATUS REPORT.—Not later than 2 years after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the implementation of this section."

[1] *See References in Text note below.*

[2] *So in original. Probably should be "section".*

§31312. Decertification authority

(a) IN GENERAL.—If the Secretary of Transportation determines that a State is in substantial noncompliance with this chapter, the Secretary shall issue an order to—

(1) prohibit that State from carrying out licensing procedures under this chapter; and

(2) prohibit that State from issuing any commercial driver's licenses until such time the Secretary determines such State is in substantial compliance with this chapter.

(b) EFFECT ON OTHER STATES.—A State (other than a State subject to an order under subsection (a)) may issue a non-resident commercial driver's license to an individual domiciled in a State that is prohibited from such activities under subsection (a) if that individual meets all requirements of this chapter and the nonresident licensing requirements of the issuing State.

(c) PREVIOUSLY ISSUED LICENSES.—Nothing in this section shall be construed as invalidating or otherwise affecting commercial driver's licenses issued by a State before the date of issuance of an order under subsection (a) with respect to the State.

(Added Pub. L. 106–159, title II, §203(a), Dec. 9, 1999, 113 Stat. 1762.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 31312, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1025, related to grants for testing and ensuring the fitness of operators of commercial motor vehicles, prior to repeal by Pub. L. 105–178, title IV, §4011(f), June 9, 1998, 112 Stat. 408.

§31313. Commercial driver's license program implementation financial assistance program

(a) FINANCIAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Transportation shall administer a financial assistance

program for commercial driver's license program implementation for the purposes described in paragraphs (2) and (3).

(2) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM IMPLEMENTATION GRANTS.—In carrying out the program, the Secretary may make a grant to a State agency in a fiscal year—

(A) to assist the State in complying with the requirements of section 31311; and

(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311, to improve the State's implementation of its commercial driver's license program, including expenses—

(i) for computer hardware and software;

(ii) for publications, testing, personnel, training, and quality control;

(iii) for commercial driver's license program coordinators; and

(iv) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012 (49 U.S.C. 31304 note).

(3) PRIORITY ACTIVITIES.—The Secretary may make a grant to or enter into a cooperative agreement with a State agency, local government, or any person in a fiscal year for research, development and testing, demonstration projects, public education, and other special activities and projects relating to commercial drivers licensing and motor vehicle safety that—

(A) benefit all jurisdictions of the United States;

(B) address national safety concerns and circumstances;

(C) address emerging issues relating to commercial driver's license improvements;

(D) support innovative ideas and solutions to commercial driver's license program issues;

(E) support, in addition to funds otherwise available for such purposes, the recognition, prevention, and reporting of human trafficking; or

(F) address other commercial driver's license issues, as determined by the Secretary.

(b) PROHIBITIONS.—A recipient may not use financial assistance funds awarded under this section to rent, lease, or buy land or buildings.

(c) REPORT.—The Secretary shall issue an annual report on the activities carried out under this section.

(d) APPORTIONMENT.—All amounts made available to carry out this section for a fiscal year shall be apportioned to a recipient described in subsection (a)(3) according to criteria prescribed by the Secretary.

(e) FUNDING.—For fiscal years beginning after September 30, 2016, this section shall be funded under section 31104.

(Added Pub. L. 109–59, title IV, §4124(a), Aug. 10, 2005, 119 Stat. 1736; amended Pub. L. 112–141, div. C, title II, §32604(a), (b)(1), July 6, 2012, 126 Stat. 808, 809; Pub. L. 114–94, div. A, title V, §5104(a), Dec. 4, 2015, 129 Stat. 1527; Pub. L. 115–99, §4, Jan. 3, 2018, 131 Stat. 2242.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 32303(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (a)(2)(B)(iv), is section 32303(b) of title II of div. C of Pub. L. 112–141, which is set out as a note under section 31304 of this title.

PRIOR PROVISIONS

A prior section 31313, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1027, related to grants for issuing commercial drivers' licenses and complying with State participation requirements, prior to repeal by Pub. L. 105–178, title IV, §4011(f), June 9, 1998, 112 Stat. 408.

AMENDMENTS

2018—Subsec. (a)(3)(E), (F). Pub. L. 115–99 added subpar. (E) and redesignated former subpar. (E) as (F).

2015—Pub. L. 114–94 amended section generally. Prior to amendment, section related to grants for commercial driver's license program implementation.

2012—Pub. L. 112–141, §32604(b)(1), substituted "implementation" for "improvements" in section catchline.

Subsec. (a). Pub. L. 112–141, §32604(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to grants for commercial driver's license program improvements.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

RELIEF FOR RECIPIENTS OF FINANCIAL ASSISTANCE AWARDS FOR FISCAL YEARS 2019 AND 2020

Period of availability during which a recipient may expend grant amounts under this section extended for amounts awarded for fiscal years 2019 and 2020, see section 441 of div. N of Pub. L. 116–260, set out as a note under section 31102 of this title.

§31314. Withholding amounts for State noncompliance

(a) FIRST FISCAL YEAR.—The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) [1] of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) [1] of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

(c) PENALTIES IMPOSED IN FISCAL YEAR 2012 AND THEREAFTER.—Effective beginning on October 1, 2011—

(1) the penalty for the first instance of noncompliance by a State under this section shall be not more than an amount equal to 4 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23; and

(2) the penalty for subsequent instances of noncompliance shall be not more than an amount equal to 8 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23.

(d) AVAILABILITY FOR APPORTIONMENT.—Amounts withheld under this section from apportionment to a State after September 30, 1995, are not available for apportionment to the State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1028; Pub. L. 105–178, title IV, §4011(g), (h), June 9, 1998, 112 Stat. 408; Pub. L. 105–206, title IX, §9010, July 22, 1998, 112 Stat. 863; Pub. L. 109–59, title IV, §4124(c), Aug. 10, 2005, 119 Stat. 1738; Pub. L. 112–141, div. A, title I, §1404(j), July 6, 2012, 126 Stat. 559.)

HISTORICAL AND REVISION NOTES

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31314(a)	49 App.:2710(a).	Oct. 27, 1986, Pub. L. 99–570, §12011, 100 Stat. 3207–183.
31314(b)	49 App.:2710(b).	
31314(c)	49 App.:2710(c)(1).	
31314(d)	49 App.:2710(c)(2), (3).	
31314(e)	49 App.:2710(c)(4).	

In this section, the word "amounts" is substituted for "funds" and "sums" for consistency in the revised title. In subsection (e), the words "by the Secretary" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 104(b)(1), (3), and (4) of title 23, referred to in subsecs. (a) and (b), probably refers to section 104(b)(1), (3), and (4) of title 23 prior to the general amendment of section 104 by Pub. L. 112–141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

AMENDMENTS

2012—Subsecs. (c), (d). Pub. L. 112–141 added subsec. (c) and redesignated former subsec. (c) as (d).

2005—Subsecs. (a), (b). Pub. L. 109–59 inserted "up to" after "withhold".

1998—Subsecs. (a), (b). Pub. L. 105–178, §4011(h)(1), as added by Pub. L. 105–206, substituted "section 104(b)(1), (3), and (4) of title 23" for "section 104(b)(1), (3), and (5) of title 23".

Pub. L. 105–178, §4011(g)(1), substituted "section 104(b)(1), (3), and (5) of title 23" for "section 104(b)(1), (2), (5), and (6) of title 23".

Subsec. (c). Pub. L. 105–178, §4011(g)(2), struck out par. (2) designation and struck out par. (1) which read as follows: "Amounts withheld under this section from apportionment to a State before October 1, 1995, remain available for apportionment to the State as follows:

"(A) If the amounts would have been apportioned under section 104(b)(5)(B) of title 23 but for this section, the amounts remain available until the end of the 2d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

"(B) If the amounts would have been apportioned under section 104(b)(1), (2), or (6) of title 23 but for this section, the amounts remain available until the end of the 3d fiscal year following the fiscal year for which the amounts are authorized to be appropriated."

Subsec. (d). Pub. L. 105–178, §4011(h)(2), as added by Pub. L. 105–206, struck out heading and text of subsec. (d). Text read as follows: "If, at the end of the period for which amounts withheld under this section from apportionment are available for apportionment to a State under subsection (c)(1) of this section, the State has not substantially complied with all of the requirements of section 31311(a) of this title for a 365-day period, the amounts lapse or, for amounts withheld from apportionment under section 104(b)(5) of title 23, the amounts lapse and are available for projects under section 118(b) of title 23."

Pub. L. 105–178, §4011(g)(3), (4), redesignated subsec. (e) as (d) and struck out heading and text of former subsec. (d). Text read as follows:

"(1) If, before the last day of the period for which amounts withheld under this section from apportionment are to remain available for apportionment to a State under subsection (c)(1) of this section, the State substantially complies with all of the requirements of section 31311(a) of this title for a period of 365 days, the Secretary, on the day following the last day of that period, shall apportion to the State the withheld amounts remaining available for apportionment to that State.

"(2) Amounts apportioned under paragraph (1) of this subsection remain available for expenditure until the end of the 3d fiscal year following the fiscal year in which the amounts are apportioned. Amounts not obligated at the end of that period lapse or, for amounts apportioned under section 104(b)(5) of title 23, lapse and are available for projects under section 118(b) of title 23."

Subsec. (e). Pub. L. 105–178, §4011(g)(4), redesignated subsec. (e) as (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

[1] *See References in Text note below.*

§31315. Waivers, exemptions, and pilot programs

(a) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this chapter or section 31136 if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

(1) for a period not in excess of 3 months;

(2) limited in scope and circumstances;

(3) for nonemergency and unique events; and

(4) subject to such conditions as the Secretary may impose.

(b) EXEMPTIONS.—

(1) IN GENERAL.—Upon receipt of a request pursuant to this subsection, the Secretary of Transportation may grant to a person or class of persons an exemption from a regulation prescribed under this chapter or section 31136 if the Secretary finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

(2) LENGTH OF EXEMPTION AND RENEWAL.—An exemption may be granted under paragraph (1) for no longer than 5 years and may be renewed, upon request, for subsequent 5-year periods if the Secretary continues to make the finding under paragraph (1).

(3) OPPORTUNITY FOR RESUBMISSION.—If the Secretary denies an application under paragraph (1) and the applicant can reasonably address the reason for the denial, the Secretary may allow the applicant to resubmit the application.

(4) AUTHORITY TO REVOKE EXEMPTION.—The Secretary shall immediately revoke an exemption if—

(A) the person fails to comply with the terms and conditions of such exemption;

(B) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

(C) continuation of the exemption would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(5) REQUESTS FOR EXEMPTION.—Not later than 180 days after the date of enactment of this section and after notice and an opportunity for public comment, the Secretary shall specify by regulation the procedures by which a person may request an exemption. Such regulations shall, at a minimum, require the person to provide the following information for each exemption request:

(A) The provisions from which the person requests exemption.

(B) The time period during which the requested exemption would apply.

(C) An analysis of the safety impacts the requested exemption may cause.

(D) The specific countermeasures the person would undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

(6) NOTICE AND COMMENT.—

(A) UPON RECEIPT OF A REQUEST.—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register (or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.

(C) AFTER DENYING A REQUEST.—After denying a request for exemption, the Secretary shall publish in the Federal Register (or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person denied the exemption and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of persons denied exemptions and the reasons for such denials.

(7) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 180 days after the filing date of such request.

(8) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

(9) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL .—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency to notify the State's roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.

(c) PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary may conduct pilot programs to evaluate alternatives to regulations relating to, or innovative approaches to, motor carrier, commercial motor vehicle, and driver safety. Such pilot programs may include exemptions from a regulation prescribed under this chapter or section 31136 if the pilot program contains, at a minimum, the elements described in paragraph (2). The Secretary shall publish a detailed description of each pilot program, including the exemptions to be considered, and provide notice and an opportunity for public comment before the effective date of the program.

(2) PROGRAM ELEMENTS.—In proposing a pilot program and before granting exemptions for purposes of a pilot program, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the regulations prescribed under this chapter or section 31136. The Secretary shall include, at a minimum, the following elements in each pilot program plan:

(A) A scheduled life of each pilot program of not more than 3 years.

(B) A specific data collection and safety analysis plan that identifies a method for comparison.

(C) A reasonable number of participants necessary to yield statistically valid findings.

(D) An oversight plan to ensure that participants comply with the terms and conditions of participation.

(E) Adequate countermeasures to protect the health and safety of study participants and the general public.

(F) A plan to inform State partners and the public about the pilot program and to identify approved participants to safety compliance and enforcement personnel and to the public.

(3) AUTHORITY TO REVOKE PARTICIPATION.—The Secretary shall immediately revoke participation in a pilot program of a motor carrier, commercial motor vehicle, or driver for failure to comply with the terms and conditions of the pilot program or if continued participation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(4) AUTHORITY TO TERMINATE PROGRAM.—The Secretary shall immediately terminate a pilot program if its continuation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(5) REPORT TO CONGRESS.—At the conclusion of each pilot program, the Secretary shall report to Congress the findings, conclusions, and recommendations of the program, including suggested amendments to laws and regulations that would enhance motor carrier, commercial motor vehicle, and driver safety and improve compliance with national safety standards.

(d) PREEMPTION OF STATE RULES.—During the time period that a waiver, exemption, or pilot program is in effect under this chapter or section 31136, no State shall enforce any law or regulation that conflicts with or is inconsistent with the waiver, exemption, or pilot program with respect to a person operating under the waiver or exemption or participating in the pilot program.

(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.

(g) LIMITATIONS ON MUNICIPALITY AND COMMERCIAL ZONE EXEMPTIONS AND WAIVERS.—(1) The Secretary may not—

(A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or

(B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise qualified to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

(A) paragraph (1) of this subsection;

(B) a minimum age requirement of the United States Government for operation of the vehicle; and

(C) a medical or physical condition that—

(i) would prevent an operator from operating a commercial motor vehicle under the

commercial motor vehicle safety regulations in title 49, Code of Federal Regulations;
(ii) existed on July 1, 1988;
(iii) has not substantially worsened; and
(iv) does not involve alcohol or drug abuse.

(3) This subsection does not affect a State commercial motor vehicle safety law applicable to intrastate commerce.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1029; Pub. L. 105–178, title IV, §4007(a), June 9, 1998, 112 Stat. 401; Pub. L. 112–141, div. C, title II, §32913, July 6, 2012, 126 Stat. 818; Pub. L. 114–94, div. A, title V, §§5202(1), 5206(a), Dec. 4, 2015, 129 Stat. 1534, 1537.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31315	49 App.:2711.	Oct. 27, 1986, Pub. L. 99–570, §12013, 100 Stat. 3207–186.

The words "Notwithstanding any other provision of this chapter" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(5), probably means the date of enactment of Pub. L. 105–178, which amended this section generally and was approved June 9, 1998.

CODIFICATION

The text of section 31136(f) of this title, which was redesignated subsec. (g) and transferred to this section by Pub. L. 114–94, §5202(1), was based on Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1003.

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–94, §5206(a)(1), substituted "this subsection" for "paragraph (3)" and struck out at end "An exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application to the Secretary."

Subsec. (b)(2) to (9). Pub. L. 114–94, §5206(a)(2), (3), added pars. (2) and (3) and redesignated former pars (2) to (7) as (4) to (9), respectively.

Subsec. (g). Pub. L. 114–94, §5202(1), redesignated subsec. (f) of section 31136 of this title as (g) and transferred it to this section. See Codification note above.

2012—Subsec. (b)(4)(A). Pub. L. 112–141, §32913(a)(1), inserted "(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)" after "Federal Register".

Subsec. (b)(4)(B). Pub. L. 112–141, §32913(a)(2), amended subpar. (B) generally. Prior to amendment, text read as follows: "Upon granting a request for exemption, the Secretary shall publish in the Federal Register the name of the person granted the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption."

Subsec. (b)(4)(C). Pub. L. 112–141, §32913(a)(3), inserted "(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)" after "Federal Register".

Subsec. (b)(7). Pub. L. 112–141, §32913(b), amended par. (7) generally. Prior to amendment, text read as follows: "Before granting a request for exemption, the Secretary shall notify State safety compliance and enforcement personnel, including roadside inspectors, and the public that a person will be operating pursuant to an exemption and any terms and conditions that will apply to the exemption."

Subsec. (c)(1). Pub. L. 112–141, §32913(c), struck out "in the Federal Register" after "shall publish".

Subsecs. (e), (f). Pub. L. 112–141, §32913(d), added subsecs. (e) and (f).

1998—Pub. L. 105–178 amended section catchline and text generally. Prior to amendment, text read as follows: "After notice and an opportunity for comment, the Secretary of Transportation may waive any part of this chapter or a regulation prescribed under this chapter as it applies to a class of individuals or commercial

motor vehicles if the Secretary decides the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. A waiver under this section shall be published in the Federal Register with reasons for the waiver."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

APPRENTICESHIP PILOT PROGRAM

Pub. L. 117–58, div. B, title III, §23022, Nov. 15, 2021, 135 Stat. 778, provided that:

"(a) DEFINITIONS.—In this section:

"(1) APPRENTICE.—The term 'apprentice' means an individual who—

"(A) is under the age of 21; and

"(B) holds a commercial driver's license.

"(2) COMMERCIAL DRIVER'S LICENSE.—The term 'commercial driver's license' has the meaning given the term in section 31301 of title 49, United States Code.

"(3) COMMERCIAL MOTOR VEHICLE.—The term 'commercial motor vehicle' has the meaning given the term in section 390.5 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act [Nov. 15, 2021]).

"(4) DRIVING TIME.—The term 'driving time' has the meaning given the term in section 395.2 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(5) EXPERIENCED DRIVER.—The term 'experienced driver' means an individual who—

"(A) is not younger than 26 years of age;

"(B) has held a commercial driver's license for the 2-year period ending on the date on which the individual serves as an experienced driver under subsection (b)(2)(C)(ii);

"(C) during the 2-year period ending on the date on which the individual serves as an experienced driver under subsection (b)(2)(C)(ii), has had no—

"(i) preventable accidents reportable to the Department [of Transportation]; or

"(ii) pointed moving violations; and

"(D) has a minimum of 5 years of experience driving a commercial motor vehicle in interstate commerce.

"(6) ON-DUTY TIME.—The term 'on-duty time' has the meaning given the term in section 395.2 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(7) POINTED MOVING VIOLATION.—The term 'pointed moving violation' means a violation that results in points being added to the license of a driver, or a similar comparable violation, as determined by the Secretary [of Transportation].

"(b) PILOT PROGRAM.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary shall establish, in accordance with section 31315(c) of title 49, United States Code, a pilot program allowing employers to establish the apprenticeship programs described in paragraph (2).

"(2) DESCRIPTION OF APPRENTICESHIP PROGRAM.—An apprenticeship program referred to in paragraph (1) is a program that consists of the following requirements:

"(A) 120-HOUR PROBATIONARY PERIOD.—

"(i) IN GENERAL.—The apprentice shall complete 120 hours of on-duty time, of which not less than 80 hours shall be driving time in a commercial motor vehicle.

"(ii) PERFORMANCE BENCHMARKS.—To complete the 120-hour probationary period under clause (i), the employer of an apprentice shall determine that the apprentice is competent in each of the following areas:

"(I) Interstate, city traffic, rural 2-lane, and evening driving.

"(II) Safety awareness.

"(III) Speed and space management.

"(IV) Lane control.

"(V) Mirror scanning.
"(VI) Right and left turns.
"(VII) Logging and complying with rules relating to hours of service.

"(B) 280-HOUR PROBATIONARY PERIOD.—

"(i) IN GENERAL.—After completing the 120-hour probationary period under subparagraph (A), an apprentice shall complete 280 hours of on-duty time, of which not less than 160 hours shall be driving time in a commercial motor vehicle.

"(ii) PERFORMANCE BENCHMARKS.—To complete the 280-hour probationary period under clause (i), the employer of an apprentice shall determine that the apprentice is competent in each of the following areas:

"(I) Backing and maneuvering in close quarters.
"(II) Pretrip inspections.
"(III) Fueling procedures.
"(IV) Weighing loads, weight distribution, and sliding tandems.
"(V) Coupling and uncoupling procedures.
"(VI) Trip planning, truck routes, map reading, navigation, and permits.

"(C) RESTRICTIONS FOR PROBATIONARY PERIODS.—During the 120-hour probationary period under subparagraph (A) and the 280-hour probationary period under subparagraph (B)—

"(i) an apprentice may only drive a commercial motor vehicle that has—

"(I) an automatic manual or automatic transmission;
"(II) an active braking collision mitigation system;
"(III) a forward-facing video event capture system; and
"(IV) a governed speed of 65 miles per hour—

"(aa) at the pedal; and
"(bb) under adaptive cruise control; and

"(ii) an apprentice shall be accompanied in the passenger seat of the commercial motor vehicle by an experienced driver.

"(D) RECORDS RETENTION.—The employer of an apprentice shall maintain records, in a manner required by the Secretary, relating to the satisfaction of the performance benchmarks described in subparagraphs (A)(ii) and (B)(ii) by the apprentice.

"(E) REPORTABLE INCIDENTS.—If an apprentice is involved in a preventable accident reportable to the Department or a pointed moving violation while driving a commercial motor vehicle as part of an apprenticeship program described in this paragraph, the apprentice shall undergo remediation and additional training until the apprentice can demonstrate, to the satisfaction of the employer, competence in each of the performance benchmarks described in subparagraphs (A)(ii) and (B)(ii).

"(F) COMPLETION OF PROGRAM.—An apprentice shall be considered to have completed an apprenticeship program on the date on which the apprentice completes the 280-hour probationary period under subparagraph (B).

"(G) MINIMUM REQUIREMENTS.—

"(i) IN GENERAL.—Nothing in this section prevents an employer from imposing any additional requirement on an apprentice participating in an apprenticeship program established under this section.

"(ii) TECHNOLOGIES.—Nothing in this section prevents an employer from requiring or installing in a commercial motor vehicle any technology in addition to the technologies described in subparagraph (C)(i).

"(3) APPRENTICES.—An apprentice may—

"(A) drive a commercial motor vehicle in interstate commerce while participating in the 120-hour probationary period under paragraph (2)(A) or the 280-hour probationary period under paragraph (2)(B) pursuant to an apprenticeship program established by an employer in accordance with this section; and

"(B) drive a commercial motor vehicle in interstate commerce after the apprentice completes an apprenticeship program described in paragraph (2), unless the Secretary determines there exists a safety concern.

"(4) LIMITATION.—The Secretary may not allow more than 3,000 apprentices at any 1 time to participate in the pilot program established under paragraph (1).

"(c) TERMINATION.—Effective beginning on the date that is 3 years after the date of establishment of the pilot program under subsection (b)(1)—

"(1) the pilot program shall terminate; and

"(2) any driver under the age of 21 who has completed an apprenticeship program described in

subsection (b)(2) may drive a commercial motor vehicle in interstate commerce, unless the Secretary determines there exists a safety concern.

"(d) NO EFFECT ON LICENSE REQUIREMENT.—Nothing in this section exempts an apprentice from any requirement to hold a commercial driver's license in order to operate a commercial motor vehicle.

"(e) DATA COLLECTION.—The Secretary shall collect and analyze—

"(1) data relating to any incident in which an apprentice participating in the pilot program established under subsection (b)(1) is involved;

"(2) data relating to any incident in which a driver under the age of 21 operating a commercial motor vehicle in intrastate commerce is involved; and

"(3) such other data relating to the safety of apprentices aged 18 to 20 years operating in interstate commerce as the Secretary determines to be necessary.

"(f) LIMITATION.—A driver under the age of 21 participating in the pilot program under this section may not—

"(1) transport—

"(A) a passenger; or

"(B) hazardous cargo; or

"(2) operate a commercial motor vehicle—

"(A) in special configuration; or

"(B) with a gross vehicle weight rating of more than 80,000 pounds.

"(g) REPORT TO CONGRESS.—Not later than 120 days after the date of conclusion of the pilot program under subsection (b), the Secretary shall submit to Congress a report including—

"(1) the findings and conclusions resulting from the pilot program, including with respect to technologies or training provided by commercial motor carriers for apprentices as part of the pilot program to successfully improve safety;

"(2) an analysis of the safety record of apprentices participating in the pilot program, as compared to other commercial motor vehicle drivers;

"(3) the number of drivers that discontinued participation in the apprenticeship program before completion;

"(4) a comparison of the safety records of participating drivers before, during, and after the probationary periods under subparagraphs (A) and (B) of subsection (b)(2);

"(5) a comparison, for each participating driver, of average on-duty time, driving time, and time spent away from home terminal before, during, and after the probationary periods referred to in paragraph (4); and

"(6) a recommendation, based on the data collected, regarding whether the level of safety achieved by the pilot program is equivalent to, or greater than, the level of safety for equivalent commercial motor vehicle drivers aged 21 years or older.

"(h) RULE OF CONSTRUCTION.—Nothing in this section affects the authority of the Secretary under section 31315 of title 49, United States Code, with respect to the pilot program established under subsection (b)(1), including the authority to revoke participation in, and terminate, the pilot program under paragraphs (3) and (4) of subsection (c) of that section.

"(i) DRIVER COMPENSATION STUDY.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary, acting through the Administrator of the Federal Motor Carrier Safety Administration, shall offer to enter into a contract with the Transportation Research Board under which the Transportation Research Board shall conduct a study of the impacts of various methods of driver compensation on safety and driver retention, including—

"(A) hourly pay;

"(B) payment for detention time; and

"(C) other payment methods used in the industry as of the date on which the study is conducted.

"(2) CONSULTATION.—In conducting the study under paragraph (1), the Transportation Research Board shall consult with—

"(A) labor organizations representing commercial motor vehicle drivers;

"(B) representatives of the motor carrier industry, including owner-operators; and

"(C) such other stakeholders as the Transportation Research Board determines to be relevant."

ADMINISTRATIVE EXEMPTIONS

Pub. L. 114–94, div. A, title V, §5206(b), Dec. 4, 2015, 129 Stat. 1537, provided that:

"(1) IN GENERAL.—The Secretary [of Transportation] shall make permanent the following limited

exemptions:

"(A) Perishable construction products, as published in the Federal Register on April 2, 2015 (80 Fed. Reg. 17819).

"(B) Transport of commercial bee hives, as published in the Federal Register on June 19, 2015 (80 Fed. Reg. 35425).

"(C) Safe transport of livestock, as published in the Federal Register on June 12, 2015 (80 Fed. Reg. 33584).

"(2) ADDITIONAL ADMINISTRATIVE EXEMPTIONS.—Any exemption from any provision of the regulations under part 395 of title 49, Code of Federal Regulations, that is in effect on the date of enactment of this Act [Dec. 4, 2015]—

"(A) except as otherwise provided in section 31315(b) of title 49, shall be valid for a period of 5 years from the date such exemption was granted; and

"(B) may be subject to renewal under section 31315(b)(2) of title 49, United States Code."

COMMERCIAL DRIVER PILOT PROGRAM

Pub. L. 114–94, div. A, title V, §5404, Dec. 4, 2015, 129 Stat. 1549, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall establish a pilot program under section 31315(c) of title 49, United States Code, to study the feasibility, benefits, and safety impacts of allowing a covered driver to operate a commercial motor vehicle in interstate commerce.

"(b) DATA COLLECTION.—The Secretary shall collect and analyze data relating to accidents in which—

"(1) a covered driver participating in the pilot program is involved; and

"(2) a driver under the age of 21 operating a commercial motor vehicle in intrastate commerce is involved.

"(c) LIMITATIONS.—A driver participating in the pilot program may not—

"(1) transport—

"(A) passengers; or

"(B) hazardous cargo; or

"(2) operate a vehicle in special configuration.

"(d) WORKING GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall conduct, monitor, and evaluate the pilot program in consultation with a working group to be established by the Secretary consisting of representatives of the armed forces, industry, drivers, safety advocacy organizations, and State licensing and enforcement officials.

"(2) DUTIES.—The working group shall review the data collected under subsection (b) and provide recommendations to the Secretary on the feasibility, benefits, and safety impacts of allowing a covered driver to operate a commercial motor vehicle in interstate commerce.

"(e) REPORT.—Not later than 1 year after the date on which the pilot program is concluded, the Secretary shall submit to Congress a report describing the findings of the pilot program and the recommendations of the working group.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) ACCIDENT.—The term 'accident' has the meaning given that term in section 390.5 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

"(2) ARMED FORCES.—The term 'armed forces' has the meaning given that term in section 101(a) of title 10, United States Code.

"(3) COMMERCIAL MOTOR VEHICLE.—The term 'commercial motor vehicle' has the meaning given that term in section 31301 of title 49, United States Code.

"(4) COVERED DRIVER.—The term 'covered driver' means an individual who is—

"(A) between the ages of 18 and 21;

"(B) a member or former member of the—

"(i) armed forces; or

"(ii) reserve components (as defined in section 31305(d)(2) of title 49, United States Code, as added by this Act); and

"(C) qualified in a Military Occupational Specialty to operate a commercial motor vehicle or similar vehicle."

PROTECTION OF EXISTING EXEMPTIONS

For provisions making amendment by section 4007 of Pub. L. 105–178 inapplicable to or otherwise not affecting waiver, exemption, or pilot program in effect the day before June 9, 1998, under this chapter or section 31136(e) of this title, see section 4007(d) of Pub. L. 105–178, set out as a note under section 31136 of

this title.

§31316. Limitation on statutory construction

This chapter does not affect the authority of the Secretary of Transportation to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than 26,001 pounds or a lesser gross vehicle weight rating the Secretary decides is appropriate under section 31301(4)(A) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1029.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31316	49 App.:2714.	Oct. 27, 1986, Pub. L. 99–570, §12017, 100 Stat. 3207–187.

The words "This chapter does not affect" are substituted for "Nothing in this chapter shall be construed to diminish, limit, or otherwise affect" to eliminate unnecessary words.

§31317. Procedure for prescribing regulations

Regulations prescribed by the Secretary of Transportation to carry out this chapter (except section 31307) shall be prescribed under section 553 of title 5 without regard to sections 556 and 557 of title 5.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1029.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31317	49 App.:2715.	Oct. 27, 1986, Pub. L. 99–570, §12018, 100 Stat. 3207–187.

The text of 49 App.:2715(a) is omitted as surplus because of 49:322(a). The words "(except section 31307)" are added because the source provisions restated in this section do not apply to the source provisions restated in section 31307 of the revised title.

CHAPTER 315—MOTOR CARRIER SAFETY

Sec.

31501. Definitions.
31502. Requirements for qualifications, hours of service, safety, and equipment standards.
31503. Research, investigation, and testing.
31504. Identification of motor vehicles.

HISTORICAL AND REVISION NOTES

Chapter 315 is a restatement of existing chapter 31 of title 49, United States Code, that is redesignated as chapter 315 by section 1(c) of the bill.

§31501. Definitions

In this chapter—

(1) "migrant worker" means an individual going to or from employment in agriculture as provided under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)) or section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

(2) "motor carrier", "motor common carrier", "motor private carrier", "motor vehicle", and "United States" have the same meanings given those terms in section 13102 of this title.

(3) "motor carrier of migrant workers"—

(A) means a person (except a motor common carrier) providing transportation referred to in section 13501 of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment; but

(B) does not include a migrant worker providing transportation for migrant workers and their immediate families.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2438, §3101; renumbered §31501 and amended Pub. L. 103–272, §1(c), (e), July 5, 1994, 108 Stat. 745, 1029; Pub. L. 103–429, §6(26), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–88, title III, §308(k)(1), (2), Dec. 29, 1995, 109 Stat. 947, 948.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3101(1)	49:303(a)(23).	Feb. 4, 1887, ch. 104, 24 Stat. 397, §203(a)(22), (23); added Aug. 3, 1956, ch. 905, §1, 70 Stat. 958.
3101(2)	(no source).	
3101(3)	49:303(a)(22).	

In clause (1), the words "going to or from" are substituted for "proceeding to or returning from" for clarity.

Clause (2) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the quoted definitions are found in the revision notes for section 10102 of the revised title.

In clause (3), the words "including any 'contract common carrier by motor vehicle' " are omitted as covered by the definition of "motor carrier". The words "referred to in section 10521(a) of this title" are substituted for "in interstate or foreign commerce" for clarity and consistency in the revised title. The word "except" is substituted for "but not including" for clarity. The words "at least" are substituted for "or more", and the words "but the term does not include" are substituted for "except", for consistency.

PUB. L. 103–429

This amends 49:31501(1) to correct an erroneous cross-reference.

EDITORIAL NOTES

AMENDMENTS

1995—Par. (2). Pub. L. 104–88, §308(k)(1), substituted "13102" for "10102".

Par. (3)(A). Pub. L. 104–88, §308(k)(2), substituted "13501" for "10521(a)".

1994—Pub. L. 103–272 renumbered section 3101 of this title as this section and amended it generally, restating it without substantive change.

Par. (1). Pub. L. 103–429 substituted "section 3(f)" for "section 203(f)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

EXEMPTIONS FROM REQUIREMENTS OF THIS CHAPTER FOR CERTAIN FARM VEHICLES

For provisions relating to exemptions from certain requirements of this chapter with respect to certain farm vehicles and individuals operating those vehicles, see section 32934 of Pub. L. 112–141, set out as a note under section 31136 of this title.

§31502. Requirements for qualifications, hours of service, safety, and equipment standards

(a) APPLICATION.—This section applies to transportation—

(1) described in sections 13501 and 13502 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) MOTOR CARRIER AND PRIVATE MOTOR CARRIER REQUIREMENTS.—The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) MIGRANT WORKER MOTOR CARRIER REQUIREMENTS.—The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

(1) at least 75 miles; and

(2) across the boundary of a State, territory, or possession of the United States.

(d) CONSIDERATIONS.—Before prescribing or revising any requirement under this section, the Secretary shall consider the costs and benefits of the requirement.

(e) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, regulations issued under this section or section 31136 regarding—

(A) maximum driving and on-duty times applicable to operators of commercial motor vehicles,

(B) physical testing, reporting, or recordkeeping, and

(C) the installation of automatic recording devices associated with establishing the maximum driving and on-duty times referred to in subparagraph (A),

shall not apply to any driver of a utility service vehicle during an emergency period of not more than 30 days declared by an elected State or local government official under paragraph (2) in the area covered by the declaration.

(2) DECLARATION OF EMERGENCY.—An elected State or local government official or elected officials of more than one State or local government jointly may issue an emergency declaration for purposes of paragraph (1) after notice to the Field Administrator of the Federal Motor Carrier Safety Administration with jurisdiction over the area covered by the declaration.

(3) INCIDENT REPORT.—Within 30 days after the end of the declared emergency period the official who issued the emergency declaration shall file with the Field Administrator a report of each safety-related incident or accident that occurred during the emergency period involving—

(A) a utility service vehicle driver to which the declaration applied; or

(B) a utility service vehicle of the driver to which the declaration applied.

(4) DEFINITIONS.—In this subsection, the following definitions apply:

(A) DRIVER OF A UTILITY SERVICE VEHICLE.—The term "driver of a utility service vehicle" means any driver who is considered to be a driver of a utility service vehicle for purposes of section 345(a)(4) [1] of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613).

(B) UTILITY SERVICE VEHICLE.—The term "utility service vehicle" has the meaning that term has under section 345(e)(6) [1] of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat [2] 614–615).

(f) READY MIXED CONCRETE DELIVERY VEHICLES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, regulations issued under this section or section 31136 (including section 395.1(e)(1)(ii) of title 49, Code of Federal Regulations) regarding reporting, recordkeeping, or documentation of duty status shall not apply to any driver of a ready mixed concrete delivery vehicle if—

(A) the driver operates within a 100 air-mile radius of the normal work reporting location;

(B) the driver returns to the work reporting location and is released from work within 14 consecutive hours;

(C) the driver has at least 10 consecutive hours off duty following each 14 hours on duty;

(D) the driver does not exceed 11 hours maximum driving time following 10 consecutive hours off duty; and

(E) the motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records that show—

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day; and

(iv) the total time for the preceding driving week the driver is used for the first time or intermittently.

(2) DEFINITION.—In this section, the term "driver of a ready mixed concrete delivery vehicle" means a driver of a vehicle designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2438, §3102; Pub. L. 98–554, title II, §206(h), Oct. 30, 1984, 98 Stat. 2835; renumbered §31502 and amended Pub. L. 103–272, §1(c), (e), July 5, 1994, 108 Stat. 745, 1029; Pub. L. 104–88, title III, §308(k)(3), Dec. 29, 1995, 109 Stat. 948; Pub. L. 105–178, title IV, §4012(a), June 9, 1998, 112 Stat. 408; Pub. L. 109–59, title IV, §4145(b), Aug. 10, 2005, 119 Stat. 1749; Pub. L. 114–94, div. A, title V, §5521, Dec. 4, 2015, 129 Stat. 1559.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3102(a)	(no source).	
3102(b)(1)	49:304(a)(1)–(2) (related to qualifications, hours of service, and safety).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(1)–(2) (related to qualifications, hours of service, and safety), (3) (1st sentence); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
3102(b)(2)	49:304(a)(3) (1st sentence).	
	49:1655(e)(6)(C).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(C), 80 Stat. 939.

3102(c)	49:304(a)(3a) (1st sentence). 49:1655(e)(6)(C).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (1st sentence); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

Throughout the chapter, the words "Secretary of Transportation" are substituted for "Interstate Commerce Commission" because 49:1655(e)(6)(B)–(D) transferred the authority of the Interstate Commerce Commission under the provisions restated in this chapter to the Secretary of Transportation.

Subsection (a) is included to maintain the jurisdictional scope of the source provisions from which subsections (b) and (c) of the revised section are taken. Subsections (b) and (c) are based on 49:304 which, as part of 49:ch. 8, is now restated as subchapter II of chapter 105 of the revised title. In addition, 49:303(a)(11) (last sentence) extended the jurisdictional scope of 49:304 as provided in subsection (a) of the revised section.

In subsection (b), before clause (1), the words "and to that end" are omitted as surplus. The word "prescribe" is substituted for "establish" for consistency. The word "reasonable" is omitted as surplus.

In subsection (b)(1), the words "as provided in this chapter" are omitted as unnecessary because of the restatement. The term "motor carrier" is substituted for "common carriers by motor vehicle" and "contract carriers by motor vehicle" because they are inclusive.

In subsection (b)(2), the words "when needed" are substituted for "if need therefor is found" to eliminate unnecessary words.

In subsection (c), the word "prescribe" is substituted for "establish" for consistency. The word "reasonable" is omitted as surplus. The words "for a total distance of" are omitted as unnecessary because of the restatement. The words "at least" are substituted for "more than" for consistency. The word "line" is omitted as surplus. The words "possession of the United States" are added for consistency in the revised title. The words "a foreign country" and "the District of Columbia" are omitted as unnecessary because a carrier crossing the boundary of a foreign country or the District of Columbia into or from the United States would necessarily cross the boundary of a State and be covered by the provision related to a State.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 345 of the National Highway System Designation Act of 1995, referred to in subsec. (e)(4), is section 345 of Pub. L. 104–59, which was set out as a note under section 31136 of this title, prior to repeal by Pub. L. 109–59, title IV, §4115(d), Aug. 10, 2005, 119 Stat. 1726. The text of section 345 of Pub. L. 104–59 was inserted as part of section 229 of Pub. L. 106–159, as added by section 4115(a) of Pub. L. 109–59, and is set out as a note under section 31136 of this title.

AMENDMENTS

2015—Subsec. (f). Pub. L. 114–94 added subsec. (f).

2005—Subsec. (e)(2). Pub. L. 109–59, §4145(b)(1), substituted "Field Administrator of the Federal Motor Carrier Safety Administration" for "Regional Director of the Federal Highway Administration".

Subsec. (e)(3). Pub. L. 109–59, §4145(b)(2), substituted "Field Administrator" for "Regional Director" in introductory provisions.

1998—Subsec. (e). Pub. L. 105–178 added subsec. (e).

1995—Subsec. (a)(1). Pub. L. 104–88 substituted "13501 and 13502" for "10521 and 10522".

1994—Pub. L. 103–272 renumbered section 3102 of this title as this section and amended it generally, restating it without substantive change.

1984—Subsec. (d). Pub. L. 98–554 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an

Effective Date note under section 1301 of this title.

SAVINGS PROVISION

Pub. L. 100–690, title IX, §9102(c), Nov. 18, 1988, 102 Stat. 4529, provided that: "The amendment made by subsection (a) [amending section 2505 of former Title 49, Transportation] shall not be construed as having any effect on the enactment of subsection (d) of section 3102 [now 31502] of title 49, United States Code, which subsection (d) was added to such section by section 206(h) of the Motor Carrier Safety Act of 1984 [Pub. L. 98–554] on October 30, 1984."

CONTINUED APPLICATION OF SAFETY AND MAINTENANCE REQUIREMENTS

Pub. L. 105–178, title IV, §4012(b), June 9, 1998, 112 Stat. 409, provided that:

"(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] may not be construed—

"(A) to exempt any utility service vehicle from compliance with any applicable provision of law relating to vehicle mechanical safety, maintenance requirements, or inspections; or

"(B) to exempt any driver of a utility service vehicle from any applicable provision of law (including any regulation) established for the issuance, maintenance, or periodic renewal of a commercial driver's license for that driver.

"(2) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) COMMERCIAL DRIVER'S LICENSE.—The term 'commercial driver's license' has the meaning that term has under section 31301 of title 49, United States Code.

"(B) DRIVER OF A UTILITY SERVICE VEHICLE.—The term 'driver of a utility service vehicle' has the meaning that term has under section 31502(e)(2) of such title [probably should be section 31502(e)(4)(A) of such title].

"(C) REGULATION.—The term 'regulation' has the meaning that term has under section 31132 of such title.

"(D) UTILITY SERVICE VEHICLE.—The term 'utility service vehicle' has the meaning that term has under section 345(e)(6) of the National Highway System Designation Act of 1995 [Pub. L. 104–59] (49 U.S.C. 31136 note; 109 Stat. 614–615)."

STUDY OF ADEQUACY OF PARKING FACILITIES

Pub. L. 105–178, title IV, §4027, June 9, 1998, 112 Stat. 417, directed the Secretary to conduct a study on the adequacy of parking facilities at commercial truck stops and to transmit a report on the study and authorized appropriations for fiscal years 1999, 2000, and 2001.

EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

For provisions relating to exemptions from regulations prescribed under this section as to maximum driving and on-duty time for drivers used by motor carriers, see section 345 of Pub. L. 104–59, set out as a note under section 31136 of this title.

[1] See References in Text note below.

[2] So in original. Probably should be followed by a period.

§31503. Research, investigation, and testing

(a) GENERAL AUTHORITY.—The Secretary of Transportation may investigate and report on the need for regulation by the United States Government of sizes, weight, and combinations of motor vehicles and qualifications and maximum hours of service of employees of a motor carrier subject to subchapter I of chapter 135 of this title and a motor private carrier. The Secretary shall use the services of each department, agency, or instrumentality of the Government and each organization of motor carriers having special knowledge of a matter being investigated.

(b) USE OF SERVICES.—In carrying out this chapter, the Secretary may use the services of a department, agency, or instrumentality of the Government having special knowledge about safety, to conduct scientific and technical research, investigation, and testing when necessary to promote safety

of operation and equipment of motor vehicles. The Secretary may reimburse the department, agency, or instrumentality for the services provided.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2439, §3103; renumbered §31503 and amended Pub. L. 103–272, §1(c), (e), July 5, 1994, 108 Stat. 745, 1030; Pub. L. 104–88, title III, §308(k)(4), Dec. 29, 1995, 109 Stat. 948.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3103(a)	49:325.	Feb. 4, 1887, ch. 104, 24 Stat. 379, §226; added Aug. 9, 1935, ch. 498, 49 Stat. 566; Sept. 18, 1940, ch. 722, §26(b), 54 Stat. 929.
	49:1655(e)(6)(B).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(B), (C), 80 Stat. 939.
3103(b)	49:304(a)(5).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(5); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:1655(e)(6)(C).	

In subsection (a), the words "subject to subchapter II of chapter 105 of this title" are added for clarity. The word "services" is substituted for "assistance" for consistency. The words "department, agency, or instrumentality of the United States Government" are substituted for "departments or bureaus of the Government" for consistency.

In subsection (b), the words "In carrying out this chapter" are substituted for "For the purpose of carrying out the provisions pertaining to safety" to eliminate unnecessary words. The words "department . . . or instrumentality" are added for consistency. The word "reimburse" is substituted for "transfer . . . such funds" for consistency. The words "as may be necessary and available to make this provision effective" are omitted as unnecessary because of the restatement.

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted "subchapter I of chapter 135" for "subchapter II of chapter 105".

1994—Pub. L. 103–272 renumbered section 3103 of this title as this section and amended it generally, restating it without substantive change.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§31504. Identification of motor vehicles

(a) GENERAL AUTHORITY.—The Secretary of Transportation may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 31502(c) of this title, except a motor contract carrier; and

(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) LIMITATION.—A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2439, §3104; renumbered §31504 and amended Pub. L. 103–272, §1(c), (e), July 5, 1994, 108 Stat. 745, 1030.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3104(a)	49:304(a)(3) (last sentence) (related to "Sec. 324").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 224"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 324").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 224"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(e)(6)(D) (related to "Sec. 324").	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(D) (related to "Sec. 224"), 80 Stat. 940.
3104(b)	49:304(a)(3) (last sentence) (related to "Sec. 324").	
	49:304(a)(3a) (last sentence) (related to "Sec. 324").	
	49:l655(e)(6)(D) (related to "Sec. 324").	

The section is included to reflect the text of former 49:324 (related to motor private carriers and motor carriers of migrant workers) which is incorporated in the revised title by cross-reference.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–272 renumbered section 3104 of this title as this section and amended it generally, restating it without substantive change.

CHAPTER 317—PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT

Sec.
31701. Definitions.
[31702, 31703. Repealed.]
31704. Vehicle registration.
31705. Fuel use tax.
31706. Enforcement.
31707. Limitations on statutory construction.
[31708. Repealed.]

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–178, title IV, §4013, June 9, 1998, 112 Stat. 409, struck out items 31702 "Working group", 31703 "Grants", and 31708 "Authorization of appropriations".

§31701. Definitions

In this chapter—

(1) "commercial motor vehicle", with respect to—

(A) the International Registration Plan, has the same meaning given the term "apportionable vehicle" under the Plan; and

(B) the International Fuel Tax Agreement, has the same meaning given the term "qualified motor vehicle" under the Agreement.

(2) "fuel use tax" means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) "International Fuel Tax Agreement" means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(4) "International Registration Plan" means the interstate agreement on apportioning vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) "Regional Fuel Tax Agreement" means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) "State" means the 48 contiguous States and the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1031.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31701	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, §4008(k), 105 Stat. 2155.

STATUTORY NOTES AND RELATED SUBSIDIARIES

OPERATION OF TRAILERS

Pub. L. 105–277, div. C, title I, §109, Oct. 21, 1998, 112 Stat. 2681–586, provided that:

"(a) REGISTRATION OF TRAILERS.—A State that requires annual registration of container chassis and the apportionment of fees for such registrations in accordance with the International Registration Plan (as defined under section 31701 of title 49, United States Code) shall not limit the operation, or require the registration, in the State of a container chassis (or impose fines or penalties on the operation of a container chassis for being operated in the State without a registration issued by the State) if such chassis—

"(1) is registered under the laws of another State; and

"(2) is operating under a trip permit issued by the State.

"(b) LIMITATION ON REGISTRATION OF TRAILERS.—A State described in subsection (a) may not deny the use of trip permits for the operation in the State of a container chassis that is registered under the laws of another State.

"(c) SAFETY REGULATION.—This section shall apply to registration requirements only and shall not affect the ability of the State to regulate for safety.

"(d) PENALTIES.—No State described in subsection (a), political subdivision of such a State, or person may impose or collect any fee, penalty, fine, or other form of damages which is based in whole or in part upon the nonpayment of a State registration fee (including related weight and licensing fees assessed as part of registration) attributable to a container chassis operated in the State (and registered in another State) before the date of enactment of this Act [Oct. 21, 1998], unless it is shown by the State, political subdivision, or person that such container chassis was not operated in the State under a trip permit issued by the State.

"(e) CONTAINER CHASSIS DEFINED.—In this section, the term 'container chassis' means a trailer, semi-trailer, or auxiliary axle used exclusively for the transportation of ocean shipping containers."

[§§31702, 31703. Repealed. Pub. L. 105–178, title IV, §4013, June 9, 1998, 112 Stat. 409]

Section 31702, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1031, related to establishment and purposes of working group of State and local government officials to propose procedures to resolve disputes among States participating in the International Registration Plan and in the International Fuel Tax Agreement.

Section 31703, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1032, related to grants to States and appropriate persons to facilitate participation in the International Registration Plan and in the International Fuel Tax Agreement.

§31704. Vehicle registration

After September 30, 1996, a State that is not participating in the International Registration Plan may not establish, maintain, or enforce a commercial motor vehicle registration law, regulation, or agreement that limits the operation in that State of a commercial motor vehicle that is not registered under the laws of the State, if the vehicle is registered under the laws of a State participating in the Plan.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1032.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31704	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, §4008(f), 105 Stat. 2154.

The words "a State that is not participating in the International Registration Plan may not" are substituted for "no State (other than a State which is participating in the International Registration Plan) shall" for consistency in the revised title and to eliminate unnecessary words.

§31705. Fuel use tax

(a) REPORTING REQUIREMENTS.—After September 30, 1996, a State may establish, maintain, or enforce a law or regulation that has a fuel use tax reporting requirement (including any tax reporting form) only if the requirement conforms with the International Fuel Tax Agreement.

(b) PAYMENT.—After September 30, 1996, a State may establish, maintain, or enforce a law or regulation that provides for the payment of a fuel use tax only if the law or regulation conforms with the International Fuel Tax Agreement as it applies to collection of a fuel use tax by a single base State and proportional sharing of fuel use taxes charged among the States where a commercial motor vehicle is operated.

(c) LIMITATION.—If the International Fuel Tax Agreement is amended, a State not participating in the Agreement when the amendment is made is not subject to the conformity requirements of subsections (a) and (b) of this section in regard to the amendment until after a reasonable time, but not earlier than the expiration of—

(1) the 365-day period beginning on the first day that States participating in the Agreement are required to comply with the amendment; or

(2) the 365-day period beginning on the day the relevant office of the State receives written notice of the amendment from the Secretary of Transportation.

(d) NONAPPLICATION.—This section does not apply to a State that was participating in the Regional Fuel Tax Agreement on January 1, 1991, and that continues to participate in that Agreement after that date.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1032.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31705	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, §4008(g), 105 Stat. 2154.

In subsection (b), the words "as it applies to" are substituted for "with respect to" for clarity.

In subsection (c), before clause (1), the words "a State not participating in the Agreement when the amendment is made is not subject to the conformity requirements of subsections (a) and (b) of this section in regard to the amendment" are substituted for "conformity by a State that is not participating in such Agreement when such amendment is made may not be required with respect to such amendment" for clarity.

§31706. Enforcement

(a) CIVIL ACTIONS.—On request of the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with sections 31704 and 31705 of this title.

(b) VENUE.—An action under this section may be brought only in the State in which an order is required to enforce compliance.

(c) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing—

(1) shall issue a temporary restraining order or a preliminary or permanent injunction; and

(2) may require by the injunction that the State or any person comply with sections 31704 and 31705 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1033.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31706	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, §4008(h), 105 Stat. 2155.

In subsection (a), the words "bring a civil action . . . to enforce compliance" are substituted for "commence . . . a civil action for such injunctive relief as may be appropriate to ensure compliance" for consistency in the revised title and to eliminate unnecessary words.

In subsection (b), the words "an order is required to enforce compliance" are substituted for "relief is required to ensure such compliance" for consistency in the revised title.

§31707. Limitations on statutory construction

Sections 31704 and 31705 of this title do not limit the amount of money a State may charge for registration of a commercial motor vehicle or the amount of any fuel use tax a State may impose.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1033.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31707	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, §4008(i), 105 Stat. 2155.

[§31708. Repealed. Pub. L. 105–178, title IV, §4013, June 9, 1998, 112 Stat. 409]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1033, related to authorization of appropriations for working group under section 31702 of this title and for grants under section 31703 of this title.

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

CHAPTER 321—GENERAL

Sec.
32101. Definitions.
32102. Authorization of appropriations.

§32101. Definitions

In this part (except chapter 329 and except as provided in section 33101)—

(1) "bumper standard" means a minimum performance standard that substantially reduces—

(A) the damage to the front or rear end of a passenger motor vehicle from a low-speed collision (including a collision with a fixed barrier) or from towing the vehicle; or

(B) the cost of repairing the damage.

(2) "insurer" means a person in the business of issuing, or reinsuring any part of, a passenger motor vehicle insurance policy.

(3) "interstate commerce" means commerce between a place in a State and—

(A) a place in another State; or

(B) another place in the same State through another State.

(4) "make", when describing a passenger motor vehicle, means the trade name of the manufacturer of the vehicle.

(5) "manufacturer" means a person—

(A) manufacturing or assembling passenger motor vehicles or passenger motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) "model", when describing a passenger motor vehicle, means a category of passenger motor vehicles based on the size, style, and type of a make of vehicle.

(7) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(8) "motor vehicle accident" means an accident resulting from the maintenance or operation of a passenger motor vehicle or passenger motor vehicle equipment.

(9) "multipurpose passenger vehicle" means a passenger motor vehicle constructed on a truck chassis or with special features for occasional off-road operation.

(10) "passenger motor vehicle" means a motor vehicle with motive power designed to carry not more than 12 individuals, but does not include—

(A) a motorcycle; or

(B) a truck not designed primarily to carry its operator or passengers.

(11) "passenger motor vehicle equipment" means—

(A) a system, part, or component of a passenger motor vehicle as originally made;

(B) a similar part or component made or sold for replacement or improvement of a system,

part, or component, or as an accessory or addition to a passenger motor vehicle; or

(C) a device made or sold for use in towing a passenger motor vehicle.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(13) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1034; Pub. L. 103–429, §6(27), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32101(1)	15:1901(5), (6) (words before semicolon), (11).	Oct. 20, 1972, Pub. L. 92–513, §2(1)–(6) (words before semicolon), (7)–(12), (15)–(18), 86 Stat. 947, 948; Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901; Oct. 10, 1980, Pub. L. 96–425, §8(a)(2), 94 Stat. 1828; Oct. 25, 1984, Pub. L. 98–547, §101(b), 98 Stat. 2767.
32101(2)	15:1901(12).	
32101(3)	15:1901(17).	
32101(4)	15:1901(8).	
32101(5)	15:1901(7).	
32101(6)	15:1901(9).	
32101(7)	15:1901(15).	
32101(8)	15:1901(10).	
32101(9)	15:1901(2).	
32101(10)	15:1901(1).	
32101(11)	15:1901(3), (4).	
32101(12)	15:1901(16).	
32101(13)	15:1901(18).	

In clause (1), the text of 15:1901(11) is omitted as surplus because the complete title of the Secretary of Transportation is used the first time the term appears in a section. The definition of "property loss reduction standard" is combined with the definition of "bumper standard" because the former term is used only in the definition of the latter term. Before subclause (A), the words "the purpose of which is" and "eliminate" are omitted as surplus. In subclauses (A) and (B), the words "(or both)" are omitted as surplus. In subclause (A), the word "physical" is omitted as surplus.

In clause (2), the words "of passenger motor vehicles" and "engaged" are omitted as surplus.

In clause (5)(A), the words "manufacturing or assembling" are substituted for "engaged in the manufacturing or assembling of" to eliminate unnecessary words.

In clause (8), the words "maintenance or operation" are substituted for "operation, maintenance, or use" to eliminate an unnecessary word.

In clauses (12) and (13), the words "the Northern Mariana Islands" are added because of section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 268), and as proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593). The words "the Canal Zone" are omitted because of the Panama Canal Treaty of 1977.

In clause (12), the word "means" is substituted for "includes" as being more appropriate. The words "a State

of the United States" are substituted for "each of the several States" for consistency in the revised title and with other titles of the United States Code.

In clause (13), the words "of the Commonwealth of Puerto Rico" are omitted as surplus because the district court of Puerto Rico is a district court of the United States under 28:119.

PUB. L. 103–429

This makes a conforming amendment to 49:32101 necessary because of the amendment to 49:32304(a)(11) made by section 6(29) of the bill and to clarify the restatement of 15:1901 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1034).

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–429 amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: "In this part (except section 32304 and chapter 329)—".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32102. Authorization of appropriations

There is authorized to be appropriated to the Secretary $9,562,500 for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1035; Pub. L. 105–178, title VII, §7102(b), June 9, 1998, 112 Stat. 465; Pub. L. 106–39, §1(b), July 28, 1999, 113 Stat. 206.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32102	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2501(b), 105 Stat. 2081.

The reference to fiscal year 1992 is omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–39 substituted "$9,562,500" for "$6,200,000".

1998—Pub. L. 105–178 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "The following amounts may be appropriated to the Secretary of Transportation for the National Highway Traffic Safety Administration to carry out this part:

"(1) $6,731,430 for the fiscal year ending September 30, 1993.

"(2) $6,987,224 for the fiscal year ending September 30, 1994.

"(3) $7,252,739 for the fiscal year ending September 30, 1995."

CHAPTER 323—CONSUMER INFORMATION

Sec.

32301. Definitions.

32302. Passenger motor vehicle information.
32303. Insurance information.
32304. Passenger motor vehicle country of origin labeling.
32304A. Consumer tire information.[1]
32304B. Child safety.
32305. Information and assistance from other departments, agencies, and instrumentalities.
32306. Personnel.
32307. Investigative powers.
32308. General prohibitions, civil penalty, and enforcement.
32309. Civil penalty for labeling violations.
32310. New Car Assessment Program roadmap.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title IV, §§24213(c)(2), 24222(a)(2), Nov. 15, 2021, 135 Stat. 829, 835, added items 32304B and 32310.

2007—Pub. L. 110–140, title I, §111(c), Dec. 19, 2007, 121 Stat. 1507, added item 32304A.

1994—Pub. L. 103–429, §6(28), Oct. 31, 1994, 108 Stat. 4380, substituted "Civil" for "Criminal" in item 32309.

[1] Section catchline amended by Pub. L. 114–94 without corresponding amendment of chapter analysis.

§32301. Definitions

In this chapter—

(1) "crash avoidance" means preventing or mitigating a crash;

(2) "crashworthiness" means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle accident; and

(3) "damage susceptibility" means the susceptibility of a passenger motor vehicle to damage in a motor vehicle accident.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1035; Pub. L. 112–141, div. C, title I, §31305(a), July 6, 2012, 126 Stat. 765.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32301	15:1901(13), (14).	Oct. 20, 1972, Pub. L. 92–513, §2(13), (14), 86 Stat. 948; Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901; Oct. 10, 1980, Pub. L. 96–425, §8(a)(2), 94 Stat. 1828; Oct. 25, 1984, Pub. L. 98–547, §101(b), 98 Stat. 2767.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141 added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and, in par. (2), substituted "; and" for period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§32302. Passenger motor vehicle information

(a) INFORMATION PROGRAM.—The Secretary of Transportation (referred to in this section as the "Secretary") shall maintain a program for developing the following information on passenger motor vehicles:

(1) damage susceptibility.

(2) crashworthiness, crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles.

(3) the degree of difficulty of diagnosis and repair of damage to, or failure of, mechanical and electrical systems.

(b) MOTOR VEHICLE INFORMATION.—To assist a consumer in buying a passenger motor vehicle, the Secretary shall provide to the public information developed under subsection (a) of this section. The information shall be in a simple and understandable form that allows comparison of the characteristics referred to in subsection (a)(1)–(3) of this section among the makes and models of passenger motor vehicles. The Secretary may require passenger motor vehicle dealers to distribute the information to prospective buyers. The Secretary, after providing an opportunity for public comment, shall study and report to Congress the most useful data, format, and method for providing simple and understandable damage susceptibility information to consumers.

(c) CRASH AVOIDANCE.—Not later than 1 year after the date of enactment of the Safety Through Informed Consumers Act of 2015, the Secretary shall promulgate a rule to ensure that crash avoidance information is indicated next to crashworthiness information on stickers placed on motor vehicles by their manufacturers.

(d) MOTOR VEHICLE DEFECT REPORTING INFORMATION.—

(1) RULEMAKING REQUIRED.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

(B) to prominently print the information described in subparagraph (A) within the owner's manual; and

(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

(2) APPLICATION.—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).

(e) ADVANCED CRASH-AVOIDANCE TECHNOLOGIES.—

(1) NOTICE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a notice, for purposes of public review and comment, to establish, distinct from crashworthiness information, a means for providing to consumers information relating to advanced crash-avoidance technologies, in accordance with subsection (a).

(2) INCLUSIONS.—The notice under paragraph (1) shall include—

(A) an appropriate methodology for—

(i) determining which advanced crash-avoidance technologies shall be included in the information;

(ii) developing performance test criteria for use by manufacturers in evaluating advanced crash-avoidance technologies;

(iii) determining a distinct rating involving each advanced crash-avoidance technology to be included; and

(iv) updating overall vehicle ratings to incorporate advanced crash-avoidance technology ratings; and

(B) such other information and analyses as the Secretary determines to be necessary to implement the rating of advanced crash-avoidance technologies.

(3) REPORT.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes a plan for implementing an advanced crash-avoidance technology information and rating system, in accordance with subsection (a).

(f) VULNERABLE ROAD USER SAFETY.—

(1) NOTICE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a notice, for purposes of public review and comment, to establish a means for providing to consumers information relating to pedestrian, bicyclist, or other vulnerable road user safety technologies, in accordance with subsection (a).

(2) INCLUSIONS.—The notice under paragraph (1) shall include—

(A) an appropriate methodology for—

(i) determining which technologies shall be included in the information;

(ii) developing performance test criteria for use by manufacturers in evaluating the extent to which automated pedestrian safety systems in light vehicles attempt to prevent and mitigate, to the best extent possible, pedestrian injury;

(iii) determining a distinct rating involving each technology to be included; and

(iv) updating overall vehicle ratings to incorporate vulnerable road user safety technology ratings; and

(B) such other information and analyses as the Secretary determines to be necessary to implement the rating of vulnerable road user safety technologies.

(3) REPORT.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes a plan for implementing an information and rating system for vulnerable road user safety technologies, in accordance with subsection (a).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1035; Pub. L. 112–141, div. C, title I, §§31305(b), 31306, July 6, 2012, 126 Stat. 765; Pub. L. 112–252, §§1, 2(a), Jan. 10, 2013, 126 Stat. 2406; Pub. L. 114–94, div. B, title XXIV, §24322, Dec. 4, 2015, 129 Stat. 1713; Pub. L. 117–58, div. B, title IV, §24213(b), Nov. 15, 2021, 135 Stat. 826.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32302(a)	15:1941(c) (19th–60th words).	Oct. 20, 1972, Pub. L. 92–513, §201(c), (e), 86 Stat. 956.
	15:1941(d) (1st–13th words).	Oct. 20, 1972, Pub. L. 92–513,

		§201(d), 86 Stat. 956; July 14, 1976, Pub. L. 94–364, §201, 90 Stat. 981.
32302(b)	15:1941(c) (1st–18th and 61st–last words), (d) (14th–last words).	
32302(c)	15:1941(e).	

In subsection (a), the words before clause (1) are substituted for "The Secretary shall compile the information described in subsection (c) of this section" and "existing information and information to be developed relating to" for clarity and to eliminate unnecessary words.

In subsection (b), the words "After the study has been completed" are omitted as executed. The words "To assist a consumer in buying a passenger motor vehicle" are substituted for "so as to be of benefit in their passenger motor vehicle purchasing decisions", and the words "the Secretary shall provide to the public" are substituted for "the Secretary is authorized and directed to devise specific ways in which . . . can be communicated to consumers" and "furnish it to the public", to eliminate unnecessary words. The word "existing" is omitted as obsolete.

In subsection (c), the words "not later than February 1, 1975" are omitted as executed. The words "prescribe regulations" are substituted for "by rule establish" for consistency in the revised title and because "rule" is synonymous with "regulation".

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Safety Through Informed Consumers Act of 2015, referred to in subsec. (c), is the date of enactment of part II of subtitle C of title XXIV of div. B of Pub. L. 114–94, which was approved Dec. 4, 2015.

The date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, referred to in subsec. (d)(1), is the date of enactment of title I of div. C of Pub. L. 112–141, which was approved July 6, 2012.

The date of enactment of this subsection, referred to in subsecs. (e)(1), (3) and (f)(1), (3), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §24213(b)(1), inserted "(referred to in this section as the 'Secretary')" after "of Transportation" in introductory provisions.

Subsecs. (e), (f). Pub. L. 117–58, §24213(b)(2), added subsecs. (e) and (f).

2015—Subsec. (c). Pub. L. 114–94 added subsec. (c).

2013—Subsec. (b). Pub. L. 112–252, §2(a), inserted at end "The Secretary, after providing an opportunity for public comment, shall study and report to Congress the most useful data, format, and method for providing simple and understandable damage susceptibility information to consumers."

Subsec. (c). Pub. L. 112–252, §1, struck out subsec. (c). Text read as follows: "The Secretary shall prescribe regulations that require passenger motor vehicle dealers to distribute to prospective buyers information the Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on damage susceptibility and crashworthiness."

2012—Subsec. (a)(2). Pub. L. 112–141, §31305(b)(1), inserted ", crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles" after "crashworthiness".

Subsec. (a)(4). Pub. L. 112–141, §31305(b)(2), struck out par. (4) which read as follows: "vehicle operating costs dependent on the characteristics referred to in clauses (1)–(3) of this subsection, including insurance information obtained under section 32303 of this title."

Subsec. (d). Pub. L. 112–141, §31306, added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

REGULATIONS

Pub. L. 112–252, §1, Jan. 10, 2013, 126 Stat. 2406, provided in part that: "any regulations promulgated under such subsection [former subsec. (c) of this section] shall have no force or effect."

NEW CAR ASSESSMENT PROGRAM; UPDATES

Pub. L. 117–58, div. B, title IV, §24213(a), Nov. 15, 2021, 135 Stat. 826, provided that: "Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall finalize the proceeding for which comments were requested in the notice entitled 'New Car Assessment Program' (80 Fed. Reg. 78522 (December 16, 2015)) to update the passenger motor vehicle information required under section 32302(a) of title 49, United States Code."

IMPROVED VEHICLE SAFETY DATABASES

Pub. L. 117–58, div. B, title IV, §24217, Nov. 15, 2021, 135 Stat. 830, provided that: "Not later than 3 years after the date of enactment of this Act [Nov. 15, 2021], after consultation with frequent users of publicly available databases, the Secretary [of Transportation] shall improve public accessibility to information relating to the publicly accessible vehicle safety databases of the National Highway Traffic Safety Administration by revising the publicly accessible vehicle safety databases—

"(1) to improve organization and functionality, including design features such as drop-down menus;

"(2) to allow data from applicable publicly accessible vehicle safety databases to be searched, sorted, aggregated, and downloaded in a manner that—

"(A) is consistent with the public interest; and

"(B) facilitates easy use by consumers;

"(3) to provide greater consistency in presentation of vehicle safety issues;

"(4) to improve searchability regarding specific vehicles and issues, which may include the standardization of commonly used search terms; and

"(5) to ensure nonconfidential documents and materials relating to information created or obtained by the National Highway Traffic Safety Administration are made publicly available in a manner that is—

"(A) timely; and

"(B) searchable in databases by any element that the Secretary determines to be in the public interest."

CONSUMER GUIDANCE

Pub. L. 114–94, div. B, title XXIV, §24103(d), Dec. 4, 2015, 129 Stat. 1703, provided that: "Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall make available to the public on the Internet detailed guidance for consumers submitting safety complaints, including—

"(1) a detailed explanation of what information a consumer should include in a complaint; and

"(2) a detailed explanation of the possible actions the National Highway Traffic Safety Administration can take to address a complaint and respond to the consumer, including information on—

"(A) the consumer records, such as photographs and police reports, that could assist with an investigation; and

"(B) the length of time a consumer should retain the records described in subparagraph (A)."

DEADLINE FOR REPORT

Pub. L. 112–252, §2(b), Jan. 10, 2013, 126 Stat. 2406, provided that: "The Secretary of Transportation shall carry out the last sentence of section 32302(b) of title 49, United States Code, as added by subsection (a), not later than the date that is 2 years after the date of the enactment of this Act [Jan. 10, 2013]."

§32303. Insurance information

(a) GENERAL REPORTS AND INFORMATION REQUIREMENTS.—(1) In carrying out this chapter, the Secretary of Transportation may require an insurer, or a designated agent of the insurer, to make reports and provide the Secretary with information. The reports and information may include accident claim information by make, model, and model year of passenger motor vehicle about the kind and extent of—

(A) physical damage and repair costs; and

(B) personal injury.

(2) In deciding which reports and information are to be provided under this subsection, the Secretary shall—

(A) consider the cost of preparing and providing the reports and information;

(B) consider the extent to which the reports and information will contribute to carrying out this chapter; and

(C) consult with State authorities and public and private agencies the Secretary considers appropriate.

(3) To the extent possible, the Secretary shall obtain reports and information under this subsection on a voluntary basis.

(b) REQUESTED INFORMATION ON CRASHWORTHINESS, DAMAGE SUSCEPTIBILITY, AND REPAIR AND PERSONAL INJURY COST.—When requested by the Secretary, an insurer shall give the Secretary information—

(1) about the extent to which the insurance premiums charged by the insurer are affected by damage susceptibility, crashworthiness, and the cost of repair and personal injury, for each make and model of passenger motor vehicle; and

(2) available to the insurer about the effect of damage susceptibility, crashworthiness, and the cost of repair and personal injury for each make and model of passenger motor vehicle on the risk incurred by the insurer in insuring that make and model.

(c) DISCLOSURE.—In distributing information received under this section, the Secretary may disclose identifying information about a person that may be an insured, a claimant, a passenger, an owner, a witness, or an individual involved in a motor vehicle accident, only with the consent of the person.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1036.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32303(a)	15:1945(a)–(d), (g).	Oct. 20, 1972, Pub. L. 92–513, §205, 86 Stat. 958.
32303(b)	15:1945(e).	
32303(c)	15:1945(f).	

In subsection (a), the words "carrying out this chapter" are substituted for "to enable him to carry out the purposes of this subchapter" to eliminate unnecessary words. The word "provide" is substituted for "furnish" for consistency.

In subsection (a)(1), before clause (A), the words "the Secretary of Transportation may require . . . to . . . provide the Secretary with" are substituted for "shall, upon request by the Secretary . . . as the Secretary may reasonably require" to eliminate unnecessary words. The text of 15:1945(g) is omitted as surplus because of 49:322(a). The word "information" is substituted for "data" for consistency in the section. In clause (A), the words "repair costs" are substituted for "the cost of remedying the damage" to eliminate unnecessary words.

In subsection (a)(2)(C), the words "State authorities and public and private agencies" are substituted for "such State and insurance regulatory agencies and other agencies and associations, both public and private" for consistency and to eliminate unnecessary words.

In subsection (b), before clause (1), the word "information" is substituted for "a description of" for consistency in the section. In clause (1), the word "premiums" is substituted for "rates or premiums" because it is inclusive. In clause (2), the words "by the insurer" are added for clarity.

In subsection (c), the words "identifying information" are substituted for "the name of, or other identifying information", and the words "a witness, or an individual involved" are substituted for "a driver, an injured person, a witness, or otherwise involved" to eliminate unnecessary words. The word "accident" is substituted for "crash or collision" for consistency in this section. The words "so named or otherwise identified" are omitted as surplus.

§32304. Passenger motor vehicle country of origin labeling

(a) DEFINITIONS.—In this section—

(1) "allied supplier" means a supplier of passenger motor vehicle equipment that is wholly owned by the manufacturer, or if a joint venture vehicle assembly arrangement, a supplier that is wholly owned by one member of the joint venture arrangement.

(2)(A) "carline"—

(i) means a name given a group of passenger motor vehicles that has a degree of commonality in construction such as body and chassis;

(ii) does not consider a level of decor or opulence; and

(iii) except for light duty trucks, is not generally distinguished by characteristics such as roof line, number of doors, seats, or windows; and

(B) light duty trucks are different carlines than passenger motor vehicles.

(3) "country of origin", when referring to the origin of an engine or transmission, means the country from which the largest share of the dollar value added to an engine or transmission has originated—

(A) with the United States and Canada treated as separate countries; and

(B) the estimate of the percentage of the dollar value shall be based on the purchase price of direct materials, as received at individual engine or transmission plants, of engines of the same displacement and transmissions of the same transmission type, plus the assembly and labor costs incurred for the final assembly of such engines and transmissions.

(4) "dealer" means a person residing or located in the United States, including the District of Columbia or a territory or possession of the United States, and engaged in selling or distributing new passenger motor vehicles to the ultimate purchaser.

(5) "final assembly place" means the plant, factory, or other place at which a new passenger motor vehicle is produced or assembled by a manufacturer, and from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle. Such term does not include facilities for engine and transmission fabrication and assembly and the facilities for fabrication of motor vehicle equipment component parts which are produced at the same final assembly place using forming processes such as stamping, machining, or molding processes.

(6) "foreign content" means passenger motor vehicle equipment that is not of United States/Canadian origin.

(7) "manufacturer" means a person—

(A) engaged in manufacturing or assembling new passenger motor vehicles;

(B) importing new passenger motor vehicles for resale; or

(C) acting for and under the control of such a manufacturer, assembler, or importer in connection with the distribution of new passenger motor vehicles.

(8) "new passenger motor vehicle" means a passenger motor vehicle for which a manufacturer, distributor, or dealer has never transferred the equitable or legal title to the vehicle to an ultimate purchaser.

(9) "of United States/Canadian origin", when referring to passenger motor vehicle equipment, means—

(A) for an outside supplier—

(i) the full purchase price of passenger motor vehicle equipment whose purchase price contains at least 70 percent value added in the United States and Canada; or

(ii) that portion of the purchase price of passenger motor vehicle equipment containing less than 70 percent value added in the United States and Canada that is attributable to the percent value added in the United States and Canada when such percent is expressed to the nearest 5

percent; and

(B) for an allied supplier, that part of the individual passenger motor vehicle equipment whose purchase price the manufacturer determines remains after subtracting the total of the purchase prices of all material of foreign content purchased from outside suppliers, with the determination of the United States/Canadian origin or of the foreign content from outside suppliers being consistent with subclause (A) of this clause.

(10) "outside supplier" means a supplier of passenger motor vehicle equipment to a manufacturer's allied supplier, or a person other than an allied supplier, who ships directly to the manufacturer's final assembly place.

(11) "passenger motor vehicle" has the same meaning given that term in section 32101(10) of this title, except that it includes any multi-purpose vehicle or light duty truck when that vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight.

(12) "passenger motor vehicle equipment"—

(A) means a system, subassembly, or component received at the final vehicle assembly place for installation on, or attachment to, a passenger motor vehicle at the time of its first shipment by the manufacturer to a dealer for sale to an ultimate purchaser; but

(B) does not include minor parts (including nuts, bolts, clips, screws, pins, braces, and other attachment hardware) and other similar items the Secretary of Transportation may prescribe by regulation after consulting with manufacturers and labor.

(13) "percentage (by value)", when referring to passenger motor vehicle equipment of United States/Canadian origin, means the percentage remaining after subtracting the percentage (by value) of passenger motor vehicle equipment that is not of United States/Canadian origin that will be installed or included on those vehicles produced in a carline, from 100 percent—

(A) with value being expressed in terms of the purchase price; and

(B) for outside suppliers and allied suppliers, the value used is the purchase price of the equipment paid at the final assembly place.

(14) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(15) "value added in the United States and Canada" means a percentage determined by subtracting the total purchase price of foreign content from the total purchase price, and dividing the remainder by the total purchase price, excluding costs incurred or profits made at the final assembly place and beyond (including advertising, assembly, labor, interest payments, and profits), with the following groupings being used:

(A) engines of same displacement produced at the same plant.

(B) transmissions of the same type produced at the same plant.

(b) MANUFACTURER REQUIREMENT.—(1) Each manufacturer of a new passenger motor vehicle manufactured after September 30, 1994, and distributed in commerce for sale in the United States, shall establish each year for each model year and cause to be attached in a prominent place on each of those vehicles, at least one label. The label shall contain the following information:

(A) the percentage (by value) of passenger motor vehicle equipment of United States/Canadian origin installed on vehicles in the carline to which that vehicle belongs, identified by the words "U.S./Canadian content".

(B) the final assembly place for that vehicle by city, State (where appropriate) and country.

(C) if at least 15 percent (by value) of equipment installed on passenger motor vehicles in a carline originated in any country other than the United States and Canada, the names of at least the 2 countries in which the greatest amount (by value) of that equipment originated and the percentage (by value) of the equipment originating in each country.

(D) the country of origin of the engine and the transmission for each vehicle.

(2) At the beginning of each model year, each manufacturer shall establish the percentages required for each carline to be indicated on the label under this subsection. Those percentages are applicable to that carline for the entire model year. A manufacturer may round those percentages to the nearest 5 percent.

(3) A manufacturer complying with the requirement of paragraph (1)(B) of this subsection satisfies the disclosure requirement of section 3(b) of the Automobile Information Disclosure Act (15 U.S.C. 1232(b)).

(c) VEHICLE CONTENT PERCENTAGE BY ASSEMBLY PLANT.—A manufacturer may display separately on the label required by subsection (b) the domestic content of a vehicle based on the assembly plant. Such display shall occur after the matter required to be in the label by subsection (b)(1)(A).

(d) VALUE ADDED DETERMINATION.—If a manufacturer or allied supplier requests information in a timely manner from one or more of its outside suppliers concerning the United States/Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following:

(1) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier, that is, whether 70 percent or more of the value of equipment is added in the United States and/or Canada.

(2) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider.

(3) The manufacturer or allied supplier may determine that the value added in the United States and/or Canada is 70 percent or more only if it has a good faith basis to make that determination.

(4) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline's total parts content from outside suppliers.

(5) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier.

(6) This provision does not affect the obligation of outside suppliers to provide the requested information.

(e) SMALL PARTS.—The country of origin of nuts, bolts, clips, screws, pins, braces, gasoline, oil, blackout, phosphate rinse, windshield washer fluid, fasteners, tire assembly fluid, rivets, adhesives, and grommets, of any system, subassembly, or component installed in a vehicle shall be considered to be the country in which such parts were included in the final assembly of such vehicle.

(f) DEALER REQUIREMENT.—Each dealer engaged in the sale or distribution of a new passenger motor vehicle manufactured after September 30, 1994, shall cause to be maintained on that vehicle the label required to be attached to that vehicle under subsection (b) of this section.

(g) FORM AND CONTENT OF LABEL.—The Secretary of Transportation shall prescribe by regulation the form and content of the label required under subsection (b) of this section and the manner and location in which the label is attached. The Secretary shall permit a manufacturer to comply with this section by allowing the manufacturer to disclose the information required under subsection (b)(1) on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232), on the label required by section 32908 of this title, or on a separate label that is readily visible. A manufacturer may add to the label required under subsection (b) a line stating the country in which vehicle assembly was completed.

(h) REGULATIONS.—In consultation with the Secretaries of Commerce and the Treasury, the Secretary of Transportation shall prescribe regulations necessary to carry out this section, including regulations establishing a procedure to verify the label information required under subsection (b)(1) of this section. Those regulations shall provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign content and

United States/Canadian origin of the equipment of the vehicles without imposing costly and unnecessary burdens on the manufacturers. The Secretary of Transportation shall prescribe the regulations promptly to provide adequate lead time for each manufacturer to comply with this section. The regulations shall include provisions applicable to outside suppliers and allied suppliers to require those suppliers to certify whether passenger motor vehicle equipment provided by those suppliers is of United States origin, of United States/Canadian origin, or of foreign content and to provide other information the Secretary of Transportation decides is necessary to allow each manufacturer to comply reasonably with this section and to rely on that certification and information.

(i) PREEMPTION.—(1) When a label content requirement prescribed under this section is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to the content of vehicles covered by a requirement under this section.

(2) A State or a political subdivision of a State may prescribe requirements related to the content of passenger motor vehicles obtained for its own use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1036; Pub. L. 103–429, §6(29), (30), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 105–178, title VII, §7106(d), June 9, 1998, 112 Stat. 467.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32304(a)	15:1950(f).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §210(b)–(d), (f), (g), added Oct. 6, 1992, Pub. L. 102–388, §355, 106 Stat. 1556, 1557.
32304(b)(1), (2)	15:1950(b)(1) (less words between 1st and 2d commas), (2).	
32304(b)(3)	15:1950(b)(3).	
32304(c)	15:1950(b)(1) (words between 1st and 2d commas).	
32304(d)	15:1950(c).	
32304(e)	15:1950(d).	
32304(f)	15:1950(g).	

In this section, the words "passenger motor vehicle" and "vehicle" are substituted for "automobile" because the defined terms used in the operative provisions of the law being restated are "passenger motor vehicle" and "new passenger motor vehicle". The words "final assembly place" are substituted for "final assembly point" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(A)(i), the word "given" is substituted for "denoting" for clarity. The words "passenger motor" are added for clarity and consistency in the revised section.

In section (a)(2)(A)(ii), the words "decor or opulence" are substituted for "decor of opulence" for clarity.

In subsection (a)(3), before subclause (A), the words "from which the largest share of the dollar value added to . . . has originated" are substituted for "in which 50 percent or more of the dollar value added of . . . originated. If no country accounts for 50 percent or more of the dollar value, then the country of origin is the country from which the largest share of the value added originated" for clarity and to eliminate unnecessary words. In subclause (A), the word "with" is substituted for "For the purpose of determining the country of origin for engines and transmissions" are omitted as unnecessary.

In subsection (a)(4), the word "possession" is added for clarity and consistency in the revised title and with other titles of the Code.

In subsection (a)(5), the words "in such a condition" are omitted as surplus.

In subsection (a)(6), the words "United States/Canadian origin" are substituted for "U.S./Canadian origin" for consistency with the defined term restated in the revised section. The word "foreign" is omitted as being included in "foreign content".

In subsection (a)(9), before subclause (A), the words "originated in the United States and Canada" and

"U.S./Canadian origin" are omitted as unnecessary because of the defined term "of United States/Canadian origin". In subclause (A), the words "passenger motor vehicle equipment whose purchase price contains" are substituted for "the purchase price of automotive equipment which contains" for clarity. In subclause (B), the words "that part of the individual passenger motor vehicle equipment whose purchase price the manufacturer determines remains after subtracting the total of the purchase price of all material of foreign content purchased from outside suppliers" are substituted for "the manufacturer shall determine the foreign content of any passenger motor vehicle equipment supplied by the allied supplier by adding up the purchase price of all foreign material purchased from outside suppliers that comprise the individual passenger motor vehicle equipment and subtracting such purchase price from the total purchase price of such equipment" for clarity.

In subsection (a)(10), the word "person" is substituted for "anyone" for clarity and consistency in the revised title.

In subsection (a)(11), the words "a motor vehicle with motive power, manufactured primarily for use on public streets, roads, and highways, and designed to carry not more than 12 individuals . . . not including . . . a motorcycle; or . . . a truck not designed primarily to carry its operator or passengers" are substituted for "has the meaning provided in section 1901(1) of this title" for clarity.

In subsection (a)(13), before subclause (A), the words "the percentage remaining after subtracting" are substituted for "the resulting percentage when . . . is subtracted" for clarity.

In subsection (a)(15), before subclause (A), the words " 'Value added' equals" are omitted as unnecessary because of the restatement.

The text of 15:1950(f)(2) is omitted as unnecessary because of 1:1. The text of 15:1950(f)(8) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section.

In subsection (b)(1)(A), the words "to which that vehicle belongs" are added for clarity.

In subsection (b)(3), the text of 15:1950(b)(3) (1st sentence) is omitted as unnecessary because of the source provisions restated in this subsection.

Subsection (c) is substituted for "and each dealer shall cause to be maintained" for clarity and because of the restatement.

In subsection (e), the words "passenger motor vehicle equipment" are substituted for "a component" for clarity and for consistency with the defined term. The text of 15:1950(d) (last sentence) is omitted as unnecessary because of section 32308 of the revised title. The words "foreign content" are substituted for "foreign" for clarity and consistency with the defined term.

PUB. L. 103–429, §6(29)

This amends 32304(a)(11) to clarify the restatement of 15:1950(f)(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1038).

PUB. L. 103–429, §6(30)

This amends 49:32304(a)(14) to reflect the inclusion of the Northern Mariana Islands and the exclusion of the Canal Zone. The words "the Northern Mariana Islands" are added because of section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 268), and as proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593). The words "the Canal Zone" are omitted because of the Panama Canal Treaty of 1977.

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a)(3)(B). Pub. L. 105–178, §7106(d)(1)(A), inserted before period at end ", plus the assembly and labor costs incurred for the final assembly of such engines and transmissions".

Subsec. (a)(5). Pub. L. 105–178, §7106(d)(1)(B), inserted at end "Such term does not include facilities for engine and transmission fabrication and assembly and the facilities for fabrication of motor vehicle equipment component parts which are produced at the same final assembly place using forming processes such as stamping, machining, or molding processes."

Subsec. (a)(9)(A). Pub. L. 105–178, §7106(d)(1)(C), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "for an outside supplier, passenger motor vehicle equipment whose purchase price contains at least 70 percent value added in the United States and Canada; and".

Subsec. (c). Pub. L. 105–178, §7106(d)(3), added subsec. (c). Former subsec. (c) redesignated (f).

Subsec. (d). Pub. L. 105–178, §7106(d)(4), added subsec. (d). Former subsec. (d) redesignated (g).

Pub. L. 105–178, §7106(d)(2), inserted at end "A manufacturer may add to the label required under subsection (b) a line stating the country in which vehicle assembly was completed."

Subsec. (e). Pub. L. 105–178, §7106(d)(5), added subsec. (e). Former subsec. (e) redesignated (h).

Subsecs. (f) to (i). Pub. L. 105–178, §7106(d)(3), redesignated subsecs. (c) to (f) as (f) to (i), respectively.

1994—Subsec. (a)(11). Pub. L. 103–429, §6(29), amended par. (11) generally. Prior to amendment, par. (11) read as follows: " 'passenger motor vehicle' means a motor vehicle with motive power, manufactured primarily for use on public streets, roads, and highways, and designed to carry not more than 12 individuals—

"(A) including a multipurpose vehicle or light duty truck when the vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight; but

"(B) not including—

"(i) a motorcycle;

"(ii) a truck not designed primarily to carry its operator or passengers; or

"(iii) a vehicle operated only on a rail line."

Subsec. (a)(14). Pub. L. 103–429, §6(30), inserted "the Northern Mariana Islands," after "Puerto Rico," and struck out "the Canal Zone," after "Guam,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32304A. Consumer tire information and standards

(a) CONSUMER TIRE INFORMATION.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation (referred to in this section as the "Secretary") shall, after notice and opportunity for comment, promulgate rules establishing a national tire fuel efficiency consumer information program for replacement tires designed for use on motor vehicles to educate consumers about the effect of tires on automobile fuel efficiency, safety, and durability.

(2) ITEMS INCLUDED IN RULE.—The rulemaking shall include—

(A) a national tire fuel efficiency rating system for motor vehicle replacement tires to assist consumers in making more educated tire purchasing decisions;

(B) requirements for providing information to consumers, including information at the point of sale and other potential information dissemination methods, including the Internet;

(C) specifications for test methods for manufacturers to use in assessing and rating tires to avoid variation among test equipment and manufacturers; and

(D) a national tire maintenance consumer education program including,[1] information on tire inflation pressure, alignment, rotation, and tread wear to maximize fuel efficiency, safety, and durability of replacement tires.

(3) APPLICABILITY.—This section shall apply only to replacement tires covered under section 575.104(c) of title 49, Code of Federal Regulations, in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act.

(b) PROMULGATION OF REGULATIONS FOR TIRE FUEL EFFICIENCY MINIMUM PERFORMANCE STANDARDS.—

(1) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall promulgate regulations for tire fuel efficiency minimum performance standards for—

(A) passenger car tires with a maximum speed capability equal to or less than 149 miles per hour or 240 kilometers per hour; and

(B) passenger car tires with a maximum speed capability greater than 149 miles per hour or 240 kilometers per hour.

(2) TIRE FUEL EFFICIENCY MINIMUM PERFORMANCE STANDARDS.—

(A) STANDARD BASIS AND TEST PROCEDURES.—The minimum performance standards promulgated under paragraph (1) shall be expressed in terms of the rolling resistance coefficient measured using the test procedure specified in section 575.106 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).[2]

(B) NO DISPARATE EFFECT ON HIGH PERFORMANCE TIRES.—The Secretary shall ensure that the minimum performance standards promulgated under paragraph (1) will not have a disproportionate effect on passenger car high performance tires with a maximum speed capability greater than 149 miles per hour or 240 kilometers per hour.

(C) APPLICABILITY.—

(i) IN GENERAL.—This subsection applies to new pneumatic tires for use on passenger cars.

(ii) EXCEPTIONS.—This subsection does not apply to light truck tires, deep tread tires, winter-type snow tires, space-saver or temporary use spare tires, or tires with nominal rim diameters of 12 inches or less.

(c) PROMULGATION OF REGULATIONS FOR TIRE WET TRACTION MINIMUM PERFORMANCE STANDARDS.—

(1) IN GENERAL.—The Secretary shall promulgate regulations for tire wet traction minimum performance standards to ensure that passenger tire wet traction capability is not reduced to achieve improved tire fuel efficiency.

(2) TIRE WET TRACTION MINIMUM PERFORMANCE STANDARDS.—

(A) BASIS OF STANDARD.—The minimum performance standards promulgated under paragraph (1) shall be expressed in terms of peak coefficient of friction.

(B) TEST PROCEDURES.—Any test procedure promulgated under this subsection shall be consistent with any test procedure promulgated under subsection (a).

(C) BENCHMARKING.—The Secretary shall conduct testing to benchmark the wet traction performance of tire models available for sale in the United States as of the date of enactment of this Act [2] to ensure that the minimum performance standards promulgated under paragraph (1) are tailored to—

(i) tires sold in the United States; and

(ii) the needs of consumers in the United States.

(D) APPLICABILITY.—

(i) IN GENERAL.—This subsection applies to new pneumatic tires for use on passenger cars.

(ii) EXCEPTIONS.—This subsection does not apply to light truck tires, deep tread tires, winter-type snow tires, space-saver or temporary use spare tires, or tires with nominal rim diameters of 12 inches or less.

(d) COORDINATION AMONG REGULATIONS.—

(1) COMPATIBILITY.—The Secretary shall ensure that the test procedures and requirements promulgated under subsections (a), (b), and (c) are compatible and consistent.

(2) COMBINED EFFECT OF RULES.—The Secretary shall evaluate the regulations promulgated under subsections (b) and (c) to ensure that compliance with the minimum performance standards promulgated under subsection (b) will not diminish wet traction performance of affected tires.

(3) RULEMAKING DEADLINES.—The Secretary shall promulgate—

(A) the regulations under subsections (b) and (c) not later than 24 months after the date of enactment of this Act; [2] and

(B) the regulations under subsection (c) not later than the date of promulgation of the regulations under subsection (b).

(e) CONSULTATION.—The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on the means of conveying tire fuel efficiency consumer information.

(f) REPORT TO CONGRESS.—The Secretary shall conduct periodic assessments of the rules promulgated under this section to determine the utility of such rules to consumers, the level of cooperation by industry, and the contribution to national goals pertaining to energy consumption. The Secretary shall transmit periodic reports detailing the findings of such assessments to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

(g) TIRE MARKING.—The Secretary shall not require permanent labeling of any kind on a tire for the purpose of tire fuel efficiency information.

(h) APPLICATION WITH STATE AND LOCAL LAWS AND REGULATIONS.—Nothing in this section prohibits a State or political subdivision thereof from enforcing a law or regulation on tire fuel efficiency consumer information that was in effect on January 1, 2006. After a requirement promulgated under this section is in effect, a State or political subdivision thereof may adopt or enforce a law or regulation on tire fuel efficiency consumer information enacted or promulgated after January 1, 2006, if the requirements of that law or regulation are identical to the requirement promulgated under this section. Nothing in this section shall be construed to preempt a State or political subdivision thereof from regulating the fuel efficiency of tires (including establishing testing methods for determining compliance with such standards) not otherwise preempted under this chapter.

(Added Pub. L. 110–140, title I, §111(a), Dec. 19, 2007, 121 Stat. 1506; amended Pub. L. 114–94, div. B, title XXIV, §24332, Dec. 4, 2015, 129 Stat. 1713.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Ten-in-Ten Fuel Economy Act, referred to in subsec. (a)(1), (3), is the date of enactment of subtitle A (§§101–113) of title I of Pub. L. 110–140, which was approved Dec. 19, 2007.

The date of enactment of this Act, referred to in subsecs. (b)(2)(A), (c)(2)(C), and (d)(3)(A), probably means the date of enactment of Pub. L. 114–94, which added subsecs. (b) to (d) and was approved Dec. 4, 2015.

AMENDMENTS

2015—Pub. L. 114–94, §24332(1), which directed insertion of "AND STANDARDS" after "CONSUMER TIRE INFORMATION" in section catchline, was executed by inserting "and standards" after "Consumer tire information", to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 114–94, §24332(2)(A), substituted "Consumer Tire Information" for "Rulemaking" in heading.

Subsec. (a)(1). Pub. L. 114–94, §24332(2)(B), inserted "(referred to in this section as the 'Secretary')" after "Secretary of Transportation".

Subsecs. (b) to (h). Pub. L. 114–94, §24332(3), (4), added subsecs. (b) to (d) and redesignated former subsecs. (b) to (e) as (e) to (h), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] *So in original. Probably should be ", including".*

[2] *See References in Text note below.*

§32304B. Child safety

(a) DEFINITIONS.—In this section:

(1) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" has the meaning given that term in section 32101.

(2) REAR-DESIGNATED SEATING POSITION.—The term "rear-designated seating position" means designated seating positions that are rearward of the front seat.

(3) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) RULEMAKING.—Not later than 2 years after the date of enactment of this section, the Secretary shall issue a final rule requiring all new passenger motor vehicles weighing less than 10,000 pounds gross vehicle weight to be equipped with a system to alert the operator to check rear-designated seating positions after the vehicle engine or motor is deactivated by the operator.

(c) MEANS.—The alert required under subsection (b)—

(1) shall include a distinct auditory and visual alert, which may be combined with a haptic alert; and

(2) shall be activated when the vehicle motor is deactivated by the operator.

(d) PHASE-IN.—The rule issued pursuant to subsection (b) shall require full compliance with the rule beginning on September 1st of the first calendar year that begins 2 years after the date on which the final rule is issued.

(Added Pub. L. 117–58, div. B, title IV, §24222(a)(1), Nov. 15, 2021, 135 Stat. 835.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

§32305. Information and assistance from other departments, agencies, and instrumentalities

(a) AUTHORITY TO REQUEST.—The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) DETAILING PERSONNEL.—The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1040.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32305	15:1943.	Oct. 20, 1972, Pub. L. 92–513, §203, 86 Stat. 957.

In this section, the word "independent" is omitted as surplus.

In subsection (a), the words "he deems" and "his functions under" are omitted as surplus. The words "head of the" are added for consistency in the revised title and with other titles of the United States Code. The words "cooperate with the Secretary and" and "to the Department of Transportation upon request made by the Secretary" are omitted as surplus.

§32306. Personnel

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) appoint and fix the pay of employees without regard to the provisions of title 5 governing appointment in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(2) make contracts with persons for research and preparation of reports.

(b) STATUS OF ADVISORY COMMITTEE MEMBERS.—A member of an advisory committee appointed under section 325 of this title to carry out this chapter is a special United States Government employee under chapter 11 of title 18.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1040.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32306(a)	15:1942 (1st, 2d sentences).	Oct. 20, 1972, Pub. L. 92–513, §202, 86 Stat. 956.
32306(b)	15:1942 (last sentence).	

In subsection (a), before clause (1), the words "his functions under" are omitted as surplus. In clause (1), the words "as he deems necessary" are omitted as surplus. The words "chapter 51 and subchapter III of chapter 53 of title 5" are substituted for "the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates" to eliminate unnecessary words. The text of 15:1942 (1st sentence cl. (2)) is omitted as surplus because of 49:323(b). The text of 15:1942 (1st sentence cl. (4), 2d sentence) is omitted as surplus because of 49:325.

EDITORIAL NOTES

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§32307. Investigative powers

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) inspect and copy records of any person at reasonable times;

(2) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(3) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(b) WITNESS FEES AND MILEAGE.—A witness summoned under subsection (a) of this section is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(c) CIVIL ACTIONS TO ENFORCE.—A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(d) CONFIDENTIALITY OF INFORMATION.—Information obtained by the Secretary under this section related to a confidential matter referred to in section 1905 of title 18 may be disclosed only to another officer or employee of the United States Government for use in carrying out this chapter. This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1040.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32307(a)	15:1944(a)–(c).	Oct. 20, 1972, Pub. L. 92–513, §204, 86 Stat. 957.
32307(b)	15:1944(e).	
32307(c)	15:1944(d).	
32307(d)	15:1944(f).	

In subsection (a), before clause (1), the words "In carrying out this chapter" are substituted for "For the purpose of carrying out the provisions of this subchapter", "In order to carry out the provisions of this subchapter", and "relating to any function of the Secretary under this subchapter" for consistency. The words "or on the authorization of the Secretary, any officer or employee of the Department of Transportation" and "or his duly authorized agent" are omitted as surplus because of 49:322(b). In clause (1), the words "inspect and copy" are substituted for "have access to, and for the purposes of examination the right to copy", and the word "records" is substituted for "documentary evidence" and "materials and information", for consistency and to eliminate unnecessary words. The words "relevant to the study authorized by this subchapter" are omitted as surplus. In clause (2), the word "order" is substituted for "require, by general or special orders" to eliminate unnecessary words. The words "in such form as the Secretary may prescribe" and "shall be filed with the Secretary within such reasonable period as the Secretary may prescribe" are omitted as surplus because of 49:322(a). In clause (3), the words "sit and act at such times and places" are omitted as being included in "conduct hearings".

In subsection (c), the words "A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted" are substituted for 15:1944(d) (words before semicolon) for consistency in the revised title and to eliminate unnecessary words.

In subsection (d), the words "reported to or otherwise" are omitted as surplus. The words "or such officer or employee" are omitted for consistency with subsection (a) of this section. The words "related to a confidential matter referred to" are substituted for "contains or relates to a trade secret or other matter referred to" to eliminate unnecessary words. The words "a committee of Congress authorized to have the information" are substituted for "the duly authorized committees of the Congress" for clarity.

§32308. General prohibitions, civil penalty, and enforcement

(a) PROHIBITIONS.—A person may not—

(1) fail to provide the Secretary of Transportation with information requested by the Secretary in carrying out this chapter; or

(2) fail to comply with applicable regulations prescribed by the Secretary in carrying out this chapter.

(b) CIVIL PENALTY.—(1) A person that violates subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to provide information or comply with a regulation in violation of subsection (a) is a separate violation. The maximum penalty under this subsection for a related series of violations is $400,000.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section.

(3) In determining the amount of a penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be

considered.

(4) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) SECTION 32304A.—Any person who fails to comply with the national tire fuel efficiency information program under section 32304A is liable to the United States Government for a civil penalty of not more than $50,000 for each violation.

(d) CIVIL ACTIONS TO ENFORCE.—(1) The Attorney General may bring a civil action in a United States district court to enjoin a violation of subsection (a) of this section.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(e) VENUE AND SERVICE.—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1041; Pub. L. 110–140, title I, §111(b), Dec. 19, 2007, 121 Stat. 1507.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32308(a)	15:1946.	Oct. 20, 1972, Pub. L. 92–513, §§206–208, 86 Stat. 959.
32308(b)(1)	15:1948(a).	
32308(b)(2)–(4)	15:1948(b).	
32308(c)	15:1947 (1st–3d sentences).	
32308(d)	15:1947 (last sentence). 15:1948(c).	

In subsection (a)(1), the words "data or" are omitted as surplus.

In subsection (b)(1), the words "Each failure to provide information or comply with a regulation" are substituted for "with respect to each failure or refusal to comply with a requirement thereunder" for clarity.

In subsection (c), the words "The Attorney General may bring a civil action" are substituted for "Upon petition by the Attorney General on behalf of the United States" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.) and to eliminate unnecessary words. The words "for cause shown" are omitted as surplus. The words "and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure" are omitted as surplus because the rules apply in the absence of an exception from them.

Subsection (d) is substituted for 15:1947 (last sentence) and 1948(c) for clarity and consistency in this part by restating 15:1917(c)(3) and (4).

EDITORIAL NOTES

AMENDMENTS

2007—Subsecs. (c) to (e). Pub. L. 110–140 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§32309. Civil penalty for labeling violations

(a) DEFINITIONS.—The definitions in section 32304 of this title apply to this section.

(b) PENALTIES.—A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under section 32304 of this title to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under section 32304, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1042; Pub. L. 103–429, §6(31), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32309(a)	(no source).	
32309(b)	15:1950(e).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §210(e); added Oct. 6, 1992, Pub. L. 102–388, §355, 106 Stat. 1557.

Subsection (a) is added to ensure that the definitions in 15:1950(f), restated in section 32304 of the revised title, apply to the source provision restated in this section.

In subsection (b), the words "Each failure to attach or maintain that label" are substituted for "Such failure" for clarity.

PUB. L. 103–429

This amends the catchline for 49:32309 to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1042).

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–429 substituted "Civil" for "Criminal" in section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32310. New Car Assessment Program roadmap

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this section, and not less frequently than once every 4 years thereafter, the Secretary of Transportation (referred to in this section as the "Secretary") shall establish a roadmap for the implementation of the New Car Assessment Program of the National Highway Traffic Safety Administration.

(b) REQUIREMENTS.—A roadmap under subsection (a) shall—
(1) cover a term of 10 years, consisting of—
(A) a mid-term component covering the initial 5 years of the term; and
(B) a long-term component covering the final 5 years of the term; and

(2) be in accordance with—
(A) section 306 of title 5;
(B) section 1115 of title 31;
(C) section 24401 of the FAST Act (49 U.S.C. 105 note; Public Law 114–94); and
(D) any other relevant plans of the National Highway Traffic Safety Administration.

(c) CONTENTS.—A roadmap under subsection (a) shall include—
(1) a plan for any changes to the New Car Assessment Program of the National Highway Traffic Safety Administration, including—
(A) descriptions of actions to be carried out to update the passenger motor vehicle information developed under section 32302(a), including the development of test procedures, test devices, test fixtures, and safety performance metrics, which shall, as applicable, incorporate—
(i) objective criteria for evaluating safety technologies; and
(ii) reasonable time periods for compliance with new or updated tests;

(B) key milestones, including the anticipated start of an action, completion of an action, and effective date of an update; and
(C) descriptions of the means by which an update will improve the passenger motor vehicle information developed under section 32302(a);

(2) an identification and prioritization of safety opportunities and technologies—
(A) with respect to the mid-term component of the roadmap under subsection (b)(1)(A)—
(i) that are practicable; and
(ii) for which objective rating tests, evaluation criteria, and other consumer data exist for a market-based, consumer information approach; and

(B) with respect to the long-term component of the roadmap under subsection (b)(1)(B), exist or are in development;

(3) an identification of—
(A) any safety opportunity or technology that—
(i) is identified through the activities carried out pursuant to subsection (d) or (e); and
(ii) is not included in the roadmap under paragraph (2);

(B) the reasons why such a safety opportunity or technology is not included in the roadmap; and
(C) any developments or information that would be necessary for the Secretary to consider including such a safety opportunity or technology in a future roadmap; and

(4) consideration of the benefits of consistency with other rating systems used—
(A) within the United States; and
(B) internationally.

(d) CONSIDERATIONS.—Before finalizing a roadmap under this section, the Secretary shall—
(1) make the roadmap available for public comment;
(2) review any public comments received under paragraph (1); and
(3) incorporate in the roadmap under this section those comments, as the Secretary determines

to be appropriate.

(e) STAKEHOLDER ENGAGEMENT.—Not less frequently than annually, the Secretary shall engage stakeholders that represent a diversity of technical backgrounds and viewpoints—

(1) to identify—

(A) safety opportunities or technologies in development that could be included in future roadmaps; and

(B) opportunities to benefit from collaboration or harmonization with third-party safety rating programs;

(2) to assist with long-term planning;

(3) to provide an interim update of the status and development of the following roadmap to be established under subsection (a); and

(4) to collect feedback or other information that the Secretary determines to be relevant to enhancing the New Car Assessment Program of the National Highway Traffic Safety Administration.

(Added Pub. L. 117–58, div. B, title IV, §24213(c)(1), Nov. 15, 2021, 135 Stat. 827.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

CHAPTER 325—BUMPER STANDARDS

Sec.

32501. Purpose.
32502. Bumper standards.
32503. Judicial review of bumper standards.
32504. Certificates of compliance.
32505. Information and compliance requirements.
32506. Prohibited acts.
32507. Penalties and enforcement.
32508. Civil actions by owners of passenger motor vehicles.
32509. Information and assistance from other departments, agencies, and instrumentalities.
[32510. Repealed.]
32511. Relationship to other motor vehicle standards.

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–362, title XV, §1501(e)(2), Nov. 10, 1998, 112 Stat. 3295, struck out item 32510 "Annual report".

§32501. Purpose

The purpose of this chapter is to reduce economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the maintenance and enforcement of bumper standards.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1042.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32501	15:1911.	Oct. 20, 1972, Pub. L. 92–513, §101, 86 Stat. 948.

The words "The Congress finds that it is necessary" are omitted as surplus. The word "maintenance" is substituted for "promulgation" for clarity.

§32502. Bumper standards

(a) GENERAL REQUIREMENTS AND NONAPPLICATION.—The Secretary of Transportation shall prescribe by regulation bumper standards for passenger motor vehicles and may prescribe by regulation bumper standards for passenger motor vehicle equipment manufactured in, or imported into, the United States. A standard does not apply to a passenger motor vehicle or passenger motor vehicle equipment—

(1) intended only for export;

(2) labeled for export on the vehicle or equipment and the outside of any container of the vehicle or equipment; and

(3) exported.

(b) LIMITATIONS.—A standard under this section—

(1) may not conflict with a motor vehicle safety standard prescribed under chapter 301 of this title;

(2) may not specify a dollar amount for the cost of repairing damage to a passenger motor vehicle; and

(3) to the greatest practicable extent, may not preclude the attachment of a detachable hitch.

(c) EXEMPTIONS.—For good cause, the Secretary may exempt from all or any part of a standard—

(1) a multipurpose passenger vehicle;

(2) a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle; or

(3) a passenger motor vehicle for which an application for an exemption under section 30013(b) [1] of this title has been filed in accordance with the requirements of that section.

(d) COST REDUCTION AND CONSIDERATIONS.—When prescribing a standard under this section, the Secretary shall design the standard to obtain the maximum feasible reduction of costs to the public, considering—

(1) the costs and benefits of carrying out the standard;

(2) the effect of the standard on insurance costs and legal fees and costs;

(3) savings in consumer time and inconvenience; and

(4) health and safety, including emission standards.

(e) PROCEDURES.—Section 553 of title 5 applies to a standard prescribed under this section. However, the Secretary shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments. A transcript of each oral presentation shall be kept. Under conditions prescribed by the Secretary, the Secretary may conduct a hearing to resolve an issue of fact material to a standard.

(f) EFFECTIVE DATE.—The Secretary shall prescribe an effective date for a standard under this section. That date may not be earlier than the date the standard is prescribed nor later than 18 months after the date the standard is prescribed. However, the Secretary may prescribe a later date when the

Secretary submits to Congress and publishes the reasons for the later date. A standard only applies to a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the effective date.

(g) RESEARCH.—The Secretary shall conduct research necessary to carry out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1042; Pub. L. 105–277, div. A, §101(g) [title III, §351(b)(1)], Oct. 21, 1998, 112 Stat. 2681–439, 2681–476.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32502(a)	15:1912(a).	Oct. 20, 1972, Pub. L. 92–513, §§102, 104(d), 86 Stat. 949.
32502(b)(1)	15:1912(b)(2).	
32502(b)(2)	15:1901(6) (words after semicolon).	Oct. 20, 1972, Pub. L. 92–513, §2(6) (words after semicolon), 86 Stat. 948; Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901; Oct. 10, 1980, Pub. L. 96–425, §8(a)(2), 94 Stat. 1828; Oct. 25, 1984, Pub. L. 98–547, §101(b), 98 Stat. 2767.
32502(b)(3)	15:1912(c)(2).	
32502(c)	15:1912(c)(1).	
32502(d)	15:1912(b)(1).	
32502(e)	15:1912(e).	
32502(f)	15:1912(d).	
32502(g)	15:1914(d).	

In subsection (a), before clause (1), the words "Subject to subsections (b) through (e) of this section" are omitted as surplus. The words "shall prescribe by regulation" are substituted for "by rule . . . shall promulgate" for clarity. The words "may prescribe by regulation" are substituted for "by rule . . . may promulgate" for consistency.

In subsection (c), before clause (1), the words "In promulgating any bumper standard under this subchapter" are omitted as surplus. The words "from any part of a standard" are substituted for "partially or completely" for clarity and consistency.

In subsection (d), before clause (1), the words "to the public" are substituted for "to the public and to the consumer" because they are inclusive. In clause (2), the word "prospective" is omitted as surplus.

In subsection (e), the words "Section 553 of title 5 applies to a standard prescribed under this section" are substituted for "All rules establishing, amending, or revoking a bumper standard under this subchapter shall be issued pursuant to section 553 of title 5", the words "opportunity to make oral and written presentations of information, views, and arguments" are substituted for "opportunity for oral presentation of data, views, or arguments, and the opportunity to make written submissions", the words "Under conditions prescribed by the Secretary" are substituted for "in accordance with such conditions or limitations as he may make applicable thereto", and the words "material to a standard" are substituted for "material to the establishing, amending, or revoking of a bumper standard", to eliminate unnecessary words.

In subsection (f), the words "However, the Secretary may prescribe a later date when the Secretary submits" are substituted for "unless the Secretary presents" for clarity. The word "reasons" is substituted for "a detailed explanation of the reasons" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277, §101(g) [title III, §351(b)(1)(A)], substituted "all or any part of a standard" for "any part of a standard" in introductory provisions.

Subsec. (c)(3). Pub. L. 105–277, §101(g) [title III, §351(b)(1)(B)–(D)], added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

HOOD AND BUMPER STANDARDS

Pub. L. 117–58, div. B, title IV, §24214, Nov. 15, 2021, 135 Stat. 829, provided that:

"(a) NOTICE.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall issue a notice, for purposes of public review and comment, regarding potential updates to hood and bumper standards for motor vehicles (as defined in section 30102(a) of title 49, United States Code).

"(b) INCLUSIONS.—The notice under subsection (a) shall include information relating to—

"(1) the incorporation or consideration of advanced crash-avoidance technology in existing motor vehicle standards;

"(2) the incorporation or consideration of standards or technologies to reduce the number of injuries and fatalities suffered by pedestrians, bicyclists, or other vulnerable road users;

"(3) the development of performance test criteria for use by manufacturers in evaluating advanced crash-avoidance technology, including technology relating to vulnerable road user safety;

"(4) potential harmonization with global standards, including United Nations Economic Commission for Europe Regulation Number 42; and

"(5) such other information and analyses as the Secretary determines to be necessary.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes—

"(1) the current status of hood and bumper standards;

"(2) relevant advanced crash-avoidance technology;

"(3) actions needed to be carried out to develop performance test criteria; and

"(4) if applicable, a plan for incorporating advanced crash-avoidance technology, including technology relating to vulnerable road user safety, in existing standards."

[1] *So in original. Probably should be section "30113(b)".*

§32503. Judicial review of bumper standards

(a) FILING AND VENUE.—A person that may be adversely affected by a standard prescribed under section 32502 of this title may apply for review of the standard by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the standard is prescribed.

(b) NOTIFYING SECRETARY.—The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the standard was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside a standard, and the additional evidence with the court.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1043.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32503(a)	15:1913(a) (1st sentence), (c).	Oct. 20, 1972, Pub. L. 92–513, §103, 86 Stat. 950.
32503(b)	15:1913(a) (2d, last sentences).	
32503(c)	15:1913(b).	
32503(d)	15:1913(d), (e).	

In subsection (a), the words "may apply for" are added for clarity. The text of 15:1913(c) is omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words "or his delegate" and "thereupon" are omitted as surplus. The words "in which the standard was prescribed" are substituted for "on which the Secretary based his rule, as provided in section 2112 of title 28" to eliminate unnecessary words.

In subsection (c)(1), the words "On request of the petitioner" are substituted for "If the petitioner applies to the court for leave to adduce" to eliminate unnecessary words. The words "the Secretary to receive" are substituted for "to be taken before the Secretary, and to be adduced in a hearing" for clarity. The words "in such manner and upon such terms and conditions as the court may deem proper" are omitted as surplus.

In subsection (c)(2), the words "with the court" are substituted for "with the return of" for clarity.

In subsection (d), the words "affirming or setting aside, in whole or in part, any such rule of the Secretary" are omitted as surplus. The words "may be reviewed only" are substituted for "shall be final, subject to review" for clarity. The words "and not in lieu of" are omitted as surplus.

§32504. Certificates of compliance

Under regulations prescribed by the Secretary of Transportation, a manufacturer or distributor of a passenger motor vehicle or passenger motor vehicle equipment subject to a standard prescribed under section 32502 of this title shall give the distributor or dealer at the time of delivery a certificate that the vehicle or equipment complies with the standard.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1044.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32504	15:1915(c).	Oct. 20, 1972, Pub. L. 92–513, §105(c), 86 Stat. 952.

The words "Under regulations prescribed by the Secretary of Transportation" are substituted for 15:1915(c)(1) (last sentence) to eliminate unnecessary words. The text of 15:1915(c)(2) is omitted as surplus because this section only applies to a vehicle or equipment subject to a standard prescribed under section 32502 of the revised title, and a standard prescribed under that section does not apply to a vehicle or equipment intended only for export, labeled for export, and exported.

§32505. Information and compliance requirements

(a) GENERAL AUTHORITY.—(1) To enable the Secretary of Transportation to decide whether a manufacturer of passenger motor vehicles or passenger motor vehicle equipment is complying with this chapter and standards prescribed under this chapter, the Secretary may require the manufacturer to—

(A) keep records;

(B) make reports;

(C) provide items and information, including vehicles and equipment for testing at a negotiated price not more than the manufacturer's cost; and

(D) allow an officer or employee designated by the Secretary to inspect vehicles and relevant

records of the manufacturer.

(2) To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which passenger motor vehicles or passenger motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(b) POWERS OF SECRETARY AND CIVIL ACTIONS TO ENFORCE.—(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for any judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(c) CONFIDENTIALITY OF INFORMATION.—(1) Information obtained by the Secretary under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(A) to another officer or employee of the United States Government for use in carrying out this chapter; or

(B) in a proceeding under this chapter.

(2) This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Subject to paragraph (1) of this subsection, the Secretary, on request, shall make available to the public at cost information the Secretary submits or receives in carrying out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1044; Pub. L. 103–429, §6(32), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32505(a)(1)	15:1915(a).	Oct. 20, 1972, Pub. L. 92–513, §§104(a), (b), 105(a), (b), 109, 86 Stat. 950, 951, 952, 955.
32505(a)(2)	15:1915(b).	
32505(b)(1)	15:1914(a)(1)–(3).	
32505(b)(2)	15:1914(a)(5).	
32505(b)(3)	15:1914(a)(4).	
32505(c)(1), (2)	15:1914(b).	
32505(c)(3)	15:1919.	

In subsection (a)(1), before clause (A), the words "To enable the Secretary of Transportation to decide

whether . . . is complying" are substituted for "to enable him to determine whether such manufacturer has acted or is acting in compliance" and "determining whether such manufacturer has acted or is acting in compliance" to eliminate unnecessary words. The word "reasonably" is omitted as surplus. In clause (A), the word "keep" is substituted for "establish and maintain" for consistency in the revised title and to eliminate unnecessary words. In clause (C), the text of 15:1915(a) (2d sentence) is omitted as surplus because of 49:322(a). In clause (D), the words "upon request" and "duly" are omitted as surplus.

In subsection (a)(2), the word "enter" is omitted as being as included in "inspect". The word "facility" is substituted for "factory, warehouse, or establishment" to eliminate unnecessary words. The words "shall be commenced and completed" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "In carrying out this chapter" are substituted for "For the purpose of carrying out the provisions of this subchapter", "In order to carry out the provisions of this subchapter", "relevant to any function of the Secretary under this subchapter", and "relating to any function of the Secretary under this subchapter" for consistency. In clause (A), the words "inspect and copy" are substituted for "have access to, and for the purposes of examination the right to copy" to eliminate unnecessary words. The word "records" is substituted for "documentary evidence" for consistency. In clause (B), the word "order" is substituted for "require, by general or special orders" to eliminate unnecessary words. The words "in such form as the Secretary may prescribe" and "shall be filed with the Secretary within such reasonable period as the Secretary may prescribe" are omitted as surplus because of 49:322(a). In clause (C), the words "sit and act at such times and places" are omitted as being included in "conduct hearings".

In subsection (b)(3), the words "A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted" are substituted for 15:1914(a)(4) (words before semicolon) for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words "reported to or otherwise" are omitted as surplus. The words "or his representative" are omitted for consistency with subsection (b) of this section. The words "related to a confidential matter referred to" are substituted for "contains or relates to a trade secret or other matter referred to" to eliminate unnecessary words. The words "shall be considered confidential for the purpose of that section" are omitted as surplus. In clause (A), the words "of the United States Government" are added for clarity. In clause (B) the words "when relevant" are omitted as surplus.

In subsection (c)(2), the words "a committee of Congress authorized to have the information" are substituted for "the duly authorized committees of the Congress" for clarity.

In subsection (c)(3), the words "copies of any communications, documents, reports, or other" are omitted as surplus.

PUB. L. 103–429

This amends 49:32505(b)(3) to clarify the restatement of 15:1914(a)(4) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1044).

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–429 substituted "any judicial district in which the proceeding by the Secretary is conducted" for "the judicial district in which the proceeding by the Secretary was conducted".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32506. Prohibited acts

(a) GENERAL.—Except as provided in this section and section 32502 of this title, a person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a passenger motor vehicle or passenger motor vehicle

equipment manufactured on or after the date an applicable standard under section 32502 of this title takes effect, unless it conforms to the standard;

(2) fail to comply with an applicable regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter or a regulation prescribed under this chapter; or

(4) fail to provide the certificate required by section 32504 of this title, or provide a certificate that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

(b) NONAPPLICATION.—Subsection (a)(1) of this section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a passenger motor vehicle or passenger motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale (but this clause does not prohibit a standard from requiring that a vehicle or equipment be manufactured to comply with the standard over a specified period of operation or use); or

(2) a person—

(A) establishing that the person had no reason to know, by exercising reasonable care, that the vehicle or equipment does not comply with the standard; or

(B) holding, without knowing about a noncompliance and before that first purchase, a certificate issued under section 32504 of this title stating that the vehicle or equipment complies with the standard.

(c) IMPORTING NONCOMPLYING VEHICLES AND EQUIPMENT.—(1) The Secretaries of Transportation and the Treasury may prescribe joint regulations authorizing a passenger motor vehicle or passenger motor vehicle equipment not complying with a standard prescribed under section 32502 of this title to be imported into the United States subject to conditions (including providing a bond) the Secretaries consider appropriate to ensure that the vehicle or equipment will—

(A) comply, after importation, with the standards prescribed under section 32502 of this title;

(B) be exported; or

(C) be abandoned to the United States Government.

(2) The Secretaries may prescribe joint regulations that allow a passenger motor vehicle or passenger motor vehicle equipment to be imported into the United States after the first purchase in good faith other than for resale.

(d) LIABILITY UNDER OTHER LAW.—Compliance with a standard under this chapter does not exempt a person from liability provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1045; Pub. L. 105–277, div. A, §101(g) [title III, §351(b)(2)], Oct. 21, 1998, 112 Stat. 2681–439, 2681–476.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32506(a)	15:1916(a).	Oct. 20, 1972, Pub. L. 92–513, §106, 86 Stat. 952.
32506(b)	15:1916(b)(1), (2).	
32506(c)	15:1916(b)(3), (4).	
32506(d)	15:1916(c).	

In subsection (a)(4), the words "required by such subsection to the effect that a passenger motor vehicle or passenger motor vehicle equipment conforms to all applicable bumper standards" are omitted as surplus.

In subsection (c)(1), before clause (A), the word "conditions" is substituted for "such terms and conditions"

to eliminate unnecessary words. In clause (A), the words "comply, after importation" are substituted for "brought into conformity" for clarity and consistency.

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 inserted "and section 32502 of this title" after "Except as provided in this section" in introductory provisions.

§32507. Penalties and enforcement

(a) CIVIL PENALTY.—(1) A person that violates section 32506(a) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of section 32506(a)(1) or (4) of this title—

(A) that does not comply with a standard prescribed under section 32502 of this title; or

(B) for which a certificate is not provided, or for which a false or misleading certificate is provided, under section 32504 of this title.

(2) The maximum civil penalty under this subsection for a related series of violations is $800,000.

(3) The Secretary of Transportation imposes a civil penalty under this subsection. The Attorney General or the Secretary, with the concurrence of the Attorney General, shall bring a civil action in a United States district court to collect the penalty.

(b) CRIMINAL PENALTY.—A person knowingly and willfully violating section 32506(a)(1) of this title after receiving a notice of noncompliance from the Secretary shall be fined under title 18, imprisoned for not more than one year, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of the corporation who, with knowledge of the Secretary's notice, knowingly and willfully authorizes, orders, or performs an act that is any part of the violation.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Secretary or the Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle or passenger motor vehicle equipment that is found, before the first purchase in good faith other than for resale, not to comply with a standard prescribed under section 32502 of this title.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) except for a knowing and willful violation, give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) VENUE.—A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32507(a)	15:1917(a).	Oct. 20, 1972, Pub. L. 92–513, § 107, 86 Stat. 953.
32507(b)	15:1917(b).	
32507(c)	15:1917(c)(1).	
32507(d)	15:1917(c)(2).	
32507(e)	15:1917(c)(3), (4).	

In subsection (a)(3), the words "by any of the Secretary's attorneys designated by the Secretary for such purpose" are omitted as surplus.

In subsection (b), the words "fined under title 18" are substituted for "fined not more than $50,000" for consistency with title 18. The words "If the person is a corporation, the penalties of this subsection also apply" are substituted for "If a corporation violates section 1916(a)(1) of this title after having received notice of noncompliance from the Secretary . . . shall be subject to penalties under this section in addition to the corporation", the word "act" is substituted for "acts or practices", and the words "any part of the violation" are substituted for "in whole or in part such violation", to eliminate unnecessary words.

In subsection (c)(1), the words "may bring a civil action" are substituted for "Upon petition . . . on behalf of the United States . . . have jurisdiction" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.) and to eliminate unnecessary words. The words "for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure" are omitted as surplus because the rules apply in the absence of an exemption from them. The word "enjoin" is substituted for "restrain" for consistency.

In subsection (d), the words "the defendant may demand a jury trial" are substituted for "trial shall be by the court, or, upon demand of the accused, by a jury" to eliminate unnecessary words and for consistency in the revised title.

In subsection (e), the words "any act or transaction constituting" are omitted as surplus. The word "resides" is substituted for "is an inhabitant" for consistency and to eliminate unnecessary words.

§32508. Civil actions by owners of passenger motor vehicles

When an owner of a passenger motor vehicle sustains damages as a result of a motor vehicle accident because the vehicle did not comply with a standard prescribed under section 32502 of this title, the owner may bring a civil action against the manufacturer to recover the damages. The action may be brought in the United States District Court for the District of Columbia or in the United States district court for the judicial district in which the owner resides. The action must be brought not later than 3 years after the date of the accident. The court shall award costs and a reasonable attorney's fee to the owner when a judgment is entered for the owner.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1047.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32508	15:1918.	Oct. 20, 1972, Pub. L. 92–513, §108, 86 Stat. 955.

The words "applicable Federal" are omitted as surplus. The words "when a judgment is entered for the owner" are substituted for "in the case of any such successful action to recover that amount" to eliminate unnecessary words.

§32509. Information and assistance from other departments, agencies, and

instrumentalities

(a) GENERAL AUTHORITY.—The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) DETAILING PERSONNEL.—The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1047.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32509	15:1914(c).	Oct. 20, 1972, Pub. L. 92–513, §104(c), 86 Stat. 951.

In subsection (a), the words "he deems" and "his functions under" are omitted as surplus. The words "head of the" are added for consistency in the revised title and with other titles of the United States Code. The words "cooperate with the Secretary and" and "to the Department of Transportation upon request made by the Secretary" are omitted as surplus.

[§32510. Repealed. Pub. L. 105–362, title XV, §1501(e)(1), Nov. 10, 1998, 112 Stat. 3294]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1047, related to annual report by Secretary of Transportation to Congress and the President concerning bumper standards.

§32511. Relationship to other motor vehicle standards

(a) PREEMPTION.—Except as provided in this section, a State or a political subdivision of a State may prescribe or enforce a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment only if the standard is identical to a standard prescribed under section 32502 of this title.

(b) ENFORCEMENT.—This chapter and chapter 301 of this title do not affect the authority of a State to enforce a bumper standard about an aspect of performance of a passenger motor vehicle or passenger motor vehicle equipment not covered by a standard prescribed under section 32502 of this title if the State bumper standard—

(1) does not conflict with a standard prescribed under chapter 301 of this title; and

(2) was in effect or prescribed by the State on October 20, 1972.

(c) ADDITIONAL AND HIGHER STANDARDS OF PERFORMANCE.—The United States Government, a State, or a political subdivision of a State may prescribe a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment obtained for its own use that imposes additional or higher standards of performance than a standard prescribed under section 32502 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1047.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32511(a)	15:1920(a).	Oct. 20, 1972, Pub. L. 92–513, §110, 86 Stat. 955.
32511(b)	15:1920(b)(1).	

32511(c)	15:1920(b)(2).	

In subsection (a), the words "may prescribe or enforce . . . only if the standard is identical" are substituted for "no . . . shall have any authority to establish or enforce with respect to . . . which is not identical" to eliminate unnecessary words. The words "a standard prescribed under section 32502 of this title" are substituted for "Federal bumper standard" for clarity.

In subsection (b), before clause (1), the words "to continue" are omitted as surplus. The words "a bumper standard about an aspect of performance . . . not covered by a standard prescribed under section 32502 of this title" are substituted for "Until a Federal bumper standard takes effect with respect to an aspect of performance" and "any bumper standard which is applicable to the same aspect of performance of such vehicle or item of equipment" to eliminate unnecessary words. The words "if the State bumper standard" are added for clarity.

In subsection (c), the words "that imposes additional or higher standards of performance than" are substituted for "which is not identical to . . . if such requirement imposes an additional or higher standard of performance" for clarity and to eliminate unnecessary words.

CHAPTER 327—ODOMETERS

Sec.
32701. Findings and purposes.
32702. Definitions.
32703. Preventing tampering.
32704. Service, repair, and replacement.
32705. Disclosure requirements on transfer of motor vehicles.
32706. Inspections, investigations, and records.
32707. Administrative warrants.
32708. Confidentiality of information.
32709. Penalties and enforcement.
32710. Civil actions by private persons.
32711. Relationship to State law.

§32701. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) buyers of motor vehicles rely heavily on the odometer reading as an index of the condition and value of a vehicle;

(2) buyers are entitled to rely on the odometer reading as an accurate indication of the mileage of the vehicle;

(3) an accurate indication of the mileage assists a buyer in deciding on the safety and reliability of the vehicle; and

(4) motor vehicles move in, or affect, interstate and foreign commerce.

(b) PURPOSES.—The purposes of this chapter are—

(1) to prohibit tampering with motor vehicle odometers; and

(2) to provide safeguards to protect purchasers in the sale of motor vehicles with altered or reset odometers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1048.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32701(a)	15:1981 (1st sentence).	Oct. 20, 1972, Pub. L. 92–513, §401, 86 Stat. 961.

32701(b)	15:1981 (last sentence).	

§32702. Definitions

In this chapter—

(1) "auction company" means a person taking possession of a motor vehicle owned by another to sell at an auction.

(2) "dealer" means a person that sold at least 5 motor vehicles during the prior 12 months to buyers that in good faith bought the vehicles other than for resale.

(3) "distributor" means a person that sold at least 5 motor vehicles during the prior 12 months for resale.

(4) "leased motor vehicle" means a motor vehicle leased to a person for at least 4 months by a lessor that leased at least 5 vehicles during the prior 12 months.

(5) "odometer" means an instrument or system of components for measuring and recording the distance a motor vehicle is driven, but does not include an auxiliary instrument or system of components designed to be reset by the operator of the vehicle to record mileage of a trip.

(6) "repair" and "replace" mean to restore to a sound working condition by replacing any part of an odometer or by correcting any inoperative part of an odometer.

(7) "title" means the certificate of title or other document issued by the State indicating ownership.

(8) "transfer" means to change ownership by sale, gift, or any other means.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1048; Pub. L. 104–287, §5(61), Oct. 11, 1996, 110 Stat. 3394; Pub. L. 112–141, div. C, title I, §31205(a), July 6, 2012, 126 Stat. 760.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32702(1)	15:1982(8).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §402(6)–(8); added Oct. 28, 1986, Pub. L. 99–579, §2(b), 100 Stat. 3310.
32702(2)	15:1982(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §402(1), (2); added July 14, 1976, Pub. L. 94–364, §401(2), 90 Stat. 983.
32702(3)	15:1982(2).	
32702(4)	15:1982(7).	
32702(5)	15:1982(3).	Oct. 20, 1972, Pub. L. 92–513, §402(3)–(5), 86 Stat. 961; July 14, 1976, Pub. L. 94–364, §401(1), 90 Stat. 983.
32702(6)	15:1982(4).	
32702(7)	15:1982(6).	
32702(8)	15:1982(5).	

In clause (1), the words "(whether through consignment or bailment or through any other arrangement)" and "such motor vehicle" are omitted as surplus.

In clause (4), the words "a term of" are omitted as surplus.

In clause (5), the words "the distance a motor vehicle is driven" are substituted for "the actual distance a motor vehicle travels while in operation" for clarity and to eliminate unnecessary words.

PUB. L. 104–287

This amends 49:32702(8) and 32705 to clarify the restatement of 15:1982(5) and 1988 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1049).

EDITORIAL NOTES

AMENDMENTS

2012—Par. (5). Pub. L. 112–141, which directed insertion of "or system of components" after "instrument", was executed by making the insertion after "instrument" both places it appeared.

1996—Par. (8). Pub. L. 104–287 inserted "any" after "or".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§32703. Preventing tampering

A person may not—

(1) advertise for sale, sell, use, install, or have installed, a device that makes an odometer of a motor vehicle register a mileage different from the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer;

(2) disconnect, reset, alter, or have disconnected, reset, or altered, an odometer of a motor vehicle intending to change the mileage registered by the odometer;

(3) with intent to defraud, operate a motor vehicle on a street, road, or highway if the person knows that the odometer of the vehicle is disconnected or not operating; or

(4) conspire to violate this section or section 32704 or 32705 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1049; Pub. L. 103–429, §6(33), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32703(1)	15:1983.	Oct. 20, 1972, Pub. L. 92–513, §403, 86 Stat. 962; July 14, 1976, Pub. L. 94–364, §402, 90 Stat. 983.
32703(2)	15:1984.	Oct. 20, 1972, Pub. L. 92–513, §§404, 405, 86 Stat. 962; restated July 14, 1976, Pub. L. 94–364, §§403, 404, 90 Stat. 983.
32703(3)	15:1985.	
32703(4)	15:1986.	Oct. 20, 1972, Pub. L. 92–513, §406, 86 Stat. 962.

In clause (1), the words "the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer" are substituted for "the true mileage driven. For purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the

odometer within the manufacturer's designed tolerance" to eliminate unnecessary words.

In clause (3), the words "public" and "road" are added for consistency in this subtitle.

PUB. L. 103–429

This amends 49:32703(3) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1049).

EDITORIAL NOTES

AMENDMENTS

1994—Par. (3). Pub. L. 103–429 struck out "public" before "street".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32704. Service, repair, and replacement

(a) ADJUSTING MILEAGE.—A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair, or replacement. If the mileage cannot remain the same—

(1) the person shall adjust the odometer to read zero; and

(2) the owner of the vehicle or agent of the owner shall attach a written notice to the left door frame of the vehicle specifying the mileage before the service, repair, or replacement and the date of the service, repair, or replacement.

(b) REMOVING OR ALTERING NOTICE.—A person may not, with intent to defraud, remove or alter a notice attached to a motor vehicle as required by this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1049.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32704	15:1987.	Oct. 20, 1972, Pub. L. 92–513, §407, 86 Stat. 962; July 14, 1976, Pub. L. 94–364, §405, 90 Stat. 983.

In subsection (b), the text of 15:1987(b)(1) is omitted as surplus.

§32705. Disclosure requirements on transfer of motor vehicles

(a)(1) DISCLOSURE REQUIREMENTS.—Under regulations prescribed by the Secretary of Transportation that include the way in which information is disclosed and retained under this section, a person transferring ownership of a motor vehicle shall give the transferee the following written disclosure:

(A) Disclosure of the cumulative mileage registered on the odometer.

(B) Disclosure that the actual mileage is unknown, if the transferor knows that the odometer reading is different from the number of miles the vehicle has actually traveled.

(2) A person transferring ownership of a motor vehicle may not violate a regulation prescribed

under this section or give a false statement to the transferee in making the disclosure required by such a regulation.

(3) A person acquiring a motor vehicle for resale may not accept a written disclosure under this section unless it is complete.

(4)(A) This subsection shall apply to all transfers of motor vehicles (unless otherwise exempted by the Secretary by regulation), except in the case of transfers of new motor vehicles from a vehicle manufacturer jointly to a dealer and a person engaged in the business of renting or leasing vehicles for a period of 30 days or less.

(B) For purposes of subparagraph (A), the term "new motor vehicle" means any motor vehicle driven with no more than the limited use necessary in moving, transporting, or road testing such vehicle prior to delivery from the vehicle manufacturer to a dealer, but in no event shall the odometer reading of such vehicle exceed 300 miles.

(5) The Secretary may exempt such classes or categories of vehicles as the Secretary deems appropriate from these requirements. Until such time as the Secretary amends or modifies the regulations set forth in 49 CFR 580.6, such regulations shall have full force and effect.

(b) MILEAGE STATEMENT REQUIREMENT FOR LICENSING.—(1) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the transferee, in submitting an application to a State for the title on which the license will be issued, includes with the application the transferor's title and, if that title contains the space referred to in paragraph (3)(A)(iii) of this subsection, a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a) of this section. This paragraph does not apply to a transfer of ownership of a motor vehicle that has not been licensed before the transfer.

(2)(A) Under regulations prescribed by the Secretary, if the title to a motor vehicle issued to a transferor by a State is in the possession of a lienholder when the transferor transfers ownership of the vehicle, the transferor may use a written power of attorney (if allowed by State law) in making the mileage disclosure required under subsection (a) of this section. Regulations prescribed under this paragraph—

(i) shall prescribe the form of the power of attorney;

(ii) shall provide that the form be printed by means of a secure printing process (or other secure process);

(iii) shall provide that the State issue the form to the transferee;

(iv) shall provide that the person exercising the power of attorney retain a copy and submit the original to the State with a copy of the title showing the restatement of the mileage;

(v) may require that the State retain the power of attorney and the copy of the title for an appropriate period or that the State adopt alternative measures consistent with section 32701(b) of this title, after considering the costs to the State;

(vi) shall ensure that the mileage at the time of transfer be disclosed on the power of attorney document;

(vii) shall ensure that the mileage be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (3)(A)(iii) of this subsection;

(viii) may not require that a motor vehicle be titled in the State in which the power of attorney was issued;

(ix) shall consider the need to facilitate normal commercial transactions in the sale or exchange of motor vehicles; and

(x) shall provide other conditions the Secretary considers appropriate.

(B) Section 32709(a) and (b) applies to a person granting or granted a power of attorney under this paragraph.

(3)(A) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the title issued by the State to the transferee—

(i) is produced by means of a secure printing process (or other secure process);

(ii) indicates the mileage disclosure required to be made under subsection (a) of this section; and

(iii) contains a space for the transferee to disclose the mileage at the time of a future transfer and to sign and date the disclosure.

(B) Subparagraph (A) of this paragraph does not require a State to verify, or preclude a State from verifying, the mileage information contained in the title.

(c) LEASED MOTOR VEHICLES.—(1) For a leased motor vehicle, the regulations prescribed under subsection (a) of this section shall require written disclosure about mileage to be made by the lessee to the lessor when the lessor transfers ownership of that vehicle.

(2) Under those regulations, the lessor shall provide written notice to the lessee of—

(A) the lessee's mileage disclosure requirements under paragraph (1) of this subsection; and

(B) the penalties for failure to comply with those requirements.

(3) The lessor shall retain the disclosures made by a lessee under paragraph (1) of this subsection for at least 4 years following the date the lessor transfers the leased motor vehicle.

(4) If the lessor transfers ownership of a leased motor vehicle without obtaining possession of the vehicle, the lessor, in making the disclosure required by subsection (a) of this section, may indicate on the title the mileage disclosed by the lessee under paragraph (1) of this subsection unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(d) STATE ALTERNATE VEHICLE MILEAGE DISCLOSURE REQUIREMENTS.—The requirements of subsections (b) and (c)(1) of this section on the disclosure of motor vehicle mileage when motor vehicles are transferred or leased apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary decides that the requirements are not consistent with the purpose of the disclosure required by subsection (b) or (c), as the case may be.

(e) AUCTION SALES.—If a motor vehicle is sold at an auction, the auction company conducting the auction shall maintain the following records for at least 4 years after the date of the sale:

(1) the name of the most recent owner of the motor vehicle (except the auction company) and the name of the buyer of the motor vehicle.

(2) the vehicle identification number required under chapter 301 or 331 of this title.

(3) the odometer reading on the date the auction company took possession of the motor vehicle.

(f) APPLICATION AND REVISION OF STATE LAW.—(1) Except as provided in paragraph (2) of this subsection, subsections (b)–(e) of this section apply to the transfer of a motor vehicle after April 28, 1989.

(2) If a State requests, the Secretary shall assist the State in revising its laws to comply with subsection (b) of this section. If a State requires time beyond April 28, 1989, to revise its laws to achieve compliance, the Secretary, on request of the State, may grant additional time that the Secretary considers reasonable by publishing a notice in the Federal Register. The notice shall include the reasons for granting the additional time. In granting additional time, the Secretary shall ensure that the State is making reasonable efforts to achieve compliance.

(g) ELECTRONIC DISCLOSURES.—

(1) Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.

(2) Notwithstanding paragraph (1) and subject to paragraph (3), a State, without approval from the Secretary under subsection (d), may allow for written disclosures or notices and related matters to be provided electronically if—

(A) in compliance with—

(i) the requirements of subchapter 1 of chapter 96 of title 15; [1] or

(ii) the requirements of a State law under section 7002(a) of title 15; [1] and

(B) the disclosures or notices otherwise meet the requirements under this section, including appropriate authentication and security measures.

(3) Paragraph (2) ceases to be effective on the date the regulations under paragraph (1) become effective.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1049; Pub. L. 103–429, §6(34), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–287, §5(62), Oct. 11, 1996, 110 Stat. 3394; Pub. L. 105–178, title VII, §7105, June 9, 1998, 112 Stat. 467; Pub. L. 112–141, div. C, title I, §31205(b), July 6, 2012, 126 Stat. 761; Pub. L. 114–94, div. B, title XXIV, §24111, Dec. 4, 2015, 129 Stat. 1709.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32705(a)	15:1988(a).	Oct. 20, 1972, Pub. L. 92–513, §408(a), 86 Stat. 962.
	15:1988(b) (related to false statements).	Oct. 20, 1972, Pub. L. 92–513, §408(b) (related to false statements), 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §406, 90 Stat. 983.
	15:1988(c).	Oct. 20, 1972, Pub. L. 92–513, §408(c), 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §406, 90 Stat. 984.
32705(b)(1)	15:1988(d)(1)(A), (B).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §408(d)(1)(A), (B), (2)–(g); added Oct. 28, 1986, Pub. L. 99–579, §2(a), 100 Stat. 3309.
32705(b)(2)	15:1988(d)(1)(C).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §408(d)(1)(C); added Oct. 31, 1988, Pub. L. 100–561, §401, 102 Stat. 2817; Nov. 28, 1990, Pub. L. 101–641, §7(a), 104 Stat. 4657.
	15:1988 (note).	Nov. 28, 1990, Pub. L. 101–641, §7(b) (last sentence), 104 Stat. 4657.
32705(b)(3)	15:1988(d)(2).	
32705(c)	15:1988(e).	
32705(d)	15:1988(f).	
32705(e)	15:1988(g).	
32705(f)	15:1988 (note).	Oct. 28, 1986, Pub. L. 99–579, §2(c), 100 Stat. 3310.

In subsection (a)(1), before clause (A), the words "Not later than 90 days after October 20, 1972" are omitted as executed. In clause (B), the words "if the transferor knows that the mileage registered by the odometer is incorrect" are substituted for "if the odometer reading is known to the transferor to be different from the number of miles the vehicle has actually traveled" to eliminate unnecessary words.

In subsection (b)(2)(A), before clause (i), the words "Under regulations prescribed by the Secretary" are substituted for "prescribed by rule by the Secretary" for consistency in the revised title and because "rule" is synonymous with "regulation". The words "to a transferor" are added for clarity. The words "before February 1, 1989" are omitted as expired. The words "in the possession of" are substituted for "physically held by", and the words "when the transferor transfers ownership of the vehicle" are substituted for "at the time of a transfer of such motor vehicle", for clarity and consistency. The words "the transferor may" are substituted for "nothing in this subsection shall be construed to prohibit" for clarity and to eliminate unnecessary words.

Clause (i) is substituted for "in a form" and clause (ii) is substituted for "in accordance with paragraph (2)(A)(i)" for clarity and consistency. In clause (iii), the words "consistent with the purposes of this Act and the need to facilitate enforcement thereof" are omitted as surplus. In clauses (iv), (v), (viii), and (ix), the amendment made by section 7(a) of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4657) is restated as amending section 408(d)(1)(C) of the Motor Vehicle and Cost Savings Act (15 U.S.C. 1988(d)(1)(C)) instead of section 408(d)(2)(C) of that Act to reflect the probable intent of Congress. There is no section 408(d)(2)(C) in that Act. Clause (vii) is substituted for "and under reasonable conditions" for clarity and consistency.

In subsection (b)(3)(A), before clause (i), the words "following such transfer" are omitted as surplus. In clause (i), the word "produced" is substituted for "set forth" for clarity. In clause (iii), the words "(in the event of a future transfer)" are omitted as surplus.

In subsection (d), the text of 15:1988(f)(1) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (e), before clause (1), the words "establish and" are omitted as executed.

In subsection (f)(1), the text of section 2(c)(3) of the Truth in Mileage Act of 1986 (Public Law 99–579, 100 Stat. 3311) is omitted as surplus.

PUB. L. 103–429

This amends 49:32705(c)(2)(A) to clarify the restatement of 15:1988(e)(2)(A) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1051).

PUB. L. 104–287

This amends 49:32702(8) and 32705 to clarify the restatement of 15:1982(5) and 1988 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1049).

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, referred to in subsec. (g)(1), is the date of enactment of title I of div. C of Pub. L. 112–141, which was approved July 6, 2012.

Subchapter 1 of chapter 96 of title 15 and section 7002(a) of title 15, referred to in subsec. (g)(2)(A), probably should be references to title I and section 102(a), respectively, of the Electronic Signatures in Global and National Commerce Act, Pub. L. 106–229, which are classified, respectively, to subchapter I (§7001 et seq.) of chapter 96 and section 7002(a) of Title 15, Commerce and Trade.

AMENDMENTS

2015—Subsec. (g). Pub. L. 114–94 designated existing provisions as par. (1) and added pars. (2) and (3).

2012—Subsec. (g). Pub. L. 112–141 added subsec. (g).

1998—Subsec. (a)(4), (5). Pub. L. 105–178 added pars. (4) and (5).

1996—Subsec. (a). Pub. L. 104–287, §5(62)(A), substituted "Disclosure requirements" for "Written disclosure requirements" in heading and amended text generally. Prior to amendment, text read as follows:

"(1) Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a motor vehicle shall give the transferee a written disclosure—

"(A) of the cumulative mileage registered by the odometer; or

"(B) that the mileage is unknown if the transferor knows that the mileage registered by the odometer is incorrect.

"(2) A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

"(3) A person acquiring a motor vehicle for resale may accept a disclosure under this section only if it is complete.

"(4) The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under this section."

Subsec. (b)(3)(A). Pub. L. 104–287, §5(62)(B), substituted "may not be licensed for use in a State unless" for "may be licensed for use in a State only if" in introductory provisions.

1994—Subsec. (c)(2)(A). Pub. L. 103–429 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the mileage disclosure requirements of subsection (a) of this section; and".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

REGULATIONS

Pub. L. 103–272, §4(q), July 5, 1994, 108 Stat. 1371, provided that: "The revision of regulations, referred to in section 32705(b)(2)(A) of title 49, United States Code, as enacted by section 1 of this Act, that is required by section 7 of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4657) [former 15 U.S.C. 1988(d)(1)(C), 1988 note] shall be prescribed not later than May 28, 1991."

[1] *See References in Text note below.*

§32706. Inspections, investigations, and records

(a) AUTHORITY TO INSPECT AND INVESTIGATE.—Subject to section 32707 of this title, the Secretary of Transportation may conduct an inspection or investigation necessary to carry out this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall cooperate with State and local officials to the greatest extent possible in conducting an inspection or investigation. The Secretary may give the Attorney General information about a violation of this chapter or a regulation prescribed or order issued under this chapter.

(b) ENTRY, INSPECTION, AND IMPOUNDMENT.—(1) In carrying out subsection (a) of this section, an officer or employee designated by the Secretary, on display of proper credentials and written notice to the owner, operator, or agent in charge, may—

(A) enter and inspect commercial premises in which a motor vehicle or motor vehicle equipment is manufactured, held for shipment or sale, maintained, or repaired;

(B) enter and inspect noncommercial premises in which the Secretary reasonably believes there is a motor vehicle or motor vehicle equipment that is an object of a violation of this chapter;

(C) inspect that motor vehicle or motor vehicle equipment; and

(D) impound for not more than 72 hours for inspection a motor vehicle or motor vehicle equipment that the Secretary reasonably believes is an object of a violation of this chapter.

(2) An inspection or impoundment under this subsection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness. The written notice may consist of a warrant issued under section 32707 of this title.

(c) REASONABLE COMPENSATION.—When the Secretary impounds for inspection a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor vehicle equipment under subsection (b)(1)(D) of this section, the Secretary shall pay reasonable compensation to the owner of the vehicle or equipment if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle or equipment.

(d) RECORDS AND INFORMATION REQUIREMENTS.—(1) To enable the Secretary to decide whether a dealer or distributor is complying with this chapter and regulations prescribed and orders issued under this chapter, the Secretary may require the dealer or distributor—

(A) to keep records;

(B) to provide information from those records if the Secretary states the purpose for requiring the information and identifies the information to the fullest extent practicable; and

(C) to allow an officer or employee designated by the Secretary to inspect relevant records of the dealer or distributor.

(2) This subsection and subsection (e)(1)(B) of this section do not authorize the Secretary to require a dealer or distributor to provide information on a regular periodic basis.

(e) ADMINISTRATIVE AUTHORITY AND CIVIL ACTIONS TO ENFORCE.—(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for any judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(f) PROHIBITIONS.—A person may not fail to keep records, refuse access to or copying of records, fail to make reports or provide information, fail to allow entry or inspection, or fail to permit impoundment, as required under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1052; Pub. L. 103–429, §6(35), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 105–102, §2(19), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32706(a)	15:1990d(a)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§414(a)–(c), 416; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 985, 988.
32706(b)	15:1990d(a)(2).	
32706(c)	15:1990d(a)(3).	
32706(d)	15:1990d(b).	
32706(e)(1)	15:1990d(c)(1)–(3).	
32706(e)(2)	15:1990d(c)(5).	
32706(e)(3)	15:1990d(c)(4).	
32706(f)	15:1990f.	

In subsection (a), the words "Subject to section 32707 of this title" are added for clarity. The words "appropriate" and "consistent with the purposes of this subsection" are omitted as surplus. The words "The Secretary may give the Attorney General information" are substituted for "Information obtained . . . may be referred to the Attorney General for investigative consideration" to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words "duly" and "stating their purpose and" are omitted as surplus. In clause (A), the words "any factory, warehouse, establishment, or other" are omitted as surplus.

In subsection (b)(2), the words "shall be commenced and completed" are omitted as surplus. The words "a warrant issued under section 32707 of this title" are substituted for "an administrative inspection warrant" for clarity.

In subsection (c), the words "the authority of" and "any item of" are omitted as surplus.

In subsection (d)(1), before clause (A), the words "the Secretary may require" are substituted for "as the

Secretary may reasonably require" and "as the Secretary finds necessary" to eliminate unnecessary words. In clause (B), the words "such officer or employee" and "reason or" are omitted as surplus. In clause (C), the words "duly" and "upon request of such officer or employee" are omitted as surplus.

In subsection (d)(2), the words "and subsection (e)(1)(B) of this section" are added for clarity.

In subsection (e)(1), before clause (A), the words "In carrying out this chapter" are substituted for "For the purpose of carrying out the provisions of this subchapter", "In order to carry out the provisions of this subchapter", "relevant to any function of the Secretary under this subchapter", and "relating to any function of the Secretary under this subchapter" for consistency. The words "or, with the authorization of the Secretary, any officer or employee of the Department of Transportation" and "or his duly authorized agent" are omitted as surplus because of 49:322(b). In clause (A), the words "inspect and copy" are substituted for "have access to, and for the purposes of examination the right to copy" to eliminate unnecessary words. The word "records" is substituted for "documentary evidence" for consistency. The words "having materials or information" are omitted as surplus. In clause (B), the word "order" is substituted for "require, by general or special orders" to eliminate unnecessary words. The words "in such form as the Secretary may prescribe" and "shall be filed with the Secretary within such reasonable period as the Secretary may prescribe" are omitted as surplus because of 49:322(a). In clause (C), the words "sit and act at such times and places" are omitted as being included in "conduct hearings".

In subsection (e)(3), the words "A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted" are substituted for 15:1990d(c)(4) (words before last comma) for consistency in the revised title and to eliminate unnecessary words.

PUB. L. 103–429

This amends 49:32706(e)(3) to clarify the restatement of 15:1990d(c)(4) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1053).

PUB. L. 105–102

This amends 49:32706(c) to correct a cross-reference necessary because of the restatement of subtitle IV of title 49 by the ICC Termination Act (Public Law 104–88, 109 Stat. 803).

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–102 substituted "subchapter I of chapter 135" for "subchapter II of chapter 105".

1994—Subsec. (e)(3). Pub. L. 103–429 substituted "any judicial district in which the proceeding by the Secretary is conducted." for "the judicial district in which the proceeding by the Secretary was conducted."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32707. Administrative warrants

(a) DEFINITION.—In this section, "probable cause" means a valid public interest in the effective enforcement of this chapter or a regulation prescribed under this chapter sufficient to justify the inspection or impoundment in the circumstances stated in an application for a warrant under this section.

(b) WARRANT REQUIREMENT AND ISSUANCE.—(1) Except as provided in paragraph (4) of this subsection, an inspection or impoundment under section 32706 of this title may be carried out only after a warrant is obtained.

(2) A judge of a court of the United States or a State court of record or a United States magistrate may issue a warrant for an inspection or impoundment under section 32706 of this title within the territorial jurisdiction of the court or magistrate. The warrant must be based on an affidavit that—

(A) establishes probable cause to issue the warrant; and

(B) is sworn to before the judge or magistrate by an officer or employee who knows the facts alleged in the affidavit.

(3) The judge or magistrate shall issue the warrant when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant. The warrant must—

(A) identify the premises, property, or motor vehicle to be inspected and the items or type of property to be impounded;

(B) state the purpose of the inspection, the basis for issuing the warrant, and the name of the affiant;

(C) direct an individual authorized under section 32706 of this title to inspect the premises, property, or vehicle for the purpose stated in the warrant and, when appropriate, to impound the property specified in the warrant;

(D) direct that the warrant be served during the hours specified in the warrant; and

(E) name the judge or magistrate with whom proof of service is to be filed.

(4) A warrant under this section is not required when—

(A) the owner, operator, or agent in charge of the premises consents;

(B) it is reasonable to believe that the mobility of the motor vehicle to be inspected makes it impractical to obtain a warrant;

(C) an application for a warrant cannot be made because of an emergency;

(D) records are to be inspected and copied under section 32706(e)(1)(A) of this title; or

(E) a warrant is not constitutionally required.

(c) SERVICE AND IMPOUNDMENT OF PROPERTY.—(1) A warrant issued under this section must be served and proof of service filed not later than 10 days after its issuance date. The judge or magistrate may allow additional time in the warrant if the Secretary of Transportation demonstrates a need for additional time. Proof of service must be filed promptly with a written inventory of the property impounded under the warrant. The inventory shall be made in the presence of the individual serving the warrant and the individual from whose possession or premises the property was impounded, or if that individual is not present, a credible individual except the individual making the inventory. The individual serving the warrant shall verify the inventory. On request, the judge or magistrate shall send a copy of the inventory to the individual from whose possession or premises the property was impounded and to the applicant for the warrant.

(2) When property is impounded under a warrant, the individual serving the warrant shall—

(A) give the person from whose possession or premises the property was impounded a copy of the warrant and a receipt for the property; or

(B) leave the copy and receipt at the place from which the property was impounded.

(3) The judge or magistrate shall file the warrant, proof of service, and all documents filed about the warrant with the clerk of the United States district court for the judicial district in which the inspection is made.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1053.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32707(a)	15:1990e(b)(1) (last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §415; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 987.
32707(b)(1)	15:1990e(a) (words before 1st comma).	

32707(b)(2)	15:1990e(b)(1) (1st sentence), (2) (1st sentence).	
32707(b)(3)	15:1990e(b)(2) (2d, last sentences).	
32707(b)(4)	15:1990e(a) (words after 1st comma).	
32707(c)(1)	15:1990e(b)(3) (1st, 3d–last sentences).	
32707(c)(2)	15:1990e(b)(3) (2d sentence).	
32707(c)(3)	15:1990e(b)(4).	

In subsection (a), the words "inspection or impoundment" are substituted for "administrative inspections of the area, factory, warehouse, establishment, premises, or motor vehicle, or contents thereof" to eliminate unnecessary words and for consistency in this section.

In subsection (b)(1), the words "Except as provided in paragraph (4) of this subsection" are added for clarity. The words "an inspection or impoundment" are substituted for "any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment)" to eliminate unnecessary words.

In subsection (b)(2), before clause (A), the words "inspection or impoundment" are substituted for "the purpose of conducting administrative inspections authorized by section 1990d of this title and impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections" for consistency in this section. The words "of the court or magistrate" are substituted for "his" for clarity. The words "and upon proper oath or affirmation" are omitted as surplus because of clause (B). Clause (A) is substituted for "showing probable cause" and "and establishing the grounds for issuing the warrant" to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words "when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant" are substituted for "If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist" for consistency in this section and to eliminate unnecessary words. In clauses (A) and (C), the words "area, factory, warehouse, establishment" are omitted as being included in "premises". In clause (A), the word "property" is substituted for "and, where appropriate, the type of property to be inspected, if any" to eliminate unnecessary words. In clause (B), the words "the name of the affiant" are substituted for "the name of the person or persons whose affidavit has been taken in support thereof" to eliminate unnecessary words. In clause (C), the words "command the person to whom it is directed" are omitted as surplus. The word "property" is added for consistency with the source provisions restated in clause (A) of this paragraph. In clause (E), the words "proof of service is to be filed" are substituted for "it shall be returned" for clarity.

In subsection (b)(4)(A), the words "factory, warehouse, establishment" are omitted as being included in "premises".

Subsection (b)(4)(C) is substituted for 15:1990e(a)(3) to eliminate unnecessary words.

In subsection (b)(4)(D), the words "are to be inspected and copied" are substituted for "for access to and examination" for consistency.

In subsection (b)(4)(E), the words "in any other situations where" are omitted as surplus.

In subsection (c)(2)(A), the words "from whose possession or" are substituted for "from whom or from whose" for clarity.

In subsection (c)(3), the words "shall file the warrant, proof of service, and all documents filed about the warrant" are substituted for "shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them" to eliminate unnecessary words. The words "United States district court" are substituted for "district court of the United States" for consistency with the definition in section 32101 of the revised title and with other provisions of the chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§32708. Confidentiality of information

(a) GENERAL.—Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1054.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32708	15:1990d(d).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §414(d); added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 987.

In subsection (a), before clause (1), the words "reported to or otherwise" and "or his representative" are omitted as surplus. The words "related to a confidential matter referred to" are substituted for "contains or relates to a trade secret or other matter referred to" to eliminate unnecessary words. The words "shall be considered confidential for the purpose of that section" are omitted as surplus.

In subsection (b), the words "a committee of Congress authorized to have the information" are substituted for "the duly authorized committees of the Congress" for clarity.

§32709. Penalties and enforcement

(a) CIVIL PENALTY.—(1) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum penalty under this subsection for a related series of violations is $1,000,000.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the amount of the penalty. Before compromising the amount of the penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur.

(3) In determining the amount of a civil penalty under this subsection, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(b) CRIMINAL PENALTY.—A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter without regard to penalties imposed on the corporation.

(c) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil

action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(d) CIVIL ACTIONS BY STATES.—(1) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action—

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

(2) An action under this subsection may be brought in an appropriate United States district court or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1054; Pub. L. 112–141, div. C, title I, §31206(1), July 6, 2012, 126 Stat. 761.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32709(a)	15:1988(b) (related to violating rules).	Oct. 20, 1972, Pub. L. 92–513, §408(b) (related to violating rules), 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §406, 90 Stat. 983.
	15:1990b.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§412, 413; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 984; Oct. 28, 1986, Pub. L. 99–579, §3, 100 Stat. 3311.
32709(b)	15:1988(b) (related to violating rules). 15:1990c.	
32709(c)	15:1990.	Oct. 20, 1972, Pub. L. 92–513, §410, 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §407, 90 Stat. 984.
32709(d)	15:1990a.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §411; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 984.

In subsection (a)(1), the words "that violates this chapter" are substituted for "who commits any act or causes to be done any act that violates any provision of this subchapter or omits to do any act or causes to be omitted any act that is required by any such provision" in 15:1990b(a) for consistency and to eliminate unnecessary words. The words "or a regulation prescribed or order issued under this chapter" are substituted for "No transferor shall violate any rule prescribed under this section" in 15:1988 for consistency in the revised title and because "rule" is synonymous with "regulations". The words "A separate violation occurs for each motor vehicle or device involved in the violation" are substituted for "A violation of any such provision shall, for purposes of this section, constitute a separate violation with respect to each motor vehicle or device involved" in 15:1990b(a) to eliminate unnecessary words.

In subsection (a)(2), the words "on behalf of the United States" are omitted as surplus. The words "Before compromising the amount of a penalty, the Secretary shall give" are substituted for "after affording" for clarity. The words "to present views and evidence in support thereof" and "alleged" are omitted as surplus.

In subsection (b), the words "that knowingly and willfully violates this chapter" are substituted for

"knowingly and willfully commits any act or causes to be done any act that violates any provision of this subchapter or knowingly and willfully omits to do any act or causes to be omitted any act that is required by such provision" to eliminate unnecessary words. The words "or a regulation prescribed or order issued under this chapter" are substituted for "No transferor shall violate any rule prescribed under this section" in 15:1988 for consistency in the revised title and because "rule" is synonymous with "regulation". The words "fined under title 18" are substituted for "fined not more than $50,000" for consistency with title 18. The words "an act in violation of" are substituted for "any of the acts or practices constituting in whole or in part a violation of" to eliminate unnecessary words.

In subsections (c) and (d), the word "enjoin" is substituted for "restrain" for consistency.

In subsection (c), the words "The United States district courts shall have jurisdiction" are omitted because of 28:1331. The words "for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure" are omitted as surplus because the rules apply in the absence of an exemption from them. The words "the violation occurred" are substituted for "wherein any act, omission, or transaction constituting the violation occurred", and the word "resides" is substituted for "is an inhabitant", to eliminate unnecessary words. The words "may be served in" are substituted for "may run into" for clarity.

In subsection (d)(1), before clause (A), the words "this chapter or a regulation prescribed or order issued under this chapter" are substituted for "requirement imposed under this subchapter" for consistency. The words "civil action" are substituted for "any action" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (d)(2), the words "without regard to the amount in controversy" are omitted because jurisdiction is now allowed under 28:1331 without regard to the amount in controversy. The words "United States district court" are substituted for "district court of the United States" for consistency with the definition in section 32101 of the revised title and with other provisions of the chapter.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141 substituted "$10,000" for "$2,000" and "$1,000,000" for "$100,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§32710. Civil actions by private persons

(a) VIOLATION AND AMOUNT OF DAMAGES.—A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or $10,000, whichever is greater.

(b) CIVIL ACTIONS.—A person may bring a civil action to enforce a claim under this section in an appropriate United States district court or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney's fee to the person when a judgment is entered for that person.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1055; Pub. L. 112–141, div. C, title I, §31206(2), July 6, 2012, 126 Stat. 761.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32710(a)	15:1989(a)(1).	Oct. 20, 1972, Pub. L. 92–513, §409, 86 Stat. 963.
32710(b)	15:1989(a)(2), (b).	

In subsection (a), the words "this chapter or a regulation prescribed or order issued under this chapter" are substituted for "requirement imposed under this subchapter" for consistency.

In subsection (b), the words "A person may bring a civil action to enforce a claim" are substituted for "An action to enforce any liability created . . . may be brought" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word "appropriate" is added for clarity. The words "without regard to the amount in controversy" are omitted because jurisdiction is now allowed under 28:1331 without regard to the amount in controversy. The words "after the claim accrues" are substituted for "from the date on which the liability arises" to eliminate unnecessary words. The words "The court shall award . . . to the person when a judgment is entered for that person" are substituted for "in the case of any successful action to enforce the foregoing liability . . . as determined by the court" for clarity.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141 substituted "$10,000" for "$1,500".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§32711. Relationship to State law

Except to the extent that State law is inconsistent with this chapter, this chapter does not—

(1) affect a State law on disconnecting, altering, or tampering with an odometer with intent to defraud; or

(2) exempt a person from complying with that law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1056.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32711	15:1991.	Oct. 20, 1972, Pub. L. 92–513, §418, 86 Stat. 963; July 14, 1976, Pub. L. 94–364, §408(1), 90 Stat. 984.

In this section, before clause (1), the words "and then only to the extent of the inconsistency" are omitted as surplus. In clause (1), the word "affect" is substituted for "annul, alter, or affect" to eliminate unnecessary words. In clause (2), the words "subject to the provisions of this subchapter" are omitted as surplus.

CHAPTER 329—AUTOMOBILE FUEL ECONOMY

Sec.

32901. Definitions.
32902. Average fuel economy standards.
32903. Credits for exceeding average fuel economy standards.
32904. Calculation of average fuel economy.
32905. Manufacturing incentives for alternative fuel automobiles.
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32907. Reports and tests of manufacturers.
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32910. Administrative.
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32913. Compromising and remitting civil penalties.
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32917. Standards for executive agency automobiles.
32918. Retrofit devices.
32919. Preemption.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–429, §6(43)(C), Oct. 31, 1994, 108 Stat. 4383, added items 32918 and 32919 and struck out former item 32918 "Preemption".

§32901. Definitions

(a) GENERAL.—In this chapter—

(1) "alternative fuel" means—

(A) methanol;

(B) denatured ethanol;

(C) other alcohols;

(D) except as provided in subsection (b) of this section, a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

(E) natural gas;

(F) liquefied petroleum gas;

(G) hydrogen;

(H) coal derived liquid fuels;

(I) fuels (except alcohol) derived from biological materials;

(J) electricity (including electricity from solar energy); and

(K) any other fuel the Secretary of Transportation prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

(2) "alternative fueled automobile" means an automobile that is a—

(A) dedicated automobile; or

(B) dual fueled automobile.

(3) except as provided in section 32908 of this title, "automobile" means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and rated at less than 10,000 pounds gross vehicle weight, except—

(A) a vehicle operated only on a rail line;

(B) a vehicle manufactured in different stages by 2 or more manufacturers, if no intermediate or final-stage manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year; or

(C) a work truck.

(4) "automobile manufactured by a manufacturer" includes every automobile manufactured by a person that controls, is controlled by, or is under common control with the manufacturer, but does not include an automobile manufactured by the person that is exported not later than 30 days after

the end of the model year in which the automobile is manufactured.

(5) "average fuel economy" means average fuel economy determined under section 32904 of this title.

(6) "average fuel economy standard" means a performance standard specifying a minimum level of average fuel economy applicable to a manufacturer in a model year.

(7) "commercial medium- and heavy-duty on-highway vehicle" means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more.

(8) "dedicated automobile" means an automobile that operates only on alternative fuel.

(9) "dual fueled automobile" means an automobile that—

(A) is capable of operating on alternative fuel or a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 20 percent biodiesel (commonly known as "B20") and on gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operating on alternative fuel as when operating on gasoline or diesel fuel;

(C) for model years 1993–1995 for an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel and if the Administrator of the Environmental Protection Agency decides to extend the application of this subclause, for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alternative fuel and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and

(D) for a passenger automobile, meets or exceeds the minimum driving range prescribed under subsection (c) of this section.

(10) "fuel" means—

(A) gasoline;

(B) diesel oil; or

(C) other liquid or gaseous fuel that the Secretary decides by regulation to include in this definition as consistent with the need of the United States to conserve energy.

(11) "fuel economy" means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

(12) "import" means to import into the customs territory of the United States.

(13) "manufacture" (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

(14) "manufacturer" means—

(A) a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary; and

(B) if more than one person is the manufacturer of an automobile, the person specified under regulations prescribed by the Secretary.

(15) "model" means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

(16) "model year", when referring to a specific calendar year, means—

(A) the annual production period of a manufacturer, as decided by the Administrator, that includes January 1 of that calendar year; or

(B) that calendar year if the manufacturer does not have an annual production period.

(17) "non-passenger automobile" means an automobile that is not a passenger automobile or a work truck.

(18) "passenger automobile" means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation—

(A) has a significant feature (except 4-wheel drive) designed for off-highway operation; and

(B) is a 4-wheel drive automobile or is rated at more than 6,000 pounds gross vehicle weight.

(19) "work truck" means a vehicle that—

(A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and

(B) is not a medium-duty passenger vehicle (as defined in section 86.1803–01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act).

(b) AUTHORITY TO CHANGE PERCENTAGE.—The Secretary may prescribe regulations changing the percentage referred to in subsection (a)(1)(D) of this section to not less than 70 percent because of requirements relating to cold start, safety, or vehicle functions.

(c) MINIMUM DRIVING RANGES FOR DUAL FUELED PASSENGER AUTOMOBILES .—(1) The Secretary shall prescribe by regulation the minimum driving range that dual fueled automobiles that are passenger automobiles must meet when operating on alternative fuel to be dual fueled automobiles under sections 32905 and 32906 of this title. A determination whether a dual fueled automobile meets the minimum driving range requirement under this paragraph shall be based on the combined Agency city/highway fuel economy as determined for average fuel economy purposes for those automobiles.

(2)(A) The Secretary may prescribe a lower range for a specific model than that prescribed under paragraph (1) of this subsection. A manufacturer may petition for a lower range than that prescribed under paragraph (1) for a specific model.

(B) The minimum driving range prescribed for dual fueled automobiles (except electric automobiles) under subparagraph (A) of this paragraph or paragraph (1) of this subsection must be at least 200 miles, except that beginning with model year 2016, alternative fueled automobiles that use a fuel described in subparagraph (E) of subsection (a)(1) shall have a minimum driving range of 150 miles.

(C) If the Secretary prescribes a minimum driving range of 200 miles for dual fueled automobiles (except electric automobiles) under paragraph (1) of this subsection, subparagraph (A) of this paragraph does not apply to dual fueled automobiles (except electric automobiles). Beginning with model year 2016, if the Secretary prescribes a minimum driving range of 150 miles for alternative fueled automobiles that use a fuel described in subparagraph (E) of subsection (a)(1), subparagraph (A) shall not apply to dual fueled automobiles (except electric automobiles).

(3) In prescribing a minimum driving range under paragraph (1) of this subsection and in taking an action under paragraph (2) of this subsection, the Secretary shall consider the purpose set forth in section 3 of the Alternative Motor Fuels Act of 1988 (Public Law 100–494, 102 Stat. 2442), consumer acceptability, economic practicability, technology, environmental impact, safety, drivability, performance, and other factors the Secretary considers relevant.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1056; Pub. L. 110–140, title I, §103(a), Dec. 19, 2007, 121 Stat. 1501; Pub. L. 113–291, div. A, title III, §318(b), Dec. 19, 2014, 128 Stat. 3341.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32901(a)(1)	15:2013(h)(1)(A) (less words in 1st parentheses).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §513(h); added Oct. 14, 1988, Pub. L. 100–494, §6(a), 102 Stat.

		2450; Oct. 24, 1992, Pub. L. 102–486, §403(5)(H), (I), 106 Stat. 2878.
32901(a)(2)	15:2013(h)(1)(B).	
32901(a)(3)	15:2001(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §501(1); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901; Oct. 14, 1988, Pub. L. 100–494, §6(b), 102 Stat. 2452; Oct. 24, 1992, Pub. L. 102–486, §403(1), 106 Stat. 2876.
	15:2001(13), (14).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§501(2)–(7), (10)–(14), 503(c); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901, 902, 907.
32901(a)(4)	15:2003(c).	
32901(a)(5)	15:2001(4).	
32901(a)(6)	15:2001(7).	
32901(a)(7)	15:2013(h)(1)(C).	
32901(a)(8)	15:2001(h)(1)(D).	
32901(a)(9)	15:2001(5).	
32901(a)(10)	15:2001(6).	
32901(a)(11)	15:2001(10).	
32901(a)(12)	15:2001(9).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §501(8), (9); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 902; Oct. 10, 1980, Pub. L. 96–425, §§4(c)(1), 8(b), 94 Stat. 1824, 1828.
32901(a)(13)	15:2001(8).	
32901(a)(14)	15:2001(11).	
32901(a)(15)	15:2001(12).	
32901(a)(16)	15:2001(2), (3).	
32901(b)	15:2013(h)(1)(A) (words in 1st parentheses).	
32901(c)(1)	15:2013(h)(2)(A).	
32901(c)(2)	15:2013(h)(2)(B), (C).	
32901(c)(3)	15:2013(h)(2)(D).	

In this chapter, the word "model" is substituted for "model type" for consistency in this part.

In subsection (a)(3), before clause (A), the words "except as provided in section 32908 of this title" are added for clarity. The word "line" is added for consistency in the revised title and with other titles of the United States Code. The words "or rails" are omitted because of 1:1. The text of 15:2001(1) (last sentence) is omitted because of 49:322(a). The text of 15:2001(13) and (14) is omitted as surplus because the complete names of the Secretary of Transportation and Administrator of the Environmental Protection Agency are used the first time the terms appear in a section. The text of 15:2001 (related to 15:2011) is omitted because 15:2011 is outside the scope of the restatement. See section 4(c) of the bill.

In subsection (a)(4), the words " 'automobile manufactured by a manufacturer' includes" are substituted for "Any reference in this subchapter to automobiles manufactured by a manufacturer shall be deemed—(1) to include" to eliminate unnecessary words. The word "every" is substituted for "all" because of the restatement. The words "but does not include" are substituted for "to exclude" for consistency. The words "manufactured by the person" are substituted for "manufactured (within the meaning of paragraph (1))" to eliminate unnecessary words.

In subsection (a)(10), the words "in accordance with procedures established" are omitted as surplus.

In subsection (a)(14), the word "particular" is omitted as surplus.

Subsection (a)(15)(B) is substituted for "If a manufacturer has no annual production period, the term 'model year' means the calendar year" to eliminate unnecessary words.

In subsection (a)(16), before clause (A), the words "but does not include an automobile capable of off-highway operation that" are substituted for "(other than an automobile capable of off-highway operation)" and "The term 'automobile capable of off-highway operation' means any automobile which" to eliminate unnecessary words.

In subsection (b), the words "The Secretary may prescribe regulations changing the percentage . . . to not less than 70 percent because of" are substituted for "but not less than 70 percent, as determined by the Secretary, by rule, to provide for" for clarity and because of the restatement.

In subsection (c)(1), the words "For purposes of the definitions in paragraph (1)(D)" are omitted as unnecessary because of the restatement. The words "within 18 months after October 14, 1988" are omitted as obsolete. The words "prescribe by regulation" are substituted for "establish by rule of general applicability" for clarity and consistency in the revised title and with other titles of the United States Code and because "rule" is synonymous with "regulation". The words "that are passenger automobiles" are substituted for "The rule issued under this subparagraph shall apply only to dual fueled automobiles that are passenger automobiles" to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Ten-in-Ten Fuel Economy Act, referred to in subsec. (a)(19)(B), is the date of enactment of subtitle A (§§101–113) of title I of Pub. L. 110–140, which was approved Dec. 19, 2007.

Section 3 of the Alternative Motor Fuels Act of 1988, referred to in subsec. (c)(3), is section 3 of Pub. L. 100–494, which is set out as a note under section 6374 of Title 42, The Public Health and Welfare.

AMENDMENTS

2014—Subsec. (c)(2)(B). Pub. L. 113–291, §318(b)(1), inserted ", except that beginning with model year 2016, alternative fueled automobiles that use a fuel described in subparagraph (E) of subsection (a)(1) shall have a minimum driving range of 150 miles" after "at least 200 miles".

Subsec. (c)(2)(C). Pub. L. 113–291, §318(b)(2), inserted at end "Beginning with model year 2016, if the Secretary prescribes a minimum driving range of 150 miles for alternative fueled automobiles that use a fuel described in subparagraph (E) of subsection (a)(1), subparagraph (A) shall not apply to dual fueled automobiles (except electric automobiles)."

2007—Subsec. (a)(3). Pub. L. 110–140, §103(a)(1), added par. (3) and struck out former par. (3) which read as follows: "except as provided in section 32908 of this title, 'automobile' means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways (except a vehicle operated only on a rail line), and rated at—

"(A) not more than 6,000 pounds gross vehicle weight; or

"(B) more than 6,000, but less than 10,000, pounds gross vehicle weight, if the Secretary decides by regulation that—

"(i) an average fuel economy standard under this chapter for the vehicle is feasible; and

"(ii) an average fuel economy standard under this chapter for the vehicle will result in significant energy conservation or the vehicle is substantially used for the same purposes as a vehicle rated at not more than 6,000 pounds gross vehicle weight."

Subsec. (a)(7), (8). Pub. L. 110–140, §103(a)(2), (3), added par. (7) and redesignated former par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 110–140, §103(a)(2), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Subsec. (a)(9)(A). Pub. L. 110–140, §103(a)(4), inserted "or a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 20 percent biodiesel (commonly known as 'B20')" after "alternative fuel".

Subsec. (a)(10) to (16). Pub. L. 110–140, §103(a)(2), redesignated pars. (9) to (15) as (10) to (16), respectively. Former par. (16) redesignated (17).

Subsec. (a)(17). Pub. L. 110–140, §103(a)(6), added par. (17). Former par. (17) redesignated (18).

Pub. L. 110–140, §103(a)(2), redesignated par. (16) as (17).

Subsec. (a)(18). Pub. L. 110–140, §103(a)(5), redesignated par. (17) as (18).

Subsec. (a)(19). Pub. L. 110–140, §103(a)(7), added par. (19).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

CONSUMER ASSISTANCE TO RECYCLE AND SAVE

Pub. L. 111–32, title XIII, June 24, 2009, 123 Stat. 1909, as amended by Pub. L. 111–47, Aug. 7, 2009, 123 Stat. 1972, provided that:

"SEC. 1301. SHORT TITLE.—This title may be cited as the 'Consumer Assistance to Recycle and Save Act of 2009'.

"SEC. 1302. CONSUMER ASSISTANCE TO RECYCLE AND SAVE PROGRAM.—(a) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a voluntary program to be known as the 'Consumer Assistance to Recycle and Save Program' through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

"(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

"(2) register dealers for participation in the Program and require that all registered dealers—

"(A) accept vouchers as provided in this section as partial payment or down payment for the purchase or qualifying lease of any new fuel efficient automobile offered for sale or lease by that dealer; and

"(B) in accordance with subsection (c)(2), to transfer each eligible trade-in vehicle surrendered to the dealer under the Program to an entity for disposal;

"(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for eligible transactions by such dealers, in accordance with the regulations issued under subsection (d); and

"(4) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Transportation, establish and provide for the enforcement of measures to prevent and penalize fraud under the program.

"(b) QUALIFICATIONS FOR AND VALUE OF VOUCHERS.—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile as follows:

"(1) $3,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $3,500 if—

"(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 4 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

"(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

"(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and—

"(i) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 1 mile per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

"(ii) the eligible trade-in vehicle is a category 3 truck of model year 2001 or earlier; or

"(D) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck of model year of 2001 or earlier and is of similar size or larger than the new fuel efficient automobile as determined in a manner prescribed by the Secretary.

"(2) $4,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $4,500 if—

"(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

"(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible

trade-in vehicle; or

"(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a category 2 truck.

"(c) PROGRAM SPECIFICATIONS.—

"(1) LIMITATIONS.—

"(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program shall be used only in connection with the purchase or qualifying lease of new fuel efficient automobiles that occur between July 1, 2009 and November 1, 2009.

"(B) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

"(C) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of a single new fuel efficient automobile.

"(D) CAP ON FUNDS FOR CATEGORY 3 TRUCKS.—Not more than 7.5 percent of the total funds made available for the Program shall be used for vouchers for the purchase or qualifying lease of category 3 trucks.

"(E) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

"(F) NO ADDITIONAL FEES.—A dealer participating in the program may not charge a person purchasing or leasing a new fuel efficient automobile any additional fees associated with the use of a voucher under the Program.

"(G) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

"(2) DISPOSITION OF ELIGIBLE TRADE-IN VEHICLES.—

"(A) IN GENERAL.—For each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that the dealer—

"(i) has not and will not sell, lease, exchange, or otherwise dispose of the vehicle for use as an automobile in the United States or in any other country; and

"(ii) will transfer the vehicle (including the engine block), in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle—

"(I) will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

"(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

"(B) SAVINGS PROVISION.—Nothing in subparagraph (A) may be construed to preclude a person who is responsible for ensuring that the vehicle is crushed or shredded from—

"(i) selling any parts of the disposed vehicle other than the engine block and drive train (unless with respect to the drive train, the transmission, drive shaft, or rear end are sold as separate parts); or

"(ii) retaining the proceeds from such sale.

"(C) COORDINATION.—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible systems are appropriately updated on a timely basis to reflect the crushing or shredding of vehicles under this section and appropriate reclassification of the vehicles' titles. The commercial market shall also have electronic and commercial access to the vehicle identification numbers of vehicles that have been disposed of on a timely basis.

"(d) REGULATIONS.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act [June 24, 2009]. Such regulations shall—

"(1) provide for a means of registering dealers for participation in the Program;

"(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for the amount of the vouchers as soon as practicable but no longer than 10 days after the submission of information supporting the eligible transaction, as deemed appropriate by the Secretary;

"(3) require the dealer to use the voucher in addition to any other rebate or discount advertised by the dealer or offered by the manufacturer for the new fuel efficient automobile and prohibit the dealer from using the voucher to offset any such other rebate or discount;

"(4) require dealers to disclose to the person trading in an eligible trade-in vehicle the best estimate of the scrappage value of such vehicle and to permit the dealer to retain $50 of any amounts paid to the dealer for scrappage of the automobile as payment for any administrative costs to the dealer associated with participation in the Program;

"(5) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures, including—

"(A) requirements for the removal and appropriate disposition of refrigerants, antifreeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of an eligible trade-in vehicle, in accordance with rules established by the Secretary in consultation with the Administrator of the Environmental Protection Agency, and in accordance with other applicable Federal or State requirements;

"(B) a mechanism for dealers to certify to the Secretary that each eligible trade-in vehicle will be transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures, and to submit the vehicle identification numbers of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher;

"(C) a mechanism for obtaining such other certifications as deemed necessary by the Secretary from entities engaged in vehicle disposal; and

"(D) a list of entities to which dealers may transfer eligible trade-in vehicles for disposal; and

"(6) provide for the enforcement of the penalties described in subsection (e).

"(e) ANTI-FRAUD PROVISIONS.—

"(1) VIOLATION.—It shall be unlawful for any person to violate any provision under this section or any regulations issued pursuant to subsection (d) (other than by making a clerical error).

"(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than $15,000 for each violation. The Secretary shall have the authority to assess and compromise such penalties, and shall have the authority to require from any entity the records and inspections necessary to enforce this program. In determining the amount of the civil penalty, the severity of the violation and the intent and history of the person committing the violation shall be taken into account.

"(f) INFORMATION TO CONSUMERS AND DEALERS.—Not later than 30 days after the date of the enactment of this Act [June 24, 2009], and promptly upon the update of any relevant information, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall make available on an Internet website and through other means determined by the Secretary information about the Program, including—

"(1) how to determine if a vehicle is an eligible trade-in vehicle;

"(2) how to participate in the Program, including how to determine participating dealers; and

"(3) a comprehensive list, by make and model, of new fuel efficient automobiles meeting the requirements of the Program.

Once such information is available, the Secretary shall conduct a public awareness campaign to inform consumers about the Program and where to obtain additional information.

"(g) RECORD KEEPING AND REPORT.—

"(1) DATABASE.—The Secretary shall maintain a database of the vehicle identification numbers of all new fuel efficient vehicles purchased or leased and all eligible trade-in vehicles disposed of under the Program.

"(2) REPORT ON EFFICACY OF THE PROGRAM.—Not later than 60 days after the termination date described in subsection (c)(1)(A), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efficacy of the Program, including—

"(A) a description of Program results, including—

"(i) the total number and amount of vouchers issued for purchase or lease of new fuel efficient automobiles by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

"(ii) aggregate information regarding the make, model, model year, and manufacturing location of vehicles traded in under the Program; and

"(iii) the location of sale or lease;

"(B) an estimate of the overall increase in fuel efficiency in terms of miles per gallon, total annual oil savings, and total annual greenhouse gas reductions, as a result of the Program; and

"(C) an estimate of the overall economic and employment effects of the Program.

"(3) REVIEW OF ADMINISTRATION OF THE PROGRAM BY GOVERNMENT ACCOUNTABILITY OFFICE AND INSPECTOR GENERAL.—Not later than 180 days after the termination date described in subsection (c)(1)(A), the Government Accountability Office and the Inspector General of the Department of Transportation shall submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate reviewing the administration of the program.

"(h) EXCLUSION OF VOUCHERS FROM INCOME.—

"(1) FOR PURPOSES OF ALL FEDERAL AND STATE PROGRAMS.—A voucher issued under this program or any payment made for such a voucher pursuant to subsection (a)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher (or the recipient's spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or State program.

"(2) FOR PURPOSES OF TAXATION.—A voucher issued under the program or any payment made for such a voucher pursuant to subsection (a)(3) shall not be considered as gross income of the purchaser of a vehicle for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

"(i) DEFINITIONS.—As used in this section—

"(1) the term 'passenger automobile' means a passenger automobile, as defined in section 32901(a)(18) of title 49, United States Code, that has a combined fuel economy value of at least 22 miles per gallon;

"(2) the term 'category 1 truck' means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that has a combined fuel economy value of at least 18 miles per gallon, except that such term does not include a category 2 truck;

"(3) the term 'category 2 truck' means a large van or a large pickup, as categorized by the Secretary using the method used by the Environmental Protection Agency and described in the report entitled 'Light-Duty Automotive Technology and Fuel Economy Trends: 1975 through 2008';

"(4) the term 'category 3 truck' means a work truck, as defined in section 32901(a)(19) of title 49, United States Code;

"(5) the term 'combined fuel economy value' means—

"(A) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words 'Combined Fuel Economy' on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40, Code of Federal Regulations;

"(B) with respect to an eligible trade-in vehicle, the equivalent of the number described in subparagraph (A), and posted under the words 'Estimated New EPA MPG' and above the word 'Combined' for vehicles of model year 1984 through 2007, or posted under the words 'New EPA MPG' and above the word 'Combined' for vehicles of model year 2008 or later on the fueleconomy.gov website of the Environmental Protection Agency for the make, model, and year of such vehicle; or

"(C) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1985, the equivalent of the number described in subparagraph (A) as determined by the Secretary (and posted on the website of the National Highway Traffic Safety Administration) using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle.

"(6) the term 'dealer' means a person licensed by a State who engages in the sale of new automobiles to ultimate purchasers;

"(7) the term 'eligible trade-in vehicle' means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this section—

"(A) is in drivable condition;

"(B) has been continuously insured consistent with the applicable State law and registered to the same owner for a period of not less than 1 year immediately prior to such trade-in;

"(C) was manufactured less than 25 years before the date of the trade-in; and

"(D) in the case of an automobile, has a combined fuel economy value of 18 miles per gallon or less;

"(8) the term 'new fuel efficient automobile' means an automobile described in paragraph (1), (2), (3), or (4)—

"(A) the equitable or legal title of which has not been transferred to any person other than the

ultimate purchaser;

"(B) that carries a manufacturer's suggested retail price of $45,000 or less;

"(C) that—

"(i) in the case of passenger automobiles, category 1 trucks, or category 2 trucks, is certified to applicable standards under section 86.1811–04 of title 40, Code of Federal Regulations; or

"(ii) in the case of category 3 trucks, is certified to the applicable vehicle or engine standards under section 86.1816–08, 86–007–11 [probably means 86.007–11], or 86.008–10 of title 40, Code of Federal Regulations; and

"(D) that has the combined fuel economy value of at least—

"(i) 22 miles per gallon for a passenger automobile;

"(ii) 18 miles per gallon for a category 1 truck; or

"(iii) 15 miles per gallon for a category 2 truck;

"(9) the term 'Program' means the Consumer Assistance to Recycle and Save Program established by this section;

"(10) the term 'qualifying lease' means a lease of an automobile for a period of not less than 5 years;

"(11) the term 'scrappage value' means the amount received by the dealer for a vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destroying of the vehicle;

"(12) the term 'Secretary' means the Secretary of Transportation acting through the National Highway Traffic Safety Administration;

"(13) the term 'ultimate purchaser' means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale;

"(14) the term 'vehicle identification number' means the 17 character number used by the automobile industry to identify individual automobiles; and

"(15) the term 'voucher' means an electronic transfer of funds to a dealer based on an eligible transaction under this program.

"(j) APPROPRIATION.—There is hereby appropriated to the Secretary of Transportation $1,000,000,000, of which up to $50,000,000 is available for administration, to remain available until expended to carry out this section."

§32902. Average fuel economy standards

(a) PRESCRIPTION OF STANDARDS BY REGULATION.—At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.

(b) STANDARDS FOR AUTOMOBILES AND CERTAIN OTHER VEHICLES.—

(1) IN GENERAL.—The Secretary of Transportation, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall prescribe separate average fuel economy standards for—

(A) passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection;

(B) non-passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection; and

(C) work trucks and commercial medium-duty or heavy-duty on-highway vehicles in accordance with subsection (k).

(2) FUEL ECONOMY STANDARDS FOR AUTOMOBILES.—

(A) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2011 THROUGH 2020.—The Secretary shall prescribe a separate average fuel economy standard for passenger automobiles and a separate average fuel economy standard for non-passenger automobiles for each model year beginning with model year 2011 to achieve a combined fuel

economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year.

(B) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2021 THROUGH 2030.—For model years 2021 through 2030, the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles manufactured for sale in the United States shall be the maximum feasible average fuel economy standard for each fleet for that model year.

(C) PROGRESS TOWARD STANDARD REQUIRED.—In prescribing average fuel economy standards under subparagraph (A), the Secretary shall prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.

(3) AUTHORITY OF THE SECRETARY.—The Secretary shall—

(A) prescribe by regulation separate average fuel economy standards for passenger and non-passenger automobiles based on 1 or more vehicle attributes related to fuel economy and express each standard in the form of a mathematical function; and

(B) issue regulations under this title prescribing average fuel economy standards for at least 1, but not more than 5, model years.

(4) MINIMUM STANDARD.—In addition to any standard prescribed pursuant to paragraph (3), each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles, which shall be the greater of—

(A) 27.5 miles per gallon; or

(B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year, which projection shall be published in the Federal Register when the standard for that model year is promulgated in accordance with this section.

(c) AMENDING PASSENGER AUTOMOBILE STANDARDS.—The Secretary of Transportation may prescribe regulations amending the standard under subsection (b) of this section for a model year to a level that the Secretary decides is the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to amend the standard. However, any interested person may make an oral presentation and a transcript shall be taken of that presentation.

(d) EXEMPTIONS.—(1) Except as provided in paragraph (3) of this subsection, on application of a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year 2 years before the model year for which the application is made, the Secretary of Transportation may exempt by regulation the manufacturer from a standard under subsection (b) or (c) of this section. An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year. The Secretary may exempt a manufacturer only if the Secretary—

(A) finds that the applicable standard under those subsections is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve; and

(B) prescribes by regulation an alternative average fuel economy standard for the passenger automobiles manufactured by the exempted manufacturer that the Secretary decides is the maximum feasible average fuel economy level for the manufacturers to which the alternative standard applies.

(2) An alternative average fuel economy standard the Secretary of Transportation prescribes under paragraph (1)(B) of this subsection may apply to an individually exempted manufacturer, to all automobiles to which this subsection applies, or to classes of passenger automobiles, as defined under regulations of the Secretary, manufactured by exempted manufacturers.

(3) Notwithstanding paragraph (1) of this subsection, an importer registered under section 30141(c) of this title may not be exempted as a manufacturer under paragraph (1) for a motor vehicle that the importer—

(A) imports; or

(B) brings into compliance with applicable motor vehicle safety standards prescribed under chapter 301 of this title for an individual under section 30142 of this title.

(4) The Secretary of Transportation may prescribe the contents of an application for an exemption.

(e) EMERGENCY VEHICLES.—(1) In this subsection, "emergency vehicle" means an automobile manufactured primarily for use—

(A) as an ambulance or combination ambulance-hearse;

(B) by the United States Government or a State or local government for law enforcement; or

(C) for other emergency uses prescribed by regulation by the Secretary of Transportation.

(2) A manufacturer may elect to have the fuel economy of an emergency vehicle excluded in applying a fuel economy standard under subsection (a), (b), (c), or (d) of this section. The election is made by providing written notice to the Secretary of Transportation and to the Administrator of the Environmental Protection Agency.

(f) CONSIDERATIONS ON DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

(g) REQUIREMENTS FOR OTHER AMENDMENTS.—(1) The Secretary of Transportation may prescribe regulations amending an average fuel economy standard prescribed under subsection (a) or (d) of this section if the amended standard meets the requirements of subsection (a) or (d), as appropriate.

(2) When the Secretary of Transportation prescribes an amendment under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the amendment (and submit the amendment to Congress when required under subsection (c)(2) of this section) at least 18 months before the beginning of the model year to which the amendment applies.

(h) LIMITATIONS.—In carrying out subsections (c), (f), and (g) of this section, the Secretary of Transportation—

(1) may not consider the fuel economy of dedicated automobiles;

(2) shall consider dual fueled automobiles to be operated only on gasoline or diesel fuel; and

(3) may not consider, when prescribing a fuel economy standard, the trading, transferring, or availability of credits under section 32903.

(i) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of Energy in carrying out this section and section 32903 of this title.

(j) SECRETARY OF ENERGY COMMENTS.—(1) Before issuing a notice proposing to prescribe or amend an average fuel economy standard under subsection (a), (c), or (g) of this section, the Secretary of Transportation shall give the Secretary of Energy at least 10 days from the receipt of the notice during which the Secretary of Energy may, if the Secretary of Energy concludes that the proposed standard would adversely affect the conservation goals of the Secretary of Energy, provide written comments to the Secretary of Transportation about the impact of the standard on those goals. To the extent the Secretary of Transportation does not revise a proposed standard to take into account comments of the Secretary of Energy on any adverse impact of the standard, the Secretary of Transportation shall include those comments in the notice.

(2) Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and provide the Secretary of Energy a reasonable time to comment.

(k) COMMERCIAL MEDIUM- AND HEAVY-DUTY ON-HIGHWAY VEHICLES AND

WORK TRUCKS.—

(1) STUDY.—Not later than 1 year after the National Academy of Sciences publishes the results of its study under section 108 of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall examine the fuel efficiency of commercial medium- and heavy-duty on-highway vehicles and work trucks and determine—

(A) the appropriate test procedures and methodologies for measuring the fuel efficiency of such vehicles and work trucks;

(B) the appropriate metric for measuring and expressing commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency performance, taking into consideration, among other things, the work performed by such on-highway vehicles and work trucks and types of operations in which they are used;

(C) the range of factors, including, without limitation, design, functionality, use, duty cycle, infrastructure, and total overall energy consumption and operating costs that affect commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency; and

(D) such other factors and conditions that could have an impact on a program to improve commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency.

(2) RULEMAKING.—Not later than 24 months after completion of the study required under paragraph (1), the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, by regulation, shall determine in a rulemaking proceeding how to implement a commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program designed to achieve the maximum feasible improvement, and shall adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible for commercial medium- and heavy-duty on-highway vehicles and work trucks. The Secretary may prescribe separate standards for different classes of vehicles under this subsection.

(3) LEAD-TIME; REGULATORY STABILITY.—The commercial medium- and heavy-duty on-highway vehicle and work truck fuel economy standard adopted pursuant to this subsection shall provide not less than—

(A) 4 full model years of regulatory lead-time; and

(B) 3 full model years of regulatory stability.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1059; Pub. L. 110–140, title I, §§102, 104(b)(1), Dec. 19, 2007, 121 Stat. 1498, 1503.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32902(a)	15:2002(b).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(a)(1), (3)–(c), (e) (1st sentence), (f), (h); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 902, 903, 905; Oct. 10, 1980, Pub. L. 96–425, §§3(a)(1), 7, 8(c), 94 Stat. 1821, 1828.
32902(b)	15:2002(a)(1), (3).	
32902(c)(1)	15:2002(a)(4) (words before 5th comma), (h).	
32902(c)(2)	15:2002(a)(4) (words after 5th comma), (5).	
32902(d)	15:1397 (note).	Oct. 31, 1988, Pub. L. 100–562, §2(f),

		102 Stat. 2825.
	15:2002(c).	
32902(e)	15:2002(g).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(g); added Oct. 10, 1980, Pub. L. 96–425, §7, 94 Stat. 1828.
32902(f)	15:2002(e) (1st sentence).	
32902(g)	15:2002(f).	
32902(h)	15:2002(e) (last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§502(e) (last sentence), 513(g)(2)(B); added Oct. 14, 1988, Pub. L. 100–494, §6(a), (c), 102 Stat. 2450, 2452; Oct. 24, 1992, Pub. L. 102–486, §403(2), (5)(G)(ii)(II), (III), 106 Stat. 2876, 2878.
	15:2013(g)(2)(B).	
32902(i)	15:2002(i) (1st sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(i), (j); added Aug. 4, 1977, Pub. L. 95–91, §305, 91 Stat. 580; Oct. 10, 1980, Pub. L. 96–425, §7, 94 Stat. 1828.
32902(j)	15:2002(i) (2d, last sentences), (j).	

In subsection (a), the words "Any standard applicable to a model year under this subsection shall be prescribed" are omitted as surplus. The words "which begins more than 30 months after December 22, 1975" are omitted as executed.

In subsection (b), the text of 15:2002(a)(1) (related to model years before 1985) and (3) is omitted as expired. The words "at least" are omitted as unnecessary because of the source provisions restated in subsection (c) of this section.

In subsection (c)(1), the words "Subject to paragraph (2) of this subsection" are added for clarity. The words "may prescribe regulations amending" are substituted for "may, by rule, amend" for clarity and consistency in the revised title and because "rule" is synonymous with "regulation". The words "for a model year" are substituted for "for model year 1985, or for any subsequent model year" to eliminate the expired limitation. The reference in 15:2002(h) to 15:2002(d) is omitted because 15:2002(d) is omitted from the revised title as executed. The words "as well as written" are omitted as surplus.

In subsection (c)(2), the words "If an amendment increases the standard . . . or decreases the standard" are substituted for "except that any amendment that has the effect of increasing . . . a standard . . ., or of decreasing . . . a standard" to eliminate unnecessary words. The words "For purposes of considering any modification which is submitted to the Congress under paragraph (4)" are omitted as surplus. The words "are deemed to be" are substituted for "shall be lengthened to" for clarity and consistency.

In subsection (d)(1), before clause (A), the words "Except as provided in paragraph (3) of this subsection" are added because of the restatement. The words "in the model year 2 years before" are substituted for "in the second model year preceding" for clarity. The words "The Secretary may exempt a manufacturer only if the Secretary" are substituted for "Such exemption may only be granted if the Secretary" and "The Secretary may not issue exemptions with respect to a model year unless he" to eliminate unnecessary words. The words "each such standard shall be set at a level which" are omitted as surplus.

In subsection (d)(3), before clause (A), the words "Notwithstanding paragraph (1) of this subsection" are substituted for "Notwithstanding any provision of law authorizing exemptions from energy conservation requirements for manufacturers of fewer than 10,000 motor vehicles" to eliminate unnecessary words. In clause (B), the word "compliance" is substituted for "conformity" for consistency with chapter 301 of the revised title. The words "prescribed under chapter 301 of this title" are substituted for "Federal" for consistency in the revised title.

Subsection (d)(4) is substituted for 15:2002(c)(1) (2d sentence) to eliminate unnecessary words. The text of 15:2002(c)(2) is omitted as expired.

In subsection (e)(1)(B), the words "police or other" are omitted as unnecessary because the authority to

prescribe standards includes the authority to amend those standards.

In subsection (g)(1), the words "from time to time" are omitted as unnecessary. The cross-reference to 15:2002(a)(3) is omitted as executed because 15:2002(a)(3) applied to model years 1981–1984.

In subsection (g)(2), the words "that makes" are substituted for "has the effect of making" to eliminate unnecessary words.

In subsection (i), the words "his responsibilities under" are omitted as surplus.

In subsection (j), the reference to 15:2002(d) and the words "or any modification of" are omitted because 15:2002(d) is omitted from the revised title as executed.

In subsection (j)(1), the words "to prescribe or amend" are substituted for "to establish, reduce, or amend" to eliminate unnecessary words. The words "adverse impact" are substituted for "level" for clarity and consistency. The words "those comments" are substituted for "unaccommodated comments" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 108 of the Ten-in-Ten Fuel Economy Act, referred to in subsec. (k)(1), is section 108 of Pub. L. 110–140, title I, Dec. 19, 2007, 121 Stat. 1505, which is not classified to the Code.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–140, §102(a)(1), in heading, substituted "Prescription of Standards by Regulation" for "Non-Passenger Automobiles", and, in text, struck out "(except passenger automobiles)" after "for automobiles" and "The Secretary may prescribe separate standards for different classes of automobiles." at end.

Subsec. (b). Pub. L. 110–140, §102(a)(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year 1984 shall be 27.5 miles a gallon."

Subsec. (c). Pub. L. 110–140, §102(a)(3), substituted "The Secretary" for "(1) Subject to paragraph (2) of this subsection, the Secretary" and struck out par. (2) which read as follows: "If an amendment increases the standard above 27.5 miles a gallon or decreases the standard below 26.0 miles a gallon, the Secretary of Transportation shall submit the amendment to Congress. The procedures of section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) apply to an amendment, except that the 15 calendar days referred to in section 551(c) and (d) of the Act (42 U.S.C. 6421(c), (d)) are deemed to be 60 calendar days, and the 5 calendar days referred to in section 551(f)(4)(A) of the Act (42 U.S.C. 6421(f)(4)(A)) are deemed to be 20 calendar days. If either House of Congress disapproves the amendment under those procedures, the amendment does not take effect."

Subsec. (h)(3). Pub. L. 110–140, §104(b)(1), added par. (3).

Subsec. (k). Pub. L. 110–140, §102(b), added subsec. (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

CONTINUED APPLICABILITY OF EXISTING STANDARDS

Pub. L. 110–140, title I, §106, Dec. 19, 2007, 121 Stat. 1504, provided that: "Nothing in this subtitle [subtitle A (§§101–113) of title I of Pub. L. 110–140, see Short Title of 2007 Amendment note set out under section 30101 of this title], or the amendments made by this subtitle, shall be construed to affect the application of section 32902 of title 49, United States Code, to passenger automobiles or non-passenger automobiles manufactured before model year 2011."

NATIONAL ACADEMY OF SCIENCES STUDIES

Pub. L. 110–140, title I, §107, Dec. 19, 2007, 121 Stat. 1504, provided that:

"(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act [Dec. 19, 2007], the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating vehicle fuel economy standards, including—

"(1) an assessment of automotive technologies and costs to reflect developments since the Academy's

2002 report evaluating the corporate average fuel economy standards was conducted;

"(2) an analysis of existing and potential technologies that may be used practically to improve automobile and medium-duty and heavy-duty truck fuel economy;

"(3) an analysis of how such technologies may be practically integrated into the automotive and medium-duty and heavy-duty truck manufacturing process; and

"(4) an assessment of how such technologies may be used to meet the new fuel economy standards under chapter 329 of title 49, United States Code, as amended by this subtitle [subtitle A (§§101–113) of title I of Pub. L. 110–140, see Short Title of 2007 Amendment note set out under section 30101 of this title].

"(b) REPORT.—The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations not later than 5 years after the date on which the Secretary executes the agreement with the Academy.

"(c) QUINQUENNIAL UPDATES.—After submitting the initial report, the Academy shall update the report at 5 year intervals thereafter through 2025."

EXECUTIVE DOCUMENTS

THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Memorandum of President of the United States, Jan. 26, 2009, 74 F.R. 4907, provided:

Memorandum for the Secretary of Transportation [and] the Administrator of the National Highway Traffic Safety Administration

In 2007, the Congress passed the Energy Independence and Security Act (EISA). This law mandates that, as part of the Nation's efforts to achieve energy independence, the Secretary of Transportation prescribe annual fuel economy increases for automobiles, beginning with model year 2011, resulting in a combined fuel economy fleet average of at least 35 miles per gallon by model year 2020. On May 2, 2008, the National Highway Traffic Safety Administration (NHTSA) published a Notice of Proposed Rulemaking entitled *Average Fuel Economy Standards, Passenger Cars and Light Trucks; Model Years 2011–2015, 73 Fed. Reg.* 24352. In the notice and comment period, the NHTSA received numerous comments, some of them contending that certain aspects of the proposed rule, including appendices providing for preemption of State laws, were inconsistent with provisions of EISA and the Supreme Court's decision in *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007).

Federal law requires that the final rule regarding fuel economy standards be adopted at least 18 months before the beginning of the model year (49 U.S.C. 32902(g)(2)). In order for the model year 2011 standards to meet this requirement, the NHTSA must publish the final rule in the Federal Register by March 30, 2009. To date, the NHTSA has not published a final rule.

Therefore, I request that:

(a) in order to comply with the EISA requirement that fuel economy increases begin with model year 2011, you take all measures consistent with law, and in coordination with the Environmental Protection Agency, to publish in the Federal Register by March 30, 2009, a final rule prescribing increased fuel economy for model year 2011;

(b) before promulgating a final rule concerning model years after model year 2011, you consider the appropriate legal factors under the EISA, the comments filed in response to the Notice of Proposed Rulemaking, the relevant technological and scientific considerations, and to the extent feasible, the forthcoming report by the National Academy of Sciences mandated under section 107 of EISA; and

(c) in adopting the final rules in paragraphs (a) and (b) above, you consider whether any provisions regarding preemption are consistent with the EISA, the Supreme Court's decision in *Massachusetts v. EPA* and other relevant provisions of law and the policies underlying them.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Transportation is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

IMPROVING ENERGY SECURITY, AMERICAN COMPETITIVENESS AND JOB CREATION, AND ENVIRONMENTAL PROTECTION THROUGH A TRANSFORMATION OF OUR

NATION'S FLEET OF CARS AND TRUCKS

Memorandum of President of the United States, May 21, 2010, 75 F.R. 29399, provided:

Memorandum for the Secretary of Transportation[,] the Secretary of Energy[,] the Administrator of the Environmental Protection Agency[, and] the Administrator of the National Highway Traffic Safety Administration

America has the opportunity to lead the world in the development of a new generation of clean cars and trucks through innovative technologies and manufacturing that will spur economic growth and create high-quality domestic jobs, enhance our energy security, and improve our environment. We already have made significant strides toward reducing greenhouse gas pollution and enhancing fuel efficiency from motor vehicles with the joint rulemaking issued by the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) on April 1, 2010, which regulates these attributes of passenger cars and light-duty trucks for model years 2012–2016. In this memorandum, I request that additional coordinated steps be taken to produce a new generation of clean vehicles.

SECTION 1. *Medium- and Heavy-Duty Trucks.*

While the Federal Government and many States have now created a harmonized framework for addressing the fuel economy of and greenhouse gas emissions from cars and light-duty trucks, medium- and heavy-duty trucks and buses continue to be a major source of fossil fuel consumption and greenhouse gas pollution. I therefore request that the Administrators of the EPA and the NHTSA immediately begin work on a joint rulemaking under the Clean Air Act (CAA) and the Energy Independence and Security Act of 2007 (EISA) to establish fuel efficiency and greenhouse gas emissions standards for commercial medium- and heavy-duty vehicles beginning with model year 2014, with the aim of issuing a final rule by July 30, 2011. As part of this rule development process, I request that the Administrators of the EPA and the NHTSA:

(a) Propose and take comment on strategies, including those designed to increase the use of existing technologies, to achieve substantial annual progress in reducing transportation sector emissions and fossil fuel consumption consistent with my Administration's overall energy and climate security goals. These strategies should consider whether particular segments of the diverse heavy-duty vehicle sector present special opportunities to reduce greenhouse gas emissions and increase fuel economy. For example, preliminary estimates indicate that large tractor trailers, representing half of all greenhouse gas emissions from this sector, can reduce greenhouse gas emissions by as much as 20 percent and increase their fuel efficiency by as much as 25 percent with the use of existing technologies;

(b) Include fuel efficiency and greenhouse gas emissions standards that take into account the market structure of the trucking industry and the unique demands of heavy-duty vehicle applications; seek harmonization with applicable State standards; consider the findings and recommendations published in the National Academy of Science report on medium- and heavy-duty truck regulation; strengthen the industry and enhance job creation in the United States; and

(c) Seek input from all stakeholders, while recognizing the continued leadership role of California and other States.

SEC. 2. *Passenger Cars and Light-Duty Trucks.*

Building on the earlier joint rulemaking, and in order to provide greater certainty and incentives for long-term innovation by automobile and light-duty vehicle manufacturers, I request that the Administrators of the EPA and the NHTSA develop, through notice and comment rulemaking, a coordinated national program under the CAA and the EISA to improve fuel efficiency and to reduce greenhouse gas emissions of passenger cars and light-duty trucks of model years 2017–2025. The national program should seek to produce joint Federal standards that are harmonized with applicable State standards, with the goal of ensuring that automobile manufacturers will be able to build a single, light-duty national fleet. The program should also seek to achieve substantial annual progress in reducing transportation sector greenhouse gas emissions and fossil fuel consumption, consistent with my Administration's overall energy and climate security goals, through the increased domestic production and use of existing, advanced, and emerging technologies, and should strengthen the industry and enhance job creation in the United States. As part of implementing the national program, I request that the Administrators of the EPA and the NHTSA:

(a) Work with the State of California to develop by September 1, 2010, a technical assessment to inform the rulemaking process, reflecting input from an array of stakeholders on relevant factors, including viable technologies, costs, benefits, lead time to develop and deploy new and emerging technologies, incentives and other flexibilities to encourage development and deployment of new and emerging technologies, impacts on jobs and the automotive manufacturing base in the United States, and infrastructure for advanced vehicle technologies; and

(b) Take all measures consistent with law to issue by September 30, 2010, a Notice of Intent to Issue a Proposed Rule that announces plans for setting stringent fuel economy and greenhouse gas emissions

standards for light-duty vehicles of model year 2017 and beyond, including plans for initiating joint rulemaking and gathering any additional information needed to support regulatory action. The Notice should describe the key elements of the program that the EPA and the NHTSA intend jointly to propose, under their respective statutory authorities, including potential standards that could be practicably implemented nationally for the 2017–2025 model years and a schedule for setting those standards as expeditiously as possible, consistent with providing sufficient lead time to vehicle manufacturers.

SEC. 3. *Cleaner Vehicles and Fuels and Necessary Infrastructure.*

The success of our efforts to achieve enhanced energy security and to protect the environment also depends upon the development of infrastructure and promotion of fuels, including biofuels, which will enable the development and widespread deployment of advanced technologies. Therefore, I further request that:

(a) The Administrator of the EPA review for adequacy the current nongreenhouse gas emissions regulations for new motor vehicles, new motor vehicle engines, and motor vehicle fuels, including tailpipe emissions standards for nitrogen oxides and air toxics, and sulfur standards for gasoline. If the Administrator of the EPA finds that new emissions regulations are required, then I request that the Administrator of the EPA promulgate such regulations as part of a comprehensive approach toward regulating motor vehicles; and [sic]

(b) The Secretary of Energy promote the deployment of advanced technology vehicles by providing technical assistance to cities preparing for deployment of electric vehicles, including plug-in hybrids and all-electric vehicles; and

(c) The Department of Energy work with stakeholders on the development of voluntary standards to facilitate the robust deployment of advanced vehicle technologies and coordinate its efforts with the Department of Transportation, the NHTSA, and the EPA.

SEC. 4. *General Provisions.*

(a) This memorandum shall be implemented consistent with applicable law, including international trade obligations, and subject to the availability of appropriations.

(b) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) Nothing in this memorandum shall be construed to impair or otherwise affect:

(1) authority granted by law to a department, agency, or the head thereof; or

(2) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

SEC. 5. *Publication.*

The Secretary of Transportation is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§32903. Credits for exceeding average fuel economy standards

(a) EARNING AND PERIOD FOR APPLYING CREDITS.—When the average fuel economy of passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard under subsections (a) through (d) of section 32902 (determined by the Secretary of Transportation without regard to credits under this section), the manufacturer earns credits. The credits may be applied to—

(1) any of the 3 consecutive model years immediately before the model year for which the credits are earned; and

(2) to the extent not used under paragraph (1) [1] any of the 5 consecutive model years immediately after the model year for which the credits are earned.

(b) PERIOD OF AVAILABILITY AND PLAN FOR FUTURE CREDITS.—(1) Except as provided in paragraph (2) of this subsection, credits under this section are available to a manufacturer at the end of the model year in which earned.

(2)(A) Before the end of a model year, if a manufacturer has reason to believe that its average fuel economy for passenger automobiles will be less than the applicable standard for that model year, the manufacturer may submit a plan to the Secretary of Transportation demonstrating that the manufacturer will earn sufficient credits under this section within the next 3 model years to allow the

manufacturer to meet that standard for the model year involved. Unless the Secretary finds that the manufacturer is unlikely to earn sufficient credits under the plan, the Secretary shall approve the plan. Those credits are available for the model year involved if—

(i) the Secretary approves the plan; and

(ii) the manufacturer earns those credits as provided by the plan.

(B) If the average fuel economy of a manufacturer is less than the applicable standard under subsections (a) through (d) of section 32902 after applying credits under subsection (a)(1) of this section, the Secretary of Transportation shall notify the manufacturer and give the manufacturer a reasonable time (of at least 60 days) to submit a plan.

(c) DETERMINING NUMBER OF CREDITS.—The number of credits a manufacturer earns under this section equals the product of—

(1) the number of tenths of a mile a gallon by which the average fuel economy of the passenger automobiles manufactured by the manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard under subsections (a) through (d) of section 32902; times

(2) the number of passenger automobiles manufactured by the manufacturer during that model year.

(d) APPLYING CREDITS FOR PASSENGER AUTOMOBILES.—The Secretary of Transportation shall apply credits to a model year on the basis of the number of tenths of a mile a gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the number of passenger automobiles manufactured that model year by the manufacturer. Credits applied to a model year are no longer available for another model year. Before applying credits, the Secretary shall give the manufacturer written notice and reasonable opportunity to comment.

(e) APPLYING CREDITS FOR NON-PASSENGER AUTOMOBILES.—Credits for a manufacturer of automobiles that are not passenger automobiles are earned and applied to a model year in which the average fuel economy of that class of automobiles is below the applicable average fuel economy standard under section 32902(a) of this title, to the same extent and in the same way as provided in this section for passenger automobiles.

(f) CREDIT TRADING AMONG MANUFACTURERS.—

(1) IN GENERAL.—The Secretary of Transportation may establish, by regulation, a fuel economy credit trading program to allow manufacturers whose automobiles exceed the average fuel economy standards prescribed under section 32902 to earn credits to be sold to manufacturers whose automobiles fail to achieve the prescribed standards such that the total oil savings associated with manufacturers that exceed the prescribed standards are preserved when trading credits to manufacturers that fail to achieve the prescribed standards.

(2) LIMITATION.—The trading of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements of section 32902(b)(4), without regard to any trading of credits from other manufacturers.

(g) CREDIT TRANSFERRING WITHIN A MANUFACTURER'S FLEET.—

(1) IN GENERAL.—The Secretary of Transportation shall establish by regulation a fuel economy credit transferring program to allow any manufacturer whose automobiles exceed any of the average fuel economy standards prescribed under section 32902 to transfer the credits earned under this section and to apply such credits within that manufacturer's fleet to a compliance category of automobiles that fails to achieve the prescribed standards.

(2) YEARS FOR WHICH USED.—Credits transferred under this subsection are available to be used in the same model years that the manufacturer could have applied such credits under subsections (a), (b), (d), and (e), as well as for the model year in which the manufacturer earned such credits.

(3) MAXIMUM INCREASE.—The maximum increase in any compliance category attributable to transferred credits is—

(A) for model years 2011 through 2013, 1.0 mile per gallon;

(B) for model years 2014 through 2017, 1.5 miles per gallon; and

(C) for model year 2018 and subsequent model years, 2.0 miles per gallon.

(4) LIMITATION.—The transfer of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements under section 32904(b)(4), without regard to any transfer of credits from other categories of automobiles described in paragraph (6)(B).

(5) YEARS AVAILABLE.—A credit may be transferred under this subsection only if it is earned after model year 2010.

(6) DEFINITIONS.—In this subsection:

(A) FLEET.—The term "fleet" means all automobiles manufactured by a manufacturer in a particular model year.

(B) COMPLIANCE CATEGORY OF AUTOMOBILES.—The term "compliance category of automobiles" means any of the following 3 categories of automobiles for which compliance is separately calculated under this chapter:

(i) Passenger automobiles manufactured domestically.

(ii) Passenger automobiles not manufactured domestically.

(iii) Non-passenger automobiles.

(h) REFUND OF COLLECTED PENALTY.—When a civil penalty has been collected under this chapter from a manufacturer that has earned credits under this section, the Secretary of the Treasury shall refund to the manufacturer the amount of the penalty to the extent the penalty is attributable to credits available under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1061; Pub. L. 110–140, title I, §104(a), Dec. 19, 2007, 121 Stat. 1501.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32903(a)	15:2002(*l*)(1)(B), (4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(*l*); added Oct. 10, 1980, Pub. L. 96–425, §6(b), 94 Stat. 1826.
32903(b)(1)	15:2002(*l*)(1)(A).	
32903(b)(2)	15:2002(*l*)(1)(C).	
32903(c)	15:2002(*l*)(1)(D).	
32903(d)	15:2002(*l*)(1)(E).	
32903(e)	15:2002(*l*)(2).	
32903(f)	15:2002(*l*)(3).	

In this section, various forms of the words "apply credits" are substituted for various forms of "credits are available to be taken into account" to be more concise and to make more clear the distinction between when credits are available and to what years they may be applied.

In subsection (a), before clause (1), the text of 15:2002(l)(4) is omitted as surplus because of 49:322(a). The words "any adjustment under subsection (d) of this section" are omitted because 15:2002(d) is omitted from the revised title as executed. The words "calculated under subparagraph (C)" (which apparently should be "calculated under subparagraph (D)") are omitted as surplus. In clauses (1) and (2), the words "with respect to the average fuel economy of that manufacturer" are omitted as surplus. The words "year for which the credits are earned" are substituted for "year in which such manufacturer exceeds such applicable average fuel economy standard" to eliminate unnecessary words.

Subsection (b)(1) is substituted for 15:2002(l)(1)(A) to eliminate unnecessary words.

In subsection (b)(2)(A) is substituted for 15:2002(l)(1)(C)(i)–(iii) to eliminate unnecessary words.

In subsection (e), the words "as provided in this section for passenger automobiles" are substituted for "as provided for under paragraph (1)" for clarity. The text of 15:2002(l)(2) (last sentence) is omitted as expired.

EDITORIAL NOTES

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–140, §104(a)(1), substituted "subsections (a) through (d) of section 32902" for "section 32902(b)–(d) of this title" in introductory provisions.

Subsec. (a)(2). Pub. L. 110–140, §104(a)(2), substituted "paragraph (1)" for "clause (1) of this subsection," and "5 consecutive" for "3 consecutive".

Subsecs. (b)(2)(B), (c)(1). Pub. L. 110–140, §104(a)(1), substituted "subsections (a) through (d) of section 32902" for "section 32902(b)–(d) of this title".

Subsecs. (f) to (h). Pub. L. 110–140, §104(a)(3), (4), added subsecs. (f) and (g) and redesignated former subsec. (f) as (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

[1] *So in original. Probably should be followed by a comma.*

§32904. Calculation of average fuel economy

(a) METHOD OF CALCULATION.—(1) The Administrator of the Environmental Protection Agency shall calculate the average fuel economy of a manufacturer subject to—

(A) section 32902(a) of this title in a way prescribed by the Administrator; and

(B) section 32902(b)–(d) of this title by dividing—

(i) the number of passenger automobiles manufactured by the manufacturer in a model year; by

(ii) the sum of the fractions obtained by dividing the number of passenger automobiles of each model manufactured by the manufacturer in that model year by the fuel economy measured for that model.

(2)(A) In this paragraph, "electric vehicle" means a vehicle powered primarily by an electric motor drawing electrical current from a portable source.

(B) If a manufacturer manufactures an electric vehicle, the Administrator shall include in the calculation of average fuel economy under paragraph (1) of this subsection equivalent petroleum based fuel economy values determined by the Secretary of Energy for various classes of electric vehicles. The Secretary shall review those values each year and determine and propose necessary revisions based on the following factors:

(i) the approximate electrical energy efficiency of the vehicle, considering the kind of vehicle and the mission and weight of the vehicle.

(ii) the national average electrical generation and transmission efficiencies.

(iii) the need of the United States to conserve all forms of energy and the relative scarcity and value to the United States of all fuel used to generate electricity.

(iv) the specific patterns of use of electric vehicles compared to petroleum-fueled vehicles.

(b) SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.—(1)(A) Except as provided in paragraphs (6) and (7) of this subsection, the Administrator shall make separate calculations under subsection

(a)(1)(B) of this section for—

(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (5) of this subsection); and

(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (5) of this subsection).

(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter, except for the purposes of section 32903.

(2) In this subsection (except as provided in paragraph (3)), a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year.

(3)(A) In this subsection, a passenger automobile is deemed to be manufactured domestically in a model year, as provided in subparagraph (B) of this paragraph, if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States, Canada, or Mexico, unless the assembly of the automobile is completed in Canada or Mexico and the automobile is imported into the United States more than 30 days after the end of the model year.

(B) Subparagraph (A) of this paragraph applies to automobiles manufactured by a manufacturer and sold in the United States, regardless of the place of assembly, as follows:

(i) A manufacturer that began assembling automobiles in Mexico before model year 1992 may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election.

(ii) For a manufacturer that began assembling automobiles in Mexico after model year 1991, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994, or the model year beginning after the date the manufacturer begins assembling automobiles in Mexico, whichever is later.

(iii) A manufacturer not described in clause (i) or (ii) of this subparagraph that assembles automobiles in the United States or Canada, but not in Mexico, may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election. However, if the manufacturer begins assembling automobiles in Mexico before making an election under this subparagraph, this clause does not apply, and the manufacturer is subject to clause (ii) of this subparagraph.

(iv) For a manufacturer that does not assemble automobiles in the United States, Canada, or Mexico, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994.

(v) For a manufacturer described in clause (i) or (iii) of this subparagraph that does not make an election within the specified period, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 2004.

(C) The Secretary of Transportation shall prescribe reasonable procedures for elections under subparagraph (B) of this paragraph.

(4) In this subsection, the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.

(5)(A) A manufacturer may submit to the Secretary of Transportation for approval a plan, including supporting material, stating the actions and the deadlines for taking the actions, that will

ensure that the model or models referred to in subparagraph (B) of this paragraph will be manufactured domestically before the end of the 4th model year covered by the plan. The Secretary promptly shall consider and act on the plan. The Secretary shall approve the plan unless—

(i) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph; or

(ii) the manufacturer previously has submitted a plan approved by the Secretary under this paragraph.

(B) If the plan is approved, the Administrator shall include under paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii) of this subsection, for each of the 4 model years covered by the plan, not more than 150,000 passenger automobiles manufactured by that manufacturer but not qualifying as domestically manufactured if—

(i) the model or models involved previously have not been manufactured domestically;

(ii) at least 50 percent of the cost to the manufacturer of each of the automobiles is attributable to value added in the United States or Canada;

(iii) the automobiles, if their assembly was completed in Canada, are imported into the United States not later than 30 days after the end of the model year; and

(iv) the model or models are manufactured domestically before the end of the 4th model year covered by the plan.

(c) TESTING AND CALCULATION PROCEDURES.—The Administrator shall measure fuel economy for each model and calculate average fuel economy for a manufacturer under testing and calculation procedures prescribed by the Administrator. However, except under section 32908 of this title, the Administrator shall use the same procedures for passenger automobiles the Administrator used for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures that give comparable results. A measurement of fuel economy or a calculation of average fuel economy (except under section 32908) shall be rounded off to the nearest .1 of a mile a gallon. The Administrator shall decide on the quantity of other fuel that is equivalent to one gallon of gasoline. To the extent practicable, fuel economy tests shall be carried out with emissions tests under section 206 of the Clean Air Act (42 U.S.C. 7525).

(d) EFFECTIVE DATE OF PROCEDURE OR AMENDMENT.—The Administrator shall prescribe a procedure under this section, or an amendment (except a technical or clerical amendment) in a procedure, at least 12 months before the beginning of the model year to which the procedure or amendment applies.

(e) REPORTS AND CONSULTATION.—The Administrator shall report measurements and calculations under this section to the Secretary of Transportation and shall consult and coordinate with the Secretary in carrying out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1062; Pub. L. 103–429, §6(36), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–287, §5(63), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 110–140, title I, §§104(b)(2), 113(a), Dec. 19, 2007, 121 Stat. 1503, 1508.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32904(a)(1)	15:2003(a)(1), (2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(a)(1), (2), (d)–(f); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 906, 907.
32904(a)(2)	15:2003(a)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(a)(3); added Jan. 7, 1980, Pub. L. 96–185, §18 (related to §503(a)(3) of Motor Vehicle

		Information and Cost Savings Act), 93 Stat. 1336.
32904(b)(1)	15:2003(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(b)(1), (2); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 906; Oct. 10, 1980, Pub. L. 96–425, §§4(c)(2), (3), 8(e), 94 Stat. 1824, 1829.
32904(b)(2)	15:2003(b)(1).	
32904(b)(3)	15:2003(b)(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(b)(4); added Oct. 10, 1980, Pub. L. 96–425, §4(b), 94 Stat. 1824.
32904(b)(4)–(6)	15:2003(b)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(b)(3); added Oct. 10, 1980, Pub. L. 96–425, §4(a)(1), 94 Stat. 1822; Nov. 8, 1984, Pub. L. 98–620, §402(18), 98 Stat. 3358.
32904(c)	15:2003(d)(1) (1st–3d sentences), (2), (e).	
32904(d)	15:2003(d)(3).	
32904(e)	15:2003(d)(1) (last sentence), (f).	

In subsection (a)(1), before clause (A), the words "of a manufacturer subject to" are substituted for "for the purposes of" for clarity. In clause (B)(ii), the words "the sum of the fractions obtained by" are substituted for "a sum of terms, each term of which is a fraction created by" to eliminate unnecessary words.

Subsection (a)(2)(A) is substituted for "as defined in section 2012(b)(2) of this title" for clarity.

In subsection (a)(2)(B), before clause (i), the words "the Administrator shall include in the calculation of average fuel economy" are substituted for "the average fuel economy will be calculated . . . to include" for clarity. The text of 15:2003(a)(3)(B) is omitted as executed. The words "determine and propose" are substituted for "propose" for clarity and consistency with the authority of the Secretary under the source provisions. The words "based on the following factors" are substituted for "Determination of these fuel economy values will take into account the following parameters" for clarity and to eliminate unnecessary words. The factors in clauses (i)–(iv) are applied to revisions in fuel economy values for clarity and consistency with the authority of the Secretary under the source provisions. In clause (iv), the words "patterns of use" are substituted for "driving patterns" for clarity.

In subsection (b)(1), before clause (A), the text of 15:2003(b)(2)(A)–(D) is omitted as executed. In clause (A), the words "is imported . . . more than 30 days after" are substituted for "is not imported . . . prior to the expiration of 30 days following" for clarity and for consistency in the revised chapter. The words "The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph" are omitted as surplus because of the authority of the Administrator to prescribe regulations under section 32910(d) of the revised title. The term "regulations" is used in section 32910(d) instead of "rules" for consistency in the revised title and because the terms are synonymous. In clause (B), the words "which is imported by a manufacturer in model year 1978 or any subsequent year, as the case may be, and" are omitted as surplus.

In subsection (b)(2)(A), before clause (i), the words "Except as provided in paragraphs (4) and (5) of this subsection" are added for clarity. The words "the Administrator shall make separate calculations" are substituted for "In calculating average fuel economy . . . the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories" and "The EPA Administrator shall calculate the average fuel economy of each such separate category" to eliminate unnecessary words. In clauses (i) and (ii), the reference in the parenthetical to paragraph (3) is substituted for the reference in the source to paragraph (3), which apparently should have been a reference to paragraph (4). The text of 15:2003(b)(1)(A) (words in parentheses) and (B) (words in parentheses) is omitted as executed.

Subsection (b)(2)(B) is substituted for 15:2003(b)(1) (words after last comma) because of the restatement.

In subsection (b)(3)(A), before clause (i), the word "deadlines" is substituted for "dates" for clarity. The text

of 15:2003(b)(4)(C) is omitted as executed.

In subsection (b)(4)(A), before clause (i), the words "A manufacturer may file with the Secretary of Transportation a petition for an exemption from the requirement of separate calculations under paragraph (2)(A) of this subsection" are substituted for "petition . . . for an exemption from the provisions of paragraph (1) filed by a manufacturer, the Secretary" for clarity.

In subsection (b)(5)(B), the words "judgment of the court under this subparagraph may be reviewed" are substituted for "judgment of the court affirming, remanding, or setting aside, in whole or in part, any such decision shall be final, subject to review" to eliminate unnecessary words.

In subsection (b)(5)(C), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "a petition for" are added for consistency.

In subsection (c), the words "of a model type" and "of a manufacturer" are omitted as surplus. The words "by rule" are omitted as surplus because of the authority of the Administrator to prescribe regulations under section 32910(d) of the revised title. The term "regulations" is used in section 32910(d) instead of "rules" for consistency in the revised title and because the terms are synonymous. The words "However . . . the Administrator shall use the same procedures for passenger automobiles the Administrator used" are substituted for "Procedures so established with respect to passenger automobiles . . . shall be the procedures utilized by the EPA Administrator" for clarity. The words "(in accordance with rules of the EPA Administrator)" are omitted as surplus. The words "fuel economy tests shall be carried out with" are substituted for "Procedures under this subsection . . . shall require that fuel economy tests be conducted in conjunction with" to eliminate unnecessary words.

In subsection (d), the words "The Administrator shall prescribe a procedure under this section, or an amendment . . . at least" are substituted for "Testing and calculation procedures applicable to a model year and any amendment to such procedures . . . shall be promulgated not less than" to eliminate unnecessary words.

In subsection (e), the words "his duties under" are omitted as surplus.

PUB. L. 103–429, §6(36)(A)

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

PUB. L. 103–429, §6(36)(B)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32904(b)	15:2003(b)(2)(E), (G).	Oct. 20, 1972, Public Law 92–513, §503(b)(2)(E), (G), as amended Dec. 8, 1993, Pub. L. 103–182, §371, 107 Stat. 2127.

The text of 49:32904(b)(1) is the text of 49:32904(b)(2), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063), with conforming changes made in the cited cross-references.

The text of subsection (b)(2) is the text of 49:32904(b)(1)(A), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063), with the amendments of the underlying source provisions of 49:32904(b)(1)(A) made by section 371(b)(1) of the North American Free Trade Implementation Act (Public Law 103–182, 107 Stat. 2128). The words "(except as provided in paragraph (3))" are substituted for "Except as provided in subparagraph (G)" because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3).

In subsection (b)(3)(A), the words "is imported . . . more than 30 days after" are substituted for "is not imported . . . prior to the expiration of 30 days following" for clarity and consistency with title 49, United States Code.

In subsection (b)(3)(C), the words "and the EPA Administrator may prescribe rules for purposes of carrying out this subparagraph" are omitted as surplus because of the authority of the Administrator to prescribe regulations under 49:32910(d). The amendment made by section 371(b)(2) of the North American Free Trade Implementation Act (Public Law 103–182, 107 Stat. 2128) is not given effect because the last sentence of section 503(b)(2)(E) of the Motor Vehicle and Cost Savings Act (Public Law 92–513, 86 Stat. 947) was omitted in the restatement of title 49 because of the authority of the Administrator to prescribe regulations under 49:32910(d).

The text of subsection (b)(4) is the text of 49:32904(b)(1)(B), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063).

PUB. L. 103–429, §6(36)(C), (D)

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

EDITORIAL NOTES

AMENDMENTS

2007—Subsec. (b)(1)(B). Pub. L. 110–140, §104(b)(2), inserted ", except for the purposes of section 32903" before period at end.

Subsec. (b)(6) to (8). Pub. L. 110–140, §113(a), struck out pars. (6) to (8) which related to exemption from separate calculations requirement, judicial review of denial of petition, and unavailability of section 32903(a) and (b)(2) credits during model year when exemption is effective, respectively.

1996—Subsec. (b)(6)(C). Pub. L. 104–287 substituted "Committee on Commerce" for "Committee on Energy and Commerce".

1994—Subsec. (b)(1). Pub. L. 103–429, §6(36)(B), added par. (1) and struck out former par. (1) which read as follows: "In this subsection—

"(A) a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year; and

"(B) the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically."

Subsec. (b)(2). Pub. L. 103–429, §6(36)(B), added par. (2) and struck out former par. (2) which read as follows:

"(2)(A) Except as provided in paragraphs (4) and (5) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

"(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (3) of this subsection); and

"(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (3) of this subsection).

"(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter."

Subsec. (b)(3), (4). Pub. L. 103–429, §6(36)(B), added pars. (3) and (4). Former pars. (3) and (4) redesignated (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 103–429, §6(36)(A), redesignated par. (3) as (5). Former par. (5) redesignated (7).

Subsec. (b)(5)(B). Pub. L. 103–429, §6(36)(C), substituted "paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii)" for "paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii)" in introductory provisions.

Subsec. (b)(6). Pub. L. 103–429, §6(36)(A), redesignated par. (4) as (6). Former par. (6) redesignated (8).

Subsec. (b)(6)(A). Pub. L. 103–429, §6(36)(D), substituted "paragraph (1)(A)" for "paragraph (2)(A)" in introductory provisions.

Subsec. (b)(7), (8). Pub. L. 103–429, §6(36)(A), redesignated pars. (5) and (6) as (7) and (8), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECT OF REPEAL ON EXISTING EXEMPTIONS

Pub. L. 110–140, title I, §113(b), (c), Dec. 19, 2007, 121 Stat. 1508, provided that:

"(b) EFFECT OF REPEAL ON EXISTING EXEMPTIONS.—Any exemption granted under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act [Dec. 19, 2007] shall remain in effect subject to its terms through model year 2013.

"(c) ACCRUAL AND USE OF CREDITS.—Any manufacturer holding an exemption under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act may accrue and use credits under sections 32903 and 32905 of such title beginning with model year 2011."

§32905. Manufacturing incentives for alternative fuel automobiles

(a) DEDICATED AUTOMOBILES.—Except as provided in subsection (c) of this section or section 32904(a)(2) of this title, for any model of dedicated automobile manufactured by a manufacturer after model year 1992, the fuel economy measured for that model shall be based on the fuel content of the alternative fuel used to operate the automobile. A gallon of a liquid alternative fuel used to operate a dedicated automobile is deemed to contain .15 gallon of fuel.

(b) DUAL FUELED AUTOMOBILES.—Except as provided in subsection (d) of this section or section 32904(a)(2) of this title, for any model of dual fueled automobile manufactured by a manufacturer in model years 1993 through 2019, the Administrator of the Environmental Protection Agency shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy—

(A) measured under subsection (a) when operating the model on alternative fuel; or

(B) measured based on the fuel content of B20 when operating the model on B20, which is deemed to contain 0.15 gallon of fuel.

(c) GASEOUS FUEL DEDICATED AUTOMOBILES.—For any model of gaseous fuel dedicated automobile manufactured by a manufacturer after model year 1992, the Administrator shall measure the fuel economy for that model based on the fuel content of the gaseous fuel used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain .823 gallon equivalent of natural gas. The Secretary of Transportation shall determine the appropriate gallon equivalent of other gaseous fuels. A gallon equivalent of gaseous fuel is deemed to have a fuel content of .15 gallon of fuel.

(d) GASEOUS FUEL DUAL FUELED AUTOMOBILES.—For any model of gaseous fuel dual fueled automobile manufactured by a manufacturer in model years 1993 through 2019, the Administrator shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (c) of this section when operating the model on gaseous fuel.

(e) ELECTRIC DUAL FUELED AUTOMOBILES.—

(1) IN GENERAL.—At the request of the manufacturer, the Administrator may measure the fuel economy for any model of dual fueled automobile manufactured after model year 2015 that is capable of operating on electricity in addition to gasoline or diesel fuel, obtains its electricity from a source external to the vehicle, and meets the minimum driving range requirements established by the Secretary for dual fueled electric automobiles, by dividing 1.0 by the sum of—

(A) the percentage utilization of the model on gasoline or diesel fuel, as determined by a formula based on the model's alternative fuel range, divided by the fuel economy measured under section 32904(c); and

(B) the percentage utilization of the model on electricity, as determined by a formula based on the model's alternative fuel range, divided by the fuel economy measured under section 32904(a)(2).

(2) ALTERNATIVE CALCULATION.—If the manufacturer does not request that the Administrator calculate the manufacturing incentive for its electric dual fueled automobiles in accordance with paragraph (1), the Administrator shall calculate such incentive for such automobiles manufactured by such manufacturer after model year 2015 in accordance with subsection (b).

(f) FUEL ECONOMY CALCULATIONS.—The Administrator shall calculate the manufacturer's average fuel economy under section 32904(a)(1) of this title for each model described under subsections (a)–(d) of this section by using as the denominator the fuel economy measured for each model under subsections (a)–(d).

(g) FUEL ECONOMY INCENTIVE REQUIREMENTS.—In order for any model of dual fueled automobile to be eligible to receive the fuel economy incentives included in section 32906(a) and (b), a label shall be attached to the fuel compartment of each dual fueled automobile of that model, notifying that the vehicle can be operated on an alternative fuel and on gasoline or diesel, with the form of alternative fuel stated on the notice. This requirement applies to dual fueled automobiles manufactured on or after September 1, 2006.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1065; Pub. L. 104–287, §5(63), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 109–58, title VII, §§759, 772(a), Aug. 8, 2005, 119 Stat. 833, 834; Pub. L. 110–140, title I, §109(b), (c), Dec. 19, 2007, 121 Stat. 1506; Pub. L. 113–291, div. A, title III, §318(c), Dec. 19, 2014, 128 Stat. 3341.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32905(a)	15:2013(a), (f)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §513(a)–(f); added Oct. 14, 1988, Pub. L. 100–494, §6(a), 102 Stat. 2448; Oct. 24, 1992, Pub. L. 102–486, §403(5)(A)–(F), 106 Stat. 2876.
32905(b)	15:2013(b), (f)(1).	
32905(c)	15:2013(c), (f)(1).	
32905(d)	15:2013(d), (f)(1).	
32905(e)	15:2013(e).	
32905(f)	15:2013(f)(2)(B).	
32905(g)	15:2013(f)(2)(A).	

In subsections (a) and (c), the words "after model year 1992" are substituted for "Subsections (a) and (c) shall apply only to automobiles manufactured after model year 1992" because of the restatement.

In subsections (b) and (d), before each clause (1), the words "in model years 1993–2004" are substituted for "Except as otherwise provided in this subsection, subsections (b) and (d) shall apply only to automobiles manufactured in model year 1993 through model year 2004" to eliminate unnecessary words and because of the restatement.

In subsection (c), the words "For purposes of this section" and "than natural gas" are omitted as unnecessary because of the restatement. The words "a gallon equivalent of natural gas" are omitted as being included in "A gallon equivalent of any gaseous fuel".

In subsection (e), the words "subject to the provisions of this section" are omitted as unnecessary because of the restatement. The words "for each model described under subsections (a)–(d) of this section" are substituted for "for each model type of dedicated automobile or dual fueled automobile" to eliminate unnecessary words. The words "by using as the denominator" are substituted for "by including as the denominator of the term" for clarity.

EDITORIAL NOTES

AMENDMENTS

2014—Subsecs. (e) to (g). Pub. L. 113–291 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

2007—Subsec. (b). Pub. L. 110–140, §109(b)(1), substituted "1993 through 2019" for "1993–2010" in introductory provisions.

Subsec. (b)(2). Pub. L. 110–140, §109(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ".5 divided by the fuel economy measured under subsection (a) of this section when operating the model on alternative fuel."

Subsec. (d). Pub. L. 110–140, §109(b)(2), substituted "1993 through 2019" for "1993–2010" in introductory provisions.

Subsecs. (f) to (h). Pub. L. 110–140, §109(b)(3), (4), redesignated subsec. (h) as (f) and struck out former subsecs. (f) and (g) which related to temporary extension of application of subsecs. (b) and (d) and study and report on success of the policy of subsecs. (b) and (d), respectively.

2005—Subsecs. (b), (d). Pub. L. 109–58, §772(a)(1), substituted "1993–2010" for "1993–2004" in introductory provisions.

Subsec. (f). Pub. L. 109–58, §772(a)(2), substituted "2007" for "2001" in introductory provisions.

Subsec. (f)(1). Pub. L. 109–58, §772(a)(3), substituted "2010" for "2004".

Subsec. (h). Pub. L. 109–58, §759, added subsec. (h).

1996—Subsec. (g). Pub. L. 104–287 substituted "Committee on Commerce" for "Committee on Energy and Commerce".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§32906. Maximum fuel economy increase for alternative fuel automobiles

(a) IN GENERAL.—For each of model years 1993 through 2019 for each category of automobile (except an electric automobile or, beginning with model year 2016, an alternative fueled automobile that uses a fuel described in subparagraph (E) of section 32901(a)(1)), the maximum increase in average fuel economy for a manufacturer attributable to dual fueled automobiles is—

(1) 1.2 miles a gallon for each of model years 1993 through 2014;
(2) 1.0 miles per gallon for model year 2015;
(3) 0.8 miles per gallon for model year 2016;
(4) 0.6 miles per gallon for model year 2017;
(5) 0.4 miles per gallon for model year 2018;
(6) 0.2 miles per gallon for model year 2019; and
(7) 0 miles per gallon for model years after 2019.

(b) CALCULATION.—In applying subsection (a), the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer's average fuel economy attributable to dual fueled automobiles by subtracting from the manufacturer's average fuel economy calculated under section 32905(f) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula under section 32904(a)(1) by including as the denominator for each model of dual fueled automobiles the fuel economy when the automobiles are operated on gasoline or diesel fuel.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1067; Pub. L. 109–58, title VII, §772(b), Aug. 8, 2005, 119 Stat. 834; Pub. L. 110–140, title I, §109(a), Dec. 19, 2007, 121 Stat. 1505; Pub. L. 113–291, div. A, title III, §318(a), (d), Dec. 19, 2014, 128 Stat. 3341, 3342.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32906(a)	15:2013(g)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §513(g)(1), (2)(A); added Oct. 14, 1988, Pub. L. 100–494, §6(a),

		102 Stat. 2449; Oct. 24, 1992, Pub. L. 102–486, §403(5) (G)(i), (ii)(I), 106 Stat. 2877.
32906(b)	15:2013(g)(2)(A).	

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–291, §318(a), substituted "(except an electric automobile or, beginning with model year 2016, an alternative fueled automobile that uses a fuel described in subparagraph (E) of section 32901(a)(1))" for "(except an electric automobile)" in introductory provisions.

Subsec. (b). Pub. L. 113–291, §318(d), substituted "section 32905(f)" for "section 32905(e)".

2007—Pub. L. 110–140 amended section generally, substituting provisions relating to maximum increase in average fuel economy for each of model years 1993 through 2019 and calculation of each such increase for provisions relating to maximum increase for each of model years 1993 through 2010 and authorizing offsets if the Secretary of Transportation reduced the average fuel economy standard for passenger automobiles for any model year below 27.5 miles per gallon.

2005—Subsec. (a)(1)(A). Pub. L. 109–58, §772(b)(1), substituted "model years 1993–2010" for "the model years 1993–2004".

Subsec. (a)(1)(B). Pub. L. 109–58, §772(b)(2), substituted "model years 2011–2014" for "the model years 2005–2008".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§32907. Reports and tests of manufacturers

(a) MANUFACTURER REPORTS.—(1) A manufacturer shall report to the Secretary of Transportation on—

(A) whether the manufacturer will comply with an applicable average fuel economy standard under section 32902 of this title for the model year for which the report is made;

(B) the actions the manufacturer has taken or intends to take to comply with the standard; and

(C) other information the Secretary requires by regulation.

(2) A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days—

(A) before the beginning of each model year; and

(B) beginning on the 180th day of the model year.

(3) When a manufacturer decides that actions reported under paragraph (1)(B) of this subsection are not sufficient to ensure compliance with that standard, the manufacturer shall report to the Secretary additional actions the manufacturer intends to take to comply with the standard and include a statement about whether those actions are sufficient to ensure compliance.

(4) This subsection does not apply to a manufacturer for a model year for which the manufacturer is subject to an alternative average fuel economy standard under section 32902(d) of this title.

(b) RECORDS, REPORTS, TESTS, INFORMATION, AND INSPECTION.—(1) Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter, a manufacturer shall keep records, make reports, conduct tests, and provide

items and information. On request and display of proper credentials, an officer or employee designated by the Secretary or Administrator may inspect automobiles and records of the manufacturer. An inspection shall be made at a reasonable time and in a reasonable way.

(2) The district courts of the United States may—

(A) issue an order enforcing a requirement or request under paragraph (1) of this subsection; and

(B) punish a failure to obey the order as a contempt of court.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1067.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32907(a)	15:2005(a)(1)–(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(a)(1)–(3), (c); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 908, 909.
	15:2005(a)(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(a)(4); added Oct. 10, 1980, Pub. L. 96–425, §3(b), 94 Stat. 1822.
32907(b)	15:2005(c).	

In subsection (a)(1), before clause (A), the words "shall report to the Secretary of Transportation on" are substituted for "shall submit a report to the Secretary . . . Each such report shall contain (A) a statement as to" to eliminate unnecessary words. In clause (B), the words "the actions" are substituted for "a plan which describes the steps" to eliminate unnecessary words.

In subsection (a)(2)(A), the words "after model year 1977" are omitted as obsolete.

In subsection (a)(3), the words "actions reported . . . are not sufficient to ensure compliance with that standard" are substituted for "a plan submitted . . . which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance" to eliminate unnecessary words and for consistency in the section. The words "additional actions" are substituted for "a revised plan which specifies any additional measures" for consistency in the section. The text of 15:2005(a)(3) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the words "Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter" are substituted for "as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this subchapter and under any rules prescribed pursuant to this subchapter" to eliminate unnecessary words, for consistency in the revised title, and because "rules" and "regulations" are synonymous. The words "establish and" are omitted as surplus. The 2d sentence is substituted for 15:2005(c) (2d sentence) to eliminate unnecessary words and for consistency. The text of 15:2005(c)(1) (last sentence) is omitted as surplus because of section 32910(d) of the revised title and 49:322(a).

Subsection (b)(2)(A) is substituted for "if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request" to eliminate unnecessary words.

Subsection (b)(2)(B) is substituted for 15:2005(c) (last sentence) to eliminate unnecessary words.

§32908. Fuel economy information

(a) DEFINITIONS.—In this section—

(1) "automobile" includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901(a)(3)(B) of this title.

(2) "dealer" means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to

the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale.

(b) LABELING REQUIREMENTS AND CONTENTS.—(1) Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label on the automobile. The label shall contain the following information:

(A) the fuel economy of the automobile.

(B) the estimated annual fuel cost of operating the automobile.

(C) the range of fuel economy of comparable automobiles of all manufacturers.

(D) a statement that a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year.

(E) the amount of the automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064).

(F) other information required or authorized by the Administrator that is related to the information required by clauses (A)–(D) of this paragraph.

(2) The Administrator may allow a manufacturer to comply with this subsection by—

(A) disclosing the information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(B) including the statement required by paragraph (1)(E) of this subsection at a time and in a way that takes into account special circumstances or characteristics.

(3) For dedicated automobiles manufactured after model year 1992, the fuel economy of those automobiles under paragraph (1)(A) of this subsection is the fuel economy for those automobiles when operated on alternative fuel, measured under section 32905(a) or (c) of this title, multiplied by .15. Each label required under paragraph (1) of this subsection for dual fueled automobiles shall—

(A) indicate the fuel economy of the automobile when operated on gasoline or diesel fuel;

(B) clearly identify the automobile as a dual fueled automobile;

(C) clearly identify the fuels on which the automobile may be operated; and

(D) contain a statement informing the consumer that the additional information required by subsection (c)(2) of this section is published and distributed by the Secretary of Energy.

(c) FUEL ECONOMY INFORMATION BOOKLET.—(1) The Administrator shall prepare the booklet referred to in subsection (b)(1)(D) of this section. The booklet—

(A) shall be simple and readily understandable;

(B) shall contain information on fuel economy and estimated annual fuel costs of operating automobiles manufactured in each model year; and

(C) may contain information on geographical or other differences in estimated annual fuel costs.

(2)(A) For dual fueled automobiles manufactured after model year 1992, the booklet published under paragraph (1) shall contain additional information on—

(i) the energy efficiency and cost of operation of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel; and

(ii) the driving range of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel.

(B) For dual fueled automobiles, the booklet published under paragraph (1) also shall contain—

(i) information on the miles a gallon achieved by the automobiles when operated on alternative fuel; and

(ii) a statement explaining how the information made available under this paragraph can be expected to change when the automobile is operated on mixtures of alternative fuel and gasoline or diesel fuel.

(3) The Secretary of Energy shall publish and distribute the booklet. The Administrator shall prescribe regulations requiring dealers to make the booklet available to prospective buyers.

(d) DISCLOSURE.—A disclosure about fuel economy or estimated annual fuel costs under this section does not establish a warranty under a law of the United States or a State.

(e) VIOLATIONS.—A violation of subsection (b) of this section is—

(1) a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(2) an unfair or deceptive act or practice in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), except sections 5(m) and 18 (15 U.S.C. 45(m), 57a).

(f) CONSULTATION.—The Administrator shall consult with the Federal Trade Commission and the Secretaries of Transportation and Energy in carrying out this section.

(g) CONSUMER INFORMATION.—

(1) PROGRAM.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a program to require manufacturers—

(A) to label new automobiles sold in the United States with—

(i) information reflecting an automobile's performance on the basis of criteria that the Administrator shall develop, not later than 18 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act, to reflect fuel economy and greenhouse gas and other emissions over the useful life of the automobile;

(ii) a rating system that would make it easy for consumers to compare the fuel economy and greenhouse gas and other emissions of automobiles at the point of purchase, including a designation of automobiles—

(I) with the lowest greenhouse gas emissions over the useful life of the vehicles; and

(II) the highest fuel economy; and

(iii) a permanent and prominent display that an automobile is capable of operating on an alternative fuel; and

(B) to include in the owner's manual for vehicles capable of operating on alternative fuels information that describes that capability and the benefits of using alternative fuels, including the renewable nature and environmental benefits of using alternative fuels.

(2) CONSUMER EDUCATION.—

(A) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a consumer education program to improve consumer understanding of automobile performance described in paragraph (1)(A)(i) and to inform consumers of the benefits of using alternative fuel in automobiles and the location of stations with alternative fuel capacity.

(B) FUEL SAVINGS EDUCATION CAMPAIGN.—The Secretary of Transportation shall establish a consumer education campaign on the fuel savings that would be recognized from the purchase of vehicles equipped with thermal management technologies, including energy efficient air conditioning systems and glass.

(3) FUEL TANK LABELS FOR ALTERNATIVE FUEL AUTOMOBILES.—The Secretary of Transportation shall by rule require a label to be attached to the fuel compartment of vehicles capable of operating on alternative fuels, with the form of alternative fuel stated on the label. A label attached in compliance with the requirements of section 32905(h) [1] is deemed to meet the requirements of this paragraph.

(4) RULEMAKING DEADLINE.—The Secretary of Transportation shall issue a final rule under this subsection not later than 42 months after the date of the enactment of the Ten-in-Ten

Fuel Economy Act.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1068; Pub. L. 103–429, §6(37), Oct. 31, 1994, 108 Stat. 4382; Pub. L. 110–140, title I, §105, Dec. 19, 2007, 121 Stat. 1503.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32908(a)	15:2006(c)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §506(a)(1)–(3), (b)(1), (2), (c)(1), (2), (d), (e); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 910; Nov. 9, 1978, Pub. L. 95–619, §§401(a)(2), 403(a), (b), 92 Stat. 3254, 3256.
	15:2006(c)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §506(c)(3); added Nov. 9, 1978, Pub. L. 95–619, §401(a)(1), 92 Stat. 3254.
32908(b)(1), (2)	15:2006(a)(1)–(3).	
32908(b)(3)	15:2006(a)(4).	Oct. 20, 1972, Pub. L. 92–516, 86 Stat. 947, §506(a)(4), (b)(3); added Oct. 14, 1988, Pub. L. 100–494, §8(a), 102 Stat. 2452; Oct. 24, 1992, Pub. L. 102–486, §403(3), (4), 106 Stat. 2876.
	15:2006 (note).	Oct. 14, 1988, Pub. L. 100–494, §8(b), 102 Stat. 2453.
32908(c)(1)	15:2006(b)(1) (1st sentence).	
32908(c)(2)	15:2006(b)(3).	
	15:2006 (note).	
32908(c)(3)	15:2006(b)(1) (last sentence), (2).	
32908(d)	15:2006(d).	
32908(e)	15:2006(c)(1).	
32908(f)	15:2006(e).	

In this section, references to the Secretary of Energy are substituted for references to the Administrator of the Federal Energy Administration because of 42:7151.

In subsection (a)(1), the words "regardless of whether the Secretary of Transportation has applied this chapter to the automobile" are substituted for "notwithstanding any lack of determination required of the Secretary" for consistency with section 32901(b) of the revised title.

In subsection (a)(2), the words "means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale" are substituted for "has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231(e))" to include the words of 15:1231(e) and (g) in the subsection for clarity. The words "territory or possession" are substituted for "Territory" for consistency in the revised title and with other titles of the United States Code. The words "except that in applying such term to this section, the term 'automobile' has the same meaning as such term has in section 2001(1) of this title (taking into account paragraph (3) of this subsection)" are omitted as surplus.

In subsection (b)(1), before clause (A), the text of 15:2006(a)(2) is omitted as executed. The words "Except as otherwise provided in paragraph (2)" are omitted as surplus because 15:2006(a)(2) is executed and is not

part of the revised title. The words "Under regulations of the Administrator of the Environmental Protection Agency" are substituted for "as determined in accordance with rules of the EPA Administrator" and the text of 15:2006(a)(3) (1st, 2d sentences) to eliminate unnecessary words, for consistency in the revised title, and because "rules" is synonymous with "regulations". The word "attach" is substituted for "cause to be affixed", to eliminate unnecessary words. The words "after model year 1976" are omitted as executed. The words "The label shall contain the following information" are substituted for "indicating" and "containing" for clarity. In clause (C), the words "of all manufacturers" are substituted for "(whether or not manufactured by such manufacturer)" to eliminate unnecessary words. In clause (D), the words "a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year" are substituted for "written information (as described in subsection (b)(1) of this section) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types" to eliminate unnecessary words. In clause (E), the words "automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064)" are substituted for "in the case of any automobile, the sale of which is subject to any Federal tax imposed with respect to automobile fuel efficiency, a statement indicating the amount of such tax" for clarity.

In subsection (b)(3)(D), the words "Secretary of Energy" are substituted for "Department of Energy" because of 42:7131.

In subsection (c)(1), before clause (A), the words "compile and" are omitted as surplus.

In subsection (c)(3), the words "not later than July 31, 1976" are omitted as executed. The words "make the booklet available to prospective buyers" are substituted for "make available to prospective purchasers information compiled by the EPA Administrator under paragraph (1)" to eliminate unnecessary words.

In subsection (d), the words "which is required to be made", "an express or implied", and "that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use" are omitted as surplus.

In subsection (f), the words "his duties under" are omitted as surplus.

PUB. L. 103–429

This amends 49:32908(b)(1) to clarify the restatement of 15:2006(a)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1068).

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (e)(2), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The date of the enactment of the Ten-in-Ten Fuel Economy Act, referred to in subsec. (g)(1)(A)(i), (4), is the date of enactment of subtitle A (§§101–113) of title I of Pub. L. 110–140, which was approved Dec. 19, 2007.

Subsection (h) of section 32905 of this title, referred to in subsec. (g)(3), was redesignated subsec. (f) by Pub. L. 110–140, title I, §109(b)(4), Dec. 19, 2007, 121 Stat. 1506, and subsequently was redesignated subsec. (g) by Pub. L. 113–291, div. A, title III, §318(c)(1), Dec. 19, 2014, 128 Stat. 3341.

AMENDMENTS

2007—Subsec. (g). Pub. L. 110–140 added subsec. (g).

1994—Subsec. (b)(1). Pub. L. 103–429 inserted "on the automobile" after "maintain the label" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

PERIODIC REVIEW OF ACCURACY OF FUEL ECONOMY LABELING PROCEDURES

Pub. L. 110–140, title I, §110, Dec. 19, 2007, 121 Stat. 1506, provided that: "Beginning in December 2009,

and not less often than every 5 years thereafter, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall—

"(1) reevaluate the fuel economy labeling procedures described in the final rule published in the Federal Register on December 27, 2006 (71 Fed. Reg. 77,872; 40 CFR parts 86 and 600) to determine whether changes in the factors used to establish the labeling procedures warrant a revision of that process; and

"(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that describes the results of the reevaluation process."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

[1] *See References in Text note below.*

§32909. Judicial review of regulations

(a) FILING AND VENUE.—(1) A person that may be adversely affected by a regulation prescribed in carrying out any of sections 32901–32904 or 32908 of this title may apply for review of the regulation by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) A person adversely affected by a regulation prescribed under section 32912(c)(1) of this title may apply for review of the regulation by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(b) TIME FOR FILING AND JUDICIAL PROCEDURES.—The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing an amendment of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in section 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional submissions if the court is satisfied the additional submissions are material and there were reasonable grounds for not presenting the submissions in the proceeding before the Secretary or Administrator.

(2) The Secretary or the Administrator may amend or set aside the regulation, or prescribe a new regulation because of the additional submissions presented. The Secretary or Administrator shall file an amended or new regulation and the additional submissions with the court. The court shall review a changed or new regulation.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103–429, §6(38), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32909(a)(1)	15:2004(a) (1st sentence words before 4th and after 6th commas, last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §504; added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 908.
32909(a)(2)	15:2004(a) (4th sentence).	
	15:2008(e)(3)(A) (1st sentence less 15th–31st words), (B).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(e)(3); added Nov. 9, 1978, Pub. L. 95–619, §402, 92 Stat. 3256.
32909(b)	15:2004(a) (1st sentence words between 4th and 6th commas, 2d, 3d sentences).	
	15:2008(e)(3)(A) (1st sentence 15th–31st words, 2d, last sentences).	
32909(c)	15:2004(b).	
32909(d)	15:2004(c), (d).	
	15:2008(e)(3)(C).	

In this section, the word "regulation" is substituted for "rule" for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1) and (2), the words "apply for review" are added for clarity.

In subsection (a)(1), the text of 15:2004(a) (last sentence) is omitted because 15:2002(d) is executed and is not a part of the revised title.

In subsection (a)(2), the words "adversely affected" are substituted for "aggrieved", and the words "regulation prescribed" are substituted for "final rule", for consistency in the revised title and with other titles of the United States Code. The text of 15:2004(a) (4th sentence) and 2008(e)(3)(B) is omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words "a regulation prescribing an amendment of a standard submitted to Congress" are substituted for "or in the case of an amendment submitted to each House of Congress" in 15:2004(a), and the words "the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation" are substituted for "the officer who prescribed the rule", for clarity. The words "a record of the proceeding in which the regulation was prescribed" are substituted for "the written submissions and other materials in the proceeding upon which such rule was based" in 15:2004(a) and "the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code" in 15:2008(e)(3) for consistency and to eliminate unnecessary words.

In subsection (c)(1), the words "on request of the petitioner" are substituted for "If the petitioner applies to the court in a proceeding under subsection (a) of this section for leave to make additional submissions", and the words "to receive additional submissions" are substituted for "to provide additional opportunity to make such submissions", for clarity.

In subsection (c)(2), the words "amend . . . the regulation" and "amended . . . regulation" are substituted for "modify . . . the rule" and "modified . . . rule", respectively, for consistency in the chapter and because "regulation" is synonymous with "rule".

In subsection (d), the words "affirming or setting aside, in whole or in part" are omitted as surplus. The words "and not in lieu of" in 15:2004(d) are omitted as surplus.

PUB. L. 103–429

This amends 49:32909(a)(1) to correct an erroneous cross-reference.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–429 substituted "any of sections 32901–32904" for "section 32901–32904".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32910. Administrative

(a) GENERAL POWERS.—(1) In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and subpena witnesses and records the Secretary or Administrator considers advisable.

(2) A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(b) CIVIL ACTIONS TO ENFORCE.—A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for any judicial district in which the proceeding by the Secretary or Administrator is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary or Administrator as a contempt of court.

(c) DISCLOSURE OF INFORMATION.—The Secretary and the Administrator each shall disclose information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) of title 5 only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

(d) REGULATIONS.—The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103–429, §6(39), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32910(a)	15:2005(b)(1), (3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(b), (d); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 909.
32910(b)	15:2005(b)(2).	
32910(c)	15:2005(d).	
32910(d)	(no source).	

In subsection (a)(1), before clause (A), the words "or their duly designated agents" are omitted as surplus because of 49:322(b) and section 3 of Reorganization Plan No. 3 of 1970 (eff. Dec. 2, 1970, 84 Stat. 2089). In clause (A), the words "inspect and copy records of any person" are substituted for "require, by general or special orders, that any person . . . (B) provide . . . access to (and for the purpose of examination, the right to copy) any documentary evidence of such person" to eliminate unnecessary words. The words "which is

relevant to any functions of the Secretary or the EPA Administrator under this subchapter" are omitted as covered by "In carrying out this chapter". In clause (B), the word "order" is substituted for "require, by general or special orders", and the words "including reports or answers under oath" are substituted for "Such reports and answers shall be made under oath or otherwise", to eliminate unnecessary words. The words "in such form as the Secretary or EPA Administrator may prescribe" and "shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe" are omitted as surplus because of subsection (d) of this section and 49:322(a). The words "relating to any function of the Secretary or the EPA Administrator under this subchapter" are omitted as surplus. In clause (C), the words "sit and act at such times and places" are omitted as being included in "conduct hearings". The words "subpena witnesses" are substituted for "require, by subpena, the attendance and testimony of such witnesses" to eliminate unnecessary words.

In subsection (b), the words "A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for the judicial district in which the proceeding by the Secretary or Administrator was conducted" are substituted for 15:2005(b)(2) (1st sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words "to the public" are omitted as surplus. The words "However, the Secretary or the Administrator may withhold information" are substituted for "except that information may be withheld from disclosure" for clarity.

Subsection (d) is added for convenience because throughout the chapter the Administrator is given authority to prescribe regulations to carry out duties of the Administrator.

PUB. L. 103–429

This amends 49:32910(b) to clarify the restatement of 15:2005(b)(2) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1071).

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 substituted "any judicial district in which the proceeding by the Secretary or Administrator is conducted" for "the judicial district in which the proceeding by the Secretary or Administrator was conducted".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32911. Compliance

(a) GENERAL.—A person commits a violation if the person fails to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), 32917(b), and 32918 and regulations and standards prescribed and orders issued under those sections). The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has committed a violation. Any interested person may participate in a proceeding under this subsection.

(b) AUTOMOBILE MANUFACTURERS.—A manufacturer of automobiles commits a violation if the manufacturer fails to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a violation has been committed. The Secretary may not conduct the proceeding if further measurements of fuel economy,

further calculations of average fuel economy, or other information indicates a violation has not been committed. The results of the measurements and calculations and the information shall be published in the Federal Register. Any interested person may participate in a proceeding under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1071; Pub. L. 103–429, §6(40), Oct. 31, 1994, 108 Stat. 4382.)

Historical and Revision Notes
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32911(a)	15:2007(a)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§507(a), 508(a); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 911; Oct. 10, 1980, Pub. L. 96–425, §6(a)(1), (c)(1), (2), 94 Stat. 1826, 1827.
	15:2008(a)(2).	
32911(b)	15:2007(a)(1), (2).	
	15:2007(b).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §507(b); added Oct. 10, 1980, Pub. L. 96–425, §6(a)(2), 94 Stat. 1826.
	15:2008(a).	

In this section, the words "commits a violation if the . . . fails" are substituted for "the following conduct is unlawful . . . the failure of any person" for clarity and consistency in the revised title.

In subsection (a), the reference to 15:2011 is omitted because that provision is not restated in this chapter. The words "The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide" are substituted for "If, on the record after opportunity for agency hearing, the Secretary determines" in 15:2008 for clarity. The words "the Secretary shall assess the penalties provided for under subsection (b) of this section" are omitted as surplus.

In subsection (b), the words "Compliance is determined after considering credits available to the manufacturer under section 32903 of this title" are substituted for 15:2007(b) to eliminate unnecessary words. The words "the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide" are substituted for "the Secretary shall commence a proceeding under paragraph (2) of this subsection" in 15:2008(a)(1) and "If, on the record after opportunity for agency hearing, the Secretary determines" in 15:2008(a)(2) for clarity. The words "may not conduct" are substituted for "(unless" in 15:2008(a)(1) for clarity.

PUB. L. 103–429

This makes a conforming amendment necessary because of the restatement of 15:2011 as 49:32918 by section 6(43)(A) of the bill.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ", 32917(b), and 32918" for ", and 32917(b)".

§32912. Civil penalties

(a) GENERAL PENALTY.—A person that violates section 32911(a) of this title is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(b) PENALTY FOR MANUFACTURER VIOLATIONS OF FUEL ECONOMY STANDARDS .—Except as provided in subsection (c) of this section, a manufacturer that violates a standard prescribed for a model year under section 32902 of this title is liable to the Government for a civil penalty of $0.00 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(1) calculated under section 32904(a)(1)(A) or (B) of this title for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(2) multiplied by the number of those automobiles; and

(3) reduced by the credits available to the manufacturer under section 32903 of this title for the model year.

(c) HIGHER PENALTY AMOUNTS.—(1)(A) The Secretary of Transportation shall prescribe by regulation a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under subsection (b) of this section, if the Secretary decides that the increase in the penalty—

(i) will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and

(ii) will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.

(B) The amount prescribed under subparagraph (A) of this paragraph may not be more than $0.00 for each .1 of a mile a gallon.

(C) The Secretary may make a decision under subparagraph (A)(ii) of this paragraph only when the Secretary decides that it is likely that the increase in the penalty will not—

(i) cause a significant increase in unemployment in a State or a region of a State;

(ii) adversely affect competition; or

(iii) cause a significant increase in automobile imports.

(D) A higher amount prescribed under subparagraph (A) of this paragraph is effective for the model year beginning at least 18 months after the regulation stating the higher amount becomes final.

(2) The Secretary shall publish in the Federal Register a proposed regulation under this subsection and a statement of the basis for the regulation and provide each manufacturer of automobiles a copy of the proposed regulation and the statement. The Secretary shall provide a period of at least 45 days for written public comments on the proposed regulation. The Secretary shall submit a copy of the proposed regulation to the Federal Trade Commission and request the Commission to comment on the proposed regulation within that period. After that period, the Secretary shall give interested persons and the Commission an opportunity at a public hearing to present oral information, views, and arguments and to direct questions about disputed issues of material fact to—

(A) other interested persons making oral presentations;

(B) employees and contractors of the Government that made written comments or an oral presentation or participated in the development or consideration of the proposed regulation; and

(C) experts and consultants that provided information to a person that the person includes, or refers to, in an oral presentation.

(3) The Secretary may restrict the questions of an interested person and the Commission when the Secretary decides that the questions are duplicative or not likely to result in a timely and effective resolution of the issues. A transcript shall be kept of a public hearing under this subsection. A copy of the transcript and written comments shall be available to the public at the cost of reproduction.

(4) The Secretary shall publish a regulation prescribed under this subsection in the Federal Register with the decisions required under paragraph (1) of this subsection.

(5) An officer or employee of a department, agency, or instrumentality of the Government violates section 1905 of title 18 by disclosing, except in an in camera proceeding by the Secretary or a court, information—

(A) provided to the Secretary or the court during consideration or review of a regulation prescribed under this subsection; and

(B) decided by the Secretary to be confidential under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)).

(d) WRITTEN NOTICE REQUIREMENT.—The Secretary shall impose a penalty under this section by written notice.

(e) USE OF CIVIL PENALTIES.—For fiscal year 2008 and each fiscal year thereafter, from the total amount deposited in the general fund of the Treasury during the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section (including funds obtained under consent decrees), the Secretary of the Treasury, subject to the availability of appropriations, shall—

(1) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to support rulemaking under this chapter; and

(2) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to carry out a program to make grants to manufacturers for retooling, reequipping, or expanding existing manufacturing facilities in the United States to produce advanced technology vehicles and components.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1072; Pub. L. 110–140, title I, §112, Dec. 19, 2007, 121 Stat. 1508; Pub. L. 119–21, title IV, §40006(a), July 4, 2025, 139 Stat. 136.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32912(a)	15:2008(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(b)(1)–(3) (1st sentence); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 913; Oct. 10, 1980, Pub. L. 96–425, §§6(c)(1), (3), 8(f), 94 Stat. 1827, 1828, 1829.
32912(b)	15:2008(b)(1).	
32912(c)(1)	15:2008(d).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(d), (e)(1), (2), (4); added Nov. 9, 1978, Pub. L. 95–619, §402, 92 Stat. 3255, 3256.
32912(c)(2), (3)	15:2008(e)(1).	
32912(c)(4)	15:2008(e)(2).	
32912(c)(5)	15:2008(e)(4).	
32912(d)	15:2008(b)(3) (1st sentence).	

In this section, the words "whom the Secretary determines under subsection (a) of this section" are omitted as surplus.

In subsection (b), before clause (1)(A), the words "Except as provided in subsection (c) of this section" are added for clarity. The words "that violates a standard prescribed for a model year under section 32902 of this title" are substituted for "to have violated a provision of section 2007(a)(1) of this title with respect to any model year" and "to have violated section 2007(a)(2) of this title" to avoid referring, as in the source, to one provision that in turn refers to another provision. In clause (1), the words "calculated under" are substituted for "established under" for clarity. The reference to section 32904(a)(1)(A), which is a reference to the provision under which average fuel economy for nonpassenger automobiles is calculated, is added for clarity. The reference to section 32904(a)(1)(B), which is a reference to the provision under which average fuel economy for passenger automobiles is calculated, is substituted for the reference in the source to 15:2002(a) and (c),

which is a reference to the provision under which the average fuel economy standard for those automobiles is established, for clarity. The words "in which the violation occurs" are omitted as surplus.

In subsection (c)(1)(A), before clause (i), the words "shall prescribe by regulation" are substituted for "shall, by rule . . . substitute" for consistency in the revised title and because "rule" and "regulation" are synonymous. The words "in accordance with the provisions of this subsection and subsection (e)" are omitted as surplus. The words "be less than $5.00" are omitted as surplus because under the subsection the Secretary may only raise the amount imposed to $10, or a $5 increase. The words "in the absence of such rule" are omitted as surplus. The words "increase in the penalty" are substituted for "additional amount of the civil penalty" for clarity. In clause (ii), the words "subject to subparagraph (B)" are omitted as surplus.

In subsection (c)(1)(C), the words "the later of" and the text of 15:2008(d)(3)(A) are omitted as obsolete.

In subsection (c)(2), before clause (A), the words "After the Secretary of Transportation develops a proposed rule pursuant to subsection (d) of this section" are omitted as surplus. In clause (B), the words "written comments or an oral presentation" are substituted for "written or oral presentations" for consistency in the section. The text of 15:2008(e)(1)(B) (last sentence) and (C) is omitted as surplus because of 5:556(d).

In subsection (c)(5), before clause (A), the words "department, agency, or instrumentality" are substituted for "department or agency" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

2025—Subsec. (b). Pub. L. 119–21, §40006(a)(1), substituted "$0.00" for "$5" in introductory provisions.
Subsec. (c)(1)(B). Pub. L. 119–21, §40006(a)(2), substituted "$0.00" for "$10".
2007—Subsec. (e). Pub. L. 110–140 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2025 AMENDMENT

Pub. L. 119–21, title IV, §40006(b), July 4, 2025, 139 Stat. 136, provided that: "The amendments made by subsection (a) [amending this section] shall—

"(1) take effect on the date of enactment of this section [July 4, 2025]; and

"(2) apply to all model years of a manufacturer for which the Secretary of Transportation has not provided a notification pursuant to section 32903(b)(2)(B) of title 49, United States Code, specifying the penalty due for the average fuel economy of that manufacturer being less than the applicable standard prescribed under section 32902 of that title."

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§32913. Compromising and remitting civil penalties

(a) GENERAL AUTHORITY AND LIMITATIONS.—The Secretary of Transportation may compromise or remit the amount of a civil penalty imposed under section 32912(a) or (b) of this title. However, the amount of a penalty imposed under section 32912(b) may be compromised or remitted only to the extent—

(1) necessary to prevent the insolvency or bankruptcy of the manufacturer of automobiles;

(2) the manufacturer shows that the violation was caused by an act of God, a strike, or a fire; or

(3) the Federal Trade Commission certifies under subsection (b)(1) of this section that a reduction in the penalty is necessary to prevent a substantial lessening of competition.

(b) CERTIFICATION BY COMMISSION.—(1) A manufacturer liable for a civil penalty under section 32912(b) of this title may apply to the Commission for a certification that a reduction in the penalty is necessary to prevent a substantial lessening of competition in the segment of the motor

vehicle industry subject to the standard that was violated. The Commission shall make the certification when it finds that reduction is necessary to prevent the lessening. The Commission shall state in the certification the maximum amount by which the penalty may be reduced.

(2) An application under this subsection must be made not later than 30 days after the Secretary decides that the manufacturer has violated section 32911(b) of this title. To the maximum extent practicable, the Commission shall make a decision on an application by the 90th day after the application is filed. A proceeding under this subsection may not delay the manufacturer's liability for the penalty for more than 90 days after the application is filed.

(3) When a civil penalty is collected in a civil action under this chapter before a decision of the Commission under this subsection is final, the payment shall be paid to the court in which the action was brought. The court shall deposit the payment in the general fund of the Treasury on the 90th day after the decision of the Commission becomes final. When the court is holding payment of a penalty reduced under subsection (a)(3) of this section, the Secretary shall direct the court to remit the appropriate amount of the penalty to the manufacturer.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1073; Pub. L. 103–429, §6(41), Oct. 31, 1994, 108 Stat. 4382; Pub. L. 104–287, §6(d)(1)(A), Oct. 11, 1996, 110 Stat. 3399.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32913(a)	15:2008(b)(3) (2d sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(b)(3) (2d sentence), (4), (5); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 913; Oct. 10, 1980, Pub. L. 96–425, §6(c)(1), 94 Stat. 1827.
32913(b)	15:2008(b)(4), (5).	

In subsection (a), before clause (1), the words "compromise or remit" are substituted for "compromise, modify, or remit, with or without conditions" for consistency in the revised title. The words "against any person" are omitted as surplus. The reference to section 32912(b) (a restatement of 15:2008(b)(1)) is used rather than a reference to 32911(b) (a restatement of 15:2007(a)(1) or (2)) to avoid referring, as in the source, to one provision that in turn refers to another provision. In clause (3), the word "reduction" is substituted for "modification" for clarity. The words "as determined under paragraph (4)" are omitted as surplus.

In subsection (b)(1), the words "the standard that was violated" are substituted for "the standard with respect to which such penalty was assessed", and the words "The Commission shall make the certification when it finds that reduction" are substituted for "If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable . . . the Commission shall so certify", to eliminate unnecessary words.

In subsection (b)(3), the words "When a civil penalty is collected in a civil action under this chapter" are substituted for "but any payment made" for clarity. The words "action was brought" are substituted for "the penalty is collected" for consistency. The words "and shall (except as otherwise provided in paragraph (5)), be held by such court" are omitted as surplus. The words "When the court is holding payment of a penalty reduced under subsection (a)(3) of this section" are substituted for "Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3)(C)" to eliminate unnecessary words.

PUB. L. 103–429

This amends 49:32913(b)(1) to clarify the restatement of 15:2008(b)(4) and (5) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1073).

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 made technical amendment to directory language of Pub. L. 103–429, §6(41). See 1994 Amendment notes below.

1994—Subsec. (b). Pub. L. 103–429, §6(41)(A), as amended by Pub. L. 104–287, substituted "Certification" for "Penalty Reduction" in heading.

Subsec. (b)(1). Pub. L. 103–429, §6(41)(B), as amended by Pub. L. 104–287, substituted "a reduction in the penalty is necessary" for "the penalty should be reduced".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–287, §6(d), Oct. 11, 1996, 110 Stat. 3398, provided that the amendment made by section 6(d)(1)(A) is effective Oct. 31, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§32914. Collecting civil penalties

(a) CIVIL ACTIONS.—If a person does not pay a civil penalty after it becomes a final order of the Secretary of Transportation or a judgment of a court of appeals of the United States for a circuit, the Attorney General shall bring a civil action in an appropriate district court of the United States to collect the penalty. The validity and appropriateness of the final order imposing the penalty is not reviewable in the action.

(b) PRIORITY OF CLAIMS.—A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer for a civil penalty under section 32912(b) of this title when the creditor's claim is for credit extended before a final judgment (without regard to section 32913(b)(1) and (2) of this title) in an action to collect under subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1074.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32914(a)	15:2008(b)(3) (last sentence), (c)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(b)(3) (last sentence), (6), (c)(2); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 913, 914.
32914(b)	15:2008(b)(6).	

In subsection (a), the text of 15:2008(b)(3) (last sentence) is omitted as surplus because of 28:516 and 2461(a). The words "an assessment of" and "and unappealable" are omitted as surplus. The words "of the Secretary of Transportation" are added for clarity. The words "for a circuit" are added for consistency. The words "in favor of the Secretary" are omitted as surplus. The words "shall bring a civil action . . . to collect the penalty" are substituted for "shall recover the amount for which the manufacturer is liable" for consistency.

In subsection (b), the words "A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer" are substituted for "A claim of the United States . . . against a manufacturer . . . shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer" for clarity and to eliminate unnecessary words. The words "the date on which" are omitted as surplus.

§32915. Appealing civil penalties

Any interested person may appeal a decision of the Secretary of Transportation to impose a civil penalty under section 32912(a) or (b) of this title, or of the Federal Trade Commission under section 32913(b)(1) of this title, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. A person appealing a decision must file a notice of appeal with the court not later than 30 days after the decision and, at the same time, send a copy of the notice by certified mail to the Secretary or the Commission. The Secretary or the Commission promptly shall file with the court a certified copy of the record of the proceeding in which the decision was made.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1074.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32915	15:2008(c)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(c)(1); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 914.

The words "as the case may be" are omitted as surplus. The text of 15:2008(c)(1) (last sentence) is omitted as surplus because 5:ch. 7 applies unless otherwise stated.

§32916. Reports to Congress

(a) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary of Transportation shall submit to each House of Congress, and publish in the Federal Register, a report on the review by the Secretary of average fuel economy standards prescribed under this chapter.

(b) JOINT EXAMINATIONS AFTER GRANTING EXEMPTIONS.—(1) After an exemption has been granted under section 32904(b)(6) [1] of this title, the Secretaries of Transportation and Labor shall conduct annually a joint examination of the extent to which section 32904(b)(6)—[1]

(A) achieves the purposes of this chapter;

(B) improves fuel efficiency (thereby facilitating conservation of petroleum and reducing petroleum imports);

(C) has promoted employment in the United States related to automobile manufacturing;

(D) has not caused unreasonable harm to the automobile manufacturing sector in the United States; and

(E) has permitted manufacturers that have assembled passenger automobiles deemed to be manufactured domestically under section 32904(b)(2) of this title thereafter to assemble in the United States passenger automobiles of the same model that have less than 75 percent of their value added in the United States or Canada, together with the reasons.

(2) The Secretary of Transportation shall include the results of the examination under paragraph (1) of this subsection in each report submitted under subsection (a) of this section more than 180 days after an exemption has been granted under section 32904(b)(6) of this title, or submit the results of the examination directly to Congress before the report is submitted when circumstances warrant.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1074; Pub. L. 103–429, §6(42), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32916(a)	15:2002(a)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(a)(2); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 902.
32916(b)(1)	15:2012(c)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §512(c); added Oct. 10, 1980, Pub. L. 96–425, §4(a)(2), 94 Stat. 1823.
32916(b)(2)	15:2012(c)(2).	

In subsection (a), the words "a report on the review by the Secretary" are substituted for "a review" for clarity. The words "beginning in 1977" and the text of 15:2002(a) (2d, last sentences) are omitted as executed.

In subsection (b)(1), before clause (A), reference to section 32904(b)(4) the 2d time it appears is substituted for "the amendment made to section 2003(b) of this title by section 4(a)(1) of the Automobile Fuel Efficiency Act of 1980" for clarity and to eliminate unnecessary words. Clause (B) is substituted for "achieves the purposes of that Act" for clarity.

In subsection (b)(2), the reference to "subsection (a) of this section" is restated to refer to 15:2002(a) rather than 15:2012(a) to reflect the apparent intent of Congress. Although 15:2012(c)(2) refers to an annual report under 15:2012(a), that provision does not provide for an annual report.

PUB. L. 103–429

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraph (6) of section 32904(b) of this title, referred to in subsec. (b), was repealed by Pub. L. 110–140, title I, §113(a), Dec. 19, 2007, 121 Stat. 1508.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429, in par. (1), introductory provisions, substituted "32904(b)(6)" for "32904(b)(4)" in two places, in par. (1)(E), substituted "32904(b)(2)" for "32904(b)(1)(A)", and in par. (2), substituted "32904(b)(6)" for "32904(b)(4)".

[1] *See References in Text note below.*

§32917. Standards for executive agency automobiles

(a) DEFINITION.—In this section, "executive agency" has the same meaning given that term in section 105 of title 5.

(b) FLEET AVERAGE FUEL ECONOMY.—(1) The President shall prescribe regulations that require passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year to achieve a fleet average fuel economy (determined under paragraph (2) of this subsection) for that year of at least the greater of—

(A) 18 miles a gallon; or

(B) the applicable average fuel economy standard under section 32902(b) or (c) of this title for the model year that includes January 1 of that fiscal year.

(2) Fleet average fuel economy is—

(A) the total number of passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year (except automobiles designed for combat-related missions, law enforcement work, or emergency rescue work); divided by

(B) the sum of the fractions obtained by dividing the number of automobiles of each model leased or bought by the fuel economy of that model.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1075.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32917(a)	15:2010(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §510; added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 915.
32917(b)	15:2010(a), (b)(1), (3).	

In subsection (b)(1), before clause (A), the words "within 120 days after December 22, 1975" and "which begins after December 22, 1975" are omitted as executed. The words "(determined under paragraph (2) of this subsection)" are added for clarity.

In subsection (b)(2), before clause (A), the words "As used in this section: (1) The term" are omitted as surplus. In clause (A), the words "to which this section applies" and "for the Armed Forces" are omitted as surplus. In clause (B), the words "the sum of the fractions obtained" are substituted for "a sum of terms, each term of which is a fraction created" to eliminate unnecessary words.

§32918. Retrofit devices

(a) DEFINITION.—In this section, the term "retrofit device" means any component, equipment, or other device—

(1) that is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

(2) that any manufacturer, dealer, or distributor of the device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under regulations of the Administrator of the Environmental Protection Agency. The term also includes a fuel additive for use in an automobile.

(b) EXAMINATION OF FUEL ECONOMY REPRESENTATIONS.—The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any representation may be inaccurate, the Commission shall request the Administrator to evaluate, in accordance with subsection (c) of this section, the retrofit device with respect to which the representation was made.

(c) EVALUATION OF RETROFIT DEVICES.—(1) On application of any manufacturer of a retrofit device (or prototype of a retrofit device), on request of the Commission under subsection (b) of this section, or on the motion of the Administrator, the Administrator shall evaluate, in accordance with regulations prescribed under subsection (e) of this section, any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations, if any, made with respect to the retrofit device are accurate.

(2) If under paragraph (1) of this subsection, the Administrator tests, or causes to be tested, any retrofit device on the application of a manufacturer of the device, the manufacturer shall supply, at the manufacturer's expense, one or more samples of the device to the Administrator and shall be liable for the costs of testing incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of the device.

(d) RESULTS OF TESTS AND PUBLICATION IN FEDERAL REGISTER.—(1) The Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the Administrator's conclusions as to—

(A) the effect of any retrofit device on fuel economy;
(B) the effect of the device on emissions of air pollutants; and
(C) any other information the Administrator determines to be relevant in evaluating the device.

(2) The summary and conclusions shall also be submitted to the Secretary of Transportation and the Commission.

(e) REGULATIONS ESTABLISHING TESTS AND PROCEDURES FOR EVALUATION OF RETROFIT DEVICES.—The Administrator shall prescribe regulations establishing—

(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants; and

(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

(Pub. L. 103–429, §6(43)(B), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32918	15:2011.	Oct. 20, 1972, Pub. L. 92–513, §511, as added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 915, and amended July 5, 1994, Pub. L. 103–272, §4(c), 108 Stat. 1361.

This restates 15:2011 to include 15:2011 in the scope of the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 745).

In subsection (a), the words "Administrator of the Environmental Protection Agency" are substituted for "Administrator" for clarity and to conform to the style of the codification which is to state the complete title the first time a descriptive title is used, and thereafter, to use a shorter title unless the context requires the complete title to be used.

In subsections (c) and (e), the word "regulations" is substituted for "rules" and "by rule" for consistency with the restatement of title 49.

In subsection (e)(1), the words "The Administrator shall prescribe regulations establishing" are substituted for "Within 180 days after December 22, 1975, the Administrator shall, by rule, establish" to eliminate executed words.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 32918 was renumbered section 32919 of this title.

§32919. Preemption

(a) GENERAL.—When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

(b) REQUIREMENTS MUST BE IDENTICAL.—When a requirement under section 32908 of this title is in effect, a State or a political subdivision of a State may adopt or enforce a law or regulation on disclosure of fuel economy or fuel operating costs for an automobile covered by section 32908 only if the law or regulation is identical to that requirement.

(c) STATE AND POLITICAL SUBDIVISION AUTOMOBILES.—A State or a political subdivision of a State may prescribe requirements for fuel economy for automobiles obtained for its own use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1075, §32918; renumbered §32919, Pub. L. 103–429, §6(43)(A), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32918	15:2009.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §509; added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 914.

In subsection (a), the word "prescribed" is substituted for "established" for consistency.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–429 renumbered section 32918 of this title as this section.

CHAPTER 331—THEFT PREVENTION

Sec.
33101. Definitions.
33102. Theft prevention standard for high theft lines.
33103. Theft prevention standard for other lines.
33104. Designation of high theft vehicle lines and parts.
33105. Cost limitations.
33106. Exemption for passenger motor vehicles equipped with anti-theft devices.
33107. Voluntary vehicle identification standards.
33108. Monitoring compliance of manufacturers.
33109. National Stolen Passenger Motor Vehicle Information System.
33110. Verifications involving junk and salvage motor vehicles.
33111. Verifications involving motor vehicle major parts.
[33112. Repealed.]
33113. Theft reports.
33114. Prohibited acts.
33115. Civil penalties and enforcement.
33116. Confidentiality of information.
33117. Judicial review.
33118. Preemption of State and local law.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–141, div. C, title I, §31313(1), July 6, 2012, 126 Stat. 772, struck out item 33112 "Insurance reports and information".

§33101. Definitions

In this chapter—

(1) "chop shop" means a building, lot, facility, or other structure or premise at which at least one person engages in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing a passenger motor vehicle or passenger motor vehicle part that has been unlawfully obtained—

(A) to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the

identity of the vehicle or part, including the vehicle identification number or a derivative of that number; and

(B) to distribute, sell, or dispose of the vehicle or part in interstate or foreign commerce.

(2) "covered major part" means a major part selected under section 33104 of this title for coverage by the vehicle theft prevention standard prescribed under section 33102 or 33103 of this title.

(3) "existing line" means a line introduced into commerce before January 1, 1990.

(4) "first purchaser" means the person making the first purchase other than for resale.

(5) "line" means a name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design.

(6) "major part" means—

(A) the engine;

(B) the transmission;

(C) each door to the passenger compartment;

(D) the hood;

(E) the grille;

(F) each bumper;

(G) each front fender;

(H) the deck lid, tailgate, or hatchback;

(I) each rear quarter panel;

(J) the trunk floor pan;

(K) the frame or, for a unitized body, the supporting structure serving as the frame; and

(L) any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts listed in subclauses (A)–(K) of this clause.

(7) "major replacement part" means a major part that is—

(A) an original major part in or on a completed motor vehicle and customized or modified after manufacture of the vehicle but before the time of its delivery to the first purchaser; or

(B) not installed in or on a motor vehicle at the time of its delivery to the first purchaser and the equitable or legal title to the vehicle has not been transferred to a first purchaser.

(8) "model year" has the same meaning given that term in section 32901(a) of this title.

(9) "new line" means a line introduced into commerce after December 31, 1989.

(10) "passenger motor vehicle" includes a multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.

(11) "vehicle theft prevention standard" means a minimum performance standard for identifying major parts of new motor vehicles and major replacement parts by inscribing or affixing numbers or symbols on those parts.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1076; Pub. L. 103–429, §6(44), Oct. 31, 1994, 108 Stat. 4383; Pub. L. 104–287, §6(d)(1)(B), Oct. 11, 1996, 110 Stat. 3399.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33101(1)	15:2021(11).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §601(11); added Oct. 25, 1992, Pub. L. 102–519, §301(b), 106 Stat. 3394.

33101(2)	15:2021(6).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §601(2)–(7), (9), (10); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2755, 2756.
33101(3)	15:2021(3).	
33101(4)	15:2021(5).	
33101(5)	15:2021(2).	
33101(6)	15:2021(7).	
33101(7)	15:2021(8).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §601(1), (8); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2755; restated Oct. 25, 1992, Pub. L. 102–519, §301(a), (c), 106 Stat. 3393, 3394.
33101(8)	15:2021(9).	
33101(9)	15:2021(4).	
33101(10)	15:2021(1).	
33101(11)	15:2021(10).	

In clause (2), the words "section 33102(c)(1)" are substituted for "section 2022(d)(1)(B)" to correct an erroneous cross-reference. Section 302(1) of the Act of October 25, 1992 (Public Law 102–519, 106 Stat. 3394), restated section 602(d)(1)(A) and (B) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947) as section 602(d)(1) without making a corresponding change in the cross-reference restated in this section.

In clause (3), the words "before January 1, 1990" are substituted for "before the beginning of the 2-year period specified in section 2023(a)(1)(A) of this title" for clarity. See the revision notes for section 33104 of the revised title.

In clause (5), the words "of motor vehicles" are added for consistency in this chapter.

Clause (6)(I) is substituted for "rear quarter panels" for clarity and consistency.

In clause (7)(A), the word "completed" is omitted as unnecessary because of the restatement.

In clause (9), the words "after December 31, 1989" are substituted for "on or after the beginning of the 2-year period specified in section 2023(a)(1)(A) of this title" for clarity and consistency.

PUB. L. 103–429, §6(44)(A)

This corrects a cross-reference in 49:33101(2) by eliminating the reference to 49:33102(c)(1). Section 302(1) of the Anti Car Theft Act of 1992 (Public Law 102–519, 106 Stat. 3394) restated section 602(d)(1)(A) and (B) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947) as section 602(d)(1) without making a change in the cross-reference in section 601(6) to section 602(d)(1)(B).

PUB. L. 103–429, §6(44)(B)

This makes a conforming amendment for consistency with the style of title 49.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287 made technical amendment to directory language of Pub. L. 103–429, §6(44)(B). See 1994 Amendment note below.

1994—Par. (2). Pub. L. 103–429, §6(44)(B), as amended by Pub. L. 104–287, inserted "of this title" before period at end.

Pub. L. 103–429, §6(44)(A), substituted "section 33104" for "sections 33102(c)(1) and 33104".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–287, §6(d), Oct. 11, 1996, 110 Stat. 3398, provided that the amendment made by section

6(d)(1)(B) is effective Oct. 31, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§33102. Theft prevention standard for high theft lines

(a) GENERAL.—(1) The Secretary of Transportation by regulation shall prescribe a vehicle theft prevention standard that conforms to the requirements of this chapter. The standard shall apply to—

(A) covered major parts that manufacturers install in passenger motor vehicles in lines designated under section 33104 of this title as high theft lines; and

(B) major replacement parts for the major parts described in clause (A) of this paragraph.

(2) The standard may apply only to—

(A) major parts that manufacturers install in passenger motor vehicles having a model year designation later than the calendar year in which the standard takes effect; and

(B) major replacement parts manufactured after the standard takes effect.

(b) STANDARD REQUIREMENTS.—The standard shall be practicable and provide relevant objective criteria.

(c) LIMITATIONS ON MAJOR PART AND REPLACEMENT PART STANDARDS.—(1) For a major part installed by the manufacturer of the motor vehicle, the standard may not require a part to have more than one identification.

(2) For a major replacement part, the standard may not require—

(A) identification of a part not designed as a replacement for a major part required to be identified under the standard; or

(B) the inscribing or affixing of identification except a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

(d) RECORDS AND REPORTS.—This chapter does not authorize the Secretary to require a person to keep records or make reports, except as provided in sections 33104(c), 33106(c), 33108(a), and 33112 [1] of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1077.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33102(a)(1)	15:2022(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §602(a), (b), (c)(1)–(3), (5), (d)(2); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2756.
33102(a)(2)	15:2022(c)(1)–(3), (5).	
33102(b)	15:2022(b).	
33102(c)	15:2022(d)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §602(d)(1); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2756; restated Oct. 25, 1992, Pub. L. 102–519, §302(1), 106 Stat. 3394.
33102(d)	15:2022(e).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §602(e); added Oct. 25, 1984,

		Pub. L. 98–547, §101(a), 98 Stat. 2756; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.

In subsection (a)(1), before clause (A), the words "in accordance with this section" are omitted as surplus.

In subsection (a)(2), the text of 15:2022(c)(1)–(3) is omitted as obsolete because the standard has already been prescribed. See 49 C.F.R. part 541.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 33112 of this title, referred to in subsec. (d), was repealed by Pub. L. 112–141, div. C, title I, §31313(2), July 6, 2012, 126 Stat. 772.

[1] *See References in Text note below.*

§33103. Theft prevention standard for other lines

(a) GENERAL.—Not later than October 25, 1994, the Secretary of Transportation shall prescribe a vehicle theft standard that conforms to the requirements of this chapter for covered major parts that manufacturers install in passenger motor vehicles (except light duty trucks) in not more than 50 percent of the lines not designated under section 33104 of this title as high theft lines.

(b) EXTENSION OF APPLICATION.—(1) Not later than 3 years after the standard is prescribed under subsection (a) of this section and based on the finding of the Attorney General under subsection (c) of this section to apply the standard, the Secretary shall apply that standard to covered major parts and major replacement parts for covered parts that manufacturers install in the lines of passenger motor vehicles (except light duty trucks)—

(A) not designated under section 33104 of this title as high theft lines; and

(B) not covered by the standard prescribed under subsection (a) of this section.

(2) The Secretary shall include as part of the regulatory proceeding under this subsection the finding of, and the record developed by, the Attorney General under subsection (c) of this section.

(c) INITIAL REVIEW OF EFFECTIVENESS.—Before the Secretary begins a regulatory proceeding under subsection (b) of this section, the Attorney General shall make a finding that the Secretary shall apply the standard prescribed under subsection (a) of this section unless the Attorney General finds, based on information collected and analyzed under section 33112 [1] of this title and other information the Attorney General develops after providing notice and an opportunity for a public hearing, that applying the standard prescribed in subsection (a) to the remaining lines of passenger motor vehicles (except light duty trucks) not covered by that standard would not substantially inhibit chop shop operations and motor vehicle thefts. The Attorney General also shall consider and include in the record additional costs, effectiveness, competition, and available alternative factors. The Attorney General shall submit to the Secretary the finding and record on which the finding is based.

(d) LONG RANGE REVIEW OF EFFECTIVENESS.—(1) Not later than December 31, 1999, the Attorney General shall make separate findings, after notice and an opportunity for a public hearing, on the following:

(A) whether the application of the standard under subsection (a) or (b) of this subsection, or both, have been effective in substantially inhibiting the operation of chop shops and motor vehicle theft.

(B) whether the anti-theft devices for which the Secretary has granted exemptions under section 33106 of this title are an effective substitute for parts marking in substantially inhibiting motor vehicle theft.

(2)(A) In making the finding under paragraph (1)(A) of this subsection, the Attorney General shall—

(i) consider the additional cost, competition, and available alternatives;

(ii) base that finding on information collected and analyzed under section 33112 [1] of this title;

(iii) consider the effectiveness, the extent of use, and the extent to which civil and criminal penalties under section 33115(b) of this title and section 2322 of title 18 on chop shops have been effective in substantially inhibiting operation of chop shops and motor vehicle theft;

(iv) base that finding on the 3-year and 5-year reports issued by the Secretary under section 33113 of this title; and

(v) base that finding on other information the Attorney General develops and includes in the public record.

(B) The Attorney General shall submit a finding under paragraph (1)(A) of this subsection promptly to the Secretary. If the Attorney General finds that the application of the standard under subsection (a) or (b) of this section, or both, has not been effective, the Secretary shall issue, not later than 180 days after receiving that finding, an order terminating the standard the Attorney General found was ineffective. The termination is effective for the model year beginning after the order is issued.

(3) In making a finding under paragraph (1)(B) of this subsection, the Secretary shall consider the additional cost, competition, and available alternatives. If the Attorney General finds that the anti-theft devices are an effective substitute, the Secretary shall continue to grant exemptions under section 33106 of this title for the model years after model year 2000 at one of the following levels that the Attorney General decides: at the level authorized before October 25, 1992, or at the level provided in section 33106(b)(2)(C) of this title for model year 2000.

(e) EFFECTIVE DATE OF STANDARD.—A standard prescribed under this section takes effect at least 6 months after the date the standard is prescribed, except that the Secretary may prescribe an earlier effective date if the Secretary—

(1) decides with good cause that the earlier date is in the public interest; and

(2) publishes the reasons for the decision.

(f) NOTIFICATION OF CONGRESS.—The Secretary and the Attorney General shall inform the appropriate legislative committees of Congress with jurisdiction over this part and section 2322 of title 18 of actions taken or planned under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1078.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33103(a)	15:2022(f)(1) (1st sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §602(f); added Oct. 25, 1992, Pub. L. 102–519, §302(2), 106 Stat. 3394.
33103(b)	15:2022(f)(2) (1st, 2d sentences), (3) (last sentence).	
33103(c)	15:2022(f)(3) (1st–3d sentences).	
33103(d)	15:2022(f)(4), (5).	
33103(e)	15:2022(c)(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §602(c)(4); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2756.
	15:2022(f)(1) (last sentence), (2)	

	(last sentence).	
33103(f)	15:2022(f)(6).	

In subsection (a), the words "foreign and domestic" are omitted as unnecessary. The words "as high theft lines" are added for clarity.

In subsection (b)(1), the words "to apply the standard" are added for clarity. The words "shall apply that standard to covered major parts and major replacement parts for covered parts that manufacturers install in the lines of passenger motor vehicles (except light duty trucks) . . . not designated under section 33104 of this title as high theft lines; and . . . not covered by the standard prescribed under subsection (a) of this section" are substituted for "the Secretary . . . shall designate all the remaining such lines of such passenger motor vehicles (other than light-duty trucks) and apply such standard to such lines in conformance with the requirements of this subchapter" for clarity and because of the restatement.

In subsection (b)(2), the words "The Secretary shall include as part of the regulatory proceeding under this subsection . . . developed by the Attorney General under subsection (c) of this section" are substituted for "shall be a part of the Secretary's rulemaking record" for clarity.

In subsection (c), the words "Before the Secretary begins a regulatory proceeding under subsection (b) of this section" are substituted for "prior to the Secretary's initiation and promulgation of a rule" for clarity. The words "applying the standard prescribed in subsection (a) to the remaining lines of passenger motor vehicles (except light duty trucks) not covered by that standard" are substituted for "requiring such additional parts marking for all of the applicable passenger motor vehicles" for clarity and because of the restatement.

In subsection (d)(1)(A), the words "whether the application of the standard under subsection (a) or (b) of this subsection, or both" are substituted for "whether one or both rules promulgated under this subsection" for clarity.

In subsection (d)(2)(A)(iii), the words "civil . . . penalties under section 33115(b) of this title" are substituted for "civil . . . penalties under section 2027(b) of this title" to correct an erroneous cross-reference.

In subsection (d)(3), the words "for the model years after model year 2000" are substituted for "Nothing in this paragraph affects exemptions granted in model year 2000 or earlier to any manufacturer" to eliminate unnecessary words. The words "at one of the following levels that the Attorney General decides" are substituted for "as determined by the Attorney General" for clarity.

In subsection (e), the text of 15:2022(c)(4) (related to the standard under 15:2022(c)(1)) is omitted as obsolete because the standard under 15:2022(c)(1) has already been prescribed. See 49 C.F.R. 541.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 33112 of this title, referred to in subsecs. (c) and (d)(2)(A)(ii), was repealed by Pub. L. 112–141, div. C, title I, §31313(2), July 6, 2012, 126 Stat. 772.

[1] *See References in Text note below.*

§33104. Designation of high theft vehicle lines and parts

(a) DESIGNATION, NONAPPLICATION, SELECTION, AND PROCEDURES.—(1) For purposes of the standard under section 33102 of this title, the following are high theft lines:

(A) a passenger motor vehicle line determined under subsection (b) of this section to have had a new passenger motor vehicle theft rate in the 2-year period covering calendar years 1990 and 1991 greater than the median theft rate for all new passenger motor vehicle thefts in that 2-year period.

(B) a passenger motor vehicle line initially introduced into commerce in the United States after December 31, 1989, that is selected under paragraph (3) of this subsection as likely to have a theft rate greater than the median theft rate referred to in clause (A) of this paragraph.

(C) subject to paragraph (2) of this subsection, a passenger motor vehicle line having (for existing lines) or likely to have (for new lines) a theft rate below the median theft rate referred to in clause (A) of this paragraph, if the major parts in the vehicles are selected under paragraph (3)

of this subsection as interchangeable with the majority of the major parts that are subject to the standard and are contained in the motor vehicles of a line described in clause (A) or (B) of this paragraph.

(2) The standard may not apply to any major part of a line described in paragraph (1)(C) of this subsection if all the passenger motor vehicles of lines that are, or are likely to be, below the median theft rate, and that contain parts interchangeable with the major parts of the line involved, account (for existing lines), or the Secretary of Transportation determines they are likely to account (for new lines), for more than 90 percent of the total annual production of all lines of that manufacturer containing those interchangeable parts.

(3) The lines, and the major parts of the passenger motor vehicles in those lines, that are to be subject to the standard may be selected by agreement between the manufacturer and the Secretary. If the manufacturer and the Secretary disagree on the selection, the Secretary shall select the lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this chapter.

(4) To the maximum extent practicable, the Secretary shall prescribe reasonable procedures designed to ensure that a selection under paragraph (3) of this subsection is made at least 6 months before the first applicable model year beginning after the selection.

(5) A manufacturer may not be required to comply with the standard under a selection under paragraph (3) of this subsection for a model year beginning earlier than 6 months after the date of the selection.

(6) A passenger motor vehicle line subject on October 25, 1992, to parts marking requirements under sections 602 and 603 of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947), as added by section 101(a) of the Motor Vehicle Theft Law Enforcement Act of 1984 (Public Law 98–547, 98 Stat. 2756), continues to be subject to the requirements of this section and section 33102 of this title unless the line is exempted under section 33106 of this title.

(b) DETERMINING THEFT RATE FOR PASSENGER VEHICLES.—(1) In this subsection, "new passenger motor vehicle thefts", when used in reference to a calendar year, means thefts in the United States in that year of passenger motor vehicles with the same model-year designation as that calendar year.

(2) Under subsection (a) of this section, the theft rate for passenger motor vehicles of a line shall be determined by a fraction—

(A) the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2-year period referred to in subsection (a)(1)(A) of this section; and

(B) the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Administrator of the Environmental Protection Agency under chapter 329 of this title) that are of model years 1990 and 1991 and are distributed for sale in commerce in the United States.

(3) Under subsection (a) of this section, the median theft rate for all new passenger motor vehicle thefts during that 2-year period is the theft rate midway between the highest and the lowest theft rates determined under paragraph (2) of this subsection. If there is an even number of theft rates determined under paragraph (2), the median theft rate is the arithmetic average of the 2 adjoining theft rates midway between the highest and the lowest of those theft rates.

(4) In consultation with the Director of the Federal Bureau of Investigation, the Secretary periodically shall obtain from the most reliable source accurate and timely theft and recovery information and publish the information for review and comment. To the greatest extent possible, the Secretary shall use theft information reported by United States Government, State, and local police. After publication and opportunity for comment, the Secretary shall use the theft information to determine the median theft rate under this subsection. The Secretary and the Director shall take any necessary actions to improve the accuracy, reliability, and timeliness of the information, including ensuring that vehicles represented as stolen are really stolen.

(5) The Secretary periodically (but not more often than once every 2 years) may redetermine and

prescribe by regulation the median theft rate under this subsection.

(c) PROVIDING INFORMATION.—The Secretary by regulation shall require each manufacturer to provide information necessary to select under subsection (a)(3) of this section the high theft lines and the major parts to be subject to the standard.

(d) APPLICATION.—Except as provided in section 33106 of this title, the Secretary may not make the standard inapplicable to a line that has been subject to the standard.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1079.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33104(a)	15:2023(a)(1)–(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §603(a)(1)–(4), (b)–(d); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2757; Oct. 25, 1992, Pub. L. 102–519, §303(1)–(3), (5), 106 Stat. 3396.
	15:2023(a)(5).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§602(g), 603(a)(5); added Oct. 25, 1992, Pub. L. 102–519, §§302(2), 303(4), 106 Stat. 3395, 3396.
33104(b)	15:2022(g). 15:2023(b).	
33104(c)	15:2023(c).	
33104(d)	15:2023(d).	

In subsection (a)(1)(A), the words "the 2-year period covering calendar years 1990 and 1991" are substituted for "the 2 calendar years immediately preceding the year in which the Anti Car Theft Act of 1992 is enacted" because that Act was enacted on October 25, 1992. The substitution also makes it clear that the 2-year period is to be treated as a single period.

In subsection (a)(1)(B), the words "after December 31, 1989," are substituted for "after the beginning of the 2-year period specified in subparagraph (A)" for consistency with clause (A).

In subsection (a)(6), the word "passenger" is added because the source provisions in the revised chapter apply to passenger motor vehicles.

In subsection (b)(2)(B), the words "Administrator of the" are added for clarity and consistency because of section 1(b) of Reorganization Plan No. 3 of 1970 (eff. Dec. 2, 1970, 84 Stat. 2086). The words "model years 1983 and 1984" are substituted for "the 2 model years having the same model-year designations as the 2 calendar years specified in subsection (a)(1)(A) of this section" because the particular years are now known.

In subsection (b)(4), the words "Immediately upon enactment of this subchapter" are omitted as executed. The words "or sources" are omitted because of 1:1.

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 602 and 603 of the Motor Vehicle Information and Cost Savings Act, referred to in subsec. (a)(6), are sections 602 and 603 of Pub. L. 92–513, which were classified to sections 2022 and 2023, respectively, of Title 15, Commerce and Trade, and were repealed and reenacted as sections 33102 to 33104 of this title by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1077, 1379.

§33105. Cost limitations

(a) MAXIMUM MANUFACTURER COSTS.—A standard under section 33102 or 33103 of this

title may not impose—

(1) on a manufacturer of motor vehicles, compliance costs of more than $15 a motor vehicle; or

(2) on a manufacturer of major replacement parts, compliance costs for each part of more than the reasonable amount (but less than $15) that the Secretary of Transportation specifies in the standard.

(b) COSTS INVOLVED IN ENGINES AND TRANSMISSIONS.—For a manufacturer engaged in identifying engines or transmissions on October 25, 1984, in a way that substantially complies with the standard—

(1) the costs of identifying engines and transmissions may not be considered in calculating the manufacturer's costs under subsection (a) of this section; and

(2) the manufacturer may not be required under the standard to conform to any identification system for engines and transmissions that imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on October 25, 1984.

(c) COST ADJUSTMENTS.—(1) In this subsection—

(A) "base period" means calendar year 1984.

(B) "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Secretary of Labor.

(2) At the beginning of each calendar year, as necessary data become available from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Secretary of Transportation and publish in the Federal Register the percentage difference between the price index for the 12 months before the beginning of the calendar year and the price index for the base period. For model years beginning in that calendar year, the amounts specified in subsection (a) of this section shall be adjusted by the percentage difference.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1081.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33105	15:2024.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §604; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2758.

In subsection (a)(1) and (2), the words "compliance costs" are substituted for "costs . . . to comply with such standard" to eliminate unnecessary words. In clause (2), the words "reasonable amount (but less than $15)" are substituted for "reasonable lesser amount" for clarity.

In subsection (c)(2), the words "commencing on or after January 1, 1985" are omitted as obsolete.

§33106. Exemption for passenger motor vehicles equipped with anti-theft devices

(a) DEFINITIONS.—In this section—

(1) "anti-theft device" means a device to reduce or deter theft that—

(A) is in addition to the theft-deterrent devices required by motor vehicle safety standard numbered 114 in section 571.114 of title 49, Code of Federal Regulations;

(B) the manufacturer believes will be effective in reducing or deterring theft of motor vehicles; and

(C) does not use a signaling device reserved by State law for use on police, emergency, or official vehicles, or on schoolbuses.

(2) "standard equipment" means equipment already installed in a motor vehicle when it is delivered from the manufacturer and not an accessory or other item that the first purchaser

customarily has the option to have installed.

(b) GRANTING EXEMPTIONS AND LIMITATIONS.—(1) A manufacturer may petition the Secretary of Transportation for an exemption from a requirement of a standard prescribed under section 33102 or 33103 of this title for a line of passenger motor vehicles equipped as standard equipment with an anti-theft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the standard.

(2) The Secretary may grant an exemption—

(A) for model year 1987, for not more than 2 lines of a manufacturer;

(B) for each of the model years 1988–1996, for not more than 2 additional lines of a manufacturer;

(C) for each of the model years 1997–2000, for not more than one additional line of a manufacturer; and

(D) for each of the model years after model year 2000, for the number of lines that the Attorney General decides under section 33103(d)(3) of this title.

(3) An additional exemption granted under paragraph (2)(B) or (C) of this subsection does not affect an exemption previously granted.

(c) PETITIONING PROCEDURE.—A petition must be filed not later than 8 months before the start of production for the first model year covered by the petition. The petition must include—

(1) a detailed description of the device;

(2) the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring theft of motor vehicles; and

(3) additional information the Secretary reasonably may require to make the decision described in subsection (b)(1) of this section.

(d) DECISIONS AND APPROVALS.—The Secretary shall make a decision about a petition filed under this section not later than 120 days after the date the petition is filed. A decision approving a petition must be based on substantial evidence. The Secretary may approve a petition in whole or in part. If the Secretary does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.

(e) RESCISSIONS.—The Secretary may rescind an exemption if the Secretary decides that the anti-theft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the standard. A rescission may be effective only—

(1) for a model year after the model year in which the rescission occurs; and

(2) at least 6 months after the manufacturer receives written notice of the rescission from the Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1082; Pub. L. 103–429, §6(45), Oct. 31, 1994, 108 Stat. 4383.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33106(a)(1)	15:2025(e).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §605(a)(1), (3), (b)–(e); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2759.
33106(a)(2)	15:2025(a)(3).	
33106(b)	15:2025(a)(1), (2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §605(a)(2); added Oct. 25,

		1984, Pub. L. 98–547, §101(a), 98 Stat. 2759; Oct. 25, 1992, Pub. L. 102–519, §304, 106 Stat. 3396.
33106(c)	15:2025(b).	
33106(d)	15:2025(c).	
33106(e)	15:2025(d).	

In subsection (b)(1), the words "the application of any of" are omitted as surplus. The words "or lines" are omitted because of 1:1.

In subsection (b)(2)(A), the words "for model year 1987" are substituted for "For the initial model year to which such standard applies" for clarity. See 50 Fed. Reg. 43166 (1985). In clause (D), the words "that the Attorney General decides" are substituted for "for which the Secretary may grant such an exemption (if any) shall be determined" for clarity and because of the restatement.

In subsection (d), the words "for the line covered by the petition" are added for clarity.

Subsection (e) is substituted for 15:2025(d) for clarity and to eliminate unnecessary words.

PUB. L. 103–429

This amends 49:33106(b)(3) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1082).

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–429 substituted "paragraph (2)(B) or (C) of this subsection" for "subparagraph (2)(B) or (C) of this paragraph".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§33107. Voluntary vehicle identification standards

(a) ELECTION TO INSCRIBE OR AFFIX IDENTIFYING MARKS.—The Secretary of Transportation by regulation may prescribe a vehicle theft prevention standard under which a person may elect to inscribe or affix an identifying number or symbol on major parts of a motor vehicle manufactured or owned by the person for purposes of section 511 of title 18 and related provisions. The standard may include provisions for registration of the identification with the Secretary or a person designated by the Secretary.

(b) STANDARD REQUIREMENTS.—The standard under this section shall be practicable and provide relevant objective criteria.

(c) VOLUNTARY COMPLIANCE.—Compliance with the standard under this section is voluntary. Failure to comply does not subject a person to a penalty or enforcement under this chapter.

(d) COMPLIANCE WITH OTHER STANDARDS.—Compliance with the standard under this section does not relieve a manufacturer from a requirement of a standard prescribed under section 33102 or 33103 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1083.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

33107	15:2033.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §616; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2765; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.

§33108. Monitoring compliance of manufacturers

(a) RECORDS, REPORTS, INFORMATION, AND INSPECTION.—To enable the Secretary of Transportation to decide whether a manufacturer of motor vehicles containing a part subject to a standard prescribed under section 33102 or 33103 of this title, or a manufacturer of major replacement parts subject to the standard, is complying with this chapter and the standard, the Secretary may require the manufacturer to—

(1) keep records;

(2) make reports;

(3) provide items and information; and

(4) allow an officer or employee designated by the Secretary to inspect the vehicles and parts and relevant records of the manufacturer.

(b) ENTRY AND INSPECTION.—To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which motor vehicles containing major parts subject to the standard, or major replacement parts subject to the standard, are manufactured, held for introduction into interstate commerce, or held for sale after introduction into interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(c) CERTIFICATION OF COMPLIANCE.—(1) A manufacturer of a motor vehicle subject to the standard, and a manufacturer of a major replacement part subject to the standard, shall provide at the time of delivery of the vehicle or part a certification that the vehicle or part conforms to the applicable motor vehicle theft prevention standard. The certification shall accompany the vehicle or part until its delivery to the first purchaser. The Secretary by regulation may prescribe the type and form of the certification.

(2) This subsection does not apply to a motor vehicle or major replacement part that is—

(A) intended only for export;

(B) labeled only for export on the vehicle or replacement part and the outside of any container until exported; and

(C) exported.

(d) NOTIFICATION OF ERROR.—A manufacturer shall notify the Secretary if the manufacturer discovers that—

(1) there is an error in the identification (required by the standard) applied to a major part installed by the manufacturer in a motor vehicle during its assembly, or to a major replacement part manufactured by the manufacturer; and

(2) the motor vehicle or major replacement part has entered interstate commerce.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1083.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33108(a)	15:2026(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §606; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2760.
33108(b)	15:2026(b).	

33108(c)	15:2026(c).	
33108(d)	15:2026(d).	

In subsection (a), before clause (1), the words "is complying" are substituted for "has acted or is acting in compliance" and "determining whether such manufacturer has acted or is acting in compliance" to eliminate unnecessary words. The word "reasonably" is omitted as surplus. In clause (1), the word "keep" is substituted for "establish and maintain" for consistency in the revised title and to eliminate unnecessary words. In clause (4), the words "upon request", "duly", and "such manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe" are omitted as surplus.

In subsection (b), the words "duly" and "enter and" are omitted as surplus.

In subsection (c)(2)(B), the words "or tagged" and "if any" are omitted as surplus.

Subsection (d) is substituted for 15:2026(d) for clarity.

§33109. National Stolen Passenger Motor Vehicle Information System

(a) GENERAL REQUIREMENTS.—(1) Not later than July 25, 1993, the Attorney General shall establish, and thereafter maintain, a National Stolen Passenger Motor Vehicle Information System containing the vehicle identification numbers of stolen passenger motor vehicles and stolen passenger motor vehicle parts. The System shall be located in the National Crime Information Center and shall include at least the following information on each passenger motor vehicle reported to a law enforcement authority as stolen and not recovered:

(A) the vehicle identification number.

(B) the make and model year.

(C) the date on which the vehicle was reported as stolen.

(D) the location of the law enforcement authority that received the report of the theft of the vehicle.

(E) the identification numbers of the vehicle parts (or derivatives of those numbers), at the time of the theft, if those numbers are different from the vehicle identification number of the vehicle.

(2) In establishing the System, the Attorney General shall consult with—

(A) State and local law enforcement authorities; and

(B) the National Crime Information Center Policy Advisory Board to ensure the security of the information in the System and that the System will not compromise the security of stolen passenger motor vehicle and passenger motor vehicle parts information in the System.

(3) If the Attorney General decides that the Center is not able to perform the functions of the System, the Attorney General shall make an agreement for the operation of the System separate from the Center.

(4) The Attorney General shall prescribe by regulation the effective date of the System.

(b) REQUESTS FOR INFORMATION.—(1) The Attorney General shall prescribe by regulation procedures under which an individual or entity intending to transfer a passenger motor vehicle or passenger motor vehicle part may obtain information on whether the vehicle or part is listed in the System as stolen.

(2) On request of an insurance carrier, a person lawfully selling or distributing passenger motor vehicle parts in interstate commerce, or an individual or enterprise engaged in the business of repairing passenger motor vehicles, the Attorney General (or the entity the Attorney General designates) immediately shall inform the insurance carrier, person, individual, or enterprise whether the System has a record of a vehicle or vehicle part with a particular vehicle identification number (or derivative of that number) being reported as stolen. The Attorney General may require appropriate verification to ensure that the request is legitimate and will not compromise the security of the System.

(c) ADVISORY COMMITTEE.—(1) Not later than December 24, 1992, the Attorney General shall establish in the Department of Justice an advisory committee. The Attorney General shall develop the System with the advice and recommendations of the committee.

(2)(A) The committee is composed of the following 10 members:

(i) the Attorney General.

(ii) the Secretary of Transportation.

(iii) one individual who is qualified to represent the interests of the law enforcement community at the State level.

(iv) one individual who is qualified to represent the interests of the law enforcement community at the local level.

(v) one individual who is qualified to represent the interests of the automotive recycling industry.

(vi) one individual who is qualified to represent the interests of the automotive repair industry.

(vii) one individual who is qualified to represent the interests of the automotive rebuilders industry.

(viii) one individual who is qualified to represent the interests of the automotive parts suppliers industry.

(ix) one individual who is qualified to represent the interests of the insurance industry.

(x) one individual who is qualified to represent the interests of consumers.

(B) The Attorney General shall appoint the individuals described in subparagraph (A)(iii)–(x) of this paragraph and shall serve as chairman of the committee.

(3) The committee shall make recommendations on developing and carrying out—

(A) the National Stolen Passenger Motor Vehicle Information System; and

(B) the verification system under section 33110 of this title.

(4) Not later than April 25, 1993, the committee shall submit to the Attorney General, the Secretary, and Congress a report including the recommendations of the committee.

(d) IMMUNITY.—Any person performing any activity under this section or section 33110 or 33111 in good faith and with the reasonable belief that such activity was in accordance with such section shall be immune from any civil action respecting such activity which is seeking money damages or equitable relief in any court of the United States or a State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1084; Pub. L. 104–152, §5, July 2, 1996, 110 Stat. 1385.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33109(a)	15:2026c(a), (b) (last sentence), (c), (f).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §609; added Oct. 25, 1992, Pub. L. 102–519, §306(e), 106 Stat. 3398.
33109(b)	15:2026c(b) (1st sentence), (e).	
33109(c)	15:2026c(d).	

In the section, the words "National Stolen Passenger Motor Vehicle Information System" are substituted for "National Stolen Auto Part Information System" for consistency with the terminology used and with the source provisions restated in the revised chapter.

In subsection (a)(1), before clause (A), the words "establish, and thereafter maintain" are substituted for "maintain" for clarity. The words "shall be located" are added for clarity.

In subsection (a)(2)(B), the words "stolen passenger motor vehicle and passenger motor vehicle parts information" are substituted for "stolen vehicle and vehicle parts information" for consistency with the terminology used in the revised chapter.

In subsection (a)(4), the text of 15:2026c(f) (1st sentence) is omitted as surplus. The words "the effective date of the System" are substituted for "shall be effective as provided" because of the restatement.

In subsection (b)(1), the words "intending to transfer" are substituted for "seeking to transfer" for clarity. The words "passenger motor vehicle or passenger motor vehicle part" are substituted for "a vehicle or vehicle parts" for consistency with the terminology used in the revised chapter. The words "whether the vehicle or

part" are substituted for "whether a part" for consistency with source provisions restated in the revised section.

In subsection (b)(2), the words "shall inform the insurance carrier, person, individual, or enterprise whether" are substituted for "provide such insurance carrier or person with a determination as to whether" for clarity and consistency in the revised subsection. The words "may require appropriate verification" are substituted for "may require such verification as the Attorney General deems appropriate" to eliminate unnecessary words.

In subsection (c)(1), the words "and appoint" are omitted as unnecessary because of the restatement.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–152 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of 2-year period beginning on date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided for by law. See section 1013 of Title 5, Government Organization and Employees.

§33110. Verifications involving junk and salvage motor vehicles

(a) DEFINITION.—In this section, "vehicle identification number" means a unique identification number (or derivative of that number) assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations.

(b) GENERAL REQUIREMENTS.—(1) If an insurance carrier selling comprehensive motor vehicle insurance coverage obtains possession of and transfers a junk motor vehicle or a salvage motor vehicle, the carrier shall—

(A) under procedures the Attorney General prescribes by regulation under section 33109 of this title in consultation with the Secretary of Transportation, verify whether the vehicle is reported as stolen; and

(B) provide the purchaser or transferee of the vehicle from the insurance carrier verification identifying the vehicle identification number and verifying that the vehicle has not been reported as stolen or, if reported as stolen, that the carrier has recovered the vehicle and has proper legal title to the vehicle.

(2)(A) This subsection does not prohibit an insurance carrier from transferring a motor vehicle if, within a reasonable period of time during normal business operations (as decided by the Attorney General under section 33109 of this title) using reasonable efforts, the carrier—

(i) has not been informed under the procedures prescribed in section 33109 of this title that the vehicle has not been reported as stolen; or

(ii) has not otherwise established whether the vehicle has been reported as stolen.

(B) When a carrier transfers a motor vehicle for which the carrier has not established whether the vehicle has been reported as stolen, the carrier shall provide written certification to the transferee that the carrier has not established whether the vehicle has been reported as stolen.

(c) REGULATIONS.—In consultation with the Secretary, the Attorney General shall prescribe regulations necessary to ensure that verification performed and provided by an insurance carrier under subsection (b)(1)(B) of this section is uniform, effective, and resistant to fraudulent use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1086.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33110(a)	15:2026a(a) (2d sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §607; added Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.
33110(b)	15:2026a(a) (1st, last sentences).	
33110(c)	15:2026a(b).	

In subsection (b)(1)(B), the words "or derivative thereof" are omitted as unnecessary because of the definition of "vehicle identification number" in subsection (a) of the revised section.

In subsection (b)(2)(A)(i), the words "has not been informed under the procedures prescribed" are substituted for "has not received a determination under" for clarity and consistency in the revised chapter. In clause (ii), the words "has not otherwise established whether" are substituted for "to otherwise determine whether" for clarity.

In subsection (b)(2)(B), the words "When a carrier transfers a motor vehicle for which the carrier has not established whether the vehicle has been reported as stolen, the carrier shall provide written certification to the transferee that the carrier has not established whether the vehicle has been reported as stolen" are substituted for "except that such carrier shall provide a written certification of such lack of determination" for clarity and because of the restatement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 103–272, §4(u), July 5, 1994, 108 Stat. 1372, provided that: "Not later than April 25, 1993, the Attorney General shall prescribe the regulations required under section 33110(c) of title 49, United States Code, as enacted by section 1 of this Act. Section 33110(b) of title 49 is effective not later than 3 months after those regulations are prescribed but not before the date on which the National Stolen Passenger Motor Vehicle Information System established under section 33109 of title 49 is operational."

§33111. Verifications involving motor vehicle major parts

(a) GENERAL REQUIREMENTS.—A person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles may not knowingly sell in commerce or transfer or install a major part marked with an identification number without—

(1) first establishing, through a procedure the Attorney General by regulation prescribes in consultation with the Secretary of Transportation under section 33109 of this title, that the major part has not been reported as stolen; and

(2) providing the purchaser or transferee with a verification—

(A) identifying the vehicle identification number (or derivative of that number) of that major part; and

(B) verifying that the major part has not been reported as stolen.

(b) NONAPPLICATION.—(1) Subsection (a) of this section does not apply to a person that—

(A) is the manufacturer of the major part;

(B) has purchased the major part directly from the manufacturer; or

(C) has received a verification from an insurance carrier under section 33110 of this title that the motor vehicle from which the major part is derived has not been reported as stolen, or that the carrier has not established whether that vehicle has been stolen.

(2) A person described under paragraph (1)(C) of this subsection that subsequently transfers or sells in commerce the motor vehicle or a major part of the vehicle shall provide the verification received from the carrier to the person to whom the vehicle or part is transferred or sold.

(c) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this section.

The regulations shall include regulations prescribed in consultation with the Secretary that are necessary to ensure that a verification a person provides under subsection (a)(2) of this section is uniform, effective, and resistant to fraudulent use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1086.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33111(a)	15:2026b(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §608; added Oct. 25, 1992, Pub. L. 102–519, §306(c), 106 Stat. 3397.
33111(b)	15:2026b(c) (1st, 2d sentences).	
33111(c)	15:2026b(b), (c) (last sentence).	

In subsection (a), before clause (1), the word "distribute" is omitted as being included in "sell". In clause (1), the word "establishing" is substituted for "determining" for clarity and consistency in the revised title.

Subsection (b)(2) is substituted for 15:2026b(c) (2d sentence) for clarity.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 103–272, §4(v), July 5, 1994, 108 Stat. 1373, provided that: "Section 33111 of title 49, United States Code, as enacted by section 1 of this Act, is effective on the date on which the National Stolen Passenger Motor Vehicle Information System is established under section 33109 of title 49."

[§33112. Repealed. Pub. L. 112–141, div. C, title I, §31313(2), July 6, 2012, 126 Stat. 772]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1087, related to insurance reports and information.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§33113. Theft reports

(a) TRUCK, MULTIPURPOSE PASSENGER VEHICLE, AND MOTORCYCLE REPORT .—Not later than October 25, 1995, the Secretary of Transportation shall submit a report to Congress that includes—

(1) information on the number of trucks, multipurpose passenger vehicles, and motorcycles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by model, make, and line;

(2) information on the extent to which trucks, multipurpose passenger vehicles, and motorcycles stolen annually are dismantled to recover parts or are exported;

(3) a description of the market for the stolen parts;

(4) information on the premiums charged by insurers of comprehensive coverage of trucks, multipurpose passenger vehicles, or motorcycles, including any increase in the premiums charged because any of those motor vehicles is a likely candidate for theft;

(5) an assessment of whether the identification of parts of trucks, multipurpose passenger vehicles, and motorcycles is likely—

(A) to decrease the theft rate of those motor vehicles;
(B) to increase the recovery rate of those motor vehicles;
(C) to decrease the trafficking in stolen parts of those motor vehicles;
(D) to stem the export and import of those stolen motor vehicles or parts; or
(E) to have benefits greater than the costs of the identification; and

(6) recommendations on whether, and to what extent, the identification of trucks, multipurpose passenger vehicles, and motorcycles should be required by law.

(b) MOTOR VEHICLE REPORT.—Not later than October 25, 1997, the Secretary shall submit a report to Congress that includes—
(1) information on—
(A) the methods and procedures used by public and private entities to collect, compile, and disseminate information on the theft and recovery of motor vehicles, including classes of motor vehicles; and
(B) the reliability and timeliness of the information and how the information can be improved;

(2) information on the number of motor vehicles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by class, model, make, and line;
(3) information on the extent to which motor vehicles stolen annually are dismantled to recover parts or are exported;
(4) a description of the market for the stolen parts;
(5) information on—
(A) the costs to manufacturers and purchasers of passenger motor vehicles of compliance with the standards prescribed under this chapter;
(B) the beneficial impacts of the standards and the monetary value of the impacts; and
(C) the extent to which the monetary value is greater than the costs;

(6) information on the experience of officials of the United States Government, States, and localities in—
(A) making arrests and successfully prosecuting persons for violating a law set forth in title II or III of the Motor Vehicle Theft Law Enforcement Act of 1984;
(B) preventing or reducing the number and rate of thefts of motor vehicles that are dismantled for parts subject to this chapter; and
(C) preventing or reducing the availability of used parts that are stolen from motor vehicles subject to this chapter;

(7) information on the premiums charged by insurers of comprehensive coverage of motor vehicles subject to this chapter, including any increase in the premiums charged because a motor vehicle is a likely candidate for theft, and the extent to which the insurers have reduced for the benefit of consumers the premiums, or foregone premium increases, because of this chapter;
(8) information on the adequacy and effectiveness of laws of the United States and the States aimed at preventing the distribution and sale of used parts that have been removed from stolen motor vehicles and the adequacy of systems available to enforcement personnel for tracing parts to determine if they have been stolen from a motor vehicle;
(9) an assessment of whether the identification of parts of other classes of motor vehicles is likely—
(A) to decrease the theft rate of those vehicles;
(B) to increase the recovery rate of those vehicles;
(C) to decrease the trafficking in stolen parts of those vehicles;
(D) to stem the export and import of those stolen vehicles, parts, or components; or
(E) to have benefits greater than the costs of the identification; and

(10) other relevant and reliable information available to the Secretary about the impact, including the beneficial impact, of the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984 on law enforcement, consumers, and manufacturers; and

(11) recommendations (including, as appropriate, legislative and administrative recommendations) for—

(A) continuing without change the standards prescribed under this chapter;

(B) amending this chapter to cover more or fewer lines of passenger motor vehicles;

(C) amending this chapter to cover other classes of motor vehicles; or

(D) ending the standards for all future motor vehicles.

(c) BASES OF REPORTS.—(1) The reports under subsections (a) and (b) of this section each shall be based on—

(A) information reported under this chapter by insurers of motor vehicles and manufacturers of motor vehicles and major replacement parts;

(B) information provided by the Federal Bureau of Investigation;

(C) experience obtained in carrying out this chapter;

(D) experience of the Government under the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984; and

(E) other relevant and reliable information available to the Secretary.

(2) In preparing each report, the Secretary shall consult with the Attorney General and State and local law enforcement officials, as appropriate.

(3) The report under subsection (b) of this section shall—

(A) cover a period of at least 4 years after the standards required by this chapter are prescribed; and

(B) reflect any information, as appropriate, from the report under subsection (a) of this section, updated from the date of the report.

(4) At least 90 days before submitting each report to Congress, the Secretary shall publish a proposed report for public review and an opportunity of at least 45 days for written comment. The Secretary shall consider those comments in preparing the report to be submitted and include a summary of the comments with the submitted report.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1089.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33113	15:2034.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §617; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2765; Oct. 25, 1992, Pub. L. 102–519, §306(a), (e), 106 Stat. 3397, 3400.

In this section, the word "information" is substituted for "data" for consistency in the revised title. The word "standards" is substituted for "standard" because there is more than one standard prescribed under this chapter.

In subsection (a), before clause (1), the words "October 25, 1995" are substituted for "3 years after October 25, 1992" (the date of enactment of the Anti-Car Theft Act of 1992) for clarity and to eliminate unnecessary words. In clause (1), the words "distributed for sale in interstate commerce that are" are substituted for "for all such motor vehicles distributed for sale in interstate commerce" for clarity. In clause (5)(A), the word "decrease" is substituted for "have . . . a beneficial impact in decreasing" for consistency and to eliminate unnecessary words.

In subsection (b), before clause (1), the words "October 25, 1997" are substituted for "5 years after October 25, 1992" (the date of enactment of the Anti-Car Theft Act of 1992) for clarity and to eliminate unnecessary

words. In clause (1)(B), the word "accuracy" is omitted as redundant. In clause (2), the words "distributed for sale in interstate commerce that are" are substituted for "for all such motor vehicles distributed for sale in interstate commerce" for clarity. In clause (9)(A), the word "decrease" is substituted for "have . . . a beneficial impact in decreasing" for consistency and to eliminate unnecessary words.

In subsection (c)(1)(C), the words "carrying out" are substituted for "the implementation, administration, and enforcement" for consistency and to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The Motor Vehicle Theft Law Enforcement Act of 1984, referred to in subsecs. (b)(6)(A), (10) and (c)(1)(D), is Pub. L. 98–547, Oct. 25, 1984, 98 Stat. 2754. Titles II and III of that act enacted sections 511, 512, 553, and 2320 [now 2321] of Title 18, Crimes and Criminal Procedure, and section 1627 of Title 19, Customs Duties, and amended sections 1961, 2311, and 2313 of Title 18. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 1901 of Title 15, Commerce and Trade, and Tables.

§33114. Prohibited acts

(a) GENERAL.—A person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a motor vehicle or major replacement part subject to a standard prescribed under section 33102 or 33103 of this title, unless it conforms to the standard;

(2) fail to comply with a regulation prescribed by the Secretary of Transportation or Attorney General under this chapter;

(3) fail to keep specified records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter;

(4) fail to provide the certification required by section 33108(c) of this title, or provide a certification that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect; or

(5) knowingly—

(A) own, operate, maintain, or control a chop shop;

(B) conduct operations in a chop shop; or

(C) transport a passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

(b) NONAPPLICATION.—Subsection (a)(1) of this section does not apply to a person establishing that in the exercise of reasonable care the person did not have reason to know that the motor vehicle or major replacement part was not in conformity with the standard.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1091.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33114	15:2027(a), (b).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §610(a), (b); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2761; Oct. 25, 1992, Pub. L. 102–519, §§305(a), 306(a), 106 Stat. 3396, 3397.
	15:2027(c)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §610(c)(1); added Oct. 25,

		1992, Pub. L. 102–519, §§305(b), 306(a), 106 Stat. 3396, 3397.

In subsection (a)(1), the words "which is manufactured on or after the date the standard under section 2022 of this title takes effect under this subchapter for such vehicle or major replacement part" are omitted as obsolete because the standard applies to passenger motor vehicles and major replacement parts starting with the 1987 model year. See 50 Fed. Reg. 43166 (1985).

In subsection (a)(5)(A), the words "of any kind" are omitted as unnecessary because of the definition of "chop shop" in section 33101 of the revised title.

§33115. Civil penalties and enforcement

(a) GENERAL PENALTY AND CIVIL ACTIONS TO COLLECT.—(1) A person that violates section 33114(a)(1)–(4) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under section 33102 or 33103 of this title is only a single violation. The maximum penalty under this subsection for a related series of violations is $250,000.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The Secretary may compromise the amount of a penalty.

(3) In determining the amount of a civil penalty or compromise under this subsection, the Secretary shall consider the size of the person's business and the gravity of the violation.

(4) The Attorney General shall bring a civil action in a United States district court to collect a civil penalty imposed under this subsection.

(5) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(b) CHOP SHOP PENALTY AND ENFORCEMENT.—(1) A person that violates section 33114(a)(5) of this title is liable to the Government for a civil penalty of not more than $100,000 a day for each violation.

(2) As appropriate and in consultation with the Attorney General, the Secretary shall—

(A) bring a civil action for a temporary or permanent injunction to restrain a person violating section 33114(a)(5) of this section;

(B) impose and recover the penalty described in paragraph (1) of this subsection; or

(C) take both the actions described in clauses (A) and (B) of this paragraph.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle containing a major part, or of a major replacement part, that is subject to the standard and is determined before the sale of the vehicle or part to a first purchaser not to conform to the standard.

(2)(A) When practicable, the Secretary—

(i) shall notify a person against whom an action under this subsection is planned;

(ii) shall give the person an opportunity to present that person's views; and

(iii) except for a knowing and willful violation, shall give the person a reasonable opportunity to comply.

(B) The failure of the Secretary to comply with subparagraph (A) of this paragraph does not prevent a court from granting appropriate relief.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) VENUE.—A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant resides, is found, or transacts

business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1091.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33115(a)	15:2028(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §611; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2762; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.
33115(b)	15:2027(c)(2).	Oct. 20, 1972, Pub. L. 92–513, §86 Stat. 947, §610(c)(2); added Oct. 25, 1992, Pub. L. 102–519, §§305(b), 306(a), 106 Stat. 3396, 3397.
33115(c)(1)	15:2028(b)(1) (1st sentence).	
33115(c)(2)	15:2028(b)(1) (2d, last sentences).	
33115(d)	15:2028(b)(2).	
33115(e)	15:2028(b)(3), (4).	

In subsection (a)(1), the words "section 33114(a)(1)–(4)" are used to correct an erroneous cross-reference in section 611(a)(1) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947) to section 607 of that Act. Sections 607 and 611 were redesignated by section 306(a) of the Anti Car Theft Act of 1992 (Public Law 102–519, 106 Stat. 3397). The words "is liable to the United States Government for a civil penalty" are substituted for "may be assessed a civil penalty" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the word "imposes" is substituted for "assessed" for consistency.

In subsection (a)(3), the words "the appropriateness of such penalty to" are omitted as surplus.

In subsection (a)(5), the words "United States district court" are added for clarity and consistency in the revised title.

In subsection (c)(1), the words "The Attorney General may bring a civil action" are substituted for "Upon petition by the Attorney General" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "on behalf of the United States" are omitted as surplus. The words "shall have jurisdiction" are omitted because of 28:1331. The words "for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure" are omitted as surplus because the rules apply in the absence of an exception from them. The word "enjoin" is substituted for "restrain" for consistency in the revised title.

In subsection (d), the words "the defendant may demand a jury trial" are substituted for "trial shall be by the court, or, upon demand of the accused, by a jury" to eliminate unnecessary words and for consistency in the revised title.

§33116. Confidentiality of information

(a) GENERAL.—Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter (except a proceeding under section 33104(a)(3)).

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1093.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33116	15:2029.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §612; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.

In subsection (a), before clause (1), the words "reported to, or otherwise" and "or the Secretary's representative" are omitted as surplus. The words "related to a confidential matter referred to" are substituted for "contains or relates to a trade secret or other matter referred to" to eliminate unnecessary words and for consistency in the revised title. The words "or in section 552(b)(4) of title 5" are omitted as surplus because the language in 18:1905 is broader than the language in 5:552(b)(4) and for consistency with similar provisions in other chapters in this part. The words "shall be considered confidential for the purpose of the applicable section of this subchapter" are omitted as surplus. In clause (1), the words "for use in carrying out" are substituted for "concerned with carrying out" for consistency with similar provisions in other chapters in this part. In clause (2), the words "when relevant" are omitted as surplus. The cross-reference to 15:2023(a)(3) is omitted. The text of 15:2023(a)(3), originally enacted as section 603(a)(3) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947), was repealed by section 303(2) of the Anti Car Theft Act of 1992 (Public Law 102–519, 106 Stat. 3396). Section 303(2) also redesignated subsection (a)(4) as subsection (a)(3). However, a corresponding amendment to correct the cross-reference in the source provisions restated in this section was not made.

In subsection (b), the words "authorized to have the information" are added for clarity and consistency with similar provisions in other chapters in this part.

§33117. Judicial review

A person that may be adversely affected by a regulation prescribed under this chapter may obtain judicial review of the regulation under section 32909 of this title. A remedy under this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1093.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33117	15:2030.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §613; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.

The words "regulation prescribed" are substituted for "any provision of any standard or other rule" to eliminate unnecessary words and because "rule" and "regulation" are synonymous. The words "in the case of any standard, rule, or other action under this subchapter" are omitted as surplus.

§33118. Preemption of State and local law

When a motor vehicle theft prevention standard prescribed under section 33102 or 33103 of this title is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1093.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33118	15:2031.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §614; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.

The words "may not have" are substituted for "no . . . shall have any authority either to establish, or to continue in effect" to eliminate unnecessary words.

SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

Chapter		Sec.
401.	**General Provisions**	**40101**
	SUBPART II—ECONOMIC REGULATION	
411.	**Air Carrier Certificates**	**41101**
413.	**Foreign Air Transportation**	**41301**
415.	**Pricing**	**41501**
417.	**Operations of Carriers**	**41701**
419.	**Transportation of Mail**	**41901**
421.	**Labor-Management Provisions**	**42101**
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	SUBPART III—SAFETY	
441.	**Registration and Recordation of Aircraft**	**44101**
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447.	**Safety Regulation**	**44701**
448.	**Unmanned Aircraft Systems**	**44801**
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451.	**Alcohol and Controlled Substances Testing**	**45101**
453.	**Fees**	**45301**
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461.	**Investigations and Proceedings**	**46101**
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465.	**Special Aircraft Jurisdiction of the United States**	**46501**
	PART B—AIRPORT DEVELOPMENT AND NOISE	
471.	**Airport Development**	**47101**
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481.	**Airport and Airway Trust Fund Authorizations**	**48101**
482.	**Advance Appropriations for Airport and Airway Trust Facilities**	**48201**
[483.	**Repealed.]**	
	PART D—PUBLIC AIRPORTS	
491.	**METROPOLITAN WASHINGTON AIRPORTS**	**49101**

PART E—MISCELLANEOUS

501. Buy-American Preferences 50101

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title XI, §1101(c), May 16, 2024, 138 Stat. 1413, substituted "Unmanned Aircraft Systems" for "Unmanned aircraft systems" in item for chapter 448.

2018—Pub. L. 115–254, div. K, title I, §1991(i)(2), Oct. 5, 2018, 132 Stat. 3645, which directed amendment of this analysis by striking item for chapter 483 "Aviation security funding", was executed by striking item for chapter 483 "Aviation Security Funding" to reflect the probable intent of Congress.

Pub. L. 115–254, div. B, title III, §341(b)(1), Oct. 5, 2018, 132 Stat. 3287, added item for chapter 448.

2012—Pub. L. 112–95, title IV, §415(d), Feb. 14, 2012, 126 Stat. 96, added item for chapter 423.

2001—Pub. L. 107–71, title I, §118(c)(2), Nov. 19, 2001, 115 Stat. 628, added item for chapter 483.

1997—Pub. L. 105–102, §2(20), Nov. 20, 1997, 111 Stat. 2205, substituted "PUBLIC AIRPORTS" for "RESERVED" in item for part D and added item for chapter 491.

1996—Pub. L. 104–287, §5(64), Oct. 11, 1996, 110 Stat. 3395, substituted "RESERVED" for "MISCELLANEOUS" in item for part D, struck out item for chapter 491 "Buy-American Preferences", and added items for part E and chapter 501.

Pub. L. 104–264, title II, §277(b), Oct. 9, 1996, 110 Stat. 3248, added item for chapter 482.

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

Sec.
40101. Policy.
40102. Definitions.
40103. Sovereignty and use of airspace.
40104. Promotion of civil aeronautics and safety of air commerce.
40105. International negotiations, agreements, and obligations.
40106. Emergency powers.
40107. Presidential transfers.
40108. Training schools.
40109. Authority to exempt.
40110. General procurement authority.
40111. Multiyear procurement contracts for services and related items.
40112. Multiyear procurement contracts for property.
40113. Administrative.
40114. Reports and records.
40115. Withholding information.
40116. State taxation.
40117. Passenger facility charges.
40118. Government-financed air transportation.
40119. Sensitive security information.
40120. Relationship to other laws.
40121. Air traffic control modernization reviews.
40122. Federal Aviation Administration personnel management system.
40123. Protection of voluntarily submitted information.
40124. Interstate agreements for airport facilities.

40125. Qualifications for public aircraft status.
40126. Severable services contracts for periods crossing fiscal years.
40127. Prohibitions on discrimination.
40128. Overflights of national parks.
40129. Collaborative decisionmaking pilot program.
40130. FAA authority to conduct criminal history record checks.
40131. National airspace system cyber threat management process.
40132. National strategic plan for aviation workforce development.

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title II, §223(c), title III, §393(b), title IV, §441(b), May 16, 2024, 138 Stat. 1061, 1145, 1186, added items 40119, 40131, and 40132.

2018—Pub. L. 115–254, div. K, title I, §1991(c)(4), Oct. 5, 2018, 132 Stat. 3627, substituted "[Reserved]" for "Security and research and development activities" in item 40119.

2012—Pub. L. 112–95, title I, §111(c)(3), title VIII, §802(b), Feb. 14, 2012, 126 Stat. 18, 119, substituted "Passenger facility charges" for "Passenger facility fees" in item 40117 and added item 40130.

2003—Pub. L. 108–176, title IV, §423(b), Dec. 12, 2003, 117 Stat. 2554, added item 40129.

2000—Pub. L. 106–181, title VII, §§702(b)(2), 705(b), 706(b), title VIII, §803(b), Apr. 5, 2000, 114 Stat. 156–158, 192, added items 40125 to 40128.

1997—Pub. L. 105–102, §3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, amended Pub. L. 104–287, §5(69)(B). See 1996 Amendment note below.

1996—Pub. L. 104–287, §5(69)(B), Oct. 11, 1996, 110 Stat. 3396, as amended by Pub. L. 105–102, §3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, added item 40124.

Pub. L. 104–264, title II, §254, title IV, §§401(b)(2), 402(b), Oct. 9, 1996, 110 Stat. 3238, 3255, 3256, inserted "safety of" before "air commerce" in item 40104 and added item 40121 "Air traffic control modernization reviews" and items 40122 and 40123.

§40101. Policy

(a) ECONOMIC REGULATION.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

(1) assigning and maintaining safety as the highest priority in air commerce.

(2) before authorizing new air transportation services, evaluating the safety implications of those services.

(3) preventing deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of Congress to further the highest degree of safety in air transportation and air commerce, and to maintain the safety vigilance that has evolved in air transportation and air commerce and has come to be expected by the traveling and shipping public.

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.

(5) coordinating transportation by, and improving relations among, air carriers, and encouraging fair wages and working conditions.

(6) placing maximum reliance on competitive market forces and on actual and potential competition—

(A) to provide the needed air transportation system; and

(B) to encourage efficient and well-managed air carriers to earn adequate profits and attract capital, considering any material differences between interstate air transportation and foreign air transportation.

(7) developing and maintaining a sound regulatory system that is responsive to the needs of the

public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) the national defense.

(8) encouraging air transportation at major urban areas through secondary or satellite airports if consistent with regional airport plans of regional and local authorities, and if endorsed by appropriate State authorities—

(A) encouraging the transportation by air carriers that provide, in a specific market, transportation exclusively at those airports; and

(B) fostering an environment that allows those carriers to establish themselves and develop secondary or satellite airport services.

(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(11) maintaining a complete and convenient system of continuous scheduled interstate air transportation for small communities and isolated areas with direct financial assistance from the United States Government when appropriate.

(12) encouraging, developing, and maintaining an air transportation system relying on actual and potential competition—

(A) to provide efficiency, innovation, and low prices; and

(B) to decide on the variety and quality of, and determine prices for, air transportation services.

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

(14) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(15) strengthening the competitive position of air carriers to at least ensure equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(16) ensuring that consumers in all regions of the United States, including those in small communities and rural and remote areas, have access to affordable, regularly scheduled air service.

(b) ALL-CARGO AIR TRANSPORTATION CONSIDERATIONS.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others and in addition to the matters referred to in subsection (a) of this section, as being in the public interest for all-cargo air transportation:

(1) encouraging and developing an expedited all-cargo air transportation system provided by private enterprise and responsive to—

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) the national defense.

(2) encouraging and developing an integrated transportation system relying on competitive market forces to decide the extent, variety, quality, and price of services provided.

(3) providing services without unreasonable discrimination, unfair or deceptive practices, or predatory pricing.

(c) GENERAL SAFETY CONSIDERATIONS.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator of the Federal Aviation Administration shall consider the following matters:

(1) the requirements of national defense and commercial and general aviation.

(2) the public right of freedom of transit through the navigable airspace.

(d) SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator shall consider the following matters, among others, as being in the public interest:

(1) assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce.

(2) regulating air commerce in a way that best promotes safety and fulfills national defense requirements.

(3) encouraging and developing civil aeronautics, including new aviation technology.

(4) controlling the use of the navigable airspace and regulating civil and military operations in that airspace in the interest of the safety and efficiency of both of those operations.

(5) consolidating research and development for air navigation facilities and the installation and operation of those facilities.

(6) developing and operating a common system of air traffic control and navigation for military and civil aircraft.

(7) providing assistance to law enforcement agencies in the enforcement of laws related to regulation of controlled substances, to the extent consistent with aviation safety.

(e) INTERNATIONAL AIR TRANSPORTATION.—In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system, including the following:

(1) strengthening the competitive position of air carriers to ensure at least equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(2) freedom of air carriers and foreign air carriers to offer prices that correspond to consumer demand.

(3) the fewest possible restrictions on charter air transportation.

(4) the maximum degree of multiple and permissive international authority for air carriers so that they will be able to respond quickly to a shift in market demand.

(5) eliminating operational and marketing restrictions to the greatest extent possible.

(6) integrating domestic and international air transportation.

(7) increasing the number of nonstop United States gateway cities.

(8) opportunities for carriers of foreign countries to increase their access to places in the United States if exchanged for benefits of similar magnitude for air carriers or the traveling public with permanent linkage between rights granted and rights given away.

(9) eliminating discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including—

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

(10) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(f) STRENGTHENING COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants, the Secretary of Transportation shall consider, in addition to the matters specified in subsections (a) and (b) of this section, the strengthening of competition among air carriers operating in the United States to prevent unreasonable concentration in the air carrier industry.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1094; Pub. L. 104–264, title IV, §401(a), Oct. 9, 1996, 110 Stat. 3255; Pub. L. 106–181, title II, §201, Apr. 5, 2000, 114 Stat. 91.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40101(a)	49 App.:1302(a).	Aug. 23, 1958, Pub. L. 85–726, §102(a), 72 Stat. 740; Nov. 9, 1977, Pub. L. 95–163, §16(b)(1), (2), 91 Stat. 1284; Oct. 24, 1978, Pub. L. 95–504, §3(a), 92 Stat. 1705; restated Feb. 15, 1980, Pub. L. 96–192, §2, 94 Stat. 35.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40101(b)	49 App.:1302(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §102(b); added Nov. 9, 1977, Pub. L. 95–163, §16(b)(3), 91 Stat. 1284.
	49 App.:1551(b)(1)(E).	
40101(c)	49 App.:1347.	Aug. 23, 1958, Pub. L. 85–726, §306, 72 Stat. 749.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40101(d)	49 App.:1303.	Aug. 23, 1958, Pub. L. 85–726, §103, 72 Stat. 740; Nov. 18, 1988, Pub. L. 100–690, §7202(b), 102 Stat. 4424.
	49 App.:1655(c)(1).	
40101(e)	49 App.:1502(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1102(b); added Feb. 15, 1980, Pub. L. 96–192, §17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
40101(f)	49 App.:1302(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §102(c); added Oct. 31, 1992, Pub. L. 102–581, §205, 106 Stat. 4894.

In this part, the words "overseas air commerce" and "overseas air transportation" are omitted as obsolete because there no longer is a distinction in economic or safety regulation between "interstate" and "overseas" air commerce or air transportation.

In this section, the words "In carrying out . . . this part" are substituted for "In the exercise and performance of its powers and duties under this chapter" in 49 App.:1302(a), "In the exercise and performance of his

powers and duties under this chapter" in 49 App.:1303, and "In exercising the authority granted in, and discharging the duties imposed by, this chapter" in 49 App.:1347 for consistency in the revised title and to eliminate unnecessary words.

In subsections (a) and (b), the reference to subpart II is added because the policy applies only to economic issues, and under the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), the Civil Aeronautics Board was given responsibility for economic issues.

In subsection (a)(2), the word "full" is omitted as surplus. The words "the recommendations of the Secretary of Transportation on" are omitted as obsolete because the Secretary carries out 49 App.:1302(a). The words "and full evaluation of any report or recommendation submitted under section 1307 of this Appendix" are omitted as obsolete because the report and recommendations are no longer required.

In subsection (a)(4), the words "by air carriers and foreign air carriers" are omitted as surplus. The words "unreasonable discrimination" are substituted for "unjust discriminations, undue preferences or advantages" for consistency in the revised title and to eliminate unnecessary words.

In subsection (a)(6)(B), the words "nevertheless", "on the one hand", and "on the other" are omitted as surplus.

In subsection (a)(8), before subclause (A), the word "authorities" is substituted for "entities" for consistency in the revised title and with other titles of the Code. In subclause (A), the words "sole responsibility" are omitted as unnecessary because of the restatement.

In subsection (a)(15), the words "United States" are omitted as surplus because of the definition of "air carrier" in section 40102(a) of the revised title.

In subsection (b)(3), the words "unreasonable discrimination" are substituted for "unjust discriminations, undue preferences or advantages" for consistency in the revised title and to eliminate unnecessary words.

In subsections (c) and (d), the reference to subpart III is added because the policies apply only to safety issues, and under the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), the Federal Aviation Administration was given responsibility for safety issues.

In subsection (c), before clause (1), the word "Administrator" in section 306 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 749) is retained on authority of 49:106(g). The words "consider the following matters" are substituted for "give full consideration to" for consistency in this section.

In subsection (d)(3), the word "both" in 49 App.:1303(c) is omitted as surplus the first time it appears. The words "of the United States" are omitted for consistency in the revised title and because of the definition of "navigable airspace" in section 40102(a) of the revised title. The words "of those operations" are added for clarity.

In subsection (d)(5), the word "both" in 49 App.:1303(e) is omitted as surplus.

In subsection (e), before clause (1), the words "the Congress intends that" are omitted as surplus. In clauses (1) and (4), the words "United States" are omitted as surplus because of the definition of "air carrier" in section 40102(a) of the revised title. In clause (2), the word "prices" is substituted for "fares and rates" because of the definition of "price" in section 40102(a). In clause (8), the words "places in the United States" are substituted for "United States points" for consistency in this chapter. The word "air" is added for clarity and consistency in this subtitle. In clause (9)(C), the word "unreasonable" is substituted for "undue" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (a)(16). Pub. L. 106–181 added par. (16).

1996—Subsec. (d)(1). Pub. L. 104–264, §401(a)(1)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (d)(2). Pub. L. 104–264, §401(a)(1)(A), (2)(A), redesignated par. (1) as (2) and struck out "its development and" after "best promotes". Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 104–264, §401(a)(1)(A), (2)(B), redesignated par. (2) as (3) and substituted "encouraging and developing civil aeronautics, including new aviation technology" for "promoting, encouraging, and developing civil aeronautics". Former par. (3) redesignated (4).

Subsec. (d)(4) to (7). Pub. L. 104–264, §401(a)(1)(A), redesignated pars. (3) to (6) as (4) to (7), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Pub. L. 117–328, div. Q, §102(c), Dec. 29, 2022, 136 Stat. 5250, provided that: "On and after the date of enactment of this section [Dec. 29, 2022], any reference in a law, regulation, document, paper, or other record of the United States to the 'National Air Grant Fellowship Program' shall be deemed to be a reference to the 'Samya Rose Stumo National Air Grant Fellowship Program'."

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, §3, Feb. 14, 2012, 126 Stat. 15, provided that: "Except as otherwise expressly provided, this Act [see Tables for classification] and the amendments made by this Act shall take effect on the date of enactment of this Act [Feb. 14, 2012]."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SHORT TITLE OF 2025 AMENDMENT

Pub. L. 119–41, §1, Nov. 25, 2025, 139 Stat. 663, provided that: "This Act [amending provisions set out as a note under section 44901 of this title] may be cited as the 'Bottles and Breastfeeding Equipment Screening Enhancement Act'."

Pub. L. 118–238, §1, Jan. 4, 2025, 138 Stat. 2923, provided that: "This Act [amending section 44927 of this title and enacting provisions set out as notes under section 44927 of this title] may be cited as the 'Veterans Expedited TSA Screening Safe Travel Act' or the 'VETS Safe Travel Act'."

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118–63, §1(a), May 16, 2024, 138 Stat. 1025, provided that: "This Act [see Tables for classification] may be cited as the 'FAA Reauthorization Act of 2024'."

SHORT TITLE OF 2023 AMENDMENT

Pub. L. 118–4, §1, June 3, 2023, 137 Stat. 7, provided that: "This Act [enacting provisions set out as a note under section 44701 of this title] may be cited as the 'NOTAM Improvement Act of 2023'."

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117–328, div. Q, §102(a), Dec. 29, 2022, 136 Stat. 5250, provided that: "This section [enacting and amending provisions set out as notes under this section] may be cited as the 'Samya Rose Stumo National Air Grant Fellowship Program Act of 2022'."

Pub. L. 117–254, §1, Dec. 20, 2022, 136 Stat. 2361, provided that: "This Act [amending section 47109 of this title and enacting provisions set out as notes under section 47109 of this title] may be cited as the 'Preventing PFAS Runoff at Airports Act'."

Pub. L. 117–203, §1, Oct. 17, 2022, 136 Stat. 2227, provided that: "This Act [enacting provisions set out as a note below] may be cited as the 'Advanced Air Mobility Coordination and Leadership Act'[.]"

Pub. L. 117–186, §1, Oct. 10, 2022, 136 Stat. 2199, provided that: "This Act [amending section 47110 of this title] may be cited as the 'Expedited Delivery of Airport Infrastructure Act of 2021'."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–260, div. V, title I, §101(a), Dec. 27, 2020, 134 Stat. 2309, provided that: "This title [see Tables for classification] may be cited as the 'Aircraft Certification, Safety, and Accountability Act'."

Pub. L. 116–190, §1, Oct. 30, 2020, 134 Stat. 974, provided that: "This Act [amending section 47107 of this title] may be cited as the 'Friendly Airports for Mothers Improvement Act'."

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title XI, §1131(a), Dec. 20, 2019, 133 Stat. 1615, provided that: "This subtitle [subtitle C (§§1131–1135) of title XI of div. A of Pub. L. 116–92, amending section 44506 of this title] may be cited as the 'ATC Hiring Reform Act'."

Pub. L. 116–34, §1, July 29, 2019, 133 Stat. 1040, provided that: "This Act [amending provisions set out as a note under this section] may be cited as the 'Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–254, §1(a), Oct. 5, 2018, 132 Stat. 3186, provided that: "This Act [see Tables for classification] may be cited as the 'FAA Reauthorization Act of 2018'."

Pub. L. 115–254, div. B, title III, §391, Oct. 5, 2018, 132 Stat. 3323, provided that: "This subtitle [subtitle C (§§391–396) of title III of div. B of Pub. L. 115–254, enacting section 47124a of this title, amending section 44709 of this title, enacting provisions set out as notes under sections 44701 and 46101 of this title, and amending provisions set out as notes under sections 44701 and 44703 of this title] may be cited as the 'Fairness for Pilots Act'."

Pub. L. 115–254, div. B, title VII, §701, Oct. 5, 2018, 132 Stat. 3409, provided that: "This title [enacting sections 44518 and 47511 of this title and sections 2801 to 2811 of Title 43, Public Lands, amending sections 44508 and 48102 of this title, and enacting provisions set out as notes under this section and sections 106, 44505, and 44802 of this title and section 2801 of Title 43] may be cited as the 'FAA Leadership in Groundbreaking High-Tech Research and Development Act' or the 'FLIGHT R&D Act'."

Pub. L. 115–254, div. C, §1101, Oct. 5, 2018, 132 Stat. 3429, provided that: "This division [enacting section 1140 of this title, amending sections 1111, 1113, 1114, 1116 to 1118, 1131, 1134, 1136, 1138, 1139, 1154, 41113, and 41313 of this title, and enacting provisions set out as notes under sections 1101, 1116, and 1119 of this title] may be cited as the 'National Transportation Safety Board Reauthorization Act'."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–242, §1, Oct. 7, 2016, 130 Stat. 978, provided that: "This Act [amending section 40122 of this title and enacting provisions set out as notes under section 40122 of this title] may be cited as the 'Federal Aviation Administration Veteran Transition Improvement Act of 2016'."

Pub. L. 114–190, §1(a), July 15, 2016, 130 Stat. 615, provided that: "This Act [see Tables for classification] may be cited as the 'FAA Extension, Safety, and Security Act of 2016'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–113, div. O, title IV, §401, Dec. 18, 2015, 129 Stat. 3000, provided that: "This title [enacting section 10609 of Title 42, The Public Health and Welfare, amending section 905 of Title 2, The Congress, enacting provisions set out as a note under section 905 of Title 2, and amending provisions set out as notes under this section] may be cited as the 'James Zadroga 9/11 Victim Compensation Fund Reauthorization Act'."

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–238, §1, Dec. 18, 2014, 128 Stat. 2842, provided that: "This Act [enacting section 44946 of this title] may be cited as the 'Aviation Security Stakeholder Participation Act of 2014'."

Pub. L. 113–221, §1, Dec. 16, 2014, 128 Stat. 2094, provided that: "This Act [enacting section 44928 of this title] may be cited as the 'Honor Flight Act'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113–27, §1, Aug. 9, 2013, 127 Stat. 503, provided that: "This Act [enacting section 44927 of this title] may be cited as the 'Helping Heroes Fly Act'."

Pub. L. 112–271, §1, Jan. 14, 2013, 126 Stat. 2446, provided that: "This Act [amending section 44945 of this title] may be cited as the 'Clothe a Homeless Hero Act'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–218, §1, Dec. 20, 2012, 126 Stat. 1593, provided that: "This Act [amending section 44901 of this title] may be cited as the 'No-Hassle Flying Act of 2012'."

Pub. L. 112–153, §1, Aug. 3, 2012, 126 Stat. 1159, provided that: "This Act [amending sections 44703, 44709, and 44710 of this title and enacting provisions set out as notes under sections 44701 and 44703 of this title] may be cited as the 'Pilot's Bill of Rights'."

Pub. L. 112–95, §1(a), Feb. 14, 2012, 126 Stat. 11, provided that: "This Act [see Tables for classification] may be cited as the 'FAA Modernization and Reform Act of 2012'."

Pub. L. 112–86, §1, Jan. 3, 2012, 125 Stat. 1874, provided that: "This Act [amending section 44903 of this title and enacting provisions set out as a note under section 44903 of this title] may be cited as the 'Risk-Based Security Screening for Members of the Armed Forces Act'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–216, §1, Aug. 1, 2010, 124 Stat. 2348, provided that: "This Act [amending sections 106, 1135, 40117, 41712, 44302, 44303, 44703, 47104, 47107, 47115, 47141, 48101, 48102, and 49108 of this title and sections 4081, 4261, 4271, and 9502 of Title 26, Internal Revenue Code, enacting provisions set out as notes

under sections 40117 and 44701 of this title and sections 4081 and 9502 of Title 26, and amending provisions set out as a note under section 47109 of this title] may be cited as the 'Airline Safety and Federal Aviation Administration Extension Act of 2010'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–135, §1, Dec. 13, 2007, 121 Stat. 1450, provided that: "This Act [enacting section 44729 of this title] may be cited as the 'Fair Treatment for Experienced Pilots Act'."

Pub. L. 110–113, §1, Nov. 8, 2007, 121 Stat. 1039, provided that: "This Act [enacting and amending provisions set out as notes under this section] may be cited as the 'Procedural Fairness for September 11 Victims Act of 2007'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–297, §1, Aug. 9, 2004, 118 Stat. 1095, provided that: "This Act [enacting section 44113 of this title, amending sections 44107 and 44108 of this title, and enacting provisions set out as notes under section 44101 of this title] may be cited as 'Cape Town Treaty Implementation Act of 2004'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–176, §1(a), Dec. 12, 2003, 117 Stat. 2490, provided that: "This Act [see Tables for classification] may be cited as the 'Vision 100—Century of Aviation Reauthorization Act'."

Pub. L. 108–176, title III, §301, Dec. 12, 2003, 117 Stat. 2533, provided that: "This title [enacting subchapter III of chapter 471 of this title, amending sections 40104, 40128, 47106, 47503, and 47504 of this title, and enacting provisions set out as notes under this section and sections 40128, 47171, 47503, and 47508 of this title] may be cited as 'Aviation Streamlining Approval Process Act of 2003'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–296, title XIV, §1401, Nov. 25, 2002, 116 Stat. 2300, provided that: "This title [enacting section 44921 of this title and section 513 of Title 6, Domestic Security, amending sections 44903 and 44918 of this title, amending provisions set out as a note under section 114 of this title, and repealing provisions set out as a note under section 44903 of this title] may be cited as the 'Arming Pilots Against Terrorism Act'."

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107–71, §1, Nov. 19, 2001, 115 Stat. 597, provided that: "This Act [see Tables for classification] may be cited as the 'Aviation and Transportation Security Act'."

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–528, §1, Nov. 22, 2000, 114 Stat. 2517, provided that: "This Act [amending sections 106, 41104, 44903, 44935, and 44936 of this title, enacting provisions set out as notes under sections 106, 44903, and 44936 of this title, and amending provisions set out as notes under sections 40128 and 47501 of this title] may be cited as the 'Airport Security Improvement Act of 2000'."

Pub. L. 106–181, §1(a), Apr. 5, 2000, 114 Stat. 61, provided that: "This Act [see Tables for classification] may be cited as the 'Wendell H. Ford Aviation Investment and Reform Act for the 21st Century'."

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–6, §1, Mar. 31, 1999, 113 Stat. 10, provided that: "This Act [amending sections 106, 44310, 47104, 47115 to 47117, 48101, and 48103 of this title] may be cited as the 'Interim Federal Aviation Administration Authorization Act'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–155, §1, Feb. 11, 1998, 112 Stat. 5, provided that: "This Act [amending section 48102 of this title and enacting provisions set out as a note under section 48102 of this title] may be cited as the 'FAA Research, Engineering, and Development Authorization Act of 1998'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–137, §1, Dec. 2, 1997, 111 Stat. 2640, provided that: "This Act [amending sections 40102, 44302, 44305, 44306, 44308, and 44310 of this title and enacting provisions set out as a note under section 44310 of this title] may be cited as the 'Aviation Insurance Reauthorization Act of 1997'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–264, §1(a), Oct. 9, 1996, 110 Stat. 3213, provided that: "This Act [see Tables for classification] may be cited as the 'Federal Aviation Reauthorization Act of 1996'."

Pub. L. 104–264, title II, §201, Oct. 9, 1996, 110 Stat. 3227, provided that: "This title [enacting sections 40121, 40122, 45301, 45303, 48111, and 48201 of this title, amending sections 106 and 41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and sections 106, 40110, and 41742 of this title] may be cited as the 'Air Traffic Management System Performance Improvement Act of 1996'."

Pub. L. 104–264, title II, §278(a), Oct. 9, 1996, 110 Stat. 3249, provided that: "This section [amending section 41742 of this title and enacting provisions set out as a note under section 41742 of this title] may be cited as the 'Rural Air Service Survival Act'."

Pub. L. 104–264, title V, §501, Oct. 9, 1996, 110 Stat. 3259, provided that: "This title [amending sections 30305, 44936, and 46301 of this title and enacting provisions set out as notes under sections 30305 and 44935 of this title] may be cited as the 'Pilot Records Improvement Act of 1996'."

Pub. L. 104–264, title VI, §601, Oct. 9, 1996, 110 Stat. 3263, provided that: "This title [enacting section 44724 of this title] may be cited as the 'Child Pilot Safety Act'."

Pub. L. 104–264, title VII, §701, Oct. 9, 1996, 110 Stat. 3264, provided that: "This title [enacting sections 1136 and 41113 of this title and provisions set out as notes under section 41113 of this title] may be cited as the 'Aviation Disaster Family Assistance Act of 1996'."

Pub. L. 104–264, title VIII, §801, Oct. 9, 1996, 110 Stat. 3269, provided that: "This title [enacting section 47133 of this title, amending sections 46301 and 47107 of this title and section 9502 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 47107 of this title] may be cited as the 'Airport Revenue Protection Act of 1996'."

Pub. L. 104–264, title XI, §1101, Oct. 9, 1996, 110 Stat. 3278, provided that: "This title [amending sections 44501, 44508, and 48102 of this title] may be cited as the 'FAA Research, Engineering, and Development Management Reform Act of 1996'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–305, §1(a), Aug. 23, 1994, 108 Stat. 1569, provided that: "This Act [enacting sections 41311, 41714, 41715, 47129, 47130, and 47509 of this title, amending sections 106, 10521, 11501, 40102, 40113, 40116, 40117, 41713, 41734, 44502, 44505, 44938, 45301, 46301, 47101, 47102, 47104 to 47107, 47109 to 47111, 47115, 47117 to 47119, 47504, 48101 to 48104, and 48108 of this title and section 9502 of Title 26, Internal Revenue Code, renumbering former section 47129 of this title as section 47131 of this title, enacting provisions set out as notes under this section and sections 10521, 11501, 40102, 40105, 40117, 41311, 41715, 44502, 45102, 47101, 47107, 47124, and 49101 of this title, and repealing provisions set out as a note under section 1348 of former Title 49, Transportation] may be cited as the 'Federal Aviation Administration Authorization Act of 1994'."

Pub. L. 103–305, title III, §301, Aug. 23, 1994, 108 Stat. 1589, provided that: "This title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 49101 of this title] may be cited as the 'Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1994'."

FUTURE OF NEXTGEN

Pub. L. 118–63, title II, §206(a)–(f), May 16, 2024, 138 Stat. 1044, 1045, provided that:

"(a) KEY PROGRAMS.—Not later than December 31, 2025, the Administrator [of the Federal Aviation Administration] shall operationalize all of the key programs under the NextGen [Next Generation Air Transportation System] program as described in the deployment plan of the FAA [Federal Aviation Administration].

"(b) OFFICE TERMINATION.—The NextGen Office of the FAA shall terminate on December 31, 2025.

"(c) TRANSFER OF RESIDUAL NEXTGEN IMPLEMENTATION FUNCTIONS.—If the Administrator does not complete the air traffic modernization project known as the NextGen program by the deadline specified in subsection (a), the Administrator shall transfer the residual functions for completing the NextGen program to the Airspace Modernization Office of the FAA established under section 207 [of Pub. L. 118–63; 49 U.S.C. 106 note].

"(d) TRANSFER OF NEXTGEN ADVISORY COMMITTEE.—Not later than December 31, 2025, management of the NextGen Advisory Committee shall transfer to the Chief Operating Officer of the air traffic control system.

"(e) TRANSFER OF ADVANCED AIR MOBILITY FUNCTIONS.—Not later than 90 days after the date of enactment of this Act [May 16, 2024], any advanced air mobility relevant functions, duties, and responsibilities of the NAS Systems Engineering and Integration Office or other offices within the Office of NextGen of the FAA shall be incorporated into the Office of Aviation Safety of the FAA.

"(f) REMAINING ACTIVITIES.—In carrying out subsection (a), and after implementing subsections (c)

through (e), the Administrator shall transfer any remaining duties, authorities, activities, personnel, and assets managed by the Office of NextGen of the FAA to other offices of the FAA, as appropriate."

SAFETY AND EFFICIENCY THROUGH DIGITIZATION OF FAA SYSTEMS

Pub. L. 118–63, title II, §220, May 16, 2024, 138 Stat. 1057, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall—

"(1) identify, at the discretion of the Administrator, not less than 3 processes of the FAA [Federal Aviation Administration] that result in a certification and require paper-based information exchange between external entities and the FAA or offices within the FAA (such as an aircraft certification, aircraft registration, or airmen certification) or authorization, an exemption, or a letter of authorization; and

"(2) initiate the digitization of such processes.

"(b) REQUIREMENTS.—In carrying out the digitization required under subsection (a), the Administrator shall ensure that the digitization of any process allows for—

"(1) an applicant to track the application of such applicant throughout the period of submission and review of such application; and

"(2) the status of the application to be available upon demand to the applicant, as well as FAA employees responsible for reviewing and making a decision on the application.

"(c) BRIEFING TO CONGRESS.—Not later than 2 years after the date on which the Administrator initiates the digitization under subsection (a)(2), the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the progress of such digitization.

"(d) DEFINITION OF DIGITIZATION.—In this section, the term 'digitization' means the transition from a predominantly paper-based system to a system centered on the use of a data management system and the internet."

REVIEW AND UPDATES OF CATEGORICAL EXCLUSIONS

Pub. L. 118–63, title II, §230, May 16, 2024, 138 Stat. 1064, provided that:

"(a) REVIEW.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall identify each categorical exclusion under the jurisdiction of the Department of Transportation, including any operating administration within the Department.

"(b) NEW CATEGORICAL EXCLUSIONS FOR AIRPORT PROJECTS.—Not later than 2 years after the date of enactment of this Act, the Administrator [of the Federal Aviation Administration] shall—

"(1) review the categorical exclusions applied by other operating administrations identified in subsection (a); and

"(2) take such action as may be necessary to adopt, as relevant and appropriate, new categorical exclusions that meet the requirements of section 1508.4 of title 40, Code of Federal Regulations, from among categorical exclusions reviewed by the Secretary in paragraph (1) for use by the FAA."

REVIEW OF FAA USE OF AVIATION SAFETY DATA

Pub. L. 118–63, title III, §315, May 16, 2024, 138 Stat. 1077, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall seek to enter into an appropriate arrangement with a qualified third-party organization or consortium to evaluate the collection, collation, analysis, and use of aviation data across the FAA [Federal Aviation Administration].

"(b) CONSULTATION.—In completing the evaluation under subsection (a), the qualified third-party organization or consortium shall—

"(1) seek the input of experts in data analytics, including at least 1 expert in the commercial data services or analytics solutions sector;

"(2) consult with the National Transportation Safety Board and the Transportation Research Board; and

"(3) consult with appropriate federally funded research and development centers, to the extent that such centers are not already involved in the evaluation.

"(c) SUBSTANCE OF EVALUATION.—In completing the evaluation under subsection (a), the qualified third-party organization or consortium shall—

"(1) compile a list of internal and external sources, databases, and streams of information the FAA receives or has access to that provide the FAA with operational or safety information and data about the national airspace system, its users, and other regulated entities of the FAA;

"(2) review data sets to determine completeness and accuracy of relevant information;

"(3) identify gaps in information that the FAA could fill through sharing agreements, partnerships, or other means that would add value during safety trend analysis;

"(4) assess the capabilities of the FAA, including analysis systems and workforce skillsets, to analyze relevant data and information to make informed decisions;

"(5) review data and information for proper storage, identification controls, and data privacy—

"(A) as required by law; and

"(B) consistent with best practices for data collection, storage, and use;

"(6) review the format of such data and identify methods to improve the usefulness of such data;

"(7) assess internal and external access to data for—

"(A) appropriateness based on data type and level of detail;

"(B) proper data access protocols and precautions; and

"(C) maximizing availability of safety-related data that could support the improvement of safety management systems of and trend identification by regulated entities and the FAA;

"(8) examine the collation and dissemination of data within offices and between offices of the FAA;

"(9) review and recommend improvements to the data analysis techniques of the FAA; and

"(10) recommend investments the Administrator should consider to better collect, manage, and analyze data sets, including within and between offices of the FAA.

"(d) ACCESS TO INFORMATION.—The Administrator shall provide the qualified third-party organization or consortium and the experts described in subsection (b) with adequate access to safety and operational data collected by and held by the agency across all offices of the FAA, except if specific access is otherwise prohibited by law.

"(e) NONDISCLOSURE.—Prior to participating in the review, the Administrator shall ensure that each person participating in the evaluation under this section enters into an agreement with the Administrator in which the person shall be prohibited from disclosing at any time, except as required by law, to any person, foreign or domestic, any non-public information made accessible to the federally funded research and development center under this section.

"(f) REPORT.—The qualified third-party organization or consortium carrying out the evaluation under this section shall provide a report of the findings of the center to the Administrator and include recommendations to improve the FAA's collection, collation, analysis, and use of aviation data, including recommendations to—

"(1) improve data access across offices within the FAA, as necessary, to support efficient execution of safety analysis and programs across such offices;

"(2) improve data storage best practices;

"(3) develop or refine methods for collating data from multiple FAA and industry sources; and

"(4) procure or use available analytics tools to draw conclusions and identify previously unrecognized trends or miscategorized risks in the aviation system, particularly when identification of such information requires the analysis of multiple sets of data from multiple sources.

"(g) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 6 months after the receipt of the report under subsection (f), the Administrator shall review, develop an implementation plan, and, if appropriate, begin the implementation of the recommendations received in such report.

"(h) REVIEW OF IMPLEMENTATION.—The qualified third-party organization or consortium that conducted the initial evaluation, and any experts who contributed to such evaluation pursuant to subsection (b)(1), shall provide regular feedback and advice to the Administrator on the implementation plan developed under subsection (g) and any implementation activities for at least 2 years beginning on the date of the receipt of the report under subsection (f).

"(i) REPORT TO CONGRESS.—The Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] the report described in subsection (f) and the implementation plan described in subsection (g).

"(j) EXISTING REPORTING SYSTEMS.—Consistent with section 132 of the Aircraft Certification, Safety, and Accountability Act ([title I of div. V of] Public Law 116–260) [set out below], the Executive Director of the Transportation Research Board, in consultation with the Secretary and the Administrator, may further harmonize data and sources following the implementation of recommendations under subsection (g).

"(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to permit the public disclosure of information submitted under a voluntary safety reporting program or that is otherwise protected under section 44735 of title 49, United States Code."

RESTRICTED CATEGORY AIRCRAFT MAINTENANCE AND OPERATIONS

Pub. L. 118–63, title III, §328, May 16, 2024, 138 Stat. 1086, provided that: "Notwithstanding any other

provision of law, the Administrator [of the Federal Aviation Administration] shall have sole regulatory and oversight jurisdiction over the maintenance and operations of aircraft owned by civilian operators and type-certificated in the restricted category under section 21.25 of title 14, Code of Federal Regulations."

NEXTGEN PROGRAMS

Pub. L. 118–63, title VI, §619, May 16, 2024, 138 Stat. 1231, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], and periodically thereafter as the Administrator [of the Federal Aviation Administration] determines appropriate, the Administrator shall convene FAA [Federal Aviation Administration] officials to evaluate and expedite the implementation of NextGen [Next Generation Air Transportation System] programs and capabilities.

"(b) NEXTGEN PROGRAM PRIORITIZATION.—In allocating amounts appropriated pursuant to section 48101(a) of title 49, United States Code, the Secretary shall give priority to the following activities:

"(1) Performance-based navigation.

"(2) Data communications.

"(3) Terminal flight data manager.

"(4) Aeronautical information management.

"(5) Other activities as recommended by the NextGen Advisory Committee and determined by the Administrator to be appropriate.

"(c) PERFORMANCE-BASED NAVIGATION.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Administrator shall fully implement performance-based navigation procedures for all terminal and enroute routes, including approach and departure procedures for covered airports.

"(2) SPECIFIC PROCEDURES.—Pursuant to paragraph (1), the Administrator shall prioritize the following performance-based navigation procedures:

"(A) Trajectory-based operations.

"(B) Optimized profile descents.

"(C) Multiple airport route separation.

"(D) Established on required navigation performance.

"(E) Converging runway display aids.

"(3) PERFORMANCE-BASED NAVIGATION BASELINE EQUIPAGE REQUIREMENTS.—In carrying out paragraph (1), the Administrator shall issue such regulations as may be required, and publish applicable advisory circulars, to establish the equipage baseline appropriate for aircraft to safely use performance-based navigation procedures.

"(4) UTILIZATION ACTION PLAN.—Not later than 180 days after enactment of this Act, the Administrator shall, in consultation with certified labor representatives of air traffic controllers and the NextGen Advisory Committee, develop an action plan to utilize performance-based navigation procedures as a primary means of navigation to further reduce the dependency on legacy systems within the national airspace system.

"(d) DATA COMMUNICATIONS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall fully implement the use of data communications.

"(2) SPECIFIC CAPABILITIES.—In carrying out subsection (a) and this subsection, the Administrator shall prioritize the following data communications capabilities:

"(A) Ground-to-ground message exchange for surface aircraft operations and runway safety at airports.

"(B) Automated message generation and receipt.

"(C) Message routing and transmission.

"(D) Direct communications with aircraft avionics.

"(E) Implementation of data communications at all Air Route Traffic Control Centers.

"(F) The Future Air Navigation System.

"(e) TERMINAL FLIGHT DATA MANAGER AND OTHER SYSTEMS.—

"(1) TERMINAL FLIGHT DATA MANAGER.—Not later than 4 years after the date of enactment of this Act, the Administrator shall install the Terminal Flight Data Manager system at not less than 89 airports in the United States based on the highest number of annual aircraft operations or a determination of operational need and the impact of installation and deployment on the national airspace system.

"(2) ELECTRONIC FLIGHT STRIPS.—At a minimum, the Administrator shall implement electronic flight strips at the air traffic control towers of airports described in paragraph (1).

"(3) FLOW MANAGEMENT DATA AND SERVICES.—Not later than 4 years after the date of

enactment of this Act, if the Administrator finds that Terminal Flight Data Manager systems would be beneficial to safety or efficiency, the Administrator shall install Flow Management Data and Services at airports described under paragraph (1).

"(4) APPROPRIATIONS.—The activities under paragraphs (1), (2), and (3) of this subsection shall be contingent on the appropriation of funds to carry out this subsection.

"(f) AERONAUTICAL INFORMATION MANAGEMENT SYSTEMS.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Administrator shall fully modernize the aeronautical information management systems of the FAA to improve the functionality, useability, durability, and reliability of such systems used in the national airspace system.

"(2) REQUIREMENTS.—In carrying out paragraph (1), the Administrator shall—

"(A) improve the distribution of critical safety information to pilots, air traffic control, and other relevant aviation stakeholders;

"(B) fully develop and implement the Enterprise Information Display System; and

"(C) notwithstanding a centralized aeronautical information management system, restructure the back-up systems of aeronautical information management systems to be independent and self-sufficient from one another.

"(g) NEXTGEN EQUIPAGE PLAN.—

"(1) IN GENERAL.—Not later than 14 months after the date of enactment of this Act, the Administrator shall develop a 2-year implementation plan to further incentivize the acceleration of the equipage rates of certain NextGen avionics within the fleets of air carriers (as such term is defined in section 40102(a) of title 49, United States Code.

"(2) CONTENTS.—In developing the plan required under paragraph (1), the Administrator shall, at a minimum—

"(A) provide for further implementation and deployment of NextGen operational improvements to incentivize universal equipage of commercial and regional aircraft with certain NextGen avionics;

"(B) identify any remaining barriers for operators of commercial and regional aircraft to properly equip such aircraft with certain NextGen avionics, including any methods to address such barriers;

"(C) provide for the use of the best methods to highlight and enhance to operators of commercial and regional aircraft the benefits of equipping such aircraft with certain NextGen avionics; and

"(D) include in such plan any equipage guidelines and regulations the Administrator determines necessary and appropriate.

"(3) CONSULTATION.—In developing the plan under paragraph (1), the Administrator shall consult with representatives from—

"(A) trade associations representing air carriers;

"(B) trade associations representing avionics manufacturers;

"(C) certified labor organizations representing air traffic controllers; and

"(D) any other representatives the Administrator determines appropriate.

"(4) SUBMISSION OF PLAN.—Not later than 15 months after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] the plan required under this subsection.

"(5) IMPLEMENTATION.—Not later than 18 months after the date of enactment of this Act, the Administrator shall initiate such actions necessary to implement the plan developed under paragraph (1), including initiating any required rulemaking.

"(6) DEFINITION.—In this subsection, the term 'certain NextGen avionics' means those avionics and baseline capabilities as recommended in the report of the NextGen Advisory Committee titled 'Minimum Capabilities List (MCL) Ad Hoc Team NAC Task 19–1 Report', issued on November 17, 2020.

"(h) EFFECT OF FAILURE TO MEET DEADLINE.—

"(1) NOTIFICATION OF CONGRESS.—For each deadline established under subsections (a) through (g), if the Administrator determines that the Administrator has not met or will not meet each such deadline, the Administrator shall, not later than 30 days after such determination, notify the appropriate committees of Congress about the failure to meet each deadline.

"(2) CONTENTS OF NOTIFICATION.—Each notification under paragraph (1) shall be accompanied by the following:

"(A) An explanation as to why the Administrator will not or did not meet the deadline described in such paragraph.

"(B) A description of the actions the Administrator plans to take to meet the deadline described in such paragraph.

"(C) Actions Congress can take to assist the Administrator in meeting the deadline described in such paragraph.

"(3) BRIEFING.—If the Administrator is required to provide notice under paragraph (1), the Administrator shall provide the appropriate committees of Congress quarterly briefings as to the progress made by the Administrator regarding implementation under the respective subsection for which the deadline will not be or was not met until such time as the Administrator has completed the required work under such subsection.

"(i) NEXTGEN ADVISORY COMMITTEE CONSULTATION.—

"(1) IN GENERAL.—The Administrator shall consult and task the NextGen Advisory Committee with providing recommendations on ways to expedite, prioritize, and fully implement the NextGen program to realize the operational benefits of such programs.

"(2) CONSIDERATIONS.—In providing recommendations under paragraph (1), the NextGen Advisory Committee shall consider—

"(A) air traffic throughput of the national airspace system;

"(B) daily operational performance, including delays and cancellations; and

"(C) the potential need for performance-based operational metrics related to the NextGen program and subsequent air traffic modernization programs and efforts."

COMMUNITY COLLABORATION PROGRAM

Pub. L. 118–63, title VII, §793, May 16, 2024, 138 Stat. 1317, provided that:

"(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration] shall continue existing community engagement activities under the designation of a Community Collaboration Program (in this section referred to as the 'Program').

"(b) RESPONSIBILITIES.—

"(1) IN GENERAL.—In carrying out the Program, the Administrator shall facilitate and harmonize, as appropriate, policies and procedures carried out by various offices of the FAA [Federal Aviation Administration] pertaining to community engagement relating to—

"(A) airport planning and development;

"(B) noise and environmental policy;

"(C) NextGen [Next Generation Air Transportation System] implementation;

"(D) air traffic route changes;

"(E) integration of new and emerging entrants; and

"(F) other topics with respect to which community engagement is critical to program success.

"(2) SPECIFIED RESPONSIBILITIES.—In carrying out the Program, the Administrator shall be responsible for—

"(A) updating the internal guidance of the FAA for community engagement based on—

"(i) best practices of other Federal agencies and external organizations with expertise in community engagement;

"(ii) interviews with impacted residents; and

"(iii) recommendations solicited from individuals and local government officials in communities adversely impacted by aircraft noise;

"(B) coordinating with the Air Traffic Organization on community engagement efforts related to air traffic procedure changes to ensure that impacted communities are consulted in a meaningful way;

"(C) coordination with Regional Ombudsmen of the FAA;

"(D) oversight, streamlining, and increasing the responsiveness of the noise complaint process of the FAA by—

"(i) centralizing noise complaint data and improving data collection methodologies;

"(ii) ensuring such Regional Ombudsmen are consulted in local air traffic procedure development decisions; and

"(iii) collecting feedback from such Regional Ombudsmen to inform national policymaking efforts;

"(E) timely implementation of the recommendations, as appropriate, made by the Comptroller General [of the United States] to the Secretary [of Transportation] contained in the report titled 'Aircraft Noise: FAA Could Improve Outreach Through Enhanced Noise Metrics, Communication, and Support to Communities', issued in September 2021 (GAO–21–103933) to improve the outreach of the FAA to local communities impacted by aircraft noise, including—

"(i) any recommendations to—

"(I) identify appropriate supplemental metrics for assessing noise impacts and circumstances for their use

to aid in the internal assessment of the FAA of noise impacts related to proposed flight path changes;

"(II) update guidance to incorporate additional tools to more clearly convey expected impacts, such as other noise metrics and visualization tools; and

"(III) improve guidance to airports and communities on effectively engaging with the FAA; and

"(ii) any other recommendations included in the report that would assist the FAA in improving outreach to communities affected by aircraft noise;

"(F) ensuring engagement with local community groups as appropriate in conducting the other responsibilities described in this section; and

"(G) other responsibilities as considered appropriate by the Administrator.

"(c) BRIEFING.—Not later than 2 years after the Administrator implements the recommendations described in subsection (b)(2)(E), the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] describing—

"(1) the implementation of each such recommendation;

"(2) how any recommended actions are assisting the Administrator in improving outreach to communities affected by aircraft noise and other community engagement concerns; and

"(3) any challenges or barriers that limit or prevent the ability of the Administrator to take such actions.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the Administrator to alter the organizational structure of the FAA nor change the reporting structure of any employee."

VEHICLE-TO-VEHICLE LINK PROGRAM

Pub. L. 118–63, title VIII, §808(b), May 16, 2024, 138 Stat. 1324, provided that: "Not later than 270 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration], in coordination with the Administrator of the National Aeronautics and Space Administration and the Chair of the Federal Communications Commission, shall establish an interagency coordination program to advance vehicle-to-vehicle link initiatives that—

"(1) enable the real-time digital exchange of key information between nearby aircraft; and

"(2) are not reliant on ground infrastructure or air-to-ground communication links."

DRONE EDUCATION AND WORKFORCE TRAINING GRANT PROGRAM

Pub. L. 118–63, title IX, §913, May 16, 2024, 138 Stat. 1350, provided that:

"(a) AUTHORITY.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Secretary of Transportation shall establish a drone education and training grant program to make grants to educational institutions for workforce training for small unmanned aircraft systems.

"(b) USE OF GRANT AMOUNTS.—Amounts from a grant under this section shall be used in furtherance of activities authorized under section[s] 631 and 632 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 40101 note[s]).

"(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an educational institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—Out of amounts authorized to be appropriated under section 106(k) of title 49, United States Code, the Secretary shall make available to carry out this section $5,000,000 for each of fiscal years 2025 through 2028.

"(e) EDUCATIONAL INSTITUTION DEFINED.—In this section, the term 'educational institution' means an institution of higher education (as such term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that participates in a program authorized under sections 631 and 632 of the FAA Reauthorization Act of 2018 (49 U.S.C. 40101 note[s])."

[For definitions of terms used in section 913 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

ADVANCED AIR MOBILITY

Pub. L. 118–63, title IX, subtitle B, May 16, 2024, 138 Stat. 1375, provided that:

"SEC. 951. DEFINITIONS.

"In this subtitle:

"(1) ADVANCED AIR MOBILITY.—The terms 'advanced air mobility' and 'AAM' mean a

transportation system that is comprised of urban air mobility and regional air mobility using manned or unmanned aircraft.

"(2) POWERED-LIFT AIRCRAFT.—The term 'powered-lift aircraft' has the meaning given the term 'powered-lift' in section 1.1 of title 14, Code of Federal Regulations.

"(3) REGIONAL AIR MOBILITY.—The term 'regional air mobility' means the movement of passengers or property by air between 2 points using an airworthy aircraft that—

"(A) has advanced technologies, such as distributed propulsion, vertical takeoff and landing, powered lift, nontraditional power systems, or autonomous technologies;

"(B) has a maximum takeoff weight of greater than 1,320 pounds; and

"(C) is not urban air mobility.

"(4) URBAN AIR MOBILITY.—The term 'urban air mobility' means the movement of passengers or property by air between 2 points in different cities or 2 points within the same city using an airworthy aircraft that—

"(A) has advanced technologies, such as distributed propulsion, vertical takeoff and landing, powered lift, nontraditional power systems, or autonomous technologies; and

"(B) has a maximum takeoff weight of greater than 1,320 pounds.

"(5) VERTIPORT.—The term 'vertiport' means an area of land, water, or a structure used or intended to be used to support the landing, takeoff, taxiing, parking, and storage of powered-lift aircraft or other aircraft that vertiport design and performance standards established by the Administrator [of the Federal Aviation Administration] can accommodate.

"SEC. 952. SENSE OF CONGRESS ON FAA LEADERSHIP IN ADVANCED AIR MOBILITY.

"It is the sense of Congress that—

"(1) the United States should take actions to become a global leader in advanced air mobility;

"(2) as such a global leader, the FAA [Federal Aviation Administration] should—

"(A) prioritize work on the type certification of powered-lift aircraft;

"(B) publish, in line with stated deadlines, rulemakings and policy necessary to enable commercial operations, such as the Special Federal Aviation Regulation of the FAA titled 'Integration of Powered-Lift: Pilot Certification and Operations; Miscellaneous Amendments Related to Rotorcraft and Airplanes', issued on June 14, 2023 (2120-AL72);

"(C) work with global partners to promote acceptance of advanced air mobility products; and

"(D) leverage the existing aviation system to the greatest extent possible to support advanced air mobility operations; and

"(3) the FAA should work with manufacturers, prospective operators of powered-lift aircraft, and other relevant stakeholders to enable the safe entry of such aircraft into the national airspace system.

"SEC. 953. APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT CATEGORICAL EXCLUSIONS FOR VERTIPORT PROJECTS.

"In considering the environmental impacts of a proposed vertiport project on an airport for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Administrator shall—

"(1) apply any applicable categorical exclusions in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and subchapter A of chapter V of title 40, Code of Federal Regulations; and

"(2) after consultation with the Council on Environmental Quality, take steps to establish additional categorical exclusions, as appropriate, for vertiports on an airport, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and subchapter A of chapter V of title 40, Code of Federal Regulations.

"SEC. 954. ADVANCED AIR MOBILITY WORKING GROUP AMENDMENTS.

[Amended section 2 of Pub. L. 117–203, set out below.]

"SEC. 955. RULES FOR OPERATION OF POWERED-LIFT AIRCRAFT.

"(a) SFAR RULEMAKING.—

"(1) IN GENERAL.—Not later than 7 months after the date of enactment of this Act [May 16, 2024], the Administrator shall publish a final rule for the Special Federal Aviation Regulation of the FAA titled 'Integration of Powered-Lift: Pilot Certification and Operations; Miscellaneous Amendments Related to Rotorcraft and Airplanes', issued on June 14, 2023 (2120–AL72), establishing procedures for certifying pilots of powered-lift aircraft and providing operational rules for powered-lift aircraft capable of transporting passengers and cargo.

"(2) REQUIREMENTS.—With respect to any powered-lift aircraft type certificated by the Administrator, the regulations established under paragraph (1) shall—

"(A) provide a practical pathway for pilot qualification and operations;

"(B) establish performance-based requirements for energy reserves and other range- and endurance-related requirements that reflect the capabilities and intended operations of the aircraft;

"(C) provide for a combination of pilot training requirements, including simulators, to ensure the safe operation of powered-lift aircraft; and

"(D) to the maximum extent practicable, align powered-lift pilot qualifications with section 2.1.1.4 of Annex 1 to the Convention on International Civil Aviation published by the International Civil Aviation Organization.

"(3) CONSIDERATIONS.—In developing the regulations required under paragraph (1), the Administrator shall—

"(A) consider whether to grant an individual with an existing commercial airplane (single- or multi-engine) or helicopter pilot certificate the authority to serve as pilot-in-command of a powered-lift aircraft in commercial operation following the completion of an FAA-approved pilot type rating for such type of aircraft;

"(B) consult with the Secretary of Defense with regard to—

"(i) the Agility Prime program of the United States Air Force;

"(ii) powered-lift aircraft evaluated and deployed for military purposes, including the F–35B program; and

"(iii) the commonalities and differences between powered-lift aircraft types and the handling qualities of such aircraft; and

"(C) consider the adoption of the recommendations for powered-lift operations, as appropriate, contained in document 10103 of the International Civil Aviation Organization titled 'Guidance on the Implementation of ICAO Standards and Recommended Practices for Tilt-rotors', published in 2019.

"(b) INTERIM APPLICATION OF RULES AND PRIVILEGES IN LIEU OF RULEMAKING.—

"(1) IN GENERAL.—Beginning 16 months after the date of enactment of this Act, if a final rule has not been published pursuant to subsection (a)—

"(A) the rules in effect on the date that is 16 months after the date of enactment of this Act that apply to the operation and the operator of rotorcraft or fixed-wing aircraft under subchapters F, G, H, and I of chapter 1 of title 14, Code of Federal Regulations, shall be—

"(i) deemed to apply to—

"(I) the operation of a powered-lift aircraft in the national airspace system; and

"(II) the operator of such a powered-lift aircraft; and

"(ii) applicable, as determined by the operator of an airworthy powered-lift aircraft in consultation with the Administrator, and consistent with sections 91.3 and 91.13 of title 14, Code of Federal Regulations; and

"(B) upon the completion of a type rating for a specific powered-lift aircraft, airmen that hold a pilot or instructor certification with airplane category ratings in any class or rotorcraft category ratings in the helicopter class shall be deemed to have privileges of a powered-lift rating for such specific powered-lift aircraft.

"(2) TERMINATION OF INTERIM RULES AND PRIVILEGES.—This subsection shall cease to have effect 1 month after the effective date of a final rule issued pursuant to subsection (a).

"(c) POWERED-LIFT AIRCRAFT AVIATION RULEMAKING COMMITTEE.—

"(1) IN GENERAL.—Not later than 3 years after the date on which the Administrator issues the first certificate to commercially operate a powered-lift aircraft, the Administrator shall establish an aviation rulemaking committee (in this section referred to as the 'Committee') to provide the Administrator with specific findings and recommendations for, at a minimum, the creation of a standard pathway for the—

"(A) performance-based certification of powered-lift aircraft;

"(B) certification of airmen capable of serving as pilot-in-command of a powered-lift aircraft; and

"(C) operation of powered-lift aircraft in commercial service and air transportation.

"(2) CONSIDERATIONS.—In providing findings and recommendations under paragraph (1), the Committee shall consider the following:

"(A) Outcome-driven safety objectives to spur innovation and technology adoption and promote the development of performance-based regulations.

"(B) Lessons and insights learned from previously published special conditions and other Federal Register notices of airworthiness criteria for powered-lift aircraft.

"(C) To the maximum extent practicable, aligning powered-lift pilot qualifications with section

2.1.1.4 of Annex 1 to the Convention on International Civil Aviation published by the International Civil Aviation Organization.

"(D) The adoption of the recommendations contained in document 10103 of the International Civil Aviation Organization titled 'Guidance on the Implementation of ICAO Standards and Recommended Practices for Tilt-rotors', published in 2019, as appropriate.

"(E) Practical pathways for pilot qualification and operations.

"(F) Performance-based requirements for energy reserves and other range- and endurance-related designs and technologies that reflect the capabilities and intended operations of the aircraft.

"(G) A combination of pilot training requirements, including simulators, to ensure the safe operation of powered-lift aircraft.

"(3) REPORT.—The Committee shall submit to the Administrator a report detailing the findings and recommendations of the Committee.

"(d) POWERED-LIFT AIRCRAFT RULEMAKING.—

"(1) IN GENERAL.—Not later than 270 days after the date on which the Committee submits the report under subsection (c)(3), the Administrator shall initiate a rulemaking to implement the findings and recommendations of the Committee, as determined appropriate by the Administrator.

"(2) REQUIREMENTS.—In developing the rulemaking under paragraph (1), the Administrator shall—

"(A) consult with the Secretary of Defense with regard to methods for pilots to gain proficiency and earn the necessary ratings required to act as a pilot-in-command of powered-lift aircraft;

"(B) consider and plan for unmanned and remotely piloted powered-lift aircraft, and the associated elements of such aircraft, through the promulgation of performance-based regulations;

"(C) consider any information and experience gained from operations and efforts that occur as a result of the Special Federal Aviation Regulation of the FAA titled 'Integration of Powered-Lift: Pilot Certification and Operations; Miscellaneous Amendments Related to Rotorcraft and Airplanes', issued on June 14, 2023 (2120–AL72);

"(D) consider whether to grant an individual with an existing commercial airplane (single- or multi-engine) or helicopter pilot certificate the authority to serve as pilot-in-command of a powered-lift aircraft in commercial operation following the completion of an FAA-approved pilot type rating for such type of aircraft;

"(E) work to harmonize the certification and operational requirements of the FAA with those of civil aviation authorities with bilateral safety agreements in place with the United States, to the extent such harmonization does not negatively impact domestic manufacturers and operators; and

"(F) consider and plan for the use of alternative fuel types and propulsion methods, including reviewing the performance-based nature of parts 33 and 35 of title 14, Code of Federal Regulations, and any related recommendations provided to the Administrator by the aviation rulemaking advisory committee described in section 956.

"SEC. 956. ADVANCED PROPULSION SYSTEMS REGULATIONS.

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator shall task the Aviation Rulemaking Advisory Committee (in this section referred to as the 'Committee') to provide the Administrator with specific findings and recommendations for regulations related to the certification and installation of—

"(1) electric engines and propellers;

"(2) hybrid electric engines and propulsion systems;

"(3) hydrogen fuel cells;

"(4) hydrogen combustion engines or propulsion systems; and

"(5) other new or novel propulsion mechanisms and methods as determined appropriate by the Administrator.

"(b) CONSIDERATIONS.—In carrying out subsection (a), the Committee shall consider, at a minimum, the following:

"(1) Outcome-driven safety objectives to spur innovation and technology adoption, and promote the development of performance-based regulations.

"(2) Lessons and insights learned from previously published special conditions and other published airworthiness criteria for novel engines, propellers, and aircraft.

"(3) The requirements of part 33 and part 35 of title 14, Code of Federal Regulations, any boundaries of applicability for standalone engine type certificates (including highly integrated systems), and the use of technical standards order authorizations.

"(c) REPORT.—Not later than 1 year after providing findings and recommendations under subsection (a),

the Committee shall submit to the Administrator and the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report containing such findings and recommendations.

"(d) BRIEFING.—Not later than 180 days after the date on which the Committee submits the report under subsection (c), the Administrator shall brief the appropriate committees of Congress regarding plans of the FAA in response to the findings and recommendations contained in the report.

"SEC. 957. POWERED-LIFT AIRCRAFT ENTRY INTO SERVICE.

"(a) IN GENERAL.—The Administrator shall, in consultation with exclusive bargaining representatives of air traffic controllers certified under section 7111 of title 5, United States Code, and any relevant stakeholder as determined appropriate by the Administrator, take such actions as may be necessary to safely integrate powered-lift aircraft into the national airspace system, including in controlled airspace, and learn from any efforts to adopt and update related policy and guidance.

"(b) AIR TRAFFIC POLICIES FOR ENTRY INTO SERVICE.—Not later than 40 months after the date of enactment of this Act [May 16, 2024], the Administrator shall update air traffic orders and policies, to the extent necessary, and address air traffic control system challenges in order to allow for—

"(1) the use of existing air traffic procedures, where determined to be safe by the Administrator, by powered-lift aircraft; and

"(2) the approval of letters of agreement between air traffic control system facilities and powered-lift operators and infrastructure operators to minimize the amount of active coordination required for safe recurring powered-lift aircraft operations, as appropriate.

"(c) LONG-TERM AIR TRAFFIC POLICIES.—Beginning 40 months after the date of enactment of this Act, the Administrator shall—

"(1) continue to update air traffic orders and policies to support the operation of powered-lift aircraft;

"(2) to the extent necessary, develop powered-lift specific procedures for airports, heliports, and vertiports;

"(3) evaluate the human factors impacts on controllers associated with managing powered-lift aircraft operations, consider the impact of additional operations on air traffic controller staffing, and make necessary changes to staffing, procedures, regulations, and orders; and

"(4) consider the use of third-party service providers to manage increased operations in controlled airspace to support, supplement, and enhance the work of air traffic controllers.

"SEC. 958. INFRASTRUCTURE SUPPORTING VERTICAL FLIGHT.

"(a) UPDATE TO DESIGN STANDARDS.—The Administrator shall—

"(1) not later than December 31, 2024, publish an update to the memorandum of the FAA titled 'Engineering Brief No. 105, Vertiport Design', issued on September 21, 2022 (EB No. 105);

"(2) not later than December 31, 2025, publish a performance-based vertiport design advisory circular; and

"(3) begin the work necessary to update the advisory circular of the FAA titled 'Heliport Design' (Advisory Circular 150/5390) in order to provide performance-based guidance for heliport design, including consideration of alternative fuel and propulsion mechanisms.

"(b) ENGINEERING BRIEF SUNSET.—Upon the publication of an advisory circular pursuant to subsection (a)(2), the Administrator shall cancel the memorandum described in subsection (a)(1).

"(c) DUAL USE FACILITIES.—The Administrator shall establish a mechanism by which owners and operators of aviation infrastructure can safely accommodate, or file a notice to accommodate, powered-lift aircraft if such infrastructure meets the safety requirements or guidance of the FAA for such aircraft.

"(d) GUIDANCE, FORMS, AND PLANNING.—The Administrator shall—

"(1) not later than 18 months after the date of enactment of this Act [May 16, 2024], ensure airport district offices of the FAA have sufficient guidance and policy direction regarding the use and applicability of heliport and vertiport design standards of the FAA, and update such guidance routinely;

"(2) determine if updates to FAA Form 7460 and Form 7480 are necessary and update such forms, as appropriate; and

"(3) ensure that the methodology and underlying data sources of the Terminal Area Forecast of the FAA include commercial operations conducted by aircraft regardless of propulsion type or fuel type.

"SEC. 959. CHARTING OF AVIATION INFRASTRUCTURE.

"The Administrator shall increase efforts to update and keep current the Airport Master Record of the FAA, including by establishing a streamlined process by which the owners and operators of public and private aviation facilities with nontemporary, nonintermittent operations are encouraged to keep the information on

such facilities current.

"SEC. 960. ADVANCED AIR MOBILITY INFRASTRUCTURE PILOT PROGRAM EXTENSION.

[Amended section 101 of div. Q of Pub. L. 117–328, set out below.]

"SEC. 961. CENTER FOR ADVANCED AVIATION TECHNOLOGIES.

"(a) PLAN.—Not later than 90 days after the date of enactment of this Act [May 16, 2024], the Administrator shall develop a plan to establish a Center for Advanced Aviation Technologies to support the testing and advancement of new and emerging aviation technologies.

"(b) CONSULTATION.—In developing the plan under subsection (a), the Administrator may consult with the Advanced Air Mobility Working Group established in the Advanced Air Mobility Coordination and Leadership Act (Public Law 117–203) [set out below], as amended by this Act, and the interagency working group established in section 1042 of this Act [set out in a note below].

"(c) CONSIDERATIONS.—In developing the plan under subsection (a), the Administrator shall consider as roles and responsibilities for the Center for Advanced Aviation Technologies—

"(1) developing an airspace laboratory and flight demonstration zones to facilitate the safe integration of advanced air mobility aircraft into the national airspace system, with at least 1 such zone to be established within the same geographic region as the Center for Advanced Aviation Technologies and that also has aviation manufacturers with relevant expertise, such as powered-lift;

"(2) establishing testing corridors for the purposes of validating air traffic requirements for advanced air mobility operations, operational procedures, and performance requirements, with at least 1 such corridor to be established within the same geographic region as the Center for Advanced Aviation Technologies;

"(3) developing and facilitating technology partnerships with, and between, industry, academia, and other government agencies, and supporting such partnerships;

"(4) identifying new and emerging aviation technologies, innovative aviation concepts, and relevant aviation services, including advanced air mobility, powered-lift aircraft, and other advanced aviation technologies, as determined appropriate by the Administrator; and

"(5) any other duties, as determined appropriate by the Administrator.

"(d) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the plan developed under subsection (a).

"(e) CENTER.—Not later than September 30, 2026, the Administrator shall establish the Center for Advanced Aviation Technologies in accordance with the plan developed under subsection (a). In choosing the location for the Center for Advanced Aviation Technologies, the Administrator shall give preference to a community or region with a strong aeronautical presence, specifically the presence of—

"(1) a large commercial airport or large air logistics center;

"(2) aviation manufacturing with expertise in advanced aviation technologies, such as powered-lift;

"(3) existing FAA facilities or offices, such as a Center, Institute, certificate management office, or a regional headquarters;

"(4) airspace utilized for advanced aviation technology testing activity, and capable of supporting a wide range of use cases;

"(5) proximity to both rural and urban communities;

"(6) State, local, or Tribal governments;

"(7) programs to support public-private partnerships for advanced aviation technologies; and

"(8) academic institutions that offer programs relating to advanced aviation technologies engineering.

"(f) AUTHORIZATION.—Out of amounts made available under section 106(k) of title 49, United States Code, $35,000,000 for each of fiscal years 2025 through 2028 is authorized to carry out this section.

"(g) INTERACTION WITH OTHER ENTITIES.—The Administrator, in carrying out this section, shall, to the maximum extent practicable, leverage the research and testing capacity and capabilities of the Center of Excellence for Unmanned Aircraft Systems and, as appropriate, the unmanned aircraft test ranges established in section 44803 of title 49, United States Code.

"(h) SAVINGS CLAUSES.—Nothing in this section shall be construed to interfere with any of the following activities:

"(1) The ongoing activities of the unmanned aircraft test ranges established in section 44803 of title 49, United States Code, to the maximum extent practicable.

"(2) The ongoing activities of the William J. Hughes Technical Center for Advanced Aerospace, to the maximum extent practicable.

"(3) The ongoing activities of the Center of Excellence for Unmanned Aircraft Systems, to the

maximum extent practicable.

"(4) The ongoing activities of the Mike Monroney Aeronautical Center, to the maximum extent practicable."

UNMANNED AIRCRAFT SYSTEMS AND ADVANCED AIR MOBILITY

Pub. L. 118–63, title X, subtitle B, May 16, 2024, 138 Stat. 1406, provided that:

"SEC. 1041. DEFINITIONS.

"In this subtitle:

"(1) ADVANCED AIR MOBILITY.—The term 'advanced air mobility' means a transportation system that is comprised of urban air mobility and regional air mobility using manned or unmanned aircraft.

"(2) INTERAGENCY WORKING GROUP.—The term 'interagency working group' means the advanced air mobility and unmanned aircraft systems interagency working group of the National Science and Technology Council established under section 1042.

"(3) LABOR ORGANIZATION.—The term 'labor organization' has the meaning given the term in section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5)), except that such term shall also include—

"(A) any organization composed of labor organizations, such as a labor union federation or a State or municipal labor body; and

"(B) any organization which would be included in the definition for such term under such section 2(5) but for the fact that the organization represents—

"(i) individuals employed by the United States, any wholly owned Government corporation, any Federal Reserve Bank, or any State or political subdivision thereof;

"(ii) individuals employed by persons subject to the Railway Labor Act (45 U.S.C. 151 et seq.); or

"(iii) individuals employed as agricultural laborers.

"(4) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given such term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

"(5) TECHNICAL STANDARD.—The term 'technical standard' has the meaning given such term in section 12(d)(5) of the National Technology Transfer and Advancement Act of 1995 [Pub. L. 104–113] (15 U.S.C. 272 note).

"(6) UNMANNED AIRCRAFT SYSTEM.—The term 'unmanned aircraft system' has the meaning given such term in section 44801 of title 49, United States Code.

"SEC. 1042. INTERAGENCY WORKING GROUP.

"(a) DESIGNATION.—

"(1) IN GENERAL.—The National Science and Technology Council shall establish or designate an interagency working group on advanced air mobility and unmanned aircraft systems to coordinate Federal research, development, deployment, testing, and education activities to enable advanced air mobility and unmanned aircraft systems.

"(2) MEMBERSHIP.—The interagency working group shall be comprised of senior representatives from NASA [National Aeronautics and Space Administration], the Department of Transportation, the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Institute of Standards and Technology, Department of Homeland Security, and such other Federal agencies as appropriate.

"(b) DUTIES.—The interagency working group shall—

"(1) develop a strategic research plan to guide Federal research to enable advanced air mobility and unmanned aircraft systems and oversee implementation of the plan;

"(2) oversee the development of—

"(A) an assessment of the current state of United States competitiveness and leadership in advanced air mobility and unmanned aircraft systems, including the scope and scale of United States investments in relevant research and development; and

"(B) strategies to strengthen and secure the domestic supply chain for advanced air mobility systems and unmanned aircraft systems;

"(3) facilitate communication and outreach opportunities with academia, industry, professional societies, State, local, Tribal, and Federal governments, and other stakeholders;

"(4) facilitate partnerships to leverage knowledge and resources from industry, State, local, Tribal, and Federal governments, National Laboratories, unmanned aircraft systems test range (as defined in section 44801 of title 49, United States Code), academic institutions, and others;

"(5) coordinate with the advanced air mobility working group established under section 2 of the Advanced Air Mobility Coordination and Leadership Act (Public Law 117–203) [set out below] and heads of other Federal departments and agencies to avoid duplication of research and other activities to ensure that the activities carried out by the interagency working group are complementary to those being undertaken by other interagency efforts; and

"(6) coordinate with the National Security Council and other authorized agency coordinating bodies on the assessment of risks affecting the existing Federal unmanned aircraft systems fleet and outlining potential steps to mitigate such risks.

"(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], and every 2 years thereafter until December 31, 2028, the interagency working group shall transmit to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] a report that includes a summary of federally funded advanced air mobility and unmanned aircraft systems research, development, deployment, and testing activities, including the budget for each of the activities described in this paragraph.

"(d) RULE OF CONSTRUCTION.—The interagency working group shall not be construed to conflict with or duplicate the work of the interagency working group established under the advanced air mobility working group established by the Advanced Air Mobility Coordination and Leadership Act (Public Law 117–203).

"SEC. 1043. STRATEGIC RESEARCH PLAN.

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the interagency working group shall develop and periodically update, as appropriate, a strategic plan for Federal research, development, deployment, and testing of advanced air mobility systems and unmanned aircraft systems.

"(b) CONSIDERATIONS.—In developing the plan required under subsection (a), the interagency working group shall consider and use—

"(1) information, reports, and studies on advanced air mobility and unmanned aircraft systems that have identified research, development, deployment, and testing needed;

"(2) information set forth in the national aviation research plan developed under section 44501(c) of title 49, United States Code; and

"(3) recommendations made by the National Academies in the review of the plan under subsection (d).

"(c) CONTENTS OF THE PLAN.—In developing the plan required under subsection (a), the interagency working group shall—

"(1) determine and prioritize areas of advanced air mobility and unmanned aircraft systems research, development, demonstration, and testing requiring Federal Government leadership and investment;

"(2) establish, for the 10-year period beginning in the calendar year the plan is submitted, the goals and priorities for Federal research, development, and testing which will—

"(A) support the development of advanced air mobility technologies and the development of an advanced air mobility research, innovation, and manufacturing ecosystem;

"(B) take into account sustained, consistent, and coordinated support for advanced air mobility and unmanned aircraft systems research, development, and demonstration, including through grants, cooperative agreements, testbeds, and testing facilities;

"(C) apply lessons learned from unmanned aircraft systems research, development, demonstration, and testing to advanced air mobility systems;

"(D) inform the development of voluntary consensus technical standards and best practices for the development and use of advanced air mobility and unmanned aircraft systems;

"(E) support education and training activities at all levels to prepare the United States workforce to use and interact with advanced air mobility systems and unmanned aircraft systems;

"(F) support partnerships to leverage knowledge and resources from industry, State, local, Tribal, and Federal governments, the National Laboratories, Center of Excellence for Unmanned Aircraft Systems Research of the FAA [Federal Aviation Administration], unmanned aircraft systems test ranges (as defined in section 44801 of title 49, United States Code), academic institutions, labor organizations, and others to advance research activities;

"(G) leverage existing Federal investments; and

"(H) promote hardware interoperability and open-source systems;

"(3) support research and other activities on the impacts of advanced air mobility and unmanned aircraft systems on national security, safety, economic, legal, workforce, and other appropriate societal issues;

"(4) reduce barriers to transferring research findings, capabilities, and new technologies related to

advanced air mobility and unmanned aircraft systems into operation for the benefit of society and United States competitiveness;

"(5) in consultation with the Council of Economic Advisers, measure and track the contributions of unmanned aircraft systems and advanced air mobility to United States economic growth and other societal indicators; and

"(6) identify relevant research and development programs and make recommendations for the coordination of relevant activities of the Federal agencies and set forth the role of each Federal agency in implementing the plan.

"(d) NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE EVALUATION .—The Administrator [of the Federal Aviation Administration] shall seek to enter into an agreement with the National Academies to review the plan every 5 years.

"(e) PUBLIC PARTICIPATION.—In developing the plan under subsection (a), the interagency working group shall consult with representatives of stakeholder groups, which may include academia, research institutions, and State, industry, and labor organizations. Not later than 90 days before the plan, or any revision thereof, is submitted to Congress, the plan shall be published in the Federal Register for a public comment period of not less than 60 days.

"(f) REPORTS TO CONGRESS ON THE STRATEGIC RESEARCH PLAN.—

"(1) PROGRESS REPORT.—Not later than 1 year after the date of enactment of this Act, the interagency working group described in section 1042 of this Act shall transmit to the covered committees of Congress a report that describes the progress in developing the plan required under this section.

"(2) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the interagency working group shall transmit to the covered committees of Congress the strategic research plan developed under this section.

"(3) BIENNIAL REPORT.—Not later than 1 year after the transmission of the initial report under paragraph (2) and every 2 years thereafter until December 31, 2033, the interagency working group shall transmit to the covered committees of Congress a report that includes an analysis of the progress made towards achieving the goals and priorities for the strategic research plan.

"SEC. 1044. FEDERAL AVIATION ADMINISTRATION UNMANNED AIRCRAFT SYSTEM AND ADVANCED AIR MOBILITY RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—Consistent with the research plan in section 1043, the Administrator, in coordination with the Administrator of NASA and other Federal agencies, shall carry out and support research, development, testing, and demonstration activities and technology transfer, and activities to facilitate the transition of such technologies into application to enable advanced air mobility and unmanned aircraft systems and to facilitate the safe integration of advanced air mobility and unmanned aircraft systems into the national airspace system, in areas including—

"(1) beyond visual-line-of-sight operations;

"(2) command and control link technologies;

"(3) development and integration of unmanned aircraft system traffic management into the national airspace system;

"(4) noise and other societal and environmental impacts;

"(5) informing the development of an industry consensus vehicle-to-vehicle standard;

"(6) safety, including collisions between advanced air mobility and unmanned aircraft systems of various sizes, traveling at various speeds, and various other crewed aircraft or various parts of other crewed aircraft of various sizes and traveling at various speeds; and

"(7) detect-and-avoid capabilities.

"(b) DUPLICATIVE RESEARCH AND DEVELOPMENT ACTIVITIES.—The Administrator shall ensure that research and development and other activities conducted under this section do not duplicate other Federal activities related to the integration of unmanned aviation systems or advanced air mobility.

"(c) LESSONS LEARNED.—The Administrator shall apply lessons learned from unmanned aircraft systems research, development, demonstration, and testing to advanced air mobility systems.

"(d) RESEARCH ON APPROACHES TO EVALUATING RISK.—The Administrator shall conduct research on approaches to evaluating risk in emerging vehicles, technologies, and operations for unmanned aircraft systems and advanced air mobility systems. Such research shall include—

"(1) defining quantitative metrics, including metrics that may support the Administrator in making determinations, and research to inform the development of requirements, as practicable, for the operations of certain unmanned aircraft systems, as described under section 44807 of title 49, United States Code;

"(2) developing risk-based processes and criteria to inform the development of regulations and certification of complex operations, to include autonomous beyond-visual-line-of-sight operations, of

unmanned aircraft systems of various sizes and weights, and advanced air mobility systems; and

"(3) considering the utility of performance standards to make determinations under section 44807 of title 49, United States Code.

"(e) REPORT.—Not later than 9 months after the date of enactment of this Act [May 16, 2024], the Administrator shall submit to the covered committees of Congress a report on the actions taken by the Administrator to implement provisions under this section that includes—

"(1) a summary of the costs and results of research under subsection (a)(6);

"(2) a description of plans for and progress toward the implementation of research and development under subsection (d);

"(3) a description of the progress of the FAA in using research and development to inform FAA certification guidance and regulations of—

"(A) large unmanned aircraft systems, including those weighing more than 55 pounds; and

"(B) extended autonomous and remotely piloted operations beyond visual line of sight in controlled and uncontrolled airspace; and

"(4) a current plan for full operational capability of unmanned aircraft systems traffic management, as described in section 376 the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 44802 note).

"(f) PARALLEL EFFORTS.—

"(1) IN GENERAL.—Research and development activities under this section may be conducted concurrently with the deployment of technologies outlined in (a) and in carrying out the [sic] this title and title IX [of Pub. L. 118–63; see Tables for classification].

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to delay appropriate actions to deploy the technologies outlined in subsection (a), including the deployment of beyond visual-line-of-sight operations of unmanned aircraft systems, or delay the Administrator in carrying out this title and title IX, or limit FAA use of existing risk methodologies to make determinations pursuant to section 44807 of title 49, United States Code, prior to completion of relevant research and development activities.

"(3) PRACTICES AND REGULATIONS.—The Administrator shall, to the maximum extent practicable, use the results of research and development activities conducted under this section to inform decisions on whether and how to maintain or update existing regulations and practices, or whether to establish new practices or regulations.

"SEC. 1045. PARTNERSHIPS FOR RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TESTING.

"(a) STUDY.—The Administrator shall seek to enter into an arrangement with the National Academy of Public Administration to examine research, development, demonstration, and testing partnerships of the FAA to advance unmanned aircraft systems and advanced air mobility and to facilitate the safe integration of unmanned aircraft systems into the national airspace system.

"(b) CONSIDERATIONS.—The Administrator shall ensure that the entity carrying out the study in subsection (a) shall—

"(1) identify existing FAA partnerships with external entities, including academia and Centers of Excellence, industry, and nonprofit organizations, and the types of such partnership arrangements;

"(2) examine the partnerships in paragraph (1), including the scope and areas of research, development, demonstration, and testing carried out, and associated arrangements for performing research and development activities;

"(3) review the extent to which the FAA uses the results and outcomes of each partnership to advance the research and development in unmanned aircraft systems;

"(4) identify additional research and development areas, if any, that may benefit from partnership arrangements, and whether such research and development would require new partnerships;

"(5) identify any duplication of ongoing or planned research, development, demonstration, or testing activities;

"(6) identify effective and appropriate means for publication and dissemination of the results and sharing with the public, commercial, and research communities related data from such research, development, demonstration, and testing conducted under such partnerships;

"(7) identify effective mechanisms, either new or already existing, to facilitate coordination, evaluation, and information-sharing among and between such partnerships;

"(8) identify effective and appropriate means for facilitating technology transfer activities within such partnerships;

"(9) identify the extent to which such partnerships broaden participation from groups historically underrepresented in science, technology, engineering, and mathematics, including computer science and cybersecurity, and include participation by industry, workforce, and labor organizations; and

"(10) review options for funding models best suited for such partnerships, which may include cost-sharing and public-private partnership models with industry.

"(c) TRANSMITTAL.—Not later than 12 months after the date of enactment of this Act [May 16, 2024], the Administrator shall transmit to the covered committees of Congress the study described in subsection (a)."

ACCEPTANCE OF DIGITAL DRIVER'S LICENSE AND IDENTIFICATION CARDS

Pub. L. 118–63, title XI, §1103, May 16, 2024, 138 Stat. 1415, provided that: "The Administrator [of the Federal Aviation Administration] shall take such actions as may be necessary to accept, in any instance where an individual is required to submit government-issued identification to the Administrator, a digital or mobile driver's license or identification card issued to such individual by a State."

WING-IN-GROUND-EFFECT CRAFT

Pub. L. 118–63, title XI, §1114, May 16, 2024, 138 Stat. 1420, provided that:

"(a) MEMORANDUM OF UNDERSTANDING.—

"(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] and the Commandant of the Coast Guard shall execute a memorandum of understanding governing the specific roles, authorities, delineations of responsibilities, resources, and commitments of the FAA [Federal Aviation Administration] and the Coast Guard, respectively, pertaining to wing-in-ground-effect craft that are—

"(A) only capable of operating either in water or in ground effect over water; and

"(B) operated exclusively over waters subject to the jurisdiction of the United States.

"(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

"(A) cover, at a minimum, the processes of the FAA and the Coast Guard will follow to promote communications, efficiency, and nonduplication of effort in carrying out such memorandum of understanding; and

"(B) provide procedures for, at a minimum—

"(i) the approval of wing-in-ground-effect craft designs;

"(ii) the operation of wing-in-ground-effect craft, including training and certification of persons responsible for operating such craft;

"(iii) pilotage of wing-in-ground-effect craft;

"(iv) the inspection, including pre-delivery and service, of wing-in-ground-effect craft; and

"(v) the maintenance of wing-in-ground-effect craft.

"(b) STATUS BRIEFING.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Commandant shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the status of the memorandum of understanding described in subsection (a) as well as provide any recommendations for legislative action to improve efficacy or efficiency of wing-in-ground-effect craft governance.

"(c) WING-IN-GROUND-EFFECT CRAFT DEFINED.—In this section, the term 'wing-in-ground-effect craft' means a craft that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the craft and the surface of the water."

ADVANCED AIR MOBILITY INFRASTRUCTURE PILOT PROGRAM

Pub. L. 117–328, div. Q, §101, Dec. 29, 2022, 136 Stat. 5246, as amended by Pub. L. 118–63, title IX, §960, May 16, 2024, 138 Stat. 1383, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section [Dec. 29, 2022], the Secretary shall establish a pilot program to provide grants that assist an eligible entity to plan for the development and deployment of infrastructure necessary to facilitate AAM operations, locally and regionally, within the United States.

"(b) PLANNING GRANTS.—

"(1) IN GENERAL.—The Secretary shall provide grants to eligible entities to develop comprehensive plans under paragraph (2) related to AAM infrastructure.

"(2) COMPREHENSIVE PLAN.—

"(A) IN GENERAL.—Not later than 1 year after receiving a grant under this subsection, an eligible entity shall submit to the Secretary a comprehensive plan, including the development of potential public use or private-owned vertiport infrastructure, as well as the use of existing airport and heliport infrastructure that may require modifications to safely accommodate AAM operations,, [sic] in a format capable of being published on the website of the Department of Transportation.

"(B) PLAN CONTENTS.—The Secretary shall establish content requirements for comprehensive

plans submitted under this subsection, which shall include as many of the following as possible:

"(i) The identification of planned or potential public use and private-owned vertiport locations.

"(ii) A description of infrastructure necessary to support AAM operations.

"(iii) A description of types of planned or potential AAM operations and a forecast for proposed locations for operations, including estimates for initial operations and future growth.

"(iv) The identification of physical and digital infrastructure required to meet any standards and guidance for vertiport design and performance characteristics established by the Federal Aviation Administration (as in effect on the date on which the Secretary issues a grant to an eligible entity), including modifications to existing infrastructure and ground sensors, electric charging or other fueling requirements, electric utility requirements, wireless and cybersecurity requirements, fire safety, perimeter security, and other necessary hardware or software.

"(v) A description of any hazard associated with planned or potential urban air mobility and regional air mobility operations, such as handling of hazardous materials, batteries, or other fuel cells, charging or fueling of aircraft, aircraft rescue and firefighting response, and emergency planning.

"(vi) A description of potential environmental effects of planned or potential construction or siting of vertiports, including efforts to reduce potential aviation noise.

"(vii) A description of how planned or potential vertiport locations, including new or repurposed infrastructure, fit into State and local transportation systems and networks, including—

"(I) connectivity to existing public transportation hubs and intermodal and multimodal facilities for AAM operations;

"(II) opportunities to create new service to rural areas and areas underserved by air transportation; or

"(III) any potential conflict with existing aviation infrastructure that may arise from the planned or potential location of the vertiport.

"(viii) A description of how vertiport planning will be incorporated in State or metropolitan planning documents.

"(ix) The identification of the process an eligible entity will undertake to ensure an adequate level of engagement with any potentially impacted community for each planned or potential vertiport location and planned or potential AAM operations, such as engagement with communities in rural areas, underserved communities, Tribal communities, individuals with disabilities, or racial and ethnic minorities to address equity of access.

"(x) The identification of State, local, or private sources of funding an eligible entity may use to assist with the construction or operation of a vertiport or the modification of aviation infrastructure.

"(xi) The identification of existing Federal aeronautical and airspace requirements that must be met for the eligible entity's planned or potential vertiport location.

"(xii) The identification of the actions necessary for an eligible entity to undertake the construction of a vertiport, such as planning studies to assess existing infrastructure, environmental studies, studies of projected economic benefit to the community, lease or acquisition of an easement or land for new infrastructure, and activities related to other capital costs.

"(3) APPLICATION.—To apply for a grant under this subsection, an eligible entity shall provide to the Secretary an application in such form, at such time, and containing such information as the Secretary may require.

"(4) SELECTION.—

"(A) IN GENERAL.—In awarding grants under this subsection, the Secretary shall consider the following:

"(i) Geographic diversity.

"(ii) Diversity of the proposed models of infrastructure financing and management.

"(iii) Diversity of proposed or planned AAM operations.

"(iv) The need for comprehensive plans that—

"(I) ensure the safe and efficient integration of AAM operations into the National Airspace System;

"(II) improve transportation safety, connectivity, access, and equity in both rural and urban regions in the United States;

"(III) leverage existing public transportation systems and intermodal and multimodal facilities;

"(IV) reduce surface congestion and the environmental impacts of transportation;

"(V) grow the economy and create jobs in the United States; and

"(VI) encourage community engagement when planning for AAM-related infrastructure.

"(B) PRIORITY.—The Secretary shall prioritize awarding grants under this subsection to eligible entities that collaborate with commercial AAM entities, institutions of higher education, research

institutions, the Department of Defense, the National Guard, or other relevant stakeholders to develop and prepare a comprehensive plan.

"(C) MINIMUM ALLOCATION TO RURAL AREAS.—The Secretary shall ensure that not less than 20 percent of the amounts made available under subsection (c) are used to award grants to eligible entities that submit a comprehensive plan under paragraph (2) that is related to infrastructure located in a rural area.

"(5) GRANT AMOUNT.—Each grant made under this subsection shall be made in an amount that is not more than $1,000,000.

"(6) BRIEFING.—

"(A) IN GENERAL.—Not later than 180 days after the first comprehensive plan is submitted under paragraph (2), and every 180 days thereafter through September 30, 2027, the Secretary shall provide a briefing to the appropriate committees of Congress on the comprehensive plans submitted to the Secretary under such paragraph.

"(B) CONTENTS.—The briefing required under subparagraph (A) shall include—

"(i) an evaluation of all planned or potential vertiport locations included in the comprehensive plans submitted under paragraph (2) and how such planned or potential vertiport locations may fit into the overall United States transportation system and network;

"(ii) a description of lessons or best practices learned through the review of comprehensive plans and how the Secretary will incorporate any such lessons or best practices into Federal standards or guidance for the design and operation of AAM infrastructure and facilities; and

"(iii) a description of—

"(I) initial community engagement efforts and responses from the public on the planning and development efforts of eligible entities related to urban air mobility and regional air mobility operations;

"(II) how eligible entities are planning for and encouraging early adoption of urban air mobility and regional air mobility operations;

"(III) what role each level of government plays in the process; and

"(IV) whether such entities recommend specific regulatory or guidance actions be taken by the Secretary or any other head of a Federal agency in order to support such early adoption.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Out of amounts made available under section 106(k) of title 49, United States Code, there are authorized to carry out this section $12,500,000 for each of fiscal years 2023 through 2026, to remain available until expended.

"(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under paragraph (1), the Secretary may retain up to 1 percent for personnel, contracting, and other costs to establish and administer the pilot program under this section.

"(d) TERMINATION.—

"(1) IN GENERAL.—No grant may be awarded under this section after September 30, 2026.

"(2) CONTINUED FUNDING.—Funds authorized to be appropriated pursuant to subsection (c) may be expended after September 30, 2026—

"(A) for grants awarded prior to September 30, 2026; and

"(B) for administrative expenses.

"(e) DEFINITIONS.—In this section:

"(1) ADVANCED AIR MOBILITY; AAM; REGIONAL AIR MOBILITY; URBAN AIR MOBILITY; VERTIPORT.—The terms 'advanced air mobility', 'AAM', 'regional air mobility', 'urban air mobility', and 'vertiport' have the meaning given such terms in section 2(i) of the Advanced Air Mobility Coordination and Leadership Act [Pub. L. 117–203] (49 U.S.C. 40101 note).

"(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) COMMERCIAL AAM ENTITIES.—The term 'commercial AAM entities' means—

"(A) manufacturers of aircraft, avionics, propulsion systems, and air traffic management systems related to AAM;

"(B) intended commercial operators of AAM aircraft and systems; and

"(C) intended commercial operators and developers of vertiports.

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State, local, or Tribal government, including a political subdivision thereof;

"(B) an airport sponsor;

"(C) a transit agency;

"(D) a port authority;

"(E) a metropolitan planning organization; or

"(F) any combination or consortium of the entities described in subparagraphs (A) through (E).

"(5) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' has the meaning given such term in section 5303(b) of title 49, United States Code.

"(6) RURAL AREA.—The term 'rural area' means an area located outside a metropolitan statistical area (as designated by the Office of Management and Budget).

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(8) STATE.—The term 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and Guam.

"(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as conferring upon any person, State, local, or Tribal government the authority to determine the safety of any AAM operation or the feasibility of simultaneous operations by AAM and conventional aircraft within any given area of the national airspace system."

NATIONAL AVIATION PREPAREDNESS PLAN

Pub. L. 117–328, div. Q, §105, Dec. 29, 2022, 136 Stat. 5253, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this section [Dec. 29, 2022], the Secretary of Transportation, in coordination with the Secretary of Health and Human Services, the Secretary of Homeland Security, and the heads of such other Federal departments or agencies as the Secretary of Transportation considers appropriate, shall develop a national aviation preparedness plan for communicable disease outbreaks.

"(b) CONTENTS OF PLAN.—The plan developed under subsection (a) shall, at a minimum—

"(1) provide airports and air carriers with an adaptable and scalable framework with which to align the individual plans, including the emergency response plans, of such airports and air carriers and provide guidance as to each individual plan;

"(2) improve coordination among airports, air carriers, the Transportation Security Administration, U.S. Customs and Border Protection, the Centers for Disease Control and Prevention, other appropriate Federal entities, and State and local governments and health agencies with respect to preparing for and responding to communicable disease outbreaks;

"(3) to the extent practicable, improve coordination among relevant international entities;

"(4) create a process to identify appropriate personal protective equipment, if any, for covered employees to reduce the likelihood of exposure to a covered communicable disease, and thereafter issue recommendations for the equipage of such employees;

"(5) create a process to identify appropriate techniques, strategies, and protective infrastructure, if any, for the cleaning, disinfecting, and sanitization of aircraft and enclosed facilities owned, operated, or used by an air carrier or airport, and thereafter issue recommendations pertaining to such techniques, strategies, and protective infrastructure;

"(6) create a process to evaluate technologies and develop procedures to effectively screen passengers for communicable diseases, including through the use of temperature checks if appropriate, for domestic and international passengers, crew members, and other individuals passing through airport security checkpoints;

"(7) identify and assign Federal agency roles in the deployment of emerging and existing technologies and solutions to reduce covered communicable diseases in the aviation ecosystem;

"(8) clearly delineate the responsibilities of the sponsors and operators of airports, air carriers, and Federal agencies in responding to a covered communicable disease;

"(9) incorporate, as appropriate, the recommendations made by the Comptroller General of the United States to the Secretary of Transportation contained in the report titled 'Air Travel and Communicable Diseases: Comprehensive Federal Plan Needed for U.S. Aviation System's Preparedness', issued in December 2015 (GAO-16-127);

"(10) consider the latest peer-reviewed scientific studies that address communicable disease with respect to air transportation; and

"(11) consider funding constraints.

"(c) CONSULTATION.—When developing the plan under subsection (a), the Secretary of Transportation shall consult with aviation industry and labor stakeholders, including representatives of—

"(1) air carriers, which shall include domestic air carriers consisting of major air carriers, low-cost carriers, regional air carriers and cargo carriers;

"(2) airport operators, including with respect to large hub, medium hub, small hub, and nonhub

commercial service airports;

"(3) labor organizations that represent airline pilots, flight attendants, air carrier airport customer service representatives, and air carrier maintenance, repair, and overhaul workers;

"(4) the labor organization certified under section 7111 of title 5, United States Code, as the exclusive bargaining representative of air traffic controllers of the Federal Aviation Administration;

"(5) the labor organization certified under such section as the exclusive bargaining representative of airway transportation systems specialists and aviation safety inspectors of the Federal Aviation Administration;

"(6) trade associations representing air carriers and airports;

"(7) aircraft manufacturing companies;

"(8) general aviation; and

"(9) such other stakeholders as the Secretary considers appropriate.

"(d) REPORT.—Not later than 30 days after the plan is developed under subsection (a), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes such plan.

"(e) REVIEW OF PLAN.—Not later than 1 year after the date on which a report is submitted under subsection (d), and again not later than 5 years thereafter, the Secretary shall review the plan included in such report and, after consultation with aviation industry and labor stakeholders, make changes by rule as the Secretary considers appropriate.

"(f) GAO STUDY.—Not later than 18 months after the date of enactment of this section [Dec. 29, 2022], the Comptroller General shall conduct and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a study assessing the national aviation preparedness plan developed under subsection (a), including—

"(1) whether such plan—

"(A) is responsive to any previous recommendations relating to aviation preparedness with respect to an outbreak of a covered communicable disease or global health emergency made by the Comptroller General; and

"(B) meets the obligations of the United States under international conventions and treaties; and

"(2) the extent to which the United States aviation system is prepared to respond to an outbreak of a covered communicable disease.

"(g) DEFINITIONS.—In this section:

"(1) COVERED EMPLOYEE.—The term 'covered employee' means—

"(A) an individual whose job duties require interaction with air carrier passengers on a regular and continuing basis and who is an employee of—

"(i) an air carrier;

"(ii) an air carrier contractor;

"(iii) an airport; or

"(iv) the Federal Government; or

"(B) an air traffic controller or systems safety specialist of the Federal Aviation Administration.

"(2) COVERED COMMUNICABLE DISEASE.—The term 'covered communicable disease' means a communicable disease that has the potential to cause a future epidemic or pandemic of infectious disease that would constitute a public health emergency of international concern as declared, after the date of enactment of this section, by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d).

"(3) TEMPERATURE CHECK.—The term 'temperature check' means the screening of an individual for a fever."

ADVANCED AIR MOBILITY WORKING GROUP

Pub. L. 117–203, §2, Oct. 17, 2022, 136 Stat. 2227, as amended by Pub. L. 118–63, title IX, §954, May 16, 2024, 138 Stat. 1376, provided that:

"(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [Oct. 17, 2022], the Secretary of Transportation shall establish an advanced air mobility interagency working group (in this section referred to as the 'working group').

"(b) PURPOSE.—Advanced Air Mobility represents a key area of sustainable transportation and economic growth for the United States and it is imperative that the Federal Government foster leadership and interagency collaboration in the adoption and deployment of this technology. The purpose of the working

group established under this section shall be to plan for and coordinate efforts related to safety, operations, infrastructure, physical security and cybersecurity, and Federal investment necessary for maturation of the AAM ecosystem in the United States in order to—

"(1) grow new transportation options;

"(2) amplify economic activity and jobs;

"(3) advance environmental sustainability and new technologies; and

"(4) support emergency preparedness and competitiveness.

"(c) MEMBERSHIP.—Not later than 60 days after the establishment of the working group under subsection (a), the Secretary of Transportation shall—

"(1) appoint the Under Secretary of Transportation for Policy to chair the working group;

"(2) designate not less than 1 additional representative to participate on the working group from each of—

"(A) the Department of Transportation; and

"(B) the Federal Aviation Administration; and

"(3) invite the heads of each of the following departments or agencies to designate not less than 1 representative to participate on the working group, including—

"(A) the National Aeronautics and Space Administration;

"(B) the Department of Commerce;

"(C) the Department of Defense;

"(D) the Department of Energy;

"(E) the Department of Homeland Security;

"(F) the Department of Agriculture;

"(G) the Department of Labor;

"(H) the Federal Communications Commission; and

"(I) such other departments or agencies as the Secretary of Transportation determines appropriate.

"(d) COORDINATION.—

"(1) IN GENERAL.—The working group shall engage with State, local, and Tribal governments, aviation industry and labor stakeholders, stakeholder associations, and others determined appropriate by the Secretary of Transportation and the Administrator of the Federal Aviation Administration, including—

"(A) manufacturers of aircraft, avionics, propulsion systems, structures, and air traffic management systems;

"(B) commercial air carriers, commercial operators, unmanned aircraft system operators, and general aviation operators, including helicopter operators;

"(C) intended operators of AAM aircraft;

"(D) operators of airports, heliports, and vertiports, and fixed-base operators;

"(E) certified labor representatives for pilots associations, air traffic control specialists employed by the Federal Aviation Administration, aircraft mechanics, and aviation safety inspectors;

"(F) State, local, and Tribal officials or public agencies, with representation from both urban and rural areas;

"(G) first responders;

"(H) groups representing environmental interests;

"(I) electric utilities, energy providers and energy market operators;

"(J) academia with experience working with industry on new technology and commercialization;

"(K) groups representing the telecommunications industry; and

"(L) aviation training and maintenance providers.

"(2) ADVISORY COMMITTEES.—The Secretary of Transportation and Administrator of the Federal Aviation Administration may use such Federal advisory committees as may be appropriate to coordinate with the entities listed in paragraph (1).

"(e) REVIEW AND EXAMINATION.—Not later than 18 months after the working group is established under subsection (a), the working group shall complete a review and examination of, at a minimum—

"(1) the steps that will mature AAM aircraft operations, concepts, and regulatory frameworks beyond initial operations;

"(2) the air traffic management and safety concepts that might be considered as part of evolving AAM to higher levels of traffic density;

"(3) current Federal programs and policies that could be leveraged to advance the maturation of the AAM industry or that may impede such maturation;

"(4) infrastructure, including aviation, cybersecurity, telecommunication, multimodal, and utility infrastructure, necessary to accommodate and support expanded operations of AAM after initial

implementation;

"(5) steps needed to ensure a robust and secure domestic supply chain;

"(6) anticipated benefits associated with AAM aircraft operations, including economic, environmental, emergency and natural disaster response, and transportation benefits;

"(7) the interests, roles, and responsibilities of Federal, State, local, and Tribal governments affected by AAM aircraft operations;

"(8) other factors that may limit the full potential of the AAM industry, including community acceptance or restrictions of such operations; and

"(9) processes and programs that can be leveraged to improve the efficiency of Federal reviews required for infrastructure development, including for electrical capacity projects.

"(f) AAM NATIONAL STRATEGY.—Based on the review and examination performed under subsection (e), the working group shall develop an AAM National Strategy that includes—

"(1) recommendations regarding the safety, operations, security, infrastructure, air traffic concepts, and other Federal investment or actions necessary to support the evolution of early AAM to higher levels of activity and societal benefit;

"(2) recommendations for sharing expertise and data on critical items, including long-term electrification requirements and the needs of cities (from a macro-electrification standpoint) to enable the deployment of AAM; and

"(3) a comprehensive plan detailing the roles and responsibilities of each Federal department and agency, and of State, local, and Tribal governments, necessary to facilitate or implement the recommendations developed under paragraphs (1) and (2).

"(g) REPORT.—Not later than 180 days after the completion of the review and examination performed under subsection (e), the Secretary of Transportation shall submit to the appropriate committees of Congress a report—

"(1) detailing findings from the review and examination performed under subsection (e);

"(2) summarizing any dissenting views and opinions of a participant of the working group described in subsection (c)(3); and

"(3) providing the AAM National Strategy, including the plan and associated recommendations developed under subsection (f).

"(h) EVALUATION OF TERMINATION OF WORKING GROUP.—

"(1) IN GENERAL.—Not later than 30 days after the date on which the working group submits the report required under subsection (g), the Secretary of Transportation shall evaluate and decide whether to terminate the working group and shall notify the appropriate committees of Congress of such decision.

"(2) CONSIDERATIONS FOR TERMINATION OF WORKING GROUP.—In deciding whether to terminate the working group under this subsection, the Secretary, in consultation with the Administrator of the Federal Aviation Administration, shall consider other interagency coordination activities associated with AAM, or other new or novel users of the national airspace system, that could benefit from continued wider interagency coordination.

"(i) DEFINITIONS.—For purposes of this section and section 3 [of Pub. L. 117–203, 136 Stat. 2230, which is not classified to the Code]:

"(1) ADVANCED AIR MOBILITY; AAM.—The terms 'advanced air mobility' and 'AAM' mean a transportation system that is comprised of urban air mobility and regional air mobility using manned or unmanned aircraft in both controlled and uncontrolled airspace.

"(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Commerce, Science, and Transportation of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(3) ELECTRIC AIRCRAFT.—The term 'electric aircraft' means an aircraft with a fully electric or hybrid (fuel and electric) driven propulsion system used for flight.

"(4) FIXED-BASE OPERATOR.—The term 'fixed-base operator' means a business granted the right by an airport sponsor or heliport sponsor to operate on an airport or heliport and provide aeronautical services, including fueling and charging, aircraft hangaring, tiedown and parking, aircraft rental, aircraft maintenance, and flight instruction.

"(5) POWERED-LIFT AIRCRAFT.—The term 'powered-lift aircraft' has the meaning given the term 'powered-lift' in section 1.1 of title 14, Code of Federal Regulations.

"(6) REGIONAL AIR MOBILITY.—The term 'regional air mobility' means the movement of passengers or property by air between 2 points using an airworthy aircraft that—

"(A) has advanced technologies, such as distributed propulsion, vertical take-off and landing,

powered-lift, non-traditional power systems, or autonomous technologies;

"(B) has a maximum takeoff weight of greater than 1,320 pounds; and

"(C) is not urban air mobility.

"(7) STATE.—The term 'State' has the meaning given such term in section 47102 of title 49, United States Code.

"(8) URBAN AIR MOBILITY.—The term 'urban air mobility' means the movement of passengers or property by air between 2 points in different cities or 2 points within the same city using an airworthy aircraft that—

"(A) has advanced technologies, such as distributed propulsion, vertical takeoff and landing, powered lift, nontraditional power systems, or autonomous technologies; and

"(B) has a maximum takeoff weight of greater than 1,320 pounds.

"(9) VERTICAL TAKE-OFF AND LANDING.—The term 'vertical take-off and landing' means an aircraft with lift/thrust units used to generate powered lift and control and with two or more lift/thrust units used to provide lift during vertical take-off or landing.

"(10) VERTIPORT.—The term 'vertiport' means an area of land, water, or a structure, used or intended to be used to support the landing, take-off, taxiing, parking, and storage of powered lift or other aircraft that vertiport design and performance standards established by the Administrator can accommodate."

SAMYA ROSE STUMO NATIONAL AIR GRANT FELLOWSHIP PROGRAM

Pub. L. 116–260, div. V, title I, §131, Dec. 27, 2020, 134 Stat. 2350, as amended by Pub. L. 117–328, div. Q, §102(b)(1), Dec. 29, 2022, 136 Stat. 5250; Pub. L. 118–63, title III, §306(h), May 16, 2024, 138 Stat. 1072, provided that:

"(a) PROGRAM.—

"(1) PROGRAM MAINTENANCE.—The Administrator [of the Federal Aviation Administration] shall maintain within the FAA [Federal Aviation Administration] a program to be known as the 'Samya Rose Stumo National Air Grant Fellowship Program'.

"(2) PROGRAM ELEMENTS.—The Samya Rose Stumo National Air Grant Fellowship Program shall provide support for the fellowship program under subsection (b).

"(3) RESPONSIBILITIES OF ADMINISTRATOR.—

"(A) GUIDELINES.—The Administrator shall establish guidelines related to the activities and responsibilities of air grant fellowships under subsection (b).

"(B) QUALIFICATIONS.—The Administrator shall by regulation prescribe the qualifications required for designation of air grant fellowships under subsection (b).

"(C) AUTHORITY.—In order to carry out the provisions of this section, the Administrator may—

"(i) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with civil service laws;

"(ii) make appointments with respect to temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code;

"(iii) enter into contracts, cooperative agreements, and other transactions without regard to section 6101 of title 41, United States Code;

"(iv) notwithstanding section 1342 of title 31, United States Code, accept donations and voluntary and uncompensated services;

"(v) accept funds from other Federal departments and agencies, including agencies within the FAA, to pay for and add to activities authorized by this section; and

"(vi) promulgate such rules and regulations as may be necessary and appropriate.

"(4) DIRECTOR OF SAMYA ROSE STUMO NATIONAL AIR GRANT FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Administrator shall appoint, as the Director of the Samya Rose Stumo National Air Grant Fellowship Program, a qualified individual who has appropriate administrative experience and knowledge or expertise in fields related to aerospace. The Director shall be appointed and compensated, without regard to the provisions of title 5 governing appointments in the competitive service, at a rate payable under section 5376 of title 5, United States Code.

"(B) DUTIES.—Subject to the supervision of the Administrator, the Director shall administer the Samya Rose Stumo National Air Grant Fellowship Program. In addition to any other duty prescribed by law or assigned by the Administrator, the Director shall—

"(i) cooperate with institutions of higher education that offer degrees in fields related to

aerospace;

"(ii) encourage the participation of graduate and post-graduate students in the Samya Rose Stumo National Air Grant Fellowship Program; and

"(iii) cooperate and coordinate with other Federal activities in fields related to aerospace.

"(b) FELLOWSHIPS.—

"(1) IN GENERAL.—The Administrator shall support a program of fellowships for qualified individuals at the graduate and post-graduate level. The fellowships shall be in fields related to aerospace and awarded pursuant to guidelines established by the Administrator. The Administrator shall strive to ensure equal access for minority and economically disadvantaged students to the program carried out under this paragraph.

"(2) AEROSPACE POLICY FELLOWSHIP.—

"(A) IN GENERAL.—The Administrator shall award aerospace policy fellowships to support the placement of individuals at the graduate level of education in fields related to aerospace in positions with—

"(i) the executive branch of the United States Government; and

"(ii) the legislative branch of the United States Government.

"(B) PLACEMENT PRIORITIES FOR LEGISLATIVE FELLOWSHIPS.—

"(i) IN GENERAL.—In considering the placement of individuals receiving a fellowship for a legislative branch position under subparagraph (A)(ii), the Administrator shall give priority to placement of such individuals in the following:

"(I) Positions in offices of, or with Members on, committees of Congress that have jurisdiction over the FAA.

"(II) Positions in offices of Members of Congress that have a demonstrated interest in aerospace policy.

"(ii) EQUITABLE DISTRIBUTION.—In placing fellows in positions described under clause (i), the Administrator shall ensure that placements are equally distributed among the political parties.

"(C) DURATION.—A fellowship awarded under this paragraph shall be for a period of not more than 1 year.

"(3) RESTRICTION ON USE OF FUNDS.—Amounts available for fellowships under this subsection, including amounts accepted under subsection (a)(3)(C)(v) or appropriated under subsection (d) to carry out this subsection, shall be used only for award of such fellowships and administrative costs of implementing this subsection.

"(c) INTERAGENCY COOPERATION.—Each department, agency, or other instrumentality of the Federal Government that is engaged in or concerned with, or that has authority over, matters relating to aerospace—

"(1) may, upon a written request from the Administrator, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service, or facility that the Administrator deems necessary to carry out any provision of this section;

"(2) shall, upon a written request from the Administrator, furnish any available data or other information that the Administrator deems necessary to carry out any provision of this section; and

"(3) shall cooperate with the FAA and duly authorized officials thereof.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 2021 through 2028 to carry out this section. Amounts appropriated under the preceding sentence shall remain available until expended.

"(e) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director of the Samya Rose Stumo National Air Grant Fellowship Program, appointed pursuant to subsection (a)(4).

"(2) FIELDS RELATED TO AEROSPACE.—The term 'fields related to aerospace' means any discipline or field that is concerned with, or likely to improve, the development, assessment, operation, safety, or repair of aircraft and other airborne objects and systems, including the following:

"(A) Aerospace engineering.

"(B) Aerospace physiology.

"(C) Aeronautical engineering.

"(D) Airworthiness engineering.

"(E) Electrical engineering.

"(F) Human factors.

"(G) Software engineering.

"(H) Systems engineering."

EMERGING SAFETY TRENDS IN AVIATION

Pub. L. 116–260, div. V, title I, §132, Dec. 27, 2020, 134 Stat. 2352, provided that:

"(a) GENERAL.—Not later than 180 days after the date of enactment of this title [Dec. 27, 2020], the Administrator shall enter into an agreement with the Transportation Research Board for the purposes of developing an annual report identifying, categorizing, and analyzing emerging safety trends in air transportation.

"(b) FACTORS.—The emerging safety trends report should be based on the following data:

"(1) The National Transportation Safety Board's investigation of accidents under section 1132 of title 49, United States Code.

"(2) The Administrator's investigations of accidents and incidents under section 40113 of title 49, United States Code.

"(3) Information provided by air operators pursuant to safety management systems.

"(4) International investigations of accidents and incidents, including reports, data, and information from foreign authorities and ICAO.

"(5) Other sources deemed appropriate for establishing emerging safety trends in the aviation sector, including the FAA's annual safety culture assessment required under subsection (c).

"(c) SAFETY CULTURE ASSESSMENT.—The Administrator shall conduct an annual safety culture assessment through fiscal year 2031, which shall include surveying all employees in the FAA's Aviation Safety organization (AVS) to determine the employees' collective opinion regarding, and to assess the health of, AVS' safety culture and implementation of any voluntary safety reporting program.

"(d) EXISTING REPORTING SYSTEMS.—The Executive Director of the Transportation Research Board, in consultation with the Secretary of Transportation and Administrator, may take into account and, as necessary, harmonize data and sources from existing reporting systems within the Department of Transportation and FAA.

"(e) BIENNIAL REPORT TO CONGRESS.—One year after the Administrator enters into the agreement with the Transportation Research Board as set forth in subsection (a), and biennially thereafter through fiscal year 2031, the Executive Director, in consultation with the Secretary and Administrator, shall submit to the congressional committees of jurisdiction a report identifying the emerging safety trends in air transportation."

[For definitions of terms used in section 132 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note below.]

FAA LEADERSHIP ON CIVIL SUPERSONIC AIRCRAFT

Pub. L. 115–254, div. B, title I, §181, Oct. 5, 2018, 132 Stat. 3230, as amended by Pub. L. 118–63, title XI, §1110, May 16, 2024, 138 Stat. 1418, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall exercise leadership in the creation of Federal and international policies, regulations, standards, and recommended practices relating to the certification and safe and efficient operation of civil supersonic aircraft.

"(b) EXERCISE OF LEADERSHIP.—In carrying out subsection (a), the Administrator shall—

"(1) consider the needs of the aerospace industry and other stakeholders when creating policies, regulations, and standards that enable the safe commercial deployment of civil supersonic aircraft technology and the safe and efficient operation of civil supersonic aircraft; and

"(2) obtain the input of aerospace industry stakeholders regarding—

"(A) the appropriate regulatory framework and timeline for permitting the safe and efficient operation of civil supersonic aircraft within United States airspace, including updating or modifying existing regulations on such operation;

"(B) issues related to standards and regulations for the type certification and safe operation of civil supersonic aircraft, including noise certification, including—

"(i) the operational differences between subsonic aircraft and supersonic aircraft;

"(ii) costs and benefits associated with landing and takeoff noise requirements for civil supersonic aircraft, including impacts on aircraft emissions;

"(iii) public and economic benefits of the operation of civil supersonic aircraft and associated aerospace industry activity; and

"(iv) challenges relating to ensuring that standards and regulations aimed at relieving and protecting the public health and welfare from aircraft noise and sonic booms are economically reasonable, technologically practicable, and appropriate for civil supersonic aircraft; and

"(C) other issues identified by the Administrator or the aerospace industry that must be addressed to enable the safe commercial deployment and safe and efficient operation of civil supersonic aircraft.

"(c) INTERNATIONAL LEADERSHIP.—The Administrator, in the appropriate international forums, shall take actions that—

"(1) demonstrate global leadership under subsection (a);

"(2) address the needs of the aerospace industry identified under subsection (b); and

"(3) protect the public health and welfare.

"(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report detailing—

"(1) the Administrator's actions to exercise leadership in the creation of Federal and international policies, regulations, and standards relating to the certification and safe and efficient operation of civil supersonic aircraft;

"(2) planned, proposed, and anticipated actions to update or modify existing policies and regulations related to civil supersonic aircraft, including those identified as a result of industry consultation and feedback; and

"(3) a timeline for any actions to be taken to update or modify existing policies and regulations related to civil supersonic aircraft.

"(e) LONG-TERM REGULATORY REFORM.—

"(1) NOISE STANDARDS.—Not later than March 31, 2020, the Administrator shall issue a notice of proposed rulemaking to revise part 36 of title 14, Code of Federal Regulations, to include supersonic aircraft in the applicability of such part. The proposed rule shall include necessary definitions, noise standards for landing and takeoff, and noise test requirements that would apply to a civil supersonic aircraft.

"(2) SPECIAL FLIGHT AUTHORIZATIONS.—Not later than December 31, 2019, the Administrator shall issue a notice of proposed rulemaking to revise appendix B of part 91 of title 14, Code of Federal Regulations, to modernize the application process for a person applying to operate a civil aircraft at supersonic speeds for the purposes stated in that rule.

"(f) NEAR-TERM CERTIFICATION OF SUPERSONIC CIVIL AIRCRAFT.—

"(1) IN GENERAL.—If a person submits an application requesting type certification of a civil supersonic aircraft pursuant to part 21 of title 14, Code of Federal Regulations, before the Administrator promulgates a final rule amending part 36 of title 14, Code of Federal Regulations, in accordance with subsection (e)(1), the Administrator shall, not later than 18 months after having received such application, issue a notice of proposed rulemaking applicable solely for the type certification, inclusive of the aircraft engines, of the supersonic aircraft design for which such application was made.

"(2) CONTENTS.—A notice of proposed rulemaking described in paragraph (1) shall—

"(A) address safe operation of the aircraft type, including development and flight testing prior to type certification;

"(B) address manufacturing of the aircraft;

"(C) address continuing airworthiness of the aircraft;

"(D) specify landing and takeoff noise standards for that aircraft type that the Administrator considers appropriate, practicable, and consistent with section 44715 of title 49, United States Code; and

"(E) consider differences between subsonic and supersonic aircraft including differences in thrust requirements at equivalent gross weight, engine requirements, aerodynamic characteristics, operational characteristics, and other physical properties.

"(3) NOISE AND PERFORMANCE DATA.—The requirement of the Administrator to issue a notice of proposed rulemaking under paragraph (1) shall apply only if an application contains sufficient aircraft noise and performance data as the Administrator finds necessary to determine appropriate noise standards and operating limitations for the aircraft type consistent with section 44715 of title 49, United States Code.

"(4) FINAL RULE.—Not later than 18 months after the end of the public comment period provided in the notice of proposed rulemaking required under paragraph (1), the Administrator shall publish in the Federal Register a final rule applying solely to the aircraft model submitted for type certification.

"(5) REVIEW OF RULES OF CIVIL SUPERSONIC FLIGHTS.—Beginning December 31, 2020, and every 2 years thereafter, the Administrator shall review available aircraft noise and performance data, and consult with heads of appropriate Federal agencies, to determine whether section 91.817 of title 14, Code of Federal Regulations, and Appendix B of part 91 of title 14, Code of Federal Regulations, may be amended, consistent with section 44715 of title 49, United States Code, to permit supersonic flight of civil aircraft over land in the United States.

"(6) IMPLEMENTATION OF NOISE STANDARDS.—The portion of the regulation issued by the Administrator of the Federal Aviation Administration titled 'Revision of General Operating and Flight Rules' and published in the Federal Register on August 18, 1989 (54 Fed. Reg. 34284) that restricts operation of civil aircraft at a true flight Mach number greater than 1 shall have no force or effect beginning

on the date on which the Administrator publishes in the Federal Register a final rule specifying sonic boom noise standards for civil supersonic aircraft.

"(g) ADDITIONAL REPORTS.—

"(1) INITIAL PROGRESS REPORT.—Not later than 1 year after the date of enactment of this subsection [May 16, 2024], the Administrator shall submit to the appropriate committees of Congress a report describing—

"(A) the progress of the actions described in subsection (d)(1);

"(B) any planned, proposed, or anticipated action to update or modify existing policies and regulations related to civil supersonic aircraft, including such actions identified as a result of stakeholder consultation and feedback (such as landing and takeoff noise); and

"(C) any other information determined appropriate by the Administrator.

"(2) SUBSEQUENT REPORT.—Not later than 2 years after the date on which the Administrator submits the initial progress report under paragraph (1), the Administrator shall update the report described in paragraph (1) and submit to the appropriate committees of Congress such report."

AIRCRAFT AIR QUALITY

Pub. L. 118–63, title III, §362, May 16, 2024, 138 Stat. 1123, provided that:

"(a) DEADLINE FOR 2018 STUDY ON BLEED AIR.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall complete the requirements of section 326 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 40101 note) and submit to the appropriate Congressional committees [probably means "appropriate committees of Congress", Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] the following:

"(1) The completed study required under subsection (c) of such section.

"(2) The report on the feasibility, efficacy, and cost-effectiveness of certification and installation of systems to evaluate bleed air quality required under subsection (d) of such section.

"(b) REPORTING SYSTEM FOR SMOKE OR FUME EVENTS ONBOARD COMMERCIAL AIRCRAFT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall develop a standardized submission system for air carrier employees to voluntarily report fume or smoke events onboard passenger-carrying aircraft operating under part 121 of title 14, Code of Federal Regulations.

"(2) COLLECTED INFORMATION.—In developing the system under paragraph (1), the Administrator shall ensure that the system includes a method for submitting information about a smoke or fume event that allows for the collection of the following information, if applicable:

"(A) Identification of the flight number, type, and registration of the aircraft.

"(B) The date of the reported fume or smoke event onboard the aircraft.

"(C) Description of fumes or smoke in the aircraft, including the nature, intensity, and visual consistency or smell (if any).

"(D) The location of the fumes or smoke in the aircraft.

"(E) The source (if discernible) of the fumes or smoke in the aircraft.

"(F) The phase of flight during which fumes or smoke first became present.

"(G) The duration of the fume or smoke event.

"(H) Any required onboard medical attention for passengers or crew members.

"(I) Any additional factors as determined appropriate by the Administrator or crew member submitting a report.

"(3) GUIDELINES FOR SUBMISSION.—The Administrator shall issue guidelines on how to submit the information described in paragraph (2).

"(4) CONFIRMATION OF SUBMISSION.—Upon submitting the information described in paragraph (2), the submitting party shall receive a duplicate record of the submission and confirmation of receipt.

"(5) USE OF INFORMATION.—The Administrator—

"(A) may not publicly publish any—

"(i) information specific to a fume or smoke event that is submitted pursuant to this section; and

"(ii) any [sic] information that may be used to identify the party submitting such information;

"(B) may only publicly publish information submitted pursuant to this section that has been aggregated if—

"(i) such information has been validated; and

"(ii) the availability of such information would improve aviation safety;

"(C) shall maintain a database of such information;

"(D) at the request of an air carrier, shall provide to such air carrier any information submitted pursuant to this section that is relevant to such air carrier, except any information that may be used to identify the party submitting such information;

"(E) may not, without validation, assume that information submitted pursuant to this section is accurate for the purposes of initiating rulemaking or taking an enforcement action;

"(F) may use information submitted pursuant to this section to inform the oversight of the safety management system of an air carrier; and

"(G) may use information submitted pursuant to this section for the purpose of performing a study or supporting a study sponsored by the Administrator.

"(c) NATIONAL ACADEMIES STUDY ON OVERALL CABIN AIR QUALITY.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator shall seek to enter into the appropriate arrangements with the National Academies to conduct a study and issue recommendations to be made publicly available pertaining to cabin air quality and any risk of, and potential for, persistent and accidental fume or smoke events onboard a passenger-carrying aircraft operating under part 121 of title 14, Code of Federal Regulations.

"(2) SCOPE.—In carrying out a study pursuant to paragraph (1), the National Academies shall examine—

"(A) the report issued pursuant to section 326 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 40101 note) and any identified assumptions or gaps described in such report;

"(B) the information collected through the system established pursuant to subsection (b);

"(C) any health risks or impacts of fume or smoke events on flight crews, including flight attendants and pilots, and passengers onboard aircraft operating under part 121 of title 14, Code of Federal Regulations;

"(D) instances of persistent or regularly occurring (as determined by the National Academies) fume or smoke events in such aircraft;

"(E) instances of accidental, unexpected, or irregularly occurring (as determined by the National Academies) fume or smoke events on such aircraft, including whether such accidental events are more frequent during various phases of operations, including ground operations, taxiing, take off, cruise, and landing;

"(F) the air contaminants present during the instances described in subparagraphs (D) and (E) and the probable originating materials of such air contaminants;

"(G) the frequencies, durations, and likely causes of the instances described in subparagraphs (D) and (E); and

"(H) any additional data on fume or smoke events, as determined appropriate by the National Academies.

"(3) RECOMMENDATIONS.—As a part of the study conducted under paragraph (1), the National Academies shall provide recommendations—

"(A) that, at minimum, address how to—

"(i) improve overall cabin air quality of passenger-carrying aircraft;

"(ii) improve the detection, accuracy, and reporting of fume or smoke events; and

"(iii) reduce the frequency and impact of fume or smoke events; and

"(B) to establish or update standards, guidelines, or regulations that could help achieve the recommendations described in subparagraph (A).

"(4) REPORT TO CONGRESS.—Not later than 1 month after the completion of the study conducted under paragraph (1), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a copy of such study and recommendations submitted with such study.

"(d) RULEMAKING.—Not later than 1 year after the completion of the study conducted under subsection (c), the Administrator may, as appropriate to address the safety risks identified as a result of the actions taken pursuant to this section, issue a notice of proposed rulemaking to establish requirements for scheduled passenger air carrier operations under part 121 of title 14, Code of Federal Regulations that may include the following:

"(1) Training for flight attendants, pilots, aircraft maintenance technicians, airport first responders, and emergency responders on how to respond to incidents on aircraft involving fume or smoke events.

"(2) Required actions and procedures for air carriers to take after receiving a report of an incident involving a fume or smoke event in which at least 1 passenger or crew member required medical attention as a result of such incident.

"(3) Installation onboard aircraft of detectors and other air quality monitoring equipment.

"(e) FUME OR SMOKE EVENT DEFINED.—In this section, the term 'fume or smoke event' means an event in which there is an atypical noticeable or persistent presence of fumes or air contaminants in the cabin, including, at a minimum, a smoke event."

["Appropriate committees of Congress", as used in section 362 of Pub. L. 118–63, set out above, defined as the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives, see section 2 of Pub. L. 118–63, set out as a note below. Section 2 of Pub. L. 118–63 does not define the term "appropriate Congressional committees".]

Pub. L. 115–254, div. B, title III, §326, Oct. 5, 2018, 132 Stat. 3271, provided that:

"(a) EDUCATIONAL MATERIALS.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall, in consultation with relevant stakeholders, establish and make available on a publicly available Internet website of the Administration, educational materials for flight attendants, pilots, and aircraft maintenance technicians on how to respond to incidents on board aircraft involving smoke or fumes.

"(b) REPORTING OF INCIDENTS OF SMOKE OR FUMES ON BOARD AIRCRAFT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall, in consultation with relevant stakeholders, issue guidance for flight attendants, pilots, and aircraft maintenance technicians to report incidents of smoke or fumes on board an aircraft operated by a commercial air carrier and with respect to the basis on which commercial air carriers shall report such incidents through the Service Difficulty Reporting System.

"(c) RESEARCH TO DEVELOP TECHNIQUES TO MONITOR BLEED AIR QUALITY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall commission a study by the Airliner Cabin Environment Research Center of Excellence—

"(1) to identify and measure the constituents and levels of constituents resulting from bleed air in the cabins of a representative set of commercial aircraft in operation of the United States;

"(2) to assess the potential health effects of such constituents on passengers and cabin and flight deck crew;

"(3) to identify technologies suitable to provide reliable and accurate warning of bleed air contamination, including technologies to effectively monitor the aircraft air supply system when the aircraft is in flight; and

"(4) to identify potential techniques to prevent fume events.

"(d) REPORT REQUIRED.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the feasibility, efficacy, and cost-effectiveness of certification and installation of systems to evaluate bleed air quality.

"(e) PILOT PROGRAM.—The FAA may conduct a pilot program to evaluate the effectiveness of technologies identified in subsection (c)."

PERFORMANCE-BASED STANDARDS

Pub. L. 115–254, div. B, title III, §329, Oct. 5, 2018, 132 Stat. 3272, provided that: "The Administrator [of the Federal Aviation Administration] shall, to the maximum extent possible and consistent with Federal law, and based on input by the public, ensure that regulations, guidance, and policies issued by the FAA on and after the date of enactment of this Act [Oct. 5, 2018] are issued in the form of performance-based standards, providing an equal or higher level of safety."

RETURN ON INVESTMENT REPORT

Pub. L. 115–254, div. B, title V, §503(a)–(d), Oct. 5, 2018, 132 Stat. 3352, 3353, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], and annually thereafter until the date that each NextGen [Next Generation Air Transportation System] program has a positive return on investment, the Administrator [of the Federal Aviation Administration] shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the status of each NextGen program, including the most recent NextGen priority list under subsection (c).

"(b) CONTENTS.—The report under subsection (a) shall include, for each NextGen program—

"(1) an estimate of the date the program will have a positive return on investment;

"(2) an explanation for any delay in the delivery of expected benefits from previously published estimates on delivery of such benefits, in implementing or utilizing the program;

"(3) an estimate of the completion date;

"(4) an assessment of the long-term and near-term user benefits of the program for—

"(A) the Federal Government; and

"(B) the users of the national airspace system; and

"(5) a description of how the program directly contributes to a safer and more efficient air traffic control system.

"(c) NEXTGEN PRIORITY LIST.—Based on the assessment under subsection (a), the Administrator shall—

"(1) develop, in coordination with the NextGen Advisory Committee and considering the need for a balance between long-term and near-term user benefits, a prioritization of the NextGen programs;

"(2) annually update the priority list under paragraph (1); and

"(3) prepare budget submissions to reflect the current status of NextGen programs and projected returns on investment for each NextGen program.

"(d) DEFINITION OF RETURN ON INVESTMENT.—In this section, the term 'return on investment' means the cost associated with technologies that are required by law or policy as compared to the financial benefits derived from such technologies by a government or a user of airspace."

HUMAN FACTORS

Pub. L. 115–254, div. B, title V, §507, Oct. 5, 2018, 132 Stat. 3354, provided that:

"(a) IN GENERAL.—In order to avoid having to subsequently modify products and services developed as a part of NextGen [Next Generation Air Transportation System], the Administrator [of the Federal Aviation Administration] shall—

"(1) recognize and incorporate, in early design phases of all relevant NextGen programs, the human factors and procedural and airspace implications of stated goals and associated technical changes; and

"(2) ensure that a human factors specialist, separate from the research and certification groups, is directly involved with the NextGen approval process.

"(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the progress made toward implementing the requirements under subsection (a)."

PROGRAMMATIC RISK MANAGEMENT

Pub. L. 115–254, div. B, title V, §508, Oct. 5, 2018, 132 Stat. 3355, provided that: "To better inform the [Federal Aviation] Administration's decisions regarding the prioritization of efforts and allocation of resources for NextGen [Next Generation Air Transportation System], the Administrator [of the Federal Aviation Administration] shall—

"(1) solicit input from specialists in probability and statistics to identify and prioritize the programmatic and implementation risks to NextGen; and

"(2) develop a method to manage and mitigate the risks identified in paragraph (1)."

PART 91 REVIEW, REFORM, AND STREAMLINING

Pub. L. 115–254, div. B, title V, §513, Oct. 5, 2018, 132 Stat. 3357, provided that:

"(a) ESTABLISHMENT OF TASK FORCE.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall establish a task force comprised of representatives of the general aviation industry who regularly perform part 91 operations, labor unions (including those representing FAA aviation safety inspectors and FAA aviation safety engineers), manufacturers, and the Government to—

"(1) conduct an assessment of the FAA oversight and authorization processes and requirements for aircraft under part 91; and

"(2) make recommendations to streamline the applicable authorization and approval processes, improve safety, and reduce regulatory cost burdens and delays for the FAA and aircraft owners and operators who operate pursuant to part 91.

"(b) CONTENTS.—In conducting the assessment and making recommendations under subsection (a), the task force shall consider—

"(1) process reforms and improvements to allow the FAA to review and approve applications in a fair and timely fashion;

"(2) the appropriateness of requiring an authorization for each experimental aircraft rather than using a

broader all-makes-and-models approach;

"(3) ways to improve the timely response to letters of authorization applications for aircraft owners and operators who operate pursuant to part 91, including setting deadlines and granting temporary or automatic authorizations if deadlines are missed by the FAA;

"(4) methods for enhancing the effective use of delegation systems;

"(5) methods for training the FAA's field office employees in risk-based and safety management system oversight; and

"(6) such other matters related to streamlining part 91 authorization and approval processes as the task force considers appropriate.

"(c) REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the task force's assessment.

"(2) CONTENTS.—The report shall include an explanation of how the Administrator will—

"(A) implement the recommendations of the task force;

"(B) measure progress in implementing the recommendations; and

"(C) measure the effectiveness of the implemented recommendations.

"(d) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 18 months after the date of enactment of this Act, the Administrator shall implement the recommendations made under this section.

"(e) DEFINITION.—In this section, the term 'part 91' means part 91 of title 14, Code of Federal Regulations.

"(f) APPLICABLE LAW.—Public Law 92–463 [Federal Advisory Committee Act, see 5 U.S.C. 1001 et seq.] shall not apply to the task force.

"(g) SUNSET.—The task force shall terminate on the day the Administrator submits the report required under subsection (c)."

PILOTS SHARING FLIGHT EXPENSES WITH PASSENGERS

Pub. L. 115–254, div. B, title V, §515, Oct. 5, 2018, 132 Stat. 3358, provided that:

"(a) GUIDANCE.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall make publicly available, in a clear and concise format, advisory guidance that describes how a pilot may share flight expenses with passengers in a manner consistent with Federal law, including regulations.

"(2) EXAMPLES INCLUDED.—The guidance shall include examples of—

"(A) flights for which pilots and passengers may share expenses;

"(B) flights for which pilots and passengers may not share expenses;

"(C) the methods of communication that pilots and passengers may use to arrange flights for which expenses are shared; and

"(D) the methods of communication that pilots and passengers may not use to arrange flights for which expenses are shared.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date on which guidance is made publicly available under subsection (a), the Comptroller General of the United States shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report analyzing Federal policy with respect to pilots sharing flight expenses with passengers.

"(2) EVALUATIONS INCLUDED.—The report submitted under paragraph (1) shall include an evaluation of—

"(A) the rationale for such Federal policy;

"(B) safety and other concerns related to pilots sharing flight expenses with passengers; and

"(C) benefits related to pilots sharing flight expenses with passengers."

GEOSYNTHETIC MATERIALS

Pub. L. 115–254, div. B, title V, §525, Oct. 5, 2018, 132 Stat. 3364, provided that: "The Administrator [of the Federal Aviation Administration], to the extent practicable, shall encourage the use of durable, resilient, and sustainable materials and practices, including the use of geosynthetic materials and other innovative technologies, in carrying out the activities of the Federal Aviation Administration."

TREATMENT OF MULTIYEAR LESSEES OF LARGE AND TURBINE-POWERED MULTIENGINE AIRCRAFT

Pub. L. 115–254, div. B, title V, §550, Oct. 5, 2018, 132 Stat. 3378, provided that: "The Secretary of Transportation shall revise such regulations as may be necessary to ensure that multiyear lessees and owners of large and turbine-powered multiengine aircraft are treated equally for purposes of joint ownership policies of the FAA."

ENHANCED SURVEILLANCE CAPABILITY

Pub. L. 115–254, div. B, title V, §562, Oct. 5, 2018, 132 Stat. 3384, provided that: "Not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall identify and implement a strategy to—

"(1) advance near-term and long-term uses of enhanced surveillance systems, such as space-based ADS–B [automatic dependent surveillance-broadcast], within United States airspace or international airspace delegated to the United States;

"(2) exercise leadership on setting global standards for the separation of aircraft in oceanic airspace by working with—

"(A) foreign counterparts of the Administrator in the International Civil Aviation Organization and its subsidiary organizations;

"(B) other international organizations and fora; and

"(C) the private sector; and

"(3) ensure the participation of the [Federal Aviation] Administration in the analysis of trials of enhanced surveillance systems, such as space-based ADS–B, performed by foreign air navigation service providers in North Atlantic airspace."

AVIATION WORKFORCE DEVELOPMENT PROGRAMS

Pub. L. 115–254, div. B, title VI, §625, Oct. 5, 2018, 132 Stat. 3405, as amended by Pub. L. 116–92, div. A, title XVII, §1743(a), Dec. 20, 2019, 133 Stat. 1842; Pub. L. 118–63, title IV, §440(a), May 16, 2024, 138 Stat. 1179, which provided for grants for projects to support the education and recruitment of future aircraft pilots and aviation maintenance and manufacturing technical workers, was transferred and is set out as a note under section 40132 of this title.

COMMUNITY AND TECHNICAL COLLEGE CENTERS OF EXCELLENCE IN SMALL UNMANNED AIRCRAFT SYSTEM TECHNOLOGY TRAINING

Pub. L. 115–254, div. B, title VI, §631, Oct. 5, 2018, 132 Stat. 3407, provided that:

"(a) DESIGNATION.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation, in consultation with the Secretary of Education and the Secretary of Labor, shall establish a process to designate consortia of public, 2-year institutions of higher education as Community and Technical College Centers of Excellence in Small Unmanned Aircraft System Technology Training (in this section referred to as the 'Centers of Excellence').

"(b) FUNCTIONS.—A Center of Excellence designated under subsection (a) shall have the capacity to train students for career opportunities in industry and government service related to the use of small unmanned aircraft systems.

"(c) EDUCATION AND TRAINING REQUIREMENTS.—In order to be designated as a Center of Excellence under subsection (a), a consortium shall be able to address education and training requirements associated with various types of small unmanned aircraft systems, components, and related equipment, including with respect to—

"(1) multirotor and fixed-wing small unmanned aircraft;

"(2) flight systems, radio controllers, components, and characteristics of such aircraft;

"(3) routine maintenance, uses and applications, privacy concerns, safety, and insurance for such aircraft;

"(4) hands-on flight practice using small unmanned aircraft systems and computer simulator training;

"(5) use of small unmanned aircraft systems in various industry applications and local, State, and Federal government programs and services, including in agriculture, law enforcement, monitoring oil and gas pipelines, natural disaster response and recovery, fire and emergency services, and other emerging areas;

"(6) Federal policies concerning small unmanned aircraft;

"(7) dual credit programs to deliver small unmanned aircraft training opportunities to secondary school students; or

"(8) training with respect to sensors and the processing, analyzing, and visualizing of data collected by small unmanned aircraft.

"(d) COLLABORATION.—Each Center of Excellence shall seek to collaborate with institutions participating in the Alliance for System Safety of UAS through Research Excellence of the Federal Aviation Administration and with the test ranges defined under section 44801 of title 49, United States Code, as added by this Act.

"(e) INSTITUTION OF HIGHER EDUCATION.—In this section, the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

COLLEGIATE TRAINING INITIATIVE PROGRAM FOR UNMANNED AIRCRAFT SYSTEMS

Pub. L. 115–254, div. B, title VI, §632, Oct. 5, 2018, 132 Stat. 3408, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall establish a collegiate training initiative program relating to unmanned aircraft systems by making new agreements or continuing existing agreements with institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) under which the institutions prepare students for careers involving unmanned aircraft systems. The Administrator may establish standards for the entry of such institutions into the program and for their continued participation in the program.

"(b) UNMANNED AIRCRAFT SYSTEM DEFINED.—In this section, the term 'unmanned aircraft system' has the meaning given that term by section 44801 of title 49, United States Code, as added by this Act."

CYBER TESTBED

Pub. L. 115–254, div. B, title VII, §731, Oct. 5, 2018, 132 Stat. 3411, provided that: "Not later than 6 months after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall develop an integrated Cyber Testbed for research, development, evaluation, and validation of air traffic control modernization technologies, before they enter the national airspace system, as being compliant with FAA data security regulations. The Cyber Testbed shall be part of an integrated research and development test environment capable of creating, identifying, defending, and solving cybersecurity-related problems for the national airspace system. This integrated test environment shall incorporate integrated test capacities within the FAA related to the national airspace system and NextGen."

MITIGATION OF OPERATIONAL RISKS POSED TO CERTAIN MILITARY AIRCRAFT BY AUTOMATIC DEPENDENT SURVEILLANCE-BROADCAST EQUIPMENT

Pub. L. 115–232, div. A, title X, §1046, Aug. 13, 2018, 132 Stat. 1959, provided that:

"(a) IN GENERAL.—The Secretary of Transportation may not—

"(1) directly or indirectly require the installation of automatic dependent surveillance-broadcast (hereinafter in this section referred to as 'ADS-B') equipment on fighter aircraft, bomber aircraft, or other special mission aircraft owned or operated by the Department of Defense;

"(2) deny or reduce air traffic control services in United States airspace or international airspace delegated to the United States to any aircraft described in paragraph (1) on the basis that such aircraft is not equipped with ADS-B equipment; or

"(3) restrict or limit airspace access for aircraft described in paragraph (1) on the basis such aircraft are not equipped with ADS-B equipment.

"(b) TERMINATION.—Subsection (a) shall cease to be effective on the date that the Secretary of Transportation and the Secretary of Defense jointly submit to the appropriate congressional committees notice that the Secretaries have entered into a memorandum of agreement or other similar agreement providing that fighter aircraft, bomber aircraft, and other special mission aircraft owned or operated by the Department of Defense that are not equipped or not yet equipped with ADS-B equipment will be reasonably accommodated for safe operations in the National Airspace System and provided with necessary air traffic control services.

"(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

"(1) vest in the Secretary of Defense any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration under title 49, United States Code, or any other provision of law;

"(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary of Defense under title 10, United States Code, or any other provision of law; or

"(3) limit the authority or discretion of the Secretary of Transportation or the Administrator of the Federal Aviation Administration to operate air traffic control services to ensure the safe minimum separation of aircraft in flight and the efficient use of airspace.

"(d) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall provide to the Secretary of Transportation notification of any aircraft the Secretary of Defense designates as a special mission aircraft pursuant to subsection (e)(3).

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate congressional committees' means the congressional defense committees, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) The term 'air traffic control services' means services used for the monitoring, directing, control, and guidance of aircraft or flows of aircraft and for the safe conduct of flight, including communications, navigation, and surveillance services and provision of aeronautical information.

"(3) The term 'special mission aircraft' means an aircraft the Secretary of Defense designates for a unique mission to which ADS-B equipment creates a unique risk."

COLLABORATION BETWEEN FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF DEFENSE ON UNMANNED AIRCRAFT SYSTEMS

Pub. L. 115–91, div. A, title X, §1092, Dec. 12, 2017, 131 Stat. 1610, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

UNMANNED AIRCRAFT JOINT TRAINING AND USAGE PLAN

Pub. L. 113–66, div. A, title X, §1075(a), Dec. 26, 2013, 127 Stat. 870, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

INTERAGENCY COLLABORATION

Pub. L. 112–239, div. A, title X, §1052(b), (c), Jan. 2, 2013, 126 Stat. 1935, 1936, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

PROHIBITION ON PARTICIPATION IN EUROPEAN UNION'S EMISSIONS TRADING SCHEME

Pub. L. 112–200, Nov. 27, 2012, 126 Stat. 1477, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'European Union Emissions Trading Scheme Prohibition Act of 2011'.

"SEC. 2. PROHIBITION ON PARTICIPATION IN THE EUROPEAN UNION'S EMISSIONS TRADING SCHEME.

"(a) IN GENERAL.—The Secretary of Transportation shall prohibit an operator of a civil aircraft of the United States from participating in the emissions trading scheme unilaterally established by the European Union in EU Directive 2003/87/EC of October 13, 2003, as amended, in any case in which the Secretary determines the prohibition to be, and in a manner that is, in the public interest, taking into account—

"(1) the impacts on U.S. consumers, U.S. carriers, and U.S. operators;

"(2) the impacts on the economic, energy, and environmental security of the United States; and

"(3) the impacts on U.S. foreign relations, including existing international commitments.

"(b) PUBLIC HEARING.—After determining that a prohibition under this section may be in the public interest, the Secretary must hold a public hearing at least 30 days before imposing any prohibition.

"(c) REASSESSMENT OF DETERMINATION OF PUBLIC INTEREST.—The Secretary—

"(1) may reassess a determination under subsection (a) that a prohibition under that subsection is in the public interest at any time after making such a determination; and

"(2) shall reassess such a determination after—

"(A) any amendment by the European Union to the EU Directive referred to in subsection (a); or

"(B) the adoption of any international agreement pursuant to section 3(1). [sic]

"(C) enactment of a public law or issuance of a final rule after formal agency rulemaking, in the United State[s] to address aircraft emissions.

"SEC. 3. NEGOTIATIONS.

"(a) IN GENERAL.—The Secretary of Transportation, the Administrator of the Federal Aviation Administration, and other appropriate officials of the United States Government—

"(1) should, as appropriate, use their authority to conduct international negotiations, including using their authority to conduct international negotiations to pursue a worldwide approach to address aircraft emissions, including the environmental impact of aircraft emissions; and

"(2) shall, as appropriate and except as provided in subsection (b), take other actions under existing authorities that are in the public interest necessary to hold operators of civil aircraft of the United States

harmless from the emissions trading scheme referred to under section 2.

"(b) EXCLUSION OF PAYMENT OF TAXES AND PENALTIES.—Actions taken under subsection (a)(2) may not include the obligation or expenditure of any amounts in the Airport and Airway Trust Fund established under section 9905 [9502] of the Internal Revenue Code of 1986 [26 U.S.C. 9502], or amounts otherwise made available to the Department of Transportation or any other Federal agency pursuant to appropriations Acts, for the payment of any tax or penalty imposed on an operator of civil aircraft of the United States pursuant to the emissions trading scheme referred to under section 2.

"SEC. 4. DEFINITION OF CIVIL AIRCRAFT OF THE UNITED STATES.

"In this Act, the term 'civil aircraft of the United States' has the meaning given the term under section 40102(a) of title 49, United States Code."

NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION

Pub. L. 112–95, title II, §§201, 202, 211–222, Feb. 14, 2012, 126 Stat. 36, 44–54, as amended by Pub. L. 114–328, div. A, title III, §341(b), Dec. 23, 2016, 130 Stat. 2081; Pub. L. 115–254, div. B, title V, §§503(e), 522(a), Oct. 5, 2018, 132 Stat. 3353, 3363, provided that:

"SEC. 201. DEFINITIONS.

"In this title [amending sections 106, 40102, 40110, and 40113 of this title, enacting provisions set out as notes under this section and sections 106 and 44506 of this title, and amending provisions set out as notes under this section], the following definitions apply:

"(1) NEXTGEN.—The term 'NextGen' means the Next Generation Air Transportation System.

"(2) ADS–B.—The term 'ADS–B' means automatic dependent surveillance-broadcast.

"(3) ADS–B OUT.—The term 'ADS–B Out' means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft.

"(4) ADS–B IN.—The term 'ADS–B In' means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft as well as the ability of the aircraft to receive information from other transmitting aircraft and the ground infrastructure.

"(5) RNAV.—The term 'RNAV' means area navigation.

"(6) RNP.—The term 'RNP' means required navigation performance.

"[SEC. 202. REPEALED. PUB. L. 115–254, DIV. B, TITLE V, §503(E), OCT. 5, 2018, 132 STAT. 3353.]

"SEC. 211. AUTOMATIC DEPENDENT SURVEILLANCE-BROADCAST SERVICES.

"(a) REVIEW BY DOT INSPECTOR GENERAL.—

"(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a review concerning the Federal Aviation Administration's award and oversight of any contracts entered into by the Administration to provide ADS–B services for the national airspace system.

"(2) CONTENTS.—The review shall include, at a minimum—

"(A) an examination of how the Administration manages program risks;

"(B) an assessment of expected benefits attributable to the deployment of ADS–B services, including the Administration's plans for implementation of advanced operational procedures and air-to-air applications, as well as the extent to which ground radar will be retained;

"(C) an assessment of the Administration's analysis of specific operational benefits, and benefit/costs analyses of planned operational benefits conducted by the Administration, for ADS–B In and ADS–B Out avionics equipage for airspace users;

"(D) a determination of whether the Administration has established sufficient mechanisms to ensure that all design, acquisition, operation, and maintenance requirements have been met by the contractor;

"(E) an assessment of whether the Administration and any contractors are meeting cost, schedule, and performance milestones, as measured against the original baseline of the Administration's program for providing ADS–B services;

"(F) an assessment of how security issues are being addressed in the overall design and implementation of the ADS–B system;

"(G) identification of any potential operational or workforce changes resulting from deployment of ADS–B; and

"(H) any other matters or aspects relating to contract implementation and oversight that the Inspector General determines merit attention.

"(3) REPORTS TO CONGRESS.—The Inspector General shall submit, periodically (and on at least an annual basis), to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this subsection.

"[(b) Repealed. Pub. L. 115–254, div. B, title V, §522(a), Oct. 5, 2018, 132 Stat. 3363.]

"(c) USE OF ADS–B TECHNOLOGY.—

"(1) PLANS.—Not later than 18 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall develop, in consultation with appropriate employee and industry groups, a plan for the use of ADS–B technology for surveillance and active air traffic control.

"(2) CONTENTS.—The plan shall—

"(A) include provisions to test the use of ADS–B technology for surveillance and active air traffic control in specific regions of the United States with the most congested airspace;

"(B) identify the equipment required at air traffic control facilities and the training required for air traffic controllers;

"(C) identify procedures, to be developed in consultation with appropriate employee and industry groups, to conduct air traffic management in mixed equipage environments; and

"(D) establish a policy in test regions referred to in subparagraph (A), in consultation with appropriate employee and industry groups, to provide incentives for equipage with ADS–B technology, including giving priority to aircraft equipped with such technology before the 2020 equipage deadline.

"SEC. 212. EXPERT REVIEW OF ENTERPRISE ARCHITECTURE FOR NEXTGEN.

"(a) REVIEW.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council to review the enterprise architecture for the NextGen.

"(b) CONTENTS.—At a minimum, the review to be conducted under subsection (a) shall—

"(1) highlight the technical activities, including human-system design, organizational design, and other safety and human factor aspects of the system, that will be necessary to successfully transition current and planned modernization programs to the future system envisioned by the Joint Planning and Development Office of the Administration;

"(2) assess technical, cost, and schedule risk for the software development that will be necessary to achieve the expected benefits from a highly automated air traffic management system and the implications for ongoing modernization projects; and

"(3) determine how risks with automation efforts for the NextGen can be mitigated based on the experiences of other public or private entities in developing complex, software-intensive systems.

"(c) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the review conducted pursuant to subsection (a).

"SEC. 213. ACCELERATION OF NEXTGEN TECHNOLOGIES.

"(a) OPERATIONAL EVOLUTION PARTNERSHIP (OEP) AIRPORT PROCEDURES.—

"(1) OEP AIRPORTS REPORT.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and third parties that have received letters of qualification from the Administration to design and validate required navigation performance flight paths for public use (in this section referred to as 'qualified third parties') that includes the following:

"(A) RNP/RNAV OPERATIONS FOR OEP AIRPORTS.—The required navigation performance and area navigation operations, including the procedures to be developed, certified, and published and the air traffic control operational changes, to maximize the fuel efficiency and airspace capacity of NextGen commercial operations at each of the 35 operational evolution partnership airports identified by the Administration and any medium or small hub airport located within the same metroplex area considered appropriate by the Administrator. The Administrator shall, to the maximum extent practicable, avoid overlays of existing flight procedures, but if unavoidable, the Administrator shall clearly identify each required navigation performance and area navigation procedure that is an overlay of an existing instrument flight procedure and the reason why such an overlay was used.

"(B) COORDINATION AND IMPLEMENTATION ACTIVITIES FOR OEP AIRPORTS.—A description of the activities and operational changes and approvals required to coordinate and utilize the procedures at OEP airports.

"(C) IMPLEMENTATION PLAN FOR OEP AIRPORTS.—A plan for implementing the procedures for OEP airports under subparagraph (A) that establishes—

"(i) clearly defined budget, schedule, project organization, and leadership requirements;

"(ii) specific implementation and transition steps;

"(iii) baseline and performance metrics for—

"(I) measuring the Administration's progress in implementing the plan, including the percentage utilization of required navigation performance in the national airspace system; and

"(II) achieving measurable fuel burn and carbon dioxide emissions reductions compared to current performance;

"(iv) expedited environmental review procedures and processes for timely environmental approval of area navigation and required navigation performance that offer significant efficiency improvements as determined by baseline and performance metrics under clause (iii);

"(v) coordination and communication mechanisms with qualified third parties, if applicable;

"(vi) plans to address human factors, training, and other issues for air traffic controllers surrounding the adoption of RNP procedures in the en route and terminal environments, including in a mixed operational environment; and

"(vii) a lifecycle management strategy for RNP procedures to be developed by qualified third parties, if applicable.

"(D) ADDITIONAL PROCEDURES FOR OEP AIRPORTS.—A process for the identification, certification, and publication of additional required navigation performance and area navigation procedures that may provide operational benefits at OEP airports, and any medium or small hub airport located within the same metroplex area as the OEP airport, in the future.

"(2) IMPLEMENTATION SCHEDULE FOR OEP AIRPORTS.—The Administrator shall certify, publish, and implement—

"(A) not later than 18 months after the date of enactment of this Act [Feb. 14, 2012], 30 percent of the required procedures at OEP airports;

"(B) not later than 36 months after the date of enactment of this Act, 60 percent of the required procedures at OEP airports; and

"(C) before June 30, 2015, 100 percent of the required procedures at OEP airports.

"(b) NON-OEP AIRPORTS.—

"(1) NON-OEP AIRPORTS REPORT.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and third parties that have received letters of qualification from the Administration to design and validate required navigation performance flight paths for public use (in this section referred to as 'qualified third parties') that includes the following:

"(A) RNP OPERATIONS FOR NON-OEP AIRPORTS.—A list of required navigation performance procedures (as defined in FAA order 8260.52(d)) to be developed, certified, and published, and the air traffic control operational changes, to maximize the fuel efficiency and airspace capacity of NextGen commercial operations at 35 non-OEP small, medium, and large hub airports other than those referred to in subsection (a)(1). The Administrator shall choose such non-OEP airports considered appropriate by the Administrator to produce maximum operational benefits, including improved fuel efficiency and emissions reductions that do not have public RNP procedures that produce such benefits on the date of enactment of this Act. The Administrator shall, to the maximum extent practicable, avoid overlays of existing flight procedures, but if unavoidable, the Administrator shall clearly identify each required navigation performance procedure that is an overlay of an existing instrument flight procedure and the reason why such an overlay was used.

"(B) COORDINATION AND IMPLEMENTATION ACTIVITIES FOR NON-OEP AIRPORTS .—A description of the activities and operational changes and approvals required to coordinate and to utilize the procedures required by subparagraph (A) at each of the airports described in such subparagraph.

"(C) IMPLEMENTATION PLAN FOR NON-OEP AIRPORTS.—A plan for implementation of the procedures required by subparagraph (A) that establishes—

"(i) clearly defined budget, schedule, project organization, and leadership requirements;

"(ii) specific implementation and transition steps;

"(iii) coordination and communications mechanisms with qualified third parties;

"(iv) plans to address human factors, training, and other issues for air traffic controllers

surrounding the adoption of RNP procedures in the en route and terminal environments, including in a mixed operational environment;

"(v) baseline and performance metrics for—

"(I) measuring the Administration's progress in implementing the plan, including the percentage utilization of required navigation performance in the national airspace system; and

"(II) achieving measurable fuel burn and carbon dioxide emissions reduction compared to current performance;

"(vi) expedited environmental review procedures and processes for timely environmental approval of area navigation and required navigation performance that offer significant efficiency improvements as determined by baseline and performance metrics established under clause (v);

"(vii) a description of the software and database information, such as a current version of the Noise Integrated Routing System or the Integrated Noise Model that the Administration will need to make available to qualified third parties to enable those third parties to design procedures that will meet the broad range of requirements of the Administration; and

"(viii) lifecycle management strategy for RNP procedures to be developed by qualified third parties, if applicable.

"(D) ADDITIONAL PROCEDURES FOR NON-OEP AIRPORTS.—A process for the identification, certification, and publication of additional required navigation performance procedures that may provide operational benefits at non-OEP airports in the future.

"(2) IMPLEMENTATION SCHEDULE FOR NON-OEP AIRPORTS.—The Administrator shall certify, publish, and implement—

"(A) not later than 18 months after the date of enactment of this Act [Feb. 14, 2012], 25 percent of the required procedures for non-OEP airports;

"(B) not later than 36 months after the date of enactment of this Act, 50 percent of the required procedures for non-OEP airports; and

"(C) before June 30, 2016, 100 percent of the required procedures for non-OEP airports.

"(c) COORDINATED AND EXPEDITED REVIEW.—

"(1) IN GENERAL.—Navigation performance and area navigation procedures developed, certified, published, or implemented under this section shall be presumed to be covered by a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations) under chapter 3 of FAA Order 1050.1E unless the Administrator determines that extraordinary circumstances exist with respect to the procedure.

"(2) NEXTGEN PROCEDURES.—Any navigation performance or other performance based navigation procedure developed, certified, published, or implemented that, in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise, on a per flight basis, as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace, shall be presumed to have no significant affect on the quality of the human environment and the Administrator shall issue and file a categorical exclusion for the new procedure.

"(3) NOTIFICATIONS AND CONSULTATIONS.—Not later than 90 days before applying a categorical exclusion under this subsection to a new procedure at an OEP airport, the Administrator shall—

"(A) notify and consult with the operator of the airport at which the procedure would be implemented; and

"(B) consider consultations or other engagement with the community in the [sic] which the airport is located to inform the public of the procedure.

"(4) REVIEW OF CERTAIN CATEGORICAL EXCLUSIONS.—

"(A) IN GENERAL.—The Administrator shall review any decision of the Administrator made on or after February 14, 2012, and before the date of the enactment of this paragraph [Dec. 23, 2016] to grant a categorical exclusion under this subsection with respect to a procedure to be implemented at an OEP airport that was a material change from procedures previously in effect at the airport to determine if the implementation of the procedure had a significant effect on the human environment in the community in which the airport is located.

"(B) CONTENT OF REVIEW.—If, in conducting a review under subparagraph (A) with respect to a procedure implemented at an OEP airport, the Administrator, in consultation with the operator of the airport, determines that implementing the procedure had a significant effect on the human environment in the community in which the airport is located, the Administrator shall—

"(i) consult with the operator of the airport to identify measures to mitigate the effect of the procedure on the human environment; and

"(ii) in conducting such consultations, consider the use of alternative flight paths that do not substantially degrade the efficiencies achieved by the implementation of the procedure being reviewed.

"(C) HUMAN ENVIRONMENT DEFINED.—In this paragraph, the term 'human environment' has the meaning given such term in section 1508.14 of title 40, Code of Federal Regulations (as in effect on the day before the date of the enactment of this paragraph).

"(d) DEPLOYMENT PLAN FOR NATIONWIDE DATA COMMUNICATIONS SYSTEM.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for implementation of a nationwide data communications system. The plan shall include—

"(1) clearly defined budget, schedule, project organization, and leadership requirements;

"(2) specific implementation and transition steps; and

"(3) baseline and performance metrics for measuring the Administration's progress in implementing the plan.

"(e) IMPROVED PERFORMANCE STANDARDS.—

"(1) ASSESSMENT OF WORK BEING PERFORMED UNDER NEXTGEN IMPLEMENTATION PLAN.—The Administrator shall clearly outline in the NextGen Implementation Plan document of the Administration the work being performed under the plan to determine—

"(A) whether utilization of ADS–B, RNP, and other technologies as part of NextGen implementation will display the position of aircraft more accurately and frequently to enable a more efficient use of existing airspace and result in reduced consumption of aviation fuel and aircraft engine emissions; and

"(B) the feasibility of reducing aircraft separation standards in a safe manner as a result of the implementation of such technologies.

"(2) AIRCRAFT SEPARATION STANDARDS.—If the Administrator determines that the standards referred to in paragraph (1)(B) can be reduced safely, the Administrator shall include in the NextGen Implementation Plan a timetable for implementation of such reduced standards.

"(f) THIRD-PARTY USAGE.—The Administration shall establish a program under which the Administrator is authorized to use qualified third parties in the development, testing, and maintenance of flight procedures.

"SEC. 214. PERFORMANCE METRICS.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall establish and begin tracking national airspace system performance metrics, including, at a minimum, metrics with respect to—

"(1) actual arrival and departure rates per hour measured against the currently published aircraft arrival rate and aircraft departure rate for the 35 operational evolution partnership airports;

"(2) average gate-to-gate times;

"(3) fuel burned between key city pairs;

"(4) operations using the advanced navigation procedures, including performance based navigation procedures;

"(5) the average distance flown between key city pairs;

"(6) the time between pushing back from the gate and taking off;

"(7) continuous climb or descent;

"(8) average gate arrival delay for all arrivals;

"(9) flown versus filed flight times for key city pairs;

"(10) implementation of NextGen Implementation Plan, or any successor document, capabilities designed to reduce emissions and fuel consumption;

"(11) the Administration's unit cost of providing air traffic control services; and

"(12) runway safety, including runway incursions, operational errors, and loss of standard separation events.

"(b) BASELINES.—The Administrator, in consultation with aviation industry stakeholders, shall identify baselines for each of the metrics established under subsection (a) and appropriate methods to measure deviations from the baselines.

"(c) PUBLICATION.—The Administrator shall make data obtained under subsection (a) available to the public in a searchable, sortable, and downloadable format through the Web site of the Administration and other appropriate media.

"(d) REPORT.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

"(1) a description of the metrics that will be used to measure the Administration's progress in

implementing NextGen capabilities and operational results;

"(2) information on any additional metrics developed; and

"(3) a process for holding the Administration accountable for meeting or exceeding the metrics baselines identified in subsection (b).

"SEC. 215. CERTIFICATION STANDARDS AND RESOURCES.

"(a) PROCESS FOR CERTIFICATION.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall develop a plan to accelerate and streamline the process for certification of NextGen technologies, including—

"(1) establishment of updated project plans and timelines;

"(2) identification of the specific activities needed to certify NextGen technologies, including the establishment of NextGen technical requirements for the manufacture of equipage, installation of equipage, airline operational procedures, pilot training standards, air traffic control procedures, and air traffic controller training;

"(3) identification of staffing requirements for the Air Certification Service and the Flight Standards Service, taking into consideration the leveraging of assistance from third parties and designees;

"(4) establishment of a program under which the Administration will use third parties in the certification process; and

"(5) establishment of performance metrics to measure the Administration's progress.

"(b) CERTIFICATION INTEGRITY.—The Administrator shall ensure that equipment, systems, or services used in the national airspace system meet appropriate certification requirements regardless of whether the equipment, system, or service is publically or privately owned.

"SEC. 216. SURFACE SYSTEMS ACCELERATION.

"(a) IN GENERAL.—The Chief Operating Officer of the Air Traffic Organization shall—

"(1) evaluate the Airport Surface Detection Equipment-Model X program for its potential contribution to implementation of the NextGen initiative;

"(2) evaluate airport surveillance technologies and associated collaborative surface management software for potential contributions to implementation of NextGen surface management;

"(3) accelerate implementation of the program referred to in paragraph (1); and

"(4) carry out such additional duties as the Administrator of the Federal Aviation Administration may require.

"(b) EXPEDITED CERTIFICATION AND UTILIZATION.—The Administrator shall—

"(1) consider options for expediting the certification of Ground-Based Augmentation System technology; and

"(2) develop a plan to utilize such a system at the 35 operational evolution partnership airports by December 31, 2012.

"SEC. 217. INCLUSION OF STAKEHOLDERS IN AIR TRAFFIC CONTROL MODERNIZATION PROJECTS.

"(a) PROCESS FOR EMPLOYEE INCLUSION.—Notwithstanding any other law or agreement, the Administrator of the Federal Aviation Administration shall establish a process or processes for including qualified employees selected by each exclusive collective bargaining representative of employees of the Administration impacted by the air traffic control modernization process to serve in a collaborative and expert capacity in the planning and development of air traffic control modernization projects, including NextGen.

"(b) ADHERENCE TO DEADLINES.—Participants in these processes shall adhere, to the greatest extent possible, to all deadlines and milestones established pursuant to this title.

"(c) NO CHANGE IN EMPLOYEE STATUS.—Participation in these processes by an employee shall not—

"(1) serve as a waiver of any bargaining obligations or rights;

"(2) entitle the employee to any additional compensation or benefits with the exception of a per diem, if appropriate; or

"(3) entitle the employee to prevent or unduly delay the exercise of management prerogatives.

"(d) WORKING GROUPS.—Except in extraordinary circumstances, the Administrator shall not pay overtime related to work group participation.

"(e) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation of this section.

"SEC. 218. AIRSPACE REDESIGN.

"(a) FINDINGS.—Congress finds the following:

"(1) The airspace redesign efforts of the Federal Aviation Administration will play a critical near-term role in enhancing capacity, reducing delays, transitioning to more flexible routing, and ultimately saving money in fuel costs for airlines and airspace users.

"(2) The critical importance of airspace redesign efforts is underscored by the fact that they are highlighted in strategic plans of the Administration, including Flight Plan 2009–2013 and the NextGen Implementation Plan.

"(3) Funding cuts have led to delays and deferrals of critical capacity enhancing airspace redesign efforts.

"(4) New runways planned for the period of fiscal years 2011 and 2012 will not provide estimated capacity benefits without additional funds.

"(b) NOISE IMPACTS OF NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.—

"(1) MONITORING.—The Administrator of the Federal Aviation Administration, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport, shall monitor the noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign.

"(2) REPORT.—Not later than 1 year following the first day of completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator shall submit to Congress a report on the findings of the Administrator with respect to monitoring conducted under paragraph (1).

"SEC. 219. STUDY ON FEASIBILITY OF DEVELOPMENT OF A PUBLIC INTERNET WEB-BASED RESOURCE ON LOCATIONS OF POTENTIAL AVIATION OBSTRUCTIONS.

"(a) STUDY.—The Administrator of the Federal Aviation Administration shall carry out a study on the feasibility of developing a publicly searchable, Internet Web-based resource that provides information regarding the height and latitudinal and longitudinal locations of guy-wire and free-standing tower obstructions.

"(b) CONSIDERATIONS.—In conducting the study, the Administrator shall consult with affected industries and appropriate Federal agencies.

"(c) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit a report to the appropriate committees of Congress on the results of the study.

"SEC. 220. NEXTGEN RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement, on a competitive basis, to assist in the establishment of a center of excellence for the research and development of NextGen technologies.

"(b) FUNCTIONS.—The Administrator shall ensure that the center established under subsection (a)—

"(1) leverages resources and partnerships, including appropriate programs of the Administration, to enhance the research and development of NextGen technologies by academia and industry; and

"(2) provides educational, technical, and analytical assistance to the Administration and other Federal departments and agencies with responsibilities to research and develop NextGen technologies.

"SEC. 221. PUBLIC-PRIVATE PARTNERSHIPS.

"(a) IN GENERAL.—The Secretary may establish an avionics equipage incentive program for the purpose of equipping general aviation and commercial aircraft with communications, surveillance, navigation, and other avionics equipment as determined by the Secretary to be in the interest of achieving NextGen capabilities for such aircraft.

"(b) NEXTGEN PUBLIC-PRIVATE PARTNERSHIPS.—The incentive program established under subsection (a) shall, at a minimum—

"(1) be based on public-private partnership principles; and

"(2) leverage and maximize the use of private sector capital.

"(c) FINANCIAL INSTRUMENTS.—Subject to the availability of appropriated funds, the Secretary may use financial instruments to facilitate public-private financing for the equipage of general aviation and commercial aircraft registered under section 44103 of title 49, United States Code. To the extent appropriations are not made available, the Secretary may establish the program, provided the costs are covered by the fees and premiums authorized by subsection (d)(2). For purposes of this section, the term 'financial instruments' means loan guarantees and other credit assistance designed to leverage and maximize private sector capital.

"(d) PROTECTION OF THE TAXPAYER.—

"(1) LIMITATION ON PRINCIPAL.—The amount of any guarantee under this program shall be limited to 90 percent of the principal amount of the underlying loan.

"(2) COLLATERAL, FEES, AND PREMIUMS.—The Secretary shall require applicants for the incentive program to post collateral and pay such fees and premiums if feasible, as determined by the Secretary, to offset costs to the Government of potential defaults, and agree to performance measures that the Secretary considers necessary and in the best interest of implementing the NextGen program.

"(3) USE OF FUNDS.—Applications for this program shall be limited to equipment that is installed on general aviation or commercial aircraft and is necessary for communications, surveillance, navigation, or other purposes determined by the Secretary to be in the interests of achieving NextGen capabilities for commercial and general aviation.

"(e) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue such financial instruments under this section shall terminate 5 years after the date of the establishment of the incentive program.

"SEC. 222. OPERATIONAL INCENTIVES.

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue a report that—

"(1) identifies incentive options to encourage the equipage of aircraft with NextGen technologies, including a policy that gives priority to aircraft equipped with ADS–B technology;

"(2) identifies the costs and benefits of each option; and

"(3) includes input from industry stakeholders, including passenger and cargo air carriers, aerospace manufacturers, and general aviation aircraft operators.

"(b) DEADLINE.—The Administrator shall issue the report before the earlier of—

"(1) the date that is 6 months after the date of enactment of this Act [Feb. 14, 2012]; or

"(2) the date on which aircraft are required to be equipped with ADS–B technology pursuant to the rulemaking under [former] section 211(b)."

[Pub. L. 115–254, div. B, title V, §522(b), Oct. 5, 2018, 132 Stat. 3363, provided that: "The Administrator [of the Federal Aviation Administration] shall ensure that any regulation issued pursuant to such subsection [subsec. (b) of section 211 of Pub. L. 112–95, formerly set out above] has no force or effect."]

CONTINGENCY PLANNING

Pub. L. 112–95, title II, §208(d), Feb. 14, 2012, 126 Stat. 43, provided that: "The Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall, as part of the design of the System, develop contingency plans for dealing with the degradation of the System in the event of a natural disaster, major equipment failure, or act of terrorism."

REPORTS ON STATUS OF GREENER SKIES PROJECT

Pub. L. 112–95, title II, §225, Feb. 14, 2012, 126 Stat. 55, provided that:

"(a) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall submit to Congress a report on the strategy of the Administrator for implementing, on an accelerated basis, the NextGen operational capabilities produced by the Greener Skies project, as recommended in the final report of the RTCA NextGen Mid-Term Implementation Task Force that was issued on September 9, 2009.

"(b) SUBSEQUENT REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the Administrator submits to Congress the report required by subsection (a) and annually thereafter until the pilot program terminates, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress of the Administrator in carrying out the strategy described in the report submitted under subsection (a).

"(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following:

"(A) A timeline for full implementation of the strategy described in the report submitted under subsection (a).

"(B) A description of the progress made in carrying out such strategy.

"(C) A description of the challenges, if any, encountered by the Administrator in carrying out such strategy."

[For definition of "NextGen" as used in section 225 of Pub. L. 112–95, set out above, see section 201 of Pub. L. 112–95, set out as a note above.]

UNMANNED AIRCRAFT SYSTEMS

Pub. L. 114–190, title II, subtitle B, July 15, 2016, 130 Stat. 628, as amended, formerly set out as a note

under this section, was transferred and is set out as a note under section 44802 of this title.

Pub. L. 112–95, title III, subtitle B, Feb. 14, 2012, 126 Stat. 72, as amended, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

CLARIFICATION OF REQUIREMENTS FOR VOLUNTEER PILOTS OPERATING CHARITABLE MEDICAL FLIGHTS

Pub. L. 118–63, title VIII, §830, May 16, 2024, 138 Stat. 1337, provided that:

"(a) IN GENERAL.—

"(1) VALIDITY OF EXEMPTION.—Except as otherwise provided in this subsection, an exemption from section 61.113(c) of title 14, Code of Federal Regulations, that is granted by the Administrator [of the Federal Aviation Administration] for the purpose of allowing a volunteer pilot to accept reimbursement from a volunteer pilot organization for the fuel costs and airport fees attributed to a flight operation to provide charitable transportation pursuant to section 821 of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] (49 U.S.C. 40101 note) shall be valid for 5 years.

"(2) FAILING TO ADHERE.—If the Administrator finds an exemption holder under paragraph (1) or a volunteer pilot fails to adhere to the conditions and limitations of the exemption described under such paragraph, the Administrator may rescind or suspend the exemption.

"(3) NO LONGER QUALIFYING.—If the Administrator finds that such exemption holder no longer qualifies as a volunteer pilot organization, the Administrator shall rescind such exemption.

"(4) FORGOING EXEMPTION.—If such exemption holder informs the Administrator that such holder no longer plans to exercise the authority granted by such exemption, the Administrator may rescind such exemption.

"(b) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—A volunteer pilot organization may impose additional safety requirements on a volunteer pilot without—

"(A) being considered—

"(i) an air carrier (as such term is defined in section 40102 of title 49, United States Code); or

"(ii) a commercial operator (as such term is defined in section 1.1 of title 14, Code of Federal Regulations); or

"(B) constituting common carriage.

"(2) SAVINGS CLAUSE.—Nothing in this subsection may be construed to limit or otherwise affect the authority of the Administrator to regulate, as appropriate, a flight operation associated with a volunteer pilot organization that constitutes a commercial operation or common carriage.

"(c) REISSUANCE OF EXISTING EXEMPTIONS.—In reissuing an expiring exemption described in subsection (a) that was originally issued prior to the date of enactment of this Act [May 16, 2024], the Administrator shall ensure that the reissued exemption—

"(1) accounts for the provisions of this section and section 821 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note); and

"(2) is otherwise substantially similar to the previously issued exemption.

"(d) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) affect the authority of the Administrator to exempt a pilot (exercising the private pilot privileges) from any restriction on receiving reimbursement for the fuel costs and airport fees attributed to a flight operation to provide charitable transportation; or

"(2) impose or authorize the imposition of any additional requirements by the Administrator on a flight that is arranged by a volunteer pilot organization in which the volunteer pilot—

"(A) is not reimbursed the fuel costs and airport fees attributed to a flight operation to provide charitable flights; or

"(B) pays a pro rata share of expenses as described in section 61.113(c) of title 14, Code of Federal Regulations.

"(e) DEFINITIONS.—In this section:

"(1) VOLUNTEER PILOT.—The term 'volunteer pilot' means a person who—

"(A) acts as a pilot in command of a flight operation to provide charitable transportation pursuant to section 821 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note); and

"(B) holds a private pilot certificate, commercial pilot certificate, or an airline transportation pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

"(2) VOLUNTEER PILOT ORGANIZATION.—The term 'volunteer pilot organization' has the meaning given such term in section 821(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C.

40101 note)."

Pub. L. 112–95, title VIII, §821, Feb. 14, 2012, 126 Stat. 128, provided that:

"(a) REIMBURSEMENT OF FUEL COSTS.—Notwithstanding any other law or regulation, in administering section 61.113(c) of title 14, Code of Federal Regulations (or any successor regulation), the Administrator of the Federal Aviation Administration shall allow an aircraft owner or operator to accept reimbursement from a volunteer pilot organization for the fuel costs associated with a flight operation to provide transportation for an individual or organ for medical purposes (and for other associated individuals), if the aircraft owner or operator has—

"(1) volunteered to provide such transportation; and

"(2) notified any individual that will be on the flight, at the time of inquiry about the flight, that the flight operation is for charitable purposes and is not subject to the same requirements as a commercial flight.

"(b) CONDITIONS TO ENSURE SAFETY.—The Administrator may impose minimum standards with respect to training and flight hours for single-engine, multi-engine, and turbine-engine operations conducted by an aircraft owner or operator that is being reimbursed for fuel costs by a volunteer pilot organization, including mandating that the pilot in command of such aircraft hold an instrument rating and be current and qualified for the aircraft being flown to ensure the safety of flight operations described in subsection (a).

"(c) VOLUNTEER PILOT ORGANIZATION.—In this section, the term 'volunteer pilot organization' means an organization that—

"(1) is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)] and is exempt from taxation under section 501(a) of such Code; and

"(2) is organized for the primary purpose of providing, arranging, or otherwise fostering charitable medical transportation."

INTERAGENCY RESEARCH ON AVIATION AND THE ENVIRONMENT

Pub. L. 112–95, title IX, §909, Feb. 14, 2012, 126 Stat. 141, provided that:

"(a) IN GENERAL.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator, in coordination with NASA and after consultation with other relevant agencies, may maintain a research program to assess the potential effect of aviation activities on the environment and, if warranted, to evaluate approaches to address any such effect.

"(b) RESEARCH PLAN.—

"(1) IN GENERAL.—The Administrator, in coordination with NASA and after consultation with other relevant agencies, shall jointly develop a plan to carry out the research under subsection (a).

"(2) CONTENTS.—The plan shall contain an inventory of current interagency research being undertaken in this area, future research objectives, proposed tasks, milestones, and a 5-year budgetary profile.

"(3) REQUIREMENTS.—The plan—

"(A) shall be completed not later than 1 year after the date of enactment of this Act [Feb. 14, 2012];

"(B) shall be submitted to Congress for review; and

"(C) shall be updated, as appropriate, every 3 years after the initial submission."

UNMANNED AERIAL SYSTEMS AND NATIONAL AIRSPACE

Pub. L. 112–81, div. A, title X, §1097, Dec. 31, 2011, 125 Stat. 1608, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

FINDINGS

Pub. L. 110–113, §2, Nov. 8, 2007, 121 Stat. 1039, provided that: "Congress finds the following:

"(1) The September 11th Victims Compensation Fund of 2001 [title IV of Pub. L. 107–42] (49 U.S.C. 40101 note) establishes a Federal cause of action in the United States District Court for the Southern District of New York as the exclusive remedy for damages arising out of the hijacking and subsequent crash of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001.

"(2) Rules 45(b)(2) and 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure [28 U.S.C. App.] effectively limit service of a subpoena to any place within, or within 100 miles of, the district of the court by which it is issued, unless a statute of the United States expressly provides that the court, upon proper application and cause shown, may authorize the service of a subpoena at any other place.

"(3) Litigating a Federal cause of action under the September 11 Victims Compensation Fund of 2001 is likely to involve the testimony and the production of other documents and tangible things by a substantial number of witnesses, many of whom may not reside, be employed, or regularly transact business in, or

within 100 miles of, the Southern District of New York."

REVITALIZATION OF AVIATION AND AERONAUTICS

Pub. L. 108–176, §4, Dec. 12, 2003, 117 Stat. 2493, provided that: "Congress finds the following:

"(1) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

"(2) Past Federal investment in aeronautics research and development has benefited the economy and national security of the United States and the quality of life of its citizens.

"(3) The total impact of civil aviation on the United States economy exceeds $900,000,000,000 annually and accounts for 9 percent of the gross national product and 11,000,000 jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of the Nation's highly skilled, technologically qualified work force.

"(4) Aerospace technologies, products, and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

"(5) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

"(6) Revitalization and coordination of the United States efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

"(7) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

"(A) aerospace will be at the core of the Nation's leadership and strength throughout the 21st century;

"(B) aerospace will play an integral role in the Nation's economy, security, and mobility; and

"(C) global leadership in aerospace is a national imperative.

"(8) Despite the downturn in the global economy, projections of the Federal Aviation Administration indicate that upwards of 1,000,000,000 people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

"(9) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future."

REPORT ON LONG-TERM ENVIRONMENTAL IMPROVEMENTS

Pub. L. 108–176, title III, §321, Dec. 12, 2003, 117 Stat. 2540, provided that:

"(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the National Aeronautics and Space Administration, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

"(1) explore new operational procedures for aircraft to achieve those goals;

"(2) identify both near-term and long-term options to achieve those goals;

"(3) identify infrastructure changes that would contribute to attainment of those goals;

"(4) identify emerging technologies that might contribute to attainment of those goals;

"(5) develop a research plan for application of such emerging technologies, including new combustor and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

"(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

"(b) REPORT.—The Secretary shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act [Dec. 12, 2003].

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 for fiscal year 2004 to carry out this section."

REDUCTION OF NOISE AND EMISSIONS FROM CIVILIAN AIRCRAFT

Pub. L. 108–176, title III, §326, Dec. 12, 2003, 117 Stat. 2542, provided that:

"(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to reducing community exposure to civilian aircraft noise or emissions through grants or other

measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities for developing and testing noise reduction engine technology.

"(b) DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.—The Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Noise and Emission Research."

AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE

Pub. L. 108–176, title VII, §709, Dec. 12, 2003, 117 Stat. 2582, as amended by Pub. L. 112–95, title II, §208(a)–(c), Feb. 14, 2012, 126 Stat. 40–43; Pub. L. 115–254, div. B, title V, §545(b)(1), Oct. 5, 2018, 132 Stat. 3376, provided that:

"(a) ESTABLISHMENT.—(1) The Secretary of Transportation shall establish in the Federal Aviation Administration a joint planning and development office to manage work related to the Next Generation Air Transportation System. The office shall be known as the Next Generation Air Transportation System Joint Planning and Development Office (in this section referred to as the 'Office').

"(2) The head of the Office shall be the Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination, who shall be appointed by the Administrator of the Federal Aviation Administration, with the approval of the Secretary. The Administrator shall appoint the Associate Administrator after consulting with the Chairman of the Next Generation Senior Policy Committee and providing advanced notice to the other members of that Committee.

"(3) The responsibilities of the Office shall include—

"(A) creating and carrying out an integrated plan for a Next Generation Air Transportation System pursuant to subsection (b);

"(B) overseeing research and development on that system;

"(C) creating a transition plan for the implementation of that system;

"(D) coordinating aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

"(E) coordinating goals and priorities and coordinating research activities within the Federal Government with United States aviation and aeronautical firms;

"(F) coordinating the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

"(G) facilitating the transfer of technology from research programs such as the National Aeronautics and Space Administration program and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector;

"(H) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense;

"(I) establishing specific quantitative goals for the safety, capacity, efficiency, performance, and environmental impacts of each phase of Next Generation Air Transportation System planning and development activities and measuring actual operational experience against those goals, taking into account noise pollution reduction concerns of affected communities to the extent practicable in establishing the environmental goals;

"(J) working to ensure global interoperability of the Next Generation Air Transportation System;

"(K) working to ensure the use of weather information and space weather information in the Next Generation Air Transportation System as soon as possible;

"(L) overseeing, with the Administrator and in consultation with the Chief Technology Officer, the selection of products or outcomes of research and development activities that should be moved to a demonstration phase; and

"(M) maintaining a baseline modeling and simulation environment for testing and evaluating alternative concepts to satisfy Next Generation Air Transportation System enterprise architecture requirements.

"(4)(A) The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

"(B) The Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate a

senior official in the agency to be responsible for—

"(i) carrying out the activities of the agency relating to the Next Generation Air Transportation System in coordination with the Office, including the execution of all aspects of the work of the agency in developing and implementing the integrated work plan described in subsection (b)(5);

"(ii) serving as a liaison for the agency in activities of the agency relating to the Next Generation Air Transportation System and coordinating with other Federal agencies involved in activities relating to the System; and

"(iii) ensuring that the agency meets its obligations as set forth in any memorandum of understanding executed by or on behalf of the agency relating to the Next Generation Air Transportation System.

"(C) The head of a Federal agency referred to in subparagraph (B) shall—

"(i) ensure that the responsibilities of the agency relating to the Next Generation Air Transportation System are clearly communicated to the senior official of the agency designated under subparagraph (B);

"(ii) ensure that the performance of the senior official in carrying out the responsibilities of the agency relating to the Next Generation Air Transportation System is reflected in the official's annual performance evaluations and compensation;

"(iii) establish or designate an office within the agency to carry out its responsibilities under the memorandum of understanding under the supervision of the designated official; and

"(iv) ensure that the designated official has sufficient budgetary authority and staff resources to carry out the agency's Next Generation Air Transportation System responsibilities as set forth in the integrated plan under subsection (b).

"(D) Not later than 6 months after the date of enactment of this subparagraph [Feb. 14, 2012], the head of each Federal agency that has responsibility for carrying out any activity under the integrated plan under subsection (b) shall execute a memorandum of understanding with the Office obligating that agency to carry out the activity.

"(5) In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

"(6)(A) The Office shall work with the Director of the Office of Management and Budget to develop a process whereby the Director will identify projects related to the Next Generation Air Transportation System across the agencies referred to in paragraph (4)(A) and consider the Next Generation Air Transportation System as a unified, cross-agency program.

"(B) The Director of the Office of Management and Budget, to the extent practicable, shall—

"(i) ensure that—

"(I) each Federal agency covered by the plan has sufficient funds requested in the President's budget, as submitted under section 1105(a) of title 31, United States Code, for each fiscal year covered by the plan to carry out its responsibilities under the plan; and

"(II) the development and implementation of the Next Generation Air Transportation System remains on schedule;

"(ii) include, in the President's budget, a statement of the portion of the estimated budget of each Federal agency covered by the plan that relates to the activities of the agency under the Next Generation Air Transportation System; and

"(iii) identify and justify as part of the President's budget submission any inconsistencies between the plan and amounts requested in the budget.

"(7) The Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall be a voting member of the Joint Resources Council of the Federal Aviation Administration.

"(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System meets anticipated future air transportation safety, security, mobility, efficiency, and capacity needs and accomplishes the goals under subsection (c). The integrated plan shall include—

"(1) a national vision statement for an air transportation system capable of meeting potential air traffic demand by 2025;

"(2) a description of the demand and the performance characteristics that will be required of the Nation's future air transportation system, and an explanation of how those characteristics were derived, including the national goals, objectives, and policies the system is designed to further, and the underlying socioeconomic determinants, and associated models and analyses;

"(3) a multiagency research and development roadmap for creating the Next Generation Air Transportation System with the characteristics outlined under clause (ii) [(2)], including—

"(A) the most significant technical obstacles and the research and development activities necessary to overcome them, including for each project, the role of each Federal agency, corporations, and universities;

"(B) the annual anticipated cost of carrying out the research and development activities; and

"(C) the technical milestones that will be used to evaluate the activities;

"(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025; and

"(5) a multiagency integrated work plan for the Next Generation Air Transportation System that includes—

"(A) an outline of the activities required to achieve the end-state architecture, as expressed in the concept of operations and enterprise architecture documents, that identifies each Federal agency or other entity responsible for each activity in the outline;

"(B) details on a year-by-year basis of specific accomplishments, activities, research requirements, rulemakings, policy decisions, and other milestones of progress for each Federal agency or entity conducting activities relating to the Next Generation Air Transportation System;

"(C) for each element of the Next Generation Air Transportation System, an outline, on a year-by-year basis, of what is to be accomplished in that year toward meeting the Next Generation Air Transportation System's end-state architecture, as expressed in the concept of operations and enterprise architecture documents, as well as identifying each Federal agency or other entity that will be responsible for each component of any research, development, or implementation program;

"(D) an estimate of all necessary expenditures on a year-by-year basis, including a statement of each Federal agency or entity's responsibility for costs and available resources, for each stage of development from the basic research stage through the demonstration and implementation phase;

"(E) a clear explanation of how each step in the development of the Next Generation Air Transportation System will lead to the following step and of the implications of not successfully completing a step in the time period described in the integrated work plan;

"(F) a transition plan for the implementation of the Next Generation Air Transportation System that includes date-specific milestones for the implementation of new capabilities into the national airspace system;

"(G) date-specific timetables for meeting the environmental goals identified in subsection (a)(3)(I); and

"(H) a description of potentially significant operational or workforce changes resulting from deployment of the Next Generation Air Transportation System.

"(c) GOALS.—The Next Generation Air Transportation System shall—

"(1) improve the level of safety, security, efficiency, quality, and affordability of the National Airspace System and aviation services;

"(2) take advantage of data from emerging ground-based and space-based communications, navigation, and surveillance technologies;

"(3) integrate data streams from multiple agencies and sources to enable situational awareness and seamless global operations for all appropriate users of the system, including users responsible for civil aviation, homeland security, and national security;

"(4) leverage investments in civil aviation, homeland security, and national security and build upon current air traffic management and infrastructure initiatives to meet system performance requirements for all system users;

"(5) be scalable to accommodate and encourage substantial growth in domestic and international transportation and anticipate and accommodate continuing technology upgrades and advances;

"(6) accommodate a wide range of aircraft operations, including airlines, air taxis, helicopters, general aviation, and unmanned aerial vehicles; and

"(7) take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.

"(d) NEXTGEN IMPLEMENTATION PLAN.—The Administrator shall develop and publish annually the document known as the NextGen Implementation Plan, or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $50,000,000 for each of the fiscal years 2004 through 2010."

NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE

Pub. L. 108–176, title VII, §710, Dec. 12, 2003, 117 Stat. 2584, as amended by Pub. L. 112–95, title II, §209, Feb. 14, 2012, 126 Stat. 43, which established a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office, was repealed by Pub. L. 118–63, title II, §218(i), May 16, 2024, 138 Stat. 1056. The Committee was to terminate on the date of initial appointment of the members of the advisory committee established under section 439 of Pub. L. 115–254, see section 439(h) of Pub. L. 115–254, set out as a note under section 41705 of this title.

REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES

Pub. L. 108–176, title VIII, §817, Dec. 12, 2003, 117 Stat. 2592, provided that:

"(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

"(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

"(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act [Dec. 12, 2003] and general aviation entities operating at those airports.

"(3) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

"(4) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/1099 and 3/1862 or section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (Public Law 108–7, division I) [117 Stat. 420], or both.

"(5) Sightseeing operations that were not authorized to resume in enhanced class B air space under Federal Aviation Administration notice to airmen 1/1225.

"(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

"(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term 'general aviation entity' means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

"(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

"(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

"(3) provides services necessary for nonmilitary operations under such part 91; or

"(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

"(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

"(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended."

GAO REPORT ON AIRLINES' ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION

Pub. L. 108–176, title VIII, §826, Dec. 12, 2003, 117 Stat. 2596, provided that:

"(a) FINDING.—Congress finds that the United States Government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, Congress needs more frequent information and independently verified information about the financial condition of these airlines.

"(b) GAO REPORT.—Not later than one year after the date of enactment of this Act [Dec. 12, 2003], the Comptroller General shall prepare a report for Congress analyzing the financial condition of the United States

airline industry in its efforts to reduce the costs, improve the earnings and profits and balances of each individual air carrier. The report shall recommend steps that the industry should take to become financially self-sufficient.

"(c) GAO AUTHORITY.—In order to compile the report required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the report. The Comptroller General shall submit with the report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

"(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the report required by subsection (b) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure."

MAIL AND FREIGHT WAIVERS

Pub. L. 107–71, title I, §127, Nov. 19, 2001, 115 Stat. 632, provided that:

"(a) IN GENERAL.—During a national emergency affecting air transportation or intrastate air transportation, the Secretary of Transportation, after consultation with the Transportation Security Oversight Board, may grant a complete or partial waiver of any restrictions on the carriage by aircraft of freight, mail, emergency medical supplies, personnel, or patients on aircraft, imposed by the Department of Transportation (or other Federal agency or department) that would permit such carriage of freight, mail, emergency medical supplies, personnel, or patients on flights, to, from, or within a State if the Secretary determines that—

"(1) extraordinary air transportation needs or concerns exist; and

"(2) the waiver is in the public interest, taking into consideration the isolation of and dependence on air transportation of the State.

"(b) LIMITATIONS.—The Secretary may impose reasonable limitations on any such waiver."

AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE

Pub. L. 107–71, title I, §145, Nov. 19, 2001, 115 Stat. 645, as amended by Pub. L. 108–7, div. I, title III, §372, Feb. 20, 2003, 117 Stat. 427; Pub. L. 108–176, title IV, §428, Dec. 12, 2003, 117 Stat. 2556; Pub. L. 108–458, title VIII, §8404, Dec. 17, 2004, 118 Stat. 3872; Pub. L. 109–115, div. A, title I, §178, Nov. 30, 2005, 119 Stat. 2427, required each air carrier providing scheduled air transportation on a route to provide, to the extent practicable, air transportation to passengers ticketed for air transportation on that route by any other air carrier that suspended, interrupted, or discontinued air passenger service on the route by reason of insolvency or bankruptcy of the other air carrier occurring on or before Nov. 30, 2006.

RELATIONSHIP OF ELIGIBLE CRIME VICTIM COMPENSATION PROGRAMS TO SEPTEMBER 11TH VICTIM COMPENSATION FUND

Pub. L. 107–56, title VI, §622(e)(2), Oct. 26, 2001, 115 Stat. 372, provided that: "With respect to any compensation payable under title IV of Public Law 107–42 [set out as a note below], the failure of a crime victim compensation program, after the effective date of final regulations issued pursuant to section 407 of Public Law 107–42, to provide compensation otherwise required pursuant to section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) [now 34 U.S.C. 20102] shall not render that program ineligible for future grants under the Victims of Crime Act of 1984 [34 U.S.C. 20101 et seq.]."

AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION

Pub. L. 112–10, div. B, title III, §1347, Apr. 15, 2011, 125 Stat. 124, as amended by Pub. L. 114–113, div. O, title IV, §402(h), Dec. 18, 2015, 129 Stat. 3007, provided that: "Notwithstanding any other provision of law, in fiscal year 2012 and thereafter payments for costs described in subsection (a) of section 404 of Public Law 107–42, as amended [set out below], shall be considered to be, and included in, payments for compensation for the purposes of sections 406(b) and (d)(1) and (2) of such Act. Costs for payments for compensation for claims in Group A, as described in section 405(a)(3)(C)(ii) of such Act, shall be paid from amounts made available under section 406 of such Act. Costs for payments for compensation for claims in Group B, as described in section 405(a)(3)(C)(iii) of such Act, shall be paid from amounts in the Victims Compensation Fund established under section 410 of such Act."

Pub. L. 107–42, Sept. 22, 2001, 115 Stat. 230, as amended by Pub. L. 107–71, title I, §124(a), (c), (d), title II, §201, Nov. 19, 2001, 115 Stat. 631, 645; Pub. L. 107–134, title I, §114(a), Jan. 23, 2002, 115 Stat. 2435; Pub. L. 107–296, title VIII, §890, title XII, §1201(2), Nov. 25, 2002, 116 Stat. 2251, 2286; Pub. L. 110–113, §3, Nov. 8, 2007, 121 Stat. 1039; Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974; Pub. L. 111–347, title II, Jan. 2, 2011, 124 Stat. 3659; Pub. L. 114–113, div. O, title IV, §402(a)–(g), Dec. 18, 2015,

129 Stat. 3000–3006; Pub. L. 115–123, div. C, title II, §30203(b), Feb. 9, 2018, 132 Stat. 126; Pub. L. 116–34, §§2, 3, July 29, 2019, 133 Stat. 1040, 1042, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Air Transportation Safety and System Stabilization Act'.

"TITLE I—AIRLINE STABILIZATION

"SEC. 101. AVIATION DISASTER RELIEF.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the following actions to compensate air carriers for losses incurred by the air carriers as a result of the terrorist attacks on the United States that occurred on September 11, 2001:

"[(1) Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

"(2) Compensate air carriers in an aggregate amount equal to $5,000,000,000 for—

"(A) direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such a stoppage; and

"(B) the incremental losses incurred beginning September 11, 2001, and ending December 31, 2001, by air carriers as a direct result of such attacks.

"(b) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act [see Short Title note set out under section 900 of Title 2, The Congress], is transmitted by the President to Congress.

"[SEC. 102. REPEALED. PUB. L. 110–161, DIV. D, TITLE I, DEC. 26, 2007, 121 STAT. 1974.]

"SEC. 103. SPECIAL RULES FOR COMPENSATION.

"(a) DOCUMENTATION.—Subject to subsection (b), the amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the amount of losses described in section 101(a)(2) that the air carrier demonstrates to the satisfaction of the President, using sworn financial statements or other appropriate data, that the air carrier incurred. The Secretary of Transportation and the Comptroller General of the United States may audit such statements and may request any information that the Secretary and the Comptroller General deems necessary to conduct such audit.

"(b) MAXIMUM AMOUNT OF COMPENSATION PAYABLE PER AIR CARRIER.—The maximum total amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the lesser of—

"(1) the amount of such air carrier's direct and incremental losses described in section 101(a)(2); or

"(2) in the case of—

"(A) flights involving passenger-only or combined passenger and cargo transportation, the product of—

"(i) $4,500,000,000; and

"(ii) the ratio of—

"(I) the available seat miles of the air carrier for the month of August 2001 as reported to the Secretary; to

"(II) the total available seat miles of all such air carriers for such month as reported to the Secretary; and

"(B) flights involving cargo-only transportation, the product of—

"(i) $500,000,000; and

"(ii) the ratio of—

"(I) the revenue ton miles or other auditable measure of the air carrier for cargo for the latest quarter for which data is available as reported to the Secretary; to

"(II) the total revenue ton miles or other auditable measure of all such air carriers for cargo for such quarter as reported to the Secretary.

"(c) PAYMENTS.—The President may provide compensation to air carriers under section 101(a)(2) in 1 or more payments up to the amount authorized by this title.

"(d) COMPENSATION FOR CERTAIN AIR CARRIERS.—

"(1) SET-ASIDE.—The President may set aside a portion of the amount of compensation payable to air carriers under section 101(a)(2) to provide compensation to classes of air carriers, such as air tour operators and air ambulances (including hospitals operating air ambulances) for whom the application of a

distribution formula containing available seat miles as a factor would inadequately reflect their share of direct and incremental losses. The President shall reduce the $4,500,000,000 specified in subsection (b)(2)(A)(i) by the amount set aside under this subsection.

"(2) DISTRIBUTION OF AMOUNTS.—The President shall distribute the amount set aside under this subsection proportionally among such air carriers based on an appropriate auditable measure, as determined by the President.

"[SEC. 104. REPEALED. PUB. L. 110–161, DIV. D, TITLE I, DEC. 26, 2007, 121 STAT. 1974.]

"SEC. 105. CONTINUATION OF CERTAIN AIR SERVICE.

"(a) ACTION OF SECRETARY.—The Secretary of Transportation should take appropriate action to ensure that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service and that essential air service to small communities continues without interruption.

"(b) ESSENTIAL AIR SERVICE.—There is authorized to be appropriated to the Secretary to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, $120,000,000 for fiscal year 2002.

"(c) SECRETARIAL OVERSIGHT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to require an air carrier receiving direct financial assistance under this Act to maintain scheduled air service to any point served by that carrier before September 11, 2001.

"(2) AGREEMENTS.—In applying paragraph (1), the Secretary may require air carriers receiving direct financial assistance under this Act to enter into agreements which will ensure, to the maximum extent practicable, that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service.

"SEC. 106. REPORTS.

"(a) REPORT.—Not later than February 1, 2002, the President shall transmit to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on the Budget of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on the Budget of the Senate a report on the financial status of the air carrier industry and the amounts of assistance provided under this title to each air carrier.

"(b) UPDATE.—Not later than the last day of the 7-month period following the date of enactment of this Act [Sept. 22, 2001], the President shall update and transmit the report to the Committees.

"SEC. 107. DEFINITIONS.

"In this title, the following definitions apply:

"(1) AIR CARRIER.—The term 'air carrier' has the meaning such term has under section 40102 of title 49, United States Code.

"[(2) Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

"(3) INCREMENTAL LOSS.—The term 'incremental loss' does not include any loss that the President determines would have been incurred if the terrorist attacks on the United States that occurred on September 11, 2001, had not occurred.

"TITLE II—AVIATION INSURANCE

"SEC. 201. DOMESTIC INSURANCE AND REIMBURSEMENT OF INSURANCE COSTS.

"(a) IN GENERAL.—[Amended section 44302 of this title.]

"(b) COVERAGE.—

"(1) IN GENERAL.—[Amended section 44303 of this title.]

"(2) [Transferred to section 44303(b) of this title.]

"(c) REINSURANCE.—[Amended section 44304 of this title.]

"(d) PREMIUMS.—[Amended section 44306 of this title.]

"(e) CONFORMING AMENDMENT.—[Amended section 44305(b) of this title.]

"SEC. 202. EXTENSION OF PROVISIONS TO VENDORS, AGENTS, AND SUBCONTRACTORS OF AIR CARRIERS.

"Notwithstanding any other provision of this title, the Secretary may extend any provision of chapter 443 of title 49, United States Code, as amended by this title, and the provisions of this title, to vendors, agents, and subcontractors of air carriers. For the 180-day period beginning on the date of enactment of this Act [Sept. 22, 2001], the Secretary may extend or amend any such provisions so as to ensure that the entities referred to in

the preceding sentence are not responsible in cases of acts of terrorism for losses suffered by third parties that exceed the amount of such entities' liability coverage, as determined by the Secretary.

"TITLE III—TAX PROVISIONS

"SEC. 301. EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS; TREATMENT OF LOSS COMPENSATION.

"(a) EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS.—

"(1) IN GENERAL.—In the case of an eligible air carrier, any airline-related deposit required under section 6302 of the Internal Revenue Code of 1986 [26 U.S.C. 6302] to be made after September 10, 2001, and before November 15, 2001, shall be treated for purposes of such Code [26 U.S.C. 1 et seq.] as timely made if such deposit is made on or before November 15, 2001. If the Secretary of the Treasury so prescribes, the preceding sentence shall be applied by substituting for 'November 15, 2001' each place it appears—

"(A) 'January 15, 2002'; or

"(B) such earlier date after November 15, 2001, as such Secretary may prescribe.

"(2) ELIGIBLE AIR CARRIER.—For purposes of this subsection, the term 'eligible air carrier' means any domestic corporation engaged in the trade or business of transporting (for hire) persons by air if such transportation is available to the general public.

"(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code [26 U.S.C. 4261 et seq.] (relating to transportation by air).

"(b) TREATMENT OF LOSS COMPENSATION.—Nothing in any provision of law shall be construed to exclude from gross income under the Internal Revenue Code of 1986 any compensation received under section 101(a)(2) of this Act.

"TITLE IV—VICTIM COMPENSATION

"SEC. 401. SHORT TITLE.

"This title may be cited as the 'September 11th Victim Compensation Fund of 2001'.

"SEC. 402. DEFINITIONS.

"In this title, the following definitions apply:

"(1) AIR CARRIER.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.

"(2) AIR TRANSPORTATION.—The term 'air transportation' means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

"(3) AIRCRAFT MANUFACTURER.—The term 'aircraft manufacturer' means any entity that manufactured the aircraft or any parts or components of the aircraft involved in the terrorist related aircraft crashes of September 11, 2001, including employees and agents of that entity.

"(4) AIRPORT SPONSOR.—The term 'airport sponsor' means the owner or operator of an airport (as defined in section 40102 of title 49, United States Code).

"(5) CLAIMANT.—The term 'claimant' means an individual filing a claim for compensation under section 405(a)(1).

"(6) COLLATERAL SOURCE.—The term 'collateral source' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001, or debris removal, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act [probably means section 3301 of the Public Health Service Act, 42 U.S.C. 300mm], and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii).

"(7) CONTRACTOR AND SUBCONTRACTOR.—The term 'contractor and subcontractor' means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the

Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

"(8) DEBRIS REMOVAL.—The term 'debris removal' means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.

"(9) ECONOMIC LOSS.—The term 'economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities, and past out-of-pocket medical expense loss but not future medical expense loss) to the extent recovery for such loss is allowed under applicable State law.

"(10) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual determined to be eligible for compensation under section 405(c).

"(11) IMMEDIATE AFTERMATH.—The term 'immediate aftermath' means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.

"(12) NONECONOMIC LOSSES.—The term 'noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

"(13) SPECIAL MASTER.—The term 'Special Master' means the Special Master appointed under section 404(a).

"(14) WTC PROGRAM ADMINISTRATOR.—The term 'WTC Program Administrator' has the meaning given such term in section 3306 of the Public Health Service Act (42 U.S.C. 300mm–5).

"(15) WTC-RELATED PHYSICAL HEALTH CONDITION.—The term 'WTC-related physical health condition'—

"(A) means, subject to subparagraph (B), a WTC-related health condition as defined by section 3312(a) of the Public Health Service Act (42 U.S.C. 300mm–22(a)), including the conditions listed in section 3322(b) of such Act (42 U.S.C. 300mm–32(b)); and

"(B) does not include—

"(i) a mental health condition described in paragraph (1)(A)(ii) or (3)(B) of section 3312(a) of such Act (42 U.S.C. 300mm–22(a));

"(ii) any mental health condition certified under section 3312(b)(2)(B)(iii) of such Act (42 U.S.C. 300mm–22(b)(2)(B)(iii)) (including such certification as applied under section 3322(a) of such Act (42 U.S.C. 300mm–32(a));

"(iii) a mental health condition described in section 3322(b)(2) of such Act (42 U.S.C. 300mm–32(b)(2)); or

"(iv) any other mental health condition.

"(16) 9/11 CRASH SITE.—The term '9/11 crash site' means—

"(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

"(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

"(C) the area in Manhattan that is south of the line that runs along Canal Street from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River;

"(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.

"SEC. 403. PURPOSE.

"It is the purpose of this title to provide full compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the rescue and recovery efforts during the immediate aftermath of such crashes.

"SEC. 404. ADMINISTRATION.

"(a) IN GENERAL.—The Attorney General, acting through a Special Master appointed by the Attorney General, shall—

"(1) administer the compensation program established under this title;

"(2) promulgate all procedural and substantive rules for the administration of this title; and

"(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this title.

"(b) APPOINTMENT OF SPECIAL MASTER AND DEPUTY SPECIAL MASTERS.—The Attorney General may appoint a Special Master and no more than two Deputy Special Masters without regard to the

provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the Attorney General. The Attorney General shall fix the annual salary of the Special Master and the Deputy Special Masters.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this title.

"SEC. 405. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

"(a) FILING OF CLAIM.—

"(1) IN GENERAL.—A claimant may file a claim for compensation under this title with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

"(2) CLAIM FORM.—

"(A) IN GENERAL.—The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

"(B) CONTENTS.—The form developed under subparagraph (A) shall request—

"(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the terrorist-related aircraft crashes of September 11, 2001, or debris removal during the immediate aftermath;

"(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes or debris removal during the immediate aftermath; and

"(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes or debris removal during the immediate aftermath.

"(3) LIMITATION.—

"(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

"(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b)(1) and ending on October 1, 2090.

"(C) SPECIAL MASTER DETERMINATION.—

"(i) IN GENERAL.—For claims filed under this title during the period described in subparagraph (B), the Special Master shall establish a system for determining whether, for purposes of this title, the claim is—

"(I) a claim in Group A, as described in clause (ii); or

"(II) a claim in Group B, as described in clause (iii).

"(ii) GROUP A CLAIMS.—A claim under this title is a claim in Group A if—

"(I) the claim is filed under this title during the period described in subparagraph (B); and

"(II) on or before the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master postmarks and transmits a final award determination to the claimant filing such claim.

"(iii) GROUP B CLAIMS.—A claim under this title is a claim in Group B if the claim—

"(I) is filed under this title during the period described in subparagraph (B); and

"(II) is not a claim described in clause (ii).

"(iv) DEFINITION OF FINAL AWARD DETERMINATION.—For purposes of this subparagraph, the term 'final award determination' means a letter from the Special Master indicating the total amount of compensation to which a claimant is entitled for a claim under this title without regard to the limitation under the second sentence of section 406(d)(1), as such section was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act.

"(b) REVIEW AND DETERMINATION.—

"(1) REVIEW.—The Special Master shall review a claim submitted under subsection (a) and determine—

"(A) whether the claimant is an eligible individual under subsection (c);

"(B) with respect to a claimant determined to be an eligible individual—

"(i) the extent of the harm to the claimant, including any economic and noneconomic losses;

and

"(ii) subject to paragraph (7), the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

"(2) NEGLIGENCE.—With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

"(3) DETERMINATION.—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

"(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—

"(A) the right to be represented by an attorney;

"(B) the right to present evidence, including the presentation of witnesses and documents; and

"(C) any other due process rights determined appropriate by the Special Master.

"(5) NO PUNITIVE DAMAGES.—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this title.

"(6) COLLATERAL COMPENSATION.—

"(A) IN GENERAL.—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001.

"(B) GROUP B CLAIMS.—Notwithstanding any other provision of this title, in the case of a claim in Group B as described in subsection (a)(3)(C)(iii), a claimant filing such claim shall receive an amount of compensation under this title for such claim that is not greater than the amount determined under paragraph (1)(B)(ii) less the amount of any collateral source compensation that such claimant has received or is entitled to receive for such claim as a result of the terrorist-related aircraft crashes of September 11, 2001.

"(7) LIMITATIONS FOR GROUP B CLAIMS.—

"(A) NONECONOMIC LOSSES.—

"(i) IN GENERAL.—Except as provided in clause (ii), with respect to a claim in Group B as described in subsection (a)(3)(C)(iii), the total amount of compensation to which a claimant filing such claim is entitled to receive for such claim under this title on account of any noneconomic loss—

"(I) that results from any type of cancer shall not exceed $250,000; and

"(II) that does not result from any type of cancer shall not exceed $90,000.

"(ii) EXCEPTION.—The Special Master may exceed the applicable limitation in clause (i) for a claim in Group B as described in subsection (a)(3)(C)(iii) if the Special Master determines that the claim presents special circumstances.

"(B) DETERMINATION OF ECONOMIC LOSS.—

"(i) IN GENERAL.—Subject to the limitation described in clause (ii) and with respect to a claim in Group B as described in subsection (a)(3)(C)(iii), the Special Master shall, for purposes of calculating the amount of compensation to which a claimant is entitled under this title for such claim on account of any economic loss, determine the loss of earnings or other benefits related to employment by using the applicable methodology described in section 104.43 or 104.45 of title 28, Code of Federal Regulations, as such Code was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act [Dec. 18, 2015].

"(ii) ANNUAL GROSS INCOME LIMITATION.—In considering annual gross income under clause (i) for the purposes described in such clause, the Special Master shall, for each year of any loss of earnings or other benefits related to employment, limit the annual gross income of the claimant (or decedent in the case of a personal representative) for each such year to an amount that is not greater than the annual gross income limitation. The annual gross income limitation in effect on the date of enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act [July 29, 2018] is $200,000. The Special Master shall periodically adjust that annual gross income limitation to account for inflation.

"(C) GROSS INCOME DEFINED.—For purposes of this paragraph, the term 'gross income' has the meaning given such term in section 61 of the Internal Revenue Code of 1986 [26 U.S.C. 61].

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant—

"(A) is an individual described in paragraph (2); and

"(B) meets the requirements of paragraph (3).

"(2) INDIVIDUALS.—A claimant is an individual described in this paragraph if the claimant is—

"(A) an individual who—

"(i) was present at the World Trade Center, (New York, New York), the Pentagon (Arlington, Virginia), the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site at the time, or in the immediate aftermath, of the terrorist-related aircraft crashes of September 11, 2001; and

"(ii) suffered physical harm or death as a result of such an air crash or debris removal;

"(B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11 or 77 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall not be eligible to receive compensation under this title; or

"(C) in the case of a decedent who is an individual described in subparagraph (A) or (B), the personal representative of the decedent who files a claim on behalf of the decedent.

"(3) REQUIREMENTS.—

"(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

"(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

"(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

"(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

"(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—Except with respect to claims in Group B as described in subsection (a)(3)(C)(iii), an individual may file a claim during the period described in subsection (a)(3)(B) only if—

"(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

"(II) the individual's physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

"(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(b)(1).

"(iv) GROUP B CLAIMS.—

"(I) IN GENERAL.—Subject to subclause (II), an individual filing a claim in Group B as described in subsection (a)(3)(C)(iii) may be eligible for compensation under this title only if the Special Master, with assistance from the WTC Program Administrator as necessary, determines based on the evidence presented that the individual has a WTC-related physical health condition, as defined by section 402 of this Act.

"(II) PERSONAL REPRESENTATIVES.—An individual filing a claim in Group B, as described in subsection (a)(3)(C)(iii), who is a personal representative described in paragraph (2)(C) may be eligible for compensation under this title only if the Special Master, with assistance from the WTC Program Administrator as necessary, determines based on the evidence presented that the applicable decedent suffered from a condition that was, or would have been determined to be, a WTC-related physical health condition, as defined by section 402 of this Act.

"(B) Single claim.—Not more than one claim may be submitted under this title by an individual or on behalf of a deceased individual.

"(C) Limitation on civil action.—

"(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, or for damages arising from or related to debris removal. The preceding sentence does not apply to a civil action to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.

"(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

"(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

"(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b)(1).

"(iii) SETTLED ACTIONS.—In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 [Pub. L. 111–347] was enacted [Jan. 2, 2011].

"SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.

"(a) IN GENERAL.—Subject to the limitations under subsection (d), not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this title, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

"(b) PAYMENT AUTHORITY.—For the purpose of providing compensation for claims in Group A as described in section 405(a)(3)(C)(ii), this title constitutes budget authority in advance of appropriations Acts in the amounts provided under subsection (d)(1) and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title subject to the limitations under subsection (d).

"(c) ADDITIONAL FUNDING.—

"(1) IN GENERAL.—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this title, under such terms and conditions as the Attorney General may impose.

"(2) USE OF SEPARATE ACCOUNT.—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

"(d) LIMITATIONS.—

"(1) GROUP A CLAIMS.—

"(A) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims in Group A as described in section 405(a)(3)(C)(ii), shall not exceed $2,775,000,000.

"(B) REMAINDER OF CLAIM AMOUNTS.—In the case of a claim in Group A as described in section 405(a)(3)(C)(ii) and for which the Special Master has ratably reduced the amount of compensation for such claim pursuant to paragraph (2) of this subsection, as this subsection was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act [Dec. 18, 2015], the Special Master shall, as soon as practicable after the date of enactment of such Act, authorize payment of the amount of compensation that is equal to the difference between—

"(i) the amount of compensation that the claimant would have been paid under this title for such claim without regard to the limitation under the second sentence of paragraph (1) of this subsection, as this subsection was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act; and

"(ii) the amount of compensation the claimant was paid under this title for such claim prior to the date of enactment of such Act.

"(2) GROUP B CLAIMS.—

"(A) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims in Group B as described in section 405(a)(3)(C)(iii), shall not exceed the amount of funds deposited into the Victims Compensation Fund under section 410.

"(B) PAYMENT SYSTEM.—The Special Master shall establish a system for providing compensation for claims in Group B as described in section 405(a)(3)(C)(iii) in accordance with this subsection and section 405(b)(7).

"(C) DEVELOPMENT OF AGENCY POLICIES AND PROCEDURES.—

"(i) DEVELOPMENT.—

"(I) IN GENERAL.—Not later than 30 days after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master shall develop agency policies and procedures that meet the requirements under subclauses (II) and (III) for providing compensation for claims in Group B as described in section 405(a)(3)(C)(iii), including policies and procedures for presumptive award schedules, administrative expenses, and related internal memoranda.

"(II) LIMITATION.—The policies and procedures developed under subclause (I) shall ensure that total expenditures, including administrative expenses, in providing compensation for claims in Group B, as described in section 405(a)(3)(C)(iii), do not exceed the amount of funds deposited into the Victims Compensation Fund under section 410.

"(III) PRIORITIZATION.—The policies and procedures developed under subclause (I) shall prioritize claims for claimants who are determined by the Special Master as suffering from the most debilitating physical conditions to ensure, for purposes of equity, that such claimants are not unduly burdened by such policies or procedures.

"(ii) REASSESSMENT.—Beginning 1 year after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, and each year thereafter until the Victims Compensation Fund is permanently closed under section 410(e), the Special Master shall conduct a reassessment of the agency policies and procedures developed under clause (i) to ensure that such policies and procedures continue to satisfy the requirements under subclauses (II) and (III) of such clause. If the Special Master determines, upon reassessment, that such agency policies or procedures do not achieve the requirements of such subclauses, the Special Master shall take additional actions or make such modifications as necessary to achieve such requirements.

"(D) COMPENSATION REDUCED BY SPECIAL MASTER DUE TO INSUFFICIENT FUNDING.—

"(i) IN GENERAL.—In any claim in Group B as described in section 405(a)(3)(C)(iii) in which, prior to the enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act [July 29, 2019], the Special Master had advised the claimant that the amount of compensation has been reduced on the basis of insufficient funding, the Special Master shall, in the first fiscal year beginning after sufficient funding becomes available under such Act [amending this note], pay to the claimant an amount that is, as determined by the Special Master, equal to the difference between—

"(I) the amount the claimant would have been paid under this title if sufficient funding was available to the Special Master at the time the Special Master determined the amount due the claimant under this title; and

"(II) the amount the claimant was paid under this title.

"(ii) DEFINITIONS.—For purposes of this subparagraph:

"(I) INSUFFICIENT FUNDING.—The term 'insufficient funding' means funding—

"(aa) that is available to the Special Master under section 410(c) on the day before the date of enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act for purposes of compensating claims in Group B as described in section 405(a)(3)(C)(iii); and

"(bb) that the Special Master determines is insufficient for purposes of compensating all such claims and complying with subparagraph (A).

"(II) SUFFICIENT FUNDING.—The term 'sufficient funding' means funding—

"(aa) made available to the Special Master for purposes of compensating claims in Group B as described in section 405(a)(3)(C)(iii) through an Act of Congress that is enacted after the date on which the amount of the claim described in clause (i) has been reduced; and

"(bb) that the Special Master determines is sufficient for purposes of compensating all claims in such Group B.

"(e) ATTORNEY FEES.—

"(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, more than 10 percent of an award made under this title on such claim.

"(2) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii), the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title.

"(B) EXCEPTION.—If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than—

"(i) 10 percent of such aggregate amount through the settlement, minus

"(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

"(3) DISCRETION TO LOWER FEE.—In the event that the special master [probably should be capitalized] finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).

"SEC. 407. REGULATIONS.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Sept. 22, 2001], the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this title, including regulations with respect to—

"(1) forms to be used in submitting claims under this title;

"(2) the information to be included in such forms;

"(3) procedures for hearing and the presentation of evidence;

"(4) procedures to assist an individual in filing and pursuing claims under this title; and

"(5) other matters determined appropriate by the Attorney General.

"(b) UPDATED REGULATIONS.—

"(1) JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010.—Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010 [Jan. 2, 2011], the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act [title II of Pub. L. 111–347, amending this note].

"(2) JAMES ZADROGA 9/11 VICTIM COMPENSATION FUND REAUTHORIZATION ACT .—Not later than 180 days after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act [Dec. 18, 2015], the Special Master shall update the regulations promulgated under subsection (a), and updated under paragraph (1), to the extent necessary to comply with the amendments made by such Act [amending section 905 of Title 2, The Congress, and amending this note and section 1347 of div. B of Pub. L. 112–10, set out as a note above].

"SEC. 408. LIMITATION ON LIABILITY.

"(a) IN GENERAL.—

"(1) LIABILITY LIMITED TO INSURANCE COVERAGE.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

"(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

"(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or $350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related

aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.

"(4) LIABILITY FOR CERTAIN CLAIMS.—Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

"(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

"(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

"(C) As it relates to the limitation of liability of the City of New York, the amount that is the greater of the City of New York's insurance coverage or $350,000,000. In determining the amount of the City's insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

"(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

"(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

"(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

"(A) The funds described in subparagraph (A) or (B) of paragraph (4).

"(B) If there are no funds available as described in subparagraph (A) or (B) of paragraph (4), the funds described in subparagraph (C) of such paragraph.

"(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

"(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

"(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph[s] (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.

"(b) FEDERAL CAUSE OF ACTION.—

"(1) AVAILABILITY OF ACTION.—There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding section 40120(c) of title 49, United States Code, this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

"(2) SUBSTANTIVE LAW.—The substantive law for decision in any such suit shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or preempted by Federal law.

"(3) JURISDICTION.—The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.

"(4) NATIONWIDE SUBPOENAS.—

"(A) IN GENERAL.—A subpoena requiring the attendance of a witness at trial or a hearing conducted under this section may be served at any place in the United States.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection is intended to diminish the authority of a court to quash or modify a subpoena for the reasons provided in clause (i), (iii), or (iv) of

subparagraph (A) or subparagraph (B) of rule 45(c)(3) of the Federal Rules of Civil Procedure [28 U.S.C. App.].

"(c) EXCLUSION.—Nothing in this section shall in any way limit any liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations.

"SEC. 409. RIGHT OF SUBROGATION.

"The United States shall have the right of subrogation with respect to any claim paid by the United States under this title, subject to the limitations described in section 408.

"SEC. 410. VICTIMS COMPENSATION FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the 'Victims Compensation Fund', consisting of amounts deposited into such fund under subsection (b).

"(b) DEPOSITS INTO FUND.—There shall be deposited into the Victims Compensation Fund each of the following:

"(1) Effective on the day after the date on which all claimants who file a claim in Group A, as described in section 405(a)(3)(C)(ii), have received the full compensation due such claimants under this title for such claim, any amounts remaining from the total amount made available under section 406 to compensate claims in Group A as described in section 405(a)(3)(C)(ii).

"(2) The amount appropriated under subsection (c).

"(c) APPROPRIATIONS.—There is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for fiscal year 2019 and each fiscal year thereafter through fiscal year 2092, to remain available until expended, to provide compensation for claims in Group B as described in section 405(a)(3)(C)(iii).

"(d) AVAILABILITY OF FUNDS.—Amounts deposited into the Victims Compensation Fund shall be available, without further appropriation, to the Special Master to provide compensation for claims in Group B as described in section 405(a)(3)(C)(iii).

"(e) TERMINATION.—On October 1, 2092, or at such time thereafter as all funds are expended, the Victims Compensation Fund shall be permanently closed.

"SEC. 411. 9-11 RESPONSE AND BIOMETRIC ENTRY-EXIT FEE.

"(a) TEMPORARY L-1 VISA FEE INCREASE.—Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law, during the period beginning on the date of the enactment of this section [Dec. 18, 2015] and ending on September 30, 2027, the combined filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)), including an application for an extension of such status, shall be increased by $4,500 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant's employees are nonimmigrants admitted pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) of such Act.

"(b) TEMPORARY H-1B VISA FEE INCREASE.—Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law, during the period beginning on the date of the enactment of this section and ending on September 30, 2027, the combined filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), including an application for an extension of such status, shall be increased by $4,000 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant's employees are such nonimmigrants or nonimmigrants described in section 101(a)(15)(L) of such Act.

"(c) 9-11 RESPONSE AND BIOMETRIC EXIT ACCOUNT.—

"(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the '9–11 Response and Biometric Exit Account'.

"(2) DEPOSITS.—

"(A) IN GENERAL.—Subject to subparagraph (B), of the amounts collected pursuant to the fee increases authorized under subsections (a) and (b)—

"(i) 50 percent shall be deposited in the general fund of the Treasury; and

"(ii) 50 percent shall be deposited as offsetting receipts into the 9–11 Response and Biometric Exit Account, and shall remain available until expended.

"(B) TERMINATION OF DEPOSITS IN ACCOUNT.—After a total of $1,000,000,000 is deposited into the 9–11 Response and Biometric Exit Account under subparagraph (A)(ii), all amounts collected pursuant to the fee increases authorized under subsections (a) and (b) shall be deposited in the

general fund of the Treasury.

"(3) USE OF FUNDS.—For fiscal year 2017, and each fiscal year thereafter, amounts in the 9–11 Response and Biometric Exit Account shall be available to the Secretary of Homeland Security without further appropriation for implementing the biometric entry and exit data system described in section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b).

"TITLE V—AIR TRANSPORTATION SAFETY

"SEC. 501. INCREASED AIR TRANSPORTATION SAFETY.

"Congress affirms the President's decision to spend $3,000,000,000 on airline safety and security in conjunction with this Act in order to restore public confidence in the airline industry.

"SEC. 502. CONGRESSIONAL COMMITMENT.

"Congress is committed to act expeditiously, in consultation with the Secretary of Transportation, to strengthen airport security and take further measures to enhance the security of air travel.

"TITLE VI—SEPARABILITY

"SEC. 601. SEPARABILITY.

"If any provision of this Act (including any amendment made by this Act [amending sections 44302 to 44306 of this title]) or the application thereof to any person or circumstance is held invalid, the remainder of this Act (including any amendment made by this Act) and the application thereof to other persons or circumstances shall not be affected thereby."

[Pub. L. 107–134, title I, §114(b), Jan. 23, 2002, 115 Stat. 2436, provided that: "The amendment made by this section [amending Pub. L. 107–42, set out above] shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42)."]

[Memorandum of President of the United States, Sept. 25, 2001, 66 F.R. 49507, delegated to the Secretary of Transportation the authority vested in the President under section 101(a)(2) of Pub. L. 107–42, set out above, to compensate air carriers for direct and incremental losses they incurred from the terrorist attacks of Sept. 11, 2001, and any resulting ground stop order.]

INDEPENDENT STUDY OF FAA COSTS AND ALLOCATIONS

Pub. L. 106–181, title III, §309, Apr. 5, 2000, 114 Stat. 127, provided that:

"(a) INDEPENDENT ASSESSMENT.—

"(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this section. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with one or more independent entities.

"(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—

"(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

"(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the following:

"(i) The Administration's cost input data, including the reliability of the Administration's source documents and the integrity and reliability of the Administration's data collection process.

"(ii) The Administration's system for tracking assets.

"(iii) The Administration's bases for establishing asset values and depreciation rates.

"(iv) The Administration's system of internal controls for ensuring the consistency and reliability of reported data.

"(v) The Administration's definition of the services to which the Administration ultimately attributes its costs.

"(vi) The cost pools used by the Administration and the rationale for and reliability of the bases which the Administration proposes to use in allocating costs of services to users.

"(C) REQUIREMENTS FOR ASSESSMENT OF COST POOLS.—In carrying out subparagraph (B)(vi), the Inspector General shall—

"(i) review costs that cannot reliably be attributed to specific Administration services or activities (called 'common and fixed costs' in the Administration Cost Allocation Study) and consider alternative methods for allocating such costs; and

"(ii) perform appropriate tests to assess relationships between costs in the various cost pools

and activities and services to which the costs are attributed by the Administration.

"(3) COST EFFECTIVENESS.—

"(A) IN GENERAL.—The Inspector General shall assess the progress of the Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Administration.

"(B) ANNUAL REPORTS.—Not later than December 31, 2000, and annually thereafter until December 31, 2004, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

"(C) INFORMATION TO BE INCLUDED IN FAA FINANCIAL REPORT.—The Administrator [of the Federal Aviation Administration] shall include in the annual financial report of the Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

"(b) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out this section."

OPERATIONS OF AIR TAXI INDUSTRY

Pub. L. 106–181, title VII, §735, Apr. 5, 2000, 114 Stat. 171, provided that:

"(a) STUDY.—The Administrator [of the Federal Aviation Administration], in consultation with the National Transportation Safety Board and other interested persons, shall conduct a study of air taxi operators regulated under part 135 of title 14, Code of Federal Regulations.

"(b) CONTENTS.—The study shall include an analysis of the size and type of the aircraft fleet, relevant aircraft equipment, hours flown, utilization rates, safety record by various categories of use and aircraft type, sales revenues, and airports served by the air taxi fleet.

"(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study."

FINDINGS

Pub. L. 104–264, title II, §271, Oct. 9, 1996, 110 Stat. 3238, provided that: "Congress finds the following:

"(1) The Administration [Federal Aviation Administration] is recognized throughout the world as a leader in aviation safety.

"(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

"(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

"(4) The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.

"(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

"(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

"(7) The Administration each year performs more than 355,000 inspections.

"(8) The Administration issues more than 655,000 pilot's licenses and more than 560,000 nonpilot's licenses (including mechanics).

"(9) The Administration's certification means that the product meets world-wide recognized standards of safety and reliability.

"(10) The Administration's certification means aviation-related equipment and services meet world-wide recognized standards.

"(11) The Administration's certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

"(12) The Administration's certification may constitute a valuable license, franchise, privilege or benefits for the holders.

"(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

"(14) The Administration provides extensive services to public use aircraft."

PURPOSES

Pub. L. 104–264, title II, §272, Oct. 9, 1996, 110 Stat. 3239, provided that: "The purposes of this subtitle

[subtitle C (§§271–278) of title II of Pub. L. 104–264, enacting sections 45301, 45303, 48111, and 48201 of this title, amending section 41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and section 41742 of this title] are—

"(1) to provide a financial structure for the Administration [Federal Aviation Administration] so that it will be able to support the future growth in the national aviation and airport system;

"(2) to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

"(3) to ensure that any funding will be dedicated solely for the use of the Administration;

"(4) to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute to, the national aviation system and the services provided by the Administration;

"(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

"(6) to develop funding options for Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

"(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry."

INDEPENDENT ASSESSMENT OF FAA FINANCIAL REQUIREMENTS; ESTABLISHMENT OF NATIONAL CIVIL AVIATION REVIEW COMMISSION

Pub. L. 104–264, title II, §274, Oct. 9, 1996, 110 Stat. 3240, as amended by Pub. L. 106–181, title III, §307(c)(3), Apr. 5, 2000, 114 Stat. 126; Pub. L. 117–286, §4(a)(311), Dec. 27, 2022, 136 Stat. 4340, provided that:

"(a) INDEPENDENT ASSESSMENT.—

"(1) INITIATION.—Not later than 30 days after the date of the enactment of this Act [Oct. 9, 1996], the Administrator [of the Federal Aviation Administration] shall contract with an entity independent of the Administration [Federal Aviation Administration] and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

"(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 appropriation levels established by Congress. The independent assessment shall be based on an objective analysis of agency funding needs.

"(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

"(A) anticipated air traffic forecasts;

"(B) other workload measures;

"(C) estimated productivity gains, if any, which contribute to budgetary requirements;

"(D) the need for programs; and

"(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

"(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

"(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the Commission established under subsection (b), the Secretary [of Transportation], the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

"(b) NATIONAL CIVIL AVIATION REVIEW COMMISSION.—

"(1) ESTABLISHMENT.—There is established a commission to be known as the National Civil Aviation Review Commission (hereinafter in this section referred to as the 'Commission').

"(2) MEMBERSHIP.—The Commission shall consist of 21 members to be appointed as follows:

"(A) 13 members to be appointed by the Secretary, in consultation with the Secretary of the Treasury, from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues important to general aviation, major air carriers,

air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member appointed under this subparagraph shall have detailed knowledge of the congressional budgetary process.

"(B) Two members appointed by the Speaker of the House of Representatives.

"(C) Two members appointed by the minority leader of the House of Representatives.

"(D) Two members appointed by the majority leader of the Senate.

"(E) Two members appointed by the minority leader of the Senate.

"(3) TASK FORCES.—The Commission shall establish an aviation funding task force and an aviation safety task force to carry out the responsibilities of the Commission under this subsection.

"(4) FIRST MEETING.—The Commission may conduct its first meeting as soon as a majority of the members of the Commission are appointed.

"(5) HEARINGS AND CONSULTATION.—

"(A) HEARINGS.—The Commission shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and may conduct such additional hearings as may be necessary.

"(B) CONSULTATION.—The Commission shall consult on a regular and frequent basis with the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

"(C) CHAPTER 10 OF TITLE 5, UNITED STATES CODE, NOT TO APPLY.—The Commission shall not be considered an advisory committee for purposes of chapter 10 of title 5, United States Code.

"(6) DUTIES OF AVIATION FUNDING TASK FORCE.—

"(A) REPORT TO SECRETARY.—

"(i) IN GENERAL.—The aviation funding task force established pursuant to paragraph (3) shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving the report. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

"(ii) CONTENTS.—The report submitted by the aviation funding task force under clause (i)—

"(I) shall consider the independent assessment under subsection (a);

"(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act [see Tables for classification] or in sections 40110(d) and 40122(g) of title 49, United States Code, and additional financial initiatives;

"(III) shall include specific recommendations to Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

"(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

"(B) RECOMMENDATIONS.—The aviation funding task force shall make such recommendations under subparagraph (A)(ii)(III) as the task force deems appropriate. Those recommendations may include—

"(i) proposals for off-budget treatment of the Airport and Airway Trust Fund;

"(ii) alternative financing and funding proposals, including linked financing proposals;

"(iii) modifications to existing levels of Airport and Airways Trust Fund receipts and taxes for each type of tax;

"(iv) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

"(v) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

"(vi) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

"(vii) means of meeting the airport infrastructure needs for large, medium, and small

airports; and

"(viii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

"(C) ADDITIONAL RECOMMENDATIONS.—The aviation funding task force report may also make recommendations concerning—

"(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

"(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

"(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

"(iv) the elimination of unneeded programs; and

"(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

"(D) IMPACT ASSESSMENT FOR RECOMMENDATIONS.—For each recommendation contained in the aviation funding task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

"(i) safety;

"(ii) administrative costs;

"(iii) the congressional budget process;

"(iv) the economics of the industry (including the proportionate share of all users);

"(v) the ability of the Administration to utilize the sums collected; and

"(vi) the funding needs of the Administration.

"(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

"(i) state the specific rates for each group affected by the proposed modifications;

"(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

"(iii) state the basis for the recommendations.

"(F) FEE SYSTEM RECOMMENDATIONS.—If the task force's report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

"(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

"(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

"(iii) continuing the promotion of fair and competitive practices;

"(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

"(v) the impact such a recommendation would have on service to small communities;

"(vi) the impact such a recommendation would have on services provided by regional air carriers;

"(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

"(viii) the usefulness of phased-in approaches to implementing such a financing system;

"(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

"(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

"(7) DUTIES OF AVIATION SAFETY TASK FORCE.—

"(A) REPORT TO ADMINISTRATOR.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the aviation safety task force established pursuant to paragraph (3) shall submit to the Administrator a report setting forth a comprehensive analysis of aviation safety in the United States

and emerging trends in the safety of particular sectors of the aviation industry.

"(B) CONTENTS.—The report to be submitted under subparagraph (A) shall include an assessment of—

"(i) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors;

"(ii) the Administration's processes for ensuring the public safety from fraudulent parts in civil aviation and the extent to which use of suspected unapproved parts requires additional oversight or enforcement action; and

"(iii) the ability of the Administration to anticipate changes in the aviation industry and to develop policies and actions to ensure the highest level of aviation safety in the 21st century.

"(8) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Commission appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Commission who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

"(9) TRAVEL AND PER DIEM.—Each member of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

"(10) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Commission such staff, information, and administrative services and assistance as may reasonably be required to enable the Commission to carry out its responsibilities under this subsection.

"(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(c) REPORTS TO CONGRESS.—

"(1) REPORT BY THE SECRETARY BASED ON FINAL REPORT OF AVIATION FUNDING TASK FORCE.—

"(A) CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.—Not later than 30 days after receiving the preliminary report of the aviation funding task force, the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on the report to the task force.

"(B) REPORT TO CONGRESS.—Not later than 30 days after receiving the final report of the aviation funding task force, and in no event more than 1 year after the date of the enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall transmit a report to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives. Such report shall be based upon the final report of the task force and shall contain the Secretary's recommendations for funding the needs of the aviation system through the year 2002.

"(C) CONTENTS.—The Secretary shall include in the report to Congress under subparagraph (B)—

"(i) a copy of the final report of the task force; and

"(ii) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

"(D) PUBLICATION.—The Secretary shall cause a copy of the report to be printed in the Federal Register upon its transmittal to Congress under subparagraph (B).

"(2) REPORT BY THE ADMINISTRATOR BASED ON FINAL REPORT OF AVIATION SAFETY TASK FORCE.—Not later than 30 days after receiving the report of the aviation safety task force, the Administrator shall transmit the report to Congress, together with the Administrator's recommendations for improving aviation safety in the United States.

"(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the Commission, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of the enactment of this Act.

"(e) GAO ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall transmit to the Commission and Congress an independent assessment of airport development needs."

JOINT AVIATION RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 103–305, title III, §303, Aug. 23, 1994, 108 Stat. 1590, provided that:

"(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall jointly establish a program to conduct research on aviation technologies that enhance United States competitiveness. The program shall include—

"(1) next-generation satellite communications, including global positioning satellites;

"(2) advanced airport and airplane security;

"(3) environmentally compatible technologies, including technologies that limit or reduce noise and air pollution;

"(4) advanced aviation safety programs; and

"(5) technologies and procedures to enhance and improve airport and airway capacity.

"(b) PROCEDURES FOR CONTRACTS AND GRANTS.—The Administrator and the heads of the other appropriate Federal agencies shall administer contracts and grants entered into under the program established under subsection (a) in accordance with procedures developed jointly by the Administrator and the heads of the other appropriate Federal agencies. The procedures should include an integrated acquisition policy for contract and grant requirements and for technical data rights that are not an impediment to joint programs among the Federal Aviation Administration, the other Federal agencies involved, and industry.

"(c) PROGRAM ELEMENTS.—The program established under subsection (a) shall include—

"(1) selected programs that jointly enhance public and private aviation technology development;

"(2) an opportunity for private contractors to be involved in such technology research and development; and

"(3) the transfer of Government-developed technologies to the private sector to promote economic strength and competitiveness.

"(d) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section."

AIR QUALITY IN AIRCRAFT CABINS

Pub. L. 108–176, title VIII, §815, Dec. 12, 2003, 117 Stat. 2592, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled 'The Airliner Cabin Environment and the Health of Passengers and Crew'.

"(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

"(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

"(2) collect pesticide exposure data to determine exposures of passengers and crew;

"(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

"(4) analyze and study cabin air pressure and altitude; and

"(5) establish an air quality incident reporting system.

"(c) REPORT.—Not later than 30 months after the date of enactment of this Act [Dec. 12, 2003], the Administrator shall transmit to Congress a report on the findings of the Administrator under this section."

Pub. L. 106–181, title VII, §725, Apr. 5, 2000, 114 Stat. 166, provided that:

"(a) STUDY OF AIR QUALITY IN PASSENGER CABINS IN COMMERCIAL AIRCRAFT.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] shall arrange for and provide necessary data to the National Academy of Sciences to conduct a 12-month, independent study of air quality in passenger cabins of aircraft used in air transportation and foreign air transportation, including the collection of new data, in coordination with the Federal Aviation Administration, to identify contaminants in the aircraft air and develop recommendations for means of reducing such contaminants.

"(2) ALTERNATIVE AIR SUPPLY.—The study should examine whether contaminants would be reduced by the replacement of engine and auxiliary power unit bleed air with an alternative supply of air for the aircraft passengers and crew.

"(3) SCOPE.—The study shall include an assessment and quantitative analysis of each of the

following:

"(A) Contaminants of concern, as determined by the National Academy of Sciences.

"(B) The systems of air supply on aircraft, including the identification of means by which contaminants may enter such systems.

"(C) The toxicological and health effects of the contaminants of concern, their byproducts, and the products of their degradation.

"(D) Any contaminant used in the maintenance, operation, or treatment of aircraft, if a passenger or a member of the air crew may be directly exposed to the contaminant.

"(E) Actual measurements of the contaminants of concern in the air of passenger cabins during actual flights in air transportation or foreign air transportation, along with comparisons of such measurements to actual measurements taken in public buildings.

"(4) PROVISION OF CURRENT DATA.—The Administrator shall collect all data of the Federal Aviation Administration that is relevant to the study and make the data available to the National Academy of Sciences in order to complete the study.

"(b) COLLECTION OF AIRCRAFT AIR QUALITY DATA.—

"(1) IN GENERAL.—The Administrator may consider the feasibility of using the flight data recording system on aircraft to monitor and record appropriate data related to air inflow quality, including measurements of the exposure of persons aboard the aircraft to contaminants during normal aircraft operation and during incidents involving air quality problems.

"(2) PASSENGER CABINS.—The Administrator may also consider the feasibility of using the flight data recording system to monitor and record data related to the air quality in passengers cabins of aircraft."

Pub. L. 103–305, title III, §304, Aug. 23, 1994, 108 Stat. 1591, provided that:

"(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall establish a research program to determine—

"(1) what, if any, aircraft cabin air conditions, including pressure altitude systems, on flights within the United States are harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness; and

"(2) the risk of airline passengers and crew contracting infectious diseases during flight.

"(b) CONTRACT WITH CENTER FOR DISEASE CONTROL.—In carrying out the research program established under subsection (a), the Administrator and the heads of the other appropriate Federal agencies shall contract with the Center for Disease Control [now Centers for Disease Control and Prevention] and other appropriate agencies to carry out any studies necessary to meet the goals of the program set forth in subsection (c).

"(c) GOALS.—The goals of the research program established under subsection (a) shall be—

"(1) to determine what, if any, cabin air conditions currently exist on domestic aircraft used for flights within the United States that could be harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness, and including the risk of infection by bacteria and viruses;

"(2) to determine to what extent, changes in, cabin air pressure, temperature, rate of cabin air circulation, the quantity of fresh air per occupant, and humidity on current domestic aircraft would reduce or eliminate the risk of illness or discomfort to airline passengers and crew; and

"(3) to establish a long-term research program to examine potential health problems to airline passengers and crew that may arise in an airplane cabin on a flight within the United States because of cabin air quality as a result of the conditions and changes described in paragraphs (1) and (2).

"(d) PARTICIPATION.—In carrying out the research program established under subsection (a), the Administrator shall encourage participation in the program by representatives of aircraft manufacturers, air carriers, aviation employee organizations, airline passengers, and academia.

"(e) REPORT.—(1) Within six months after the date of enactment of this Act [Aug. 23, 1994], the Administrator shall submit to the Congress a plan for implementation of the research program established under subsection (a).

"(2) The Administrator shall annually submit to the Congress a report on the progress made during the year for which the report is submitted toward meeting the goals set forth in subsection (c).

"(f) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section."

INFORMATION ON DISINSECTION OF AIRCRAFT

Pub. L. 103–305, title V, §507, Aug. 23, 1994, 108 Stat. 1595, provided that:

"(a) AVAILABILITY OF INFORMATION.—In the interest of protecting the health of air travelers, the Secretary shall publish a list of the countries (as determined by the Secretary) that require disinsection of aircraft landing in such countries while passengers and crew are on board such aircraft.

"(b) REVISION.—The Secretary shall revise the list required under subsection (a) on a periodic basis.

"(c) PUBLICATION.—The Secretary shall publish the list required under subsection (a) not later than 30 days after the date of the enactment of this Act [Aug. 23, 1994]. The Secretary shall publish a revision to the list not later than 30 days after completing the revision under subsection (b)."

GENERAL AVIATION REVITALIZATION ACT OF 1994

Pub. L. 103–298, Aug. 17, 1994, 108 Stat. 1552, as amended by Pub. L. 105–102, §3(e), Nov. 20, 1997, 111 Stat. 2215, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'General Aviation Revitalization Act of 1994'.

"SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

"(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

"(1) after the applicable limitation period beginning on—

"(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

"(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

"(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

"(b) EXCEPTIONS.—Subsection (a) does not apply—

"(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

"(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

"(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

"(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

"(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term 'general aviation aircraft' means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under part A of subtitle VII of title 49, United States Code, at the time of the accident.

"(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

"SEC. 3. OTHER DEFINITIONS.

"For purposes of this Act—

"(1) the term 'aircraft' has the meaning given such term in section 40102(a)(6) of title 49, United States Code;

"(2) the term 'airworthiness certificate' means an airworthiness certificate issued under section 44704(c)(1) of title 49, United States Code, or under any predecessor Federal statute;

"(3) the term 'limitation period' means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

"(4) the term 'type certificate' means a type certificate issued under section 44704(a) of title 49, United States Code, or under any predecessor Federal statute.

"SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

"(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act [Aug. 17, 1994].

"(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act."

NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

Pub. L. 102–581, title II, §204, Oct. 31, 1992, 106 Stat. 4891, as amended Pub. L. 103–13, §1, Apr. 7, 1993, 107 Stat. 43, provided for establishment of National Commission to Ensure a Strong Competitive Airline Industry to make a complete investigation and study of financial condition of the airline industry, adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry, to report to President and Congress not later than 90 days after the date on which initial appointments of members to the Commission were completed, and to terminate on the 30th day following transmission of report.

DEFINITIONS OF TERMS IN PUB. L. 118–63

Pub. L. 118–63, §2, May 16, 2024, 138 Stat. 1033, provided that: "In this Act [see Tables for classification]:

"(1) ADMINISTRATOR.—Unless otherwise specified, the term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(3) COMPTROLLER GENERAL.—The term 'Comptroller General' means the Comptroller General of the United States.

"(4) FAA.—The term 'FAA' means the Federal Aviation Administration.

"(5) NEXTGEN.—The term 'NextGen' means the Next Generation Air Transportation System.

"(6) SECRETARY.—Unless otherwise specified, the term 'Secretary' means the Secretary of Transportation."

Pub. L. 118–63, title X, §1001, May 16, 2024, 138 Stat. 1386, provided that: "In this title [enacting sections 44813, 44814, and 44520 of this title, amending sections 44501, 44518, 47511, and 48102 of this title, enacting provisions set out as notes under this section and sections 40103, 44501, 44504, 44505, 44701, and 47101 of this title, and amending provisions set out as a note under section 44505 of this title]:

"(1) COVERED COMMITTEES OF CONGRESS.—The term 'covered committees of Congress' means the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) NASA.—The term 'NASA' means the National Aeronautics and Space Administration."

DEFINITIONS OF TERMS IN TITLE I OF DIV. V OF PUB. L. 116–260

Pub. L. 116–260, div. V, title I, §137, Dec. 27, 2020, 134 Stat. 2360, provided that: "In this title [see Tables for classification]:

"(1) ADMINISTRATION; FAA.—The terms 'Administration' and 'FAA' mean the Federal Aviation Administration.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the FAA.

"(3) CONGRESSIONAL COMMITTEES OF JURISDICTION.—The term 'congressional committees of jurisdiction' means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(4) ICAO.—The term 'ICAO' means the International Civil Aviation Organization.

"(5) ORGANIZATION DESIGNATION AUTHORIZATION.—The term 'organization designation authorization' has the same meaning given such term in section 44736(c) of title 49, United States Code.

"(6) TRANSPORT AIRPLANE.—The term 'transport airplane' means a transport category airplane designed for operation by an air carrier or foreign air carrier type-certificated with a passenger seating capacity of 30 or more or an all-cargo or combi derivative of such an airplane.

"(7) TYPE CERTIFICATE.—The term 'type certificate'—

"(A) means a type certificate issued pursuant to section 44704(a) of title 49, United States Code, or an amendment to such certificate; and

"(B) does not include a supplemental type certificate issued under section 44704(b) of such section."

DEFINITIONS OF TERMS IN PUB. L. 115–254

Pub. L. 115–254, div. B, §101, Oct. 5, 2018, 132 Stat. 3199, provided that: "In this division [see Tables for classification], the term 'appropriate committees of Congress' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."

Pub. L. 115–254, div. B, title IV, §401, Oct. 5, 2018, 132 Stat. 3328, provided that: "In this title [see Tables for classification]:

"(1) COVERED AIR CARRIER.—The term 'covered air carrier' means an air carrier or a foreign air carrier as those terms are defined in section 40102 of title 49, United States Code.

"(2) ONLINE SERVICE.—The term 'online service' means any service available over the internet, or that connects to the internet or a wide-area network.

"(3) TICKET AGENT.—The term 'ticket agent' has the meaning given the term in section 40102 of title 49, United States Code."

Pub. L. 115–254, div. B, title V, §501, Oct. 5, 2018, 132 Stat. 3350, provided that: "In this title [see Tables for classification], the following definitions apply:

"(1) ADMINISTRATION.—The term 'Administration' means the Federal Aviation Administration.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the FAA.

"(3) ADS–B.—The term 'ADS–B' means automatic dependent surveillance-broadcast.

"(4) ADS–B OUT.—The term 'ADS–B Out' means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft.

"(5) FAA.—The term 'FAA' means the Federal Aviation Administration.

"(6) NEXTGEN.—The term 'NextGen' means the Next Generation Air Transportation System."

Pub. L. 115–254, div. B, title VII, §702, Oct. 5, 2018, 132 Stat. 3409, provided that: "In this title [see Short Title of 2018 Amendment note set out above], the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(2) FAA.—The term 'FAA' means the Federal Aviation Administration.

"(3) NASA.—The term 'NASA' means the National Aeronautics and Space Administration.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation."

DEFINITION OF TERM IN PUB. L. 114–190

Pub. L. 114–190, §2, July 15, 2016, 130 Stat. 617, provided that: "In this Act [see Tables for classification], unless expressly provided otherwise, the term 'appropriate committees of Congress' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."

DEFINITIONS OF TERMS IN TITLE II OF PUB. L. 112–95

Pub. L. 112–95, title IX, §902, Feb. 14, 2012, 126 Stat. 138, provided that: "In this title [amending sections 44504, 44505, 44511, 44513, and 48102 of this title, enacting provisions set out as notes under this section and sections 44501, 44504, 44505, and 44513 of this title, and amending provisions set out as notes under section 44504 of this title], the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the FAA.

"(2) FAA.—The term 'FAA' means the Federal Aviation Administration.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the same meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(4) NASA.—The term 'NASA' means the National Aeronautics and Space Administration.

"(5) NOAA.—The term 'NOAA' means the National Oceanic and Atmospheric Administration."

DEFINITIONS OF TERMS IN PUB. L. 107–71

For definitions of terms used in sections 127 and 145 of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13479. TRANSFORMATION OF THE NATIONAL AIR TRANSPORTATION SYSTEM

Ex. Ord. No. 13479, Nov. 18, 2008, 73 F.R. 70241, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the United States to establish and maintain a national air transportation system that meets the present and future civil aviation, homeland security, economic, environmental protection, and national defense needs of the United States, including through effective implementation of the Next Generation Air Transportation System (NextGen).

SEC. 2. *Definitions*. As used in this order the term "Next Generation Air Transportation System" means the system to which section 709 of the Vision 100—Century of Aviation Reauthorization Act (Public Law 108–176) (Act) refers.

SEC. 3. *Functions of the Secretary of Transportation*. Consistent with sections 709 and 710 of the Act and the policy set forth in section 1 of this order, the Secretary of Transportation shall:

(a) take such action within the authority of the Secretary, and recommend as appropriate to the President such action as is within the authority of the President, to implement the policy set forth in section 1 of this order and in particular to implement the NextGen in a safe, secure, timely, environmentally sound, efficient, and effective manner;

(b) convene quarterly, unless the Secretary determines that meeting less often is consistent with effective implementation of the policy set forth in section 1 of this order, the Senior Policy Committee established pursuant to section 710 of the Act (Committee);

(c) not later than 60 days after the date of this order, establish within the Department of Transportation a support staff (Staff), including employees from departments and agencies assigned pursuant to subsection 4(e) of this order, to support, as directed by the Secretary, the Secretary and the Committee in the performance of their duties relating to the policy set forth in section 1 of this order; and

(d) not later than 180 days after the date of this order, establish an advisory committee to provide advice to the Secretary and, through the Secretary, the Committee concerning the implementation of the policy set forth in section 1 of this order, including aviation-related subjects and any related performance measures specified by the Secretary, pursuant to section 710 of the Act.

SEC. 4. *Functions of Other Heads of Executive Departments and Agencies*. Consistent with the policy set forth in section 1 of this order:

(a) the Secretary of Defense shall assist the Secretary of Transportation by:

(i) collaborating, as appropriate, and verifying that the NextGen meets the national defense needs of the United States consistent with the policies and plans established under applicable Presidential guidance; and

(ii) furnishing, as appropriate, data streams to integrate national defense capabilities of the United States civil and military systems relating to the national air transportation system, and coordinating the development of requirements and capabilities to address tracking and other activities relating to non-cooperative aircraft in consultation with the Secretary of Homeland Security, as appropriate;

(b) the Secretary of Commerce shall:

(i) develop and make available, as appropriate, the capabilities of the Department of Commerce, including those relating to aviation weather and spectrum management, to support the NextGen; and

(ii) take appropriate account of the needs of the NextGen in the trade, commerce, and other activities of the Department of Commerce, including those relating to the development and setting of standards;

(c) the Secretary of Homeland Security shall assist the Secretary of Transportation by ensuring that:

(i) the NextGen includes the aviation-related security capabilities necessary to ensure the security of persons, property, and activities within the national air transportation system consistent with the policies and plans established under applicable Presidential guidance; and

(ii) the Department of Homeland Security shall continue to carry out all statutory and assigned responsibilities relating to aviation security, border security, and critical infrastructure protection in consultation with the Secretary of Defense, as appropriate;

(d) the Administrator of the National Aeronautics and Space Administration shall carry out the Administrator's duties under Executive Order 13419 of December 20, 2006, in a manner consistent with that order and the policy set forth in section 1 of this order;

(e) the heads of executive departments and agencies shall provide to the Secretary of Transportation such information and assistance, including personnel and other resources for the Staff to which subsection 3(c) of this order refers, as may be necessary and appropriate to implement this order as agreed to by the heads of the departments and agencies involved; and

(f) the Director of the Office of Management and Budget may issue such instructions as may be necessary to implement subsection 5(b) of this order.

SEC. 5. *Additional Functions of the Senior Policy Committee*. In addition to performing the functions specified in section 710 of the Act, the Committee shall:

(a) report not less often than every 2 years to the President, through the Secretary of Transportation, on progress made and projected to implement the policy set forth in section 1 of this order, together with such recommendations including performance measures for administrative or other action as the Committee determines appropriate;

(b) review the proposals by the heads of executive departments and agencies to the Director of the Office of Management and Budget with respect to programs affecting the policy set forth in section 1 of this order, and make recommendations including performance measures thereon, through the Secretary of Transportation, to the Director; and

(c) advise the Secretary of Transportation and, through the Secretary of Transportation, the Secretaries of Defense, Commerce, and Homeland Security, and the Administrator of the National Aeronautics and Space Administration, with respect to the activities of their departments and agencies in the implementation of the policy set forth in section 1 of this order.

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 14304. LEADING THE WORLD IN SUPERSONIC FLIGHT

Ex. Ord. No. 14304, June 6, 2025, 90 F.R. 24717, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. The United States stands at the threshold of a bold new chapter in aerospace innovation. For more than 50 years, outdated and overly restrictive regulations have grounded the promise of supersonic flight over land, stifling American ingenuity, weakening our global competitiveness, and ceding leadership to foreign adversaries. Advances in aerospace engineering, materials science, and noise reduction now make supersonic flight not just possible, but safe, sustainable, and commercially viable. This order begins a historic national effort to reestablish the United States as the undisputed leader in high-speed aviation. By updating obsolete standards and embracing the technologies of today and tomorrow, we will empower our engineers, entrepreneurs, and visionaries to deliver the next generation of air travel, which will be faster, quieter, safer, and more efficient than ever before.

SEC. 2. *Regulatory Reform for Supersonic Flight*. (a) The Administrator of the Federal Aviation Administration (FAA) shall take the necessary steps, including through rulemaking, to repeal the prohibition on overland supersonic flight in 14 CFR 91.817 within 180 days of the date of this order and establish an interim noise-based certification standard, making any modifications to 14 CFR 91.818 as necessary, as consistent with applicable law. The Administrator of the FAA shall also take immediate steps to repeal 14 CFR 91.819 and 91.821, which will remove additional regulatory barriers that hinder the advancement of supersonic aviation technology in the United States.

(b) Within 18 months of the date of this order [June 6, 2025], the Administrator of the FAA shall issue a Notice of Proposed Rulemaking (NPRM) to establish a standard for supersonic aircraft noise certification under 14 CFR Part 36 and amend 14 CFR 91.817. The proposed rule shall define acceptable noise thresholds for takeoff, landing, and en-route supersonic operation based on operational testing and research, development, testing, and evaluation (RDT&E) data as identified in subsection 3(a) of this order, and considering community acceptability, economic reasonableness, and technological feasibility. The proposed rule shall further specify a process for periodic review and update of the rule to reflect future advances in aircraft noise reduction technology. Any final rule in connection with the NPRM shall be issued within 24 months of the date of this order.

SEC. 3. *Advancing Supersonic Research and Development*. (a) The Director of the Office of Science and Technology Policy (OSTP) shall, in consultation with the heads of relevant executive departments and

agencies (agencies), including the Secretary of Defense, the Secretary of Commerce, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration, coordinate supersonic research and development through the National Science and Technology Council, with the goal of:

(i) identifying RDT&E needs for regulatory development, commercial viability, and operational integration of supersonic aircraft into the National Airspace System;

(ii) coordinating federally funded RDT&E and industry-led testing of supersonic technologies at Federal test sites; and

(iii) collecting and sharing the results of such RDT&E in a manner suitable for informing domestic regulatory development and international science and technology engagement on civil supersonic matters.

(b) The Director of OSTP shall provide the results of the coordinated efforts in subsection (a) of this section to the Administrator of the FAA to inform the development of future procedures, regulations, and policies, including those related to the certification of civil supersonic aircraft and noise and environmental standards called for in this section 3.

SEC. 4. *Promoting International Engagement on Civil Supersonic Flight Regulations*. (a) The Secretary of Transportation, acting through the Administrator of the FAA, and in consultation with the Director of OSTP and the heads of other agencies as considered appropriate by the Director of OSTP, shall engage the International Civil Aviation Organization and key foreign partners to seek global alignment regarding supersonic regulatory approaches.

(b) The Administrator of the FAA, under the supervision of the Secretary of Transportation and in coordination with the Secretary of State, shall seek to secure bilateral aviation safety agreements with foreign aviation authorities as necessary for the safe international operation of supersonic aircraft.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Federal Aviation Administration.

DONALD J. TRUMP.

§40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) "aeronautics" means the science and art of flight.

(2) "air carrier" means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.

(3) "air commerce" means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) "air navigation facility" means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

(B) runway lighting and airport surface visual and other navigation aids;

(C) apparatus, equipment, software, or service for distributing aeronautical and meteorological information to air traffic control facilities or aircraft;

(D) communication, navigation, or surveillance equipment for air-to-ground or air-to-air applications;

(E) any structure, equipment, or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft; and

(F) buildings, equipment, and systems dedicated to the national airspace system.

(5) "air transportation" means foreign air transportation, interstate air transportation, or the

transportation of mail by aircraft.

(6) "aircraft" means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) "aircraft engine" means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) "airman" means an individual—

(A) in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or

(C) who serves as an aircraft dispatcher or air traffic control-tower operator.

(9) "airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) "all-cargo air transportation" means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) "appliance" means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) "cargo" means property, mail, or both.

(13) "charter air carrier" means an air carrier holding a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(14) "charter air transportation" means charter trips in air transportation authorized under this part.

(15) "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is an individual who is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(16) "civil aircraft" means an aircraft except a public aircraft.

(17) "civil aircraft of the United States" means an aircraft registered under chapter 441 of this title.

(18) "conditional sales contract" means a contract—

(A) for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the buyer takes possession of the property but title to the property vests in the buyer at a later time on—

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

(B) to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the bailee or lessee—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(19) "conveyance" means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(20) "Federal airway" means a part of the navigable airspace that the Administrator designates as a Federal airway.

(21) "foreign air carrier" means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

(22) "foreign air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(23) "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(24) "interstate air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

(25) "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

(26) "intrastate air carrier" means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

(27) "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(28) "landing area" means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

(29) "large hub airport" means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.

(30) "mail" means United States mail and foreign transit mail.

(31) "medium hub airport" means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

(32) "navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(33) "navigate aircraft" and "navigation of aircraft" include piloting aircraft.

(34) "nonhub airport" means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.

(35) "operate aircraft" and "operation of aircraft" mean using aircraft for the purposes of air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft with or without the right of legal control of the aircraft.

(36) "passenger boardings"—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(37) "person", in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

(38) "predatory" means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(39) "price" means a rate, fare, or charge.

(40) "propeller" includes a part, appurtenance, and accessory of a propeller.

(41) "public aircraft" means any of the following:

(A) Except with respect to an aircraft described in subparagraph (E), an aircraft used only for the United States Government, except as provided in section 40125(b).

(B) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in section 40125(b).

(C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(D) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(E) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by section 40125(c). In the preceding sentence, the term "other commercial air service" means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.

(F) An unmanned aircraft that is owned and operated by, or exclusively leased for at least 90 continuous days by, an Indian Tribal government, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), except as provided in section 40125(b).

(42) "small hub airport" means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

(43) "spare part" means an accessory, appurtenance, or part of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(44) "State authority" means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(45) "ticket agent" means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(46) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

(47) "air traffic control system" means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

(B) laws, regulations, orders, directives, agreements, and licenses;

(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation;

(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control; and

(E) systems, software, and hardware operated, owned, and maintained by third parties that support or directly provide air navigation information and air traffic management services with Administration approval.

(b) LIMITED DEFINITION.—In subpart II of this part, "control" means control by any means.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1097; Pub. L. 103–305, title VI, §601(b)(2)(B), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–411, §3(a), Oct. 25, 1994, 108 Stat. 4236; Pub. L. 103–429, §6(46), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 105–137, §6, Dec. 2, 1997, 111 Stat. 2641; Pub. L. 106–181, title III, §301, title VII, §702(a), Apr. 5, 2000, 114 Stat. 115, 155; Pub. L. 108–176, title II, §225(a), title VIII, §807, Dec. 12, 2003, 117 Stat. 2528, 2588; Pub. L. 110–181, div. A, title X, §1078(a), Jan. 28, 2008, 122 Stat. 334; Pub. L. 112–95, title II, §205, Feb. 14, 2012, 126 Stat. 39; Pub. L. 115–254, div. B, title III, §355(a), Oct. 5, 2018, 132 Stat. 3305; Pub. L. 118–63, title II, §215, May 16, 2024, 138 Stat. 1054.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40102(a)(1)	49 App.:1301(2).	Aug. 23, 1958, Pub. L. 85–726, §§101(2), (3) (less proviso), (5)–(10), 413, 72 Stat. 737, 770.
40102(a)(2)	49 App.:1301(3) (less proviso).	
40102(a)(3)	49 App.:1301(4).	Aug. 23, 1958, Pub. L. 85–726, §101(4), 72 Stat. 737; Sept. 5, 1961, Pub. L. 87–197, §3, 75 Stat. 467.
40102(a)(4)	49 App.:1301(8).	

40102(a)(5)	49 App.:1301(10).	
40102(a)(6), (7)	49 App.:1301(5), (6).	
40102(a)(8)	49 App.:1301(7).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40102(a)(9)	49 App.:1301(9).	
40102(a)(10)	49 App.:1301(11).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(11); added Nov. 9, 1977, Pub. L. 95–163, §17(b)(2), 91 Stat. 1286; restated Oct. 4, 1984, Pub. L. 98–443, §9(a)(1), 98 Stat. 1706.
40102(a)(11)	49 App.:1301(12).	Aug. 23, 1958, Pub. L. 85–726, §101(12), (16)–(34), (37), (40), (41), 72 Stat. 737, 739; July 10, 1962, Pub. L. 87–528, §1, 76 Stat. 143; Sept. 26, 1968, Pub. L. 90–514, §1, 82 Stat. 867; Oct. 14, 1970, Pub. L. 91–449, §1(2), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, §2(a)(4), (b), 92 Stat. 1705.
40102(a)(12)	(no source).	
40102(a)(13)	49 App.:1301(14) (less certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(14) (less certificate), (15); added Oct. 24, 1978, Pub. L. 95–504, §2(a)(1), 92 Stat. 1705.
40102(a)(14)	49 App.:1301(15).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40102(a)(15)–(18)	49 App.:1301(16)–(19).	
40102(a)(19)	49 App.:1301(20).	
40102(a)(20)	49 App.:1301(21).	
	49 App.:1655(c)(1).	
40102(a)(21)	49 App.:1301(22).	
40102(a)(22)	49 App.:1301(23) (related to foreign air commerce).	
40102(a)(23)	49 App.:1301(24) (related to foreign air transportation).	
40102(a)(24)	49 App.:1301(23) (related to interstate and overseas air commerce).	
40102(a)(25)	49 App.:1301(24) (related to interstate and overseas air transportation).	
	49 App.:1305(b)(2), (d) (related	Aug. 23, 1958, Pub. L. 85–726, 72 Stat.

	to (b)(2)).	731, §105(b)(2), (d) (related to (b)(2)); added Oct. 24, 1978, Pub. L. 95–504, §4(a), 92 Stat. 1708.
40102(a)(26)–(32)	49 App.:1301(25)–(31).	
40102(a)(33)	49 App.:1301(32).	
40102(a)(34)	49 App.:1301(35).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(35), (39); added Oct. 24, 1978, Pub. L. 95–504, §2(a)(2), (3), (b), 92 Stat. 1705.
40102(a)(35)	(no source).	
40102(a)(36)	49 App.:1301(33), (34).	
40102(a)(37)	49 App.:1301(36).	Aug. 23, 1958, Pub. L. 85–726, §101(36), 72 Stat. 739; Aug. 5, 1974, Pub. L. 93–366, §206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, §2, 92 Stat. 1705; Dec. 30, 1987, Pub. L. 100–223, §207, 101 Stat. 1523.
40102(a)(38)	49 App.:1301(37).	
40102(a)(39)	49 App.:1301(39).	
40102(a)(40)	49 App.:1301(40).	
40102(a)(41)	49 App.:1301(41).	
40102(b)	49 App.:1383.	

In subsection (a)(2), the words "by any means" are substituted for "whether . . . or by a lease or any other arrangement" to eliminate unnecessary words. The word "provide" is substituted for "engage in" for consistency in the revised title.

In subsection (a)(3), the words "or navigation" are omitted as being included in the definition of "operation of aircraft" in this subsection.

In subsection (a)(4)(D), the words "having a similar purpose" are omitted as surplus.

In subsection (a)(6), the words "now known or hereafter" are omitted as surplus.

In subsection (a)(7), the words "of the engine" are substituted for "thereof" for clarity.

In subsection (a)(8)(A), the words "as the person" are omitted as surplus.

In subsection (a)(10), the word "transportation" is substituted for "carriage" for consistency in the revised title.

In subsection (a)(11), the words "of whatever description" are omitted as surplus. The word "navigation" is omitted as being included in the definition of "operate aircraft" in this subsection. The words "or mechanisms" are omitted because of 1:1.

Subsection (a)(12) is added for clarity to distinguish between cargo (which includes mail) and property (which does not include mail).

In subsection (a)(13), the word "provide" is substituted for "engage in" for consistency in the revised title.

In subsection (a)(14), the words "including inclusive tour charter trips" are omitted as obsolete. The words "authorized under this part" are substituted for "rendered pursuant to authority conferred under this chapter under regulations prescribed by the Board" to eliminate unnecessary words.

In subsection (a)(15)(A), the words "or of one of its possessions" are omitted as being included in the definition of "United States" in this subsection.

In subsection (a)(15)(C), the words "created or" are omitted as being included in "organized".

In subsection (a)(17), the words "chapter 441 of this title" are substituted for "this chapter" for clarity because aircraft are registered only under chapter 441.

In subsection (a)(18), the text of 49 App.:1301(19) (last sentence) is omitted as surplus.

In subsection (a)(18)(A), before subclause (i), the words "title to" are added for clarity and consistency in this section.

In subsection (a)(18)(B)(i), the words "as compensation" are omitted as surplus.

In subsection (a)(18)(B)(ii), the words "it is agreed that", "bound", "full", and "the terms of" are omitted as surplus.

In subsection (a)(19), the words "bill of sale . . . mortgage, assignment of mortgage, or other" are omitted as being included in "instrument".

In subsection (a)(20), the words "of the United States" are omitted for consistency in the revised title and because of the definition of "navigable airspace" in this subsection.

In subsection (a)(21), the words "by any means" are substituted for "whether . . . or by lease or any other arrangement" to eliminate unnecessary words. The word "provide" is substituted for "engage in" for consistency in the revised title.

In subsection (a)(22)–(25) and (27), the words "transportation" and "passengers" are substituted for "carriage" and "persons", respectively, for consistency in the revised title. The word "compensation" is substituted for, and is coextensive with, "compensation or hire".

In subsection (a)(22) and (24), the words "or navigation" are omitted as being included in the definition of "operation of aircraft" in this subsection. The words "the conduct or" and "in commerce" are omitted as surplus. The words "when any part of the transportation or operation is by aircraft" are substituted for 49 App.:1301(23) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(23) and (25), the words "in commerce" are omitted as surplus. The words "when any part of the transportation is by aircraft" are substituted for 49 App.:1301(24) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(24), (25), and (27), the words "of the United States" are omitted as surplus.

In subsection (a)(24)(A)(i) and (25)(A)(i), the words "or the District of Columbia" the first time they appear are omitted as surplus.

In subsection (a)(25)(A)(ii), the text of 49 App.:1301(24)(a) (words between semicolons) is omitted because 49 App.:1305(b)(2) removes the subject matter of the text from the definition. See H. Rept. No. 95–1211, 95th Cong., 2d Sess., p.16 (1978).

In subsection (a)(26), the words "by any means" are substituted for "whether . . . or by a lease or any other arrangement" to eliminate unnecessary words. The word "provide" is substituted for "engage" for consistency in the revised title.

In subsection (a)(28), the word "place" is substituted for "locality" for consistency in the revised title.

In subsection (a)(32)(B), the words "(in the capacity of owner, lessee, or otherwise)" are omitted as surplus.

In subsection (a)(33), the words "in addition to its meaning under section 1 of title 1" are substituted for "any individual, firm, copartnership, corporation, company, association, joint stock association" for clarity because 1:1 is applicable to all laws unless otherwise provided. The words "governmental authority" are substituted for "body politic" for consistency in the revised title and with other titles of the United States Code.

Subsection (a)(35) is added to eliminate repetition of the words "rates, fares, or charges" throughout this part.

In subsection (a)(36), the text of 49 App.:1301(34) (1st sentence) is omitted as obsolete. Reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977. The text of 49 App.:1301(34) (last sentence) is omitted because of 48:734.

Subsection (a)(37)(A)(i) is substituted for "used exclusively in the service of any government" and "For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government" for clarity and to eliminate unnecessary words.

Subsection (a)(37)(A)(ii) is substituted for "used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia" and "For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days" for clarity and to eliminate unnecessary words.

In subsection (a)(37)(B), the words "transporting passengers or property" are substituted for "engaged in carrying persons or property" for consistency in the revised title.

In subsection (a)(38), the words "that is to be installed at a later time" are substituted for "maintained for installation or use . . . but which at the time are not installed therein or attached thereto" to eliminate unnecessary words.

In subsection (a)(39), the word "authority" is substituted for "agency" and "entity" for consistency in the revised title. Before subclause (A), the words "department, agency, officer, or other" are omitted as being included in "authority".

In subsection (a)(40), the words "bona fide" and "by solicitation, advertisement, or otherwise" are omitted

as surplus. The words "furnishes, contracts" are omitted as being included in "providing, or arranging".

In subsection (a)(41), the words "States of the United States" are substituted for "several States", and the word "sea" is substituted for "waters", for consistency in the revised title and with other titles of the Code.

Subsection (b) is substituted for 49 App.:1383 to eliminate unnecessary words.

PUB. L. 103–429

This makes a conforming amendment for consistency with the style of title 49.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(47)(E). Pub. L. 118–63 added subpar. (E).

2018—Subsec. (a)(41)(F). Pub. L. 115–254 added subpar. (F).

2012—Subsec. (a)(4). Pub. L. 112–95 added subpars. (B) to (D), redesignated former subpar. (D) as (E) and substituted "any structure, equipment," for "another structure" and "; and" for period at end, added subpar. (F), and struck out former subpars. (B) and (C) which read as follows:

"(B) a light;

"(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and".

2008—Subsec. (a)(41)(E). Pub. L. 110–181 inserted "or other commercial air service" after "transportation" and inserted at end "In the preceding sentence, the term 'other commercial air service' means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations."

2003—Subsec. (a)(15)(C). Pub. L. 108–176, §807, inserted "which is under the actual control of citizens of the United States," before "and in which".

Subsec. (a)(29) to (47). Pub. L. 108–176, §225(a), added pars. (29), (31), (34), (36), and (42) and redesignated former pars. (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), and (42) as (30), (32), (33), (35), (37), (38), (39), (40), (41), (43), (44), (45), (46), and (47), respectively.

2000—Subsec. (a)(37). Pub. L. 106–181, §702(a), amended par. (37) generally, revising and restating provisions defining "public aircraft" to include references to qualifications found in section 40125(b) and (c).

Subsec. (a)(42). Pub. L. 106–181, §301, added par. (42).

1997—Subsec. (a)(37)(A). Pub. L. 105–137 struck out "or" at end of cl. (i), added cl. (ii), and redesignated former cl. (ii) as (iii).

1994—Subsec. (a)(30). Pub. L. 103–429 substituted "this subpart and subpart III" for "subparts I and III".

Subsec. (a)(35). Pub. L. 103–305 struck out "for air transportation" after "charge".

Subsec. (a)(37)(B). Pub. L. 103–411 added subpar. (B) and struck out former subpar. (B) which read as follows: "does not include a government-owned aircraft transporting passengers or property for commercial purposes."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

Amendment by Pub. L. 103–411 effective on the 180th day following Oct. 25, 1994, see section 3(d) of Pub. L. 103–411, set out as a note under section 1131 of this title.

Amendment by Pub. L. 103–305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103–305, set out as a

note under section 10521 of this title.

DEFINITIONS OF TERMS IN PUB. L. 107–71

Pub. L. 107–71, title I, §133, Nov. 19, 2001, 115 Stat. 636, provided that: "Except as otherwise explicitly provided, any term used in this title [see Tables for classification] that is defined in section 40102 of title 49, United States Code, has the meaning given that term in that section."

DEFINITIONS APPLICABLE TO PUB. L. 106–181

Pub. L. 106–181, §4, Apr. 5, 2000, 114 Stat. 64, provided that: "Except as otherwise provided in this Act [see Tables for classification], the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation."

DEFINITIONS APPLICABLE TO PUB. L. 103–305

Pub. L. 103–305, §2, Aug. 23, 1994, 108 Stat. 1570, provided that: "In this Act [see Short Title of 1994 Amendment note set out under section 40101 of this title], the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation."

EXECUTIVE DOCUMENTS

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§40103. Sovereignty and use of airspace

(a) SOVEREIGNTY AND PUBLIC RIGHT OF TRANSIT.—(1) The United States Government has exclusive sovereignty of airspace of the United States.

(2) A citizen of the United States has a public right of transit through the navigable airspace. To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for individuals with disabilities.

(b) USE OF AIRSPACE.—(1) The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may modify or revoke an assignment when required in the public interest.

(2) The Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for—

(A) navigating, protecting, and identifying aircraft;

(B) protecting individuals and property on the ground;

(C) using the navigable airspace efficiently; and

(D) preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(3) To establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security, the Administrator, in consultation with the Secretary of Defense, shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft that the Administrator

cannot identify, locate, and control with available facilities in those areas.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) FOREIGN AIRCRAFT.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States as provided in section 41703 of this title.

(d) AIRCRAFT OF ARMED FORCES OF FOREIGN COUNTRIES.—Aircraft of the armed forces of a foreign country may be navigated in the United States only when authorized by the Secretary of State.

(e) NO EXCLUSIVE RIGHTS AT CERTAIN FACILITIES.—A person does not have an exclusive right to use an air navigation facility on which Government money has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1101; Pub. L. 118–63, title V, §550(a), May 16, 2024, 138 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40103(a)(1)	49 App.:1508(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §§307(a), (c), (d), 308(a) (3d sentence), 1108(a), 1201, 1202, 72 Stat. 749, 750, 751, 798, 800.
40103(a)(2)	49 App.:1304.	Aug. 23, 1958, Pub. L. 85–726, §104, 72 Stat. 740; Oct. 4, 1984, Pub. L. 98–443, §14, 98 Stat. 1711.
	49 App.:1551(b)(1)(E).	Aug. 28, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40103(b)(1)	49 App.:1348(a).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40103(b)(2)	49 App.:1348(c).	
	49 App.:1655(c)(1).	
40103(b)(3)	49 App.:1521.	
	49 App.:1522.	
	49 App.:1655(c)(1).	
40103(b)(4)	49 App.:1348(d).	
40103(c)	(no source).	
40103(d)	49 App.:1508(a) (last sentence).	
40103(e)	49 App.:1349(a) (3d sentence).	
	49 App.:1349(a) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §308(a) (last sentence); added Sept. 3, 1982, Pub. L. 97–248,

		§524(a)(1), 96 Stat. 695.

In subsection (a)(1), the word "has" is substituted for "is declared to possess and exercise complete and" to eliminate surplus words. The word "national" is omitted as surplus. The text of 49 App.:1508(a) (1st sentence words after 1st comma) is omitted as surplus.

In subsection (a)(2), the words "of the United States" are omitted for consistency in the revised title and because of the definition of "navigable airspace" in section 40102(a) of the revised title. The words "or amending" are omitted as surplus.

In subsection (b), the word "Administrator" in section 307(a), (c), and (d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 749, 750) is retained on authority of 49:106(g).

In subsection (b)(1) and (3)(B), the word "rule" is omitted as being synonymous with "regulation".

In subsection (b)(1), the words "under such terms, conditions, and limitations as he may deem" are omitted as surplus. The words "In the exercise of his authority under section 1348(a) of this Appendix" in 49 App.:1522 are omitted as unnecessary because of the restatement.

In subsection (b)(2), before clause (A), the word "shall" is substituted for "is further authorized and directed" for consistency in the revised title and to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words "In the exercise of his authority under section 1348(a) of this Appendix" in 49 App.:1522 are omitted as surplus. The word "navigable" is added for clarity and consistency. In clause (A), the words "such zones or" are omitted as surplus.

In subsection (b)(4), the words "the military exception" are substituted for "any exception relating to military or naval functions" to eliminate unnecessary words and because "naval" is included in "military". The words "applies to a regulation prescribed under" are substituted for "In the exercise of the rulemaking authority . . . the Secretary of Transportation shall be subject to" to eliminate unnecessary words and because "rules" and "regulations" are synonymous.

Subsection (c) is added for clarity.

In subsection (d), the words "including the Canal Zone" are omitted because of the Panama Canal Treaty of 1977.

In subsection (e), before clause (1), the words "any landing area" are omitted as being included in the definition of "air navigation facility" in section 40102(a) of the revised title. The word "only" is added for clarity. In clause (2), the words "on September 3, 1982" are added for clarity.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(2). Pub. L. 118–63 substituted "individuals with disabilities" for "handicapped individuals".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 85–726, title VI, §613(a), (b), as added by Pub. L.101–508, title IX, §9124, Nov. 5, 1990, 104 Stat. 1388–370, provided that:

"(a) NATIONAL DISASTER AREAS.—Before the 180th day following the date of the enactment of this section [Nov. 5, 1990], the Administrator, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

"(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a ligitimate [sic] scientific purpose."

UPDATE OF FAA STANDARDS TO ALLOW DISTRIBUTION AND USE OF CERTAIN RESTRICTED ROUTES AND TERMINAL PROCEDURES

Pub. L. 118–63, title III, §331, May 16, 2024, 138 Stat. 1089, provided that:

"(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall update FAA [Federal Aviation Administration] standards to allow for the distribution and use of the Capstone Restricted Routes and Terminal Procedures by Wide Area Augmentation System-capable navigation equipment.

"(b) CONTENTS.—In updating standards under subsection (a), the Administrator shall ensure that such

standards provide a means for allowing modifications and continued development of new routes and procedures proposed by air carriers operating such routes."

AIRSPACE ACCESS

Pub. L. 118–63, title VI, §604, May 16, 2024, 138 Stat. 1223, provided that:

"(a) COALESCING AIRSPACE.—

"(1) REVIEW OF NATIONAL AIRSPACE SYSTEM.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration], in coordination with the Secretary of Defense, shall conduct a comprehensive review of the airspace of the national airspace system, including special use airspace.

"(2) STREAMLINING AND EXPEDITING ACCESS.—In carrying out paragraph (1), the Administrator shall identify methods to streamline, expedite, and provide greater flexibility of access to certain categories of airspace for users of the national airspace system who may not regularly have such access.

"(b) BRIEFING.—

"(1) IN GENERAL.—Not later than 3 months after the completion of review the under subsection (a), the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the findings of such review and a proposed action plan to improve access to airspace for users of the national airspace system.

"(2) CONTENTS.—In the briefing under paragraph (1), the Administrator shall include, at a minimum, the following:

"(A) An identification of current challenges and barriers faced by airspace users in accessing certain categories of airspace, including special use airspace.

"(B) An evaluation of existing procedures, regulations, and requirements that may impede or delay access to certain categories of airspace for certain users of the national airspace system.

"(C) Actions for streamlining and expediting the airspace access process, including potential regulatory changes, technological advancements, and enhanced coordination among relevant stakeholders and Federal agencies.

"(D) If determined appropriate, an implementation plan for a framework that allows for temporary access to certain categories of airspace, including special use airspace, by users of the national airspace system who do not have regular access to such airspace.

"(E) An assessment of the impact of airspace access improvements described in paragraph (1) on the safety of, efficiency of, and economic opportunities for airspace users, including—

"(i) military operators;

"(ii) commercial operators; and

"(iii) general aviation operators.

"(3) IMPLEMENTATION AND FOLLOW-UP.—

"(A) ACTION PLAN.—The Administrator shall take such actions as are necessary to implement the action plan developed pursuant to this section.

"(B) COORDINATION.—In implementing the action plan under subparagraph (A), the Administrator shall coordinate with relevant stakeholders, including airspace users and the Secretary of Defense, to ensure effective implementation of such action plan, and ongoing collaboration in addressing airspace access challenges.

"(C) PROGRESS REPORTS.—The Administrator shall provide to the appropriate committees of Congress periodic briefings on the implementation of the action plan developed under this subparagraph (A), including updates on—

"(i) the adoption of streamlined procedures;

"(ii) technological enhancements; and

"(iii) any regulatory changes necessary to improve airspace access and flexibility."

LOW-ALTITUDE ROTORCRAFT AND POWERED-LIFT AIRCRAFT INSTRUMENT FLIGHT ROUTES

Pub. L. 118–63, title VI, §627(b), May 16, 2024, 138 Stat. 1243, provided that:

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall initiate a rulemaking process to establish or update, as appropriate, low altitude routes and flight procedures to ensure safe rotorcraft and powered-lift aircraft operations in the national airspace system.

"(2) REQUIREMENTS.—In carrying out this subsection, the Administrator shall—

"(A) incorporate instrument flight rules rotorcraft operations into the low-altitude performance based navigation procedure infrastructure;

"(B) prioritize the development of new helicopter area navigation instrument flight rules routes as part of the United States air traffic service route structure that utilize performance based navigation, such as Global Positioning System and Global Navigation Satellite System equipment; and

"(C) consider the impact of such low altitude flight routes on other airspace users and impacted communities to ensure that such routes are designed to minimize—

"(i) the potential for conflict with existing national airspace system operations;

"(ii) the workload of air traffic controllers; and

"(iii) negative effects to impacted communities.

"(3) CONSULTATION.—In carrying out the rulemaking process under paragraph (1), the Administrator shall consult with—

"(A) stakeholders in the airport, heliport, rotorcraft manufacturer and operator, general aviation operator, powered-lift operator, air carrier, and performance based navigation technology manufacturer sectors;

"(B) the United States Helicopter Safety Team;

"(C) exclusive bargaining representatives of air traffic controllers certified under section 7111 of title 5, United States Code; and

"(D) other stakeholders determined appropriate by the Administrator."

AIRSHOW SAFETY TEAM

Pub. L. 118–63, title VIII, §811, May 16, 2024, 138 Stat. 1326, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] may, as determined necessary by the Administration, coordinate with the General Aviation Joint Safety Committee to establish an Airshow Safety Team focused on airshow and aerial event safety.

"(b) OBJECTIVE.—The objective of the Airshow Safety Team described in subsection (a) shall be to—

"(1) serve as a mechanism for Federal Government and industry cooperation, communication, and coordination on airshow and aerial event safety; and

"(2) reduce airshow and aerial event accidents and incidents through non-regulatory, proactive safety strategies.

"(c) ACTIVITIES.—In carrying out the objectives pursuant to subsection (b), the Airshow Safety Team shall, at a minimum—

"(1) perform an analysis of airshow and aerial event accidents and incidents in conjunction with the Safety Analysis Team;

"(2) publish and update every 2 years after initial publication an Airshow Safety Plan that incorporates consensus based and data driven mitigation measures and non-regulatory safety strategies to improve and promote safety of the public, performers, and airport personnel; and

"(3) engage the airshow and aerial event community to—

"(A) communicate non-regulatory, proactive safety strategies identified by the Airshow Safety Plan to mitigate incidents; and

"(B) discuss best practices to uphold and maintain safety at events.

"(d) MEMBERSHIP.—The Administrator may request the Airshow Safety Team be comprised of at least 10 individuals, each of whom shall have knowledge or a background in the planning, execution, operation, or management of an airshow or aerial event.

"(e) MEETINGS.—The Airshow Safety Team shall meet at least twice a year at the direction of the co-chairs of the General Aviation Joint Safety Committee.

"(f) CONSTRUCTION.—Nothing in this section shall be construed to require an amendment to the charter of the General Aviation Joint Safety Committee."

OPERATING HIGH-SPEED FLIGHTS IN HIGH ALTITUDE CLASS E AIRSPACE

Pub. L. 118–63, title X, §1011, May 16, 2024, 138 Stat. 1392, provided that:

"(a) RESEARCH.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration], in consultation with the Administrator of NASA [National Aeronautics and Space Administration] and any other relevant stakeholders the Administrator determines appropriate, including industry and academia, shall undertake research to identify, to the maximum extent practicable, the minimum altitude above the upper boundary of Class A airspace, at or above which flights operating with speeds above Mach 1 generate sonic booms that do not produce appreciable sonic boom overpressures that reach the surface under prevailing atmospheric conditions.

"(b) HYPERSONIC DEFINED.—In this section, the term 'hypersonic' means a flight operating at speeds that exceed Mach 5."

RULEMAKING RELATED TO OPERATING HIGH-SPEED FLIGHTS IN HIGH ALTITUDE CLASS E AIRSPACE

Pub. L. 118–63, title XI, §1108, May 16, 2024, 138 Stat. 1417, provided that:

"Not later than 2 years after the date on which the Administrator [of the Federal Aviation Administration] identifies the minimum altitude pursuant to section 1011 [of Pub. L. 118–63, set out as a note above], the Administrator shall publish in the Federal Register a notice of proposed rulemaking to amend sections 91.817 and 91.818 of title 14, Code of Federal Regulations, and such other regulations as appropriate, to permit flight operations with speeds above Mach 1 at or above the minimum altitude identified under section 1011 without specific authorization, provided that such flight operations—

"(1) show compliance with airworthiness requirements;

"(2) do not produce appreciable sonic boom overpressures that reach the surface under prevailing atmospheric conditions;

"(3) have ordinary instrument flight rules clearances necessary to operate in controlled airspace; and

"(4) comply with applicable environmental requirements."

DYNAMIC AIRSPACE PILOT PROGRAM

Pub. L. 117–263, div. A, title X, §1093, Dec. 23, 2022, 136 Stat. 2812, provided that:

"(a) PILOT PROGRAM.—

"(1) PILOT PROGRAM REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2022], the Administrator of the Federal Aviation Administration, in coordination with the Secretary of Defense, shall establish a pilot program for the purpose of developing, testing, and assessing dynamic scheduling and management of special activity airspace in order to accommodate emerging military testing and training requirements, including—

"(A) special activity airspace for use by the Department of Defense for emerging military testing and training requirements of infrequent or limited durations; and

"(B) streamlining the process for the Department of Defense to request the designation of special activity airspace for activities described in subparagraph (A).

"(2) DEVELOPMENT, TEST, AND ASSESSMENT OF DYNAMIC AIRSPACE.—Under the pilot program established under paragraph (1), the Administrator and the Secretary shall jointly test not less than two use cases concerning temporary or permanent special activity airspace established by the Federal Aviation Administration for use by the Department of Defense that develop, test, and assess—

"(A) the availability of such airspace on an infrequent or limited duration necessary to accommodate the Department of Defense's emerging military testing and training requirements; and

"(B) whether the processes for the Department of Defense to request special activity airspace for infrequent or limited duration military testing and training events meet Department of Defense testing and training requirements.

"(b) REQUIREMENTS.—The pilot program established by subsection (a) shall not interfere with—

"(1) the public's right of transit consistent with national security;

"(2) the use of airspace necessary to ensure the safety of aircraft within the National Airspace System;

"(3) the use of airspace necessary to ensure the efficient use of the National Airspace System; and

"(4) Department of Defense use of special activity airspace that is established through means other than the pilot program established by subsection (a).

"(c) REPORT BY THE ADMINISTRATOR.—

"(1) IN GENERAL.—Not later than two years after the date of the establishment of the pilot program under subsection (a)(1), the Administrator shall submit to the appropriate committees of Congress a report on the interim findings of the Administrator with respect to the pilot program.

"(2) ELEMENTS.—The report submitted under paragraph (1) shall include an analysis of the following:

"(A) How the pilot program established under subsection (a)(1) affected policies on establishing and scheduling special activity airspace with an emphasis on the impact of allocation and utilization policies to other nonparticipating aviation users of the National Airspace System.

"(B) Whether the streamlined processes for dynamic scheduling and management of special activity airspace involved in the pilot program established under subsection (a)(1) contributed to—

"(i) the public's right of transit consistent with national security;

"(ii) the use of airspace necessary to ensure the safety of aircraft within the National Airspace System; and

"(iii) the use of airspace necessary to ensure the efficient use of the National Airspace System.

"(d) REPORT BY THE SECRETARY OF DEFENSE.—Not later than two years after the date of the establishment of the pilot program under subsection (a)(1), the Secretary shall submit to the appropriate committees of Congress a report on the interim findings of the Secretary with respect to the pilot program. Such report shall include an analysis of how the pilot program affected military testing and training.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate committees of Congress' means—

"(A) the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

"(B) the Committee on Transportation and Infrastructure, the Committee on Science, Space, and Technology, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

"(2) The term 'special activity airspace' means the following airspace with defined dimensions within the National Airspace System wherein limitations may be imposed upon aircraft operations:

"(A) Restricted areas.

"(B) Military operations areas.

"(C) Air traffic control assigned airspace.

"(D) Warning areas.

"(3) The term 'use cases' means a compendium of airspace utilization data collected from the development, testing, and assessment conducted under subsection (a)(1), and other test points or metrics as agreed to by the Administrator and the Secretary, within a specific geographic region as determined by the Administrator and Secretary.

"(f) DURATION.—The pilot program under subsection (a)(1) shall continue for not more than three years after the date on which it is established."

DEPLOYMENT OF REAL-TIME STATUS OF SPECIAL USE AIRSPACE

Pub. L. 116–283, div. A, title X, §1085, Jan. 1, 2021, 134 Stat. 3877, provided that: "Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], to the maximum extent practicable, the Administrator of the Federal Aviation Administration, in coordination with the Secretary of Defense, shall enable the automated public dissemination of information on the real-time status of the activation or deactivation of military operations areas and restricted areas in a manner that is similar to the manner that temporary flight restrictions are published and disseminated."

AIR TRAFFIC CONTROL OPERATIONAL CONTINGENCY PLANS

Pub. L. 115–254, div. B, title V, §504, Oct. 5, 2018, 132 Stat. 3353, provided that:

"(a) AIR TRAFFIC CONTROL OPERATIONAL CONTINGENCY PLANS.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall review the Administration's air traffic control operational contingency plans (FAA Order JO 1900.47E), and, as the Administrator considers appropriate, update such plans, to address potential air traffic facility outages that could have a major impact on the operation of the national airspace system, including the most recent findings and recommendations in the report under subsection (c).

"(b) UPDATES.—Not later than 60 days after the date the air traffic control operational contingency plans are reviewed under subsection (a), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the review, including any recommendations for ensuring air traffic facility outages do not have a major impact on the operation of the national airspace system.

"(c) RESILIENCY RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, and periodically thereafter as the Administrator considers appropriate, the Administrator shall convene NextGen [Next Generation Air Transportation System] program officials to evaluate, expedite, and complete a report on how planned NextGen capabilities can enhance the resiliency and continuity of national airspace system operations and mitigate the impact of future air traffic control disruptions."

AIR SHOWS

Pub. L. 118–63, title XI, §1115(a), May 16, 2024, 138 Stat. 1421, provided that:

"(a) REQUIRED COORDINATION.—

"(1) IN GENERAL.—On an annual basis, the Administrator [of the Federal Aviation Administration] shall convene a meeting with representatives of FAA [Federal Aviation Administration]-approved air

shows, the general aviation community, stadiums and other large outdoor events and venues or organizations that run such events, the Department of Homeland Security, and the Department of Justice—

"(A) to identify scheduling conflicts between FAA-approved air shows and large outdoor events and venues where—

"(i) flight restrictions will be imposed pursuant to section 521 of division F of the Consolidated Appropriations Act, 2004 [Pub. L. 108–199] (49 U.S.C. 40103 note); or

"(ii) any other restriction will be imposed pursuant to FAA Flight Data Center Notice to Airmen 4/3621 (or any successor notice to airmen); and

"(B) in instances where a scheduling conflict between events is identified or is found to be likely to occur, develop appropriate operational and communication procedures to ensure for the safety and security of both events.

"(2) SCHEDULING CONFLICT.—If the Administrator or any other stakeholder party to the required annual coordination required in paragraph (1) identifies a scheduling conflict outside of the annual meeting at any point prior to the scheduling conflict, the Administrator shall work with impacted stakeholders to develop appropriate operational and communication procedures to ensure for the safety and security of both events."

Pub. L. 115–254, div. B, title V, §512, Oct. 5, 2018, 132 Stat. 3356, provided that: "On an annual basis, the Administrator [of the Federal Aviation Administration] shall work with representatives of [Federal Aviation] Administration-approved air shows, the general aviation community, and stadiums and other large outdoor events and venues to identify and resolve, to the maximum extent practicable, scheduling conflicts between Administration-approved air shows and large outdoor events and venues where—

"(1) flight restrictions will be imposed pursuant to section 521 of title V of division F of Public Law 108–199 (118 Stat. 343) [set out below]; or

"(2) any other restriction will be imposed pursuant to Federal Aviation Administration Flight Data Center Notice to Airmen 4/3621 (or any successor notice to airmen)."

AIR TRAFFIC SERVICES AT AVIATION EVENTS

Pub. L. 115–254, div. B, title V, §530, Oct. 5, 2018, 132 Stat. 3365, provided that:

"(a) REQUIREMENT TO PROVIDE SERVICES AND RELATED SUPPORT.—The Administrator [of the Federal Aviation Administration] shall provide air traffic services and aviation safety support for large, multiday aviation events, including airshows and fly-ins, where the average daily number of manned operations were 1,000 or greater in at least one of the preceding two years, without the imposition or collection of any fee, tax, or other charge for that purpose. Amounts for the provision of such services and support shall be derived from amounts appropriated or otherwise available for the [Federal Aviation] Administration.

"(b) DETERMINATION OF SERVICES AND SUPPORT TO BE PROVIDED.—In determining the services and support to be provided for an aviation event for purposes of subsection (a), the Administrator shall take into account the following:

"(1) The services and support required to meet levels of activity at prior events, if any, similar to the event.

"(2) The anticipated need for services and support at the event."

ENHANCED AIR TRAFFIC SERVICES

Pub. L. 115–254, div. B, title V, §547, Oct. 5, 2018, 132 Stat. 3377, as amended by Pub. L. 118–15, div. B, title II, §2202(u), Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §102(u), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(u), Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title VI, §610, May 16, 2024, 138 Stat. 1226, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall establish a pilot program to provide air traffic control services on a preferential basis to aircraft equipped with certain NextGen [Next Generation Air Transportation System] avionics that—

"(1) lasts at least 2 years; and

"(2) operates in at least 3 suitable airports.

"(b) DURATION OF DAILY SERVICE.—The air traffic control services provided under the pilot program established under subsection (a) shall occur for at least 3 consecutive hours between 0600 and 2200 local time during each day of the pilot program.

"(c) AIRPORT SELECTION.—The Administrator shall designate airports for participation in the pilot program after consultation with aircraft operators, manufacturers, and airport sponsors.

"(d) DEFINITIONS.—In this section:

"(1) CERTAIN NEXTGEN AVIONICS.—The term 'certain NextGen avionics' means those avionics and baseline capabilities as recommended in the report of the NextGen Advisory Committee titled 'Minimum Capabilities List (MCL) Ad Hoc Team NAC Task 19–1 Report', issued on November 17, 2020.

"(2) PREFERENTIAL BASIS.—The term 'preferential basis' means prioritizing aircraft equipped with certain NextGen avionics by providing them more efficient service, shorter queuing, or priority clearances to the maximum extent possible without reducing overall capacity or safety of the national airspace system.

"(e) SUNSET.—The pilot program established under subsection (a) shall terminate on September 30, 2028.

"(f) REPORT.—Not later than 90 days after the date on which the pilot program terminates, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the pilot program."

MAINTAINING RESTRICTIONS UNDER CERTAIN NOTAMS

Pub. L. 108–199, div. F, title V, §521, Jan. 23, 2004, 118 Stat. 343, as amended by Pub. L. 118–63, title XI, §1115(b), May 16, 2024, 138 Stat. 1421, provided that:

"(a) IN GENERAL.—The Secretary of Transportation—

"(1) shall, without regard to any fiscal year limitation, maintain in full force and effect the restrictions imposed under Federal Aviation Administration Notices to Airmen FDC 3/2122, FDC 3/2123, and FDC 2/0199; and

"(2) may not grant any waivers or exemptions from such restrictions, except—

"(A) as authorized by air traffic control for operational or safety purposes;

"(B) with respect to an event, stadium, or other venue—

"(i) for operational purposes;

"(ii) for the transport of team members, officials of the governing body, and immediate family members and guests of (or attendees approved by) such team members and officials to and from such event, stadium, or venue;

"(iii) in the case of a sporting event, for the transport of equipment or parts to and from such sporting event;

"(iv) to permit a broadcast rights holder to provide broadcast coverage of such event, stadium, or venue;

"(v) for safety and security purposes related to such event, stadium, or venue; and

"(vi) to permit the safe operation of an aircraft that is operated by an airshow performer in connection with an airshow, provided such aircraft is not permitted to operate directly over the stadium (or adjacent parking facilities) during the sporting event; and

"(C) to allow the operation of an aircraft in restricted airspace to the extent necessary to arrive at or depart from an airport using standard air traffic control procedures.

"(b) LIMITATIONS ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by title I of this Act [div. F of Pub. L. 108–199, see Tables for classification] may be obligated or expended to terminate or limit the restrictions imposed under the Federal Aviation Administration Notices to Airmen referred to in subsection (a), or to grant waivers of, or exemptions from, such restrictions except as provided under subsection (a)(2).

"(c) BROADCAST CONTRACTS NOT AFFECTED.—Nothing in this section shall be construed to affect contractual rights pertaining to any broadcasting agreement."

NATIONAL AIRSPACE REDESIGN

Pub. L. 106–181, title VII, §736, Apr. 5, 2000, 114 Stat. 171, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The national airspace, comprising more than 29 million square miles, handles more than 55,000 flights per day.

"(2) Almost 2,000,000 passengers per day traverse the United States through 20 major en route centers, including more than 700 different sectors.

"(3) Redesign and review of the national airspace may produce benefits for the travelling public by increasing the efficiency and capacity of the air traffic control system and reducing delays.

"(4) Redesign of the national airspace should be a high priority for the Federal Aviation Administration and the air transportation industry.

"(b) REDESIGN.—The Administrator [of the Federal Aviation Administration], with advice from the aviation industry and other interested parties, shall conduct a comprehensive redesign of the national airspace system.

"(c) REPORT.—Not later than December 31, 2000, the Administrator shall transmit to the Committee on

Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Administrator's comprehensive national airspace redesign. The report shall include projected milestones for completion of the redesign and shall also include a date for completion.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Administrator to carry out this section $12,000,000 for each of fiscal years 2000, 2001, and 2002."

§40104. Promotion of civil aeronautics and safety of air commerce

(a) DEVELOPING CIVIL AERONAUTICS AND SAFETY OF AIR COMMERCE.—The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and safety of air commerce in and outside the United States.

(b) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47175.

(c) EDUCATIONAL AND PROFESSIONAL DEVELOPMENT.—

(1) IN GENERAL.—In carrying out subsection (a), the Administrator shall support and undertake efforts to promote and support the education and professional development of current and future aerospace professionals.

(2) EDUCATIONAL MATERIALS.—Based on the availability of resources, the Administrator shall—

(A) develop and distribute civil aviation information and educational materials; and

(B) provide expertise to State and local school administrators, college and university officials, and officers of other interested organizations and entities.

(3) CONTENT.—In developing the educational materials under paragraph (2), the Administrator shall ensure such materials, including presentations, cover topics of broad relevance, including—

(A) ethical decision-making and the responsibilities of aerospace professionals;

(B) managing a workforce, encouraging proper reporting of prospective safety issues, and educating employees on safety management systems; and

(C) responsibilities as a designee or representative of the Administrator.

(d) INTERNATIONAL ROLE AND ASSISTANCE OF THE FAA.—

(1) IN GENERAL.—In carrying out subsection (a), the Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.

(2) INTERNATIONAL PRESENCE.—The Administrator shall maintain an international presence to—

(A) assist foreign civil aviation authorities in—

(i) establishing robust aviation oversight practices and policies;

(ii) harmonizing international aviation standards for air traffic management, operator certification, aircraft certification, airports, and certificated or credentialed individuals;

(iii) validating and accepting foreign aircraft design and production approvals;

(iv) preparing for new aviation technologies, including powered-lift aircraft, products, and articles; and

(v) appropriately adopting continuing airworthiness information, such as airworthiness directives;

(B) encourage the adoption of United States standards, regulations, and policies;

(C) establish, maintain, and update bilateral or multilateral aviation safety agreements and the aviation safety information contained within such agreements;

(D) engage in bilateral and multilateral discussions as required under paragraph (5) and provide technical assistance as described in paragraph (6); [1]

(E) validate foreign aviation products and ensure reciprocal validation of products for which the United States is the state of design or production;

(F) support accident and incident investigations, particularly such investigations that involve United States persons and certified products and such investigations where the National Transportation Safety Board is supporting an investigation pursuant to annex 13 of the International Civil Aviation Organization;

(G) support the international safety activities of the United States aviation sector;

(H) maintain valuable relationships with entities with aviation equities, including civil aviation authorities, other governmental bodies, non-governmental organizations, and foreign manufacturers; and

(I) perform other activities as determined necessary by the Administrator.

(3) INTERNATIONAL OFFICES.—In carrying out the responsibilities described in subsection (a), the Administrator—

(A) shall maintain international offices of the Administration;

(B) every 5 years, may review existing international offices to determine—

(i) the effectiveness of such offices in fulfilling the mission described in paragraph (2); and

(ii) the adequacy of resources and staffing to achieve the mission described in paragraph (2); and

(C) shall establish offices to address gaps identified by the review under subparagraph (B) and in furtherance of the mission described in paragraph (2), putting an emphasis on establishing such offices—

(i) where international civil aviation authorities are located;

(ii) where regional intergovernmental organizations are located;

(iii) in countries that have difficulty maintaining a category 1 classification through the International Aviation Safety Assessment program; and

(iv) in regions that have experienced substantial growth in aviation operations or manufacturing.

(4) BILATERAL AND MULTILATERAL ENGAGEMENT; TECHNICAL ASSISTANCE .—The Administrator shall—

(A) in consultation with the Secretary of State, engage bilaterally and multilaterally, including with the International Civil Aviation Organization, on an ongoing basis to bolster international collaboration, data sharing, and harmonization of international aviation safety requirements including through—

(i) sharing of continued operational safety information;

(ii) prioritization of pilot training deficiencies, including manual flying skills and flight crew training, to discourage over reliance on automation, further bolstering the components of airmanship;

(iii) encouraging the consideration of the safety advantages of appropriate Federal regulations, which may include relevant Federal regulations pertaining to flight crew training requirements; and

(iv) prioritizing any other flight crew training areas that the Administrator believes will enhance all international aviation safety; and

(B) seek to expand technical assistance provided by the Federal Aviation Administration in support of enhancing international aviation safety, including by—

(i) promoting and enhancing effective oversight systems, including operational safety

enhancements identified through data collection and analysis;

(ii) promoting and encouraging compliance with international safety standards by counterpart civil aviation authorities;

(iii) minimizing cybersecurity threats and vulnerabilities across the aviation ecosystem;

(iv) supporting the sharing of safety information, best practices, risk assessments, and mitigations through established international aviation safety groups; and

(v) providing technical assistance on any other aspect of aviation safety that the Administrator determines is likely to enhance international aviation safety.

(5) BILATERAL AVIATION SAFETY AGREEMENTS.—

(A) IN GENERAL.—The Administrator shall negotiate, enter into, promote, enforce, evaluate the effectiveness of, and seek to update bilateral or multilateral aviation safety agreements, and the parts of such agreements, with international aviation authorities.

(B) PURPOSE.—The Administrator shall seek to enter into bilateral aviation safety agreements under this section to, at a minimum—

(i) improve global aviation safety;

(ii) increase harmonization of, and reduce duplicative, requirements, processes, and approvals to advance the aviation interests of the United States;

(iii) ensure access to international markets for operators, service providers, and manufacturers from the United States; and

(iv) put in place procedures for recourse when a party to such agreements fails to meet the obligations of such party under such agreements.

(C) SCOPE.—The scope of a bilateral aviation safety agreement entered into under this section shall, as appropriate, cover existing aviation users and concepts and establish a process by which bilateral aviation safety agreements can be updated to include new and novel concepts on an ongoing basis.

(D) CONTENTS.—Bilateral aviation safety agreements entered into under this section shall, as appropriate and consistent with United States law and regulation, include topics such as—

(i) airworthiness, certification, and validation;

(ii) maintenance;

(iii) operations and pilot training;

(iv) airspace access, efficiencies, and navigation services;

(v) transport category aircraft;

(vi) fixed-wing aircraft, rotorcraft, powered-lift aircraft, products, and articles;

(vii) aerodrome certification;

(viii) unmanned aircraft and associated elements of such aircraft;

(ix) flight simulation training devices;

(x) new or emerging technologies and technology trends; and

(xi) other topics as determined appropriate by the Administrator.

(E) RULE OF CONSTRUCTION.—Bilateral or multilateral aviation safety agreements entered into under this subsection shall not be construed to diminish or alter any authority of the Administrator under any other provision of law.

(7) [2] STRATEGIC PLAN.—The Administrator shall maintain a strategic plan for the international engagement of the Administration that includes—

(A) all elements of the report required under section 243(b) of the FAA Reauthorization Act of 2018 (49 U.S.C. 44701 note);

(B) measures to fulfill the mission described in paragraph (2);

(C) initiatives to attain greater expertise among employees of the Federal Aviation Administration in issues related to dispute resolution, intellectual property, and export control laws;

(D) policy regarding the future direction and strategy of the United States engagement with the International Civil Aviation Organization;

(E) procedures for acceptance of mandatory airworthiness information, such as airworthiness directives, and other safety-related regulatory documents, including procedures to implement the requirements of section 44701(e)(5);

(F) all factors, including funding and resourcing, necessary for the Administration to maintain leadership in the global activities related to aviation safety and air transportation;

(G) establishment of, and a process to regularly track and update, metrics to measure the effectiveness of, and foreign civil aviation authority compliance with, bilateral aviation safety agreements; and

(H) a strategic methodology to facilitate the ability of the United States aerospace industry to efficiently operate and export new aerospace technologies, products, and articles in key markets globally.

(e) PROMOTION OF UNITED STATES AEROSPACE STANDARDS, PRODUCTS, AND SERVICES ABROAD.—The Secretary shall take appropriate actions to—

(1) promote United States aerospace-related safety standards abroad;

(2) facilitate and vigorously defend approvals of United States aerospace products and services abroad;

(3) with respect to bilateral partners, utilize bilateral safety agreements and other mechanisms to improve validation of United States certificated aeronautical products, services, and appliances and enhance mutual acceptance in order to eliminate redundancies and unnecessary costs; and

(4) with respect to the aeronautical safety authorities of a foreign country, streamline validation and coordination processes.

(f) TRAVEL.—The Administrator and the Secretary of Transportation shall, in carrying out the responsibilities described in subsection (a), delegate to the appropriate supervisors of offices of the Administration the ability to authorize the domestic and international travel of relevant personnel who are not in the Federal Aviation Administration Executive System, without any additional approvals required, for the purposes of—

(1) promoting aviation safety, aircraft operations, air traffic, airport, unmanned aircraft systems, aviation fuels, and other aviation standards, regulations, and initiatives adopted by the United States;

(2) facilitating the adoption of United States approaches on such aviation standards and recommended practices at the International Civil Aviation Organization;

(3) supporting the acceptance of Administration design and production approvals by other civil aviation authorities;

(4) training Administration personnel and training provided to other persons;

(5) engaging with regulated entities, including performing site visits;

(6) activities associated with subsections (c) through (e); and

(7) other activities as determined by the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1102; Pub. L. 103–429, §6(47), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 104–264, title IV, §401(b)(1), Oct. 9, 1996, 110 Stat. 3255; Pub. L. 108–176, title III, §303, title VIII, §813, Dec. 12, 2003, 117 Stat. 2533, 2590; Pub. L. 115–254, div. B, title II, §241, title V, §539(a), Oct. 5, 2018, 132 Stat. 3257, 3370; Pub. L. 116–260, div. V, title I, §119(f)(1), (2), Dec. 27, 2020, 134 Stat. 2342; Pub. L. 118–63, title III, §§356, 357(a), 358(a)–(c)(1), (d), 359, May 16, 2024, 138 Stat. 1114–1116, 1119, 1120.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

40104	49 App.:1346.	Aug. 23, 1958, Pub. L. 85–726, §305, 72 Stat. 749.
	49 App.:1346a.	July 12, 1976, Pub. L. 94–353, §21, 90 Stat. 884.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The words "and foster" in 49 App.:1346 are omitted as surplus. The words "In carrying out this section" are substituted for "In furtherance of his mandate to promote civil aviation" in 49 App.:1346a because of the restatement. The word "Administrator" is substituted for "Secretary of Transportation acting through the Administrator of the Federal Aviation Administration" for consistency with the source provisions restated in this section. The words "be designed so as to", "various aspects of", and "civil and" are omitted as surplus.

PUB. L. 103–429, §6(47)(A), (B)

This makes conforming amendments to 49:40104, as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1102), because of the restatement of 49 App.:1655(c)(1) (words after last comma) as 49:40104(b) by section 6(47)(C) of the bill.

PUB. L. 103–429, §6(47)(C)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40104(b)	49 App.:1655(c)(1) (words after last comma).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1) (words after last comma), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

EDITORIAL NOTES

REFERENCES IN TEXT

Paragraph (6), referred to in subsec. (d)(2)(D), is a reference to par. (6) of subsec. (d) of this section, which does not exist, but may instead be referring to par. (6) of subsec. (e) of section 40113 of this title, which relates to technical assistance to foreign governments and was enacted by the same section of Pub. L. 118–63 that enacted subsec. (d)(2) of this section containing the reference.

Section 243(b) of the FAA Reauthorization Act of 2018, referred to in subsec. (d)(7)(A), is section 243(b) of Pub. L. 115–254, which is set out in a note under section 44701 of this title.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §356(1), struck out at end "In carrying out this subsection, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations."

Subsec. (b). Pub. L. 118–63, §356(4), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 118–63, §357(a), added subsec. (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 118–63, §358(a)(1), inserted "and Assistance" after "International Role" in heading.

Pub. L. 118–63, §356(3), redesignated subsec. (b) as (d).

Subsec. (d)(1). Pub. L. 118–63, §358(a)(2), substituted "In carrying out subsection (a), the Administrator" for "The Administrator".

Subsec. (d)(2). Pub. L. 118–63, §358(a)(4), added par. (2). Former par. (2) redesignated (4).

Subsec. (d)(3). Pub. L. 118–63, §358(b), added par. (3).

Subsec. (d)(4). Pub. L. 118–63, §358(a)(3), redesignated par. (2) as (4).

Subsec. (d)(5). Pub. L. 118–63, §358(c)(1), added par. (5).

Subsec. (d)(7). Pub. L. 118–63, §358(d), added par. (7).

Subsec. (e). Pub. L. 118–63, §356(2), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 118–63, §359, added subsec. (f).

2020—Subsec. (b). Pub. L. 116–260 designated existing provisions as par. (1), inserted heading, and added par. (2).

2018—Subsec. (c). Pub. L. 115–254, §539(a), substituted "section 47175" for "section 47176".

Subsec. (d). Pub. L. 115–254, §241, added subsec. (d).

2003—Subsec. (b). Pub. L. 108–176, §813, amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "The Secretary of Transportation may develop and construct a civil supersonic aircraft."

Subsec. (c). Pub. L. 108–176, §303, added subsec. (c).

1996—Pub. L. 104–264, §401(b)(1)(A), inserted "safety of" before "air commerce" in section catchline.

Subsec. (a). Pub. L. 104–264, §401(b)(1)(B), (C), inserted "SAFETY OF" before "AIR COMMERCE" in heading and "safety of" before "air commerce" in text.

1994—Pub. L. 103–429 designated existing provisions as subsec. (a), inserted heading, substituted "carrying out this subsection" for "carrying out this section", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SUPPORT FOR PROFESSIONAL DEVELOPMENT AND CONTINUING EDUCATION

Pub. L. 118–63, title III, §357(b), May 16, 2024, 138 Stat. 1115, provided that: "The Administrator [of the Federal Aviation Administration] may take such action as may be necessary to support or launch initiatives that seek to advance the professional development and continuing education of aerospace professionals."

VALIDATION OF POWERED-LIFT AIRCRAFT

Pub. L. 118–63, title III, §358(c)(3), May 16, 2024, 138 Stat. 1118, provided that: "In carrying out section 40104(d) of title 49, United States Code (as amended by this Act), the Administrator [of the Federal Aviation Administration] shall ensure coordination with international civil aviation authorities regarding the establishment of mutual processes for efficient validation, acceptance, and working arrangements of certificates and approvals for powered-lift aircraft, products, and articles."

POWERED-LIFT AIRCRAFT

Pub. L. 118–63, title III, §358(e), May 16, 2024, 138 Stat. 1119, provided that: "In developing the methodology required under section 40104(d)(7)(H) of title 49, United States Code (as added by subsection (d)), the Administrator [of the Federal Aviation Administration] shall—

"(1) perform an assessment of existing bilateral aviation safety agreements, implementation procedures, and other associated bilateral arrangements to determine how current and future powered-lift products and articles can utilize the most appropriate validation mechanisms and procedures;

"(2) facilitate global acceptance of the approach of the FAA [Federal Aviation Administration] to certification of powered-lift aircraft, products, and articles; and

"(3) consider any other information determined appropriated by the Administrator."

INTERNATIONAL PILOT TRAINING

Pub. L. 116–260, div. V, title I, §119(e), Dec. 27, 2020, 134 Stat. 2341, provided that:

"(1) IN GENERAL.—The Secretary of Transportation, the Administrator, and other appropriate officials of the Government shall exercise leadership in setting global standards to improve air carrier pilot training and qualifications for—

"(A) monitoring and managing the behavior and performance of automated systems;
"(B) controlling the flightpath of aircraft without autoflight systems engaged;
"(C) effectively utilizing and managing autoflight systems, when appropriate;
"(D) effectively identifying situations in which the use of autoflight systems is appropriate and when such use is not appropriate; and
"(E) recognizing and responding appropriately to non-normal conditions.
"(2) INTERNATIONAL LEADERSHIP.—The Secretary, the Administrator, and other appropriate officials of the Government shall exercise leadership under paragraph (1) by working with—
"(A) foreign counterparts of the Administrator in the ICAO and its subsidiary organizations;
"(B) other international organizations and fora; and
"(C) the private sector.
"(3) CONSIDERATIONS.—In exercising leadership under paragraph (1), the Secretary, the Administrator, and other appropriate officials of the Government shall consider—
"(A) the latest information relating to human factors;
"(B) aircraft manufacturing trends, including those relating to increased automation in the cockpit;
"(C) the extent to which cockpit automation improves aviation safety and introduces novel risks;
"(D) the availability of opportunities for pilots to practice manual flying skills;
"(E) the need for consistency in maintaining and enhancing manual flying skills worldwide;
"(F) recommended practices of other countries that enhance manual flying skills and automation management; and
"(G) whether a need exists for initial and recurrent training standards for improve pilots' proficiency in manual flight and in effective management of autoflight systems.
"(4) CONGRESSIONAL BRIEFING.—The Secretary, the Administrator, and other appropriate officials of the Government shall provide to the congressional committees of jurisdiction regular briefings on the status of efforts undertaken pursuant to this subsection."
[For definitions of terms used in section 119(e) of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

INTERNATIONAL EFFORTS REGARDING TRACKING OF CIVIL AIRCRAFT

Pub. L. 115–254, div. B, title III, §304, Oct. 5, 2018, 132 Stat. 3261, provided that: "The Administrator [of the Federal Aviation Administration] shall exercise leadership on creating a global approach to improving aircraft tracking by working with—
"(1) foreign counterparts of the Administrator in the International Civil Aviation Organization and its subsidiary organizations;
"(2) other international organizations and fora; and
"(3) the private sector."

[1] See References in Text note below.

[2] So in original. No par. (6) has been enacted.

§40105. International negotiations, agreements, and obligations

(a) ADVICE AND CONSULTATION.—The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services. The Secretary of Transportation shall consult with the Secretary of State in carrying out this part to the extent this part is related to foreign air transportation.
(b) ACTIONS OF SECRETARY AND ADMINISTRATOR.—(1) In carrying out this part, the Secretary of Transportation and the Administrator—
(A) shall act consistently with obligations of the United States Government under an international agreement;
(B) shall consider applicable laws and requirements of a foreign country; and
(C) may not limit compliance by an air carrier with obligations or liabilities imposed by the

government of a foreign country when the Secretary takes any action related to a certificate of public convenience and necessity issued under chapter 411 of this title.

(2) This subsection does not apply to an agreement between an air carrier or an officer or representative of an air carrier and the government of a foreign country, if the Secretary of Transportation disapproves the agreement because it is not in the public interest. Section 40106(b)(2) of this title applies to this subsection.

(c) CONSULTATION ON INTERNATIONAL AIR TRANSPORTATION POLICY.—In carrying out section 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

(1) the Secretaries of Commerce and Defense;
(2) airport operators;
(3) scheduled air carriers;
(4) charter air carriers;
(5) airline labor;
(6) consumer interest groups;
(7) travel agents and tour organizers; and
(8) other groups, institutions, and governmental authorities affected by international aviation policy.

(d) CONGRESSIONAL OBSERVERS AT INTERNATIONAL AVIATION NEGOTIATIONS .—The President shall grant to at least one representative of each House of Congress the privilege of attending international aviation negotiations as an observer if the privilege is requested in advance in writing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1102.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40105(a)	49 App.:1462.	Aug. 23, 1958, Pub. L. 85–726, §802, 72 Stat. 783.
	49 App.:1551(b)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1745.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat 2444.
40105(b)	49 App.:1502(a).	Aug. 23, 1958, Pub. L. 85–726, §1102(a), 72 Stat. 797; Feb. 15, 1980, Pub. L. 96–192, §17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	
40105(c)	49 App.:1502(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1102(c), (d); added Feb. 15, 1980, Pub. L. 96–192, §17, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	

40105(d)	49 App.:1502(d).	

In subsection (a), the words "government of a foreign country" are substituted for "foreign governments" in 49 App.:1462 and "foreign country" in 49 App.:1502(a) for consistency in the revised title and with other titles of the United States Code. The words "Secretary of Transportation" are substituted for "Department of Transportation" in 49 App.:1551(b)(1)(B) because of 49:102(b). The words "Secretary of State" are substituted for "Department of State" because of 22:2651.

In subsection (b)(1), before clause (A), the words "carrying out" are substituted for "exercising and performing . . . powers and duties" for consistency in the revised title and with other titles of the Code. In clause (A), the words "an international agreement" are substituted for "any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries" for consistency and to eliminate unnecessary words. In clause (C), the word "public" is added for consistency in this part.

In subsection (b)(2), the words "obligation, duty, or liability arising out of a contract or other" and "heretofore or hereafter" are omitted as surplus. The words "government of a foreign country" are substituted for "foreign country" for consistency in the revised title and with other titles of the Code. The last sentence is inserted to inform the reader that section 40106(b)(2) of the revised title qualifies this subsection.

In subsection (c), before clause (1), the words "To assist" are omitted as surplus. The words "carrying out" are substituted for "developing and implementing" for consistency in the revised title and with other titles of the Code. The word "both" is omitted as surplus. In clause (8), the word "authorities" is substituted for "agencies" for consistency in the revised title and with other titles of the Code.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RECIPROCAL AIRWORTHINESS CERTIFICATION

Pub. L. 108–176, title VIII, §812, Dec. 12, 2003, 117 Stat. 2590, provided that:

"(a) IN GENERAL.—As part of their bilateral negotiations with foreign nations and their civil aviation counterparts, the Secretary of State and the Administrator of the Federal Aviation Administration shall facilitate the reciprocal airworthiness certification of aviation products.

"(b) RECIPROCAL AIRWORTHINESS DEFINED.—In this section, the term 'reciprocal airworthiness certification of aviation products' means that the regulatory authorities of each nation perform a similar review in certifying or validating the certification of aircraft and aircraft components of other nations."

REPORT ON CERTAIN BILATERAL NEGOTIATIONS

Pub. L. 103–305, title V, §519, Aug. 23, 1994, 108 Stat. 1600, provided that: "The Secretary shall report every other month to the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of all active aviation bilateral and multilateral negotiations and informal government-to-government consultations with United States aviation trade partners."

§40106. Emergency powers

(a) DEVIATIONS FROM REGULATIONS.—Appropriate military authority may authorize aircraft of the armed forces of the United States to deviate from air traffic regulations prescribed under section 40103(b)(1) and (2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b) SUSPENSION OF AUTHORITY.—(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be

used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of a suspension of authority under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1103.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40106(a)	49 App.:1348(f).	Aug. 23, 1958, Pub. L. 85–726, §307(f), 72 Stat. 750.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40106(b)	49 App.:1514.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1114; added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 413.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	

In subsection (a), before clause (1), the words "armed forces" are substituted for "national defense forces" because of 10:101. The words "section 40103(b)(1) and (2) of this title" are substituted for "this subchapter" as being more precise. In clauses (1) and (2), the word "Administrator" in section 307(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g). In clause (2), the words "fully" and "required" are omitted as surplus.

In subsection (b)(1), the words "government of a foreign country" are substituted for "foreign nation" for consistency in the revised title and with other titles of the Code. Before clause (A), the words "in a manner" and "in any way" are omitted as surplus. The word "authority" is substituted for "right" as being more precise and for consistency in the revised title.

In subsection (b)(2), the words "deemed to be" are omitted because a legal conclusion is being stated.

In subsection (b)(3), the words "by the President" are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

§40107. Presidential transfers

(a) GENERAL AUTHORITY.—The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) DURING WAR.—If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40107(a)	49 App.:1345.	Aug. 23, 1958, Pub. L. 85–726, §§302(e), 304, 72 Stat. 746, 749.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40107(b)	49 App.:1343(c). 49 App.:1655(c)(1).	

In this section, the words "functions (including . . . parts of functions)" are omitted as included in "duty, power, activity, or facility".

In subsection (a), the words "of a department, agency, or instrumentality of the executive branch of the United States Government" are substituted for "the executive departments or agencies of the Government" for consistency in the revised title and with other titles of the United States Code. The word "unit" is substituted for "organizational entity" for clarity. The words "appropriate" and "civilian and military" are omitted as surplus. The words "officers and employees" are substituted for "personnel" for consistency in the revised title and with other titles of the Code. The words "to the Administrator" are added for clarity.

In subsection (b), the text of 49 App.:1343(c) (words before proviso) is omitted as obsolete. The words "Secretary of Defense" are substituted for "Department of Defense" because of 10:133(a). The words "prior to enactment of such proposed legislation" are omitted as obsolete because the legislation was not enacted. The word "appropriate" is omitted as surplus. The words "of the Administration to the Department of Defense" are added for clarity.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 10786. TRANSFER OF FUNCTIONS OF THE AIRWAYS MODERNIZATION BOARD TO THE ADMINISTRATOR

Ex. Ord. No. 10786, Nov. 1, 1958, 23 F.R. 8573, provided:

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Airways Modernization Board, including those of the Chairman thereof, are hereby transferred to the Administrator of the Federal Aviation Agency; and all records, property, facilities, employees, and unexpended balances of

appropriations, allocations, and other funds of the Airways Modernization Board, are hereby transferred to the Federal Aviation Agency [now Federal Aviation Administration].

SEC. 2. Such further measures and dispositions, if any, as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the transfers provided for hereinabove in respect of records, property, facilities, employees, and balances shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 3. The provisions of this order shall become effective concurrently with the entering upon office as Administrator of the Federal Aviation Agency [now Federal Aviation Administration] of the first person appointed as Administrator. The functions transferred by section 1 hereof may be performed by the Administrator until the effective date of the repeal [Aug. 23, 1958] of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.] effected by section 1401(d) of the Federal Aviation Act of 1958 [Pub. L. 85–726].

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10797. DELEGATION OF AUTHORITY TO THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 10797, Dec. 24, 1958, 23 F.R. 10391, provided:

SECTION 1. There is hereby delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget] all authority vested in the President by the last sentence of section 304 [see 49 U.S.C. 40107(a)], and by sections 1502(a) and 1502(b), of the Federal Aviation Act of 1958 (72 Stat. 749, 810) [Pub. L. 85–726, former 49 U.S.C. 1341 note], relating, respectively, (1) to providing in connection with transfers of functions made under other provisions of section 304, (i) for appropriate transfers of records and property, and (ii) for necessary civilian and military personnel to be made available from any office, department, or other agency from which transfers of functions are so made; (2) to determining the employees and property (including office equipment and official equipment and official records) employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties which are vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended [former 49 U.S.C. 401 et seq.], and which are vested by the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.] in the Federal Aviation Agency, and to specifying the date or dates upon which the transfers of officers, employees, and property (including office equipment and official records) under section 1502(a) shall occur; and (3) specifying the date or dates upon which transfers of unexpended balances of appropriations under section 1502(b) shall occur. Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the exercise of the authority delegated to him by this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 2. Executive Order No. 10731 of October 10, 1957, delegating to the Director of the Bureau of the Budget [now the Office of Management and Budget] the authority vested in the President by a certain provision of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.], is hereby revoked, such revocation to become effective on the date the repeal of that act takes effect under sections 1401(d) [repealing former 49 U.S.C. 1211–1215] and 1505(2) [former 49 U.S.C. 1301 note] of the Federal Aviation Act of 1958 (72 Stat. 806, 811).

SEC. 3. Except as otherwise provided in section 2 hereof, the provisions of this order shall become effective immediately.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11047. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE AND ADMINISTRATOR

Ex. Ord. No. 11047, Aug. 28, 1962, 27 F.R. 8665, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense and the Administrator of the Federal Aviation Administration are hereby designated and empowered to exercise jointly, without the approval, ratification, or other action of the President, the authority vested in the President by the first sentence of section 304 of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1345 (first sentence)) [see 49 U.S.C. 40107(a)] to transfer functions (including, as used in this order, powers, duties, activities, facilities, and parts of functions) as described in

that sentence to the extent that the said authority is in respect of transfers from the Department of Defense or any officer or organizational entity thereof to the Administrator of the Federal Aviation Administration of functions relating to flight inspection of air navigation facilities.

SEC. 2. The Administrator and the Secretary shall exercise the authority hereinabove delegated to them only as they shall deem such exercise to be necessary or desirable in the interest of promoting, in respect of either civil or military aviation or both, safe and efficient air navigation and air traffic control.

SEC. 3. (a) To the extent necessitated by transfers of functions effected under the provisions of Section 1 of this order:

(1) Transfers of balances of appropriations available and necessary to finance and discharge the transferred functions shall be made under the authority of Section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b) [see 31 U.S.C. 1531]) as affected by the provisions of section 1(k) of Executive Order No. 10530 of May 10, 1954 [set out as a note under section 301 of Title 3, The President].

(2) Provisions for appropriate transfers of records and property shall be made under the authority of the last sentence of Section 304 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(a)] as affected by the provisions of Section 1 of Executive Order No. 10797 of December 24, 1958 [set out above].

(b) Neither this order nor the said Executive Order No. 10797 shall be deemed to require or authorize the transfer of any civilian or military personnel from the Department of Defense to the Federal Aviation Administration, under authority of the said Section 304 [see 49 U.S.C. 40107(a)], in connection with transfers of functions effected under the provisions of Section 1 of this order.

SEC. 4. (a) In order to facilitate the orderly and timely accomplishment of the transfers and other arrangements mentioned in Section 3(a) of this order, the Secretary of Defense and the Administrator of the Federal Aviation Administration shall transmit to the Director of the Office of Management and Budget, not less than 30 days prior to the execution by them of any order or other transfer instrument in pursuance of the provisions of Section 1 of this order, all appropriate information in respect to any transfers or other arrangements proposed to be made in connection therewith under the provisions of Section 3 hereof, together with copy of the order or other transfer instrument proposed to be executed by them.

(b) In connection with any particular action or actions under Section 1 of this order, the Director of the Office of Management and Budget may either waive the requirements of Section 4(a), above, or reduce the 30 day period there prescribed.

EX. ORD. NO. 11161. TRANSFER OF FEDERAL AVIATION AGENCY TO DEFENSE DEPARTMENT IN EVENT OF WAR

Ex. Ord. No. 11161, eff. July 7, 1964, 29 F.R. 9317, as amended by Ex. Ord. No. 11382, eff. Nov. 28, 1967, 32 F.R. 16247, provided:

WHEREAS Section 302(e) of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(b)] provides, in part, that in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Federal Aviation Administration; and

WHEREAS it appears that the defense of the United States would require the transfer of the Federal Aviation Administration to the Department of Defense in the event of war; and

WHEREAS if any such transfer were to be made it would be essential to the defense of the United States that the transition be accomplished promptly and with maximum ease and effectiveness; and

WHEREAS these objectives require that the relationships that would obtain in the event of such a transfer as between the Federal Aviation Administration and the Department of Defense be understood in advance by the two agencies concerned and be developed in necessary detail by them in advance of transfer:

NOW, THEREFORE, by virtue of the authority vested in me by Section 302(e) (72 Stat. 746; 49 U.S.C. 1343(c)) [see 49 U.S.C. 40107(b)], and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense and the Secretary of Transportation are hereby directed to prepare and develop plans, procedures, policies, programs, and courses of action in anticipation of the probable transfer of the Federal Aviation Administration to the Department of Defense in the event of war. Those plans, policies, procedures, programs, and courses of action shall be prepared and developed in conformity with the following-described standards and conditions—

(A) The Federal Aviation Administration will function as an adjunct of the Department of Defense with the Federal Aviation Administrator being responsible directly to the Secretary of Defense and subject to his authority, direction, and control to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

(B) To the extent deemed by the Secretary of Defense to be necessary for the accomplishment of the

military mission, he will be empowered to direct the Administrator to place operational elements of the Federal Aviation Administration under the direct operational control of appropriate military commanders.

(C) While functioning as an adjunct of the Department of Defense, the Federal Aviation Administration will remain organizationally intact and the Administrator thereof will retain responsibility for administration of his statutory functions, subject to the authority, direction, and control of the Secretary of Defense to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

SEC. 2. In furtherance of the objectives of the foregoing provisions of this order, the Secretary of Defense and the Secretary of Transportation shall, to the extent permitted by law, make such arrangements and take such actions as they deem necessary to assure—

(A) That the functions of the Federal Aviation Administration are performed during any period of national emergency short of war in a manner that will assure that essential national defense requirements will be satisfied during any such period of national emergency.

(B) Consistent with the provisions of paragraphs (A), (B), and (C) of Section 1 of this order, that any transfer of the Federal Aviation Administration to the Department of Defense, in the event of war, will be accomplished smoothly and rapidly and effective operation of the agencies and functions affected by the transfer will be achieved after the transfer.

LYNDON B. JOHNSON.

§40108. Training schools

(a) AUTHORITY TO OPERATE.—The Administrator of the Federal Aviation Administration may operate schools to train officers and employees of the Administration to carry out duties, powers, and activities of the Administrator.

(b) ATTENDANCE.—The Administrator may authorize officers and employees of other departments, agencies, or instrumentalities of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, or individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40108(a)	49 App.:1354(d) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §313(d), 72 Stat. 753.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40108(b)	49 App.:1354(d) (2d–last sentences).	
	49 App.:1655(c)(1).	

In this section, the word "Administrator" in section 313(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g). The words "school or" are omitted because of 1:1.

In subsection (a), the words "officers and" are added for clarity and consistency in the revised title and with other titles of the United States Code. The words "to carry out duties, powers, and activities of the Administrator" are substituted for "in those subjects necessary for the proper performance of all authorized functions of the Administration" for clarity and consistency in the revised title.

In subsection (b), the words "officers and employees" are substituted for "personnel", the words "departments, agencies, or instrumentalities of the United States Government" are substituted for "governmental", and the words "governments of foreign countries" are substituted for "foreign governments",

for consistency in the revised title and with other titles of the Code. The words "courses given in", "sufficient", and "appropriate" are omitted as surplus. The text of 49 App.:1354(d) (3d sentence) is omitted as unnecessary because chapter 41 of title 5, United States Code, applies to all training of employees. The words "or both" are substituted for "(3) in part as provided under clause (1) and in part as provided under clause (2)" to eliminate unnecessary words.

§40109. Authority to exempt

(a) AIR CARRIERS AND FOREIGN AIR CARRIERS NOT ENGAGED DIRECTLY IN OPERATING AIRCRAFT.—(1) The Secretary of Transportation may exempt from subpart II of this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods that the Secretary decides are in the public interest.

(b) SAFETY REGULATION.—The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out paragraphs (1) and (2) of section 40103(b) when the Administrator decides the exemption is in the public interest.

(c) OTHER ECONOMIC REGULATION.—Except as provided in this section, the Secretary may exempt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, and sections 44909(a), 44909(b), and 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) LABOR REQUIREMENTS.—The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) MAXIMUM FLYING HOURS.—The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f) SMALLER AIRCRAFT.—(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of cargo only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by

Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g) EMERGENCY AIR TRANSPORTATION BY FOREIGN AIR CARRIERS.—(1) To the extent that the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers or cargo in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation that the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days (or, in the case of an exemption that is necessary to provide and sustain air transportation in American Samoa between the islands of Tutuila and Manu'a, at least every 180 days) to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) RENEWAL OF EXEMPTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days.

(B) EXCEPTION.—The Secretary may renew an exemption (including renewals) under this subsection that is necessary to provide and sustain air transportation in American Samoa between the islands of Tutuila and Manu'a for not more than 180 days.

(4) CONTINUATION OF EXEMPTIONS.—An exemption granted by the Secretary under this subsection may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a hearing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1104; Pub. L. 104–287, §5(65), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 115–254, div. B, title IV, §402, div. K, title I, §1991(c)(1), Oct. 5, 2018, 132 Stat. 3328, 3627; Pub. L. 118–63, title XI, §1101(d), May 16, 2024, 138 Stat. 1413.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40109(a)	49 App.:1301(3) (proviso).	Aug. 23, 1958, Pub. L. 85–726, §§101(3) (proviso), 307(e), 416(b)(2), 72 Stat. 737, 750, 771.
	49 App.:1386(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §416(b)(3)–(6); added Oct. 24, 1978, Pub. L. 95–504, §§31(b), 32, 92 Stat. 1732.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40109(b)	49 App.:1348(e).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40109(c)	49 App.:1386(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §416(b)(1), 72 Stat. 771; restated Oct. 24, 1978, Pub. L. 95–504, §31(a), 92 Stat. 1731.
	49 App.:1551(b)(1)(E).	
40109(d)	49 App.:1386(b)(2) (less words between 6th and 7th commas, proviso).	
	49 App.:1551(b)(1)(E).	
40109(e)	49 App.:1386(b)(2) (proviso).	
	49 App.:1551(b)(1)(E).	
40109(f)	49 App.:1386(b)(4), (5), (6) (less words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	
40109(g)	49 App.:1386(b)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §416(b)(7); added Feb. 15, 1980, Pub. L. 96–192, §13, 94 Stat. 39.
	49 App.:1551(b)(1)(E).	
40109(h)	49 App.:1386(b)(2) (words between 6th and 7th commas), (6) (words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	

In this section, the words "requirements of", "term", and "or limitation" are omitted as surplus. The word "rule" is omitted as being synonymous with "regulation". The word "unreasonable" is substituted for "undue" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), before clause (A), the words "by order" are omitted as unnecessary because of 5:ch. 5, subch. II. The word "exempt" is substituted for "relieve" for consistency in this section.

In subsection (a)(2), the words "that the Secretary decides" are added for clarity.

In subsections (b), (c), and (f)(1)(B), the words "from time to time" are omitted as unnecessary.

In subsection (b), the word "Administrator" in section 307(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g).

In subsection (d), before clause (1), the words "to the extent" are omitted as surplus.

In subsection (f)(1), before clause (A), the words "Subject to paragraph (5) of this subsection" and "in air transportation" are omitted as surplus. The words "the Secretary may exempt" are substituted for "as may be prescribed in regulations promulgated by the Board" for clarity and to eliminate unnecessary words. In clause (A)(ii), the word "capacity" is omitted as surplus. In clause (B), the word "reasonable" is omitted as surplus. The word "prescribes" is substituted for "adopt" for consistency in the revised title and with other titles of the Code. The words "in the public interest" are omitted as surplus.

In subsection (f)(2), the words "by regulation" are omitted as surplus. The word "payload" is substituted for "property" for consistency in this subsection. The words "specified in this paragraph" are omitted as surplus.

In subsection (f)(3), the words "the State of" are omitted as surplus.

In subsection (f)(3)(A), the words "under this subsection" are substituted for "from section 1371 of this title or any other requirement of this chapter", the words "2 places" are substituted for "points both of which are", and the word "between" is substituted for "one of which is in . . . and the other in", to eliminate unnecessary words.

In subsection (f)(3)(B), the word "only" is added for clarity. The words "promulgated by the Board", "by such air carrier to points within such State", and "but not limited to" are omitted as surplus. The word "Alaska" is substituted for "such State" for clarity. The cross-reference is to section 41732(b)(1)(B) to correct an error in the source provisions. The cross-reference in 49 App.:1386(b)(6) to 49 App.:1389(c)(2) should have been to 49 App.:1389(f)(2). This error was not corrected when 49 App.:1389 was restated by section 202(b) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1508). The comparable provision is 49 App.:1389(k)(1)(A)(ii), restated as section 41732(b)(1)(B).

In subsection (g), the word "exemption" is substituted for "authorization" and "authority" for clarity and consistency.

In subsection (g)(1), before clause (A), the words "required", "a period", and "to the extent necessary" are omitted as surplus. The word "mail" is omitted as being included in "cargo". In clause (B), before subclause (i), the words "for example" are omitted as surplus.

In subsection (g)(3), the words "a period" are omitted as surplus.

In subsection (h), the words "The Secretary may act under subsections (d) and (f)(3)(B) of this section" are added because of the restatement. The word "notice" does not appear in 49 App.:1386(b)(6) (words between 5th and 6th commas) but is made applicable to both of the restated source provisions for consistency with subchapter II of chapter 5 of title 5, United States Code. The words "opportunity for a" are added for consistency in the revised title.

PUB. L. 104–287

This amends 49:40109(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1105), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63 substituted "paragraphs (1) and (2) of section 40103(b)" for "sections 40103(b)(1) and (2) of this title".

2018—Subsec. (b). Pub. L. 115–254, §1991(c)(1)(A), struck out ", 40119, 44901, 44903, 44906, and 44935–44937" before "of this title".

Subsec. (c). Pub. L. 115–254, §1991(c)(1)(B), substituted "sections 44909(a), 44909(b), and" for "sections 44909 and".

Subsec. (g)(2)(C). Pub. L. 115–254, §402(1), added subpar. (C) and struck out former subpar. (C) which read as follows: "review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist."

Subsec. (g)(3), (4). Pub. L. 115–254, §402(2), added pars. (3) and (4) and struck out former par. (3) which read as follows: "The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease."

1996—Subsec. (c). Pub. L. 104–287, §5(65)(B), substituted "sections 44909 and 46301(b)" for "section 46301(b)".

Pub. L. 104–287, §5(65)(A), substituted "chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714)," for "sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

AUTHORITY TO GRANT EXEMPTIONS TO GOVERNMENT AIRCRAFT

Pub. L. 103–411, §3(b), Oct. 25, 1994, 108 Stat. 4237, provided that:

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section [amending section 40102 of this title].

"(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

"(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

"(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government."

§40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration—

(1) to the extent that amounts are available for obligation, may acquire services or, by condemnation or otherwise, an interest in property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator;

(2) may construct and improve laboratories and other test facilities; and

(3) may dispose of any interest in property for adequate compensation, and the amount so received shall—

(A) be credited to the appropriation current when the amount is received;

(B) be merged with and available for the purposes of such appropriation; and

(C) remain available until expended.

(b) PURCHASE OF HOUSING UNITS.—

(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is $300,000 or less.

(2) ADJUSTMENTS FOR INFLATION.—For fiscal years beginning after September 30, 1997, the Administrator may adjust the dollar amount specified in paragraph (1) to take into account increases in local housing costs.

(3) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, the Administrator may purchase a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

(4) CERTIFICATION TO CONGRESS.—The Administrator may purchase a housing unit under paragraph (1) only if, at least 30 days before completing the purchase, the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives

and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(A) a description of the housing unit and its price;

(B) a certification that the price does not exceed the median price of housing units in the area; and

(C) a certification that purchasing the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

(5) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the purchase of a housing unit under this subsection from any amounts made available to the Administrator.

(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace;

(3) construct, or acquire an interest in, a public building (as defined in section 3301(a) of title 40) only under a delegation of authority from the Administrator of General Services; and

(4) dispose of property under subsection (a)(3) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under sections 121, 123, and 126 and chapter 5 of title 40.

(d) ACQUISITION MANAGEMENT SYSTEM.—

(1) IN GENERAL.—In consultation with such non-governmental experts in acquisition management systems as the Administrator may employ, and notwithstanding provisions of Federal acquisition law, the Administrator shall develop, implement, and periodically update an acquisition management system for the Administration that addresses the unique needs of the agency and, at a minimum, provides for—

(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.

(2) APPLICABILITY OF FEDERAL ACQUISITION LAW.—The following provisions of Federal acquisition law shall not apply to the acquisition management system developed, implemented, and periodically updated pursuant to paragraph (1):

(A) Division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(B) Division B (except sections 1704 and 2303) of subtitle I of title 41.

(C) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355). However, section 4705 of title 41 shall apply to the acquisition management system developed, implemented, and periodically updated pursuant to paragraph (1). For the purpose of applying section 4705 of title 41 to the system, the term "executive agency" is deemed to refer to the Federal Aviation Administration.

(D) The Small Business Act (15 U.S.C. 631 et seq.), except that all reasonable opportunities to be awarded contracts shall be provided to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

(E) The Competition in Contracting Act.

(F) Subchapter V of chapter 35 of title 31, relating to the procurement protest system.

(G) The Federal Acquisition Regulation and any laws not listed in subparagraphs (A) through (F) providing authority to promulgate regulations in the Federal Acquisition Regulation.

(3) CERTAIN PROVISIONS OF DIVISION B (EXCEPT SECTIONS 1704 AND 2303) OF SUBTITLE I OF TITLE 41.—Notwithstanding paragraph (2)(B), chapter 21 of title 41 shall apply to the acquisition management system developed, implemented, and periodically updated under paragraph (1) with the following modifications:

(A) Sections 2101 and 2106 of title 41 shall not apply.

(B) The Administrator shall adopt definitions for the acquisition management system that are consistent with the purpose and intent of the Office of Federal Procurement Policy Act, as in effect on October 9, 1996.

(C) After the adoption of those definitions, the criminal, civil, and administrative remedies provided under division B of subtitle I of title 41 apply to the acquisition management system.

(D) In the administration of the acquisition management system, the Administrator may take adverse personnel action under section 2105(c)(1)(D) of title 41 in accordance with the procedures contained in the Administration's personnel management system.

(4) COMMERCIAL PRODUCTS AND SERVICES.—In implementing and updating the acquisition management system pursuant to paragraph (1), the Administrator shall, whenever possible—

(A) describe the requirements with respect to a solicitation for the procurement of supplies or services in terms of—

(i) functions to be performed;

(ii) performance required; or

(iii) essential physical and system characteristics;

(B) ensure that commercial services or commercial products may be procured to fulfill such solicitation, or to the extent that commercial products suitable to meet the needs of the Administration are not available, ensure that nondevelopmental items other than commercial products may be procured to fulfill such solicitation;

(C) provide offerors of commercial services, commercial products, and nondevelopmental items other than commercial products an opportunity to compete in any solicitation for the procurement of supplies or services;

(D) revise the procurement policies, practices, and procedures of the Administration to reduce any impediments to the acquisition of commercial products and commercial services;

(E) ensure that any procurement of new equipment takes into account the life cycle, reliability, performance, service support, and costs to guarantee the acquisition of equipment that is of high quality and reliability resulting in greater performance and cost-related benefits; and

(F) ensure that procurement officials—

(i) acquire commercial services, commercial products, or nondevelopmental items other than commercial products to meet the needs of the Administration;

(ii) in a solicitation for the procurement of supplies or services, state the specifications for such supplies or services in terms that enable and encourage bidders and offerors to supply commercial services or commercial products, or to the extent that commercial products suitable to meet the needs of the Administration are not available, to supply nondevelopmental items other than commercial products;

(iii) require that prime contractors and subcontractors at all levels under contracts with the Administration incorporate commercial services, commercial products, or nondevelopmental items other than commercial products as components of items supplied to the Administration;

(iv) modify procurement requirements in appropriate circumstances to ensure that such requirements can be met by commercial services or commercial products, or to the extent that commercial products suitable to meet the needs of the Administration are not available, nondevelopmental items other than commercial products; and

(v) require training of appropriate personnel in the acquisition of commercial products and commercial services.

(5) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under section 46110 and to section 504 of title 5.

(e) PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), a proposal in the possession or control of the Administrator may not be made available to any person under section 552 of title 5.

(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a proposal of an offeror the disclosure of which is authorized by the Administrator pursuant to procedures published in the Federal Register. The Administrator shall provide an opportunity for public comment on the procedures for a period of not less than 30 days beginning on the date of such publication in order to receive and consider the views of all interested parties on the procedures. The procedures shall not take effect before the 60th day following the date of such publication.

(3) PROPOSAL DEFINED.—In this subsection, the term "proposal" means information contained in or originating from any proposal, including a technical, management, or cost proposal, submitted by an offeror in response to the requirements of a solicitation for a competitive proposal.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1106; Pub. L. 103–429, §6(48), (80), Oct. 31, 1994, 108 Stat. 4384, 4388; Pub. L. 104–264, title XII, §1201, Oct. 9, 1996, 110 Stat. 3279; Pub. L. 106–181, title III, §307(b), title VII, §703, Apr. 5, 2000, 114 Stat. 125, 156; Pub. L. 107–217, §3(n)(5), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 108–176, title II, §§222, 224(a), (b), Dec. 12, 2003, 117 Stat. 2527; Pub. L. 108–178, §4(k), Dec. 15, 2003, 117 Stat. 2642; Pub. L. 111–350, §5(o)(7), Jan. 4, 2011, 124 Stat. 3853; Pub. L. 112–95, title II, §§206, 210, Feb. 14, 2012, 126 Stat. 39, 44; Pub. L. 115–254, div. B, title V, §544, Oct. 5, 2018, 132 Stat. 3374; Pub. L. 118–63, title II, §§218(b), 228, title XI, §1101(e), (f), May 16, 2024, 138 Stat. 1055, 1062, 1413.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40110(a)	49 App.:1344(a)(1) (less term of lease), (2) (words before 1st semicolon), (3).	Aug. 23, 1958, Pub. L. 85–726, §303(a)–(d), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, §9118(a), 104 Stat. 1388–365.
40110(b)(1)	49 App.:1344(d).	
40110(b) (2)(A)	49 App.:1344(a)(1) (related to term of lease).	
40110(b) (2)(B)	49 App.:1344(b)(1).	
40110(b) (2)(C)	49 App.:1344(b)(2).	
40110(b) (2)(D)	49 App.:1344(c).	
40110(b) (2)(E)	49 App.:1344(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat.

		747, §303(g); added Oct. 31, 1992, Pub. L. 102–581, §201(a), 106 Stat. 4890.
40110(b) (2)(F)	49 App.:1344(a)(2) (words after 1st semicolon).	

In this section, the word "Administrator" in section 303(a)–(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words "In carrying out this part" are added for clarity. The words "on behalf of the United States . . . where appropriate" are omitted as surplus. In clause (1), the words "made by the Congress", "by purchase, condemnation . . . or otherwise", and "easements through or other" are omitted as surplus. In clause (2), the words "by sale, lease, or otherwise" and "real or personal" are omitted as surplus. In clause (3), the word "renovate" is omitted as surplus. The words "and to purchase or otherwise acquire real property required therefor" are omitted as surplus because of the authority of the Administrator to acquire real property under clause (1) of this subsection.

In subsection (b)(1), the words "procedures other than competitive procedures" are substituted for "noncompetitive procedures" for consistency with subsection (b)(2)(D) of this section and 41:253(f).

In subsection (b)(2)(B), the text of 49 App.:1344(b)(1) (words before semicolon) and the words "easements through or other" are omitted as surplus.

In subsection (b)(2)(C), the words "by purchase, condemnation, or lease" are omitted as surplus.

Subsection (b)(2)(E) is substituted for 49 App.:1344(g) to eliminate the cross-references to other laws and for clarity and is based on the text of 10:2304(c)(1).

PUB. L. 103–429

This amends 49:40110(a) to clarify the restatement of 49 App.:1344(a)(1)–(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1106).

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Acquisition Streamlining Act of 1994, referred to in subsec. (d)(2)(C), is Pub. L. 103–355, Oct. 13, 1994, 108 Stat. 3243. For complete classification of this Act to the Code, see Short Title of 1994 Act note set out under section 101 of Title 41, Public Contracts, and Tables.

The Small Business Act, referred to in subsec. (d)(2)(D), is Pub. L. 85–536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

The Competition in Contracting Act, referred to in subsec. (d)(2)(E), probably means the Competition in Contracting Act of 1984, which is title VII of Pub. L. 98–369, div. B, July 18, 1984, 98 Stat. 1175. For complete classification of this Act to the Code, see Short Title of 1984 Act note set out under section 101 of Title 41, Public Contracts, and Tables.

The Office of Federal Procurement Policy Act, referred to in subsec. (d)(3)(B), is Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, which was classified principally to chapter 7 (§401 et seq.) of former Title 41, Public Contracts, and was substantially repealed and restated in division B (§1101 et seq.) of subtitle I of Title 41, Public Contracts, by Pub. L. 111–350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

AMENDMENTS

2024—Subsec. (c)(4). Pub. L. 118–63, §1101(e), substituted "subsection (a)(3)" for "subsection (a)(2)".

Subsec. (d)(1). Pub. L. 118–63, §228(1), substituted ", implement, and periodically update" for "and implement".

Subsec. (d)(2). Pub. L. 118–63, §228(2), in introductory provisions and subpar. (C), substituted "the acquisition management system developed, implemented, and periodically updated" for "the new acquisition management system developed and implemented".

Subsec. (d)(3). Pub. L. 118–63, §228(3)(A), in introductory provisions, struck out "new" before "acquisition" and substituted ", implemented, and periodically updated" for "and implemented".

Subsec. (d)(3)(B). Pub. L. 118–63, §1101(f)(1), inserted ", as in effect on October 9, 1996" after "Policy Act".

Pub. L. 118–63, §228(3)(B), substituted "The Administrator" for "Within 90 days after the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, the Administrator".

Subsec. (d)(3)(C). Pub. L. 118–63, §1101(f)(2), substituted "division B of subtitle I of title 41" for "the Office of Federal Procurement Policy Act".

Subsec. (d)(3)(D). Pub. L. 118–63, §1101(f)(3), substituted "section 2105(c)(1)(D) of title 41" for "section 27(e)(3)(A)(iv) of the Office of Federal Procurement Policy Act".

Subsec. (d)(4). Pub. L. 118–63, §228(5), added par. (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 118–63, §228(4), redesignated par. (4) as (5). Former par. (5) struck out.

Pub. L. 118–63, §218(b), struck out par. (5) which related to annual reports on the purchase of foreign manufactured articles.

2018—Subsec. (d)(5). Pub. L. 115–254 added par. (5).

2012—Subsec. (a)(2), (3). Pub. L. 112–95, §210, added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) may dispose of an interest in property for adequate compensation; and

"(3) may construct and improve laboratories and other test facilities."

Subsec. (c)(3) to (5). Pub. L. 112–95, §206, inserted "and" at end of par. (3), redesignated par. (5) as (4), and struck out former par. (4) which read as follows: "use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and".

2011—Subsec. (d)(2)(A). Pub. L. 111–350, §5(o)(7)(A), substituted "Division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252–266)".

Subsec. (d)(2)(B). Pub. L. 111–350, §5(o)(7)(B), substituted "Division B (except sections 1704 and 2303) of subtitle I of title 41" for "The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.)".

Subsec. (d)(2)(C). Pub. L. 111–350, §5(o)(7)(C), substituted "(Public Law 103–355). However, section 4705 of title 41 shall apply to the new acquisition management system developed and implemented pursuant to paragraph (1). For the purpose of applying section 4705 of title 41 to the system," for "(Public Law 103–355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system,".

Subsec. (d)(3). Pub. L. 111–350, §5(o)(7)(D)(i), (ii), substituted "division b (except sections 1704 and 2303) of subtitle i of title 41" for "the office of federal procurement policy act" in heading and "chapter 21 of title 41" for "section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)" in text.

Subsec. (d)(3)(A). Pub. L. 111–350, §5(o)(7)(D)(iii), substituted "Sections 2101 and 2106 of title 41" for "Subsections (f) and (g)".

2003—Subsec. (c). Pub. L. 108–176, §224(a), struck out par. (1), which related to the senior procurement executive, par. (2) designation before "may—", and subpar. (D) of par. (2), which related to use procedures other than competitive procedures, redesignated subpars. (A), (B), (C), (E), and (F) of par. (2) as pars. (1) to (5), respectively, and realigned margins.

Subsec. (d)(1). Pub. L. 108–176, §224(b)(1), struck out ", not later than January 1, 1996," after "shall develop and implement", substituted "provides for—" for "provides for more timely and cost-effective acquisitions of equipment and materials.", and added subpars. (A) and (B).

Subsec. (d)(2)(C). Pub. L. 108–176, §222, substituted "(Public Law 103–355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term 'executive agency' is deemed to refer to the Federal Aviation Administration." for "(Public Law 103–355)."

Subsec. (d)(2)(G). Pub. L. 108–178, §4(k)(3), substituted "subparagraphs (A) through (F)" for "subparagraphs (A) through (G)".

Pub. L. 108–178, §4(k)(1), (2), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: "The Brooks Automatic Data Processing Act (40 U.S.C. 759)."

Subsec. (d)(2)(H). Pub. L. 108–178, §4(k)(2), redesignated subpar. (H) as (G).

Subsec. (d)(4). Pub. L. 108–176, §224(b)(2), added par. (4) and struck out heading and text of former par. (4). Text read as follows: "This subsection shall take effect on April 1, 1996."

2002—Subsec. (c)(2)(C). Pub. L. 107–217, §3(n)(5)(A), substituted "(as defined in section 3301(a) of title 40)" for "(as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612))".

Subsec. (c)(2)(F). Pub. L. 107–217, §3(n)(5)(B), substituted "sections 121, 123, and 126 and chapter 5 of

title 40" for "title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)".

2000—Subsecs. (d), (e). Pub. L. 106–181 added subsecs. (d) and (e).

1996—Subsecs. (b), (c). Pub. L. 104–264 added subsec. (b) and redesignated former subsec. (b) as (c).

1994—Subsec. (a). Pub. L. 103–429, §6(48), in introductory provisions, struck out "may" after "Administration", in par. (1), struck out "acquire," before "to the extent" and substituted "may acquire services or, by condemnation or otherwise," for "services or", and in pars. (2) and (3), inserted "may" after par. designation.

Subsec. (b)(2)(A). Pub. L. 103–429, §6(80), inserted "notwithstanding section 1341(a)(1) of title 31," before "lease".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

CONTRACTING

Pub. L. 112–95, title VIII, §814, Feb. 14, 2012, 126 Stat. 125, provided that: "When drafting contract proposals for training facilities under the general contracting authority of the Federal Aviation Administration, the Administrator of the Federal Aviation Administration shall ensure—

"(1) the proposal is drafted so that all parties can fairly compete; and

"(2) the proposal takes into consideration the most cost-effective location, accessibility, and services options."

FAA EVALUATION OF LONG-TERM CAPITAL LEASING

Pub. L. 106–181, title VII, §704, Apr. 5, 2000, 114 Stat. 157, authorized the Administrator of the Federal Aviation Administration to carry out a pilot program in fiscal years 2001 through 2003 to test and evaluate the benefits of long-term contracts for the leasing of aviation equipment and facilities and to enter into certain types of contracts for this purpose.

ASSESSMENT OF ACQUISITION MANAGEMENT SYSTEM

Pub. L. 104–264, title II, §251, Oct. 9, 1996, 110 Stat. 3236, provided that: "Not later than April 1, 1999, the Administrator [of the Federal Aviation Administration] shall employ outside experts to provide an independent evaluation of the effectiveness of the Administration's [Federal Aviation Administration] acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."

Pub. L. 104–205, title III, §351, Sept. 30, 1996, 110 Stat. 2979, provided that: "Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall—

"(a) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than $50,000,000; and

"(b) submit to the Congress a report on the findings of that independent assessment: *Provided*, That for purposes of this section, the term 'full and open competition' has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))."

ACQUISITION MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

Pub. L. 104–50, title III, §348, Nov. 15, 1995, 109 Stat. 460, required the Administrator of the Federal Aviation Administration to develop and implement, not later than Jan. 1, 1996, an acquisition management system, exempt from specified federal procurement and acquisition laws, to provide for more timely and cost-effective acquisitions of equipment and materials, prior to repeal by Pub. L. 106–181, title III, §307(d), Apr. 5, 2000, 114 Stat. 126.

ALTERNATIVE PROCUREMENT AND ACQUISITION PILOT PROGRAM

Pub. L. 103–355, title V, §5063, Oct. 13, 1994, 108 Stat. 3356, provided that:

"(a) AUTHORITY.—The Secretary of Transportation may conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code. In conducting such test, the Secretary shall consult with the Administrator for Federal Procurement Policy.

"(b) PILOT PROGRAM IMPLEMENTATION.—(1) The Secretary of Transportation should prescribe policies and procedures for the interaction of the program manager and the end user executive responsible for the requirement for the equipment acquired. Such policies and procedures should include provisions for enabling the end user executive to participate in acceptance testing.

"(2) Not later than 45 days after the date of enactment of this Act [Oct. 13, 1994], the Secretary of Transportation shall identify for the pilot program quantitative measures and goals for reducing acquisition management costs.

"(3) The Secretary of Transportation shall establish for the pilot program a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

"(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

"(B) reduce data requirements from the current program review reporting requirements.

"(c) SPECIAL AUTHORITIES.—The authority provided by subsection (a) shall include authority for the Secretary of Transportation—

"(1) to apply any amendment or repeal of a provision of law made in this Act [see Short Title of 1994 Amendment note set out under section 251 of Title 41, Public Contracts] to the pilot program before the effective date of such amendment or repeal; and

"(2) to apply to a procurement of items other than commercial items under such program—

"(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

"(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

"(d) APPLICABILITY.—Subsection (c) applies with respect to—

"(1) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act [Oct. 13, 1994]; and

"(2) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

"(e) PROCEDURES AUTHORIZED.—The test conducted under this section may include any of the following procedures:

"(1) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

"(2) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

"(3) Alternative notice and publication requirements.

"(4) A process in which—

"(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

"(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

"(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

"(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

"(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

"(f) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Secretary of Transportation, with the approval of the Administrator for Federal Procurement Policy, may waive—

"(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

"(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to test procedures authorized by subsection (e).

"(2) The provisions of law referred to in paragraph (1) are as follows:

"(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

"(B) The following provisions of the Federal Property and Administrative Services Act of 1949:

"(i) Section 303 ([former] 41 U.S.C. 253) [see 41 U.S.C. 3105, 3301, 3303 to 3305].

"(ii) Section 303A ([former] 41 U.S.C. 253a) [see 41 U.S.C. 3306].

"(iii) Section 303B ([former] 41 U.S.C. 253b) [now 41 U.S.C. 3308, 3701 to 3708, 4702].

"(iv) Section 303C [former] (41 U.S.C. 253c) [now 41 U.S.C. 3311].

"(C) The following provisions of the Office of Federal Procurement Policy Act:

"(i) Section 4(6) ([former] 41 U.S.C. 403(6)) [see 41 U.S.C. 107].

"(ii) Section 18 ([former] 41 U.S.C. 416) [see 41 U.S.C. 1708].

"(g) DEFINITION.—In this section, the term 'commercial item' has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act [see 41 U.S.C. 103].

"(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

"(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a)."

§40111. Multiyear procurement contracts for services and related items

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator of the Federal Aviation Administration may make a contract of not more than 5 years for the following types of services and items of supply related to those services for which amounts otherwise would be available for obligation only in the fiscal year for which appropriated:

(1) operation, maintenance, and support of facilities and installations.

(2) operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment.

(3) specialized training requiring high quality instructor skills, including training of pilots and aircrew members and foreign language training.

(4) base services, including ground maintenance, aircraft refueling, bus transportation, and refuse collection and disposal.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

(1) there will be a continuing requirement for the service consistent with current plans for the

proposed contract period;

(2) providing the service will require a substantial initial investment in plant or equipment, or will incur a substantial contingent liability for assembling, training, or transporting a specialized workforce; and

(3) the contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(c) CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

(1) The part of the cost of a plant or equipment amortized as a cost of contract performance may not be more than the ratio between the period of contract performance and the anticipated useful commercial life (instead of physical life) of the plant or equipment, considering the location and specialized nature of the plant or equipment, obsolescence, and other similar factors.

(2) The Administrator shall consider the desirability of—

(A) obtaining an option to renew the contract for a reasonable period of not more than 3 years, at a price that does not include charges for nonrecurring costs already amortized; and

(B) reserving in the Administrator the right, on payment of the unamortized part of the cost of the plant or equipment, to take title to the plant or equipment under appropriate circumstances.

(d) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of service concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1107.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40111(a)	49 App.:1344(e)(1).	Aug. 23, 1958, Pub. L. 85–726, §303(e), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, §9118(a), 104 Stat. 1388–366.
40111(b)	49 App.:1344(e)(2).	
40111(c)	49 App.:1344(e)(3).	
40111(d)	49 App.:1344(e)(4).	

In this section, the word "Administrator" in section 303(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words "periods of" are omitted as surplus. In clause (3), the words "training of" are added for clarity. In clause (4), the word "aircraft" is substituted for "in-plane" for clarity.

In subsection (c)(2)(A), the words "plant, equipment, and other" are omitted as surplus.

In subsection (d), the words "canceled or" and "cancellation or" are omitted as being included in "ended" and "ending", respectively.

§40112. Multiyear procurement contracts for property

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31 and to the extent that amounts otherwise are available for obligation, the Administrator of the Federal Aviation Administration may make a contract of more than one but not more than 5 fiscal years to purchase property, except a contract to construct, alter, or make a major repair or improvement to real property.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section if the Administrator finds that—

(1) the contract will promote the safety or efficiency of the national airspace system and will result in reduced total contract costs;

(2) the minimum need for the property to be purchased is expected to remain substantially unchanged during the proposed contract period in terms of production rate, procurement rate, and total quantities;

(3) there is a reasonable expectation that throughout the proposed contract period the Administrator will request appropriations for the contract at the level required to avoid cancellation;

(4) there is a stable design for the property to be acquired and the technical risks associated with the property are not excessive; and

(5) the estimates of the contract costs and the anticipated savings from the contract are realistic.

(c) REGULATIONS.—The Administrator shall prescribe regulations for acquiring property under this section to promote the use of contracts under this section in a way that will allow the most efficient use of those contracts. The regulations may provide for a cancellation provision in the contract to the extent the provision is necessary and in the best interest of the United States. The provision may include consideration of recurring and nonrecurring costs of the contractor associated with producing the item to be delivered under the contract. The regulations shall provide that, to the extent practicable—

(1) to broaden the aviation industrial base—

(A) a contract under this section shall be used to seek, retain, and promote the use under that contract of subcontractors, vendors, or suppliers; and

(B) on accrual of a payment or other benefit accruing on a contract under this section to a subcontractor, vendor, or supplier participating in the contract, the payment or benefit shall be delivered in the most expeditious way practicable; and

(2) this section and regulations prescribed under this section may not be carried out in a way that precludes or curtails the existing ability of the Administrator to provide for—

(A) competition in producing items to be delivered under a contract under this section; or

(B) ending a prime contract when performance is deficient with respect to cost, quality, or schedule.

(d) CONTRACT PROVISIONS.—(1) A contract under this section may—

(A) be used for the advance procurement of components, parts, and material necessary to manufacture equipment to be used in the national airspace system;

(B) provide that performance under the contract after the first year is subject to amounts being appropriated; and

(C) contain a negotiated priced option for varying the number of end items to be procured over the period of the contract.

(2) If feasible and practicable, an advance procurement contract may be made to achieve economic-lot purchases and more efficient production rates.

(e) CANCELLATION PAYMENT AND NOTICE OF CANCELLATION CEILING.—(1) If a contract under this section provides that performance is subject to an appropriation being made, it

also may provide for a cancellation payment to be made to the contractor if the appropriation is not made.

(2) Before awarding a contract under this section containing a cancellation ceiling of more than $100,000,000, the Administrator shall give written notice of the proposed contract and cancellation ceiling to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The contract may not be awarded until the end of the 30-day period beginning on the date of the notice.

(f) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of property concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1108; Pub. L. 104–106, div. E, title LVI, §5606, Feb. 10, 1996, 110 Stat. 700; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40112(a)	49 App.:1344(f)(1) (words before 4th comma), (6), (7) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §303(f), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, §9118(a), 104 Stat. 1388–367.
40112(b)	49 App.:1344(f)(1) (words after 4th comma).	
40112(c)	49 App.:1344(f)(2).	
40112(d) (1)(A)	49 App.:1344(f)(4) (words before 3d comma).	
40112(d) (1)(B)	49 App.:1344(f)(7) (last sentence words before "and (if").	
40112(d) (1)(C)	49 App.:1344(f)(8).	
40112(d)(2)	49 App.:1344(f)(4) (words after 3d comma).	
40112(e)(1)	49 App.:1344(f)(7) (last sentence words after "of funds").	
40112(e)(2)	49 App.:1344(f)(3).	
40112(f)	49 App.:1344(f)(5).	

In this section, the word "Administrator" in section 303(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), the reference in 49 App.:1344(f)(7) to a contract for the purchase of services is omitted as surplus because 49 App.:1344(f)(1) states that the subsection is concerned only with contracts for the purchase of property.

In subsection (b)(5), the word "savings" is substituted for "cost avoidance" for clarity.

In subsection (c), before clause (1), the word "both" is omitted as surplus. In clause (1)(A), the words "in

such a manner as" and "companies that are" are omitted as surplus. In clause (1)(B), the words "accruing on" are substituted for "under" for clarity. The words "subcontractor" and "contract" are substituted for "subcontract" and "contractor", respectively, to correct errors in the source provisions being restated.

In subsection (d)(1)(B), the words "after the first year" are substituted for "during the second and subsequent years of the contract" to eliminate unnecessary words.

In subsection (e)(2), the words "a clause setting forth" are omitted as surplus.

In subsection (f), the words "canceled or" and "cancellation or" are omitted as being included in "ended" and "ending", respectively.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106 struck out "or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies" after "improvement to real property".

Subsec. (e)(2). Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 702.

§40113. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by that Administrator or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by that Administrator) may take action the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) HAZARDOUS MATERIAL.—In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous material by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(c) GOVERNMENTAL ASSISTANCE.—The Secretary (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the United States Government on matters related to aircraft fuel and oil, and to the design, material, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(d) INDEMNIFICATION.—The Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Federal Aviation Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to foreign aviation authorities (whether public or private) with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety or efficiency. The Administrator may also provide technical assistance related to all aviation safety-related training and operational services in connection with bilateral and multilateral agreements, including further bolstering the components of airmanship. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with section 106(l)(6). To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

(2) REIMBURSEMENT SOUGHT.—The Administrator shall actively seek reimbursement for services provided under this subsection from foreign aviation authorities capable of providing such reimbursement. The Administrator is authorized, notwithstanding any other provision of law or policy, to accept payments for services provided under this subsection in arrears.

(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall—

(A) be credited to the appropriation current when the amount is received;

(B) be merged with and available for the purposes of such appropriation; and

(C) remain available until expended.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator, $5,000,000 for each of fiscal years 2021 through 2023, to carry out this subsection. Amounts appropriated under the preceding sentence for any fiscal year shall remain available until expended.

(6) [1] TECHNICAL ASSISTANCE OUTSIDE OF AGREEMENTS.—In the absence of a bilateral or multilateral agreement, the Administrator may provide technical assistance and training under this subsection if the Administrator determines that—

(A) a foreign government would benefit from technical assistance pursuant to this subsection to strengthen aviation safety, efficiency, and security; and

(B) the engagement is to provide inherently governmental technical assistance and training.

(7) INHERENTLY GOVERNMENTAL TECHNICAL ASSISTANCE AND TRAINING DEFINED.—In this subsection, the term "inherently governmental technical assistance and training" means technical assistance and training that—

(A) relies upon or incorporates Federal Aviation Administration-specific program, system, policy, or procedural matters;

(B) must be accomplished using agency expertise and authority; and

(C) relates to—

(i) international aviation safety assessment technical reviews and technical assistance;

(ii) aerodrome safety and certification;

(iii) aviation system certification activities based on Federal Aviation Administration regulations and requirements;

(iv) cybersecurity efforts to protect United States aviation ecosystem components and facilities;

(v) operation and maintenance of air navigation system equipment, procedures, and personnel; or

(vi) training and exercises in support of aviation safety, efficiency, and security.

(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the

Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1110; Pub. L. 103–305, title II, §202, Aug. 23, 1994, 108 Stat. 1582; Pub. L. 106–181, title I, §156(a), Apr. 5, 2000, 114 Stat. 89; Pub. L. 107–71, title I, §140(c), Nov. 19, 2001, 115 Stat. 641; Pub. L. 112–95, title II, §207, Feb. 14, 2012, 126 Stat. 39; Pub. L. 115–254, div. K, title I, §1991(c)(2), Oct. 5, 2018, 132 Stat. 3627; Pub. L. 116–260, div. V, title I, §119(g), Dec. 27, 2020, 134 Stat. 2342; Pub. L. 118–63, title II, §218(c), title III, §358(c)(2), May 16, 2024, 138 Stat. 1055, 1117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40113(a)	49 App.:1324(a). 49 App.:1354(a).	Aug. 23, 1958, Pub. L. 85–726, §§204(a), 313(a), 72 Stat. 743, 752.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40113(b)	49 App.:1472(h)(1), (3).	Aug. 23, 1958, Pub. L. 85–726, §902(h)(1), (3), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, §113(c), 88 Stat. 2162, 2163.
40113(c)	49 App.:1505. 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §1105, 72 Stat. 798; Oct. 15, 1962, Pub. L. 87–810, §3, 76 Stat. 921.
40113(d)	49 App.:1354(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §313(e); added Dec. 30, 1987, Pub. L. 100–223, §205, 101 Stat. 1521.

In subsections (a), (c), and (d), the word "Administrator" in sections 313(a) and (e) and 1105 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752, 798) is retained on authority of 49:106(g).

Subsection (a) is substituted for 49 App.:1324(a) and 1354(a) to eliminate unnecessary words. The word "standards" is added for consistency.

In subsection (b), the words "his responsibilities under" and "safe" are omitted as surplus.

In subsection (c), the words "department, agency, and instrumentality" are substituted for "agency" and "governmental agency" for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1505 (2d, 3d sentences) is omitted as superseded by 49 App.:1903(b), restated in sections 1105, 1110, and 1111 of the revised title. The word "existing" is omitted as surplus.

In subsection (d), the text of 49 App.:1354(e) (last sentence) is omitted because of 49:322(a).

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (e)(4), (5). Pub. L. 118–63, §218(c), redesignated par. (5) as (4) and struck out former par. (4) which related to required reporting of list of foreign aviation authorities that were provided services under subsec. (e).

Subsec. (e)(6), (7). Pub. L. 118–63, §358(c)(2), added pars. (6) and (7).

2020—Subsec. (e)(1). Pub. L. 116–260, §119(g)(1), inserted "The Administrator may also provide technical assistance related to all aviation safety-related training and operational services in connection with bilateral and multilateral agreements, including further bolstering the components of airmanship." after "safety or efficiency."

Subsec. (e)(5). Pub. L. 116–260, §119(g)(2), added par. (5).

2018—Subsec. (a). Pub. L. 115–254, §1991(c)(2)(A), substituted "the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by that Administrator or" for "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or", "carried out by that Administrator" for "carried out by the Administrator", and ", Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration," for ", Under Secretary, or Administrator,".

Subsec. (d). Pub. L. 115–254, §1991(c)(2)(B), struck out "Under Secretary of Transportation for Security or the" before "Administrator of the Federal Aviation Administration" and substituted "employee of the Federal Aviation Administration" for "employee of the Transportation Security Administration or Federal Aviation Administration, as the case may be," and "that the Administrator" for "that the Under Secretary or Administrator, as the case may be,".

2012—Subsec. (e)(1). Pub. L. 112–95, §207(1), inserted "(whether public or private)" after "authorities" and substituted "safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with section 106(l)(6)." for "safety."

Subsec. (e)(2). Pub. L. 112–95, §207(2), inserted at end "The Administrator is authorized, notwithstanding any other provision of law or policy, to accept payments for services provided under this subsection in arrears."

Subsec. (e)(3). Pub. L. 112–95, §207(3), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services."

2001—Subsec. (a). Pub. L. 107–71, §140(c)(1), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" before "the Administrator of the Federal Aviation Administration" and substituted ", Under Secretary, or Administrator" for "or Administrator".

Subsec. (d). Pub. L. 107–71, §140(c)(2), inserted "Under Secretary of Transportation for Security or the" after "The" and substituted "employee of the Transportation Security Administration or Federal Aviation Administration, as the case may be," for "employee of the Administration" and "the Under Secretary or Administrator, as the case may be, decides" for "the Administrator decides".

2000—Subsec. (f). Pub. L. 106–181 added subsec. (f).

1994—Subsec. (e). Pub. L. 103–305 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

INTRA-AGENCY COORDINATION

Pub. L. 115–254, div. B, title V, §520, Oct. 5, 2018, 132 Stat. 3362, provided that: "Not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall implement a policy that—

"(1) designates the Associate Administrator for Commercial Space Transportation as the primary liaison between the commercial space transportation industry and the [Federal Aviation] Administration;

"(2) recognizes the necessity of, and set [sic] forth processes for, launch license and permit holder coordination with the Air Traffic Organization on matters including—

"(A) the use of air navigation facilities;

"(B) airspace safety; and

"(C) planning of commercial space launch and launch support activities;

"(3) designates a single point of contact within the Air Traffic Organization who is responsible for—

"(A) maintaining letters of agreement between a launch license or permit holder and a Federal Aviation Administration facility;

"(B) making such letters of agreement available to the Associate Administrator for Commercial Space Transportation;

"(C) ensuring that a facility that has entered into such a letter of agreement is aware of and fulfills its responsibilities under the letter; and

"(D) liaising between the Air Traffic Organization and the Associate Administrator for Commercial Space Transportation on any matter relating to such a letter of agreement; and

"(4) requires the Associate Administrator for Commercial Space Transportation to facilitate, upon the request of a launch license or permit holder—

"(A) coordination between a launch license and permit holder and the Air Traffic Organization; and

"(B) the negotiation of letters of agreement between a launch license or permit holder and a Federal Aviation Administration facility or the Air Traffic Organization."

ADMINISTRATIVE SERVICES FRANCHISE FUND

Pub. L. 104–205, title I, Sept. 30, 1996, 110 Stat. 2957, as amended by Pub. L. 118–63, title II, §227, May 16, 2024, 138 Stat. 1062, provided in part that: "There is hereby established in the Treasury a fund, to be available without fiscal year limitation, for the costs of capitalizing and operating such administrative services as the FAA Administrator determines may be performed more advantageously as centralized services, including accounting, international training, payroll, travel, duplicating, multimedia and information technology services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund may be reimbursed after performance or paid in advance from funds available to the FAA and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automated Data Processing (ADP) software and systems (either required or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the FAA Administrator: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of FAA financial management, ADP, and support systems: *Provided further*, That no later than thirty days after the end of each fiscal year, amounts in excess of this reserve limitation shall be transferred to miscellaneous receipts in the Treasury."

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Pub. L. 106–69, title III, §337, Oct. 9, 1999, 113 Stat. 1022, which provided that none of the funds in Pub. L. 106–69 were to be available for activities under the Aircraft Purchase Loan Guarantee Program during fiscal year 2000, was from the Department of Transportation and Related Agencies Appropriations Act, 2000, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–277, div. A, §101(g) [title I], Oct. 21, 1998, 112 Stat. 2681–439, 2681–446.
Pub. L. 105–66, title I, Oct. 27, 1997, 111 Stat. 1431.
Pub. L. 104–205, title I, Sept. 30, 1996, 110 Stat. 2957.
Pub. L. 104–50, title I, Nov. 15, 1995, 109 Stat. 442.
Pub. L. 103–331, title I, Sept. 30, 1994, 108 Stat. 2476.
Pub. L. 103–122, title I, Oct. 27, 1993, 107 Stat. 1205.
Pub. L. 102–388, title I, Oct. 6, 1992, 106 Stat. 1527.
Pub. L. 102–143, title I, Oct. 28, 1991, 105 Stat. 924.
Pub. L. 101–516, title I, Nov. 5, 1990, 104 Stat. 2161.
Pub. L. 101–164, title I, Nov. 21, 1989, 103 Stat. 1076.
Pub. L. 100–457, title I, Sept. 30, 1988, 102 Stat. 2131.

Pub. L. 100–202, §101(l) [title I], Dec. 22, 1987, 101 Stat. 1329–358, 1329–363.
Pub. L. 99–500, §101(l) [H.R. 5205, title I], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, §101(l) [H.R. 5205, title I], Oct. 30, 1986, 100 Stat. 3341–308.
Pub. L. 99–190, §101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1273.
Pub. L. 98–473, title I, §3101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1950.
Pub. L. 98–78, title I, Aug. 15, 1983, 97 Stat. 458.
Pub. L. 98–63, title I, July 30, 1983, 97 Stat. 339.

[1] *So in original. There is no par. (5).*

§40114. Reports and records

(a) WRITTEN REPORTS.—(1) Except as provided in this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision, conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents.

(b) PUBLIC RECORDS.—Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II, and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department of Transportation is competent evidence in an investigation by the Secretary and in a judicial proceeding.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1110.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40114(a)(1)	49 App.:1324(d) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§204(d), 313(b), 1103, 72 Stat. 743, 753, 797.
	49 App.:1354(b) (1st, 2d sentences).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40114(a)(2)	49 App.:1324(d) (3d, last sentences).	
	49 App.:1354(b) (3d, last sentences).	
	49 App.:1551(b)(1)(E).	

40114(b)	49 App.:1655(c)(1). 49 App.:1503. 49 App.:1551(b)(1)(E).	

In subsection (a), the word "Administrator" in section 313(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

In subsection (a)(1), the words "otherwise", "requirement in the premises", and "shall be entered of record" are omitted as surplus.

In subsection (a)(2), the word "rules" is omitted as being synonymous with "regulations". The word "prescribes" is added for consistency in the revised title and with other titles of the United States Code. The words "under this chapter" and "information and" are omitted as surplus. The words "A publication of the Secretary or Administrator is competent evidence of its contents" is substituted for 49 App.:1324(d) (last sentence) to eliminate unnecessary words and for consistency.

In subsection (b), the words "otherwise", "all contracts, agreements, understandings, and", "annual or other", "of air carriers and other persons", and "preserved as" are omitted as surplus. The last sentence is substituted for 49 App.:1503 (words after 7th comma) to eliminate unnecessary words and for consistency.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONSOLIDATION OR ELIMINATION OF OBSOLETE, REDUNDANT, OR OTHERWISE UNNECESSARY REPORTS; USE OF ELECTRONIC MEDIA FORMAT

Pub. L. 112–95, title VIII, §806, Feb. 14, 2012, 126 Stat. 121, provided that:

"(a) CONSOLIDATION OR ELIMINATION OF REPORTS.—Not later than 2 years after the date of enactment of this Act [Feb. 14, 2012], and every 2 years thereafter, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing—

"(1) a list of obsolete, redundant, or otherwise unnecessary reports the Administration is required by law to submit to Congress or publish that the Administrator recommends eliminating or consolidating with other reports; and

"(2) an estimate of the cost savings that would result from the elimination or consolidation of those reports.

"(b) USE OF ELECTRONIC MEDIA FOR REPORTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Administration—

"(A) may not publish any report required or authorized by law in a printed format; and

"(B) shall publish any such report by posting it on the Administration's Internet Web site in an easily accessible and downloadable electronic format.

"(2) EXCEPTION.—Paragraph (1) does not apply to any report with respect to which the Administrator determines that—

"(A) its publication in a printed format is essential to the mission of the Administration; or

"(B) its publication in accordance with the requirements of paragraph (1) would disclose matter—

"(i) described in section 552(b) of title 5, United States Code; or

"(ii) the disclosure of which would have an adverse impact on aviation safety or security, as determined by the Administrator."

§40115. Withholding information

(a) OBJECTIONS TO DISCLOSURE.—(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secretary of Transportation or State or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign air transportation.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1111.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40115	49 App.:1504.	Aug. 23, 1958, Pub. L. 85–726, §1104, 72 Stat. 797; restated Oct. 24, 1978, Pub. L. 95–504, §39, 92 Stat. 1743; Feb. 15, 1980, Pub. L. 96–192, §19, 94 Stat. 43.

In subsection (a)(1)(B), the words "the Secretary of Transportation or State or the United States Postal Service" are substituted for "the Board, the Secretary of State, or the Secretary of Transportation" because under 49 App.:1551 the duties of the Civil Aeronautics Board were transferred to the Secretary of Transportation and the Postal Service.

In subsection (a)(2), the words "shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information" are substituted for "shall be withheld from public disclosure by the Board, the Secretary of State or the Secretary of Transportation" for clarity and because of the restatement.

In subsection (b), the words "The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law" are omitted as surplus.

§40116. State taxation

(a) DEFINITION.—In this section, "State" includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(b) PROHIBITIONS.—Except as provided in subsection (c) of this section and section 40117 of this title, a State, a political subdivision of a State, and any person that has purchased or leased an airport under section 47134 of this title may not levy or collect a tax, fee, head charge, or other charge on—

(1) an individual traveling in air commerce;

(2) the transportation of an individual traveling in air commerce;

(3) the sale of air transportation; or

(4) the gross receipts from that air commerce or transportation.

(c) AIRCRAFT TAKING OFF OR LANDING IN STATE.—A State or political subdivision of a State may levy or collect a tax on or related to a flight of a commercial aircraft or an activity or service on the aircraft only if the aircraft takes off or lands in the State or political subdivision as part of the flight.

(d) UNREASONABLE BURDENS AND DISCRIMINATION AGAINST INTERSTATE COMMERCE.—(1) In this subsection—

(A) "air carrier transportation property" means property (as defined by the Secretary of Transportation) that an air carrier providing air transportation owns or uses.

(B) "assessment" means valuation for a property tax levied by a taxing district.

(C) "assessment jurisdiction" means a geographical area in a State used in determining the

assessed value of property for ad valorem taxation.

(D) "commercial and industrial property" means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(2)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(iv) levy or collect a tax, fee, or charge, first taking effect after August 23, 1994, exclusively upon any business located at a commercial service airport or operating as a permittee of such an airport other than a tax, fee, or charge wholly utilized for airport or aeronautical purposes.

(v) except as otherwise provided under section 47133, levy or collect a tax, fee, or charge, first taking effect after the date of enactment of this clause, upon any business located at a commercial service airport or operating as a permittee of such an airport that is not generally imposed on sales or services by that State, political subdivision, or authority unless wholly utilized for airport or aeronautical purposes.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(e) OTHER ALLOWABLE TAXES AND CHARGES.—Except as provided in subsection (d) of this section, a State or political subdivision of a State may levy or collect—

(1) taxes (except those taxes enumerated in subsection (b) of this section), including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(2) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(f) PAY OF AIR CARRIER EMPLOYEES.—(1) In this subsection—

(A) "pay" means money received by an employee for services.

(B) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee's pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

(3) Compensation paid by an air carrier to an employee described in subsection (a) in connection with such employee's authorized leave or other authorized absence from regular duties on the

carrier's aircraft in order to perform services on behalf of the employee's airline union shall be subject to the income tax laws of only the following:

(A) The State or political subdivision of the State that is the residence of the employee.

(B) The State or political subdivision of the State in which the employee's scheduled flight time would have been more than 50 percent of the employee's total scheduled flight time for the calendar year had the employee been engaged full time in the performance of regularly assigned duties on the carrier's aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1111; Pub. L. 103–305, title I, §112(e), title II, §208, Aug. 23, 1994, 108 Stat. 1576, 1588; Pub. L. 104–264, title I, §149(b), Oct. 9, 1996, 110 Stat. 3226; Pub. L. 104–287, §5(66), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 115–254, div. B, title I, §159(a), Oct. 5, 2018, 132 Stat. 3220.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40116(a)	49 App.:1513(d)(2)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(d); added Sept. 3, 1982, Pub. L. 97–248, §532(b), 96 Stat. 701.
	49 App.:1513(f) (words in parentheses).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(f); added Nov. 5, 1990, Pub. L. 101–508, §9125, 104 Stat. 1388–370.
40116(b)	49 App.:1513(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(a); added June 18, 1973, Pub. L. 93–44, §7(a), 87 Stat. 90; Nov. 5, 1990, Pub. L. 101–508, §9110(1), 104 Stat. 1388–357.
40116(c)	49 App.:1513(f) (less words in parentheses).	
40116(d)	49 App.:1513(d)(1), (2)(A)–(D), (3).	
40116(e)	49 App.:1513(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(b); added June 18, 1973, Pub. L. 93–44, §7(a), 87 Stat. 90; Sept. 3, 1982, Pub. L. 97–248, §532(a), 96 Stat. 701.
40116(f) (1)(A), (B)	49 App.:1512(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1112; added Dec. 23, 1970, Pub. L. 91–569, §4(a), 84 Stat. 1502; restated Feb. 18, 1980, Pub. L. 96–193, §402, 94 Stat. 57.
40116(f) (1)(C)	49 App.:1512(b).	
40116(f)(2)	49 App.:1512(a).	

Subsection (a) is made applicable to subsections (b) and (e) of this section to avoid having to repeat the term being defined. In subsection (a), the words "Commonwealth of Puerto Rico, the Virgin Islands, Guam" are omitted as surplus because of the definition of "territory or possession of the United States" in section 40102(a) of the revised title. The word "authority" is substituted for "agencies" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), reference to 49 App.:1513(f), restated as subsection (c) of this section,

is added for clarity. The words "directly or indirectly" are omitted as surplus. The text of 49 App.:1513(a) (words after "subsection (e) and") is omitted as surplus.

In subsections (d)(2)(A), before clause (i), and (f)(1)(C) and (2), the word "political" is added for consistency in the revised title and with other titles of the Code.

In subsection (f)(1)(A), the word "pay" is substituted for "compensation" for consistency in the revised title and with chapter 55 of title 5, United States Code. The words "rendered by the employee in the performance of his duties and shall include wages and salary" are omitted as surplus.

In subsection (f)(1)(B), the words "means a State of the United States" are substituted for "also means" for clarity.

In subsection (f)(1)(C), the words "of a State" are added for clarity.

In subsection (f)(2), before clause (A), the words "as such an employee" are omitted as surplus.

PUB. L. 104–287

This amends 49:40116(d)(2)(A)(iv) to conform to the style of title 49 and to set out the effective date for this clause.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this clause, referred to in subsec. (d)(2)(A)(v), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Subsec. (d)(2)(A)(v). Pub. L. 115–254 added cl. (v).

1996—Subsec. (b). Pub. L. 104–264, in introductory provisions, substituted "a State, a" for "a State or" and inserted ", and any person that has purchased or leased an airport under section 47134 of this title" after "of a State".

Subsec. (d)(2)(A)(iv). Pub. L. 104–287, which directed substitution of "August 23, 1994" for "the date of enactment of this clause", was executed by making the substitution for "the date of the enactment of this clause" to reflect the probable intent of Congress.

Pub. L. 104–287 substituted "levy" for "Levy".

1994—Subsec. (d)(2)(A)(iv). Pub. L. 103–305, §112(e), added cl. (iv).

Subsec. (f)(3). Pub. L. 103–305, §208, added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

CONSTRUCTION OF 2018 AMENDMENT

Pub. L. 115–254, div. B, title I, §159(b), Oct. 5, 2018, 132 Stat. 3220, provided that: "Nothing in this section [amending this section] or an amendment made by this section shall affect a change to a rate or other provision of a tax, fee, or charge under section 40116 of title 49, United States Code, that was enacted prior to the date of enactment of this Act [Oct. 5, 2018]. Such provision of a tax, fee, or charge shall continue to be subject to the requirements to which such provision was subject under that section as in effect on the day before the date of enactment of this Act."

§40117. Passenger facility charges

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms "airport", "commercial service airport", and "public agency" have the meaning those terms have under section 47102.

(2) ELIGIBLE AGENCY.—The term "eligible agency" means a public agency that controls a

commercial service airport.

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term "eligible airport-related project" means any of the following projects:

(A) A project for airport development or airport planning under subchapter I of chapter 471.

(B) A project for terminal development described in section 47119(a).

(C) A project for costs of terminal development referred to in subparagraph (B) incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the United States in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997.

(D) A project for airport noise capability planning under section 47505.

(E) A project to carry out noise compatibility measures eligible for assistance under section 47504, whether or not a program for those measures has been approved under section 47504.

(F) A project for constructing gates and related areas at which passengers board or exit aircraft. In the case of a project required to enable additional air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport, the project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate.

(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.

(H) A project at a small hub airport for a noise barrier where the day–night average sound level from commercial, general aviation, or cargo operations is expected to exceed 55 decibels as a result of new airport development.

(I) A project for the replacement of existing workspace elements (including any associated in-kind facility or equipment within or immediately adjacent to a terminal development or renovation project at such airport) related to the relocation of a Federal agency on airport grounds due to such terminal development or renovation project for which development costs are eligible costs under this section.

(4) GROUND SUPPORT EQUIPMENT.—The term "ground support equipment" means service and maintenance equipment used at an airport to support aeronautical operations and related activities.

(5) PASSENGER FACILITY CHARGE.—The term "passenger facility charge" means a charge imposed under this section.

(6) PASSENGER FACILITY REVENUE.—The term "passenger facility revenue" means revenue derived from a passenger facility charge.

(b) GENERAL AUTHORITY.—(1) Except as provided under subsection (l), the Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility charge of $1, $2, $3, $4, or $4.50 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility charge or the use of the passenger facility revenue.

(3) A passenger facility charge may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(4) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility charge under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.

(5) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraph (1), the Secretary may authorize a passenger facility charge imposed under paragraph (1) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.

(6) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

(A) IN GENERAL.—In addition to the uses specified in paragraphs (1) and (5), the Secretary may authorize a passenger facility charge imposed under paragraph (1) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air easement granted or any terms to the contrary in such judgment and final order, if—

(i) the Secretary determines that the building is adversely affected by airport noise;

(ii) the building is owned or chartered by the school district that was the plaintiff in case number 986,442 or 986,446, which was resolved by such judgment and final order;

(iii) the project is for a school identified in 1 of the settlement agreements effective February 16, 2005, between the airport and each of the school districts;

(iv) in the case of a project to replace a relocatable building with a permanent building, the eligible project costs are limited to the actual structural construction costs necessary to mitigate aircraft noise in instructional classrooms to an interior noise level meeting current standards of the Federal Aviation Administration; and

(v) the project otherwise meets the requirements of this section for authorization of a passenger facility charge.

(B) ELIGIBLE PROJECT COSTS.—In subparagraph (A)(iv), the term "eligible project costs" means the difference between the cost of standard school construction and the cost of construction necessary to mitigate classroom noise to the standards of the Federal Aviation Administration.

(c) APPLICATIONS.—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility charge. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility charge and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

(B) Not later than 30 days after written notice is provided under subparagraph (A) of this paragraph, each air carrier and foreign air carrier operating at the airport must provide to the

agency written notice of receipt of the notice. Failure of a carrier to provide the notice may be deemed certification of agreement with the project by the carrier under subparagraph (D) of this paragraph.

(C) Not later than 45 days after written notice is provided under subparagraph (A) of this paragraph, the agency must conduct a meeting to provide air carriers and foreign air carriers with descriptions of projects and justifications and a detailed financial plan for projects.

(D) Not later than 30 days after the meeting, each air carrier and foreign air carrier must provide to the agency certification of agreement or disagreement with projects (or total plan for the projects). Failure to provide the certification is deemed certification of agreement with the project by the carrier. A certification of disagreement is void if it does not contain the reasons for the disagreement.

(E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term "significant business interest" means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.

(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility charge so as to inform those interested persons and agencies that may be affected. The public notice may include—

(i) publication in local newspapers of general circulation;

(ii) publication in other local media; and

(iii) posting the notice on the agency's Internet website.

(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).

(4) After receiving an application, the Secretary may provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility charge will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

(2) each project is an eligible airport-related project that will—

(A) preserve or enhance capacity, safety, or security of the national air transportation system;

(B) reduce noise resulting from an airport that is part of the system; or

(C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers;

(3) the application includes adequate justification for each of the specific projects; and

(4) in the case of an application to impose a charge of more than $3.00 for an eligible surface transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(e) LIMITATIONS ON IMPOSING CHARGES.—(1) An eligible agency may impose a passenger facility charge only—

(A) if the Secretary approves an application that the agency has submitted under subsection (c) of this section or a passenger facility charge imposition is authorized under subsection (l); and

(B) subject to reasonable terms the Secretary may prescribe to carry out the objectives of this section.

(2) A passenger facility charge may not be collected from a passenger—

(A) for more than 2 boardings on a one-way trip or a trip in each direction of a round trip;

(B) for the boarding to an eligible place under subchapter II of chapter 417 of this title for which essential air service compensation is paid under subchapter II;

(C) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment;

(D) on flights, including flight segments, between 2 or more points in Hawaii;

(E) in Alaska aboard an aircraft having a seating capacity of less than 60 passengers; and

(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility charge or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility charge may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility charge may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) Passenger facility revenue is not airport revenue for purposes of establishing a price under a contract between an eligible agency and an air carrier or foreign air carrier.

(2) An eligible agency may not include in its price base the part of the capital costs of a project paid for by using passenger facility revenue to establish a price under a contract between the agency and an air carrier or foreign air carrier.

(3) For a project for terminal development, gates and related areas, or a facility occupied or used by at least one air carrier or foreign air carrier on an exclusive or preferential basis, a price payable by an air carrier or foreign air carrier using the facilities must at least equal the price paid by an air carrier or foreign air carrier using a similar facility at the airport that was not financed with passenger facility revenue.

(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility charge constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the charge. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring recordkeeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility charge and by the eligible agency

imposing the charge.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility charge to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility charge is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility charge takes effect;

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility charge that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the charge, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation; and

(3) may permit an eligible agency to request that collection of a passenger facility charge be waived for—

(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the charge is imposed; or

(B) passengers enplaned on a flight to an airport—

(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.

(j) LIMITATION ON CERTAIN ACTIONS.—A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not tax, regulate, or prohibit or otherwise attempt to control in any manner, the imposition or collection of a passenger facility charge or the use of the revenue from the passenger facility charge.

(k) COMPETITION PLANS.—

(1) IN GENERAL.—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility charge under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility charges in effect before the date of the enactment of this subsection.

(2) SECRETARY SHALL ENSURE IMPLEMENTATION AND COMPLIANCE.—The Secretary shall review any plan submitted under paragraph (1) to ensure that it meets the requirements of this section, and shall review its implementation from time-to-time to ensure that each covered airport successfully implements its plan.

(l) PASSENGER FACILITY CHARGE STREAMLINING.—

(1) IN GENERAL.—

(A) REGULATIONS.—The Secretary shall prescribe regulations to streamline the process

for authorizing eligible agencies for airports to impose passenger facility charges.

(B) PASSENGER FACILITY CHARGE.—An eligible agency may impose a passenger facility charge of $1, $2, $3, $4, or $4.50 in accordance with the provisions of this subsection instead of using the procedures otherwise provided in this section.

(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility charge under this subsection. The notice shall include—

(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

(C) the level of the passenger facility charge that is proposed.

(4) ACKNOWLEDGMENT OF RECEIPT AND INDICATION OF OBJECTION.—

(A) IN GENERAL.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility charge under this subsection for any project identified in the notice within 60 days after receipt of the eligible agency's notice.

(B) PROHIBITED OBJECTION.—The Secretary may not object to an eligible airport-related project that received Federal financial assistance for airport development, terminal development, airport planning, or for the purposes of noise compatibility, if the Federal financial assistance and passenger facility charge collection (including interest and other returns on the revenue) do not exceed the total cost of the project.

(C) ALLOWED OBJECTION.—The Secretary may only object to the imposition of a passenger facility charge under this subsection for a project that—

(i) establishes significant policy precedent;

(ii) raises significant legal issues;

(iii) garners significant controversy, as evidenced by significant opposition to the proposed action by the applicant or other airport authorities, airport users, governmental agencies, elected officials, or communities;

(iv) raises significant revenue diversion, airport noise, or access issues, including compliance with section 47111(e) or subchapter II of chapter 475;

(v) includes multimodal components; or

(vi) serves no aeronautical purpose.

(5) AUTHORITY TO IMPOSE CHARGE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility charge in accordance with the terms of its notice under this subsection.

(6) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.

(m) FINANCIAL MANAGEMENT OF CHARGES.—

(1) HANDLING OF CHARGES.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for charges collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

(2) TRUST FUND STATUS.—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the

air carrier.

(3) PROHIBITION.—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

(4) COMPENSATION TO ELIGIBLE ENTITIES.—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility charges is entitled to receive the interest on passenger facility charge accounts if the accounts are established and maintained in compliance with this subsection.

(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility charges with other air carrier revenue shall not apply to a covered air carrier.

(7) COVERED AIR CARRIER DEFINED.—In this section, the term "covered air carrier" means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection.

(n) USE OF REVENUES AT PREVIOUSLY ASSOCIATED AIRPORT.—Notwithstanding the requirements relating to airport control under subsection (b)(1), the Secretary may authorize use of a passenger facility charge under subsection (b) to finance an eligible airport-related project if—

(1) the eligible agency seeking to impose the new charge controls an airport where a $2.00 passenger facility charge became effective on January 1, 2013; and

(2) the location of the project to be financed by the new charge is at an airport that was under the control of the same eligible agency that had controlled the airport described in paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1113; Pub. L. 103–305, title II, §§203, 204(a)(1), (b), Aug. 23, 1994, 108 Stat. 1582, 1583; Pub. L. 104–264, title I, §142(b)(2), title XII, §1202, Oct. 9, 1996, 110 Stat. 3221, 3280; Pub. L. 104–287, §5(67), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 106–181, title I, §§105(a), (b), 135(a), (b), 151, 152(a), 155(c), Apr. 5, 2000, 114 Stat. 71, 83, 86–88; Pub. L. 108–176, title I, §§121(a)–(c), 122–123(d), 124, Dec. 12, 2003, 117 Stat. 2499–2502; Pub. L. 110–253, §3(c)(1), June 30, 2008, 122 Stat. 2417; Pub. L. 110–330, §5(a), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 110–337, §1, Oct. 2, 2008, 122 Stat. 3729; Pub. L. 111–12, §5(a), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(a), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(a), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(a), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(a), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(a), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(a), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(a), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(a), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(a), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(a), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(a), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(a), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(a), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(a), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §§111(a)–(c)(1), 152(e)(1), Feb. 14, 2012, 126 Stat. 17, 18, 34; Pub. L. 114–190, title II, §2302, July 15, 2016, 130 Stat. 638; Pub. L. 115–254, div. B, title I, §121, div. B, title V, §539(b), Oct. 5, 2018, 132 Stat. 3201, 3370; Pub. L. 118–63, title VII, §§775, 776(a), May 16, 2024, 138 Stat. 1300.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40117(a)(1)	49 App.:1513(e) (15)(A), (B), (D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(e)(1)–(3), (5)–(15);

		added Nov. 5, 1990, Pub. L. 101–508, §9110(2), 104 Stat. 1388–357.
40117(a)(2)	(no source).	
40117(a)(3)	49 App.:1513(e) (15)(C).	
40117(a)(4), (5)	(no source).	
40117(b)(1)	49 App.:1513(e)(1).	
40117(b)(2)	49 App.:1513(e)(8) (1st sentence).	
40117(b)(3)	49 App.:1513(e)(6) (1st sentence).	
40117(c)(1), (2)	49 App.:1513(e) (11)(A)–(C).	
40117(c)(3)	49 App.:1513(e) (11)(D), (E) (last sentence).	
40117(d)	49 App.:1513(e)(2), (5).	
40117(e) (1)(A)	49 App.:1513(e) (11)(E) (1st sentence).	
40117(e) (1)(B)	49 App.:1513(e)(13).	
40117(e) (2)(A)	49 App.:1513(e)(6) (last sentence).	
40117(e) (2)(B)	49 App.:1513(e)(3).	
40117(e) (2)(C)	49 App.:1513(e)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(e)(4); added Nov. 5, 1990, Pub. L. 101–508, §9110(2), 104 Stat. 1388–357; Oct. 31, 1992, Pub. L. 102–581, §105, 106 Stat. 4877.
40117(f)(1)	49 App.:1513(e)(8) (last sentence).	
40117(f)(2), (3)	49 App.:1513(e)(9).	
40117(g)	49 App.:1513(e)(7).	
40117(h)	49 App.:1513(e)(12).	
40117(i)	49 App.:1513(e)(10), (14).	

In subsection (a), before clause (1), the text of 49 App.:1513(e)(15)(A) is omitted for clarity and because the terms "air carrier" and "foreign air carrier" are used the first time they appear in each subsection. The text of 49 App.:1513(e)(15)(D) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in this section. Clauses (2), (4), and (5) are added to avoid repeating the source provisions throughout this section. In clause (3)(D), the words "without regard to" are omitted as surplus.

In subsection (b)(1), the words "bonds and other" are omitted as surplus.

In subsection (b)(2), the word "limit" is omitted as being included in "regulate".

In subsection (d), before clause (1), the text of 49 App.:1513(e)(5) is omitted as executed. The words "approve an application that an eligible agency has submitted under subsection (c) of this section" are substituted for "grant a public agency which controls a commercial service airport authority to impose a fee under this subsection" for clarity.

In subsection (e)(1)(B), the words "and conditions" are omitted as being included in "terms".

Subsection (e)(2)(A) is substituted for 49 App.:1513(e)(6) (last sentence) to eliminate unnecessary words.

In subsection (e)(2)(B), the words "a public agency which controls any other airport", "If a passenger of an air carrier is being provided air service", and "with respect to such air service" are omitted as surplus.

In subsection (f)(3), the words "financed with" are substituted for "carried out through the use of" for consistency in this section and to eliminate unnecessary words.

In subsection (g), the word "price" is substituted for "rate, fee, or charge" and "rates, fees, and charges" to eliminate unnecessary words.

In subsection (g)(2), the words "Except as provided by subparagraph (C)" and "by means of depreciation, amortization, or any other method" are omitted as surplus.

In subsection (h)(1), the word "agent" is substituted for "agency" to correct an error in the source provisions.

In subsection (i), before clause (1), the words "Not later than May 4, 1991" are omitted as obsolete.

PUB. L. 104–287

This repeals 49:40117(e)(2)(C) to eliminate an executed provision and makes conforming amendments.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (k)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of enactment of this subsection, referred to in subsec. (m)(7), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2024—Subsec. (a)(3)(H), (I). Pub. L. 118–63, §775, added subpars. (H) and (I).

Subsec. (b)(1). Pub. L. 118–63, §776(a)(1)(A), substituted "Except as provided under subsection (l), the Secretary" for "The Secretary" and "$1, $2, $3, $4, or $4.50" for "$1, $2, or $3".

Subsec. (b)(4). Pub. L. 118–63, §776(a)(1)(B), (C), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "In lieu of authorizing a charge under paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility charge of $4.00 or $4.50 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project."

Subsec. (b)(5). Pub. L. 118–63, §776(a)(1)(D), substituted "in paragraph (1)" for "in paragraphs (1) and (4)" and "under paragraph (1)" for "under paragraph (1) or (4)".

Pub. L. 118–63, §776(a)(1)(C), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 118–63, §776(a)(1)(C), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (b)(6)(A). Pub. L. 118–63, §776(a)(1)(E), substituted "paragraphs (1) and (5)" for "paragraphs (1), (4), and (6)" and "paragraph (1)" for "paragraph (1) or (4)" in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 118–63, §776(a)(2)(A), inserted "or a passenger facility charge imposition is authorized under subsection (l)" after "of this section".

Subsec. (e)(1)(B). Pub. L. 118–63, §776(a)(2)(B), inserted "reasonable" after "subject to".

Subsec. (l). Pub. L. 118–63, §776(a)(3)(A), substituted "Passenger Facility Charge Streamlining" for "Pilot Program for Passenger Facility Charge Authorizations" in heading.

Subsec. (l)(1). Pub. L. 118–63, §776(a)(3)(B), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for airports to impose passenger facility charges. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility charge under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section."

Subsec. (l)(4). Pub. L. 118–63, §776(a)(3)(C), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility charge under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice."

Subsec. (l)(6). Pub. L. 118–63, §776(a)(3)(D), (E), redesignated par. (7) as (6) and struck out former par. (6). Prior to amendment, text of par. (6) read as follows: "The Secretary shall propose such regulations as may be necessary to carry out this subsection."

2018—Subsec. (a)(5). Pub. L. 115–254, §539(b), substituted "charge imposed" for "charge or charge imposed".

Subsec. (b)(4). Pub. L. 115–254, §121(a), substituted "project." for "project, if the Secretary finds—" and struck out subpars. (A) and (B) which read as follows:

"(A) in the case of an airport that has more than .25 percent of the total number of annual boardings in the United States, that the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact

of aviation noise on people living near the airport; and

"(B) that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103."

Subsec. (l). Pub. L. 115–254, §121(b)(1), struck out "at Nonhub Airports" after "Authorizations" in heading.

Subsec. (l)(1). Pub. L. 115–254, §121(b)(2), struck out "nonhub" before "airports".

Subsec. (l)(6), (7). Pub. L. 115–254, §121(b)(3), substituted "The" for "Not later than 180 days after the date of enactment of this subsection, the".

2016—Subsec. (n). Pub. L. 114–190 added subsec. (n).

2012—Pub. L. 112–95, §111(c)(1)(H), substituted "charges" for "fees" wherever appearing in text.

Pub. L. 112–95, §111(c)(1)(G), substituted "charge" for "fee" wherever appearing in text other than the second sentence of subsec. (g)(4).

Pub. L. 112–95, §111(c)(1)(A), substituted "charges" for "fees" in section catchline.

Subsec. (a)(3)(B). Pub. L. 112–95, §152(e)(1), substituted "section 47119(a)" for "section 47110(d)".

Subsec. (a)(5). Pub. L. 112–95, §111(a), amended par. (5) generally. Prior to amendment, text read as follows: "The term 'passenger facility fee' means a fee imposed under this section."

Subsec. (e). Pub. L. 112–95, §111(c)(1)(B), substituted "Charges" for "Fees" in heading.

Subsec. (l). Pub. L. 112–95, §111(c)(1)(C), substituted "Charge" for "Fee" in heading.

Subsec. (l)(5). Pub. L. 112–95, §111(c)(1)(D), substituted "charge" for "fee" in heading.

Subsec. (l)(7). Pub. L. 112–95, §111(b), redesignated par. (8) as (7) and struck out former par. (7). Prior to amendment, text read as follows: "This subsection shall cease to be effective beginning on February 18, 2012."

Pub. L. 112–91 substituted "February 18, 2012." for "February 1, 2012."

Subsec. (l)(8). Pub. L. 112–95, §111(b), redesignated par. (8) as (7).

Subsec. (m). Pub. L. 112–95, §111(c)(1)(E), substituted "Charges" for "Fees" in heading.

Subsec. (m)(1). Pub. L. 112–95, §111(c)(1)(F), substituted "charges" for "fees" in heading.

2011—Subsec. (l)(7). Pub. L. 112–30 substituted "February 1, 2012." for "September 17, 2011."

Pub. L. 112–27 substituted "September 17, 2011." for "July 23, 2011."

Pub. L. 112–21 substituted "July 23, 2011." for "July 1, 2011."

Pub. L. 112–16 substituted "July 1, 2011." for "June 1, 2011."

Pub. L. 112–7 substituted "June 1, 2011." for "April 1, 2011."

2010—Subsec. (l)(7). Pub. L. 111–329 substituted "April 1, 2011." for "January 1, 2011."

Pub. L. 111–249 substituted "January 1, 2011." for "October 1, 2010."

Pub. L. 111–216 substituted "October 1, 2010." for "August 2, 2010."

Pub. L. 111–197 substituted "August 2, 2010." for "July 4, 2010."

Pub. L. 111–161 substituted "July 4, 2010." for "May 1, 2010."

Pub. L. 111–153 substituted "May 1, 2010." for "April 1, 2010."

2009—Subsec. (l)(7). Pub. L. 111–116 substituted "April 1, 2010." for "January 1, 2010."

Pub. L. 111–69 substituted "January 1, 2010." for "October 1, 2009."

Pub. L. 111–12 substituted "October 1, 2009." for "April 1, 2009."

2008—Subsec. (b)(7). Pub. L. 110–337 added par. (7).

Subsec. (l)(7). Pub. L. 110–330 substituted "April 1, 2009" for "September 30, 2008".

Pub. L. 110–253 substituted "September 30, 2008" for "the date that is 3 years after the date of issuance of regulations to carry out this subsection".

2003—Subsec. (a)(3)(C). Pub. L. 108–176, §123(d), substituted "A project for costs" for "for costs" and a period for the semicolon at end.

Subsec. (a)(3)(G). Pub. L. 108–176, §121(a), added subpar. (G).

Subsec. (a)(4) to (6). Pub. L. 108–176, §121(c), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 108–176, §121(b), added par. (5).

Subsec. (b)(6). Pub. L. 108–176, §122, added par. (6).

Subsec. (c)(2)(E), (F). Pub. L. 108–176, §123(a)(1), added subpars. (E) and (F).

Subsec. (c)(3), (4). Pub. L. 108–176, §123(a)(2)–(4), added par. (3), redesignated former par. (3) as (4), and substituted "may" for "shall" in first sentence of par. (4).

Subsec. (e)(2)(C). Pub. L. 108–176, §123(c)(1), substituted a semicolon for period at end.

Subsec. (e)(2)(F). Pub. L. 108–176, §123(c)(2)–(4), added subpar. (F).

Subsec. (l). Pub. L. 108–176, §123(b), added subsec. (l).

Subsec. (m). Pub. L. 108–176, §124, added subsec. (m).

2000—Subsec. (a). Pub. L. 106–181, §151, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "In this section—

"(1) 'airport', 'commercial service airport', and 'public agency' have the same meanings given those terms in section 47102 of this title.

"(2) 'eligible agency' means a public agency that controls a commercial service airport.

"(3) 'eligible airport-related project' means a project—

"(A) for airport development or airport planning under subchapter I of chapter 471 of this title;

"(B) for terminal development described in section 47110(d) of this title;

"(C) for airport noise capability planning under section 47505 of this title;

"(D) to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504; and

"(E) for constructing gates and related areas at which passengers board or exit aircraft.

"(4) 'passenger facility fee' means a fee imposed under this section.

"(5) 'passenger facility revenue' means revenue derived from a passenger facility fee."

Subsec. (a)(3)(C) to (F). Pub. L. 106–181, §152(a), added subpar. (C) and redesignated former subpars. (C) to (E) as (D) to (F), respectively.

Subsec. (b)(4). Pub. L. 106–181, §105(a), added par. (4).

Subsec. (d)(4). Pub. L. 106–181, §105(b), added par. (4).

Subsec. (e)(2)(D), (E). Pub. L. 106–181, §135(a), added subpars. (D) and (E).

Subsec. (i)(3). Pub. L. 106–181, §135(b)(1)–(3), added par. (3).

Subsec. (j). Pub. L. 106–181, §135(b)(4), added subsec. (j).

Subsec. (k). Pub. L. 106–181, §155(c), added subsec. (k).

1996—Subsec. (a)(3)(D) to (F). Pub. L. 104–264, §142(b)(2), inserted "and" at end of subpar. (D), substituted a period for "; and" at end of subpar. (E), and struck out subpar. (F) which read as follows: "in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport."

Subsec. (e)(2)(B) to (D). Pub. L. 104–287 inserted "and" at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: "for a project the Secretary does not approve under this section before October 1, 1993, if, during the fiscal year ending September 30, 1993, the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000, except that this clause—

"(i) does not apply if the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000 because of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriation law; and

"(ii) does not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues, derived from a fee imposed under an approval made under this section, by a public agency that has received an approval to impose a fee under this section before September 30, 1993, regardless of whether the fee is being imposed on September 30, 1993; and".

Subsec. (g)(4). Pub. L. 104–264, §1202, added par. (4).

1994—Subsec. (a)(3)(F). Pub. L. 103–305, §203, added subpar. (F).

Subsec. (d)(3). Pub. L. 103–305, §204(b), added par. (3).

Subsec. (e)(2)(D). Pub. L. 103–305, §204(a)(1), added subpar. (D).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–27, §5(j), Aug. 5, 2011, 125 Stat. 271, provided that: "The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on July 23, 2011."

Pub. L. 112–21, §5(j), June 29, 2011, 125 Stat. 235, provided that: "The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on July 1, 2011."

Pub. L. 112–16, §5(j), May 31, 2011, 125 Stat. 220, provided that: "The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and

provisions set out as a note under section 47109 of this title] shall take effect on June 1, 2011."

Pub. L. 112–7, §5(j), Mar. 31, 2011, 125 Stat. 33, provided that: "The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on April 1, 2011."

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–329, §5(j), Dec. 22, 2010, 124 Stat. 3568, provided that: "The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on January 1, 2011."

Pub. L. 111–249, §5(l), Sept. 30, 2010, 124 Stat. 2628, provided that: "The amendments made by this section [amending this section, sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2010."

Pub. L. 111–216, title I, §104(j), Aug. 1, 2010, 124 Stat. 2350, provided that: "The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on August 2, 2010."

Pub. L. 111–197, §5(j), July 2, 2010, 124 Stat. 1354, provided that: "The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on July 4, 2010."

Pub. L. 111–161, §5(j), Apr. 30, 2010, 124 Stat. 1127, provided that: "The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on May 1, 2010."

Pub. L. 111–153, §5(j), Mar. 31, 2010, 124 Stat. 1085, provided that: "The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on April 1, 2010."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–116, §5(j), Dec. 16, 2009, 123 Stat. 3032, provided that: "The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on January 1, 2010."

Pub. L. 111–69, §5(l), Oct. 1, 2009, 123 Stat. 2055, provided that: "The amendments made by this section [amending this section and sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2009."

Pub. L. 111–12, §5(j), Mar. 30, 2009, 123 Stat. 1458, provided that: "The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on April 1, 2009."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–330, §5(l), Sept. 30, 2008, 122 Stat. 3719, provided that: "The amendments made by this section [amending this section, sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2008."

Amendment by Pub. L. 110–253 effective July 1, 2008, see section 3(d) of Pub. L. 110–253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

REGULATIONS

Pub. L. 118–63, title VII, §776(b), (c), May 16, 2024, 138 Stat. 1301, provided that:

"(b) RULEMAKING.—Not later than 120 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall initiate a rulemaking to implement the amendments made by subsection (a) [amending this section].

"(c) INTERIM GUIDANCE.—The interim guidance established in the memorandum of the FAA [Federal Aviation Administration] titled 'PFC 73–20. Streamlined Procedures for Passenger Facility Charge (PFC) Authorizations at Small-, Medium-, and Large-Hub Airports', issued on January 22, 2020, including any modification to such guidance necessary to conform with the amendments made by subsection (a), shall remain in effect until the effective date of the final rule issued under subsection (b)."

GUIDANCE

Pub. L. 108–176, title I, §121(d), Dec. 12, 2003, 117 Stat. 2500, provided that: "The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section [amending this section]."

ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS

Pub. L. 108–176, title I, §123(e), Dec. 12, 2003, 117 Stat. 2502, provided that: "Not later than 60 days after the enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code."

COMPETITION PLANS

Pub. L. 106–181, title I, §155(a), Apr. 5, 2000, 114 Stat. 88, provided that: "The Congress makes the following findings:

"(1) Major airports must be available on a reasonable basis to all air carriers wishing to serve those airports.

"(2) 15 large hub airports today are each dominated by one air carrier, with each such carrier controlling more than 50 percent of the traffic at the hub.

"(3) The General Accounting Office [now Government Accountability Office] has found that such levels of concentration lead to higher air fares.

"(4) The United States Government must take every step necessary to reduce those levels of concentration.

"(5) Consistent with air safety, spending at these airports must be directed at providing opportunities for carriers wishing to serve such facilities on a commercially viable basis."

LIMITATION ON STATUTORY CONSTRUCTION OF SUBSECTION (E)(2)(D)

Pub. L. 103–305, title II, §204(a)(2), Aug. 23, 1994, 108 Stat. 1583, provided that: "The amendment made by paragraph (1) [amending this section] shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act [Aug. 23, 1994]."

§40118. Government-financed air transportation

(a) TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) TRANSPORTATION BY FOREIGN AIR CARRIERS.—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) TRANSPORTATION OF CERTAIN DOMESTIC ANIMALS BY FOREIGN AIR CARRIERS.—

(1) IN GENERAL.—This section does not preclude the transportation of a passenger and the property of such passenger by a foreign air carrier if—

(A) such passenger is a member of the Armed Forces or civilian employee of the Department of Defense;

(B) such property includes at least 1 and not more than 3 domestic animals traveling with such passenger;

(C) such transportation is—

(i) between a place in the United States and a place outside the United States; or

(ii) between 2 places outside the United States; and

(D) no air carrier holding a certificate under section 41102 is willing and able to provide such transportation.

(2) RESPONSIBILITY OF INDIVIDUAL TO COVER CERTAIN COSTS.—If the cost for the transportation of a passenger and property under paragraph (1) exceeds the cost that would have been owed had such transportation been provided by an air carrier holding a certificate under section 41102, the passenger shall be responsible for paying the difference between such amounts.

(3) DOMESTIC ANIMAL DEFINED.—In this section, the term "domestic animal" means a domestic cat (Felis catus) or a domestic dog (Canis familiaris).

(d) PROOF.—The Administrator of General Services shall prescribe regulations under which agencies may allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(e) CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES .—Notwithstanding subsections (a) and (d) of this section, any amount appropriated to the Secretary of State or the Administrator of the Agency for International Development may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(f) RELATIONSHIP TO OTHER LAWS.—This section does not affect the application of the antidiscrimination provisions of this part.

(g) PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.—(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial products in order to implement a requirement in this section.

(2) In paragraph (1), the term "commercial product" has the meaning given such term in section 103 of title 41, except that it shall not include a contract for the transportation by air of passengers.

(h) TRAINING REQUIREMENTS.—The Administrator of General Services shall ensure that any contract entered into for provision of air transportation with a domestic carrier under this section

requires that the contracting air carrier submits to the Administrator of General Services, the Secretary of Transportation, the Administrator of the Transportation Security Administration, the Secretary of Labor and the Commissioner of U.S. Customs and Border Protection an annual report regarding—

(1) the number of personnel trained in the detection and reporting of potential severe forms of trafficking in persons and sex trafficking (as such terms are defined in paragraphs (11) and (12) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), including the training required under section 44734(a)(4);

(2) the number of notifications of potential human trafficking victims received from staff or other passengers; and

(3) whether the air carrier notified the National Human Trafficking Hotline or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking, and if so, when the notification was made.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1116; Pub. L. 103–355, title VIII, §8301(h), Oct. 13, 1994, 108 Stat. 3398; Pub. L. 104–287, §5(68), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 104–316, title I, §127(d), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(h), title XIII, §1335(p), title XIV, §1422(b)(6), Oct. 21, 1998, 112 Stat. 2681–775, 2681–789, 2681–793; Pub. L. 108–176, title VIII, §806, Dec. 12, 2003, 117 Stat. 2588; Pub. L. 111–350, §5(o)(8), Jan. 4, 2011, 124 Stat. 3854; Pub. L. 115–232, div. A, title VIII, §836(g)(9), Aug. 13, 2018, 132 Stat. 1874; Pub. L. 115–425, title I, §111(a), Jan. 8, 2019, 132 Stat. 5475; Pub. L. 118–63, title XI, §1101(g), May 16, 2024, 138 Stat. 1413; Pub. L. 119–60, div. A, title III, §377, Dec. 18, 2025, 139 Stat. 841.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40118(a)	49 App.:1517(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1117; added Jan. 3, 1975, Pub. L. 93–623, §5(a), 88 Stat. 2104; restated Feb. 15, 1980, Pub. L. 96–192, §21, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40118(b)	49 App.:1517(c).	
40118(c)	49 App.:1517(d) (1st sentence).	
40118(d)	49 App.:1518.	Oct. 7, 1978, Pub. L. 95–426, §706, 92 Stat. 992.
40118(e)	49 App.:1517(d) (last sentence).	

In this section, the word "passengers" is substituted for "persons" for consistency in the revised title. The words "(and their personal effects)" are omitted as being included in "property".

In subsection (a), before clause (1), the words "Except as provided in subsection (c) of this section" are omitted as surplus. The words "department, agency, or instrumentality" are substituted for "agency" for consistency in the revised title and with other titles of the United States Code. The words "or agencies" are omitted because of 1:1. In clause (1), before subclause (A), the words "executive" and "other" are omitted as surplus. In subclause (A), the words "procure, contract for, or otherwise" are omitted as surplus. The words "for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government" are substituted for "in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned,

controlled, granted, or conditionally granted or utilized by or otherwise" for clarity and to eliminate unnecessary words. In subclause (B), the word "country" is substituted for "nation" for consistency in the revised title and with other titles of the Code. The words "international or other organization" are substituted for "international agency, or other organization, of whatever nationality" to eliminate unnecessary words. The words "provisions for" are omitted as surplus.

In subsection (b), before clause (1), the words "government of a foreign country" are substituted for "foreign government" for consistency in the revised title and with other titles of the Code. The words "or governments" are omitted because of 1:1.

In subsection (c), the words "for payment for personnel or cargo transportation" are omitted as surplus.

In subsection (d), the words "the limitations established by" are omitted as surplus. The words "after October 7, 1978" are omitted as executed. The words "Secretary of State" are substituted for "Department of State" because of 22:2651. The words "Director of the United States Information Agency" are substituted for "International Communication Agency" in section 706 of the Act of October 7, 1978 (Public Law 95–426, 92 Stat. 992), because of section 2 of Reorganization Plan No. 2 of 1977 (eff. July 1, 1978, 91 Stat. 1636) and section 303(b) of the United States Information Agency Authorization Act, Fiscals Year 1982 and 1983 (Public Law 97–241, 96 Stat. 291). The words "Director of the United States International Development Cooperation Agency" are substituted for "Agency for International Development (or any successor agency)" in section 706 because of section 6(a)(3) of Reorganization Plan No. 2 of 1979 (eff. October 1, 1979, 93 Stat. 1379). The words "a foreign air carrier" are substituted for "air carriers which do not hold certificates under section 1371 of this Appendix" for clarity. See H. Conf. Rept. No. 95–1535, 95th Cong., 2d Sess., p. 45 (1978).

In subsection (e), the word "affect" is substituted for "prevent" for clarity. The words "to such traffic" are omitted as surplus.

PUB. L. 104–287, §5(68)(A)

This amends the catchline for 49:40118(d) to make a clarifying amendment.

PUB. L. 104–287, §5(68)(B)

This amends 49:40118(f)(1) to make a clarifying amendment.

EDITORIAL NOTES

AMENDMENTS

2025—Subsecs. (c), (d). Pub. L. 119–60, §377(1), (2), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 119–60, §377(1), (3), redesignated subsec. (d) as (e) and substituted "subsections (a) and (d)" for "subsections (a) and (c)". Former subsec. (e) redesignated (f).

Subsecs. (f) to (h). Pub. L. 119–60, §377(1), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

2024—Subsec. (g)(1). Pub. L. 118–63 substituted "detection and reporting of potential severe forms of trafficking in persons and sex trafficking (as such terms are defined in paragraphs (11) and (12)" for "detection and reporting of potential human trafficking (as described in paragraphs (9) and (10)".

2019—Subsec. (g). Pub. L. 115–425 added subsec. (g).

2018—Subsec. (f)(1). Pub. L. 115–232, §836(g)(9)(A), substituted "commercial products" for "commercial items".

Subsec. (f)(2). Pub. L. 115–232, §836(g)(9)(B), substituted "commercial product" for "commercial item".

2011—Subsec. (f)(2). Pub. L. 111–350 substituted "section 103 of title 41" for "section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))".

2003—Subsec. (f)(2). Pub. L. 108–176 inserted ", except that it shall not include a contract for the transportation by air of passengers" before period at end.

1998—Subsec. (d). Pub. L. 105–277, §1422(b)(6), substituted "or the Administrator of the Agency for International Development" for "the Director of the United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(p), struck out ", the Director of the United States Information Agency," after "Secretary of State".

Pub. L. 105–277, §1225(h), struck out ", or the Director of the Arms Control and Disarmament Agency" before "may be used to pay".

1996—Subsec. (c). Pub. L. 104–316 substituted "Administrator of General Services shall prescribe regulations under which agencies may" for "Comptroller General shall".

Subsec. (d). Pub. L. 104–287, §5(68)(A), substituted "CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES" for "TRANSPORTATION BY FOREIGN AIR CARRIERS" in heading.

Subsec. (f). Pub. L. 104–287, §5(68)(B), inserted heading.

1994—Subsec. (f). Pub. L. 103–355 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 115–425, title I, §111(b), Jan. 8, 2019, 132 Stat. 5475, provided that: "The amendment made by subsection (a) [amending this section] shall apply to any contract entered into after the date of enactment of this Act [Jan. 8, 2019] except for contracts entered into by the Secretary of Defense."

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 8752 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1225(h) of Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

Amendment by section 1335(p) of Pub. L. 105–277 effective on earlier of Oct. 1, 1999, or date of abolition of the United States Information Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22.

Amendment by section 1422(b)(6) of Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States International Development Cooperation Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of Title 22.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

§40119. Sensitive security information

(a) DISCLOSURE.—

(1) REGULATIONS PROHIBITING DISCLOSURE.—Notwithstanding the establishment of a Department of Homeland Security, the Secretary of Transportation, in accordance with section 552(b)(3)(B) of title 5, shall prescribe regulations prohibiting disclosure of information obtained or developed in ensuring security under this title if the Secretary of Transportation decides disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to transportation safety.

(2) DISCLOSURE TO CONGRESS.—Paragraph (1) shall not be construed to authorize

information to be withheld from a committee of Congress authorized to have such information.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as such term is defined in section 15.5 of title 49, Code of Federal Regulations) to—

(A) conceal a violation of law, inefficiency, or administrative error;

(B) prevent embarrassment to a person, organization, or agency;

(C) restrain competition; or

(D) prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(4) LAW ENFORCEMENT DISCLOSURE.—Section 552a of title 5 shall not apply to disclosures that the Administrator may make from the systems of records of the Federal Aviation Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.

(b) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, a duty or power under this section may not be transferred to another department, agency, or instrumentality of the Federal Government.

(Added Pub. L. 118–63, title II, §223(a), May 16, 2024, 138 Stat. 1060.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 40119, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1117; Pub. L. 107–71, title I, §101(e), Nov. 19, 2001, 115 Stat. 603; Pub. L. 107–296, title XVI, §1601(a), Nov. 25, 2002, 116 Stat. 2312; Pub. L. 111–83, title V, §561(c)(2), Oct. 28, 2009, 123 Stat. 2182; Pub. L. 112–95, title VIII, §801, Feb. 14, 2012, 126 Stat. 118, related to research and development activities to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security and regulations prohibiting disclosure of information obtained or developed in ensuring security under this title, prior to repeal by Pub. L. 115–254, div. K, title I, §1991(c)(3), Oct. 5, 2018, 132 Stat. 3627.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 118–63, title II, §223(b), May 16, 2024, 138 Stat. 1061, provided that: "The amendments made by this section [enacting this section] shall be effective as of October 5, 2018, and all authority restored to the Secretary [of Transportation] and the FAA [Federal Aviation Administration] under this section shall be treated as if such authority had never been repealed by the FAA Reauthorization Act of 2018 (Public Law 115–254) [see Prior Provisions note above]."

§40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40120(a)	49 App.:1509(a).	Aug. 23, 1958, Pub. L. 85–726, §§1106, 1109(a), 1110, 72 Stat. 798, 799, 800.
40120(b)	49 App.:1510.	
40120(c)	49 App.:1506.	

In subsection (a), the words "International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.)" are substituted for "sections 143 to 147d of title 33" because those sections were repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608. The words "including any definition of 'vessel' or 'vehicle' found therein" and "be construed to" are omitted as surplus.

In subsection (b), before clause (1), the words "to the extent", "of time", and "any areas of land or water" are omitted as surplus. The words "and the overlying airspace thereof" are omitted as being included in "outside the United States". In clause (1), the words "treaty, agreement or other lawful" and "necessary legal" are omitted as surplus.

Subsection (c) is substituted for 49 App.:1506 to eliminate unnecessary words and for clarity and consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

REFERENCES IN TEXT

The International Navigational Rules Act of 1977, referred to in subsec. (a), is Pub. L. 95–75, July 27, 1977, 91 Stat. 308, which is classified principally to chapter 30 (§1601 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 33 and Tables.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 10854. EXTENSION OF APPLICATION

Ex. Ord. No. 10854, Nov. 27, 1959, 24 F.R. 9565, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

The application of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C.A. §1301 et seq. [see 49 U.S.C. 40101 et seq.]), to the extent necessary to permit the Secretary of Transportation to accomplish the purposes and objectives of Titles III [former 49 U.S.C. 1341 et seq., see Disposition Table at beginning of this title] and XII [see 49 U.S.C. 40103(b)(3), 46307] thereof, is hereby extended to those areas of land or water outside the United States and the overlying airspace thereof over or in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement, has appropriate jurisdiction or control: *Provided*, That the Secretary of Transportation, prior to taking any action under the authority hereby conferred, shall first consult with the Secretary of State on matters affecting foreign relations, and with the Secretary of Defense on matters affecting national-defense interests, and shall not take any action which the Secretary of State determines to be in conflict with any international treaty or agreement to which the United States is a party, or to be inconsistent with the successful conduct of the foreign relations of the United States, or which the Secretary of Defense determines to be inconsistent with the requirements of national defense.

§40121. Air traffic control modernization reviews

(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration shall terminate any acquisition program initiated after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

(1) is more than 50 percent over the cost goal established for the program;

(2) fails to achieve at least 50 percent of the performance goals established for the program; or

(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

(b) AUTHORIZED TERMINATION OF ACQUISITION PROGRAMS.—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition program that—

(1) is more than 10 percent over the cost goal established for the program;

(2) fails to achieve at least 90 percent of the performance goals established for the program; or

(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

(c) EXCEPTIONS AND REPORT.—

(1) CONTINUANCE OF PROGRAM, ETC.—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

(2) DEPARTMENT OF DEFENSE.—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 40110(d)(2) of this title when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

(3) REPORT.—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 104–264, title II, §252, Oct. 9, 1996, 110 Stat. 3236; amended Pub. L. 106–181, title III, §307(c)(2), Apr. 5, 2000, 114 Stat. 126.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (a), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

CODIFICATION

Another section 40121 was renumbered section 40124 of this title.

AMENDMENTS

2000—Subsec. (c)(2). Pub. L. 106–181 substituted "section 40110(d)(2) of this title" for "section 348(b) of Public Law 104–50".

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§40122. Federal Aviation Administration personnel management system

(a) IN GENERAL.—

(1) CONSULTATION AND NEGOTIATION.—In developing and making changes to the personnel management system initially implemented by the Administrator of the Federal Aviation Administration on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

(2) DISPUTE RESOLUTION.—

(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Modernization and Reform Act of 2012); or

(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

(B) MID-TERM BARGAINING.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a mid-term collective-bargaining agreement, the Federal Service Impasses Panel shall assist the parties in resolving the impasse in accordance with section 7119 of title 5.

(C) BINDING ARBITRATION FOR TERM BARGAINING.—

(i) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a term collective-bargaining agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the "parties") shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members.

(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Not later than 10 days after receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list not later than 7 days after being selected. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree on the third person in 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

(vi) MATTERS FOR CONSIDERATION.—The arbitration board shall take into consideration such factors as—

(I) the effect of its arbitration decisions on the Federal Aviation Administration's ability to attract and retain a qualified workforce;

(II) the effect of its arbitration decisions on the Federal Aviation Administration's budget; and

(III) any other factors whose consideration would assist the board in fashioning a fair and equitable award.

(vii) COSTS.—The parties shall share costs of the arbitration equally.

(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(C), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and the final agreement shall be subject to approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).

(4) COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

(5) ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

(c) PAY RESTRICTION.—No officer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees' exclusive bargaining representative.

(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representative agree to the contrary.

(g) PERSONNEL MANAGEMENT SYSTEM.—

(1) IN GENERAL.—In consultation with the employees of the Administration and such non-governmental experts in personnel management systems as he may employ, and notwithstanding the provisions of title 5 and other Federal personnel laws, the Administrator shall develop and implement, not later than January 1, 1996, a personnel management system for the Administration that addresses the unique demands on the agency's workforce. Such a new system shall, at a minimum, provide for greater flexibility in the hiring, training, compensation, and location of personnel.

(2) APPLICABILITY OF TITLE 5.—The provisions of title 5 shall not apply to the new personnel management system developed and implemented pursuant to paragraph (1), with the exception of—

(A) section 2302(b), relating to whistleblower protection, including the provisions for investigation and enforcement as provided in chapter 12 of title 5;

(B) sections 3304(f),[1] to the extent consistent with the Federal Aviation Administration's status as an excepted service agency, 3308–3320, 3330a, 3330b, 3330c, and 3330d, relating to veterans' preference;

(C) chapter 71, relating to labor-management relations;

(D) section 7204, relating to antidiscrimination;

(E) chapter 73, relating to suitability, security, and conduct;

(F) chapter 81, relating to compensation for work injury;

(G) chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage;

(H) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board;

(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards) and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

(i) for purposes of applying such provisions to the personnel management system—

(I) the term "agency" means the Department of Transportation;

(II) the term "senior executive" means a Federal Aviation Administration executive;

(III) the term "career appointee" means a Federal Aviation Administration career executive; and

(IV) the term "senior career employee" means a Federal Aviation Administration career senior professional;

(ii) receipt by a career appointee or a senior career employee of the rank of Meritorious Executive or Meritorious Senior Professional entitles the individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

(iii) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

(J) subject to paragraph (4) of this subsection, section 6329, relating to disabled veteran leave.

(3) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under paragraph (1), an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was

appealable to the Board under any law, rule, or regulation as of March 31, 1996. Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.

(4) CERTIFICATION OF DISABLED VETERAN LEAVE.—In order to verify that leave credited to an employee pursuant to paragraph (2)(J) is used for treating a service-connected disability, that employee shall, notwithstanding section 6329(c) of title 5, submit to the Assistant Administrator for Human Resource Management of the Federal Aviation Administration certification, in such form and manner as the Administrator of the Federal Aviation Administration may prescribe, that the employee used that leave for purposes of being furnished treatment for that disability by a health care provider.

(5) PAID PARENTAL LEAVE.—The Administrator shall implement a paid parental leave benefit for employees of the Administration that is, at a minimum, consistent with the paid parental leave benefits provided under section 6382 of title 5.

(6) EFFECTIVE DATE.—This subsection shall take effect on April 1, 1996.

(7) REMOTE POSITIONS.—

(A) IN GENERAL.—If the Administrator determines that a covered position has not been filled after multiple vacancy announcements and that there are unique circumstances affecting the ability of the Administrator to fill such position, the Administrator may consider, in consultation with the appropriate labor union, applicants for the covered position who apply under a vacancy announcement recruiting from the State or territory in which the position is based.

(B) COVERED POSITION DEFINED.—In this paragraph, the term "covered position" means a safety-critical position, to include personnel located at contract towers, based in Alaska, Hawaii, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.

(h) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—An employee of the Federal Aviation Administration who is the subject of a major adverse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through the Administration's internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment, or under section 40122(g)(3).

(i) ELECTION OF FORUM.—Where a major adverse personnel action may be contested through more than one of the indicated forums (such as the contractual grievance procedure, the Federal Aviation Administration's internal process, or that of the Merit Systems Protection Board), an employee must elect the forum through which the matter will be contested. Nothing in this section is intended to allow an employee to contest an action through more than one forum unless otherwise allowed by law.

(j) DEFINITION.—In this section, the term "major adverse personnel action" means a suspension of more than 14 days, a reduction in pay or grade, a removal for conduct or performance, a nondisciplinary removal, a furlough of 30 days or less (but not including placement in a nonpay status as the result of a lapse of appropriations or an enactment by Congress), or a reduction in force action.

(Added Pub. L. 104–264, title II, §253, Oct. 9, 1996, 110 Stat. 3237; amended Pub. L. 106–181, title III, §§307(a), 308, Apr. 5, 2000, 114 Stat. 124, 126; Pub. L. 112–95, title VI, §§601, 602, 611, Feb. 14, 2012, 126 Stat. 109, 111, 117; Pub. L. 114–242, §2(a), (b), Oct. 7, 2016, 130 Stat. 978; Pub. L. 115–254, div. B, title V, §531, Oct. 5, 2018, 132 Stat. 3366; Pub. L. 116–283, div. A, title XI, §1103(c)(1), Jan. 1, 2021, 134 Stat. 3887; Pub. L. 118–63, title III, §342(b), May 16, 2024, 138 Stat. 1099.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (a)(2)(A)(i), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

Executive Order No. 12674, referred to in subsec. (d), is set out as a note under section 7301 of Title 5, Government Organization and Employees.

The effective date of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), is the date that is 30 days after Oct. 9, 1996. See section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Section 3304(f) of title 5, referred to in subsec. (g)(2)(B), was redesignated section 3304(l) of title 5 by Pub. L. 118–188, §2(a)(1)(A), Dec. 23, 2024, 138 Stat. 2644.

AMENDMENTS

2024—Subsec. (g)(7). Pub. L. 118–63 added par. (7).

2021—Subsec. (g)(5), (6). Pub. L. 116–283 added par. (5) and redesignated former par. (5) as (6).

2018—Subsec. (g)(2)(B). Pub. L. 115–254 inserted "3304(f), to the extent consistent with the Federal Aviation Administration's status as an excepted service agency," before "3308–3320" and "3330a, 3330b, 3330c, and 3330d," before "relating".

2016—Subsec. (g)(2)(J). Pub. L. 114–242, §2(a), added subpar. (J).

Subsec. (g)(4), (5). Pub. L. 114–242, §2(b), added par. (4) and redesignated former par. (4) as (5).

2012—Subsec. (a)(2) to (5). Pub. L. 112–95, §601, added pars. (2) and (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. The 60-day period shall not include any period during which Congress has adjourned sine die."

Subsec. (g)(2)(I). Pub. L. 112–95, §602, added subpar. (I).

Subsec. (g)(3). Pub. L. 112–95, §611, inserted at end "Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996."

2000—Subsec. (a)(2). Pub. L. 106–181, §308(a), inserted at end "The 60-day period shall not include any period during which Congress has adjourned sine die."

Subsec. (g). Pub. L. 106–181, §307(a), added subsec. (g).

Subsecs. (h) to (j). Pub. L. 106–181, §308(b), added subsecs. (h) to (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title XI, §1103(c)(2), Jan. 1, 2021, 134 Stat. 3887, provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to any birth or placement occurring on or after October 1, 2020."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

RULE OF CONSTRUCTION

Pub. L. 116–283, div. A, title XI, §1103(c)(3), Jan. 1, 2021, 134 Stat. 3887, provided that: "Nothing in this subsection, or any amendment made by this subsection [amending this section], may be construed to affect

leave provided to an employee of the Transportation Security Administration before October 1, 2020."

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

ANNUAL RATE OF PAY INCREASE FOR POSITIONS IN OFFICE OF AEROSPACE MEDICINE

Pub. L. 119–75, div. D, title I, §119I, Feb. 3, 2026, 140 Stat. 342, provided that: "Notwithstanding section 40122(c) of title 49, United States Code, for this year and thereafter, the Administrator of the Federal Aviation Administration, in consultation with the Federal Air Surgeon, may increase the annual rate of basic pay for positions in the Office of Aerospace Medicine requiring a medical degree up to the annual compensation paid under section 102 of title 3, United States Code."

OFFICE OF INVESTIGATIONS AND PROFESSIONAL RESPONSIBILITY; MISCONDUCT INVESTIGATIONS

Pub. L. 116–260, div. V, title I, §133(c), (d), Dec. 27, 2020, 134 Stat. 2355, provided that:

"(c) OFFICE OF INVESTIGATIONS AND PROFESSIONAL RESPONSIBILITY.—The Administrator shall take such action as may be necessary to redesignate the Office of Investigations of the Administration as the Office of Investigations and Professional Responsibility.

"(d) MISCONDUCT INVESTIGATIONS.—

"(1) IN GENERAL.—The Administrator shall review and revise the Administration's existing investigative policies that govern the investigation of misconduct by a manager of the Administration conducted by the FAA (in this subsection referred to as the 'Agency').

"(2) PRESERVATION OF COLLECTIVE BARGAINING AGREEMENTS.—The investigative policy established under paragraph (1) shall not apply to, or in the future, be extended by the Administrator to apply to, any employee who is not a manager or is covered by or eligible to be covered by a collective bargaining agreement entered into by the Agency.

"(3) REQUIREMENTS.—In revising the investigative policies, the Administrator shall ensure such policies require—

"(A) the utilization of investigative best practices to ensure independent and objective investigation and accurate recording and reporting of such investigation;

"(B) the management of case files to ensure the integrity of the information contained in such case files;

"(C) interviews be conducted in a manner that ensures, to the greatest extent possible, truthful answers and accurate records of such interviews;

"(D) coordination with the Office of the Inspector General of the Department of Transportation, the Office of the Special Counsel, and the Attorney General, as appropriate; and

"(E) the completion of investigations in a timely manner.

"(4) DEFINITION.—For purposes of this subsection, the term 'manager' means an employee of the Agency who is a supervisor or management official, as defined in section 7103(a) of title 5, United States Code."

[For definitions of terms used in section 133(c), (d) of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

APPLICATION OF 2016 AMENDMENT

Pub. L. 114–242, §2(c), Oct. 7, 2016, 130 Stat. 978, provided that: "The amendments made by this section [amending this section] shall apply with respect to any employee of the Federal Aviation Administration hired on or after the date that is one year after the date of the enactment of this Act [Oct. 7, 2016]."

POLICIES AND PROCEDURES

Pub. L. 114–242, §2(d), Oct. 7, 2016, 130 Stat. 978, provided that: "Not later than 270 days after the date of the enactment of this Act [Oct. 7, 2016], the Administrator of the Federal Aviation Administration shall prescribe policies and procedures to carry out the amendments made by this section [amending this section] that are comparable, to the maximum extent practicable, to the regulations prescribed by the Office of Personnel Management under section 6329 of title 5, United States Code."

[1] *See References in Text note below.*

§40123. Protection of voluntarily submitted information

(a) IN GENERAL.—Notwithstanding any other provision of law, including section 552(b)(3)(B) of title 5, neither the Administrator of the Federal Aviation Administration, nor any agency or third party receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

(b) REGULATIONS.—The Administrator shall issue regulations to carry out this section.

(Added Pub. L. 104–264, title IV, §402(a), Oct. 9, 1996, 110 Stat. 3255; amended Pub. L. 118–63, title III, §354(a), May 16, 2024, 138 Stat. 1113.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 inserted ", including section 552(b)(3)(B) of title 5" after "Notwithstanding any other provision of law" and "or third party" after "nor any agency" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

REVIEW OF PROTECTION FROM DISCLOSURE

Pub. L. 118–63, title III, §354(b), May 16, 2024, 138 Stat. 1114, provided that: "Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall review and update part 193 of title 14, Code of Federal Regulations, and review section 44735 of title 49, United States Code, to ensure such laws and regulations designate and protect from disclosure information or data submitted, collected, or obtained by the Administrator under voluntary safety programs, including the following:

"(1) Aviation Safety Action Program.

"(2) Flight Operational Quality Assurance.

"(3) Line Operations Safety Assessments.

"(4) Air Traffic Safety Action Program.

"(5) Technical Operations Safety Action Program.

"(6) Such other voluntarily submitted information or programs as the Administrator determines appropriate."

IMPROVED VOLUNTARY DISCLOSURE REPORTING SYSTEM

Pub. L. 112–95, title III, §344, Feb. 14, 2012, 126 Stat. 81, provided that:

"(a) VOLUNTARY DISCLOSURE REPORTING PROGRAM DEFINED.—In this section, the term 'Voluntary Disclosure Reporting Program' means the program established by the Federal Aviation Administration through Advisory Circular 00–58A, dated September 8, 2006, including any subsequent revisions thereto.

"(b) VERIFICATION.—The Administrator of the Federal Aviation Administration shall modify the Voluntary Disclosure Reporting Program to require inspectors to—

"(1) verify that air carriers are implementing comprehensive solutions to correct the underlying causes

of the violations voluntarily disclosed by such air carriers; and

"(2) confirm, before approving a final report of a violation, that a violation with the same root causes, has not been previously discovered by an inspector or self-disclosed by the air carrier.

"(c) SUPERVISORY REVIEW OF VOLUNTARY SELF-DISCLOSURES.—The Administrator shall establish a process by which voluntary self-disclosures received from air carriers are reviewed and approved by a supervisor after the initial review by an inspector.

"(d) INSPECTOR GENERAL STUDY.—

"(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Voluntary Disclosure Reporting Program.

"(2) REVIEW.—In conducting the study, the Inspector General shall examine, at a minimum, if the Administration—

"(A) conducts comprehensive reviews of voluntary disclosure reports before closing a voluntary disclosure report under the provisions of the program;

"(B) evaluates the effectiveness of corrective actions taken by air carriers; and

"(C) effectively prevents abuse of the voluntary disclosure reporting program through its secondary review of self-disclosures before they are accepted and closed by the Administration.

"(3) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section."

§40124. Interstate agreements for airport facilities

Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(Added Pub. L. 104–287, §5(69)(A), Oct. 11, 1996, 110 Stat. 3395, §40121; renumbered §40124, Pub. L. 105–102, §3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

This restates 49:44502(e) as 49:40121 [now 40124] to provide a more appropriate place in title 49.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102 amended Pub. L. 104–287, renumbering section 40121 of this title as this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(B) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

§40125. Qualifications for public aircraft status

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL PURPOSES.—The term "commercial purposes" means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by the armed forces for reimbursement when that reimbursement is required by any Federal statute, regulation, or directive, in effect on November 1, 1999, or by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property

(including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(2) GOVERNMENTAL FUNCTION.—The term "governmental function" means an activity undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, biological or geological resource management (including data collection on civil aviation systems undergoing research, development, test, or evaluation at a test range (as such term is defined in section 44801)), infrastructure inspections, or any other activity undertaken by a governmental entity that the Administrator determines is inherently governmental.

(3) QUALIFIED NON-CREWMEMBER.—The term "qualified non-crewmember" means an individual, other than a member of the crew, aboard an aircraft—

(A) operated by the armed forces or an intelligence agency of the United States Government; or

(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

(4) ARMED FORCES.—The term "armed forces" has the meaning given such term by section 101 of title 10.

(b) AIRCRAFT OWNED BY GOVERNMENTS.—An aircraft described in subparagraph (A), (B), (C), (D), or (F) of section 40102(a)(41) does not qualify as a public aircraft under such section when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

(c) AIRCRAFT OWNED OR OPERATED BY THE ARMED FORCES.—

(1) IN GENERAL.—Subject to paragraph (2), an aircraft described in section 40102(a)(41)(E) qualifies as a public aircraft if—

(A) the aircraft is operated in accordance with title 10;

(B) the aircraft is operated in the performance of a governmental function under title 14, 31, 32, or 50 and the aircraft is not used for commercial purposes; or

(C) the aircraft is chartered to provide transportation or other commercial air service to the armed forces and the Secretary of Defense (or the Secretary of the department in which the Coast Guard is operating) designates the operation of the aircraft as being required in the national interest.

(2) LIMITATION.—An aircraft that meets the criteria set forth in paragraph (1) and that is owned or operated by the National Guard of a State, the District of Columbia, or any territory or possession of the United States, qualifies as a public aircraft only to the extent that it is operated under the direct control of the Department of Defense.

(d) SEARCH AND RESCUE PURPOSES.—An aircraft described in section 40102(a)(41)(D) that is not exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of 1 of those governments, qualifies as a public aircraft if the Administrator determines that—

(1) there are extraordinary circumstances;

(2) the aircraft will be used for the performance of search and rescue missions;

(3) a community would not otherwise have access to search and rescue services; and

(4) a government entity demonstrates that granting the waiver is necessary to prevent an undue economic burden on that government.

(Added Pub. L. 106–181, title VII, §702(b)(1), Apr. 5, 2000, 114 Stat. 155; amended Pub. L. 110–181, div. A, title X, §1078(b), (c), Jan. 28, 2008, 122 Stat. 334; Pub. L. 112–141, div. C, title V, §35003, July 6, 2012, 126 Stat. 843; Pub. L. 115–254, div. B, title III, §355(b), Oct. 5, 2018, 132 Stat. 3305; Pub. L. 118–63, title IX, §923, May 16, 2024, 138 Stat. 1355.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(2). Pub. L. 118–63 substituted "aeronautical research," for "aeronautical research, or" and inserted "(including data collection on civil aviation systems undergoing research, development, test, or evaluation at a test range (as such term is defined in section 44801)), infrastructure inspections, or any other activity undertaken by a governmental entity that the Administrator determines is inherently governmental" after "biological or geological resource management".

2018—Subsec. (b). Pub. L. 115–254 substituted "(D), or (F)" for "or (D)".

2012—Subsec. (d). Pub. L. 112–141 added subsec. (d).

2008—Subsec. (b). Pub. L. 110–181, §1078(c)(1), substituted "section 40102(a)(41)" for "section 40102(a)(37)".

Subsec. (c)(1). Pub. L. 110–181, §1078(c)(2), substituted "section 40102(a)(41)(E)" for "section 40102(a)(37)(E)" in introductory provisions.

Subsec. (c)(1)(C). Pub. L. 110–181, §1078(b), inserted "or other commercial air service" after "transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§40126. Severable services contracts for periods crossing fiscal years

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed 1 year.

(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).

(Added Pub. L. 106–181, title VII, §705(a), Apr. 5, 2000, 114 Stat. 157.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§40127. Prohibitions on discrimination

(a) PERSONS IN AIR TRANSPORTATION.—An air carrier or foreign air carrier may not subject a person in air transportation to discrimination on the basis of race, color, national origin,

religion, sex, or ancestry.

(b) USE OF PRIVATE AIRPORTS.—Notwithstanding any other provision of law, no State or local government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, color, national origin, religion, sex, or ancestry.

(Added Pub. L. 106–181, title VII, §706(a), Apr. 5, 2000, 114 Stat. 157.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

TRAINING POLICIES REGARDING RACIAL, ETHNIC, AND RELIGIOUS NONDISCRIMINATION

Pub. L. 115–254, div. B, title IV, §407, Oct. 5, 2018, 132 Stat. 3330, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 5, 2018], the Comptroller General of the United States shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] and the Secretary of Transportation a report describing—

"(1) each air carrier's training policy for its employees and contractors regarding racial, ethnic, and religious nondiscrimination; and

"(2) how frequently an air carrier is required to train new employees and contractors because of turnover in positions that require such training.

"(b) BEST PRACTICES.—After the date the report is submitted under subsection (a), the Secretary shall develop and disseminate to air carriers best practices necessary to improve the training policies described in subsection (a), based on the findings of the report and in consultation with—

"(1) passengers of diverse racial, ethnic, and religious backgrounds;

"(2) national organizations that represent impacted communities;

"(3) air carriers;

"(4) airport operators; and

"(5) contract service providers."

§40128. Overflights of national parks

(a) IN GENERAL.—

(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands, as defined by this section, except—

(A) in accordance with this section;

(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

(C) in accordance with any applicable air tour management plan or voluntary agreement under subsection (b)(7) for the park or tribal lands.

(2) APPLICATION FOR OPERATING AUTHORITY.—

(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park or tribal lands.

(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the park. The

Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

(i) the safety record of the person submitting the proposal or pilots employed by the person;

(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

(iv) the financial capability of the person submitting the proposal;

(v) any training programs for pilots provided by the person submitting the proposal; and

(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.

(F) PRIORITY.—In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Administrator shall give priority to an application under this paragraph in any case in which a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of title 14, Code of Federal Regulations if—

(A) such activity is permitted under part 119 of such title;

(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the operations will be conducted; and

(C) the total number of operations under this exception is limited to not more than five flights in any 30-day period over a particular park.

(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall apply, not later than 90 days after the date of the enactment of this section, for operating authority under part 119, 121, or 135 of title 14, Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands. The Administrator shall make every effort to act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

(5) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour operations over the park each year shall be exempt from the requirements

of this section, except as provided in subparagraph (B).

(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

(C) LIST OF PARKS.—

(i) IN GENERAL.—The Director and Administrator shall jointly publish a list each year of national parks that are covered by the exemption provided under this paragraph.

(ii) NOTIFICATION OF WITHDRAWAL OF EXEMPTION.—The Director shall inform the Administrator, in writing, of each determination to withdraw an exemption under subparagraph (B).

(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tour operations over a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director a report each year that includes the number of commercial air tour operations the operator conducted during the preceding 1-year period over such park.

(b) AIR TOUR MANAGEMENT PLANS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

(C) EXCEPTION.—An application to begin or expand commercial air tour operations at Crater Lake National Park or Great Smoky Mountains National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences.

(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement and the record of decision for the air tour management plan.

(3) CONTENTS.—An air tour management plan for a national park—

(A) may prohibit commercial air tour operations over a national park in whole or in part;

(B) may establish conditions for the conduct of commercial air tour operations over a national park, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

(C) shall apply to all commercial air tour operations over a national park that are also within ½ mile outside the boundary of a national park;

(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over a national park;

(E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations over a national park if the plan includes a limitation on the number of commercial air tour operations for any time period; and

(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.

(4) PROCEDURE.—In establishing an air tour management plan for a national park or tribal lands, the Administrator and the Director shall—

(A) hold at least one public meeting with interested parties to develop the air tour management plan;

(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency);

(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency under the regulations referred to in subparagraph (C); and

(E) consult with the advisory group established under section 805 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) and consider all advice, information, and recommendations provided by the advisory group to the Administrator and the Director.

(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review.

(6) AMENDMENTS.—The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

(7) VOLUNTARY AGREEMENTS.—

(A) IN GENERAL.—As an alternative to an air tour management plan, the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator (including a new entrant commercial air tour operator and an operator that has interim operating authority) that has applied to conduct commercial air tour operations over a national park to manage commercial air tour operations over such national park.

(B) PARK PROTECTION.—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

(iii) provide for fees for such operations.

(C) PUBLIC REVIEW.—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

(D) TERMINATION.—

(i) IN GENERAL.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of—

(I) the Director, if the Director determines that the agreement is not adequately protecting park resources or visitor experiences; or

(II) the Administrator, if the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system.

(ii) EFFECT OF TERMINATION.—If a voluntary agreement with respect to a national park is terminated under this subparagraph, the operators shall conform to the requirements for interim operating authority under subsection (c) until an air tour management plan for the park is in effect.

(c) INTERIM OPERATING AUTHORITY.—

(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this subsection to a commercial air tour operator for commercial air tour operations over a national park or tribal lands for which the operator is an existing commercial air tour operator.

(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

(A) shall provide annual authorization only for the greater of—

(i) the number of flights used by the operator to provide the commercial air tour operations over a national park within the 12-month period prior to the date of the enactment of this section; or

(ii) the average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

(B) may not provide for an increase in the number of commercial air tour operations over a national park conducted during any time period by the commercial air tour operator above the number that the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

(C) shall be published in the Federal Register to provide notice and opportunity for comment;

(D) may be revoked by the Administrator for cause;

(E) shall terminate 180 days after the date on which an air tour management plan is established for the park or tribal lands;

(F) shall promote protection of national park resources, visitor experiences, and tribal lands;

(G) shall promote safe commercial air tour operations;

(H) shall promote the adoption of quiet technology, as appropriate; and

(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this subsection, if—

(i) adequate information regarding the existing and proposed operations of the operator under the interim operating authority is provided to the Administrator and the Director;

(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

(iii) the Director agrees with the modification, based on the professional expertise of the Director regarding the protection of the resources, values, and visitor use and enjoyment of the park.

(3) NEW ENTRANT AIR TOUR OPERATORS.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator without further environmental process beyond that described in this paragraph, if—

(i) adequate information on the proposed operations of the operator is provided to the Administrator and the Director by the operator making the request;

(ii) the Administrator agrees that there would be no adverse impact on aviation safety or

the air traffic control system; and

(iii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment.

(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at the park or on the tribal lands, or the Director determines that it would create a noise problem at the park or on the tribal lands.

(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of the enactment of this section.

(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

(1) REPORT.—Each commercial air tour operator conducting a commercial air tour operation over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Administrator and the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

(2) REPORT SUBMISSION.—Not later than 90 days after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator and the Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and the Director with a frequency and in a format prescribed by the Administrator and the Director.

(e) EXEMPTIONS.—This section shall not apply to—

(1) the Grand Canyon National Park; or

(2) tribal lands within or abutting the Grand Canyon National Park.

(f) LAKE MEAD.—This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park. For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL AIR TOUR OPERATOR.—The term "commercial air tour operator" means any person who conducts a commercial air tour operation over a national park.

(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term "existing commercial air tour operator" means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of the enactment of this section.

(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term "new entrant commercial air tour operator" means a commercial air tour operator that—

(A) applies for operating authority as a commercial air tour operator for a national park or tribal lands; and

(B) has not engaged in the business of providing commercial air tour operations over the national park or tribal lands in the 12-month period preceding the application.

(4) COMMERCIAL AIR TOUR OPERATION OVER A NATIONAL PARK.—

(A) IN GENERAL.—The term "commercial air tour operation over a national park" means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the

flight is sightseeing over a national park, within ½ mile outside the boundary of any national park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park), during which the aircraft flies—

(i) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

(ii) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

(B) FACTORS TO CONSIDER.—In making a determination of whether a flight is a commercial air tour operation over a national park for purposes of this section, the Administrator may consider—

(i) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

(ii) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

(iii) the area of operation;

(iv) the frequency of flights conducted by the person offering the flight;

(v) the route of flight;

(vi) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

(vii) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

(viii) any other factors that the Administrator and the Director consider appropriate.

(5) NATIONAL PARK.—The term "national park" means any unit of the National Park System.

(6) TRIBAL LANDS.—The term "tribal lands" means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

(7) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(8) DIRECTOR.—The term "Director" means the Director of the National Park Service.

(Added Pub. L. 106–181, title VIII, §803(a), Apr. 5, 2000, 114 Stat. 186; amended Pub. L. 108–176, title III, §323(a), Dec. 12, 2003, 117 Stat. 2541; Pub. L. 109–115, div. A, title I, §177, Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112–95, title V, §501, Feb. 14, 2012, 126 Stat. 100; Pub. L. 112–141, div. C, title V, §35002, July 6, 2012, 126 Stat. 843; Pub. L. 115–254, div. B, title V, §539(c), Oct. 5, 2018, 132 Stat. 3370; Pub. L. 118–63, title VI, §628, May 16, 2024, 138 Stat. 1243.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a)(4), (c)(2)(A), (3)(C), and (g)(2), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

Section 805 of the National Parks Air Tour Management Act of 2000, referred to in subsec. (b)(4)(E), is section 805 of title VIII of Pub. L. 106–181, which is set out in a note below.

The date of enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

AMENDMENTS

2024—Subsec. (b)(4)(E). Pub. L. 118–63 added subpar. (E).

2018—Subsec. (a)(3). Pub. L. 115–254 substituted "under part 91 of title 14," for "under part 91 of the title 14,".

2012—Subsec. (a)(1)(C). Pub. L. 112–95, §501(a), inserted "or voluntary agreement under subsection (b)(7)" before "for the park".

Subsec. (a)(5). Pub. L. 112–95, §501(b), added par. (5).

Subsec. (b)(1)(C). Pub. L. 112–141 amended subpar. (C) generally. Prior to amendment, text read as follows: "An application to begin commercial air tour operations at Crater Lake National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences."

Pub. L. 112–95, §501(c)(1), added subpar. (C).

Subsec. (b)(7). Pub. L. 112–95, §501(c)(2), added par. (7).

Subsec. (c)(2)(I). Pub. L. 112–95, §501(d)(1), added subpar. (I) and struck out former subpar. (I) which read as follows: "shall allow for modifications of the interim operating authority based on experience if the modification improves protection of national park resources and values and of tribal lands."

Subsec. (c)(3)(A). Pub. L. 112–95, §501(d)(2), substituted "without further environmental process beyond that described in this paragraph, if—" for "if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands." and added cls. (i) to (iii).

Subsecs. (d) to (g). Pub. L. 112–95, §501(e), added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

2005—Subsec. (e). Pub. L. 109–115 inserted at end "For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route."

2003—Subsec. (a)(1). Pub. L. 108–176, §323(a)(1), inserted ", as defined by this section," after "tribal lands" in introductory provisions.

Subsec. (b)(3)(A), (B). Pub. L. 108–176, §323(a)(2), inserted "over a national park" after "operations".

Subsec. (b)(3)(C). Pub. L. 108–176, §323(a)(3), inserted "over a national park that are also" after "operations".

Subsec. (b)(3)(D). Pub. L. 108–176, §323(a)(4), substituted "over a national park" for "at the park".

Subsec. (b)(3)(E). Pub. L. 108–176, §323(a)(5), inserted "over a national park" before "if the plan includes".

Subsec. (c)(2)(A)(i), (B). Pub. L. 108–176, §323(a)(6), inserted "over a national park" after "operations".

Subsec. (f)(1). Pub. L. 108–176, §323(a)(7), inserted "over a national park" after "operation".

Subsec. (f)(4). Pub. L. 108–176, §323(a)(10), inserted "OVER A NATIONAL PARK" after "OPERATION " in heading.

Subsec. (f)(4)(A). Pub. L. 108–176, §323(a)(8), in introductory provisions, substituted "commercial air tour operation over a national park" for "commercial air tour operation" and "park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park)," for "park, or over tribal lands,".

Subsec. (f)(4)(B). Pub. L. 108–176, §323(a)(9), inserted "over a national park" after "operation" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

OVERFLIGHTS IN GRAND CANYON NATIONAL PARK

Pub. L. 112–141, div. C, title V, §35001, July 6, 2012, 126 Stat. 842, provided that:

"(a) DETERMINATIONS WITH RESPECT TO SUBSTANTIAL RESTORATION OF NATURAL QUIET AND EXPERIENCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of section 3(b)(1) of Public Law 100–91 ([former] 16 U.S.C. 1a–1 note [now set out below]), the substantial restoration of the natural quiet and experience of the Grand Canyon National Park (in this section referred to as the 'Park') shall be considered to be achieved in the Park if, for at least 75 percent of each day, 50 percent of the Park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the Park as of the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways].

"(2) CONSIDERATIONS.—

"(A) IN GENERAL.—For purposes of determining whether substantial restoration of the natural quiet and experience of the Park has been achieved in accordance with paragraph (1), the Secretary of the Interior (in this section referred to as the 'Secretary') shall use—

"(i) the 2-zone system for the Park in effect on the date of enactment of this Act to assess impacts relating to substantial restoration of natural quiet at the Park, including—

"(I) the thresholds for noticeability and audibility; and

"(II) the distribution of land between the 2 zones; and

"(ii) noise modeling science that is—

"(I) developed for use at the Park, specifically Integrated Noise Model Version 6.2;

"(II) validated by reasonable standards for conducting field observations of model results; and

"(III) accepted and validated by the Federal Interagency Committee on Aviation Noise.

"(B) SOUND FROM OTHER SOURCES.—The Secretary shall not consider sound produced by sources other than commercial air tour operations, including sound emitted by other types of aircraft operations or other noise sources, for purposes of—

"(i) making recommendations, developing a final plan, or issuing regulations relating to commercial air tour operations in the Park; or

"(ii) determining under paragraph (1) whether substantial restoration of the natural quiet and experience of the Park has been achieved.

"(3) CONTINUED MONITORING.—The Secretary shall continue monitoring noise from aircraft operating over the Park below 17,999 feet MSL to ensure continued compliance with the substantial restoration of natural quiet and experience of the Park.

"(4) DAY DEFINED.—For purposes of this section, the term 'day' means the hours between 7:00 a.m. and 7:00 p.m.

"(b) CONVERSION TO QUIET TECHNOLOGY AIRCRAFT.—

"(1) IN GENERAL.—Not later than 15 years after the date of enactment of this Act, all commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with regulations in effect on the day before the date of enactment of this Act).

"(2) CONVERSION INCENTIVES.—Not later than 60 days after the date of enactment of this Act, the Secretary and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology (as determined in accordance with the regulations in effect on the day before the date of enactment of this Act) before the date specified in paragraph (1), such as increasing the flight allocations for such operators on a net basis consistent with section 804(c) of the National Park[s] Air Tours [Tour] Management Act of 2000 (title VIII of Public Law 106–181) [set out below], provided that the cumulative impact of such operations does not increase noise at Grand Canyon National Park."

GRAND CANYON OVERFLIGHT RULES

Pub. L. 109–115, div. A, title I, §177, Nov. 30, 2005, 119 Stat. 2427, provided in part that: "Nothing in this provision [amending this section] shall allow exemption from overflight rules for the Grand Canyon."

QUIET TECHNOLOGY RULEMAKING FOR AIR TOURS OVER GRAND CANYON NATIONAL PARK

Pub. L. 108–176, title III, §323(b), Dec. 12, 2003, 117 Stat. 2541, provided that:

"(1) DEADLINE FOR RULE.—No later than January 2005, the Secretary of Transportation shall issue a final rule to establish standards for quiet technology that are reasonably achievable at Grand Canyon National Park, based on the Supplemental Notice of Proposed Rulemaking on Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park, published in the Federal Register on March 24, 2003.

"(2) RESOLUTION OF DISPUTES.—Subject to applicable administrative law and procedures, if the Secretary determines that a dispute among interested parties (including outside groups) or government

agencies cannot be resolved within a reasonable time frame and could delay finalizing the rulemaking described in subsection (a), or implementation of final standards under such rule, due to controversy over adoption of quiet technology routes, establishment of incentives to encourage adoption of such routes, establishment of incentives to encourage adoption of quite technology, or other measures to achieve substantial restoration of natural quiet, the Secretary shall refer such dispute to a recognized center for environmental conflict resolution."

NATIONAL PARKS AIR TOUR MANAGEMENT

Pub. L. 106–181, title VIII, Apr. 5, 2000, 114 Stat. 185, as amended by Pub. L. 106–528, §8(b), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 117–286, §4(a)(312), Dec. 27, 2022, 136 Stat. 4340, provided that:

"SEC. 801. SHORT TITLE.

"This title may be cited as the 'National Parks Air Tour Management Act of 2000'.

"SEC. 802. FINDINGS.

"Congress finds that—

"(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

"(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on public and tribal lands;

"(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

"(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

"(5) the National Parks Overflights Working Group, composed of general aviation, commercial air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on the Group's consensus work product; and

"(6) this title reflects the recommendations made by that Group.

"SEC. 803. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

"(a) IN GENERAL.—[Enacted this section.]

"(b) CONFORMING AMENDMENT.—[Amended analysis for chapter 401 of this title.]

"(c) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40128 of title 49, United States Code—

"(1) regulations issued by the Secretary of Transportation and the Administrator [of the Federal Aviation Administration] under section 3 of Public Law 100–91 ([former] 16 U.S.C. 1a–1 note [now set out below]); and

"(2) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40128.

"SEC. 804. QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.

"(a) QUIET TECHNOLOGY REQUIREMENTS.—Within 12 months after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology for purposes of this section. If the Administrator determines that the Administrator will not be able to make such designation before the last day of such 12-month period, the Administrator shall transmit to Congress a report on the reasons for not meeting such time period and the expected date of such designation.

"(b) ROUTES OR CORRIDORS.—In consultation with the Director and the advisory group established under section 805, the Administrator shall establish, by rule, routes or corridors for commercial air tour operations (as defined in section 40128(f) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

"(1) tours of the Grand Canyon originating in Clark County, Nevada; and

"(2) 'local loop' tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona, provided that such routes or corridors can be located in areas that will not negatively impact the substantial restoration of natural quiet, tribal lands, or safety.

"(c) OPERATIONAL CAPS.—Commercial air tour operations by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft shall not be subject to the operational flight allocations that apply to other commercial air tour operations of the Grand Canyon, provided that the

cumulative impact of such operations does not increase noise at the Grand Canyon.

"(d) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour operation by a fixed-wing or helicopter aircraft in a commercial air tour operator's fleet on the date of the enactment of this Act [Apr. 5, 2000] that meets the requirements designated under subsection (a), or is subsequently modified to meet the requirements designated under subsection (a), may be used for commercial air tour operations under the same terms and conditions as a replacement aircraft under subsection (c) without regard to whether it replaces an existing aircraft.

"(e) MANDATE TO RESTORE NATURAL QUIET.—Nothing in this Act [should be "this title"] shall be construed to relieve or diminish—

"(1) the statutory mandate imposed upon the Secretary of the Interior and the Administrator of the Federal Aviation Administration under Public Law 100–91 ([former] 16 U.S.C. 1a–1 note [now set out below]) to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park; and

"(2) the obligations of the Secretary and the Administrator to promulgate forthwith regulations to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park.

"SEC. 805. ADVISORY GROUP.

"(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The advisory group shall be composed of—

"(A) a balanced group of—

"(i) representatives of general aviation;

"(ii) representatives of commercial air tour operators;

"(iii) representatives of environmental concerns; and

"(iv) representatives of Indian tribes;

"(B) a representative of the Federal Aviation Administration; and

"(C) a representative of the National Park Service.

"(2) EX OFFICIO MEMBERS.—The Administrator (or the designee of the Administrator) and the Director (or the designee of the Director) shall serve as ex officio members.

"(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

"(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

"(1) on the implementation of this title and the amendments made by this title;

"(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

"(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

"(4) at the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.

"(d) COMPENSATION; SUPPORT; CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—

"(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

"(3) NONAPPLICATION OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Section 1013 of title 5, United States Code, does not apply to the advisory group.

"SEC. 806. PROHIBITION OF COMMERCIAL AIR TOUR OPERATIONS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

"Effective beginning on the date of the enactment of this Act [Apr. 5, 2000], no commercial air tour

operation may be conducted in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40128 of title 49, United States Code.

"SEC. 807. REPORTS.

"(a) OVERFLIGHT FEE REPORT.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] shall transmit to Congress a report on the effects overflight fees are likely to have on the commercial air tour operation industry. The report shall include, but shall not be limited to—

"(1) the viability of a tax credit for the commercial air tour operators equal to the amount of any overflight fees charged by the National Park Service; and

"(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

"(b) QUIET AIRCRAFT TECHNOLOGY REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator and the Director of the National Park Service shall jointly transmit a report to Congress on the effectiveness of this title in providing incentives for the development and use of quiet aircraft technology.

"SEC. 808. METHODOLOGIES USED TO ASSESS AIR TOUR NOISE.

"Any methodology adopted by a Federal agency to assess air tour noise in any unit of the national park system (including the Grand Canyon and Alaska) shall be based on reasonable scientific methods.

"SEC. 809. ALASKA EXEMPTION.

"The provisions of this title and section 40128 of title 49, United States Code, as added by section 803(a), do not apply to any land or waters located in Alaska."

STUDY TO DETERMINE APPROPRIATE MINIMUM ALTITUDE FOR AIRCRAFT FLYING OVER NATIONAL PARK SYSTEM UNITS

Pub. L. 100–91, Aug. 18, 1987, 101 Stat. 674, as amended by Pub. L. 106–510, §3(a)(2), (b)(2), Nov. 13, 2000, 114 Stat. 2363, provided that:

"SECTION 1. STUDY OF PARK OVERFLIGHTS.

"(a) STUDY BY PARK SERVICE.—The Secretary of the Interior (hereinafter referred to as the 'Secretary'), acting through the Director of the National Park Service, shall conduct a study to determine the proper minimum altitude which should be maintained by aircraft when flying over units of the National Park System. The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (hereinafter referred to as the 'Administrator'), shall provide technical assistance to the Secretary in carrying out the study.

"(b) GENERAL REQUIREMENTS OF STUDY.—The study shall identify any problems associated with overflight by aircraft of units of the National Park System and shall provide information regarding the types of overflight which may be impacting on park unit resources. The study shall distinguish between the impacts caused by sightseeing aircraft, military aircraft, commercial aviation, general aviation, and other forms of aircraft which affect such units. The study shall identify those park system units, and portions thereof, in which the most serious adverse impacts from aircraft overflights exist.

"(c) SPECIFIC REQUIREMENTS.—The study under this section shall include research at the following units of the National Park System: Cumberland Island National Seashore, Yosemite National Park, Hawai‘i Volcanoes National Park, Haleakal National Park, Glacier National Park, and Mount Rushmore National Memorial, and at no less than four additional units of the National Park System, excluding all National Park System units in the State of Alaska. The research at each such unit shall provide information and an evaluation regarding each of the following:

"(1) the impacts of aircraft noise on the safety of the park system users, including hikers, rock-climbers, and boaters;

"(2) the impairment of visitor enjoyment associated with flights over such units of the National Park System;

"(3) other injurious effects of overflights on the natural, historical, and cultural resources for which such units were established; and

"(4) the values associated with aircraft flights over such units of the National Park System in terms of visitor enjoyment, the protection of persons or property, search and rescue operations and firefighting.

Such research shall evaluate the impact of overflights by both fixed-wing aircraft and helicopters. The research shall include an evaluation of the differences in noise levels within such units of the National Park System which are associated with flight by commonly used aircraft at different altitudes. The research shall

apply only to overflights and shall not apply to landing fields within, or adjacent to, such units.

"(d) REPORT TO CONGRESS.—The Secretary shall submit a report to the Congress within 3 years after the enactment of this Act [Aug. 18, 1987] containing the results of the study carried out under this section. Such report shall also contain recommendations for legislative and regulatory action which could be taken regarding the information gathered pursuant to paragraphs (1) through (4) of subsection (c). Before submission to the Congress, the Secretary shall provide a draft of the report and recommendations to the Administrator for review. The Administrator shall review such report and recommendations and notify the Secretary of any adverse effects which the implementation of such recommendations would have on the safety of aircraft operations. The Administrator shall consult with the Secretary to resolve issues relating to such adverse effects. The final report shall include a finding by the Administrator that implementation of the recommendations of the Secretary will not have adverse effects on the safety of aircraft operations, or if the Administrator is unable to make such finding, a statement by the Administrator of the reasons he believes the Secretary's recommendations will have an adverse effect on the safety of aircraft operations.

"(e) FAA REVIEW OF RULES.—The Administrator shall review current rules and regulations pertaining to flights of aircraft over units of the National Park System at which research is conducted under subsection (c) and over any other such units at which such a review is determined necessary by the Administrator or is requested by the Secretary. In the review under this subsection, the Administrator shall determine whether changes are needed in such rules and regulations on the basis of aviation safety. Not later than 180 days after the identification of the units of the National Park System for which research is to be conducted under subsection (c), the Administrator shall submit a report to Congress containing the results of the review along with recommendations for legislative and regulatory action which are needed to implement any such changes.

"(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the studies and review under this section.

"SEC. 2. FLIGHTS OVER YOSEMITE AND HALEAKAL DURING STUDY AND REVIEW.

"(a) YOSEMITE NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. For purposes of this subsection, the term 'surface' refers to the highest terrain within the park which is within 2,000 feet laterally of the route of flight and with respect to Yosemite Valley such term refers to the upper-most rim of the valley.

"(b) HALEAKAL NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude below 9,500 feet above mean sea level over the surface of any of the following areas in Haleakal National Park: Haleakala Crater, Crater Cabins, the Scientific Research Reserve, Halemauu Trail, Kaupo Gap Trail, or any designated tourist viewpoint.

"(c) STUDY AND REVIEW PERIODS.—For purposes of subsections (a) and (b), the study period shall be the period of the time after the date of enactment of this Act [Aug. 18, 1987] and prior to the submission of the report under section 1. The review period shall comprise a 2-year period for Congressional review after the submission of the report to Congress.

"(d) EXCEPTIONS.—The prohibitions contained in subsections (a) and (b) shall not apply to any of the following:

"(1) emergency situations involving the protection of persons or property, including aircraft;

"(2) search and rescue operations;

"(3) flights for purposes of firefighting or for required administrative purposes; and

"(4) compliance with instructions of an air traffic controller.

"(e) ENFORCEMENT.—For purposes of enforcement, the prohibitions contained in subsections (a) and (b) shall be treated as requirements established pursuant to section 307 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40103(b)]. To provide information to pilots regarding the restrictions established under this Act, the Administrator shall provide public notice of such restrictions in appropriate Federal Aviation Administration publications as soon as practicable after the enactment of this Act [Aug. 18, 1987].

"SEC. 3. GRAND CANYON NATIONAL PARK.

"(a) Noise associated with aircraft overflights at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

"(b) RECOMMENDATIONS.—

"(1) SUBMISSION.—Within 30 days after the enactment of this Act [Aug. 18, 1987], the Secretary shall submit to the Administrator recommendations regarding actions necessary for the protection of

resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations shall provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight. Except as provided in subsection (c), the recommendations shall contain provisions prohibiting the flight of aircraft below the rim of the Canyon, and shall designate flight free zones. Such zones shall be flight free except for purposes of administration and for emergency operations, including those required for the transportation of persons and supplies to and from Supai Village and the lands of the Havasupai Indian Tribe of Arizona. The Administrator, after consultation with the Secretary, shall define the rim of the Canyon in a manner consistent with the purposes of this paragraph.

"(2) IMPLEMENTATION.—Not later than 90 days after receipt of the recommendations under paragraph (1) and after notice and opportunity for hearing, the Administrator shall prepare and issue a final plan for the management of air traffic in the air space above the Grand Canyon. The plan shall, by appropriate regulation, implement the recommendations of the Secretary without change unless the Administrator determines that implementing the recommendations would adversely affect aviation safety. If the Administrator determines that implementing the recommendations would adversely affect aviation safety, he shall, not later than 60 days after making such determination, in consultation with the Secretary and after notice and opportunity for hearing, review the recommendations consistent with the requirements of paragraph (1) to eliminate the adverse effects on aviation safety and issue regulations implementing the revised recommendations in the plan. In addition to the Administrator's authority to implement such regulations under the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.], the Secretary may enforce the appropriate requirements of the plan under such rules and regulations applicable to the units of the National Park System as he deems appropriate.

"(3) REPORT.—Within 2 years after the effective date of the plan required by subsection (b)(2), the Secretary shall submit to the Congress a report discussing—

"(A) whether the plan has succeeded in substantially restoring the natural quiet in the park; and

"(B) such other matters, including possible revisions in the plan, as may be of interest.

The report shall include comments by the Administrator regarding the effect of the plan's implementation on aircraft safety.

"(c) HELICOPTER FLIGHTS OF RIVER RUNNERS.—Subsection (b) shall not prohibit the flight of helicopters—

"(1) which fly a direct route between a point on the north rim outside of the Grand Canyon National Park and locations on the Hualapai Indian Reservation (as designated by the Tribe); and

"(2) whose sole purpose is transporting individuals to or from boat trips on the Colorado River and any guide of such a trip.

"SEC. 4. BOUNDARY WATERS CANOE AREA WILDERNESS.

"The Administrator shall conduct surveillance of aircraft flights over the Boundary Waters Canoe Area Wilderness as authorized by the Act of October 21, 1978 (92 Stat. 1649–1659) for a period of not less than 180 days beginning within 60 days of enactment of this Act [Aug. 18, 1987]. In addition to any actions the Administrator may take as a result of such surveillance, he shall provide a report to the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Representatives and to the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation of the United States Senate. Such report is to be submitted within 30 days of completion of the surveillance activities. Such report shall include but not necessarily be limited to information on the type and frequency of aircraft using the airspace over the Boundary Waters Canoe Area Wilderness.

"SEC. 5. ASSESSMENT OF NATIONAL FOREST SYSTEM WILDERNESS OVERFLIGHTS.

"(a) ASSESSMENT BY FOREST SERVICE.—The Chief of the Forest Service (hereinafter referred to as the 'Chief') shall conduct an assessment to determine what, if any, adverse impacts to wilderness resources are associated with overflights of National Forest System wilderness areas. The Administrator of the Federal Aviation Administration shall provide technical assistance to the Chief in carrying out the assessment. Such assessment shall apply only to overflight of wilderness areas and shall not apply to aircraft flights or landings adjacent to National Forest System wilderness units. The assessment shall not apply to any National Forest System wilderness units in the State of Alaska.

"(b) REPORT TO CONGRESS.—The Chief shall submit a report to Congress within 2 years after enactment of this Act [Aug. 18, 1987] containing the results of the assessments carried out under this section.

"(c) AUTHORIZATION.—Effective October 1, 1987, there are authorized to be appropriated such sums as may be necessary to carry out the assessment under this section.

"SEC. 6. CONSULTATION WITH FEDERAL AGENCIES.

"In conducting the study and the assessment required by this Act, the Secretary of the Interior and the Chief of the Forest Service shall consult with other Federal agencies that are engaged in an analysis of the impacts of aircraft overflights over federally-owned land."

§40129. Collaborative decisionmaking pilot program

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

(c) GUIDELINES.—

(1) ISSUANCE.—The Administrator, with the concurrence of the Attorney General, shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall—

(A) define a capacity reduction event;

(B) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program; and

(C) prescribe the methods of communication to be implemented among carriers during such an event.

(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT .—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication. The Attorney General, or the Attorney General's designee, may monitor such communication.

(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 2 airports to participate in the pilot program from among the most capacity-constrained airports in the Nation based on the Administration's Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator, with the concurrence of the Attorney General, may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, with the concurrence of the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

(h) ANTITRUST IMMUNITY.—

(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the Secretary's intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier's or foreign air carrier's activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

(2) ANTITRUST LAWS DEFINED.—In this section, the term "antitrust laws" has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(i) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

(j) EVALUATION.—

(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, with the concurrence of the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

(k) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.

(Added Pub. L. 108–176, title IV, §423(a), Dec. 12, 2003, 117 Stat. 2552.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§40130. FAA authority to conduct criminal history record checks

(a) CRIMINAL HISTORY BACKGROUND CHECKS.—

(1) ACCESS TO INFORMATION.—The Administrator of the Federal Aviation

Administration, for certification purposes of the Administration only, is authorized—

(A) to conduct, in accordance with the established request process, a criminal history background check of an airman in the criminal repositories of the Federal Bureau of Investigation and States by submitting positive identification of the airman to a fingerprint-based repository in compliance with section 217 of the National Crime Prevention and Privacy Compact Act of 1998 (34 U.S.C. 40316); and

(B) to receive relevant criminal history record information regarding the airman checked.

(2) RELEASE OF INFORMATION.—In accessing a repository referred to in paragraph (1), the Administrator shall be subject to the conditions and procedures established by the Department of Justice or the State, as appropriate, for other governmental agencies conducting background checks for noncriminal justice purposes.

(3) LIMITATION.—The Administrator may not use the authority under paragraph (1) to conduct criminal investigations.

(4) REIMBURSEMENT.—The Administrator may collect reimbursement to process the fingerprint-based checks under this subsection, to be used for expenses incurred, including Federal Bureau of Investigation fees, in providing these services.

(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who may carry out the authority described in subsection (a).

(Added Pub. L. 112–95, title VIII, §802(a), Feb. 14, 2012, 126 Stat. 118; amended Pub. L. 118–63, title XI, §1101(h), May 16, 2024, 138 Stat. 1413.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(1)(A). Pub. L. 118–63 substituted "(34 U.S.C. 40316)" for "(42 U.S.C. 14616)".

§40131. National airspace system cyber threat management process

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration, in consultation with the heads of other agencies as the Administrator determines necessary, shall establish a national airspace system cyber threat management process to protect the national airspace system cyber environment, including the safety, security, and efficiency of air navigation services provided by the Administration.

(b) ISSUES TO BE ADDRESSED.—In establishing the national airspace system cyber threat management process under subsection (a), the Administrator shall, at a minimum—

(1) monitor the national airspace system for significant cybersecurity incidents;

(2) in consultation with appropriate Federal agencies, evaluate the cyber threat landscape for the national airspace system, including updating such evaluation on both annual and threat-based timelines;

(3) conduct national airspace system cyber incident analyses;

(4) create a cyber common operating picture for the national airspace system cyber environment;

(5) coordinate national airspace system significant cyber incident responses with other appropriate Federal agencies;

(6) track significant cyber incident detection, response, mitigation implementation, recovery, and closure;

(7) establish a process, or utilize existing processes, to share relevant significant cyber incident data related to the national airspace system;

(8) facilitate significant cybersecurity reporting, including through the Cybersecurity and Infrastructure Agency; and

(9) consider any other matter the Administrator determines appropriate.

(c) DEFINITIONS.—In this section:

(1) CYBER COMMON OPERATING PICTURE.—The term "cyber common operating picture" means the correlation of a detected cyber incident or cyber threat in the national airspace system and other operational anomalies to provide a holistic view of potential cause and impact.

(2) CYBER ENVIRONMENT.—The term "cyber environment" means the information environment consisting of the interdependent networks of information technology infrastructures and resident data, including the internet, telecommunications networks, computer systems, and embedded processors and controllers.

(3) CYBER INCIDENT.—The term "cyber incident" means an action that creates noticeable degradation, disruption, or destruction to the cyber environment and causes a safety or other negative impact on operations of—

(A) the national airspace system;

(B) civil aircraft; or

(C) aeronautical products and articles.

(4) CYBER THREAT.—The term "cyber threat" means the threat of an action that, if carried out, would constitute a cyber incident or an electronic attack.

(5) ELECTRONIC ATTACK.—The term "electronic attack" means the use of electromagnetic spectrum energy to impede operations in the cyber environment, including through techniques such as jamming or spoofing.

(6) SIGNIFICANT CYBER INCIDENT.—The term "significant cyber incident" means a cyber incident, or a group of related cyber incidents, that the Administrator determines is likely to result in demonstrable harm to the national airspace system of the United States.

(Added Pub. L. 118–63, title III, §393(a), May 16, 2024, 138 Stat. 1144.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CYBERSECURITY LEAD

Pub. L. 118–63, title II, §217, May 16, 2024, 138 Stat. 1055, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall designate an executive of the FAA [Federal Aviation Administration] to serve as the lead for the cybersecurity of FAA systems and hardware (in this section referred to as the 'Cybersecurity Lead').

"(b) DUTIES.—The Cybersecurity Lead shall carry out duties and powers prescribed by the Administrator, including the management of activities required under subtitle B of title III.

"(c) BRIEFING.—Not later than 1 and 3 years after the date of enactment of this Act [May 16, 2024], the Cybersecurity Lead shall brief the appropriate committees of Congress on the implementation of subtitle B of title III."

CIVIL AVIATION CYBERSECURITY RULEMAKING COMMITTEE

Pub. L. 118–63, title III, §395, May 16, 2024, 138 Stat. 1145, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall convene an aviation rulemaking committee on civil aircraft cybersecurity to conduct reviews (as segmented under subsection (c)) and develop findings and recommendations on cybersecurity standards for civil aircraft, aircraft ground support information systems, airports, air traffic control mission systems, and aeronautical products and articles.

"(b) DUTIES.—The Administrator shall—

"(1) for each segmented review conducted by the committee convened under subsection (a), submit to the appropriate committees of Congress a report based on the findings of such review; and

"(2) not later than 180 days after the date of submission of a report under paragraph (1) and, in consultation with other agencies as the Administrator determines necessary, for consensus recommendations reached by such aviation rulemaking committee—

"(A) undertake a rulemaking, if appropriate, based on such recommendations; and

"(B) submit to the appropriate committees of Congress a supplemental report with explanations

for each consensus recommendation not addressed, if applicable, by a rulemaking under subparagraph (A).

"(c) SEGMENTATION.—In tasking the aviation rulemaking committee with developing findings and recommendations relating to aviation cybersecurity, the Administrator shall direct such committee to segment and sequence work by the topic or subject matter of regulation, including by directing the committee to establish subgroups to consider different topics and subject matters.

"(d) COMPOSITION.—The aviation rulemaking committee convened under subsection (a) shall consist of members appointed by the Administrator, including representatives of—

"(1) aircraft manufacturers, to include at least 1 manufacturer of transport category aircraft;

"(2) air carriers;

"(3) unmanned aircraft system stakeholders, including operators, service suppliers, and manufacturers of hardware components and software applications;

"(4) manufacturers of powered-lift aircraft;

"(5) airports;

"(6) original equipment manufacturers of ground and space-based aviation infrastructure;

"(7) aviation safety experts with specific knowledge of aircraft cybersecurity; and

"(8) a nonprofit which operates 1 or more federally funded research and development centers with specific knowledge of aviation and cybersecurity.

"(e) MEMBER ELIGIBILITY.—Prior to a member's appointment under subsection (c) [probably should be "subsection (d)"], the Administrator shall establish appropriate requirements related to nondisclosure, background investigations, security clearances, or other screening mechanisms for applicable members of the aviation rulemaking committee who require access to sensitive security information or other protected information relevant to the member's duties on the rulemaking committee. Members shall protect the sensitive security information in accordance with part 1520 of title 49, Code of Federal Regulations.

"(f) PROHIBITION ON COMPENSATION.—The members of the aviation rulemaking committee convened under subsection (a) shall not receive pay, allowances, or benefits from the Government by reason of their service on such committee.

"(g) CONSIDERATIONS.—The Administrator may direct such committee to consider—

"(1) existing aviation cybersecurity standards, regulations, policies, and guidance, including those from other Federal agencies, and the need to harmonize or deconflict proposed and existing standards, regulations, policies, and guidance;

"(2) threat- and risk-based security approaches used by the aviation industry, including the assessment of the potential costs and benefits of cybersecurity actions;

"(3) data gathered from cybersecurity or safety reporting;

"(4) the diversity of operations and systems on aircraft and amongst air carriers;

"(5) design approval holder aircraft network security guidance for operators;

"(6) FAA services, aviation industry services, and aircraft use of positioning, navigation, and timing data in the context of Executive Order No. 13905 [6 U.S.C. 651 note], as in effect on the date of enactment of this Act;

"(7) updates needed to airworthiness regulations and systems safety assessment methods used to show compliance with airworthiness requirements for design, function, installation, and certification of civil aircraft, aeronautical products and articles, and aircraft networks;

"(8) updates needed to air carrier operating and maintenance regulations to ensure continued adherence with processes and procedures established in airworthiness regulations to provide cybersecurity protections for aircraft systems, including for continued airworthiness;

"(9) policies and procedures to coordinate with other Federal agencies, including intelligence agencies, and the aviation industry in sharing information and analyses related to cyber threats to civil aircraft information, data, networks, systems, services, operations, and technology and aeronautical products and articles;

"(10) the response of the Administrator and aviation industry to, and recovery from, cyber incidents, including by coordinating with other Federal agencies, including intelligence agencies;

"(11) processes for members of the aviation industry to voluntarily report to the FAA cyber incidents that may affect aviation safety in a manner that protects trade secrets and confidential business information;

"(12) appropriate cybersecurity controls for aircraft networks, aircraft systems, and aeronautical products and articles to protect aviation safety, including airworthiness;

"(13) appropriate cybersecurity controls for airports relative to the size and nature of airside operations of such airports to ensure aviation safety;

"(14) minimum standards for protecting civil aircraft, aeronautical products and articles, aviation

networks, aviation systems, services, and operations from cyber threats and cyber incidents;

"(15) international collaboration, where appropriate and consistent with the interests of aviation safety in air commerce and national security, with other civil aviation authorities, international aviation and standards organizations, and any other appropriate entities to protect civil aviation from cyber incidents and cyber threats;

"(16) activities of the Administrator under section 506 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 44704 note) (as amended by section 394); and

"(17) any other matter the Administrator determines appropriate.

"(h) DEFINITIONS.—The definitions set forth in section 40131 of title 49, United States Code (as added by this subtitle), shall apply to this section."

§40132. National strategic plan for aviation workforce development

(a) IN GENERAL.—Not later than September 30, 2025, the Secretary of Transportation shall, in consultation with other Federal agencies and the Cooperative Aviation Recruitment, Enrichment, and Employment Readiness Council (in this section referred to as the "CAREER Council") established in subsection (c), establish and maintain a national strategic plan to improve recruitment, hiring, and retention and address projected challenges in the civil aviation workforce, including—

(1) any short-term, medium-term, and long-term workforce challenges relevant to the economy, workforce readiness, and priorities of the United States aviation sector;

(2) any existing or projected workforce shortages; and

(3) any workforce situation or condition that warrants special attention by the Federal Government.

(b) REQUIREMENTS.—The national strategic plan described in subsection (a) shall—

(1) take into account the activities and accomplishments of all Federal agencies that are related to carrying out such plan;

(2) include recommendations for carrying out such plan; and

(3) project and identify, on an annual basis, aviation workforce challenges, including any applicable workforce shortages.

(c) CAREER COUNCIL.—

(1) ESTABLISHMENT.—Not later than September 30, 2025, the Secretary, in consultation with the Administrator, shall establish a council comprised of individuals with expertise in the civil aviation industry to—

(A) assist with developing and maintaining the national strategic plan described in subsection (a); and

(B) provide advice to the Secretary, as appropriate, relating to the CAREER Program established under section 625 of the FAA Reauthorization Act of 2018, including as such advice relates to program administration and grant application selection, and support the development of performance metrics regarding the quality and outcomes of the Program.

(2) APPOINTMENT.—The CAREER Council shall be appointed by the Secretary from candidates nominated by national associations representing various sectors of the aviation industry, including—

(A) commercial aviation;

(B) general aviation;

(C) aviation labor organizations, including collective bargaining representatives of Federal Aviation Administration aviation safety inspectors, aviation safety engineers, and air traffic controllers;

(D) aviation maintenance, repair, and overhaul;

(E) aviation manufacturers; and

(F) unmanned aviation.

(3) TERM.—Each council member appointed by the Secretary under paragraph (2) shall serve a term of 2 years.

(d) NONDELEGATION.—The Secretary may not delegate any of the authorities or responsibilities under this section to the Administrator of the Federal Aviation Administration.

(Added Pub. L. 118–63, title IV, §441(a), May 16, 2024, 138 Stat. 1184.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 625 of the FAA Reauthorization Act of 2018, referred to in subsec. (c)(1)(B), is section 625 of Pub. L. 115–254, which is set out as a note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PILOT PROGRAM TO PROVIDE VETERANS WITH PILOT TRAINING SERVICES

Pub. L. 118–63, title IV, §418, May 16, 2024, 138 Stat. 1162, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation], in consultation with the Secretary of Education and the Secretary of Veterans Affairs, shall establish a pilot program to provide grants to eligible entities to provide pilot training activities and related education to support a pathway for veterans to become commercial aviators.

"(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a pilot school or provisional pilot school that—

"(1) holds an Air Agency Certificate under part 141 of title 14, Code of Federal Regulations; and

"(2) has an established employment pathway with at least 1 air carrier operating under part 121 or 135 of title 14, Code of Federal Regulations.

"(c) PRIORITY APPLICATION.—In selecting eligible entities under this section, the Secretary shall prioritize eligible entities that meet the following criteria:

"(1) An eligible entity accredited (as defined in section 61.1 of title 14, Code of Federal Regulations) by an accrediting agency recognized by the Secretary of Education.

"(2) An eligible entity that holds a letter of authorization issued in accordance with section 61.169 of title 14, Code of Federal Regulations.

"(d) USE OF FUNDS.—Amounts from a grant received by an eligible entity under the pilot program established under subsection (a) shall be used for the following:

"(1) Administrative costs related to implementation of the program described in subsection (a) not to exceed 5 percent of the amount awarded.

"(2) To provide guidance and pilot training services, including tuition and flight training fees for veterans enrolled with an eligible entity, to support such veterans in obtaining any of the following pilot certificates and ratings:

"(A) Private pilot certificate with airplane single-engine or multi-engine ratings.

"(B) Instrument rating.

"(C) Commercial pilot certificate with airplane single-engine or multi-engine ratings.

"(D) Multi-engine rating.

"(E) Certificated flight instructor single-engine certificate, if applicable to the degree sought.

"(F) Certificated flight instructor multi-engine certificate, if applicable to the degree sought.

"(G) Certificated flight instructor instrument certificate, if applicable to the degree sought.

"(3) To provide educational materials, training materials, and equipment to support pilot training activities and related education for veterans enrolled with the eligible entity.

"(4) To provide periodic reports to the Secretary on use of the grant funds, including documentation of training completion of the certificates and ratings described in subparagraphs (A) through (G) of paragraph (2).

"(e) AWARD AMOUNT LIMIT.—An award granted to an eligible entity shall not exceed more than $750,000 in any given fiscal year.

"(f) APPROPRIATIONS.—To carry out this section, there is authorized to be appropriated $5,000,000 for each of fiscal years 2025 through 2028."

AVIATION WORKFORCE DEVELOPMENT PROGRAMS

Pub. L. 115–254, div. B, title VI, §625, Oct. 5, 2018, 132 Stat. 3405, as amended by Pub. L. 116–92, div. A, title XVII, §1743(a), Dec. 20, 2019, 133 Stat. 1842; Pub. L. 118–63, title IV, §440(a), May 16, 2024, 138 Stat. 1179, provided that:

"(a) IN GENERAL.—The Secretary of Transportation shall establish—

"(1) a program to provide grants for eligible projects to support the education and recruitment of future aircraft pilots and the development of the aircraft pilot workforce;

"(2) a program to provide grants for eligible projects to support the education and recruitment of aviation maintenance technical workers and the development of the aviation maintenance workforce; and

"(3) a program to provide grants for eligible projects to support the education and recruitment of aviation manufacturing technical workers and aerospace engineers and the development of the aviation manufacturing workforce.

"(b) PROJECT GRANTS.—

"(1) IN GENERAL.—Out of amounts made available under section 48105 of title 49, United States Code, there is authorized to be appropriated—

"(A) $20,000,000 for each of fiscal years 2025 through 2028 to provide grants under the program established under subsection (a)(1);

"(B) $20,000,000 for each of fiscal years 2025 through 2028 to provide grants under the program established under subsection (a)(2); and

"(C) $20,000,000 for each of fiscal years 2025 through 2028 to provide grants under the program established under subsection (a)(3).

"(2) DOLLAR AMOUNT LIMIT.—In providing grants under the programs established under subsection (a), the Secretary may not make any grant more than $1,000,000 to any eligible entity in any 1 fiscal year.

"(3) EDUCATION PROJECTS.—The Secretary [of Transportation] shall ensure that not less than 20 percent of the amounts made available under this subsection is used to carry out a grant program that shall be referred to as the 'Willa Brown Aviation Education Program' under which the Secretary shall provide grants for eligible projects described in subsection (d) that are carried out in counties containing at least 1 qualified opportunity zone (as such term is defined in section 1400Z–1(a) of the Internal Revenue Code of 1986 [26 U.S.C. 1400Z–1(a)]).

"(4) SET ASIDE FOR TECHNICAL ASSISTANCE.—The Secretary may set aside up to 2 percent of the funds appropriated to carry out this subsection for each of fiscal years 2025 through 2028 to provide technical assistance to eligible applicants for a grant under this subsection.

"(5) CONSIDERATION FOR CERTAIN APPLICANTS.—In reviewing and selecting applications for grants under the programs established under subsection (a), the Secretary may give consideration to applicants that provide an assurance—

"(A) to use grant funds to encourage the participation of populations that are underrepresented in the aviation industry, including in economically disadvantaged geographic areas and rural communities;

"(B) to address the workforce needs of rural and regional airports; or

"(C) to strengthen aviation programs at a minority-serving institution (as described in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)), a public institution of higher education, or a public postsecondary vocational institution.

"(c) ELIGIBLE APPLICATIONS.—

"(1) APPLICATION FOR AIRCRAFT PILOT PROGRAM.—An application for a grant under the program established under subsection (a)(1) may be submitted, in such form as the Secretary may specify, by—

"(A) an air carrier (as such term is defined in section 40102 of title 49, United States Code);

"(B) an entity that holds management specifications under subpart K of title 91 of title 14, Code of Federal Regulations;

"(C) an accredited institution of higher education, a postsecondary vocational institution, or a high school or secondary school;

"(D) a flight school that provides flight training, as such term is defined in part 61 of title 14, Code of Federal Regulations, or that holds a pilot school certificate under part 141 of title 14, Code of Federal Regulations;

"(E) a labor organization representing professional aircraft pilots;

"(F) an aviation-related nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)] that is exempt from taxation under section 501(a) of such Code [26 U.S.C. 501(a)]; or

"(G) a State, local, territorial, or Tribal governmental entity.

"(2) APPLICATION FOR AVIATION MAINTENANCE PROGRAM.—An application for a grant under the program established under subsection (a)(2) may be submitted, in such form as the Secretary may specify, by—

"(A) a holder of a certificate issued under part 21, 121, 135, 145, or 147 of title 14, Code of Federal Regulations;

"(B) a labor organization representing aviation maintenance workers;

"(C) an accredited institution of higher education, a postsecondary vocational institution, or a high school or secondary school;

"(D) an aviation-related nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code; or

"(E) a State, local, territorial, or Tribal governmental entity.

"(3) APPLICATION FOR AVIATION MANUFACTURING PROGRAM.—An application for a grant under the program established under subsection (a)(3) may be submitted, in such form as the Secretary may specify, by—

"(A) a holder of a type or production certificate or similar authorization issued under section 44704 of title 49, United States Code;

"(B) an accredited institution of higher education, a postsecondary vocational institution, or a high school or secondary school;

"(C) an aviation-related nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code ;

"(D) a labor organization representing aerospace engineering, design, or manufacturing workers; or

"(E) a State, local, territorial, or Tribal governmental entity.

"(d) ELIGIBLE PROJECTS.—

"(1) AIRCRAFT PILOT PROGRAM.—For purposes of the program established under subsection (a)(1), an eligible project is a project—

"(A) to create and deliver a program or curriculum that provides high school or secondary school students and students of institutions of higher education with meaningful aviation education to become aircraft pilots or unmanned aircraft systems operators, including purchasing and operating a computer-based simulator associated with such curriculum;

"(B) to establish or improve registered apprenticeship, internship, or scholarship programs for individuals pursuing employment as a professional aircraft pilot or unmanned aircraft systems operator;

"(C) to create and deliver curriculum that provides certified flight instructors with the necessary instructional, leadership, and communication skills to better educate student pilots;

"(D) to support the transition to professional aircraft pilot or unmanned systems operator careers, including for members and veterans of the armed forces;

"(E) to support robust outreach about careers in commercial aviation as a professional aircraft pilot or unmanned system operator, including outreach to populations that are underrepresented in the aviation industry; or

"(F) to otherwise enhance or expand the aircraft pilot or unmanned aircraft system operator workforce.

"(2) AVIATION MAINTENANCE PROGRAM.—For purposes of the program established under subsection (a)(2), an eligible project is a project—

"(A) to create and deliver a program or curriculum that provides high school and secondary school students and students of institutions of higher education with meaningful aviation maintenance education to become an aviation mechanic or aviation maintenance technician, including purchasing and operating equipment associated with such curriculum;

"(B) to establish or improve registered apprenticeship, internship, or scholarship programs for individuals pursuing employment in the aviation maintenance industry;

"(C) to support the transition to aviation maintenance careers, including for members and veterans of the armed forces;

"(D) to support robust outreach about careers in the aviation maintenance industry, including outreach to populations that are underrepresented in the aviation industry; or

"(E) to otherwise enhance or expand the aviation maintenance technical workforce.

"(3) AVIATION MANUFACTURING PROGRAM.—For purposes of the program established under subsection (a)(3), an eligible project is a project—

"(A) to create and deliver a program or curriculum that provides high school and secondary school students and students of institutions of higher education with meaningful aviation manufacturing

education to become an aviation manufacturing technical worker or aerospace engineer, including teaching technical skills used in the engineering and production of components, parts, or systems thereof for inclusion in an aircraft, aircraft engine, propeller, or appliance;

"(B) to establish registered apprenticeship, internship, or scholarship programs for individuals pursuing employment in the aviation manufacturing industry;

"(C) to support the transition to aviation manufacturing careers, including for members and veterans of the armed forces;

"(D) to support robust outreach about careers in the aviation manufacturing industry, including outreach to populations that are underrepresented in the aviation industry; or

"(E) to otherwise enhance or expand the aviation manufacturing workforce.

"(e) REPORTING AND MONITORING REQUIREMENTS.—The Secretary shall establish reasonable reporting and monitoring requirements for grant recipients under this section to measure relevant outcomes for the grant programs established under subsection (a).

"(f) NOTICE OF GRANTS.—

"(1) TIMELY PUBLIC NOTICE.—The Secretary shall provide public notice of any grant awarded under this section in a timely fashion after the Secretary awards such grant.

"(2) NOTICE TO CONGRESS.—The Secretary shall provide to the appropriate Committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] advance notice of a grant to be made under this section.

"(g) Grant Authority.—

"(1) LIMIT ON FAA AUTHORITY.—The authority of the Administrator of the Federal Aviation Administration, acting on behalf of the Secretary, to issue grants under this section shall terminate on October 1, 2027.

"(2) NONDELEGATION.—Beginning on October 1, 2027, the Secretary shall issue grants under this section and may not delegate any of the authorities or responsibilities under this section to the Administrator.

"(h) PROGRAM NAME REDESIGNATION.—Beginning on October 1, 2027, the Secretary shall redesignate the name of the program established under subsection (a) as the 'Cooperative Aviation Recruitment, Enrichment, and Employment Readiness Program' or the 'CAREER Program'.

"(i) CONSULTATION WITH SECRETARY OF EDUCATION.—The Secretary may consult with the Secretary of Education, as appropriate, in—

"(1) reviewing applications for grants for eligible projects under this section; and

"(2) developing considerations regarding program quality and measurement of student outcomes.

"(j) REPORT.—Not later than September 30, 2028, the Secretary shall submit to the appropriate committees of Congress a report on the administration of the programs established under subsection (a) covering each of fiscal years 2025 through 2028 that includes—

"(1) a summary of projects awarded grants under this section and the progress of each recipient towards fulfilling program expectations;

"(2) an evaluation of how such projects cumulatively impact the future supply of individuals in the United States aviation workforce, including any related best practices for carrying out such projects;

"(3) recommendations for better coordinating actions by governmental entities, educational institutions, and businesses, aviation labor organizations, or other stakeholders to support aviation workforce growth;

"(4) a review of how many grant recipients engaged with veterans and the resulting impact, if applicable, on recruiting and retaining veterans as part of the aviation workforce; and

"(5) a review of outreach conducted by grant recipients to encourage individuals to participate in aviation careers and the resulting impact, if applicable, on recruiting and retaining such individuals as part of the aviation workforce.

"(k) PROGRAM AUTHORITY SUNSET.—The authority of the Secretary to issue grants under this section shall expire on October 1, 2028.

"(l) DEFINITIONS.—In this section:

"(1) ARMED FORCES.—The term 'armed forces' has the meaning given such term in section 101 of title 10, United States Code.

"(2) HIGH SCHOOL.—The term 'high school' has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)).

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(4) POSTSECONDARY VOCATIONAL INSTITUTION.—The term 'postsecondary vocational institution' has the meaning given such term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).

"(5) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801))."

[Pub. L. 118–63, title IV, §440(b), May 16, 2024, 138 Stat. 1184, provided that: "The amendment made by subsection (a) [amending section 625 of Pub. L. 115–254, set out above] shall take effect on October 1, 2024."]

[Pub. L. 116–92, div. A, title XVII, §1743(b), Dec. 20, 2019, 133 Stat. 1842, provided that: "The amendments made by subsection (a) [amending section 625 of Pub. L. 115–254, set out above] shall take effect as if included in the enactment of the FAA Reauthorization Act of 2018 (Public Law 115–254)."]

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.

41101. Requirement for a certificate.
41102. General, temporary, and charter air transportation certificates of air carriers.
41103. All-cargo air transportation certificates of air carriers.
41104. Additional limitations and requirements of charter air carriers.
41105. Transfers of certificates.
41106. Airlift service.
41107. Transportation of mail.
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41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates.
41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates.
41112. Liability insurance and financial responsibility.
41113. Plans to address needs of families of passengers involved in aircraft accidents.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–264, title VII, §703(b), Oct. 9, 1996, 110 Stat. 3268, added item 41113.

§41101. Requirement for a certificate

(a) GENERAL.—Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) THROUGH SERVICE AND JOINT TRANSPORTATION.—A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) PROPRIETARY OR EXCLUSIVE RIGHT NOT CONFERRED.—A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1118.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41101(a)(1)	49 App.:1371(a).	Aug. 23, 1958, Pub. L. 85–726, §401(a), (i), 72 Stat. 754, 756.
41101(a)(2)	49 App.:1301(14) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(14) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, §2(a)(1), 92 Stat. 1705.
41101(a)(3)	(no source).	
41101(b)	49 App.:1371(d) (4)(A)(i), (ii) (related to joint services).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d) (4)(A)(i), (ii) (related to joint services); added Nov. 9, 1977, Pub. L. 95–163, §9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, §9, 92 Stat. 1713.
41101(c)	49 App.:1371(i).	

In subsections (a)(2) and (c), the words "issued under this chapter" are added for clarity.

In subsection (a), the word "provide" is substituted for "engage in" for consistency in the revised title. The words before clause (1) are added to inform the reader that other provisions of the chapter and other laws qualify the requirement of being licensed by the Secretary of Transportation. In clause (1), the word "holds" is substituted for "there is in force" to eliminate unnecessary words. The words "under this chapter" are substituted for "by the Board" for clarity. In clause (2), the words "of public convenience and necessity" are omitted as surplus. Clause (3) is included to inform the reader at the beginning of this chapter about all of the types of certificates and permits that the Secretary may issue under this subchapter.

In subsection (b), the word "passengers" is substituted for "persons" for consistency in the revised title. Before clause (1), the words "Notwithstanding any other provision of this chapter" are omitted as surplus. The words "providing transportation" are substituted for "undertakes . . . the carriage of" for consistency in the revised title. The words "or hire" are omitted as surplus and for consistency. The words "for such carriage within such State" are omitted as surplus. In clause (1), the words "through service" are substituted for "transportation" the first time it appears for clarity. In clause (2), the words "the requirements of" and "for such through services" are omitted as surplus.

In subsection (c), the word "property" is omitted as surplus. The words "landing area" are omitted because they are included in the definition of "air navigation facility" in section 40102(a) of the revised title.

§41102. General, temporary, and charter air transportation certificates of air carriers

(a) ISSUANCE.—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

(1) air transportation as an air carrier.

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b) FINDINGS REQUIRED FOR ISSUANCE.—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) TEMPORARY CERTIFICATES.—The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) FOREIGN AIR TRANSPORTATION.—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1119.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41102(a)	49 App.:1371(d)(1) (words before 1st comma and after semicolon), (2) (1st–32d words).	Aug. 23, 1958, Pub. L. 85–726, §401(d)(1), (2), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, §4, 94 Stat. 37.
	49 App.:1371(d)(3) (words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(3); added July 10, 1962, Pub. L. 87–528, §2, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, §8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, §4, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41102(b)(1)	49 App.:1371(d)(1) (words between 1st and last commas), (2) (42d–last words), (3) (words after 7th comma).	
	49 App.:1551(b)(1)(E).	
41102(b)(2)	49 App.:1371(d)(1) (words between last comma and semicolon), (2) (33d–41st words), (3) (words between 6th and 7th commas).	
	49 App.:1551(a)(1)(A).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a) (1)(A), (B); added Oct. 24, 1978, Pub. L. 95–504,

		§40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41102(c)	49 App.:1371(d)(8) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(8) (1st sentence); added Oct. 24, 1978, Pub. L. 95–504, §13, 92 Stat. 1718.
	49 App.:1551(a)(1)(B), (b)(1)(E).	
41102(d)	(no source).	

In this section, the words "citizen of the United States" and "citizen" are substituted for "applicant" for clarity and consistency because only a citizen of the United States may be an "air carrier" as defined in section 40102(a) of the revised title, and only an air carrier may be a "charter air carrier" as defined in section 40102(a). The word "provide" is substituted for "perform" for consistency in the revised title.

In subsection (a), before clause (1), the words "of public convenience and necessity" are added for clarity. The words "any part of" are substituted for "the whole or any part of" to eliminate unnecessary words. In clauses (2) and (3), the words "In the case of" are omitted as surplus. In clause (3), the words "for such periods" are omitted as surplus.

In subsection (b)(1), the word "comply" is substituted for "conform" for consistency in the revised title. The words "properly" and "requirements" are omitted as surplus. The word "rules" is omitted as being synonymous with "regulations".

In subsection (b)(2), the words "foreign air transportation" are added because 49 App.:1551(a)(1)(A) provides that 49 App.:1371(d)(1)–(3) no longer applies to interstate or overseas transportation of persons. After January 1, 1985, other interstate and overseas air transportation and the domestic air transportation of mail do not require a certificate of public convenience and necessity. See H. Rept. 98–793, 98th Cong., 2d Sess., p.10 (1984).

In subsection (c), before clause (1), the words "issue a certificate" are substituted for "grant an application" for consistency in this chapter. The words "for interstate air transportation (except the transportation of passengers) or foreign air transportation" are added for clarity and consistency. The word "only" is omitted as surplus. In clause (1), the word "prices" is substituted for "rates, fares, charges" because of the definition of "price" in section 40102(a) of the revised title. The words "in fact" are omitted as surplus. In clause (2), the words "to assess the impact of the new services on the national air route structure, or otherwise" are omitted as surplus.

Subsection (d) is added for clarity.

§41103. All-cargo air transportation certificates of air carriers

(a) APPLICATIONS.—A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) ISSUANCE.—Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) TERMS.—The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or prices charged by the holder of the certificate.

(d) EXEMPTIONS AND STATUS.—A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1119; Pub. L. 103–429, §6(49), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41103(a)	49 App.:1388(a)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §418(a)(4); added Nov. 9, 1977, Pub. L. 95–163, §17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, §1, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41103(b)	49 App.:1388(b)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §418(b)(1)(B); added Nov. 9, 1977, Pub. L. 95–163, §17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, §3, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	
41103(c)	49 App.:1388(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §418(b)(2), (c), (d); added Nov. 9, 1977, Pub. L. 95–163, §17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41103(d)(1)	49 App.:1388(c).	
	49 App.:1551(b)(1)(E).	
41103(d)(2)	49 App.:1388(d).	

In subsection (a), the words "After the three hundred and sixty-fifth day which begins after November 9, 1977" are omitted as executed. The words "under this section" are omitted as surplus. The words "authorizing the citizen" are added for clarity and consistency in this chapter.

In subsection (b), the words "pursuant to paragraph (4) of subsection (a) of this section" are omitted as surplus. The word "citizen" is substituted for "applicant" for clarity and consistency because only a citizen of the United States may be an "air carrier" as defined in section 40102(a) of the revised title and only an air carrier can provide all–cargo air transportation. The words "to provide" are added for clarity and consistency in this subchapter. The word "rules" is omitted as being synonymous with "regulations". The word "promulgated" is omitted as surplus.

In subsection (c), the words "reasonable", "and limitations", and "and conditions" are omitted as surplus. The word "places" is substituted for "points" for consistency in the revised title.

PUB. L. 103–429

This amends 49:41103(a) to make the term consistent throughout subtitle VII of title 49.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted "all-cargo" for "all-property".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§41104. Additional limitations and requirements of charter air carriers

(a) RESTRICTIONS.—The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) SCHEDULED OPERATIONS.—

(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), an air carrier, including an indirect air carrier, may not provide, in aircraft designed for more than 9 passenger seats, regularly scheduled charter air transportation, for which the public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flight, to or from an airport that—

(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.

(2) DEFINITION.—In this paragraph, the term "regularly scheduled charter air transportation" does not include operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative.

(3) EXCEPTION.—This subsection does not apply to any airport in the State of Alaska or to any airport outside the United States.

(4) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires.

(c) ALASKA.—An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(d) SUSPENSIONS.—(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2) The Secretary shall begin immediately a hearing to decide if the certificate referred to in paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1120; Pub. L. 106–181, title VII, §723, Apr. 5, 2000, 114 Stat. 165; Pub. L. 106–528, §8(c), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 108–176, title VIII, §822, Dec. 12, 2003, 117 Stat. 2594.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41104(a)	49 App.:1371(n)(2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(n)(2)–(4); added July 10, 1962, Pub. L. 87–528, §4, 76 Stat. 144; restated Oct. 24, 1978, Pub. L. 95–504, §20(b), 92 Stat. 1721.
	49 App.:1551(a)(1)(E) (related to 49 App.:1371(n)(4)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(1)(E) (related to §401(n)(4)); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41104(b)	49 App.:1371(n)(3). 49 App.:1551(b)(1)(E).	
41104(c)	49 App.:1371(n)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(n)(5); added July 10, 1962, Pub. L. 87–528, §4, 76 Stat. 145; Oct. 24, 1978, Pub. L. 95–504, §20(c), 92 Stat. 1722.
	49 App.:1371(n)(6). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(n)(6); added July 10, 1962, Pub. L. 87–528, §4, 76 Stat. 145.

In subsection (a), the word "rule" is omitted as being synonymous with "regulation". The words "charter air transportation" are substituted for "charter trips" for consistency in this part. The text of 49 App.:1371(n)(4) and 1551(n)(1)(E) (related to 49 App.:1371(n)(4)) is omitted because inclusive tour charters have been abolished and charter air carriers have received authority to sell public charter flights directly to the public.

In subsection (b), before clause (1), the words "Notwithstanding any other provision of this subchapter" are omitted as surplus. The words "An air carrier holding" are added for clarity. The words "State of" are omitted as surplus. The word "modifying" is added for consistency in the revised title. The words "citizen of the United States" are substituted for "person" for clarity and consistency because only a citizen of the United States may be an "air carrier" as defined in section 40102(a) of the revised title.

In subsection (c), the words "the requirements described in" are added for clarity.

In subsection (c)(1), the text of 49 App.:1371(n)(6) is omitted as surplus because of 49:322(a).
In subsection (c)(2), the word "amended" is added for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–176, §822(a), inserted a comma after "regularly scheduled charter air transportation", substituted "paragraphs (3) and (4)" for "paragraph (3)" and "flight, to or from an airport that—" for "flight unless such air transportation is to and from an airport that has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation).", and added subpars. (A) and (B).

Subsec. (b)(4). Pub. L. 108–176, §822(b), added par. (4).

2000—Subsec. (b). Pub. L. 106–181, §723(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(1). Pub. L. 106–528, §8(c)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "An air carrier, including an indirect air carrier, which operates aircraft designed for more than nine passenger seats, may not provide regularly scheduled charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights to or from an airport that is not located in Alaska and that does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations)."

Subsec. (b)(3). Pub. L. 106–528, §8(c)(2), added par. (3).

Subsecs. (c), (d). Pub. L. 106–181, §723(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§41105. Transfers of certificates

(a) GENERAL.—A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as being consistent with the public interest.

(b) CERTIFICATION TO CONGRESS.—When a certificate is transferred, the Secretary shall certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that the transfer is consistent with the public interest. The Secretary shall include with the certification a report analyzing the effects of the transfer on—

(1) the viability of each carrier involved in the transfer;

(2) competition in the domestic airline industry; and

(3) the trade position of the United States in the international air transportation market.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41105(a)	49 App.:1371(h)(1).	Aug. 23, 1958, Pub. L. 85–726, §401(h)(1), 72 Stat. 756; Nov. 5, 1990, Pub. L. 101–508, §9127(1), 104 Stat. 1388–371.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41105(b)	49 App.:1371(h)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(h)(2), (3); added Nov. 5, 1990, Pub. L. 101–508, §9127(2), 104 Stat. 1388–371.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

§41106. Airlift service

(a) INTERSTATE TRANSPORTATION.—(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by CRAF-eligible aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS .—Except as provided in subsection (d), the transportation of passengers or property by CRAF-eligible aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.—The transportation of passengers or property by CRAF-eligible aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a) whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(e) CRAF-ELIGIBLE AIRCRAFT DEFINED.—In this section, "CRAF-eligible aircraft" means aircraft of a type the Secretary of Defense has determined to be eligible to participate in the civil reserve air fleet.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 106–398, §1 [[div. A], title III, §385(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–87; Pub. L. 112–81, div. A, title III, §365, Dec. 31, 2011, 125 Stat. 1380.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41106	49 App.:1371(*o*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(*o*); added July 12, 1976, Pub. L. 94–353, §18(a), 90 Stat. 883.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word "passengers" is substituted for "persons" for consistency in the revised title. The words "Secretary of Defense" are substituted for "Department of Defense" because of 10:113(a). The words "an air carrier" are substituted for "carriers" for clarity.

In subsection (b), the words "to provide the service" are added for clarity.

EDITORIAL NOTES

AMENDMENTS

2011—Subsecs. (a)(1), (b). Pub. L. 112–81, §365(a)(1), substituted "CRAF-eligible aircraft" for "transport category aircraft".

Subsec. (c). Pub. L. 112–81, §365(a), substituted "CRAF-eligible aircraft" for "transport category aircraft" and "referred to in subsection (a)" for "that has aircraft in the civil reserve air fleet".

Subsec. (e). Pub. L. 112–81, §365(b), added subsec. (e).

2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title III, §385(a)(1), (b)], in heading substituted "Interstate Transportation" for "General" and in introductory provisions of par. (1), substituted "Except as provided in subsection (d) of this section," for "Except as provided in subsection (b) of this section," and struck out "of at least 31 days" after "through a contract".

Subsecs. (b) to (d). Pub. L. 106–398, §1 [[div. A], title III, §385(a)(2), (3)], added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title III, §385(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–87, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2000."

§41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

(Pub. L. 103–272, §§1(e), 4(k)(1), July 5, 1994, 108 Stat. 1121, 1370; Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41107	49 App.:1371(m).	Aug. 23, 1958, Pub. L. 85–726, §401(m), 72 Stat. 757.
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(m)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(A) (related to §401(m)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.

The words "from time to time" are omitted as surplus. The words "United States Postal Service" and "Postal Service" are substituted for "Postmaster General" in section 401(m) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 757) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783). The words "in foreign air transportation or between places in Alaska" are substituted for "between any points within the United States or between the United States and foreign countries" for consistency in the revised title and because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(m) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In addition, Congress did not intend to maintain the regulation of domestic air transportation of mail. See section 40102(a) of the revised title defining "air transportation" to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word "currently" is omitted as surplus. The words "opportunity for a" are added for consistency in the revised title and with other titles of the United States Code. The words "or certificates" are omitted as surplus because of 1:1. The word "modify" is added for consistency in the revised title.

PUB. L. 103–272, §4(k)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41107	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–31 repealed Pub. L. 103–272, §4(k). See 1994 Amendment note below.

1994—Pub. L. 103–272, §4(k)(1), which directed the amendment of this section by substituting "foreign air transportation," for "foreign air transportation or between places in Alaska,", effective Jan. 1, 1999, was repealed by Pub. L. 106–31, §6003, effective Dec. 31, 1998.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–272, §4(k), July 5, 1994, 108 Stat. 1370, which provided that the amendments made by that section (amending this section and sections 41901, 41902, and 41903 of this title) were effective Jan. 1, 1999, was repealed by Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113, effective Dec. 31, 1998.

§41108. Applications for certificates

(a) FORM, CONTENTS, AND PROOF OF SERVICE.—To be issued a certificate of public convenience and necessity under section 41102 of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

(1) be in the form and contain information required by regulations of the Secretary; and

(2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b) NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

(A) provide an opportunity for a public hearing on the application;

(B) begin the procedure under section 41111 of this title; or

(C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the decision is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

(A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and

(B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.

(5) If a citizen applying for a certificate does not meet the procedural schedule adopted by the Secretary in a proceeding, the Secretary may extend the period for acting under paragraphs (3) and (4) of this subsection by a period equal to the period of delay caused by the citizen. In addition to an extension under this paragraph, an initial or recommended decision under paragraph (3) of this subsection may be delayed for not more than 30 days in extraordinary circumstances.

(c) PROOF REQUIREMENTS.—(1) A citizen applying for a certificate must prove that the

citizen is fit, willing, and able to provide the transportation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a preponderance of the evidence, that the transportation is not consistent with the public convenience and necessity.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41108(a)	49 App.:1371(b).	Aug. 23, 1958, Pub. L. 85–726, §401(b), 72 Stat. 754; Oct. 24, 1978, Pub. L. 95–504, §6, 92 Stat. 1710.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41108(b)	49 App.:1371(c).	Aug. 23, 1958, Pub. L. 85–726, 401(c), 72 Stat. 754; restated Oct. 24, 1978, Pub. L. 95–504, §7(a), 92 Stat. 1711.
	49 App.:1551(b)(1)(E).	
41108(c)	49 App.:1371(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(9); added Oct. 24, 1978, Pub. L. 95–504, §14, 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	

In subsection (a), the words "of public convenience and necessity under section 41102 of this title" are added for clarity.

In subsection (b)(1), before clause (A), the words "give due notice thereof to the public by" are omitted as surplus. The word "response" is substituted for "protest or memorandum" to eliminate unnecessary words. The words "requested by such application" are omitted as surplus. Clause (A) is substituted for 49 App.:1371(c)(1)(A) for clarity and consistency. Clause (B) is substituted for 49 App.:1371(c)(1)(B) to eliminate unnecessary words.

In subsection (b)(2), the words "An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection" are substituted for "Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures" to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words "If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection" are substituted for "If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection" to eliminate unnecessary words. The words "provides the opportunity" are substituted for "of such determination" for clarity. The words "for a certificate" are omitted as surplus. The words "to provide" are substituted for "to engage in" for consistency in the revised title.

In subsection (b)(4), the words "If the Secretary acts under paragraph (1)(B) of this subsection" are added for clarity. The words "after beginning the procedure on the application" are substituted for "after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section" to eliminate unnecessary words.

In subsection (b)(5), the word "particular" is omitted as surplus. The words "by order" are omitted as surplus because of 5:ch. 5, subch. II.

In subsection (c)(1), the words "In any determination as to whether or not" are omitted as surplus. The word "provide" is substituted for "perform" for consistency in the revised title. The word "properly" is omitted as

surplus. The word "comply" is substituted for "conform" for consistency in the revised title.

In subsection (c)(2), the words "In any determination as to whether" are omitted as surplus. The reference is to section 41102(b)(2), rather than 41102(a), of the revised title to reflect the termination of authority under 49 App.:1551(a)(1)(A).

STATUTORY NOTES AND RELATED SUBSIDIARIES

PART 135 AIR CARRIER CERTIFICATE BACKLOG

Pub. L. 118–63, title VIII, §818, May 16, 2024, 138 Stat. 1328, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall take such actions as may be necessary to achieve the goal of reducing the backlog of air carrier certificate applications under part 135 of title 14, Code of Federal Regulations, to—

"(1) not later than 1 year after the date of enactment of this Act [May 16, 2024], maintain an average application acceptance or rejection time of less than 60 days; and

"(2) not later than 2 years after the date of enactment of this Act, maintain an average application acceptance or rejection time of less than 30 days.

"(b) MEASURES.—In meeting the goal under subsection (a), the Administrator may—

"(1) assign, as appropriate, additional personnel or support staff, including on a temporary basis, to review, adjudicate, and approve applications;

"(2) improve and expand promotion of existing applicant resources which could improve the quality of applications submitted to decrease the need for Administration applicant coordination and communications; and

"(3) take into consideration any third-party entity that assisted in the preparation of an application for an air carrier certificate under part 135 of title 14, Code of Federal Regulations.

"(c) CONGRESSIONAL BRIEFING.—Beginning 6 months after the date of enactment of this Act, and not less than every 6 months thereafter until the Administrator complies with the requirements under subsection (a)(2), the Administrator shall provide a briefing to [the] appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the status of the backlog of air carrier certificate applications under part 135 of title 14, Code of Federal Regulations, [and] any measures the Administrator has put in place under subsection (b)."

§41109. Terms of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(5) As prescribed by regulation by the Secretary, an air carrier other than a charter air carrier may provide charter trips or other special services without regard to the places named or type of transportation specified in its certificate.

(b) MODIFYING TERMS.—(1) An air carrier may file with the Secretary an application to modify any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall modify each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 104–287, §5(70), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41109(a)(1)	49 App.:1371(e)(1) (words before semicolon).	Aug. 23, 1958, Pub. L. 85–726, §401(e)(1), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, §3, 76 Stat. 143.
	49 App.:1551(a)(1)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(1)(C); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
41109(a)(2)	49 App.:1371(e)(1) (words after semicolon).	
	49 App.:1371(e)(4).	Aug. 23, 1958, Pub. L. 85–726, §401(e)(3), (4), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, §3, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, §15(a), (b), 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41109(a)(3)	49 App.:1371(e)(2).	Aug. 23, 1958, Pub. L. 85–726, §401(e)(2), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, §3, 76 Stat. 143; Feb. 15, 1980, Pub. L. 96–192, §5, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	
41109(a)(4)	49 App.:1371(e)(3).	
	49 App.:1551(b)(1)(E).	
41109(b)	49 App.:1371(e)(7)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(e)(7)(B); added Oct. 24, 1978, Pub. L. 95–504, §16, 92 Stat. 1720.
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), the text of 49 App.:1371(e)(1) (words before semicolon related to terminal and intermediate points) is omitted as obsolete because of 49 App.:1551(a)(1)(C) and because interstate and

overseas air transportation is no longer regulated. The words "type of" are added for clarity. The word "provided" is substituted for "rendered" for consistency in the revised title.

In subsection (a)(2), the words before clause (A) are added for clarity. Clause (A) is substituted for 49 App.:1371(e)(1) (words after semicolon) for clarity and consistency and to eliminate unnecessary words. In clause (B), the words "may not prescribe a term preventing" are substituted for "No term, condition, or limitation of a certificate shall restrict the right" for clarity and consistency. The word "providing" is substituted for "performing" for consistency in the revised title.

In subsection (a)(3) and (4), the word "places" is substituted for "points", and the word "provide" is substituted for "engage in", for consistency in the revised title. The words "terminal and intermediate" are omitted as surplus. The words "between which the air carrier is authorized to provide the transportation" are added for clarity and consistency.

In subsection (a)(3), the words "or routes" are omitted because of 1:1. The words "The Secretary" are added for clarity.

In subsection (a)(4), the words "or areas" are omitted because of 1:1.

In subsection (b), the words "condition, or limitation" are omitted as being included in "term".

In subsection (b)(1), before clause (A), the word "modify" is substituted for "removal or modification" to eliminate unnecessary words. The word "provide" is substituted for "engage in" for consistency in the revised title. In clause (A), the words "provide the carrier an opportunity" are substituted for "set such application" for consistency in the revised title and with other titles of the United States Code. In clause (B), the words "the simplified procedures established by the Board in regulations pursuant to" are omitted as surplus.

PUB. L. 104–287

This amends 49:41109(a) to clarify the restatement of 49 App.:1371(e) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1123).

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104–287 added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a hearing or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) amend, modify, or suspend any part of a certificate if the Secretary finds the public convenience and necessity require amendment, modification, or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308–41310(a), 41501, 41503, 41504,

41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be amended, modified, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) ALL-CARGO AIR TRANSPORTATION.—The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a hearing, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c) FOREIGN AIR TRANSPORTATION.—(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a hearing, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) TEMPORARY CERTIFICATES.—On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) amend, modify, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.

(f) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a certificate under subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 103–429, §6(50), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41110(a)(1)	49 App.:1371(f).	Aug. 23, 1958, Pub. L. 85–726, §401(f), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §§10(b), 17, 92 Stat. 1716, 1720.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41110(a)(2)–(4)	49 App.:1371(g)(1).	Aug. 23, 1958, Pub. L. 85–726, §401(g), 72 Stat. 756; Oct. 24, 1978, Pub. L. 95–504, §18, 92 Stat. 1720; restated Feb. 15, 1980, Pub. L. 96–192, §6, 94 Stat 37.
	49 App.:1551(b)(1)(E).	
41110(b)	49 App.:1388(b)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §418(b)(4); added Nov. 9, 1977, Pub. L. 95–163, §17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41110(c)	49 App.:1371(g)(3).	
	49 App.:1551(b)(1)(E).	
41110(d)	49 App.:1371(d)(8) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(8) (last sentence); added Oct. 24, 1978, Pub. L. 95–504, §13, 92 Stat. 1719.
	49 App.:1551(a)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41110(e)	49 App.:1371(r) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(r) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, §20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	
41110(f)	49 App.:1371a (related to certificate).	Aug. 15, 1985, Pub. L. 99–88, §100 (1st complete par. related to

41110(g)	49 App.:1371(g)(2). 49 App.:1551(b)(1)(E).	certificate on p. 352), 99 Stat. 352.

In subsection (a)(1)(C), the words "transportation is no longer being provided under a certificate" are substituted for "operation thereunder has ceased" and "operations thereunder have ceased" for clarity and consistency.

In subsections (a)(2) and (e), the words "opportunity for a" are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), before clause (A), the word "application" is substituted for "petition or complaint" for consistency in the revised title and with other titles of the Code and to eliminate unnecessary words. The words "except as provided in paragraph (4) of this subsection" are added for clarity. The words "the simplified procedures under" are omitted as surplus. In clause (A), the word "alter" is omitted as surplus. In clause (B), the reference to 49 App.:1372 is omitted from the cross-references of "this subchapter" because 49 App.:1372 is concerned with foreign air carrier permits and not relevant to air carrier certificate revocation. The word "rule" is omitted as being synonymous with "regulation". The words "condition, or limitation" are omitted as surplus.

In subsection (a)(3), the words "to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated" are omitted as surplus.

In subsection (a)(4), the word "provide" is substituted for "engage in" for consistency in the revised title. The words "altered" and "the simplified procedures of" are omitted as surplus.

In subsection (b), the words "to the extent of such service" are omitted as surplus. The word "provided" is substituted for "performed" for consistency in the revised title.

In subsection (c)(1), the word "place" is substituted for "point" for consistency in the revised title. In clause (A), the cross-reference is to section 41734(a) of the revised title for clarity because 49 App.:1371(j) is obsolete. The comparable provision is 49 App.:1389(b)(2), restated as section 41734(a). The words "provided by that carrier" are omitted as surplus. In clause (B), the word "immediately" is added for clarity.

In subsection (d)(2), the words "alter" and "the procedures prescribed in" are omitted as surplus.

In subsections (e) and (f)(2), the word "amend" is added for consistency.

In subsection (e), before clause (1), the words "The requirement that each applicant for a certificate or any other authority . . . shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board" are omitted as surplus. The words "by order" are omitted as unnecessary because of 5:ch. 5, subch. II. In clause (1), the word "provide" is substituted for "perform" for consistency in the revised title. The word "properly" is omitted as surplus. The word "comply" is substituted for "conform to" for consistency in the revised title. The word "rules" is omitted as being synonymous with "regulations". The word "requirements" is omitted as surplus.

In subsection (f), before clause (1), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "on and after August 15, 1985" are omitted as executed. In clause (1), before subclause (A), the words "law enforcement and other" are omitted as surplus. The words "departments, agencies, and instrumentalities of the United States Government" are substituted for "agencies" for consistency in the revised title and with other titles of the Code. The words "an air carrier" are substituted for "any carrier" for clarity. In clause (2), the words "of public convenience and necessity" are omitted as surplus. The words "issued under this chapter" are added for clarity.

In subsection (g), the word "response" is substituted for "protest or memorandum" to eliminate unnecessary words. The word "alteration" is omitted as surplus.

PUB. L. 103–429

This amends 49:41110(e) to clarify the restatement of 49 App.:1371(r) (related to certificate) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1124).

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary

finds that the air carrier—

"(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

"(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates

(a) GENERAL REQUIREMENTS.—(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) amending, modifying, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) WHEN SIMPLIFIED PROCEDURE USED.—The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c) CONTENTS.—(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1125.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41111(a)	49 App.:1371(p)(1) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(p); added Oct. 24, 1978, Pub. L. 95–504, §21(a)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41111(b)	49 App.:1371(p)(2) (1st sentence).	

41111(c)	49 App.:1551(b)(1)(E). 49 App.:1371(p)(1) (last sentence), (2) (last sentence). 49 App.:1551(b)(1)(E).	

In this section, the words "acting on" and "act on" are substituted for "disposition of" for consistency.

In subsection (a)(1)(A), the word "provide" is substituted for "engage in" for consistency in the revised title.

In subsection (a)(1)(B), the word "alteration" is omitted as surplus.

In subsection (a)(2), the word "adequate" is omitted as surplus.

In subsection (b), the words "to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title" are added for clarity.

In subsection (c)(2), the words "by such person" are omitted as surplus. The words "a response opposing or supporting the issuance of a certificate" are substituted for "a protest or memorandum filed with respect to such application" for consistency.

§41112. Liability insurance and financial responsibility

(a) LIABILITY INSURANCE.—The Secretary of Transportation may issue a certificate to a citizen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) FINANCIAL RESPONSIBILITY.—To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41112	49 App.:1371(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(q); added Oct. 24, 1978, Pub. L. 95–504, §20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), the words "citizen of the United States" and "citizen" are substituted for "applicant for such certificate or the air carrier" for clarity and consistency because only a citizen of the United States may be an "air carrier" as defined in section 40102(a) of the revised title and receive a certificate. The words "as the case may be" are omitted as surplus. The words "to provide air transportation as an air carrier under section 41102 of this title" are added for clarity. The words "approved by the Secretary" are substituted for "governing the filing and approval . . . in the amount prescribed by the Board" to eliminate unnecessary

words. The words "The policy or plan must be sufficient to pay" are substituted for "which are conditioned to pay . . . amounts" for clarity. The words "for which such applicant or such air carrier may become liable for" are omitted as surplus.

In subsection (b), the word "passengers" is substituted for "travelers" for consistency in this chapter. The words "issued . . . under section 41102 of this title" are added for clarity. The word "arrangement" is omitted as surplus. The word "provide" is substituted for "perform" for consistency in the revised title.

§41113. Plans to address needs of families of passengers involved in aircraft accidents

(a) SUBMISSION OF PLANS.—Each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in any loss of life.

(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

(9) An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident, including any victim on the ground) will be the same as the treatment of the families of revenue passengers.

(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.

(15) An assurance that the air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving any loss of life, will consult with the Board and the Department of State on the provision of the assistance.

(17)(A) An assurance that, in the case of an accident that results in any damage to a manmade structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.

(c) CERTIFICATE REQUIREMENT.—The Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

(d) LIMITATION ON LIABILITY.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list, or in providing information concerning a preliminary passenger manifest, pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

(e) AIRCRAFT ACCIDENT AND PASSENGER DEFINED.—In this section, the terms "aircraft accident" and "passenger" have the meanings such terms have in section 1136 of this title.

(f) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

(Added Pub. L. 104–264, title VII, §703(a), Oct. 9, 1996, 110 Stat. 3267; amended Pub. L. 106–181, title IV, §402(a)(1)–(3), (5)–(c), Apr. 5, 2000, 114 Stat. 129, 130; Pub. L. 108–176, title VIII, §809(a), Dec. 12, 2003, 117 Stat. 2588; Pub. L. 115–254, div. C, §1109(a), Oct. 5, 2018, 132 Stat. 3434.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1109(a)(1), substituted "any loss of life" for "a major loss of life".

Subsec. (b)(9). Pub. L. 115–254, §1109(a)(2)(A), substituted "(and any other victim of the accident, including any victim on the ground)" for "(and any other victim of the accident)".

Subsec. (b)(16). Pub. L. 115–254, §1109(a)(2)(B), substituted "any loss of life" for "major loss of life".

Subsec. (b)(17)(A). Pub. L. 115–254, §1109(a)(2)(C), substituted "any damage" for "significant damage".

2003—Subsec. (b)(16). Pub. L. 108–176, §809(a)(1), struck out "the air carrier" after "major loss of life,".

Subsec. (b)(17), (18). Pub. L. 108–176, §809(a)(2), added pars. (17) and (18).

2000—Subsec. (a). Pub. L. 106–181, §402(a)(5)(A), substituted "Each air carrier" for "Not later than 6 months after the date of the enactment of this section, each air carrier".

Subsec. (b)(14) to (16). Pub. L. 106–181, §402(a)(1)–(3), added pars. (14) to (16).

Subsec. (c). Pub. L. 106–181, §402(a)(5)(B), substituted "The Secretary" for "After the date that is 6 months after the date of the enactment of this section, the Secretary".

Subsec. (d). Pub. L. 106–181, §402(b), inserted ", or in providing information concerning a preliminary passenger manifest," before "pursuant to a plan".

Subsec. (f). Pub. L. 106–181, §402(c), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 402(a)(5)(B) to (c) of Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

Pub. L. 106–181, title IV, §402(a)(4), Apr. 5, 2000, 114 Stat. 130, provided that: "The amendments made by paragraphs (1), (2), and (3) [amending this section] shall take effect on the 180th day following the date of the enactment of this Act [Apr. 5, 2000]. On or before such 180th day, each air carrier holding a certificate of public convenience and necessity under section 41102 of title 49, United States Code, shall submit to the Secretary [of Transportation] and the Chairman of the National Transportation Safety Board an updated plan under section 41113 of such title that meets the requirements of the amendments made by paragraphs (1), (2), and (3)."

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

UPDATE PLANS

Pub. L. 108–176, title VIII, §809(c), Dec. 12, 2003, 117 Stat. 2589, provided that: "Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section [amending this section and section 41313 of this title] not later than 90 days after the date of enactment of this Act [Dec. 12, 2003]."

ESTABLISHMENT OF TASK FORCE

Pub. L. 104–264, title VII, §704, Oct. 9, 1996, 110 Stat. 3268, provided that:

"(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

"(b) GUIDELINES AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

"(1) guidelines to assist air carriers in responding to aircraft accidents;

"(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

"(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

"(4) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an aircraft accident or other related sites;

"(5) recommendations on the extent to which military experts and facilities can be used to aid in the

identification of the remains of passengers involved in an aircraft accident; and

"(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

"(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

"(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A);

"(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A); and

"(D) an analysis of the implications for personal privacy that would result if air carriers were required to take the steps described in subparagraph (A).

"(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b)."

LIMITATION ON STATUTORY CONSTRUCTION

Pub. L. 104–264, title VII, §705, Oct. 9, 1996, 110 Stat. 3269, provided that: "Nothing in this title [enacting this section and section 1136 of this title, amending section 1155 of this title, and enacting provisions set out as notes under this section and section 40101 of this title] or any amendment made by this title may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident."

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.

41301. Requirement for a permit.
41302. Permits of foreign air carriers.
41303. Transfers of permits.
41304. Effective periods and amendments, modifications, suspensions, and revocations of permits.
41305. Applications for permits.
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41307. Presidential review of actions about foreign air transportation.
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41312. Ending or suspending foreign air transportation.
41313. Plans to address needs of families of passengers involved in foreign air carrier accidents.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–148, §1(b), Dec. 16, 1997, 111 Stat. 2683, added item 41313.

1994—Pub. L. 103–429, §6(51)(B), Oct. 31, 1994, 108 Stat. 4385, added item 41312.

Pub. L. 103–305, title II, §205(a)(2), Aug. 23, 1994, 108 Stat. 1583, added item 41311.

§41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit issued under this chapter authorizing the foreign air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41301	49 App.:1372(a).	Aug. 23, 1958, Pub. L. 85–726, §402(a), 72 Stat. 757.

The word "provide" is substituted for "engage in" for consistency in the revised title. The word "holds" is substituted for "there is in force" to eliminate unnecessary words.

§41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country, to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41302	49 App.:1372(b).	Aug. 23, 1958, Pub. L. 85–726, §402(b), 72 Stat. 758; restated Feb. 15, 1980, Pub. L. 96–192, §7, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words "person (except a citizen of the United States)" and "person" are substituted for "applicant" for clarity and consistency because only a person other than a United States citizen may be a "foreign air carrier" as defined in section 40102(a) of the revised title. In clauses (1) and (2), the word "provide" is substituted for "perform" for consistency in the revised title. In clause (1), the word "properly" is omitted as surplus. The word "comply" is substituted for "conform" for consistency in the revised title. The word "rules" is omitted as being synonymous with "regulations". The word "requirements" is omitted as surplus. In clause (2)(A), the words "government of its country" are substituted for "its government" for consistency in the revised title and with other titles of the United States Code.

§41303. Transfers of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41303	49 App.:1372(g).	Aug. 23, 1958, Pub. L. 85–726,

	49 App.:1551(b)(1)(E).	§402(g), 72 Stat. 758. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

§41304. Effective periods and amendments, modifications, suspensions, and revocations of permits

(a) GENERAL.—The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a hearing, the Secretary may amend, modify, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) SUSPENSIONS AND RESTRICTIONS.—Without a hearing, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or amend, modify, or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the permit of the carrier issued under this chapter.

(d) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a permit under subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41304(a)	49 App.:1372(e) (related to duration of permits).	Aug. 23, 1958, Pub. L. 85–726, §402(e) (related to duration of permits), 72 Stat. 758.

	49 App.:1372(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §402(f)(1), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, §9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41304(b)	49 App.:1372(f)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §402(f)(2); added Feb. 15, 1980, Pub. L. 96–192, §9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41304(c)	49 App.:1371a (related to permit).	Aug. 15, 1985, Pub. L. 99–88, §100 (1st complete par. related to permit on p. 352), 99 Stat. 352.
41304(d)	49 App.:1372(f)(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the words "altered" and "cancelled" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "alter" and "condition" are omitted as surplus. In clause (B)(i) and (ii), the words "United States" before "air carriers" and "carriers" are omitted as surplus and for consistency because only a citizen of the United States may be an "air carrier" as defined in section 40102(a) of the revised title. In clause (B)(i), the word "impaired" is omitted as surplus.

In subsection (c), before clause (1), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "on and after August 15, 1985" are omitted as executed. In clause (1), before subclause (A), the words "law enforcement and other" are omitted as surplus. The words "departments, agencies, and instrumentalities of the Government" are substituted for "agencies" for consistency in the revised title and with other titles of the Code. The words "a foreign air carrier" are substituted for "any carrier" for clarity. In clause (2), the words "of public convenience and necessity" are omitted as surplus. The word "amend" is added for consistency. The words "issued under this chapter" are added for clarity.

In subsection (d), the word "response" is substituted for "protest or memorandum" to eliminate unnecessary words. The words "alteration" and "cancellation" are omitted as surplus.

§41305. Applications for permits

(a) FORM, CONTENTS, NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) A person must apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be—

(A) verified;

(B) in a certain form and contain certain information;

(C) served on interested persons; and

(D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) TERMS.—The Secretary may impose terms for providing foreign air transportation under the permit that the Secretary finds may be required in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41305(a)(1)	49 App.:1372(c).	Aug. 23, 1958, Pub. L. 85–726, §402(c), (e) (related to terms, conditions, or limitations of permits), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41305(a)(2)	49 App.:1372(d).	Aug. 23, 1958, Pub. L. 85–726, §402(d), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, §8, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41305(b)	49 App.:1372(e) (related to terms, conditions, or limitations of permits).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), before clause (A), the words "A person must apply . . . to the Secretary of Transportation to be issued a permit under section 41302 of this title" are added for clarity. Clause (C) is added for clarity.

In subsection (a)(2), the words "give due notice thereof to the public by" are omitted as surplus. The word "response" is substituted for "protest or memorandum" to eliminate unnecessary words. The word "expeditiously" is substituted for "speedily" for consistency in this chapter.

In subsection (b), the words "reasonable" and "conditions, or limitations" are omitted as surplus. The words "for providing foreign air transportation" are added for clarity.

§41306. Simplified procedure to apply for, amend, modify, and suspend permits

(a) REGULATIONS.—The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and

(2) amending, modifying, or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) NOTICE AND OPPORTUNITY TO RESPOND.—Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41306(a)	49 App.:1372(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §402(h); added Oct. 24, 1978, Pub. L. 95–504, §21(b)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat.

		1704.
41306(b)	49 App.:1372(h) (last sentence).	

In subsection (a)(1), the words "acting on" are substituted for "disposition of" for consistency. The word "provide" is substituted for "engage in" for consistency in the revised title.

In subsection (a)(2), the word "alteration" is omitted as surplus. The word "transfer" is omitted because 49 App.:1372(f) does not cover transfer of a permit.

In subsection (b), the word "adequate" is omitted as surplus.

§41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each decision of the Secretary to issue, deny, amend, modify, suspend, revoke, or transfer a certificate issued under section 41102 of this title authorizing an air carrier, or a permit issued under section 41302 of this title authorizing a foreign air carrier, to provide foreign air transportation. The President may disapprove the decision of the Secretary only if the reason for disapproval is based on foreign relations or national defense considerations that are under the jurisdiction of the President. The President may not disapprove a decision of the Secretary if the reason is economic or related to carrier selection. A decision of the Secretary—

(1) is void if the President disapproves the decision and publishes the reasons (to the extent allowed by national security) for disapproval not later than 60 days after it is submitted to the President; or

(2)(A) takes effect as a decision of the Secretary if the President does not disapprove the decision not later than 60 days after the decision is submitted to the President; and

(B) when effective, may be reviewed judicially under section 46110 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41307	49 App.:1461(a).	Aug. 23, 1958, Pub. L. 85–726, §801(a), 72 Stat. 782; Mar. 22, 1972, Pub. L. 92–259, §2, 86 Stat. 96; restated Oct. 24, 1978, Pub. L. 95–504, §34, 92 Stat. 1740.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the word "cancellation" is omitted as surplus. The word "modify" is added for consistency. The words "and the terms, conditions, and limitations contained in" are omitted as surplus. The words "issued under section 41102 of this title" are added for clarity. The word "provide" is substituted for "engage in" for consistency in the revised title. In clause (1), the words "null and" are omitted as surplus. The word "publishes" is substituted for "issued in a public document" to eliminate unnecessary words. In clause (2)(A), the words "not the President" are omitted as surplus.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11920

Ex. Ord. No. 11920, June 10, 1976, 41 F.R. 23665, which provided for establishment of Executive branch procedures to facilitate review of submitted decisions, was revoked by Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029.

EXECUTIVE ORDER NO. 12547

Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029, which provided for establishment of procedures to facilitate Presidential review of international aviation decisions submitted by Department of Transportation, was revoked by Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, set out below.

EX. ORD. NO. 12597. ESTABLISHING PROCEDURES FOR FACILITATING PRESIDENTIAL REVIEW OF INTERNATIONAL AVIATION DECISIONS BY THE DEPARTMENT OF TRANSPORTATION

Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 801 of the Federal Aviation Act, as amended (49 U.S.C. app. §1461) [see 49 U.S.C. 41307, 41509(f)], and in order to provide presidential guidance to department and agency heads and facilitate presidential review of decisions by the Department of Transportation pursuant to the Federal Aviation Act [see 49 U.S.C. 40101 et seq.], it is hereby ordered as follows:

SECTION 1. Executive Order No. 12547 of February 6, 1986, is revoked.

SEC. 2. The Secretary of Transportation is designated and empowered to receive on behalf of the President any decision of the Department of Transportation (hereinafter referred to as the "DOT") subject to Section 801 of the Federal Aviation Act, as amended. The Secretary of Transportation is further designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 801 of the Federal Aviation Act, as amended, to review and determine not to disapprove any such decision that is not the subject of any written recommendation for disapproval or for a statement of reasons submitted to the Department of Transportation in accordance with section 5(b) of this Order.

SEC. 3. (a) Except as otherwise provided in this section, decisions of the DOT subject to Section 801 of the Federal Aviation Act, as amended, may be made available by the DOT for public inspection and copying following transmission to Executive departments and agencies pursuant to section 3(c) of this Order.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under [former] Executive Order No. 12356, decisions of the DOT transmitted to Executive departments and agencies pursuant to section 3(c) of this Order shall be withheld from public disclosure for a period not to exceed 5 days after said transmission.

(c) At the same time that decisions of the DOT are received by the Secretary of Transportation pursuant to section 2 of this Order, the DOT shall transmit copies thereof to the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Attorney General, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and any other Executive department or agency that the DOT deems appropriate.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the DOT transmitted pursuant to section 3(c) of this Order and shall promptly advise the Assistant to the President for National Security Affairs or his designee whether action pursuant to Executive Order No. 12356 is deemed appropriate. If, after considering these recommendations, the Assistant to the President for National Security Affairs determines that classification under Executive Order No. 12356 is appropriate, he shall take such action and immediately so inform the DOT. Action pursuant to this subsection shall be completed by the persons designated herein within 5 days of the transmission of the decision.

(e) On and after the 6th day following transmission of a DOT decision pursuant to section 3(c) of this Order, or upon earlier notification by the Assistant to the President for National Security Affairs or his designee, the DOT is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under any Executive order or statute other than Section 801.

SEC. 4. (a) Departments and agencies outside of the Executive Office of the President shall raise only matters of national defense or foreign relations in the course of the presidential review established by this Order. All other matters, including those related to regulatory policy, shall be presented to the DOT in accordance with the procedures of the DOT.

(b) Departments and agencies outside of the Executive Office of the President that identify matters of national defense or foreign relations while a decision is pending before the DOT shall, except as confidentiality is required for reasons of defense or foreign policy, make those matters known to the DOT in the course of its proceedings.

SEC. 5. (a) The DOT shall receive the recommendations, addressed to the President, of the departments and agencies referred to in section 3(c) of this Order.

(b) Departments or agencies outside of the Executive Office of the President making recommendations on

matters of national defense or foreign relations with respect to any decision received by the Secretary of Transportation under section 2 of this Order shall submit their recommendations in writing to the DOT: (1) within 4 days of the DOT's issuance of a decision subject to a 10-day statutory review period under Section 801(b) [see 49 U.S.C. 41509(f)]; and (2) within 21 days of the DOT's issuance of a decision subject to a 60-day statutory review period under Section 801(a) [see 49 U.S.C. 41307]; or (3) in exceptional cases, within the period specified by the DOT in its letter of transmittal.

(c) The DOT shall, as soon as practical after the deadlines specified in section 5(b) of this Order: (1) if no recommendations for disapproval or for a statement of reasons are received from the departments and agencies specified in section 3(c) of this Order, issue its decision to become effective according to its terms; or (2) if recommendations for disapproval or for a statement of reasons are received, transmit them to the Assistant to the President for National Security Affairs, who, upon review, shall transmit a memorandum to the President with a recommendation as to whether or not the President should disapprove the proposed decision.

SEC. 6. (a) In advising the President with respect to his review of a decision pursuant to Section 801, departments and agencies outside of the Executive Office of the President shall identify with particularity the defense or foreign policy implications of the DOT decision that are deemed appropriate for consideration.

(b) If any department or agency that made recommendations to the President pursuant to Section 801 believes that, if the President decides not to disapprove a decision, the letter so advising the DOT should include a statement that the decision not to disapprove was based on national defense or foreign relations reasons, it should so indicate separately and explain why.

SEC. 7. Individuals within the Executive Office of the President shall follow a policy of: (a) refusing to discuss matters relating to the disposition of a case subject to the review of the President under Section 801 with any interested private party, or an attorney or agent for any such party, prior to the decision by the President or his designee; and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may be made only when the head of an appropriate department or agency outside of the Executive Office of the President personally finds, on a nondelegable basis, that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 8. Departments and agencies outside of the Executive Office of the President that regularly make recommendations in connection with the presidential review pursuant to Section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 9. This Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the presidential review process. This Order does not confer rights on any private parties.

SEC. 10. None of the time deadlines specified in this Order shall be construed as a limitation on expedited presidential review of any decision under Section 801.

SEC. 11. The provisions of this Order shall become effective upon publication in the Federal Register and shall govern the review of any proposed decisions of the DOT that have not become final prior to that date under Executive Order No. 12547.

SEC. 12. References in any Executive order to any provision in Executive Order No. 12547 shall be deemed to refer to the corresponding provision in this Order.

RONALD REAGAN.

§41308. Exemption from the antitrust laws

(a) DEFINITION.—In this section, "antitrust laws" has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) EXEMPTION AUTHORIZED.—When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) EXEMPTION REQUIRED.—In an order under section 41309 of this title approving an agreement, request, modification, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41308	49 App.:1384.	Aug. 23, 1958, Pub. L. 85–726, §414, 72 Stat. 770; restated Oct. 24, 1978, Pub. L. 95–504, §30(a), 92 Stat. 1731; Feb. 15, 1980, Pub. L. 96–192, §27, 94 Stat. 47.
	49 App.:1551(a)(6) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(6) (related to §414); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(C) (related to §414); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, §3(a), 98 Stat. 1703.

Subsection (a) is substituted for "the 'anti-trust laws' set forth in subsection (a) of section 12 of title 15" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), reference to 49 App.:1378 and 1379 is omitted as obsolete.

§41309. Cooperative agreements and requests

(a) FILING.—An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and complete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any modification or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) APPROVAL.—The Secretary of Transportation shall approve an agreement, request, modification, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, modification, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a carrier subject to subtitle IV of this title; and

(B) governs the compensation the carrier may receive for the transportation.

(c) NOTICE AND OPPORTUNITY TO RESPOND OR FOR HEARING.—(1) When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party opposing an agreement, request, modification, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, modification, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, modification, or cancellation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1129; Pub. L. 104–88, title III, §308(l), Dec. 29, 1995, 109 Stat. 948; Pub. L. 104–287, §5(71), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41309(a)	49 App.:1382(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §412(a), (b); added Oct. 24, 1978, Pub. L. 95–504, §28(c), 92 Stat. 1729; Feb. 15, 1980, Pub. L. 96–192, §11, 94 Stat. 39.
	49 App.:1551(a)(6) (related to 49 App.:1382).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(6) (related to §412); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(a)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(C) (related to §412(a), (b)); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, §3(a), 98 Stat. 1703.
41309(b)	49 App.:1382(a)(2)(A).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	
41309(c)(1)	49 App.:1382(b).	
	49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(b)).	
41309(c)(2)	49 App.:1382(a)(2)(B).	
41309(c)(3)	49 App.:1382(a)(2)(C).	

49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	

In this section, the word "contract" is omitted as being included in "agreement".

In subsection (a), the words "(whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise)" are omitted as surplus. The words "(except an agreement related to interstate air transportation)" and "(except arrangements related to interstate air transportation)" are added because of 49 App.:1551(a)(6) (related to 49 App.:1382). The word "working" is omitted as surplus. The words "in force on October 24, 1978, or thereafter entered into" are omitted as executed. The words "and any modification or cancellation of an agreement" are substituted for "or any modification or cancellation thereof" for clarity and consistency.

In subsection (b), before clause (1), the words "The Board shall by order disapprove any contract, agreement, or request . . . that it finds to be adverse to the public interest or in violation of this chapter" are omitted as surplus because of the language restated in this subsection that sets out the requirements for approval by the Secretary of Transportation before the antitrust exemption is effective. The words "whether or not previously approved by it" are omitted as surplus because of the language in clause (1) requiring periodic review and continuing approval. The words "by order" are omitted as unnecessary because of 5:ch. 5, subch. II. The text of 49 App.:1382(a)(2)(A)(iii) is omitted as obsolete because of 49 App.:1551(a)(6) (related to 49 App.:1382).

In subsection (c)(1), the words "in accordance with regulations which it prescribes" are omitted as surplus. The words "in accordance with regulations prescribed by the Board" are omitted as surplus.

PUB. L. 104–287

This amends 49:41309(b)(2)(B) for consistency in the subsection.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b)(2)(B). Pub. L. 104–287 substituted "carrier" for "common carrier".

1995—Subsec. (b)(2)(A). Pub. L. 104–88 substituted "a carrier" for "a common carrier".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

AIR TRANSPORTATION ARRANGEMENTS IN CERTAIN STATES

Pub. L. 107–71, title I, §116, Nov. 19, 2001, 115 Stat. 624, which related to air transportation arrangements for flights that both originate and terminate at points within the same State, was repealed by Pub. L. 107–273, div. C, title IV, §14102(g), Nov. 2, 2002, 116 Stat. 1922.

§41310. Discriminatory practices

(a) PROHIBITION.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b) REVIEW AND NEGOTIATION OF DISCRIMINATORY FOREIGN CHARGES.—(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge.

With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit money collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c) ACTIONS AGAINST DISCRIMINATORY ACTIVITY.—(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, amend, modify, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d) FILING OF, AND ACTING ON, COMPLAINTS.—(1) An air carrier, computer reservations system firm, or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) or (g) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a hearing or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier or computer reservations system firm has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e) REVIEW.—(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation or a computer reservations system firm is subject when providing services with respect to airline service. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) REPORTS.—Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

(g) ACTIONS AGAINST DISCRIMINATORY ACTIVITY BY FOREIGN CRS SYSTEMS .—The Secretary of Transportation may take such actions as the Secretary considers are in the public interest to eliminate an activity of a foreign air carrier that owns or markets a computer reservations system, or of a computer reservations system firm whose principal offices are located outside the United States, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity, with respect to airline service—

(1) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against a computer reservations system firm whose principal offices are located inside the United States; or

(2) imposes an unjustifiable or unreasonable restriction on access of such a computer reservations system to a foreign market.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1130; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 106–181, title VII, §741, Apr. 5, 2000, 114 Stat. 174.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41310(a)	49 App.:1374(b).	Aug. 23, 1958, Pub. L. 85–726, §404(b), 72 Stat. 760.
	49 App.:1551(a)(4)(C) (related to 49 App.:1374(b)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(C) (related to §404(b)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.
41310(b)	49 App.:1159a.	June 16, 1948, ch. 473, 62 Stat. 450, §11; added Jan. 3, 1975, Pub. L. 93–623, §3, 88 Stat. 2103; Oct. 4, 1984, Pub. L. 98–443, §9(c), 98 Stat. 1706.
41310(c)	49 App.:1159b(b)(1).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, §2(b)(1), (2), (4); added Feb. 15, 1980, Pub. L. 96–192, §23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, §9(d)(2), (3), 98 Stat. 1707; Aug. 23, 1988, Pub. L. 100–418, §§10011, 10012(1), (2), 102 Stat. 1573.
41310(d)(1)	49 App.:1159b(b)(2), (4).	
41310(d)(2)	49 App.:1159b(b)(3).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, §2(b)(3), (e); added Aug. 23, 1988, Pub. L. 100–418, §§10012(3), 10013, 102 Stat. 1573.

41310(e)(1)	49 App.:1159b(a).	Jan. 3, 1975, Pub. L. 93–623, §2(a), 88 Stat. 2102; Oct. 4, 1984, Pub. L. 98–443, §9(d)(1), 98 Stat. 1706.
	49 App.:1159b(c).	Jan. 3, 1975, Pub. L. 93–623, §2(c), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, §23, 94 Stat. 45.
41310(e)(2)	49 App.:1159b(d).	Jan. 3, 1975, Pub. L. 93–623, §2(d), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, §23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, §9(d)(2), (4), 98 Stat. 1707.
41310(f)	49 App.:1159b(e).	

In subsection (a), the words "may not subject . . . to unreasonable discrimination" are substituted for "No . . . shall make, give, or cause any undue or unreasonable preference or advantage . . . in any respect whatsoever or subject . . . to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever" to eliminate unnecessary words. The words "foreign air transportation" are substituted for "air transportation" because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

In subsection (b)(1), the words "at any time", "unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise" and "reduce such charges or" are omitted as surplus. The words "the Secretary of State shall promptly report such instances to" are omitted as surplus because the Secretary of Transportation is involved in the negotiations and aware of the failure to end the discrimination. The words "excessive or" are omitted as surplus. The words "or carriers" are omitted because of 1:1.

In subsection (b)(2), the words "in accordance with such regulations as he shall adopt" are omitted as surplus because of 49:322(a). The words "by them" are omitted as surplus.

In subsections (c)–(e), the words "United States" before "air carriers" and "air carrier" are omitted as surplus and for consistency because only a citizen of the United States may be an "air carrier" as defined in section 40102(a) of the revised title and because 49 App.:1301 applies to this section.

In subsections (c)(1) and (d)(1), before each clause (A), the words "foreign entity" and "entity" are substituted for "instrumentality" for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words "alteration", "cancellation", "limitation", and "pursuant to the powers of the Secretary" are omitted as surplus.

In subsection (d)(1), before clause (A), the words "department, agency, or instrumentality of the United States Government" are substituted for "agency of the Government of the United States" for consistency in the revised title and with other titles of the Code. The words "additional periods totaling not more than 30 days" are substituted for "an additional period or periods of up to 30 days each" for clarity because the amendment made by section 10111 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, 102 Stat. 1573) changed the additional period within which the Secretary had to act to only 30 days. The word "initial" is added for clarity.

In subsection (d)(2)(A), the words "the Secretaries of Commerce and State and the United States Trade Representative" are substituted for "the Department of State, the Department of Commerce, and the Office of the United States Trade Representative" because of 15:1501, 22:2651, and 19:2171, respectively.

In subsection (d)(2)(B), the words "as is consistent with acting on the complaint" are omitted as surplus.

In subsection (e)(1), before clause (A), the text of 49 App.:1159b(a) (1st, 2d sentences) is omitted as executed. The words "The Secretaries of State, the Treasury, and Transportation" are substituted for "The Department of State, the Department of the Treasury, the Department of Transportation" because of 22:2651, 31:301(b), and 49:102(b), respectively. The words "the heads of" and "instrumentalities of the Government" are added for consistency in the revised title and with other titles of the Code. The word "jurisdictions" is substituted for "respective functions" for clarity and consistency. In clause (A), the words "within its jurisdiction . . . such forms of" are omitted as surplus. Clause (B) is substituted for 49 App.:1159b(c) to eliminate unnecessary words.

In subsection (e)(2), the words "faced by United States carriers in foreign air transportation", "as may be", and "required by this subsection" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (d)(1). Pub. L. 106–181, §741(b)(1)(A), (B), in first sentence of introductory provisions, substituted "air carrier, computer reservations system firm," for "air carrier" and "subsection (c) or (g)" for "subsection (c)".

Subsec. (d)(1)(B). Pub. L. 106–181, §741(b)(1)(C), substituted "air carrier or computer reservations system firm" for "air carrier".

Subsec. (e)(1). Pub. L. 106–181, §741(b)(2), inserted "or a computer reservations system firm is subject when providing services with respect to airline service" before period at end of first sentence.

Subsec. (g). Pub. L. 106–181, §741(a), added subsec. (g).

1996—Subsec. (f). Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (e)(2) of this section relating to the requirement that the Secretary of Transportation report annually to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 21st item on page 132 of House Document No. 103–7.

§41311. Gambling restrictions

(a) IN GENERAL.—An air carrier or foreign air carrier may not install, transport, or operate, or permit the use of, any gambling device on board an aircraft in foreign air transportation.

(b) DEFINITION.—In this section, the term "gambling device" means any machine or mechanical device (including gambling applications on electronic interactive video systems installed on board aircraft for passenger use)—

(1) which when operated may deliver, as the result of the application of an element of chance, any money or property; or

(2) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(Added Pub. L. 103–305, title II, §205(a)(1), Aug. 23, 1994, 108 Stat. 1583.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY OF GAMBLING ON COMMERCIAL AIRCRAFT

Pub. L. 103–305, title II, §205(b), Aug. 23, 1994, 108 Stat. 1583, provided that the Secretary, not later than 1 year after Aug. 23, 1994, was to complete a study of the aviation safety effects of gambling applications on electronic interactive video systems installed on board aircraft for passenger use and the competitive implications of permitting foreign air carriers only, but not United States air carriers, to install, transport, and operate gambling applications on electronic interactive video systems on board aircraft on flights over international waters, and provided that the Secretary, within 5 days after the completion of the study, would submit a report to Congress on the results of the study.

§41312. Ending or suspending foreign air transportation

(a) GENERAL.—An air carrier holding a certificate issued under section 41102 of this title to

provide foreign air transportation—

(1) may end or suspend the transportation to a place under the certificate only when the carrier gives at least 90 days notice of its intention to end or suspend the transportation to the Secretary of Transportation, any community affected by that decision, and the State authority of the State in which a community is located; and

(2) if it is the only air carrier holding a certificate to provide non-stop or single-plane foreign air transportation between 2 places, may end or suspend the transportation between those places only when the carrier gives at least 60 days notice of its intention to end or suspend the transportation to the Secretary and each community directly affected by that decision.

(b) TEMPORARY SUSPENSION.—The Secretary may authorize the temporary suspension of foreign air transportation under subsection (a) of this section when the Secretary finds the suspension is in the public interest.

(Added Pub. L. 103–429, §6(51)(A), Oct. 31, 1994, 108 Stat. 4384; amended Pub. L. 104–287, §5(72), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41312(a)	49 App.:1371(j)(1) (1st sentence), (2).	Aug. 23, 1958, Pub. L. 85–726, §401(j), 72 Stat. 756, as restated Oct. 24, 1978, Pub. L. 95–504, §19(a), 92 Stat. 1720.
	49 App.:1551(a)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, §1601(a)(1)(D), as added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §1601(b)(1)(E), as added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41312(b)	49 App.:1371(j)(1) (last sentence). 49 App.:1551(a)(1)(D), (b)(1)(E).	

In the section, the text of 49 App.:1371(j) (related to interstate and overseas transportation of persons) is omitted because of 49 App.:1551(a)(1)(D). The text of 49 App.:1371(j) (related to other interstate and overseas air transportation and the domestic air transportation of mail) is omitted because a certificate of public convenience and necessity is no longer required. See H.R. Rept. 98–793, 98th Cong., 2d Sess., p. 10 (1984). The text of 49 App.:1371(j) (related to essential air transportation) is omitted as superseded by 49 App.:1389, restated as subchapter II of chapter 417 of title 49.

In subsection (a)(1) and (2), the word "place" is substituted for "point" for consistency in the revised title. The words "by that decision" are added for clarity.

In subsection (a)(1), the words "which it is providing" are omitted as surplus. The word "authority" is substituted for "agency" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words "between those places" are substituted for "being provided by such air carrier under such certificate" to eliminate unnecessary words.

In subsection (b), the words "by regulation or otherwise" are omitted as surplus. The words "when the Secretary finds the suspension is in" are substituted for "as may be" for clarity and consistency.

PUB. L. 104–287

This amends 49:41312(a)(1) to conform to the style of title 49.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–287 substituted "Secretary of Transportation" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as an Effective Date of 1994 Amendment note under section 321 of this title.

§41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRCRAFT ACCIDENT.—The term "aircraft accident" means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

(2) PASSENGER.—The term "passenger" has the meaning given such term by section 1136.

(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in any loss of life.

(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) TELEPHONE NUMBER.—A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in any loss of life.

(2) NOTIFICATION OF FAMILIES.—A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in any loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—

(A) the organization designated for the accident under section 1136(a)(2); or

(B) other suitably trained individuals.

(3) NOTICE PROVIDED AS SOON AS POSSIBLE.—An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

(4) LIST OF PASSENGERS.—An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—

(A) the director of family support services designated for the accident under section 1136(a)(1); and

(B) the organization designated for the accident under section 1136(a)(2).

(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.—An

assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

(6) RETURN OF POSSESSIONS.—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

(7) UNCLAIMED POSSESSIONS RETAINED.—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

(8) MONUMENTS.—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

(9) EQUAL TREATMENT OF PASSENGERS.—An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident, including any victim on the ground) will be the same as the treatment of the families of revenue passengers.

(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

(11) COMPENSATION TO SERVICE ORGANIZATIONS.—An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

(12) TRAVEL AND CARE EXPENSES.—An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) RESOURCES FOR PLAN.—An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

(14) SUBSTITUTE MEASURES.—If a foreign air carrier does not wish to comply with paragraph (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

(15) TRAINING OF EMPLOYEES AND AGENTS.—An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.—An assurance that, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving any loss of life, the foreign air carrier shall consult with the Board and the Department of State on the provision of the assistance.

(17) NOTICE CONCERNING LIABILITY FOR MANMADE STRUCTURES.—

(A) IN GENERAL.—An assurance that, in the case of an accident that results in any damage to a manmade structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board

conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.

(d) PERMIT AND EXEMPTION REQUIREMENT.—The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

(e) LIMITATION ON LIABILITY.—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.

(Added Pub. L. 105–148, §1(a), Dec. 16, 1997, 111 Stat. 2681; amended Pub. L. 106–181, title IV, §403(a)–(c)(1), Apr. 5, 2000, 114 Stat. 130; Pub. L. 108–176, title VIII, §809(b), Dec. 12, 2003, 117 Stat. 2589; Pub. L. 115–254, div. B, title V, §539(d), div. C, §1109(b), Oct. 5, 2018, 132 Stat. 3370, 3434; Pub. L. 118–63, title XI, §1101(i), May 16, 2024, 138 Stat. 1413.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 105–148, which was approved Dec. 16, 1997.

AMENDMENTS

2024—Subsec. (c)(16). Pub. L. 118–63 substituted "the foreign air carrier shall consult" for "will consult".

2018—Subsec. (b). Pub. L. 115–254, §1109(b)(1), substituted "any loss of life" for "a major loss of life".

Subsec. (c)(1). Pub. L. 115–254, §1109(b)(2)(A), substituted "any loss of life" for "a significant loss of life".

Subsec. (c)(2). Pub. L. 115–254, §1109(b)(2)(B), substituted "any loss of life" for "a significant loss of life" in introductory provisions.

Subsec. (c)(9). Pub. L. 115–254, §1109(b)(2)(C), amended par. (9) generally. Prior to amendment, text read as follows: "An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers."

Subsec. (c)(16). Pub. L. 115–254, §1109(b)(2)(D), substituted "any loss of life" for "major loss of life" and "will consult" for "the foreign air carrier will consult".

Pub. L. 115–254, §539(d), substituted "An assurance that" for "An assurance that the foreign air carrier".

Subsec. (c)(17)(A). Pub. L. 115–254, §1109(b)(2)(E), substituted "any damage" for "significant damage".

2003—Subsec. (c)(17), (18). Pub. L. 108–176 added pars. (17) and (18).

2000—Subsec. (a)(2). Pub. L. 106–181, §403(a), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "The term 'passenger' includes an employee of a foreign air carrier or air carrier aboard an aircraft."

Subsec. (b). Pub. L. 106–181, §403(b), substituted "major" for "significant".

Subsec. (c)(15), (16). Pub. L. 106–181, §403(c)(1), added pars. (15) and (16).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 403(a) and (b) of Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

Pub. L. 106–181, title IV, §403(c)(2), Apr. 5, 2000, 114 Stat. 131, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the 180th day following the date of the enactment of this Act [Apr. 5, 2000]. On or before such 180th day, each foreign air carrier providing foreign air transportation under chapter 413 of title 49, United States Code, shall submit to the Secretary [of Transportation] and the Chairman of the National Transportation Safety Board an updated plan under section 41313 of such title that meets the requirements of the amendment made by paragraph (1)."

EFFECTIVE DATE

Pub. L. 105–148, §1(c), Dec. 16, 1997, 111 Stat. 2683, provided that: "The amendments made by this section [enacting this section] shall take effect on the 180th day following the date of the enactment of this Act [Dec. 16, 1997]."

CHAPTER 415—PRICING

Sec.

41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation.
41502. Establishing joint prices for through routes with other carriers.
41503. Establishing joint prices for through routes provided by State authorized carriers.
41504. Tariffs for foreign air transportation.
41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers.
41506. Price division filing requirements for foreign air transportation.
41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation.
41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation.
41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation.
41510. Required adherence to foreign air transportation tariffs.
41511. Special prices for foreign air transportation.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102, §2(21), Nov. 20, 1997, 111 Stat. 2205, struck out "common" before "carriers" in item 41502.

§41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable prices, classifications, rules, and practices related to foreign air transportation; and

(2) for joint prices established for foreign air transportation, reasonable divisions of those prices among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41501	49 App.:1374(a)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat.

		731, §404(a)(2); added Mar. 22, 1972, Pub. L. 92–259, §1, 86 Stat. 95.

In this chapter, the word "regulation" is omitted in restating the phrase "classifications, rules, regulations, and practices" because it is covered by the word "rules" and to distinguish the rules of an air carrier or foreign air carrier from the regulations of the United States Government. The word "reasonable" is substituted for "just and reasonable" and "just, reasonable, and equitable" for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The word "prices" is substituted for "fares" and "rates, fares, and charges" because of the definition of "price" in section 40102(a) of the revised title.

In this section, before clause (1), the words "comply with" are substituted for "observe" for consistency in the revised title and with other titles of the United States Code. In clause (1), the words "individual and joint" are omitted as surplus. In clause (2), the words "unreasonably discriminating" are substituted for "unduly prefer or prejudice" for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

§41502. Establishing joint prices for through routes with other carriers

(a) JOINT PRICES.—An air carrier may establish reasonable joint prices and through service with another carrier. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint price for the transportation of property with a carrier subject to subtitle IV of this title.

(b) PRICES, CLASSIFICATIONS, RULES, AND PRACTICES AND DIVISIONS OF JOINT PRICES.—For through service by an air carrier and a carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable prices and reasonable classifications, rules, and practices affecting those prices or the value of the transportation provided under those prices; and

(2) for joint prices established for the through service, reasonable divisions of those joint prices among the participating carriers.

(c) STATEMENTS INCLUDED IN TARIFFS.—An air carrier and a carrier subject to subtitle IV of this title that are participating in through service and joint prices shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint prices.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1132; Pub. L. 104–88, title III, §308(l), Dec. 29, 1995, 109 Stat. 948; Pub. L. 105–102, §2(22), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41502(a)	49 App.:1483(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1003(b), 72 Stat. 791.
41502(b)	49 App.:1483(b) (2d sentence).	
41502(c)	49 App.:1483(b) (last sentence).	
	49 App.:155(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), the words "(except an air express company)" are substituted for "(other than companies engaged in the air express business)" to eliminate unnecessary words.

In subsection (b), before clause (1), the words "participating carriers" are substituted for "carriers parties thereto" and "carriers participating therein" for consistency in this chapter.

In subsection (c), the words "or the Interstate Commerce Commission, as the case may be" are omitted

because of 49:10526(a)(8)(B).

PUB. L. 105–102

This amends the catchline for 49:41502 to make a technical and conforming amendment necessary because section 308(l) of the ICC Termination Act (Public Law 104–88, 109 Stat. 948) struck "common" from the text of 49:41502.

EDITORIAL NOTES

AMENDMENTS

1997—Pub. L. 105–102 struck out "common" before "carriers" in section catchline.

1995—Pub. L. 104–88 substituted "another carrier" for "another common carrier" in subsec. (a) and "a carrier" for "a common carrier" in subsecs. (a), (b), and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§41503. Establishing joint prices for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint prices for that transportation. The joint prices agreed to must be the lowest of—

(1) the sum of the applicable prices for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint price established and filed under section 41504 of this title; or

(3) a joint price prescribed by the Secretary of Transportation under section 41507 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41503	49 App.:1371(d) (4)(A)(ii) (related to joint rates, fares), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d) (4)(A)(ii) (related to joint rates, fares), (B); added Nov. 9, 1977, Pub. L. 95–163, §9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, §9, 92 Stat. 1713.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words "Notwithstanding any other provision of this chapter" are omitted as surplus. The words "a citizen of the United States providing transportation under section 41101(b) of this title" are substituted for "any citizen of the United States who undertakes, within any State, the carriage

of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency" for clarity and because of the restatement of 49 App.:1371(d)(4)(A)(i) and (ii) (related to joint services) in section 41101(b) of the revised title. The words "the establishment of" are omitted as surplus.

§41504. Tariffs for foreign air transportation

(a) FILING AND CONTENTS.—In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the prices for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint prices have been established. A tariff—

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the prices in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the prices in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b) CHANGES.—(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a price or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger fare or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger fare that is outside of, or not covered by, the range of passenger fares specified under section 41509(e)(2) and (3) of this title, the proposed change may be put into effect only on the expiration of 60 days after the notice is filed under regulations prescribed by the Secretary.

(c) REJECTION OF CHANGES.—The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1133.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41504(a)	49 App.:1373(a) (1st sentence, 2d sentence words before semicolon, last sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(a), 72 Stat. 758.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to

		§403(a), (c)(1), (2)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41504(b)(1)	49 App.:1373(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §403(c)(1), (2), 72 Stat. 759; Nov. 9, 1977, Pub. L. 95–163, §10(a), 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, §22, 92 Stat. 1724; Feb. 15, 1980, Pub. L. 96–192, §24(b), (c), 94 Stat. 47.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(1)), (b)(1)(E).	
41504(b)(2)	49 App.:1373(c)(2).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(2)), (b)(1)(E).	
41504(c)	49 App.:1373(a) (2d sentence words after semicolon, 3d sentence).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	

In this section, the words "foreign air transportation" are substituted for "air transportation" because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining "air transportation" to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words "passenger fare" are substituted for "fare" for consistency in the revised title.

In subsection (a), before clause (1), the word "print" is omitted as being included in "publish". The word "places" is substituted for "points" for consistency in the revised title and with other titles of the United States Code. In clause (1)(A), the word "services" is omitted as being included in "practices". In clauses (1)(B) and (2)(A), the word "lawful" is omitted as surplus.

In subsection (b)(1), the words "for foreign air transportation" are added because of 49 App.:1551(a)(4)(B). See the revision notes for subsection (a) of this section. The words "in the same way as required for a tariff under" are substituted for "in accordance with" for clarity. The words "proposed change in a passenger fare or a charge of another air carrier or foreign air carrier" are substituted for "fares or charges specified in another air carrier's or foreign air carrier's proposed tariff" for clarity and consistency in this section.

In subsection (b)(2), the words "not covered by" are substituted for "to which such range of fares does not apply" to eliminate unnecessary words. The words "subparagraphs (A) and (B) of section 1482(d)(4) of this Appendix . . . section 1482(d)(7) of this Appendix" are omitted because those sections related to interstate and overseas air transportation and the source provisions restated in this section relate to foreign air transportation. In addition, the text of 49 App.:1551(a)(5)(D) provides that 49 App.:1482(d) ceased to be in effect on January 1, 1985, except as related to foreign air transportation. The reference in the source provisions to "section 1482(j)(9) of this Appendix" has been restated as though it were a reference to 49 App.:1482(j)(10) to correct an apparent error in the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 35). Section 24(b) of S. 1300 of the 96th Congress (the derivative source for the International Air Transportation Competition Act of 1979), as originally passed by both the Senate and the House of Representatives, restated section 403(c)(2) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 759) to read as it now does with a cross–reference to section 1002(j)(9) of the Federal Aviation Act of 1958. Also contained in those versions of S. 1300 in section 24(a) was an amendment to section 1002(j) of the Federal Aviation Act of 1958 to add a paragraph (9) that contained language identical to what is now section 1002(j)(10) of the Federal Aviation Act of 1958. When S. 1300 was reported by the conference committee and enacted into law as the International Air Transportation Competition Act of 1979, section 24(a) had been changed so that a different paragraph (9) was added and what had been paragraph (9) was now designated as a new paragraph (10) to be added. Apparently, when the conference committee redesignated section 1002(j)(9)

as 1002(j)(10) it did not make a corresponding change in the cross–reference in section 403(c)(2). See 125 Cong. Rec. 26936, 32147, 36939.

§41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers

(a) DEFINITION.—In this section, "commuter air carrier" means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) GENERAL.—Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint prices and divisions of joint prices for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint prices and divisions of joint prices for and between air carriers and commuter air carriers.

(c) NOTICE REQUIRED BEFORE MODIFYING, SUSPENDING, OR ENDING TRANSPORTATION.—A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier's routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days' notice before modifying, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint prices and divisions of joint prices referred to in subsection (b) of this section does not apply to the commuter air carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41505(a)	49 App.:1482a(2), (3).	Oct. 24, 1978, Pub. L. 95–504, §37(c), 92 Stat. 1742.
41505(b)	49 App.:1482a(1) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41505(c)	49 App.:1482a(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the text of 49 App.:1482a(2)(A) is omitted as unnecessary because the definition of "air carrier" in 49 App.:1301(3) is restated in section 40102(a) of the revised title and applies to this section and because the functions of the Civil Aeronautics Board under 49 App.:1482a were transferred to the Secretary of Transportation by 49 App.:1551(b)(1)(E) and the complete name of the Secretary is used the first time the term appears in a section. The text of 49 App.:1482a(3) is omitted as executed. The reference in the source provisions to "section 416(b)(3) of the Federal Aviation Act of 1958 [49 App. U.S.C. 1386(b)(3)]" has been restated as though it were a reference to section 416(b)(4) to correct an apparent error in the Airline Deregulation Act of 1978 (Public Law 95–504, 92 Stat. 1705). Section 24 of H.R. 12611 of the 95th Congress (the derivative source for 416(b)(4)), added section 416(b)(3) to the Federal Aviation Act. Section 29(c) added provisions that eventually were classified as 49 App.:1482a. Those provisions contained a reference to section 416(b)(3). When S. 2493 (passed in lieu of the House bill after being amended to contain much of the text of the House bill) was reported by the conference committee and enacted into law, section 32 added what had been a new 416(b)(3) as a new 416(b)(4). However, the conference committee did not make a corresponding change in the cross-reference in section 37(c), that added 49 App.:1482a. See 124 Cong. Rec. 30714, 30716,

36521, 36524. The word "scheduled" is substituted for "pursuant to flight schedules" to eliminate unnecessary words. The words "the same 2 places" are substituted for "one pair of points" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words "Except as provided in subsection (c) of this section" are added for clarity. The words "pursuant to its authority" are omitted as surplus.

In subsection (c), the word "passengers" is substituted for "persons" for consistency in the revised title and with other titles of the Code. The words "through service by the commuter air carrier over the commuter air carrier's routes" are substituted for "transportation over its routes" for clarity. The words "between air carriers and commuter air carriers" are omitted as surplus.

§41506. Price division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint prices for foreign air transportation in which the carrier participates.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41506	49 App.:1373(d).	Aug. 23, 1958, Pub. L. 85–726, §403(d), 72 Stat. 759.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(d)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(d)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.

The words "foreign air transportation" are substituted for "air transportation" because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining "air transportation" to mean interstate or foreign air transportation or the transportation of mail by aircraft.

§41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a price charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, is or will be unreasonably discriminatory, the Secretary may—

(1) change the price, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory price or carrying out the discriminatory classification, rule, or practice.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41507(a)	49 App.:1482(f) (words after 4th comma).	Aug. 23, 1958, Pub. L. 85–726, §1002(f), 72 Stat. 789.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41507(b)	49 App.:1482(f) (words before 4th comma).	
	49 App.:1551(b)(1)(E).	

In subsection (a), before clause (1), the words "individual or joint" are omitted as surplus. The words "charged or received" are substituted for "demanded, charged, collected, or received" to eliminate unnecessary words. The words "unreasonably discriminatory" are substituted for "unjustly discriminatory, or unduly preferential, or unduly prejudicial" for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. In clause (2), the words "carrying out" are substituted for "enforcing" for clarity.

In subsection (b), the words "opportunity for a" are added for consistency in the revised title and with other titles of the United States Code.

§41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint price for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint price among those carriers. The Secretary may order the adjustment in the division of the joint price to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41508(a)	49 App.:1482(h) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, §1002(h), 72 Stat. 790; Nov. 9, 1977, Pub. L. 95–163, §18(c), 91 Stat. 1287.
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(5)(D) (related to §1002(h)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41508(b)	49 App.:1482(h) (words before 3d comma).	
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)),	

	(b)(1)(E).	

In subsection (a), the words "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the state of Hawaii, or overseas or" are omitted because 49:1551(a)(5)(D) provides that 49 App.:1482(h) applies only to foreign air transportation. The words "unreasonable or unreasonably discriminatory" are substituted for "unjust, unreasonable, inequitable, or unduly preferential or prejudicial" for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The words "against any of those carriers" are substituted for "as between the air carriers or foreign air carriers parties thereto" to eliminate unnecessary words. The word "retroactively" is added for clarity.

In subsection (b), the words "an opportunity for a" are added for consistency in the revised title and with other titles of the United States Code.

§41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a) CANCELLATION AND REJECTION.—(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a hearing to decide whether a price for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that price, or the value of the transportation provided under that price, is lawful. The Secretary may begin the hearing at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the hearing, the Secretary decides that the price, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the price, classification, rule, or practice.

(2) With or without a hearing, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a price, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the price on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the price will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the price would be in effect; and

(H) other factors.

(b) SUSPENSION.—(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a price contained in the tariff or a classification, rule, or practice affecting that price.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a price, classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the price, classification, rule, or practice to go into effect.

(c) EFFECTIVE TARIFFS AND PRICES WHEN TARIFF IS SUSPENDED, CANCELED, OR REJECTED.—(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal prices, or the classifications, rules, and practices affecting those prices or the value of transportation provided under those prices, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another price provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, canceled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or canceled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) RESPONSE TO REFUSAL OF FOREIGN COUNTRY TO ALLOW AIR CARRIER TO CHARGE A PRICE.—When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a price contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without a hearing—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, prices that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an air carrier to start or continue foreign air transportation to the foreign country at the prices designated by the Secretary.

(e) STANDARD FOREIGN FARE LEVEL.—(1)(A) In this subsection, "standard foreign fare level" means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as adjusted under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare established under

section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall adjust the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In adjusting a standard foreign fare level, the Secretary may not make an adjustment to costs actually incurred. In establishing a standard foreign fare level and making adjustments in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than the standard foreign fare level for the same or essentially similar class of transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) SUBMISSION OF ORDERS TO PRESIDENT.—The Secretary shall submit to the President an order made under this section suspending, canceling, or rejecting a price for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) COMPLIANCE AS CONDITION OF CERTIFICATE OR PERMIT.—This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains prices for that transportation that comply with this section and orders of the Secretary under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41509(a)(1)	49 App.:1482(j)(1) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers), (2) (1st sentence words before semicolon, 2d	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(1), (2); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 96; restated Feb. 15, 1980, Pub. L. 96–192, §§14, 15, 94 Stat. 40.

	sentence related to tariffs of air carriers and foreign air carriers).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(c)(3)), (b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41509(a)(2)	49 App.:1482(j)(1) (2d sentence related to tariffs of foreign air carriers), (2) (2d sentence related to tariffs of foreign air carriers).	
	49 App.:1551(b)(1)(E).	
41509(a)(3)	49 App.:1482(j)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(5); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 98; Feb. 15, 1980, Pub. L. 96–192, §16, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
41509(b)	49 App.:1373(c)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §403(c)(3); added Oct. 24, 1978, Pub. L. 95–504, §22, 92 Stat. 1724.
	49 App.:1482(j)(1) (1st sentence words after semicolon, 3d sentence), (2) (1st sentence words after semicolon).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(3)), (b)(1)(E).	
41509(c)(1)	49 App.:1482(j)(1) (4th sentence), (2) (3d sentence).	
	49 App.:1551(b)(1)(E).	
41509(c)(2)	49 App.:1482(j)(1) (5th, last sentences).	
41509(c)(3)	49 App.:1482(j)(2) (last sentence).	
41509(d)	49 App.:1482(j)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(3), (4); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 98.
	49 App.:1551(b)(1)(E).	
41509(e) (1)(A)	49 App.:1482(j)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(6), (7), (9), (10); added Feb. 15, 1980, Pub. L. 96–192, §24(a), 94 Stat. 45, 47.
41509(e) (1)(B)	49 App.:1482(j)(9).	
	49 App.:1551(b)(1)(E).	
41509(e)(2), (3)	49 App.:1482(j)(6), (10).	
	49 App.:1551(b)(1)(E).	

41509(f)	49 App.:1461(b). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §801(b); added Mar. 22, 1972, Pub. L. 92–259, §2, 86 Stat. 96.
41509(g)	49 App.:1482(j)(4). 49 App.:1551(b)(1)(E).	

In subsection (a)(1) and (2), the words "take action to" are omitted as surplus.

In subsection (a)(1), the words "individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers)" and "and, if it so orders" are omitted as surplus. The words "unreasonable or unreasonably discriminatory" are substituted for "unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial" for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

In subsection (a)(3), before clause (A), the words "In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection" are substituted for "In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property" for consistency in this section and to eliminate unnecessary words. In clause (B), the words "of persons and property" are omitted as surplus.

In subsection (b)(1), the words "contained in the tariff" are added for clarity.

In subsection (b)(1)(A), the words "such hearing and" are omitted as surplus.

In subsection (b)(1)(B), the words "or in the case of" are omitted as surplus.

In subsection (b)(2), the text of 49 App.:1373(c)(3) is omitted as obsolete. Reference to 49 App.:1482(g) is omitted because 49 App.:1482(g) does not relate to foreign air transportation and 49 App.:1551(a)(5)(D) provides that 49 App.:1482(g) ceased to be in effect on January 1, 1985, except insofar as it related to foreign air transportation. Reference to 49 App.:1482(j) is omitted because it consistently has been interpreted that the minimum notice requirement does not apply to foreign air transportation.

In subsection (b)(3), the words "for periods totaling not more than 365 days after" are substituted for "a period or periods not exceeding 365 days in the aggregate beyond the time when" and "a period or periods not exceeding 365 days in the aggregate from" to eliminate unnecessary words.

In subsection (c)(1), the words "a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section" are added for clarity. The words "and the Secretary does not take final action in the proceeding during the suspension period" are substituted for "the proceeding has not been concluded and an order made within the period of suspension or suspensions" and "the proceeding has not been concluded within the period of suspension or suspensions" to eliminate unnecessary words. The words "or if the Board shall otherwise so direct" are omitted as surplus because under subsection (b)(3) of this section the Secretary may rescind a suspension at any time.

In subsection (c)(2)(A), before clause (i), the words "or suspensions" are omitted because of 1:1. In clause (i), the words "corresponding seasonal" are added for clarity.

In subsection (c)(2)(B) and (3), the words "providing the same transportation" are substituted for "engaged in the same foreign air transportation" for consistency in this chapter and to eliminate unnecessary words.

In subsection (c)(2)(B), the words "of the carrier for the covered transportation" and "during the period of suspension or" are added for clarity.

In subsection (c)(3), the words "If an existing tariff is suspended or canceled" are added for clarity. The words "following cancellation of an existing tariff" are omitted as surplus.

In subsection (d), the word "properly" is omitted as surplus. In clause (1)(A), the words "the operation of" are omitted as surplus. The words "periods totaling not more than 365 days after the date of the suspension" are substituted for "for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension" for clarity and to eliminate unnecessary words. In subclause (B), the words "or suspensions" are omitted because of 1:1. In clause (2), the words "by the Secretary" are added for clarity.

In subsection (e)(1)(B), the words "within 30 days after February 15, 1980" are omitted as executed. The words "as the case may be" are omitted as surplus.

In subsection (e)(2), the text of 49 App.:1482(j)(6)(A) is omitted as expired. The words "with respect to any proposed increase filed with the Board after the 180th day after February 15, 1980" and "with respect to any proposed decrease filed after February 15, 1980" are omitted as obsolete. The words "of persons" are omitted as surplus because a "fare" is only for passengers. The words "The Secretary by regulation may increase the 50 percent specified in this paragraph" are substituted for 49 App.:1482(j)(10) for clarity.

In subsection (e)(3)(A), the words "unreasonably discriminatory" are substituted for "unduly preferential, unduly prejudicial, or unjustly discriminatory" to eliminate unnecessary words and for consistency in the

revised title. See the revision notes following 49:10101.

In subsection (g), the words "express" and "now . . . or hereafter issued" are omitted as surplus. The words "may provide foreign air transportation only as long as" are substituted for "shall be a condition to the continuation of the affected service" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1002(j)(8) of the Federal Aviation Act of 1958, referred to in subsec. (e)(1)(A)(i), is section 1002(j)(8) of Pub. L. 85–726, which was classified to section 1482(j)(8) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.

§41510. Required adherence to foreign air transportation tariffs

(a) PROHIBITED ACTIONS BY AIR CARRIERS, FOREIGN AIR CARRIERS, AND TICKET AGENTS.—An air carrier, foreign air carrier, or ticket agent may not—

(1) charge or receive compensation for foreign air transportation that is different from the price specified in the tariff of the carrier that is in effect for that transportation;

(2) refund or remit any part of the price specified in the tariff; or

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) PROHIBITED ACTIONS BY ANY PERSON.—A person may not knowingly—

(1) pay compensation for foreign air transportation of property that is different from the price specified in the tariff in effect for that transportation; or

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the price specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign air transportation of property, except as specified in the tariff.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1138.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41510(a)	49 App.:1373(b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(b)(1) (1st sentence), 72 Stat. 759; restated Jan. 3, 1975, Pub. L. 93–623, §§7(a), 8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41510(b)	49 App.:1373(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §403(b)(2); added Jan. 3, 1975, Pub. L. 93–623, §8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(2)), (b)(1)(E).	

In this section, the words "greater or less" are omitted as being included in "different". The words "foreign air transportation" are substituted for "air transportation" because 49 App.:1551(a)(4)(B) provides that 49

App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs prices for the transportation of mail by aircraft. See section 40102(a) of the revised title defining "air transportation" to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words "for any service in connection therewith" are omitted as surplus because the word "transportation" includes any services related to the transportation.

In subsection (a), before clause (1), the words "may not" are substituted for "no . . . shall" and "no . . . shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise" for clarity and to eliminate unnecessary words. In clause (1), the words "demand or collect" are omitted as being included in "charge or receive". The words "then currently" are omitted as surplus. In clause (3), the words "tariff for foreign air transportation" are substituted for "such tariffs" for clarity.

In subsection (b), before clause (1), the words "shipper, consignor, consignee, forwarder, broker, or other . . . or any director, officer, agent, or employee thereof" are omitted as surplus. In clause (1), the words "directly or indirectly, by any device or means" and "currently" are omitted as surplus. In clause (2), before subclause (A), the words "in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise" are omitted as surplus. In subclause (B), the word "favor" is omitted as surplus.

§41511. Special prices for foreign air transportation

(a) FREE AND REDUCED PRICING.—This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-price foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) SPACE-AVAILABLE BASIS.—Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-price foreign air transportation on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental disability and an accompanying attendant needed by that individual.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1139; Pub. L. 118–63, title V, §550(b), May 16, 2024, 138 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41511(a)	49 App.:1373(b)(1) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(b)(1) (2d– last sentences), 72 Stat. 759; July 12, 1960, Pub. L.

		86–627, 74 Stat. 445; Jan. 3, 1975, Pub. L. 93–623, §8(a), 88 Stat. 2105; Nov. 9, 1977, Pub. L. 95–163, §8(a), 91 Stat. 1281.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(b)(1)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41511(b)	49 App.:1373(b)(1) (3d–last sentences). 49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	

In this section, the words "foreign air transportation" are substituted for "transportation" and "in the case of overseas or foreign air transportation" because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining "air transportation" to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word "conditions" is omitted as being included in "terms".

In subsection (a)(7), the words "or other emergency" are substituted for "other calamitous visitation" for consistency.

In subsection (b)(2), the words "no longer gainfully employed" are substituted for "retired" and "For purposes of this subsection, the term 'retired' means no longer gainfully employed as defined by the Board" to eliminate unnecessary words.

In subsection (b)(4), the words "an individual who has severely impaired vision or hearing or another physical or mental handicap" are substituted for "handicapped person" and "For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b)(4). Pub. L. 118–63 substituted "disability" for "handicap".

CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

Sec.

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SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

41731. Definitions.
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[41744. Repealed.]
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[41747. Repealed.]
[41748. Repealed.]

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EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title V, §561(g), (i), (j), (l), May 16, 2024, 138 Stat. 1216, 1217, which directed amendment of the analysis for subchapter II of this chapter by striking out items 41735 "Enhanced essential air service", 41740 "Joint proposals", 41744 "Preservation of basic essential air service at single carrier dominated hub airports", and 41748 "Marketing program", was executed to the analysis for this chapter to reflect the probable intent of Congress.

Pub. L. 118–63, title V, §§510(c), 550(d), title XI, §1107(b), May 16, 2024, 138 Stat. 1194, 1212, 1417, substituted "Discrimination against individuals with disabilities" for "Discrimination against handicapped

individuals" in item 41705 and added items 41727 to 41729.

2018—Pub. L. 115–254, div. B, title IV, §§403(b), 412(b), title V, §539(e), Oct. 5, 2018, 132 Stat. 3329, 3332, 3370, added items 41725 and 41726 and substituted "rules" for "Rules" in item 41718.

2012—Pub. L. 112–95, title IV, §403(b), Feb. 14, 2012, 126 Stat. 85, which directed amendment of analysis for "such subchapter", meaning subchapter I of chapter 417, by adding item 41724 at the end, was executed by adding item 41724 to analysis for this chapter to reflect the probable intent of Congress.

Pub. L. 112–95, title IV, §§401(b), 430, Feb. 14, 2012, 126 Stat. 83, 100, substituted "Prohibitions against smoking on passenger flights" for "Prohibitions against smoking on scheduled flights" in item 41706, and struck out item 41747 "EAS local participation program".

2003—Pub. L. 108–176, title IV, §§408(b), 410(b), 422(b), title VIII, §810(b), Dec. 12, 2003, 117 Stat. 2547, 2549, 2552, 2590, added items 41721 to 41723 and 41745 to 41748 and struck out former item 41721 "Reports by carriers on incidents involving animals during air transportation".

2000—Pub. L. 106–181, title II, §§203(b), 204(b), 210(b), 231(j)(2), title VII, §710(b), Apr. 5, 2000, 114 Stat. 93, 94, 102, 115, 160, added items 41715 to 41718, redesignated former items 41715 and 41716 as 41719 and 41720, respectively, and added items 41721, 41743, and 41744, subchapter III heading, and items 41761 to 41767.

1998—Pub. L. 105–277, div. C, title I, §110(f)(2), Oct. 21, 1998, 112 Stat. 2681–590, which directed amendment of the analysis for subchapter I of chapter 417 by adding item 41716 without specifying the Code title or Act for chapter 417, was executed by adding item 41716 to this analysis to reflect the probable intent of Congress.

1996—Pub. L. 104–264, title II, §278(d), Oct. 9, 1996, 110 Stat. 3250, substituted "Essential air service authorization" for "Ending effective date" in item 41742.

1994—Pub. L. 103–429, §6(52), Oct. 31, 1994, 108 Stat. 4385, made technical correction to chapter heading.

Pub. L. 103–305, title II, §§206(b), 207(b), Aug. 23, 1994, 108 Stat. 1587, 1588, added items 41714 and 41715.

[1] *So in original. Does not conform to section catchline.*

SUBCHAPTER I—REQUIREMENTS

§41701. Classification of air carriers

The Secretary of Transportation may establish—

(1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41701	49 App.:1386(a).	Aug. 23, 1958, Pub. L. 85–726, §416(a), 72 Stat. 771.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words "from time to time" are omitted as unnecessary. In clauses (1) and (2), the word "just" is omitted as being included in "reasonable". In clause (1), the word "groups" is

omitted as being included in "classifications". The words "transportation provided" are substituted for "services performed" for consistency in the revised title. In clause (2), the word "requirements" is substituted for "rules and regulations pursuant to and consistent with the provisions of this subchapter" as being more appropriate and for consistency in the revised title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CREWMEMBER PUMPING GUIDANCE

Pub. L. 118–63, title IV, §421, May 16, 2024, 138 Stat. 1165, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue guidance to part 121 air carriers relating to the expression of milk by crewmembers on an aircraft during noncritical phases of flight, consistent with the performance of the crewmember's duties aboard the aircraft. The guidance shall be equally applicable to any lactating crewmember. In developing the guidance, the Administrator shall—

"(1) consider multiple methods of expressing breast milk that could be used by crewmembers, including the use of wearable lactation technology; and

"(2) ensure the guidance will not require an air carrier or foreign air carrier to incur significant expense, such as through—

"(A) the addition of an extra crewmember in response to providing a break;

"(B) removal or retrofitting of seats on the aircraft; or

"(C) modification or retrofitting of an aircraft.

"(b) DEFINITIONS.—In this section:

"(1) CREWMEMBER.—The term 'crewmember' has the meaning given such term in section 1.1 of title 14, Code of Federal Regulations.

"(2) CRITICAL PHASES OF FLIGHT.—The term 'critical phases of flight' has the meaning given such term in section 121.542 of title 14, Code of Federal Regulations.

"(3) PART 121.—The term 'part 121' means part 121 of title 14, Code of Federal Regulations.

"(c) AVIATION SAFETY.—Nothing in this section shall limit the authority of the Administrator relating to aviation safety under subtitle VII of title 49, United States Code."

§41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41702	49 App.:1374(a)(1).	Aug. 23, 1958, Pub. L. 85–726, §404(a)(1), 72 Stat. 760; Mar. 22, 1972, Pub. L. 92–259, §1, 86 Stat. 95; Oct. 24, 1978, Pub. L. 95–504, §23, 92 Stat. 1724.
	49 App.:1551(a)(4)(C) (related to 49 App.:1374(a)(1)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(C) (related to §404(a)(1)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.

This section is substituted for 49 App.:1374(a)(1) because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

§41703. Navigation of foreign civil aircraft

(a) PERMITTED NAVIGATION.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

(1) if the country of registry grants a similar privilege to aircraft of the United States;

(2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;

(3) if the Secretary of Transportation authorizes the navigation; and

(4) if the navigation is consistent with terms the Secretary may prescribe.

(b) REQUIREMENTS FOR AUTHORIZING NAVIGATION.—The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

(1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) PROVIDING AIR COMMERCE.—The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers or cargo destined for another place in the United States only if—

(1) specifically authorized under section 40109(g) of this title; or

(2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) PERMIT REQUIREMENTS NOT AFFECTED.—This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need to obtain additional authorization under this section for an operation authorized by the permit.

(e) CARGO IN ALASKA.—

(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term "eligible cargo" means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

(A) under the code of a United States air carrier providing air transportation to Alaska;

(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

(C) under a term arrangement or block space agreement with an air carrier; or

(D) under the code of a United States air carrier for purposes of transportation within the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140; Pub. L. 108–176, title VIII, §808, Dec. 12, 2003, 117 Stat. 2588.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41703(a)	49 App.:1508(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1108(b) (1st, 2d, last sentences), 72 Stat. 798, 799.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4,

		1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41703(b)	49 App.:1508(b) (2d sentence). 49 App.:1551(b)(1)(E).	
41703(c)	49 App.:1508(b) (3d sentence). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §1108(b) (3d sentence), 72 Stat. 799; Feb. 15, 1980, Pub. L. 96–192, §20, 94 Stat. 43.
41703(d)	49 App.:1508(b) (last sentence).	

In subsection (a), the word "country" is substituted for "nation" for consistency in the revised title and with other titles of the United States Code. In clause (3), the words "permit, order, or regulation issued" are omitted as surplus. In clause (4), the words "conditions, and limitations" are omitted as being included in "terms".

In subsection (b)(2), the word "agreement" is substituted for "treaty, convention, or agreement" for clarity and consistency in the revised title. The words "which may be in force" are omitted as surplus. The words "or countries" are omitted because of 1:1.

In subsection (c), before clause (1), the word "place" is substituted for "point", and the word "passengers" is substituted for "persons", for consistency in the revised title.

In subsection (d), the word "affect" is substituted for "limit, modify, or amend" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§41704. Transporting property not to be transported in aircraft cabins

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41704	49 App.:1516.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1116; added Aug. 5, 1974, Pub. L. 93–366, §205, 88 Stat. 418.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4,

		1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words "as may be necessary", "which . . . lawfully", and "by such person" are omitted as surplus. The words "The carrier is liable to pay an amount not more than" are substituted for "shall assume liability . . . within" for clarity. The words "to such person" are omitted as surplus. The words "The carrier may impose" are added for clarity. The words "terms and" are omitted as covered by "conditions".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFUNDS FOR DELAYED BAGGAGE

Pub. L. 114–190, title II, §2305, July 15, 2016, 130 Stat. 640, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Secretary of Transportation shall issue final regulations to require an air carrier or foreign air carrier to promptly provide to a passenger an automated refund for any ancillary fees paid by the passenger for checked baggage if—

"(1) the air carrier or foreign air carrier fails to deliver the checked baggage to the passenger—

"(A) not later than 12 hours after the arrival of a domestic flight; or

"(B) not later than 15 hours after the arrival of an international flight; and

"(2) the passenger has notified the air carrier or foreign air carrier of the lost or delayed checked baggage.

"(b) EXCEPTION.—If, as part of the rulemaking, the Secretary makes a determination on the record that a requirement under subsection (a) is not feasible and would adversely affect consumers in certain cases, the Secretary may modify 1 or both of the deadlines specified in subsection (a)(1) for such cases, except that—

"(1) the deadline relating to a domestic flight may not exceed 18 hours after the arrival of the domestic flight; and

"(2) the deadline relating to an international flight may not exceed 30 hours after the arrival of the international flight."

§41705. Discrimination against individuals with disabilities

(a) IN GENERAL.—In providing air transportation, an air carrier, including (subject to section 40105(b)) any foreign air carrier, may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

(b) EACH ACT CONSTITUTES SEPARATE OFFENSE.—For purposes of section 46301, a separate violation occurs under this section for each individual act of discrimination prohibited by subsection (a).

(c) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 120 days after the receipt of any complaint of a violation of this section or a regulation prescribed under this section, investigate such complaint; and

(B) provide, in writing, to the individual that filed the complaint and the air carrier or foreign air carrier alleged to have violated this section or a regulation prescribed under this section, the determination of the Secretary with respect to—

(i) whether the air carrier or foreign air carrier violated this section or a regulation prescribed under this section;

(ii) the facts underlying the complaint; and

(iii) any action the Secretary is taking in response to the complaint.

(2) PUBLICATION OF DATA.—The Secretary shall publish disability-related complaint data

in a manner comparable to other consumer complaint data.

(3) REVIEW AND REPORT.—The Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability and shall report annually to Congress on the results of such review.

(4) TECHNICAL ASSISTANCE.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall—

(A) implement a plan, in consultation with the Department of Justice, the United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities set forth in this section; and

(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or responsibilities under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106–181, title VII, §707(a), Apr. 5, 2000, 114 Stat. 158; Pub. L. 108–176, title V, §503(d)(1), Dec. 12, 2003, 117 Stat. 2559; Pub. L. 118–63, title V, §§549, 550(c), May 16, 2024, 138 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41705	49 App.:1374(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §404(c); added Oct. 2, 1986, Pub. L. 99–435, §2(a), 100 Stat. 1080.

In this section, before clause (1), the words "on the following grounds" are substituted for "by reason of such handicap" and "For purposes of paragraph (1) of this subsection the term 'handicapped individual' means any individual who" because of the restatement.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(4), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2024—Pub. L. 118–63, §550(c), substituted "individuals with disabilities" for "handicapped individuals" in section catchline.

Subsec. (c)(1). Pub. L. 118–63, §549, added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary shall investigate each complaint of a violation of subsection (a)."

2003—Subsec. (b). Pub. L. 108–176 substituted "section 46301" for "section 46301(a)(3)(E)".

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, substituted "carrier, including (subject to section 40105(b)) any foreign air carrier," for "carrier" in introductory provisions, and added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

REGULATIONS ENSURING ASSISTANCE FOR PASSENGERS WITH DISABILITIES IN AIR TRANSPORTATION

Pub. L. 115–254, div. B, title IV, §440, Oct. 5, 2018, 132 Stat. 3347, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall—

"(1) review, and if necessary revise, applicable regulations to ensure that passengers with disabilities who request assistance while traveling in air transportation receive dignified, timely, and effective assistance at airports and on aircraft from trained personnel; and

"(2) review, and if necessary revise, applicable regulations related to covered air carrier training programs for air carrier personnel, including contractors, who provide physical assistance to passengers with disabilities to ensure that training under such programs—

"(A) occurs on an annual schedule for all new and continuing personnel charged with providing physical assistance; and

"(B) includes, as appropriate, instruction by personnel, with hands-on training for employees who physically lift or otherwise physically assist passengers with disabilities, including the use of relevant equipment.

"(b) TYPES OF ASSISTANCE.—The assistance referred to [in] subsection (a)(1) may include requests for assistance in boarding or deplaning an aircraft, requests for assistance in connecting between flights, and other similar or related requests, as appropriate."

[For definition of "covered air carrier" as used in section 440 of Pub. L. 115–254, set out above, see section 401 of Pub. L. 115–254, set out as a Definitions of Terms in Pub. L. 115–254 note under section 40101 of this title.]

AIRLINE PASSENGERS WITH DISABILITIES BILL OF RIGHTS

Pub. L. 115–254, div. B, title IV, §434, Oct. 5, 2018, 132 Stat. 3343, which provided that the Secretary of Transportation would develop an Airline Passengers with Disabilities Bill of Rights to describe the basic protections and responsibilities of covered air carriers, their employees and contractors, and people with disabilities under section 41705 of this title, was transferred to this chapter and redesignated as section 41728 of this title by Pub. L. 118–63, title V, §510(b)(1), May 16, 2024, 138 Stat. 1194.

HARMONIZATION OF SERVICE ANIMAL STANDARDS

Pub. L. 115–254, div. B, title IV, §437, Oct. 5, 2018, 132 Stat. 3344, provided that:

"(a) RULEMAKING.—The Secretary of Transportation shall conduct a rulemaking proceeding—

"(1) to define the term 'service animal' for purposes of air transportation; and

"(2) to develop minimum standards for what is required for service and emotional support animals carried in aircraft cabins.

"(b) CONSIDERATIONS.—In conducting the rulemaking under subsection (a), the Secretary shall consider, at a minimum—

"(1) whether to align the definition of 'service animal' with the definition of that term in regulations of the Department of Justice implementing the Americans with Disabilities Act of 1990 (Public Law 101–336) [42 U.S.C. 12101 et seq.];

"(2) reasonable measures to ensure pets are not claimed as service animals, such as—

"(A) whether to require photo identification for a service animal identifying the type of animal, the breed of animal, and the service the animal provides to the passenger;

"(B) whether to require documentation indicating whether or not a service animal was trained by the owner or an approved training organization;

"(C) whether to require, from a licensed physician, documentation indicating the mitigating task or tasks a service animal provides to its owner; and

"(D) whether to allow a passenger to be accompanied by more than 1 service animal;

"(3) reasonable measures to ensure the safety of all passengers, such as—

"(A) whether to require health and vaccination records for a service animal; and

"(B) whether to require third-party proof of behavioral training for a service animal;

"(4) the impact additional requirements on service animals could have on access to air transportation for passengers with disabilities; and

"(5) if impacts on access to air transportation for passengers with disabilities are found, ways to eliminate or mitigate those impacts.

"(c) FINAL RULE.—Not later than 18 months after the date of enactment of this Act [Oct. 5, 2018], the Secretary shall issue a final rule pursuant to the rulemaking conducted under this section."

AIR CARRIER ACCESS ACT ADVISORY COMMITTEE

Pub. L. 115–254, div. B, title IV, §439, Oct. 5, 2018, 132 Stat. 3345, as amended by Pub. L. 118–15, div. B, title II, §2202(t), Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §102(t), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(t), Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title V, §541(a), May 16, 2024, 138 Stat. 1201, provided that:

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish an advisory committee on issues related to the air travel needs of passengers with disabilities (referred to in this section as the 'Advisory Committee').

"(b) DUTIES.—The Advisory Committee shall—

"(1) identify and assess the disability-related access barriers encountered by passengers with disabilities;

"(2) determine the extent to which the programs and activities of the Department of Transportation are addressing the barriers identified in paragraph (1);

"(3) recommend consumer protection improvements to the air travel experience of passengers with disabilities;

"(4) advise the Secretary with regard to the implementation of section 41705 of title 49, United States Code; and

"(5) conduct such activities as the Secretary considers necessary to carry out this section.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Committee shall be composed of at least 1 representative of each of the following groups:

"(A) Passengers with disabilities.

"(B) National disability organizations.

"(C) Air carriers.

"(D) Airport operators.

"(E) Contractor service providers.

"(F) Aircraft manufacturers.

"(G) Manufacturers of wheelchairs, including powered wheelchairs, and other mobility aids.

"(H) National veterans organizations representing disabled veterans.

"(2) APPOINTMENT.—The Secretary of Transportation shall appoint each member of the Advisory Committee.

"(3) VACANCIES.—A vacancy in the Advisory Committee shall be filled in the manner in which the original appointment was made.

"(d) CHAIRPERSON.—The Secretary of Transportation shall designate, from among the members appointed under subsection (c), an individual to serve as chairperson of the Advisory Committee.

"(e) TRAVEL EXPENSES.—Members of the Advisory Committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(f) REPORTS.—

"(1) IN GENERAL.—Not later than 14 months after the date of establishment of the Advisory Committee, and annually thereafter, the Advisory Committee shall submit to the Secretary of Transportation a report on the needs of passengers with disabilities in air travel, including—

"(A) an assessment of existing disability-related access barriers, and any emerging disability-related access barriers that will likely be an issue in the next 5 calendar years;

"(B) an evaluation of the extent to which the Department of Transportation's programs and activities are eliminating disability-related access barriers;

"(C) a description of the Advisory Committee's actions;

"(D) a description of improvements related to the air travel experience of passengers with disabilities; and

"(E) any recommendations for legislation, administrative action, or other action that the Advisory Committee considers appropriate.

"(2) REPORT TO CONGRESS.—Not later than 60 days after the date the Secretary receives the report under paragraph (1), the Secretary shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a copy of the report, including any additional findings or recommendations that the Secretary considers appropriate.

"(g) TERMINATION.—The Advisory Committee established under this section shall terminate on September 30, 2028.

"(h) TERMINATION OF THE NEXT GENERATION AIR TRANSPORTATION SYSTEM SENIOR POLICY COMMITTEE.—The Next Generation Air Transportation System Senior Policy Committee established by the Secretary of Transportation shall terminate on the date of the initial appointment of the members of the Advisory Committee."

TRAINING POLICIES REGARDING ASSISTANCE FOR PERSONS WITH DISABILITIES

Pub. L. 115–254, div. B, title IV, §433, Oct. 5, 2018, 132 Stat. 3342, provided that: "Following the receipt of the report required under section 2107 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190; 130 Stat. 622) [set out below], the Secretary of Transportation shall develop, if appropriate, specific recommendations regarding improvements to wheelchair assistance provided by air carriers and recommendations on how training programs by air carriers can address consumer complaints regarding wheelchair assistance."

Pub. L. 114–190, title II, §2107, July 15, 2016, 130 Stat. 622, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [July 15, 2016], the Comptroller General of the United States shall submit to Congress a report assessing required air carrier personnel and contractor training programs regarding the assistance of persons with disabilities, including—

"(1) variations in training programs between air carriers;

"(2) instances since 2005 where the Department of Transportation has requested that an air carrier take corrective action following a review of the air carrier's training programs; and

"(3) actions taken by air carriers following requests described in paragraph (2).

"(b) BEST PRACTICES.—After the date the report is submitted under subsection (a), the Secretary of Transportation, based on the findings of the report, shall develop, make publicly available, and appropriately disseminate to air carriers such best practices as the Secretary considers necessary to improve the reviewed training programs."

ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS

Pub. L. 106–181, title VII, §707(c), Apr. 5, 2000, 114 Stat. 158, provided that: "The Secretary [of Transportation] shall work with appropriate international organizations and the aviation authorities of other nations to bring about the establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with air carriers."

RESTRICTIONS ON AIR TRANSPORTATION OF PEANUTS; SCIENTIFIC STUDY ON EFFECT OF AIRBORNE PARTICLES ON PASSENGERS

Pub. L. 106–69, title III, §346, Oct. 9, 1999, 113 Stat. 1023, provided that: "Hereafter, none of the funds made available under this Act or any other Act, may be used to implement, carry out, or enforce any regulation issued under section 41705 of title 49, United States Code, including any regulation contained in part 382 of title 14, Code of Federal Regulations, or any other provision of law (including any Act of Congress, regulation, or Executive order or any official guidance or correspondence thereto), that requires or encourages an air carrier (as that term is defined in section 40102 of title 49, United States Code) to, on intrastate or interstate air transportation (as those terms are defined in section 40102 of title 49, United States Code)—

"(1) provide a peanut-free buffer zone or any other related peanut-restricted area; or

"(2) restrict the distribution of peanuts,

until 90 days after submission to the Congress and the Secretary of a peer-reviewed scientific study that determines that there are severe reactions by passengers to peanuts as a result of contact with very small airborne peanut particles of the kind that passengers might encounter in an aircraft."

Similar provisions were contained in Pub. L. 105–277, div. A, §101(g) [title III, §372], Oct. 21, 1998, 112 Stat. 2681–439, 2681–479.

§41706. Prohibitions against smoking on passenger flights

(a) SMOKING PROHIBITION IN INTERSTATE AND INTRASTATE AIR TRANSPORTATION.—An individual may not smoke—

(1) in an aircraft in scheduled passenger interstate or intrastate air transportation; or

(2) in an aircraft in nonscheduled passenger interstate or intrastate air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator of the Federal Aviation Administration).

(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking—

(1) in an aircraft in scheduled passenger foreign air transportation; and

(2) in an aircraft in nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator or a foreign government).

(c) LIMITATION ON APPLICABILITY.—

(1) IN GENERAL.—If a foreign government objects to the application of subsection (b) on the basis that subsection (b) provides for an extraterritorial application of the laws of the United States, the Secretary shall waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

(2) ALTERNATIVE PROHIBITION.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

(d) ELECTRONIC CIGARETTES.—

(1) INCLUSION.—The use of an electronic cigarette shall be treated as smoking for purposes of this section.

(2) ELECTRONIC CIGARETTE DEFINED.—In this section, the term "electronic cigarette" means a device that delivers nicotine to a user of the device in the form of a vapor that is inhaled to simulate the experience of smoking.

(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106–181, title VII, §708(a), Apr. 5, 2000, 114 Stat. 159; Pub. L. 112–95, title IV, §401(a), Feb. 14, 2012, 126 Stat. 83; Pub. L. 115–254, div. B, title IV, §409, Oct. 5, 2018, 132 Stat. 3331.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41706	49 App.:1374(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §404(d)(1); added Dec. 22, 1987, Pub. L. 100–202, §328(a), 101 Stat. 1329–382; Nov. 21, 1989, Pub. L. 101–164, §335 (less effective date), 103 Stat. 1098, 1099.
	49 App.:1374 (note).	Nov. 21, 1989, Pub. L. 101–164, §335 (related to effective date), 103 Stat. 1099.

In subsection (a), before clause (1), the words "On and after the date of expiration of the 4-month period following December 22, 1987" are omitted as executed. The words "of an aircraft" are added for clarity. The text of 49 App.:1374 (note) is omitted as executed.

EDITORIAL NOTES

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115–254 added subsec. (d) and redesignated former subsec. (d) as (e).

2012—Pub. L. 112–95, §401(a)(1), substituted "passenger" for "scheduled" in section catchline.

Subsecs. (a), (b). Pub. L. 112–95, §401(a)(2), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking in any aircraft in scheduled passenger foreign air transportation."

2000—Pub. L. 106–181 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) GENERAL.—An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

"(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

"(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

"(3)(A) scheduled for not more than 6 hours' duration; and

"(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

"(ii) between Alaska and Hawaii.

"(b) REGULATIONS.—The Secretary of Transportation shall prescribe regulations necessary to carry out this section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–181, title VII, §708(b), Apr. 5, 2000, 114 Stat. 159, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [Apr. 5, 2000]."

§41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41707	49 App.:1381(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §411(b); added Oct. 4, 1984, Pub. L. 98–443, §7(a), 98 Stat. 1706.

§41708. Reports

(a) APPLICATION.—To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) REQUIREMENTS.—The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and

(B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and another carrier or person related to transportation affected by this subpart.

(c) DIVERTED AND CANCELLED FLIGHTS.—

(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report pursuant to part 234 of title 14, Code of Federal Regulations, shall be subject to the requirement of paragraph (1).

(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

(A) For a diverted flight—

(i) the flight number of the diverted flight;
(ii) the scheduled destination of the flight;
(iii) the date and time of the flight;
(iv) the airport to which the flight was diverted;
(v) wheels-on time at the diverted airport;
(vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and
(vii) if the flight arrives at the scheduled destination airport—

(I) the gate-departure time at the diverted airport;
(II) the wheels-off time at the diverted airport;
(III) the wheels-on time at the scheduled arrival airport; and
(IV) the gate-arrival time at the scheduled arrival airport.

(B) For flights cancelled after gate departure—

(i) the flight number of the cancelled flight;
(ii) the scheduled origin and destination airports of the cancelled flight;
(iii) the date and time of the cancelled flight;
(iv) the gate-departure time of the cancelled flight; and
(v) the time the aircraft returned to the gate.

(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the Internet Web site of the Department of Transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 112–95, title IV, §402(a), Feb. 14, 2012, 126 Stat. 83.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41708(a)	49 App.:1377(e) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, §407(e) (last sentence), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41708(b)	49 App.:1377(a).	Aug. 23, 1958, Pub. L. 85–726, §407(a), 72 Stat. 766; Feb. 15, 1980,

	49 App.:1551(b)(1)(E).	Pub. L. 96–192, §10, 94 Stat. 38.

In subsection (a), the word "reasonably" is omitted as surplus. The words "carry out" are substituted for "administration" for consistency in the revised title. The words "section 11343(c) of this title" are substituted for "section 5(8) of the Interstate Commerce Act, as amended" in section 407(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 766), to cite the corresponding section of the revised title and correct the inaccurate reference to the definition of "affiliate".

In subsection (b)(3), the word "copy" is substituted for "true copy" to eliminate an unnecessary word. The word "transportation" is substituted for "traffic" for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–95 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, title IV, §402(b), Feb. 14, 2012, 126 Stat. 84, provided that: "Beginning not later than 90 days after the date of enactment of this Act [Feb. 14, 2012], the Secretary of Transportation shall require monthly reports pursuant to the amendment made by subsection (a) [amending this section]."

§41709. Records of air carriers

(a) REQUIREMENTS.—The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep additional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b) INSPECTION.—(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41709(a)	49 App.:1377(d).	Aug. 23, 1958, Pub. L. 85–726, §407(d), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41709(b)	49 App.:1377(e) (1st–3d sentences).	Aug. 23, 1958, Pub. L. 85–726, §407(e) (1st–3d sentences), 72 Stat. 766; Jan.

		3, 1975, Pub. L. 93–623, §7(b), 88 Stat. 2105; restated Oct. 4, 1984, Pub. L. 98–443, §9(t), 98 Stat. 1708.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word "unreasonable" is substituted for "undue" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1)(A) and (B), the word "inspect" is substituted for "have access to" for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words "to carry out this subsection" are substituted for "who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection" to eliminate unnecessary words.

§41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted under section 40109(a) or (c)–(h), 41309, or 42111 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make a final decision on the matter not later than the last day of the 12th month that begins after the date the matter is submitted; or

(2) is not ordered, the Secretary shall make a final decision on the matter not later than the last day of the 6th month that begins after the date the matter is submitted.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41710	49 App.:1490.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1010; added Oct. 24, 1978, Pub. L. 95–504, §38(a), 92 Stat. 1743.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words "matter requiring action of the Secretary" are substituted for "application or other written document" for clarity. The reference to 49 App.:1378 and 1379 is omitted as obsolete because under 49 App.:1551(a)(7), those sections ceased to be in effect on January 1, 1989. The words "on or after the one-hundred-eightieth day after October 24, 1978" are omitted as executed. In clauses (1) and (2), the words "order or" are omitted as surplus.

§41711. Air carrier management inquiry and cooperation with other authorities

In carrying out this subpart, the Secretary of Transportation may—

(1) inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry;

(2) confer and hold a joint hearing with a State authority; and

(3) exchange information related to aeronautics with a government of a foreign country through appropriate departments, agencies, and instrumentalities of the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41711(1)	49 App.:1385.	Aug. 23, 1958, Pub. L. 85–726, §§204(b), (c), 415, 72 Stat. 743, 770.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41711(2)	49 App.:1324(b).	
	49 App.:1551(b)(1)(E).	
41711(3)	49 App.:1324(c)	
	49 App.:1551(b)(1)(E).	

In this section, before clause (1), the words "In carrying out" are substituted for "in connection with any matter arising under this chapter within its jurisdiction" and "in the administration and enforcement of this chapter" in 49 App.:1324(b) and "For the purpose of exercising and performing its powers and duties under this chapter" in 49 App.:1385, and added (as the words relate to 49 App.:1324(c)), for clarity and consistency in this section. In clause (1), the words "full and complete reports and other" are omitted as surplus. In clause (2), the words "State aeronautical agency, or other" are omitted as surplus. The text of 49 App.:1324(b) (words after 3d comma) is omitted as surplus because of 49:322(c)(3). In clause (3), the words "government of a foreign country" are substituted for "foreign governments" for consistency in the revised title and with other titles of the United States Code.

§41712. Unfair and deceptive practices and unfair methods of competition

(a) IN GENERAL.—On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, air ambulance consumer (as defined by the Secretary of Transportation), or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a hearing, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

(b) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier, foreign air carrier, or ticket agent utilizing electronically transmitted tickets for air transportation to fail to notify the purchaser of such a ticket of its expiration date, if any.

(c) DISCLOSURE REQUIREMENT FOR SELLERS OF TICKETS FOR FLIGHTS.—

(1) IN GENERAL.—It shall be an unfair or deceptive practice under subsection (a) for any ticket agent, air carrier, foreign air carrier, or other person offering to sell tickets for air transportation on a flight of an air carrier to fail to disclose, whether verbally in oral communication or in writing in written or electronic communication, prior to the purchase of a ticket—

(A) the name of the air carrier providing the air transportation; and

(B) if the flight has more than one flight segment, the name of each air carrier providing the air transportation for each such flight segment.

(2) INTERNET OFFERS.—In the case of an offer to sell tickets described in paragraph (1) on an Internet Web site, disclosure of the information required by paragraph (1) shall be provided on the first display of the Web site following a search of a requested itinerary in a format that is easily visible to a viewer.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 106–181, title II, §221, Apr. 5, 2000,

114 Stat. 102; Pub. L. 111–216, title II, §210, Aug. 1, 2010, 124 Stat. 2362; Pub. L. 115–254, div. B, title IV, §419(b), Oct. 5, 2018, 132 Stat. 3336.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41712	49 App.:1381(a).	Aug. 23, 1958, Pub. L. 85–726, §411(a), 72 Stat. 769; Oct. 4, 1984, Pub. L. 98–443, §7(a), 98 Stat. 1706.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words "such action by" are omitted as surplus. The words "opportunity for a" are added for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 inserted "air ambulance consumer (as defined by the Secretary of Transportation)," after "of an air carrier, foreign air carrier,".

2010—Subsec. (c). Pub. L. 111–216 added subsec. (c).

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§41713. Preemption of authority over prices, routes, and service

(a) DEFINITION.—In this section, "State" means a State, the District of Columbia, and a territory or possession of the United States.

(b) PREEMPTION.—(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraphs (1) and (4) of this subsection do not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

(4) TRANSPORTATION BY AIR CARRIER OR CARRIER AFFILIATED WITH A DIRECT AIR CARRIER.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air

carrier or carrier affiliated with a direct air carrier through common controlling ownership when such carrier is transporting property by aircraft or by motor vehicle (whether or not such property has had or will have a prior or subsequent air movement).

(B) MATTERS NOT COVERED.—Subparagraph (A)—

(i) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization; and

(ii) does not apply to the transportation of household goods, as defined in section 13102 of this title.

(C) APPLICABILITY OF PARAGRAPH (1).—This paragraph shall not limit the applicability of paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 103–305, title VI, §601(b)(1), (2)(A), Aug. 23, 1994, 108 Stat. 1605, 1606; Pub. L. 105–102, §2(23), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41713(a)	49 App.:1305(c), (d) (related to (a), (b)(1), (c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §105(a)(2), (b)(1), (c), (d) (related to (a), (b)(1), (c)); added Oct. 24, 1978, Pub. L. 95–504, §4(a), 92 Stat. 1708.
41713(b)(1)	49 App.:1305(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §105(a)(1); added Oct. 24, 1978, Pub. L. 95–504, §4(a), 92 Stat. 1707; Oct. 4, 1984, Pub. L. 98–443, §9(u), 98 Stat. 1709.
41713(b)(2)	49 App.:1305(a)(2). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41713(b)(3)	49 App.:1305(b)(1). 49 App.:1551(b)(1)(E).	

In subsection (a), the words "the term" are omitted as surplus. The words "the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and" are omitted as surplus because of the definition of "territory or possession of the United States" in section 40102(a) of the revised title, 48:734, and section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. The text of 49 App.:1305(c) is omitted as obsolete.

In subsection (b)(1) and (3), the words "interstate agency or other" are omitted as surplus. The word "authority" is substituted for "agency" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word "rule" is omitted as being synonymous with "regulation". The words "standard" and "having authority" are omitted as surplus.

In subsection (b)(2), the words "pursuant to a certificate issued by the Board", "by air of persons, property, or mail", and "the State of" are omitted as surplus.

This amends 49:41713(b)(4)(B)(ii) to correct a cross-reference necessary because of the restatement of subtitle IV of title 49 by the ICC Termination Act (Public Law 104–88, 109 Stat. 803).

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (b)(4)(B)(ii). Pub. L. 105–102 substituted "13102" for "10102".

1994—Subsec. (b)(2). Pub. L. 103–305, §601(b)(2)(A), substituted "Paragraphs (1) and (4) of this subsection do" for "Paragraph (1) of this subsection does".

Subsec. (b)(4). Pub. L. 103–305, §601(b)(1), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103–305, set out as a note under section 10521 of this title.

§41714. Availability of slots

(a) MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.—

(1) OPERATIONAL AUTHORITY.—If basic essential air service under subchapter II of this chapter is to be provided from an eligible point to a high density airport (other than Ronald Reagan Washington National Airport), the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

(2) EXEMPTIONS.—If necessary to carry out the objectives of paragraph (1), the Secretary shall by order grant exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to air carriers using Stage 3 aircraft or to commuter air carriers, unless such an exemption would significantly increase operational delays.

(3) ASSURANCE OF ACCESS.—If the Secretary finds that an exemption under paragraph (2) would significantly increase operational delays, the Secretary shall take such action as may be necessary to ensure that an air carrier providing or selected to provide basic essential air service is able to obtain access to a high density airport.

(4) ACTION BY THE SECRETARY.—The Secretary shall issue a final order under this subsection on or before the 60th day after receiving a request from an air carrier for operational authority under this subsection.

(b) SLOTS FOR FOREIGN AIR TRANSPORTATION.—

(1) EXEMPTIONS.—If the Secretary finds it to be in the public interest at a high density airport (other than Ronald Reagan Washington National Airport), the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

(2) SLOT WITHDRAWALS.—The Secretary may not withdraw a slot at Chicago O'Hare International Airport from an air carrier in order to allocate that slot to a carrier to provide foreign air transportation.

(3) EQUIVALENT RIGHTS OF ACCESS.—The Secretary shall not take a slot at a high density airport from an air carrier and award such slot to a foreign air carrier if the Secretary determines that air carriers are not provided equivalent rights of access to airports in the country of which such foreign air carrier is a citizen.

(4) CONVERSIONS OF SLOTS.—Effective May 1, 2000, slots at Chicago O'Hare

International Airport allocated to an air carrier as of November 1, 1999, to provide foreign air transportation shall be made available to such carrier to provide interstate or intrastate air transportation.

(c) SLOTS FOR NEW ENTRANTS.—If the Secretary finds it to be in the public interest, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable new entrant air carriers to provide air transportation at high density airports (other than Ronald Reagan Washington National Airport).

(d) SPECIAL RULES FOR RONALD REAGAN WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Notwithstanding sections 49104(a)(5) and 49111(e) of this title, or any provision of this section, the Secretary may, only under circumstances determined by the Secretary to be exceptional, grant by order to an air carrier currently holding or operating a slot at Ronald Reagan Washington National Airport an exemption from requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at Ronald Reagan Washington National Airport), to enable that carrier to provide air transportation with Stage 3 aircraft at Ronald Reagan Washington National Airport; except that such exemption shall not—

(A) result in an increase in the total number of slots per day at Ronald Reagan Washington National Airport;

(B) result in an increase in the total number of slots at Ronald Reagan Washington National Airport from 7:00 ante meridiem to 9:59 post meridiem;

(C) increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period by more than 2 operations;

(D) result in the withdrawal or reduction of slots operated by an air carrier;

(E) result in a net increase in noise impact on surrounding communities resulting from changes in timing of operations permitted under this subsection; and

(F) continue in effect on or after the date on which the final rules issued under subsection (f) become effective.

(2) LIMITATION ON APPLICABILITY.—Nothing in this subsection shall adversely affect Exemption No. 5133, as from time-to-time amended and extended.

(e) STUDY.—

(1) MATTERS TO BE CONSIDERED.—The Secretary shall continue the Secretary's current examination of slot regulations and shall ensure that the examination includes consideration of—

(A) whether improvements in technology and procedures of the air traffic control system and the use of quieter aircraft make it possible to eliminate the limitations on hourly operations imposed by the high density rule contained in part 93 of title 14 of the Code of Federal Regulations or to increase the number of operations permitted under such rule;

(B) the effects of the elimination of limitations or an increase in the number of operations allowed on each of the following:

(i) congestion and delay in any part of the national aviation system;

(ii) the impact of noise on persons living near the airport;

(iii) competition in the air transportation system;

(iv) the profitability of operations of airlines serving the airport; and

(v) aviation safety;

(C) the impact of the current slot allocation process upon the ability of air carriers to provide essential air service under subchapter II of this chapter;

(D) the impact of such allocation process upon the ability of new entrant air carriers to obtain slots in time periods that enable them to provide service;

(E) the impact of such allocation process on the ability of foreign air carriers to obtain slots;

(F) the fairness of such process to air carriers and the extent to which air carriers are provided

equivalent rights of access to the air transportation market in the countries of which foreign air carriers holding slots are citizens;

(G) the impact, on the ability of air carriers to provide domestic and international air service, of the withdrawal of slots from air carriers in order to provide slots for foreign air carriers; and

(H) the impact of the prohibition on slot withdrawals in subsections (b)(2) and (b)(3) of this section on the aviation relationship between the United States Government and foreign governments, including whether the prohibition in such subsections will require the withdrawal of slots from general and military aviation in order to meet the needs of air carriers and foreign air carriers providing foreign air transportation (and the impact of such withdrawal on general aviation and military aviation) and whether slots will become available to meet the needs of air carriers and foreign air carriers to provide foreign air transportation as a result of the planned relocation of Air Force Reserve units and the Air National Guard at O'Hare International Airport.

(2) REPORT.—Not later than January 31, 1995, the Secretary shall complete the current examination of slot regulations and shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of such examination.

(f) RULEMAKING.—The Secretary shall conduct a rulemaking proceeding based on the results of the study described in subsection (e). In the course of such proceeding, the Secretary shall issue a notice of proposed rulemaking not later than August 1, 1995, and shall issue a final rule not later than 90 days after public comments are due on the notice of proposed rulemaking.

(g) WEEKEND OPERATIONS.—The Secretary shall consider the advisability of revising section 93.227 of title 14, Code of Federal Regulations, so as to eliminate weekend schedules from the determination of whether the 80 percent standard of subsection (a)(1) of that section has been met.

(h) DEFINITIONS.—In this section and sections 41715–41718 and 41734(h), the following definitions apply:

(1) COMMUTER AIR CARRIER.—The term "commuter air carrier" means a commuter operator as defined or applied in subpart K or S of part 93 of title 14, Code of Federal Regulations.

(2) HIGH DENSITY AIRPORT.—The term "high density airport" means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

(3) NEW ENTRANT AIR CARRIER.—The term "new entrant air carrier" means an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier.

(4) SLOT.—The term "slot" means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

(5) LIMITED INCUMBENT AIR CARRIER.—The term "limited incumbent air carrier" has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations; except that—

(A) "40" shall be substituted for "12" in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h);

(B) for purposes of such sections, the term "slot" shall not include—

(i) "slot exemptions";

(ii) slots operated by an air carrier under a fee-for-service arrangement for another air carrier, if the air carrier operating such slots does not sell flights in its own name, and is under common ownership with an air carrier that seeks to qualify as a limited incumbent and that sells flights in its own name; or

(iii) slots held under a sale and license-back financing arrangement with another air carrier, where the slots are under the marketing control of the other air carrier; and

(C) for Ronald Reagan Washington National Airport, the Administrator shall not count, for the purposes of section 93.213(a)(5), slots currently held by an air carrier but leased out on a long-term basis by that carrier for use in foreign air transportation and renounced by the carrier

for return to the Department of Transportation or the Federal Aviation Administration.

(6) REGIONAL JET.—The term "regional jet" means a passenger, turbofan-powered aircraft with a certificated maximum passenger seating capacity of less than 71.

(7) NONHUB AIRPORT.—The term "nonhub airport" means an airport that had less than .05 percent of the total annual boardings in the United States as determined under the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997.

(8) SMALL HUB AIRPORT.—The term "small hub airport" means an airport that had at least .05 percent, but less than .25 percent, of the total annual boardings in the United States as determined under the summary referred to in paragraph (7).

(9) MEDIUM HUB AIRPORT.—The term "medium hub airport" means an airport that each year has at least .25 percent, but less than 1.0 percent, of the total annual boardings in the United States as determined under the summary referred to in paragraph (7).

(i) 60-DAY APPLICATION PROCESS.—

(1) REQUEST FOR SLOT EXEMPTIONS.—Any slot exemption request filed with the Secretary under this section or section 41716 or 41717 (other than subsection (c)) shall include—

(A) the names of the airports to be served;

(B) the times requested; and

(C) such additional information as the Secretary may require.

(2) ACTION ON REQUEST; FAILURE TO ACT.—Within 60 days after a slot exemption request under this section or section 41716 or 41717 (other than subsection (c)) is received by the Secretary, the Secretary shall—

(A) approve the request if the Secretary determines that the requirements of the section under which the request is made are met;

(B) return the request to the applicant for additional information relating to the request to provide air transportation; or

(C) deny the request and state the reasons for its denial.

(3) 60-DAY PERIOD TOLLED FOR TIMELY REQUEST FOR MORE INFORMATION.—If the Secretary returns under paragraph (2)(B) the request for additional information during the first 20 days after the request is filed, then the 60-day period under paragraph (2) shall be tolled until the date on which the additional information is filed with the Secretary.

(4) FAILURE TO DETERMINE DEEMED APPROVAL.—If the Secretary neither approves the request under paragraph (2)(A) nor denies the request under paragraph (2)(C) within the 60-day period beginning on the date the request is received, excepting any days during which the 60-day period is tolled under paragraph (3), then the request is deemed to have been approved on the 61st day, after the request was filed with the Secretary.

(j) EXEMPTIONS MAY NOT BE TRANSFERRED.—No exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, granted under this section or section 41716, 41717, or 41718 may be bought, sold, leased, or otherwise transferred by the carrier to which it is granted, except through an air carrier merger or acquisition.

(k) AFFILIATED CARRIERS.—For purposes of this section and sections 41716, 41717, and 41718, an air carrier that operates under the same designator code, or has or enters into a code-share agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the total number of slots and slot exemptions held by the two carriers at the airport exceed 20 slots and slot exemptions.

(Added Pub. L. 103–305, title II, §206(a)(1), Aug. 23, 1994, 108 Stat. 1584; amended Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–66, title III, §345, Oct. 27, 1997, 111

Stat. 1449; Pub. L. 105–102, §2(24), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–154, §2(a)(1)(C), (2), Feb. 6, 1998, 112 Stat. 3; Pub. L. 106–181, title II, §231(a), (d)(2)–(4), Apr. 5, 2000, 114 Stat. 106, 112; Pub. L. 112–95, title IV, §414(c), (d), Feb. 14, 2012, 126 Stat. 92.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:41714(d)(1) to make a conforming cross-reference necessary because of the restatement of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–373, Public Law 99–591, 100 Stat. 3341–376) by section 2(26) of this Act as chapter 491 of title 49.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (h)(5)(A). Pub. L. 112–95, §414(c)(1), substituted "40" for "20".

Subsec. (h)(5)(B). Pub. L. 112–95, §414(c)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "for purposes of such sections, the term 'slot' shall include 'slot exemptions'; and".

Subsec. (j). Pub. L. 112–95, §414(d), substituted ", except through an air carrier merger or acquisition." for period at end.

2000—Subsec. (a)(3). Pub. L. 106–181, §231(d)(2), struck out before period at end "; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service (including slots specifically designated as essential air service slots and slots used for such purposes) to and from such airport is at least 132 slots".

Subsec. (b)(2). Pub. L. 106–181, §231(d)(3), inserted "at Chicago O'Hare International Airport" after "a slot" and struck out before period at end "if the withdrawal of that slot would result in the withdrawal of slots from an air carrier at O'Hare International Airport under section 93.223 of title 14, Code of Federal Regulations, in excess of the total withdrawn from that air carrier as of October 31, 1993".

Subsec. (b)(4). Pub. L. 106–181, §231(d)(4), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: "This subsection and exemptions issued under this subsection shall cease to be in effect when the final rules issued under subsection (f) become effective."

Subsec. (c). Pub. L. 106–181, §231(a)(4), reenacted subsec. heading and struck out "(1) IN GENERAL.—" before "If the Secretary finds", "and the circumstances to be exceptional" before ", the Secretary may by", and par. (2) heading and text. Text of par. (2) read as follows: "Exemptions issued under this subsection shall cease to be in effect on or after the date on which the final rules issued under subsection (f) become effective."

Subsec. (h). Pub. L. 106–181, §231(a)(5)(A), in introductory provisions, substituted "and sections 41715–41718 and 41734(h)" for "and section 41734(h)".

Subsec. (h)(3). Pub. L. 106–181, §231(a)(5)(B), struck out "as defined in subpart S of part 93 of title 14, Code of Federal Regulations" before period at end.

Subsec. (h)(5) to (9). Pub. L. 106–181, §231(a)(5)(C), added pars. (5) to (9).

Subsec. (i). Pub. L. 106–181, §231(a)(1), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: "Within 120 days after receiving an application for an exemption under subsection (a)(2) to improve air service between a nonhub airport (as defined in section 41731(a)(4)) and a high density airport subject to the exemption authority under subsection (a), the Secretary shall grant or deny the exemption. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure of the grant or denial within 14 calendar days after the determination and state the reasons for the determination."

Subsecs. (j), (k). Pub. L. 106–181, §231(a)(2), (3), added subsecs. (j) and (k).

1998—Subsecs. (a)(1), (b)(1), (c)(1), (d). Pub. L. 105–154 substituted "Ronald Reagan Washington National Airport" for "Washington National Airport" wherever appearing in text and in subsec. (d) heading.

1997—Subsec. (d)(1). Pub. L. 105–102 substituted "sections 49104(a)(5) and 49111(e) of this title" for "sections 6005(c)(5) and 6009(e) of the Metropolitan Washington Airports Act of 1986".

Subsec. (i). Pub. L. 105–66 added subsec. (i).

1996—Subsec. (e)(2). Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

RETURN OF WITHDRAWN SLOTS

Pub. L. 106–181, title II, §231(d)(5), Apr. 5, 2000, 114 Stat. 112, provided that: "The Secretary [of Transportation] shall return any slot withdrawn from an air carrier under section 41714(b) of title 49, United States Code, before the date of the enactment of this Act [Apr. 5, 2000], to that carrier on April 30, 2000."

§41715. Phase-out of slot rules at certain airports

(a) TERMINATION.—The rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations, shall not apply—

(1) after July 1, 2002, at Chicago O'Hare International Airport; and

(2) after January 1, 2007, at LaGuardia Airport or John F. Kennedy International Airport.

(b) STATUTORY CONSTRUCTION.—Nothing in this section and sections 41714 and 41716–41718 shall be construed—

(1) as affecting the Federal Aviation Administration's authority for safety and the movement of air traffic; and

(2) as affecting any other authority of the Secretary to grant exemptions under section 41714.

(c) FACTORS TO CONSIDER.—

(1) IN GENERAL.—Before the award of slot exemptions under sections 41714 and 41716–41718, the Secretary of Transportation may consider, among other determining factors, whether the petitioning air carrier's proposal provides the maximum benefit to the United States economy, including the number of United States jobs created by the air carrier, its suppliers, and related activities. The Secretary should give equal consideration to the consumer benefits associated with the award of such exemptions.

(2) APPLICABILITY.—Paragraph (1) does not apply in any case in which the air carrier requesting the slot exemption is proposing to use under the exemption a type of aircraft for which there is not a competing United States manufacturer.

(Added Pub. L. 106–181, title II, §231(b)(2), Apr. 5, 2000, 114 Stat. 108.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 41715 was renumbered section 41719 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41716. Interim slot rules at New York airports

(a) EXEMPTIONS FOR AIR SERVICE TO SMALL AND NONHUB AIRPORTS.—Subject to section 41714(i), the Secretary of Transportation shall grant, by order, exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining

to slots at high density airports) to any air carrier to provide nonstop air transportation, using an aircraft with a certificated maximum seating capacity of less than 71, between LaGuardia Airport or John F. Kennedy International Airport and a small hub airport or nonhub airport—

(1) if the air carrier was not providing such air transportation during the week of November 1, 1999;

(2) if the number of flights to be provided between such airports by the air carrier during any week will exceed the number of flights provided by the air carrier between such airports during the week of November 1, 1999; or

(3) if the air transportation to be provided under the exemption will be provided with a regional jet as replacement of turboprop air transportation that was being provided during the week of November 1, 1999.

(b) EXEMPTIONS FOR NEW ENTRANT AND LIMITED INCUMBENT AIR CARRIERS .—Subject to section 41714(i), the Secretary shall grant, by order, exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to any new entrant air carrier or limited incumbent air carrier to provide air transportation to or from LaGuardia Airport or John F. Kennedy International Airport if the number of slot exemptions granted under this subsection to such air carrier with respect to such airport when added to the slots and slot exemptions held by such air carrier with respect to such airport does not exceed 20; except that the Secretary may grant not to exceed 4 additional slot exemptions at LaGuardia Airport to an incumbent air carrier operating at least 20 but not more than 28 slots at such airport as of October 1, 2004, to provide air transportation between LaGuardia Airport and a small hub airport or nonhub airport.

(c) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(d) PRESERVATION OF CERTAIN EXISTING SLOT-RELATED AIR SERVICE.—An air carrier that provides air transportation of passengers from LaGuardia Airport or John F. Kennedy International Airport to a small hub airport or nonhub airport, or to an airport that is smaller than a nonhub airport, on or before the date of the enactment of this subsection pursuant to an exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an air carrier conditioned on a specific airport being served, may not terminate air transportation for that route before July 1, 2003, unless—

(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41719 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during any three quarters of the year immediately preceding the date of submission of the notice.

(Added Pub. L. 106–181, title II, §231(c), Apr. 5, 2000, 114 Stat. 109; amended Pub. L. 108–447, div. H, title I, §199, Dec. 8, 2004, 118 Stat. 3235.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

PRIOR PROVISIONS

A prior section 41716 was renumbered section 41720 of this title.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–447 inserted before period at end "; except that the Secretary may grant not to exceed 4 additional slot exemptions at LaGuardia Airport to an incumbent air carrier operating at least 20

but not more than 28 slots at such airport as of October 1, 2004, to provide air transportation between LaGuardia Airport and a small hub airport or nonhub airport".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41717. Interim application of slot rules at Chicago O'Hare International Airport

(a) SLOT OPERATING WINDOW NARROWED.—Effective July 1, 2001, the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, do not apply with respect to aircraft operating before 2:45 post meridiem and after 8:14 post meridiem at Chicago O'Hare International Airport.

(b) EXEMPTIONS FOR AIR SERVICE TO SMALL AND NONHUB AIRPORTS.—Effective May 1, 2000, subject to section 41714(i), the Secretary of Transportation shall grant, by order, exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to any air carrier to provide nonstop air transportation, using an aircraft with a certificated maximum seating capacity of less than 71, between Chicago O'Hare International Airport and a small hub or nonhub airport—

(1) if the air carrier was not providing such air transportation during the week of November 1, 1999;

(2) if the number of flights to be provided between such airports by the air carrier during any week will exceed the number of flights provided by the air carrier between such airports during the week of November 1, 1999; or

(3) if the air transportation to be provided under the exemption will be provided with a regional jet as replacement of turboprop air transportation that was being provided during the week of November 1, 1999.

(c) EXEMPTIONS FOR NEW ENTRANT AND LIMITED INCUMBENT AIR CARRIERS.—

(1) IN GENERAL.—The Secretary shall grant, by order, 30 exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations, to any new entrant air carrier or limited incumbent air carrier to provide air transportation to or from Chicago O'Hare International Airport.

(2) DEADLINE FOR GRANTING EXEMPTIONS.—The Secretary shall grant an exemption under paragraph (1) within 45 days of the date of the request for such exemption if the person making the request qualifies as a new entrant air carrier or limited incumbent air carrier.

(d) SLOTS USED TO PROVIDE TURBOPROP SERVICE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a slot used to provide turboprop air transportation that is replaced with regional jet air transportation under subsection (b)(3) may not be used, sold, leased, or otherwise transferred after the date the slot exemption is granted to replace the turboprop air transportation.

(2) TWO-FOR-ONE EXCEPTION.—An air carrier that otherwise could not use 2 slots as a result of paragraph (1) may use 1 of such slots to provide air transportation.

(3) WITHDRAWAL OF SLOT.—If the Secretary determines that an air carrier that is using a slot under paragraph (2) is no longer providing the air transportation that replaced the turboprop air transportation, the Secretary shall withdraw the slot that is being used under paragraph (2).

(4) CONTINUATION.—If the Secretary determines that an air carrier that is using a slot under paragraph (2) is no longer providing the air transportation that replaced the turboprop air transportation with a regional jet, the Secretary shall withdraw the slot being used by the air carrier

under paragraph (2) but shall allow the air carrier to continue to hold the exemption granted to the air carrier under subsection (b)(3).

(e) INTERNATIONAL SERVICE AT O'HARE AIRPORT.—

(1) TERMINATION OF REQUIREMENTS.—Subject to paragraph (2), the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, shall be of no force and effect at Chicago O'Hare International Airport after May 1, 2000, with respect to any aircraft providing foreign air transportation.

(2) EXCEPTION RELATING TO RECIPROCITY.—The Secretary may limit access to Chicago O'Hare International Airport with respect to foreign air transportation being provided by a foreign air carrier domiciled in a country to which an air carrier provides nonstop air transportation from the United States if the country in which that carrier is domiciled does not provide reciprocal airport access for air carriers.

(f) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(g) PRESERVATION OF CERTAIN EXISTING SLOT-RELATED AIR SERVICE.—An air carrier that provides air transportation of passengers from Chicago O'Hare International Airport to a small hub airport or nonhub airport, or to an airport that is smaller than a nonhub airport, on or before the date of the enactment of this subsection pursuant to an exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an air carrier conditioned on a specific airport being served, may not terminate air transportation service for that route for a period of 1 year after the date on which those requirements cease to apply to such airport unless—

(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41719 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during the calendar quarters immediately preceding submission of the notice.

(Added Pub. L. 106–181, title II, §231(d)(1), Apr. 5, 2000, 114 Stat. 110.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41718. Special rules for Ronald Reagan Washington National Airport

(a) BEYOND-PERIMETER EXEMPTIONS.—The Secretary shall grant, by order, 24 exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

(1) provide air transportation with domestic network benefits in areas beyond the perimeter

described in that section;

(2) increase competition by new entrant air carriers or in multiple markets;

(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109; and

(4) not result in meaningfully increased travel delays.

(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall grant, by order, 20 exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for providing air transportation to airports within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner that promotes air transportation—

(1) by new entrant air carriers and limited incumbent air carriers;

(2) to communities without existing nonstop air transportation to Ronald Reagan Washington National Airport;

(3) to small communities;

(4) that will provide competitive nonstop air transportation on a monopoly nonstop route to Ronald Reagan Washington National Airport; or

(5) that will produce the maximum competitive benefits, including low fares.

(c) LIMITATIONS.—

(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(2) GENERAL EXEMPTIONS.—

(A) HOURLY LIMITATION.—The exemptions granted—

(i) under subsections (a), (b), and (i) and departures authorized under subsection (g)(2) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m.; and

(ii) under subsections (a), (b), (g), and (i) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 5 operations.

(B) USE OF EXISTING SLOTS.—A non-limited incumbent air carrier utilizing an exemption authorized under subsection (g)(3) for an arrival permitted between the hours of 10:01 p.m. and 11:00 p.m. under this section shall discontinue use of an existing slot during the same time period the arrival exemption is operated.

(3) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Of the exemptions granted under subsection (b)—

(A) without regard to the criteria contained in subsection (b)(1), six shall be for air transportation to small hub airports and nonhub airports;

(B) ten shall be for air transportation to medium hub and smaller airports; and

(C) four shall be for air transportation to airports without regard to their size.

(4) APPLICABILITY TO EXEMPTION NO. 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.

(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.

(e) APPLICABILITY OF CERTAIN LAWS.—Neither the request for, nor the granting of an exemption, under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment.

(f) COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term "commuters" means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.

(g) ADDITIONAL SLOT EXEMPTIONS.—

(1) INCREASE IN SLOT EXEMPTIONS.—Not later than 90 days after the date of enactment of the FAA Modernization and Reform Act of 2012, the Secretary shall grant, by order 16 exemptions from—

(A) the application of sections 49104(a)(5), 49109, and 41714 to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and airports located beyond the perimeter described in section 49109; and

(B) the requirements of subparts K and S of part 93, Code of Federal Regulations.

(2) NEW ENTRANTS AND LIMITED INCUMBENTS.—Of the slot exemptions made available under paragraph (1), the Secretary shall make 8 available to limited incumbent air carriers or new entrant air carriers (as such terms are defined in section 41714(h)). Such exemptions shall be allocated pursuant to the application process established by the Secretary under subsection (d). The Secretary shall consider the extent to which the exemptions will—

(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

(B) increase competition in multiple markets;

(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

(D) not result in meaningfully increased travel delays;

(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; or

(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

(3) IMPROVED NETWORK SLOTS.—Of the slot exemptions made available under paragraph (1), the Secretary shall make 8 available to incumbent air carriers qualifying for status as a non-limited incumbent carrier at Ronald Reagan Washington National Airport as of the date of enactment of the FAA Modernization and Reform Act of 2012. Each such non-limited incumbent air carrier—

(A) may operate up to a maximum of 2 of the newly authorized slot exemptions;

(B) prior to exercising an exemption made available under paragraph (1), shall discontinue the use of a slot for service between Ronald Reagan Washington National Airport and a large hub airport within the perimeter as described in section 49109, and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109;

(C) shall be entitled to return of the slot by the Secretary if use of the exemption made available to the carrier under paragraph (1) is discontinued;

(D) shall have sole discretion concerning the use of an exemption made available under paragraph (1), including the initial or any subsequent beyond perimeter destinations to be served; and

(E) shall file a notice of intent with the Secretary and subsequent notices of intent, when appropriate, to inform the Secretary of any change in circumstances concerning the use of any exemption made available under paragraph (1).

(4) NOTICES OF INTENT.—Notices of intent under paragraph (3)(E) shall specify the beyond

perimeter destination to be served and the slots the carrier shall discontinue using to serve a large hub airport located within the perimeter.

(5) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

(B) An air carrier granted an exemption under this subsection is prohibited from transferring the rights to its beyond-perimeter exemptions pursuant to section 41714(j).

(h) SCHEDULING PRIORITY.—In administering this section, the Secretary shall—

(1) afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109;

(2) afford a scheduling priority to slot exemptions currently held by new entrant air carriers and limited incumbent air carriers for service to airports located beyond the perimeter described in section 49109, to the extent necessary to protect viability of such service; and

(3) consider applications from foreign air carriers that are certificated by the government of Canada if such consideration is required by the bilateral aviation agreement between the United States and Canada and so long as the conditions and limitations under this section apply to such foreign air carriers.

(i) ADDITIONAL SLOT EXEMPTIONS.—

(1) INCREASE IN SLOT EXEMPTIONS.—Not later than 60 days after the date of enactment of the FAA Reauthorization Act of 2024, the Secretary shall grant, by order, 10 exemptions from—

(A) the application of sections 49104(a)(5), 49109, and 41714 to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and domestic airports located within or beyond the perimeter described in section 49109; and

(B) the requirements of subparts K, S, and T of part 93 of title 14, Code of Federal Regulations.

(2) NON-LIMITED INCUMBENTS.—Of the slot exemptions made available under paragraph (1), the Secretary shall make 8 available to incumbent air carriers qualifying for status as a non-limited incumbent carrier at Ronald Reagan Washington National Airport as of the date of enactment of the FAA Reauthorization Act of 2024.

(3) LIMITED INCUMBENTS.—Of the slot exemptions made available under paragraph (1), the Secretary shall make 2 available to incumbent air carriers qualifying for status as a limited incumbent carrier at Ronald Reagan Washington National Airport as of the date of enactment of the FAA Reauthorization Act of 2024.

(4) ALLOCATION PROCEDURES.—The Secretary shall allocate the 10 slot exemptions provided under paragraph (1) pursuant to the application process established by the Secretary under subsection (d), subject to the following:

(A) LIMITATIONS.—Each air carrier that is eligible under paragraph (2) and paragraph (3) shall be eligible to operate no more and no less than 2 of the newly authorized slot exemptions.

(B) CRITERIA.—The Secretary shall consider the extent to which the exemptions will—

(i) enhance options for nonstop travel to beyond-perimeter airports that do not have nonstop service from Ronald Reagan Washington National Airport as of the date of enactment of the FAA Reauthorization Act of 2024; or

(ii) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions.

(5) PROHIBITION.—

(A) IN GENERAL.—The Metropolitan Washington Airports Authority may not assess any penalty or similar levy against an individual air carrier solely for obtaining and operating a slot exemption authorized under this subsection.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as prohibiting the Metropolitan Washington Airports Authority from assessing and collecting any penalty, fine, or other levy, such as a handling fee or landing fee, that is—

(i) authorized by the Metropolitan Washington Airports Regulations;

(ii) agreed to in writing by the air carrier; or

(iii) charged in the ordinary course of business to an air carrier operating at Ronald Reagan Washington National Airport regardless of whether or not the air carrier obtained a slot exemption authorized under this subsection.

(Added Pub. L. 106–181, title II, §231(e)(1), Apr. 5, 2000, 114 Stat. 112; amended Pub. L. 108–176, title IV, §§425, 426(a), Dec. 12, 2003, 117 Stat. 2555; Pub. L. 112–95, title IV, §414(a), (b), Feb. 14, 2012, 126 Stat. 90, 92; Pub. L. 118–63, title V, §502(a), (b), May 16, 2024, 138 Stat. 1187, 1188.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (g)(1), (3), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (i)(1) to (3), (4)(B)(i), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Subsec. (c)(2)(A)(i). Pub. L. 118–63, §502(b)(1), substituted ", (b), and (i)" for "and (b)".

Subsec. (c)(2)(A)(ii). Pub. L. 118–63, §502(b)(2), substituted "(g), and (i)" for "and (g)".

Subsec. (i). Pub. L. 118–63, §502(a), added subsec. (i).

2012—Subsec. (c)(2). Pub. L. 112–95, §414(b), amended par. (2) generally. Prior to amendment, text read as follows: "The exemptions granted under subsections (a) and (b) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m. and may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 3 operations."

Subsecs. (g), (h). Pub. L. 112–95, §414(a), added subsecs. (g) and (h).

2003—Subsec. (a). Pub. L. 108–176, §425(a), substituted "24 exemptions" for "12 exemptions" in introductory provisions.

Subsec. (b). Pub. L. 108–176, §425(b), in introductory provisions, substituted "20 exemptions" for "12 exemptions" and struck out "that were designated as medium hub or smaller airports" before "within the perimeter established".

Subsec. (c)(2). Pub. L. 108–176, §425(c)(1), substituted "3 operations" for "two operations".

Subsec. (c)(3)(A). Pub. L. 108–176, §425(c)(2)(A), substituted "without regard to the criteria contained in subsection (b)(1), six" for "four" and struck out "and" at end.

Subsec. (c)(3)(B). Pub. L. 108–176, §425(c)(2)(B), substituted "ten" for "eight" and "; and" for period at end.

Subsec. (c)(3)(C). Pub. L. 108–176, §425(c)(2)(C), added subpar. (C).

Subsec. (d). Pub. L. 108–176, §425(d), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

"(1) DEADLINE FOR SUBMISSION.—All requests for exemptions under this section must be submitted to the Secretary not later than the 30th day following the date of the enactment of this subsection.

"(2) DEADLINE FOR COMMENTS.—All comments with respect to any request for an exemption under this section must be submitted to the Secretary not later than the 45th day following the date of the enactment of this subsection.

"(3) DEADLINE FOR FINAL DECISION.—Not later than the 90th day following the date of the enactment of this Act, the Secretary shall make a decision regarding whether to approve or deny any request that is submitted to the Secretary in accordance with paragraph (1)."

Subsec. (f). Pub. L. 108–176, §426(a), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

REGULATIONS

Pub. L. 108–176, title IV, §426(b), Dec. 12, 2003, 117 Stat. 2556, provided that: "The Administrator of the Federal Aviation Administration shall revise regulations to take into account the amendment made by subsection (a) [amending this section]."

CONSTRUCTION OF 2024 AMENDMENT: PRESERVATION OF EXISTING WITHIN PERIMETER SERVICE

Pub. L. 118–63, title V, §502(c), May 16, 2024, 138 Stat. 1188, provided that: "Nothing in this section [amending this section], or the amendments made by this section, shall be construed as authorizing the conversion of a within-perimeter exemption or slot at Ronald Reagan Washington National Airport that is in effect on the date of enactment of this Act [May 16, 2024] to serve an airport located beyond the perimeter described in section 49109 of title 49, United States Code."

GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

Pub. L. 108–176, title VIII, §823, Dec. 12, 2003, 117 Stat. 2595, provided that:

"(a) SECURITY PLAN.—The Secretary of Homeland Security shall develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport.

"(b) LANDINGS AND TAKEOFFS.—The Administrator of the Federal Aviation Administration shall allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the Airport except during any period that the President suspends the plan developed under subsection (a) due to national security concerns.

"(c) REPORT.—If the President suspends the security plan developed under subsection (a), the President shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the reasons for the suspension not later than 30 days following the first day of the suspension. The report may be submitted in classified form."

§41719. Air service termination notice

(a) IN GENERAL.—An air carrier may not terminate interstate air transportation from a nonhub airport included on the Secretary of Transportation's latest published list of such airports, unless such air carrier has given the Secretary at least 45 days' notice before such termination.

(b) EXCEPTIONS.—The requirements of subsection (a) shall not apply when—

(1) the carrier involved is experiencing a sudden or unforeseen financial emergency, including natural weather related emergencies, equipment-related emergencies, and strikes;

(2) the termination of transportation is made for seasonal purposes only;

(3) the carrier involved has operated at the affected nonhub airport for 180 days or less;

(4) the carrier involved provides other transportation by jet from another airport serving the same community as the affected nonhub airport; or

(5) the carrier involved makes alternative arrangements, such as a change of aircraft size, or other types of arrangements with a part 121 or part 135 air carrier, that continues uninterrupted service from the affected nonhub airport.

(c) WAIVERS FOR REGIONAL/COMMUTER CARRIERS.—Before January 1, 1995, the Secretary shall establish terms and conditions under which regional/commuter carriers can be excluded from the termination notice requirement.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) PART 121 AIR CARRIER.—The term "part 121 air carrier" means an air carrier to which part 121 of title 14, Code of Federal Regulations, applies.

(2) PART 135 AIR CARRIER.—The term "part 135 air carrier" means an air carrier to which part 135 of title 14, Code of Federal Regulations, applies.

(3) REGIONAL/COMMUTER CARRIERS.—The term "regional/commuter carrier" means—

(A) a part 135 air carrier; or

(B) a part 121 air carrier that provides air transportation exclusively with aircraft having a seating capacity of no more than 70 passengers.

(4) TERMINATION.—The term "termination" means the cessation of all service at an airport by an air carrier.

(Added Pub. L. 103–305, title II, §207(a), Aug. 23, 1994, 108 Stat. 1587, §41715; amended Pub. L. 103–429, §6(53), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–287, §5(73), Oct. 11, 1996, 110 Stat. 3396; renumbered §41719, Pub. L. 106–181, title II, §231(b)(1), Apr. 5, 2000, 114 Stat. 108; Pub. L. 108–176, title II, §225(b)(1), Dec. 12, 2003, 117 Stat. 2528.)

HISTORICAL AND REVISION NOTES

This amends 49:41715(a) to conform to the style of title 49.

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–176 redesignated pars. (2) to (5) as (1) to (4), respectively, and struck out former par. (1) which defined "nonhub airport".

2000—Pub. L. 106–181 renumbered section 41715 of this title as this section.

1996—Subsec. (a). Pub. L. 104–287 substituted "Secretary of Transportation's" for "Secretary's".

1994—Subsec. (d)(1). Pub. L. 103–429 substituted "41731(a)(4)" for "41731(a)(3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Pub. L. 103–305, title II, §207(d), Aug. 23, 1994, 108 Stat. 1588, provided that: "The amendments made by this section [enacting this section and amending section 46301 of this title] shall take effect on February 1, 1995."

§41720. Joint venture agreements

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) JOINT VENTURE AGREEMENT.—The term "joint venture agreement" means an agreement between two or more major air carriers on or after January 1, 1998, with regard to (A) code-sharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations) of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

(2) MAJOR AIR CARRIER.—The term "major air carrier" means a passenger air carrier that is certificated under chapter 411 of this title and included in Carrier Group III under criteria

contained in section 04 of part 241 of title 14, Code of Federal Regulations.

(b) SUBMISSION OF JOINT VENTURE AGREEMENT.—At least 30 days before a joint venture agreement may take effect, each of the major air carriers that entered into the agreement shall submit to the Secretary—

(1) a complete copy of the joint venture agreement and all related agreements; and

(2) other information and documentary material that the Secretary may require by regulation.

(c) EXTENSION OF WAITING PERIOD.—

(1) IN GENERAL.—The Secretary may extend the 30-day period referred to in subsection (b) until—

(A) in the case of a joint venture agreement with regard to code-sharing, the 150th day following the last day of such period; and

(B) in the case of any other joint venture agreement, the 60th day following the last day of such period.

(2) PUBLICATION OF REASONS FOR EXTENSION.—If the Secretary extends the 30-day period referred to in subsection (b), the Secretary shall publish in the Federal Register the Secretary's reasons for making the extension.

(d) TERMINATION OF WAITING PERIOD.—At any time after the date of submission of a joint venture agreement under subsection (b), the Secretary may terminate the waiting periods referred to in subsections (b) and (c) with respect to the agreement.

(e) REGULATIONS.—The effectiveness of a joint venture agreement may not be delayed due to any failure of the Secretary to issue regulations to carry out this section.

(f) MEMORANDUM TO PREVENT DUPLICATIVE REVIEWS.—Promptly after the date of enactment of this section, the Secretary shall consult with the Assistant Attorney General of the Antitrust Division of the Department of Justice in order to establish, through a written memorandum of understanding, preclearance procedures to prevent unnecessary duplication of effort by the Secretary and the Assistant Attorney General under this section and the antitrust laws of the United States, respectively.

(g) PRIOR AGREEMENTS.—With respect to a joint venture agreement entered into before the date of enactment of this section as to which the Secretary finds that—

(1) the parties submitted the agreement to the Secretary before such date of enactment; and

(2) the parties submitted all information on the agreement requested by the Secretary,

the waiting period described in paragraphs (2) and (3) shall begin on the date, as determined by the Secretary, on which all such information was submitted and end on the last day to which the period could be extended under this section.

(h) LIMITATION ON STATUTORY CONSTRUCTION.—The authority granted to the Secretary under this section shall not in any way limit the authority of the Attorney General to enforce the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(Added Pub. L. 105–277, div. C, title I, §110(f)(1), Oct. 21, 1998, 112 Stat. 2681–588, §41716; renumbered §41720 and amended Pub. L. 106–181, title II, §231(b)(1), title VII, §709, Apr. 5, 2000, 114 Stat. 108, 159.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (f) and (g), is the date of enactment of Pub. L. 105–277, which was approved Oct. 21, 1998.

CODIFICATION

Pub. L. 105–277, §110(f)(1), which directed amendment of subchapter I of chapter 417 by adding this section at the end, without specifying a Code title or Act, was executed by adding this section at the end of this subchapter to reflect the probable intent of Congress.

AMENDMENTS

2000—Pub. L. 106–181, §231(b)(1), renumbered section 41716 of this title as this section.

Subsec. (a)(1). Pub. L. 106–181, §709, substituted "an agreement between two or more major air carriers" for "an agreement entered into by a major air carrier".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§41721. Reports by carriers on incidents involving animals during air transport

(a) IN GENERAL.—An air carrier that provides scheduled passenger air transportation shall submit monthly to the Secretary a report on any incidents involving the loss, injury, or death of an animal (as defined by the Secretary of Transportation) during air transport provided by the air carrier. The report shall be in such form and contain such information as the Secretary determines appropriate.

(b) TRAINING OF AIR CARRIER EMPLOYEES.—The Secretary shall work with air carriers to improve the training of employees with respect to the air transport of animals and the notification of passengers of the conditions under which the air transport of animals is conducted.

(c) SHARING OF INFORMATION.—The Secretary and the Secretary of Agriculture shall enter into a memorandum of understanding to ensure the sharing of information that the Secretary receives under subsection (a).

(d) PUBLICATION OF DATA.—The Secretary shall publish data on incidents and complaints involving the loss, injury, or death of an animal during air transport in a manner comparable to other consumer complaint and incident data.

(e) AIR TRANSPORT.—For purposes of this section, the air transport of an animal includes the entire period during which an animal is in the custody of an air carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

(Added Pub. L. 106–181, title VII, §710(a), Apr. 5, 2000, 114 Stat. 159.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41722. Delay reduction actions

(a) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

(1) the Administrator determines that it is necessary to convene such a meeting; and

(2) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

(b) MEETING CONDITIONS.—Any meeting under subsection (a)—

(1) shall be chaired by the Administrator;

(2) shall be open to all scheduled air carriers; and

(3) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

(c) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

(d) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any offer to meet a flight reduction target to the Administrator rather than to another carrier.

(e) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

(Added Pub. L. 108–176, title IV, §422(a), Dec. 12, 2003, 117 Stat. 2552.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

SCHEDULE REDUCTION

Pub. L. 112–95, title IV, §413, Feb. 14, 2012, 126 Stat. 89, provided that:

"(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration determines that—

"(1) the aircraft operations of air carriers during any hour at an airport exceed the hourly maximum departure and arrival rate established by the Administrator for such operations; and

"(2) the operations in excess of the maximum departure and arrival rate for such hour at such airport are likely to have a significant adverse effect on the safe and efficient use of navigable airspace,

the Administrator shall convene a meeting of such carriers to reduce pursuant to section 41722 of title 49, United States Code, on a voluntary basis, the number of such operations so as not to exceed the maximum departure and arrival rate.

"(b) NO AGREEMENT.—If the air carriers participating in a meeting with respect to an airport under subsection (a) are not able to agree to a reduction in the number of flights to and from the airport so as not to exceed the maximum departure and arrival rate, the Administrator shall take such action as is necessary to ensure such reduction is implemented.

"(c) SUBSEQUENT SCHEDULE INCREASES.—Subsequent to any reduction in operations under subsection (a) or (b) at an airport, if the Administrator determines that the hourly number of aircraft operations at that airport is less than the amount that can be handled safely and efficiently, the Administrator shall ensure that priority is given to United States air carriers in permitting additional aircraft operations with respect to that hour."

§41723. Notice concerning aircraft assembly

The Secretary of Transportation shall require, beginning after the last day of the 18-month period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.

(Added Pub. L. 108–176, title VIII, §810(a), Dec. 12, 2003, 117 Stat. 2590.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§41724. Musical instruments

(a) IN GENERAL.—

(1) SMALL INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a violin, guitar, or other musical instrument in the aircraft cabin, without charging the passenger a fee in addition to any standard fee that carrier may require for comparable carry-on baggage, if—

(A) the instrument can be stowed safely in a suitable baggage compartment in the aircraft cabin or under a passenger seat, in accordance with the requirements for carriage of carry-on baggage or cargo established by the Administrator; and

(B) there is space for such stowage at the time the passenger boards the aircraft.

(2) LARGER INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument that is too large to meet the requirements of paragraph (1) in the aircraft cabin, without charging the passenger a fee in addition to the cost of the additional ticket described in subparagraph (E), if—

(A) the instrument is contained in a case or covered so as to avoid injury to other passengers;

(B) the weight of the instrument, including the case or covering, does not exceed 165 pounds or the applicable weight restrictions for the aircraft;

(C) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the Administrator;

(D) neither the instrument nor the case contains any object not otherwise permitted to be carried in an aircraft cabin because of a law or regulation of the United States; and

(E) the passenger wishing to carry the instrument in the aircraft cabin has purchased an additional seat to accommodate the instrument.

(3) LARGE INSTRUMENTS AS CHECKED BAGGAGE.—An air carrier shall transport as baggage a musical instrument that is the property of a passenger traveling in air transportation that may not be carried in the aircraft cabin if—

(A) the sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 150 inches or the applicable size restrictions for the aircraft;

(B) the weight of the instrument does not exceed 165 pounds or the applicable weight restrictions for the aircraft; and

(C) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the Administrator.

(b) REGULATIONS.—Not later than 2 years after the date of enactment of this section, the Secretary shall issue final regulations to carry out subsection (a).

(c) EFFECTIVE DATE.—The requirements of this section shall become effective on the date of issuance of the final regulations under subsection (b).

(Added Pub. L. 112–95, title IV, §403(a), Feb. 14, 2012, 126 Stat. 84.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

Final regulations, referred to in subsecs. (b) and (c), were issued Dec. 29, 2014, effective Mar. 6, 2015. See 80 F.R. 161.

§41725. Prohibition on certain cell phone voice communications

(a) PROHIBITION.—The Secretary of Transportation shall issue regulations—

(1) to prohibit an individual on an aircraft from engaging in voice communications using a mobile communications device during a flight of that aircraft in scheduled passenger interstate or intrastate air transportation; and

(2) that exempt from the prohibition described in paragraph (1) any—

(A) member of the flight crew on duty on an aircraft;

(B) flight attendant on duty on an aircraft; and

(C) Federal law enforcement officer acting in an official capacity.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) FLIGHT.—The term "flight" means, with respect to an aircraft, the period beginning when the aircraft takes off and ending when the aircraft lands.

(2) MOBILE COMMUNICATIONS DEVICE.—

(A) IN GENERAL.—The term "mobile communications device" means any portable wireless telecommunications equipment utilized for the transmission or reception of voice data.

(B) LIMITATION.—The term "mobile communications device" does not include a phone installed on an aircraft.

(Added Pub. L. 115–254, div. B, title IV, §403(a), Oct. 5, 2018, 132 Stat. 3328.)

§41726. Strollers

(a) IN GENERAL.—Except as provided in subsection (b), a covered air carrier shall not deny a passenger the ability to check a stroller at the departure gate if the stroller is being used by a passenger to transport a child traveling on the same flight as the passenger.

(b) EXCEPTION.—Subsection (a) shall not apply in instances where the size or weight of the stroller poses a safety or security risk.

(c) COVERED AIR CARRIER DEFINED.—In this section, the term "covered air carrier" means an air carrier or a foreign air carrier as those terms are defined in section 40102 of title 49, United States Code.

(Added Pub. L. 115–254, div. B, title IV, §412(a), Oct. 5, 2018, 132 Stat. 3331.)

§41727. Passenger Rights [1]

(a) GUIDELINES.—The Secretary of Transportation shall require each covered air carrier to submit a summarized 1-page document that describes the rights of passengers in air transportation, including guidelines for the following:

(1) Compensation (regarding rebooking options, refunds, meals, and lodging) for flight delays of various lengths.

(2) Compensation (regarding rebooking options, refunds, meals, and lodging) for flight diversions.

(3) Compensation (regarding rebooking options, refunds, meals, and lodging) for flight

cancellations.

(4) Compensation for mishandled baggage, including delayed, damaged, pilfered, or lost baggage.

(5) Voluntary relinquishment of a ticketed seat due to overbooking or priority of other passengers.

(6) Involuntary denial of boarding and forced removal for whatever reason, including for safety and security reasons.

(b) FILING OF SUMMARIZED GUIDELINES.—Not later than 90 days after each air carrier submits its guidelines to the Secretary under subsection (a), the air carrier shall make available such 1-page document in a prominent location on its website.

(Added and amended Pub. L. 118–63, title V, §510(a), May 16, 2024, 138 Stat. 1193.)

EDITORIAL NOTES

CODIFICATION

Section, as added and amended by section 510(a) of Pub. L. 118–63, is based on Pub. L. 115–254, div. B, title IV, §429, Oct. 5, 2018, 132 Stat. 3341, which was formerly set out as a note preceding section 42301 of this title before being transferred to this chapter and renumbered as this section.

AMENDMENTS

2024—Pub. L. 118–63, §510(a)(1), transferred section 429 of Pub. L. 115–254 to this chapter, renumbered it as this section, and amended style of section catchline. See Codification note above.

Subsec. (a). Pub. L. 118–63, §510(a)(2), substituted "The Secretary" for "Not later than 90 days after the date of enactment of this Act, the Secretary" in introductory provisions.

[1] *So in original. Probably should not be capitalized.*

§41728. Airline passengers with disabilities bill of rights

(a) AIRLINE PASSENGERS WITH DISABILITIES BILL OF RIGHTS.—The Secretary of Transportation shall develop a document, to be known as the "Airline Passengers with Disabilities Bill of Rights", using plain language to describe the basic protections and responsibilities of covered air carriers,[1] their employees and contractors, and people with disabilities under section 41705.

(b) CONTENT.—In developing the Airline Passengers with Disabilities Bill of Rights under subsection (a), the Secretary shall include, at a minimum, plain language descriptions of protections and responsibilities provided in law related to the following:

(1) The right of passengers with disabilities to be treated with dignity and respect.

(2) The right of passengers with disabilities to receive timely assistance, if requested, from properly trained covered air carrier and contractor personnel.

(3) The right of passengers with disabilities to travel with wheelchairs, mobility aids, and other assistive devices, including necessary medications and medical supplies, including stowage of such wheelchairs, aids, and devices.

(4) The right of passengers with disabilities to receive seating accommodations, if requested, to accommodate a disability.

(5) The right of passengers with disabilities to receive announcements in an accessible format.

(6) The right of passengers with disabilities to speak with a complaint resolution officer or to file a complaint with a covered air carrier or the Department of Transportation.

(c) RULE OF CONSTRUCTION.—The development of the Airline Passengers with Disabilities Bill of Rights under subsections (a) and (b) shall not be construed as expanding or restricting the rights available to passengers with disabilities on the day before the date of enactment of the FAA Reauthorization Act of 2018 pursuant to any statute or regulation.

(d) CONSULTATIONS.—In developing the Airline Passengers with Disabilities Bill of Rights under subsection (a), the Secretary of Transportation shall consult with stakeholders, including disability organizations and covered air carriers and their contractors.

(e) DISPLAY.—Each covered air carrier shall include the Airline Passengers with Disabilities Bill of Rights—

(1) on a publicly available internet website of the covered air carrier; and

(2) in any pre-flight notifications or communications provided to passengers who alert the covered air carrier in advance of the need for accommodations relating to a disability.

(f) TRAINING.—Covered air carriers and contractors of covered air carriers shall submit to the Secretary of Transportation plans that ensure that employees of covered air carriers and their contractors receive training on the protections and responsibilities described in the Airline Passengers with Disabilities Bill of Rights. The Secretary shall review such plans to ensure the plans address the matters described in subsection (b).

(Added and amended Pub. L. 118–63, title V, §510(b), May 16, 2024, 138 Stat. 1194.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2018, referred to in subsec. (c), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

CODIFICATION

Section, as added and amended by section 510(b) of Pub. L. 118–63, is based on Pub. L. 115–254, div. B, title IV, §434, Oct. 5, 2018, 132 Stat. 3343, which was formerly set out as a note under section 41705 of this title before being transferred to this chapter and renumbered as this section.

AMENDMENTS

2024—Pub. L. 118–63, §510(b)(1), transferred section 434 of Pub. L. 115–254 to this chapter, renumbered it as this section, and amended style of section catchline. See Codification note above.

Subsec. (a). Pub. L. 118–63, §510(b)(2)(A), substituted "section 41705" for "the section 41705 of title 49, United States Code".

Subsec. (c). Pub. L. 118–63, §510(b)(2)(B), substituted "the date of enactment of the FAA Reauthorization Act of 2018" for "the date of the enactment of this Act".

Subsec. (f). Pub. L. 118–63, §510(b)(2)(C), substituted "ensure that employees" for "ensure employees".

STATUTORY NOTES AND RELATED SUBSIDIARIES

IMPROVED TRAINING STANDARDS FOR ASSISTING PASSENGERS WHO USE WHEELCHAIRS

Pub. L. 118–63, title V, §542, May 16, 2024, 138 Stat. 1201, provided that:

"(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall issue a notice of proposed rulemaking to develop requirements for minimum training standards for airline personnel or contractors who assist wheelchair users who board or deplane using an aisle chair or other boarding device.

"(b) REQUIREMENTS.—The training standards developed under subsection (a) shall require, at a minimum, that airline personnel or contractors who assist passengers who use wheelchairs who board or deplane using an aisle chair or other boarding device—

"(1) before being allowed to assist a passenger using an aisle chair or other boarding device to board or deplane, be able to successfully demonstrate skills (during hands-on training sessions) on—

"(A) how to safely use the aisle chair, or other boarding device, including the use of all straps, brakes, and other safety features;

"(B) how to assist in the transfer of passengers to and from their wheelchair, the aisle chair, and the aircraft's passenger seat, either by physically lifting the passenger or deploying a mechanical device for the lift or transfer; and

"(C) how to effectively communicate with, and take instruction from, the passenger;

"(2) are trained regarding the availability of accessible lavatories and on-board wheelchairs and the right of a qualified individual with a disability to request an on-board wheelchair; and

"(3) complete refresher training within 18 months of an initial training and be recertified on the job every 18 months thereafter by a relevant superior in order to remain qualified for providing aisle chair assistance.

"(c) CONSIDERATIONS.—In conducting the rulemaking under subsection (a), the Secretary shall consider, at a minimum—

"(1) whether to require air carriers and foreign air carriers to partner with national disability organizations and disabled veterans organizations representing individuals with disabilities who use wheelchairs and scooters in developing, administering, and auditing training;

"(2) whether to require air carriers and foreign air carriers to use a lift device, instead of an aisle chair, to board and deplane passengers with mobility disabilities; and

"(3) whether individuals able to provide boarding and deplaning assistance for passengers with limited or no mobility should receive training incorporating procedures from medical professionals on how to properly lift these passengers.

"(d) FINAL RULE.—Not later than 12 months after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to the rulemaking conducted under this section.

"(e) PENALTIES.—The Secretary may assess a civil penalty in accordance with section 46301 of title 49, United States Code, to any air carrier or foreign air carrier who fails to meet the requirements established under the final rule under subsection (d)."

TRAINING STANDARDS FOR STOWAGE OF WHEELCHAIRS AND SCOOTERS

Pub. L. 118–63, title V, §543, May 16, 2024, 138 Stat. 1202, provided that:

"(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall issue a notice of proposed rulemaking to develop minimum training standards related to stowage of wheelchairs and scooters used by passengers with disabilities on aircraft.

"(b) REQUIREMENTS.—The training standards developed under subsection (a) shall require, at a minimum, that personnel and contractors of air carriers and foreign air carriers who stow wheelchairs and scooters on aircraft—

"(1) before being allowed to handle or stow a wheelchair or scooter, be able to successfully demonstrate skills (during hands-on training sessions) on—

"(A) how to properly handle and configure, at a minimum, the most commonly used power and manual wheelchairs and scooters for stowage on each aircraft type operated by the air carrier or foreign air carrier;

"(B) how to properly review any wheelchair or scooter information provided by the passenger or the wheelchair or scooter manufacturer; and

"(C) how to properly load, secure, and unload wheelchairs and scooters, including how to use any specialized equipment for loading or unloading, on each aircraft type operated by the air carrier or foreign air carrier; and

"(2) complete refresher training within 18 months of an initial training and be recertified on the job every 18 months thereafter by a relevant superior in order to remain qualified for handling and stowing wheelchairs and scooters.

"(c) CONSIDERATIONS.—In conducting the rulemaking under subsection (a), the Secretary shall consider, at a minimum, whether to require air carriers and foreign air carriers to partner with wheelchair or scooter manufacturers, national disability and disabled veterans organizations representing individuals who use wheelchairs and scooters, and aircraft manufacturers, in developing, administering, and auditing training.

"(d) FINAL RULE.—Not later than 12 months after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to the rulemaking conducted under this section.

"(e) PENALTIES.—The Secretary may assess a civil penalty in accordance with section 46301 of title 49, United States Code, to any air carrier or foreign air carrier who fails to meet the requirements established under the final rule under subsection (d)."

MOBILITY AIDS ON BOARD IMPROVE LIVES AND EMPOWER ALL

Pub. L. 118–63, title V, §544, May 16, 2024, 138 Stat. 1203, provided that:

"(a) PUBLICATION OF CARGO HOLD DIMENSIONS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall require air carriers to publish in a prominent and easily accessible place

on the public website of the air carrier, information describing the relevant dimensions and other characteristics of the cargo holds of all aircraft types operated by the air carrier, including the dimensions of the cargo hold entry, that would limit the size, weight, and allowable type of cargo.

"(2) PROPRIETARY INFORMATION.—The Secretary shall allow an air carrier to protect the confidentiality of any trade secret or proprietary information submitted in accordance with paragraph (1), as appropriate.

"(b) REFUND REQUIRED FOR INDIVIDUAL TRAVELING WITH WHEELCHAIR.—In the case of a qualified individual with a disability traveling with a wheelchair who has purchased a ticket for a flight from an air carrier, but who cannot travel on the aircraft for such flight because the wheelchair of such qualified individual cannot be physically accommodated in the cargo hold of the aircraft, the Secretary shall require such air carrier to offer a refund to such qualified individual of any previously paid fares, fees, and taxes applicable to such flight.

"(c) EVALUATION OF DATA REGARDING DAMAGED WHEELCHAIRS.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Secretary shall—

"(1) evaluate data regarding the type and frequency of incidents of the mishandling of wheelchairs on aircraft and delineate such data by—

"(A) types of wheelchairs involved in such incidents; and

"(B) the ways in which wheelchairs are mishandled, including the type of damage to wheelchairs (such as broken drive wheels or casters, bent or broken frames, damage to electrical connectors or wires, control input devices, joysticks, upholstery or other components, loss, or delay of return);

"(2) determine whether there are trends with respect to the data evaluated under paragraph (1); and

"(3) make available on the public website of the Department of Transportation, in an accessible manner, a report containing the results of the evaluation of data and determination made under paragraphs (1) and (2) and a description of how the Secretary plans to address such results.

"(d) REPORT TO CONGRESS ON MISHANDLED WHEELCHAIRS.—Upon completion of each annual report required under subsection (c), the Secretary shall transmit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] such report.

"(e) FEASIBILITY OF IN-CABIN WHEELCHAIR RESTRAINT SYSTEMS.—

"(1) ROADMAP.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a publicly available strategic roadmap that describes how the Department of Transportation and the United States Access Board, respectively, shall, in accordance with the recommendations from the National Academies of Science, Engineering, and Mathematics [probably should be "National Academies of Sciences, Engineering, and Medicine"] Transportation Research Board Special Report 341—

"(A) establish a program of research, in collaboration with the Rehabilitation Engineering and Assistive Technology Society of North America, the assistive technology industry, air carriers, original equipment manufacturers, national disability and disabled veterans organizations, and any other relevant stakeholders, to test and evaluate an appropriate selection of WC19-compliant wheelchairs and accessories in accordance with applicable FAA [Federal Aviation Administration] crashworthiness and safety performance criteria, including the issues and considerations set forth in such Special Report 341; and

"(B) sponsor studies that assess issues and considerations, including those set forth in such Special Report 341, such as—

"(i) the likely demand for air travel by individuals who are nonambulatory if such individuals could remain seated in their personal wheelchairs in flight; and

"(ii) the feasibility of implementing seating arrangements that would accommodate passengers in wheelchairs in the main cabin in flight.

"(2) STUDY.—If determined to be technically feasible by the Secretary, not later than 2 years after making such determination, the Secretary shall commence a study to assess the economic and financial feasibility of air carriers and foreign air carriers implementing seating arrangements that accommodate passengers with wheelchairs in the main cabin during flight. Such study shall include an assessment of—

"(A) the cost of such seating arrangements, equipment, and installation;

"(B) the demand for such seating arrangements;

"(C) the impact of such seating arrangements on passenger seating and safety on aircraft;

"(D) the impact of such seating arrangements on the cost of operations and airfare; and

"(E) any other information determined appropriate by the Secretary.

"(3) REPORT.—Not later than 1 year after the date on which the study under paragraph (2) is

completed, the Secretary shall submit to the appropriate committees of Congress a publicly available report describing the results of the study conducted under paragraph (2) and any recommendations the Secretary determines appropriate.

"(f) DEFINITIONS.—In this section:

"(1) AIR CARRIER.—The term 'air carrier' has the meaning given such term in section 40102 of title 49, United States Code.

"(2) DISABILITY; QUALIFIED INDIVIDUAL WITH A DISABILITY.—The terms 'disability' and 'qualified individual with a disability' have the meanings given such terms in section 382.3 of title 14, Code of Federal Regulations (as in effect on date of enactment of this Act [May 16, 2024]).

"(3) WHEELCHAIR.—The term 'wheelchair' has the meaning given such term in section 37.3 of title 49, Code of Federal Regulations (as in effect on date of enactment of this Act), and includes power wheelchairs, manual wheelchairs, and scooters."

PRIORITIZING ACCOUNTABILITY AND ACCESSIBILITY FOR AVIATION CONSUMERS

Pub. L. 118–63, title V, §545, May 16, 2024, 138 Stat. 1205, provided that:

"(a) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], and annually thereafter, the Secretary [of Transportation] shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives], and make publicly available, a report on aviation consumer complaints related to passengers with a disability filed with the Department of Transportation.

"(b) CONTENTS.—Each annual report submitted under subsection (a) shall, at a minimum, include the following:

"(1) The number of aviation consumer complaints reported to the Secretary related to passengers with a disability filed with the Department of Transportation during the calendar year preceding the year in which such report is submitted.

"(2) The nature of such complaints, including reported issues with—

"(A) an air carrier, including an air carrier's staff training or lack thereof;

"(B) mishandling of passengers with a disability or their accessibility equipment, including mobility aids and wheelchairs;

"(C) the condition, availability, or lack of accessibility of equipment operated by an air carrier or a contractor of an air carrier;

"(D) the accessibility of in-flight services, including accessing and using on-board lavatories, for passengers with a disability;

"(E) difficulties experienced by passengers with a disability in communicating with air carrier personnel;

"(F) difficulties experienced by passengers with a disability in being moved, handled, or otherwise assisted;

"(G) an air carrier changing the flight itinerary of a passenger with a disability without the consent of such passenger;

"(H) issues experienced by passengers with a disability traveling with a service animal; and

"(I) such other issues as the Secretary determines appropriate.

"(3) An overview of the review process for such complaints received during such calendar year.

"(4) The median length of time for how quickly review of such complaints was initiated by the Secretary.

"(5) The median length of time for how quickly such complaints were resolved or otherwise addressed.

"(6) Of the complaints that were found to violate section 41705 of title 49, United States Code—

"(A) the number of such complaints for which a formal enforcement order was issued; and

"(B) the number of such complaints for which a formal enforcement order was not issued.

"(7) How many aviation consumer complaints related to passengers with a disability were referred to the Department of Justice for an enforcement action under—

"(A) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

"(B) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); or

"(C) any other provision of law.

"(8) How many aviation consumer complaints related to passengers with a disability filed with the Department of Transportation that involved airport staff (or other matters under the jurisdiction of the FAA [Federal Aviation Administration]) were referred to the FAA.

"(9) The number of disability-related aviation consumer complaints filed with the Department of

Transportation involving Transportation Security Administration staff that were referred to the Transportation Security Administration or the Department of Homeland Security.

"(c) DEFINITIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the definitions set forth in section 40102 of title 49, United States Code, and section 382.3 of title 14, Code of Federal Regulations, apply to this section.

"(2) AIR CARRIER.—The term 'air carrier' means an air carrier conducting passenger operations under part 121 of title 14, Code of Federal Regulations.

"(3) PASSENGERS WITH A DISABILITY.—In this section, the term 'passengers with a disability' has the meaning given the term 'qualified individual with a disability' in section 382.3 of title 14, Code of Federal Regulations."

ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS WITH DISABILITIES

Pub. L. 118–63, title V, §546, May 16, 2024, 138 Stat. 1206, provided that:

"(a) IN GENERAL.—

"(1) ADVANCED NOTICE OF PROPOSED RULEMAKING.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall issue an advanced notice of proposed rulemaking regarding seating accommodations for any qualified individual with a disability.

"(2) NOTICE OF PROPOSED RULEMAKING.—Not later than 18 months after the date on which the advanced notice of proposed rulemaking under paragraph (1) is completed, the Secretary shall issue a notice of proposed rulemaking regarding seating accommodations for any qualified individual with a disability.

"(3) FINAL RULE.—Not later than 30 months after the date on which the notice of proposed rulemaking under subparagraph (B) [probably should be "paragraph (2)"] is completed, the Secretary shall issue a final rule pursuant to the rulemaking conducted under this subsection.

"(b) CONSIDERATIONS.—In carrying out the advanced notice of proposed rulemaking required in subsection (a)(1), the Secretary shall consider the following:

"(1) The scope and anticipated number of qualified individuals with a disability who—

"(A) may need to be seated with a companion to receive assistance during a flight; or

"(B) should be afforded bulkhead seats or other seating considerations.

"(2) The types of disabilities that may need seating accommodations.

"(3) Whether such qualified individuals with a disability are unable to obtain, or have difficulty obtaining, appropriate seating accommodations.

"(4) The scope and anticipated number of individuals assisting a qualified individual with a disability who should be afforded an adjoining seat pursuant to section 382.81 of title 14, Code of Federal Regulations.

"(5) Any notification given to qualified individuals with a disability regarding available seating accommodations.

"(6) Any method that is adequate to identify fraudulent claims for seating accommodations.

"(7) Any other information determined appropriate by the Secretary.

"(c) KNOWN SERVICE ANIMAL TRAVEL PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program to allow approved program participants as known service animals for purposes of exemption from the documentation requirements under part 382 of title 14, Code of Federal Regulations, with respect to air travel with a service animal.

"(2) REQUIREMENTS.—The pilot program established under paragraph (1) shall—

"(A) be optional for a service animal accompanying a qualified individual with a disability;

"(B) provide for assistance for applicants, including over-the-phone assistance, throughout the application process for the program; and

"(C) with respect to any web-based components of the pilot program, meet or exceed the standards described in section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) and the regulations implementing that Act as set forth in part 1194 of title 36, Code of Federal Regulations (or any successor regulations).

"(3) CONSULTATION.—In establishing the pilot program under paragraph (1), the Secretary shall consult with—

"(A) disability organizations, including advocacy and nonprofit organizations that represent or provide services to individuals with disabilities;

"(B) air carriers and foreign air carriers;

"(C) accredited service animal training programs and authorized registrars, such as the

International Guide Dog Federation, Assistance Dogs International, and other similar organizations and foreign and domestic governmental registrars of service animals;

"(D) other relevant departments or agencies of the Federal Government; and

"(E) other entities determined to be appropriate by the Secretary.

"(4) ELIGIBILITY.—To be eligible to participate in the pilot program under this subsection, an individual shall—

"(A) be a qualified individual with a disability;

"(B) require the assistance of a service animal because of a disability; and

"(C) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(5) CLARIFICATION.—The Secretary may award a grant or enter into a contract or cooperative agreement in order to carry out this subsection.

"(6) NOMINAL FEE.—The Secretary may require an applicant to pay a nominal fee, not to exceed $25, to participate in the pilot program.

"(7) REPORTS TO CONGRESS.—Not later than 1 year after the establishment of the pilot program under this subsection, and annually thereafter until the date described in paragraph (8), the Secretary shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] and make publicly available report on the progress of the pilot program.

"(8) SUNSET.—The pilot program shall terminate on the date that is 5 years after the date of enactment of this Act.

"(d) ACCREDITED SERVICE ANIMAL TRAINING PROGRAMS AND AUTHORIZED REGISTRARS .—Not later than 6 months after the date of enactment of this Act, the Secretary shall publish and maintain, on the website of the Department of Transportation, a list of—

"(1) accredited programs that train service animals; and

"(2) authorized registrars that evaluate service animals.

"(e) REPORT TO CONGRESS ON SERVICE ANIMAL REQUESTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report on requests for air travel with service animals, including—

"(1) during the reporting period, how many requests to board an aircraft with a service animal were made in total, and how many requests were made by qualified individuals with disabilities; and

"(2) the number and percentage of such requests, categorized by type of request, that were reported by air carriers or foreign air carriers as—

"(A) granted;

"(B) denied but not fraudulent; or

"(C) denied as fraudulent.

"(f) TRAINING.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section [May 16, 2024], the Secretary shall, in consultation with the Air Carrier Access Act Advisory Committee, issue guidance regarding improvements to training for airline personnel (including contractors) in recognizing when a qualified individual with a disability is traveling with a service animal.

"(2) REQUIREMENTS.—The guidance issued under paragraph (1) shall—

"(A) take into account respectful engagement with and assistance for individuals with a wide range of visible and nonvisible disabilities;

"(B) provide information on—

"(i) service animal behavior and whether the service animal is appropriately harnessed, leashed, or otherwise tethered; and

"(ii) the various types of service animals, such as guide dogs, hearing or signal dogs, psychiatric service dogs, sensory or social signal dogs, and seizure response dogs; and

"(C) outline the rights and responsibilities of the handler of the service animal.

"(g) DEFINITIONS.—In this section:

"(1) AIR CARRIER.—The term 'air carrier' has the meaning given that term in section 40102 of title 49, United States Code.

"(2) FOREIGN AIR CARRIER.—The term 'foreign air carrier' has the meaning given that term in section 40102 of title 49, United States Code.

"(3) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term 'qualified individual with a disability' has the meaning given that term in section 382.3 of title 14, Code of Federal Regulations.

"(4) SERVICE ANIMAL.—The term 'service animal' has the meaning given that term in section 382.3

of title 14, Code of Federal Regulations."

EQUAL ACCESSIBILITY TO PASSENGER PORTALS

Pub. L. 118–63, title V, §547, May 16, 2024, 138 Stat. 1209, provided that:

"(a) APPLICATIONS AND INFORMATION COMMUNICATION TECHNOLOGIES.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall, in consultation with the United States Architectural and Transportation Barriers Compliance Board, issue regulations setting forth minimum standards to ensure that individuals with disabilities are able to access customer-focused kiosks, software applications, and websites of air carriers, foreign air carriers, and airports, in a manner that is equally as effective, and has a substantially equivalent ease of use, as for individuals without disabilities.

"(b) CONSISTENCY WITH GUIDELINES.—The standards set forth under subsection (a) shall be consistent with the standards contained in the Web Content Accessibility Guidelines 2.1 Level AA of the Web Accessibility Initiative of the World Wide Web Consortium or any subsequent version of such Guidelines.

"(c) REVIEW.—

"(1) AIR CARRIER ACCESS ACT ADVISORY COMMITTEE REVIEW.—The Air Carrier Access Act Advisory Committee shall periodically review, and make appropriate recommendations regarding, the accessibility of websites, kiosks, and information communication technology of air carriers, foreign air carriers, and airports, and make such recommendations publicly available.

"(2) DOT REVIEW.—Not later than 5 years after issuing regulations under subsection (a), and every 5 years thereafter, the Secretary shall—

"(A) review the recommendations of the Air Carrier Access Act Advisory Committee regarding the regulations issued under this subsection; and

"(B) update such regulations as necessary."

AIRCRAFT ACCESS STANDARDS

Pub. L. 118–63, title V, §548, May 16, 2024, 138 Stat. 1210, provided that:

"(a) AIRCRAFT ACCESS STANDARDS.—

"(1) STANDARDS.—

"(A) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall issue an advanced notice of proposed rulemaking regarding standards to ensure that the aircraft boarding and deplaning process is accessible, in terms of design for, transportation of, and communication with, individuals with disabilities, including individuals who use wheelchairs.

"(B) NOTICE OF PROPOSED RULEMAKING.—Not later than 1 year after the date on which the advanced notice of proposed rulemaking under subparagraph (A) is completed, the Secretary shall issue a notice of proposed rulemaking regarding standards addressed in subparagraph (A).

"(C) FINAL RULE.—Not later than 1 year after the date on which the notice of proposed rulemaking under subparagraph (B) is completed, the Secretary shall issue a final rule.

"(2) COVERED AIRPORT, EQUIPMENT, AND FEATURES.—The standards prescribed under paragraph (1)(A) shall address, at a minimum—

"(A) boarding and deplaning equipment;

"(B) improved procedures to ensure the priority cabin stowage for manual assistive devices pursuant to section 382.67 of title 14, Code of Federal Regulations; and

"(C) improved cargo hold storage to prevent damage to assistive devices.

"(3) CONSULTATION.—For purposes of the rulemaking under this subsection, the Secretary shall consult with the Access Board and any other relevant department or agency to determine appropriate accessibility standards.

"(b) IN-FLIGHT ENTERTAINMENT RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a notice of proposed rulemaking in accordance with the November 22, 2016, resolution of the Department of Transportation ACCESS Committee and the consensus recommendation set forth in the Term Sheet Reflecting Agreement of the Access [probably should be "ACCESS"] Committee Regarding In-Flight Entertainment.

"(c) NEGOTIATED RULEMAKING ON IN-CABIN WHEELCHAIR RESTRAINT SYSTEMS AND ENPLANING AND DEPLANING STANDARDS.—

"(1) TIMING.—

"(A) IN GENERAL.—Not later than 1 year after completion of the report required by section 544(e)(2) [probably should be "section 544(e)(3)" of Pub. L. 118–63, set out above], and if such report finds economic and financial feasibility of air carriers and foreign air carriers implementing seating

arrangements that accommodate individuals with disabilities using wheelchairs (including power wheelchairs, manual wheelchairs, and scooters) in the main cabin during flight, the Secretary shall conduct a negotiated rulemaking on new type certificated aircraft standards for seating arrangements that accommodate such individuals in the main cabin during flight or an accessible route to a minimum of 2 aircraft passenger seats for passengers to access from personal assistive devices of such individuals.

"(B) REQUIREMENT.—The negotiated rulemaking under subparagraph (A) shall include participation of representatives of—

"(i) air carriers;

"(ii) aircraft manufacturers;

"(iii) national disability organizations;

"(iv) aviation safety experts; and

"(v) mobility aid manufacturers.

"(2) NOTICE OF PROPOSED RULEMAKING.—Not later than 1 year after the completion of the negotiated rulemaking required under paragraph (1), the Secretary shall issue a notice of proposed rulemaking regarding the standards described in paragraph (1).

"(3) FINAL RULE.—Not later than 1 year after the date on which the notice of proposed rulemaking under paragraph (2) is completed, the Secretary shall issue a final rule regarding the standards described in paragraph (1).

"(4) CONSIDERATIONS.—In the negotiated rulemaking and rulemaking required under this subsection, the Secretary shall consider—

"(A) a reasonable period for the design, certification, and construction of aircraft that meet the requirements;

"(B) the safety of all persons on-board the aircraft, including necessary wheelchair standards and wheelchair compliance with FAA [Federal Aviation Administration] crashworthiness and safety performance criteria; and

"(C) the costs of design, installation, equipage, and aircraft capacity impacts, including partial fleet equipage and fare impacts.

"(d) VISUAL AND TACTILELY ACCESSIBLE ANNOUNCEMENTS.—The Advisory Committee established under section 439 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 41705 note) shall examine technical solutions and the feasibility of visually and tactilely accessible announcements on-board aircraft.

"(e) AIRPORT FACILITIES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall, in direct consultation with the Access Board, prescribe regulations setting forth minimum standards under section 41705 of title 49, United States Code, that ensure all gates (including counters), ticketing areas, and customer service desks covered under such section at airports are accessible to and usable by all individuals with disabilities, including through the provision of visually and tactilely accessible announcements and full and equal access to aural communications.

"(f) DEFINITIONS.—In this section:

"(1) ACCESS BOARD.—The term 'Access Board' means the Architectural and Transportation Barriers Compliance Board.

"(2) AIR CARRIER.—The term 'air carrier' has the meaning given such term in section 40102 of title 49, United States Code.

"(3) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' has the meaning given such term in section 382.3 of title 14, Code of Federal Regulations.

"(4) FOREIGN AIR CARRIER.—The term 'foreign air carrier' has the meaning given such term in section 40102 of title 49, United States Code."

ON-BOARD WHEELCHAIRS IN AIRCRAFT CABIN

Pub. L. 118–63, title V, §551, May 16, 2024, 138 Stat. 1212, provided that:

"(a) IN GENERAL.—If an individual informs an air carrier or foreign air carrier at the time of booking a ticket for air transportation on a covered aircraft that the individual requires the use of any wheelchair, the air carrier or foreign air carrier shall provide information regarding the provision and use of on-board wheelchairs, including the rights and responsibilities of the air carrier and passenger as such rights and responsibilities relate to the provision and use of on-board wheelchairs.

"(b) AVAILABILITY OF INFORMATION.—An air carrier or foreign air carrier that operates a covered aircraft shall provide on a publicly available website of the carrier information regarding the rights and responsibilities of both passengers on such aircraft and the air carrier or foreign air carrier relating to on-board wheelchairs, including—

"(1) that an air carrier or foreign air carrier is required to equip aircraft that have more than 60 passenger seats and that have an accessible lavatory (whether or not having such a lavatory is required by section 382.63 of title 14, Code of Federal Regulations) with an on-board wheelchair, unless an exception described in such section 382.65 [probably means section 382.65 of such title] applies;

"(2) that a qualified individual with a disability (as defined in section 382.3 of title 14, Code of Federal Regulations (as in effect on date of enactment of this Act [May 16, 2024])) may request an on-board wheelchair on aircraft with more than 60 passenger seats even if the lavatory is not accessible and that the basis of such request must be that the individual can use an inaccessible lavatory but cannot reach it from a seat without using an on-board wheelchair;

"(3) that the air carrier or foreign air carrier may require the qualified individual with a disability to provide the advance notice specified in section 382.27 of title 14, Code of Federal Regulations, in order for the individual to be provided with the on-board wheelchair; and

"(4) if the air carrier or foreign air carrier requires the advance notice described in paragraph (3), information on how such a qualified individual with a disability can make such a request.

"(c) DEFINITIONS.—In this section:

"(1) APPLICABILITY OF TERMS.—The definitions contained in section 40102 of title 49, United States Code, apply to this section.

"(2) COVERED AIRCRAFT.—The term 'covered aircraft' means an aircraft that is required to be equipped with on-board wheelchairs in accordance with section 382.65 of title 14, Code of Federal Regulations."

DEFINITION

The term "covered air carrier" is not defined for this section. However, such term was defined for section 434 of Pub. L. 115–254, prior to its transfer to this section, by section 401 of Pub. L. 115–254, which is set out as a Definitions of Terms in Pub. L. 115–254 note under section 40101 of this title.

[1] *See Definition note below.*

§41729. COVID–19 vaccination status

(a) IN GENERAL.—An air carrier (as such term is defined in section 40102) may not deny service to any individual solely based on the vaccination status of the individual with respect to COVID–19.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to the regulation of intrastate travel, transportation, or movement, including the intrastate transportation of passengers.

(Added Pub. L. 118–63, title XI, §1107(a), May 16, 2024, 138 Stat. 1417.)

EDITORIAL NOTES

CODIFICATION

Section 1107(a) of Pub. L. 118–63, which directed the addition of this section at end of this chapter, was executed by adding this section at the end of subchapter I of this chapter to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RULE OF CONSTRUCTION

Pub. L. 118–63, title XI, §1107(c), May 16, 2024, 138 Stat. 1417, provided that: "Nothing in this section [enacting this section], or the amendment made by this section, shall be construed to permit or otherwise authorize an executive agency to enact or otherwise impose a COVID–19 vaccine mandate."

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§41731. Definitions

(a) GENERAL.—In this subchapter—

(1) "eligible place" means a place in the United States that—

(A)(i)(I) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(II) received scheduled air transportation at any time after January 1, 1990; and

(III) is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under this subchapter; or

(ii) was determined, on or after October 1, 1988, and before the date of the enactment of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190), under this subchapter by the Secretary of Transportation to be eligible to receive subsidized small community air service under section 41736(a);

(B) had an average of 10 enplanements per service day or more, as determined by the Secretary, during the most recent fiscal year beginning after September 30, 2012;

(C) had an average subsidy per passenger, as determined by the Secretary—

(i) of less than $1,000 during the most recent fiscal year beginning before October 1, 2026, regardless of driving miles to the nearest large or medium hub airport;

(ii) of less than $850 during the most recent fiscal year beginning after September 30, 2026, regardless of driving miles to the nearest medium or large hub airport; and

(iii) of less than $650 during the most recent fiscal year for locations that are less than 175 miles from the nearest large or medium hub airport; and

(D) is a community that, at any time during the period between September 30, 2010, and September 30, 2011, inclusive—

(i) received essential air service for which compensation was provided to an air carrier under this subchapter; or

(ii) received a 140-day notice of intent to terminate essential air service and the Secretary required the air carrier to continue to provide such service to the community.

(2) "enhanced essential air service" means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(b) LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE .—The Secretary may not decide that a place described in subsection (a)(1) of this section is not an eligible place on any basis that is not specifically stated in this subchapter.

(c) EXCEPTION FOR LOCATIONS IN ALASKA AND HAWAII.—Subparagraphs (B), (C), and (D) of subsection (a)(1) shall not apply with respect to locations in the State of Alaska or the State of Hawaii.

(d) EXCEPTIONS FOR LOCATIONS MORE THAN 175 DRIVING MILES FROM THE NEAREST LARGE OR MEDIUM HUB AIRPORT.—Subsection (a)(1)(B) shall not apply with respect to locations that are more than 175 driving miles from the nearest large or medium hub airport.

(e) WAIVERS.—

(1) IN GENERAL.—The Secretary may waive, on an annual basis, subsections (a)(1)(B) and (a)(1)(C)(iii) with respect to an eligible place if such place demonstrates to the Secretary's satisfaction that the reason the eligibility requirements of such subsections are not met is due to a temporary decline in demand.

(2) LIMITATION.—Beginning with fiscal year 2027, the Secretary may not provide a waiver of subsection (a)(1)(B) to any location—

(A) in more than 2 consecutive fiscal years; or

(B) in more than 5 fiscal years within 25 consecutive years.

(3) LIMITATION.—Beginning in fiscal year 2027, the Secretary may not provide a waiver of subsection (a)(1)(C)(iii) to any location—

(A) in more than 2 consecutive fiscal years; or

(B) in more than 5 fiscal years within 25 consecutive years.

(f) DEFINITION.—For purposes of subsection (a)(1)(B), the term "enplanements" means the number of passengers enplaning, at an eligible place, on flights operated by the subsidized essential air service carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 106–181, title II, §208, Apr. 5, 2000, 114 Stat. 95; Pub. L. 108–176, title II, §225(b)(2), Dec. 12, 2003, 117 Stat. 2529; Pub. L. 112–27, §6, Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–95, title IV, §§421, 422, Feb. 14, 2012, 126 Stat. 96, 97; Pub. L. 115–254, div. B, title IV, §453(a), Oct. 5, 2018, 132 Stat. 3348; Pub. L. 118–63, title V, §561(a)(1)–(3), May 16, 2024, 138 Stat. 1214.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41731(a)(1)	49 App.:1389(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(a); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508; restated Nov. 5, 1990, Pub. L. 101–508, §9113(a), 104 Stat. 1388–363.
41731(a)(2)	49 App.:1389(k)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(k)(2)–(5); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517.
41731(a)(3)	49 App.:1389(k)(3).	
41731(a)(4)	49 App.:1389(k)(4).	
41731(a)(5)	49 App.:1389(k)(5).	
41731(b)	49 App.:1389(a)(2).	

In this subchapter (except subsection (a)(1)(A) of this section), the word "place" is substituted for "point" for clarity and consistency in the revised title.

In subsection (a)(1)(A), the words "was an eligible point . . . before October 1, 1988" are substituted for "is defined as an eligible point . . . as in effect before October 1, 1988" for clarity and to eliminate unnecessary words.

In subsection (a)(2), the words "described in section 41732 of this title" are added for clarity.

In subsection (a)(3)–(5), the word "boardings" is substituted for "enplanements" for clarity and consistency in the revised title.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a)(1)(A)(i), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

The date of the enactment of the FAA Extension, Safety, and Security Act of 2016, referred to in subsec. (a)(1)(A)(ii), is the date of enactment of Pub. L. 114–190, which was approved July 15, 2016.

AMENDMENTS

2024—Subsec. (a)(1)(C). Pub. L. 118–63, §561(a)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "had an average subsidy per passenger of less than $1,000 during the most recent fiscal year, as determined by the Secretary; and".

Subsec. (a)(1)(D)(ii). Pub. L. 118–63, §561(a)(2), substituted "140-day" for "90-day".

Subsec. (e). Pub. L. 118–63, §561(a)(3), amended subsec. (e) generally. Prior to amendment, text read as follows: "For fiscal year 2013 and each fiscal year thereafter, the Secretary may waive, on an annual basis, subsection (a)(1)(B) with respect to a location if the location demonstrates to the Secretary's satisfaction that the reason the location averages fewer than 10 enplanements per day is due to a temporary decline in enplanements."

2018—Subsec. (a)(1)(A)(ii). Pub. L. 115–254 substituted "FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190)," for "Wendell H. Ford Aviation Investment and Reform Act for the 21st Century,".

2012—Subsec. (a)(1)(B). Pub. L. 112–95, §421(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "is located not less than 90 miles from the nearest medium or large hub airport; and".

Subsec. (a)(1)(D). Pub. L. 112–95, §422, added subpar. (D).

Subsec. (c). Pub. L. 112–95, §421(2), amended subsec. (c) generally. Prior to amendment, text read as follows: "Subsections (a)(1)(B) and (a)(1)(C) shall not apply with respect to a location in the State of Alaska."

Subsec. (d). Pub. L. 112–95, §421(3), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Secretary may waive subsection (a)(1)(B) with respect to a location if the Secretary determines that the geographic characteristics of the location result in undue difficulty in accessing the nearest medium or large hub airport."

Subsecs. (e), (f). Pub. L. 112–95, §421(4), added subsecs. (e) and (f).

2011—Subsec. (a)(1). Pub. L. 112–27, §6(a), redesignated cls. (i) to (iii) of subpar. (A) as subcls. (I) to (III), respectively, redesignated subpars. (A) and (B) as cls. (i) and (ii), respectively, inserted "(A)" before "(i)(I)" in subcl. (I) of cl. (i), substituted "was determined" for "determined", "Secretary of Transportation" for "Secretary", and semicolon for period at end in cl. (ii) of subpar. (A), and added subpars. (B) and (C).

Subsec. (b). Pub. L. 112–27, §6(b), substituted "Secretary" for "Secretary of Transportation" and "on any basis" for "on the basis of a passenger subsidy at that place or on another basis".

Subsecs. (c), (d). Pub. L. 112–27, §6(c), added subsecs. (c) and (d).

2003—Subsec. (a)(3) to (5). Pub. L. 108–176 struck out pars. (3) to (5) which defined "hub airport", "nonhub airport", and "small hub airport", respectively.

2000—Subsec. (a)(1). Pub. L. 106–181 redesignated subpars. (A), (B), and (C) as cls. (i), (ii), and (iii), respectively, of subpar (A) and added subpar. (B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

RESPONSE TIME FOR APPLICATIONS TO PROVIDE ESSENTIAL AIR SERVICE

Pub. L. 118–63, title V, §568, May 16, 2024, 138 Stat. 1219, provided that: "The Secretary [of

Transportation] shall take such actions as are necessary to respond with an approval or denial of any application filed by an applicant to provide essential air service under subchapter II of chapter 417 of title 49, United States Code, to the greatest extent practicable not later than 6 months after receiving such application. The Assistant General Counsel for International and Aviation Economic Law shall ensure the timely review of all orders proposed by the Essential Air Service Office, and such timeliness shall be analyzed annually by the General Counsel of the Department of Transportation."

CODE-SHARING PILOT PROGRAM

Pub. L. 108–176, title IV, §406, Dec. 12, 2003, 117 Stat. 2545, provided that:

"(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the Secretary may require air carriers providing service with compensation under subchapter II of chapter 417 of title 49, United States Code, and major air carriers (as defined in section 41716(a)(2) of such title) serving large hub airports (as defined in section 40102 of such title) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services.

"(b) LIMITATION.—The Secretary may not require air carriers to participate in the pilot program under this section for more than 10 communities receiving service under subchapter II of chapter 417 of title 49, United States Code."

MEASUREMENT OF HIGHWAY MILES FOR PURPOSES OF DETERMINING ELIGIBILITY OF ESSENTIAL AIR SERVICE SUBSIDIES

Pub. L. 108–176, title IV, §409, Dec. 12, 2003, 117 Stat. 2547, as amended by Pub. L. 110–190, §4(d)(1), Feb. 28, 2008, 122 Stat. 644; Pub. L. 110–330, §5(k), Sept. 30, 2008, 122 Stat. 3719; Pub. L. 111–69, §5(k), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–249, §5(k), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 112–30, title II, §205(k), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(k), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title IV, §431, Feb. 14, 2012, 126 Stat. 100; Pub. L. 114–55, title I, §102(g), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(f), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(g), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(g), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(f), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title IV, §457, Oct. 5, 2018, 132 Stat. 3350; Pub. L. 118–15, div. B, title II, §2202(m), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(m), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(m), Mar. 8, 2024, 138 Stat. 22, provided that:

"(a) REQUEST FOR SECRETARIAL REVIEW.—An eligible place (as defined in section 41731 of title 49, United States Code) with respect to which the Secretary has, in the 2-year period ending on the date of enactment of this Act [Dec. 12, 2003], eliminated (or tentatively eliminated) compensation for essential air service to such place, or terminated (or tentatively terminated) the compensation eligibility of such place for essential air service, under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 [Pub. L. 106–69] ([former] 49 U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century [Pub. L. 106–181] (49 U.S.C. 41731 note), or any prior law of similar effect based on the highway mileage of such place from the nearest hub airport (as defined in section 40102 of such title), may request the Secretary to review such action.

"(b) DETERMINATION OF MILEAGE.—In reviewing an action under subsection (a), the highway mileage between an eligible place and the nearest medium hub airport or large hub airport is the highway mileage of the most commonly used route between the place and the medium hub airport or large hub airport. In identifying such route, the Secretary shall identify the most commonly used route for a community by—

"(1) consulting with the Governor of a State or the Governor's designee; and

"(2) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.

"(c) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (a), the Secretary shall—

"(1) determine whether the eligible place would have been subject to an elimination of compensation eligibility for essential air service, or termination of the eligibility of such place for essential air service, under the provisions of law referred to in subsection (a) based on the determination of the highway mileage of such place from the nearest medium hub airport or large hub airport under subsection (b); and

"(2) issue a final order with respect to the eligibility of such place for essential air service compensation under subchapter II of chapter 417 of title 49, United States Code.

"(d) LIMITATION ON PERIOD OF FINAL ORDER.—A final order issued under subsection (c) shall terminate on May 10, 2024."

[Pub. L. 110–190, §4(d)(2), Feb. 28, 2008, 122 Stat. 644, provided that: "The amendment made by paragraph (1) [amending section 409(d) of Pub. L. 108–176, set out above] shall take effect on September 29,

2007, and shall apply with respect to any final order issued under section 409(c) of such Act [section 409(c) of Pub. L. 108–176, set out above] that was in effect on such date."]

MARKETING PRACTICES

Pub. L. 106–181, title II, §207, Apr. 5, 2000, 114 Stat. 94, provided that:

"(a) REVIEW OF MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Secretary [of Transportation] shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small- and medium-sized communities, including—

"(1) marketing arrangements between airlines and travel agents;

"(2) code-sharing partnerships;

"(3) computer reservation system displays;

"(4) gate arrangements at airports;

"(5) exclusive dealing arrangements; and

"(6) any other marketing practice that may have the same effect.

"(b) REGULATIONS.—If the Secretary finds, after conducting the review, that marketing practices inhibit the availability of affordable air transportation services to small- and medium-sized communities, then, after public notice and an opportunity for comment, the Secretary may issue regulations that address the problem or take other appropriate action.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section expands the authority or jurisdiction of the Secretary to issue regulations under chapter 417 of title 49, United States Code, or under any other law."

RESTRICTIONS ON ESSENTIAL AIR SERVICE SUBSIDIES

Pub. L. 106–181, title II, §205, Apr. 5, 2000, 114 Stat. 94, provided that: "The Secretary [of Transportation] may provide assistance under subchapter II of chapter 417 of title 49, United States Code, with respect to a place that is located within 70 highway miles of a hub airport (as defined by section 41731 of such title) if the most commonly used highway route between the place and the hub airport exceeds 70 miles."

Pub. L. 106–69, title III, §332, Oct. 9, 1999, 113 Stat. 1022, which did not provide essential air service subsidies to communities in the 48 contiguous States that were located fewer than 70 highway miles from the nearest large or medium hub airport or required a rate of subsidy per passenger in excess of $200 unless such point was greater than 210 miles from the nearest large or medium hub airport, was repealed by Pub. L. 118–63, title V, §561(a)(4)(A), May 16, 2024, 138 Stat. 1214.

[Pub. L. 112–95, title IV, §426(c), (d), Feb. 14, 2012, 126 Stat. 99, as amended by Pub. L. 115–254, div. B, title IV, §458, title V, §539(s)(2), Oct. 5, 2018, 132 Stat. 3350, 3372, which provided that the Secretary of Transportation could waive the subsidy-per-passenger cap established by section 332 of Pub. L. 106–69, and the Secretary would waive application of the subsidy-per-passenger cap if the Secretary found that the community's subsidy-per-passenger for a fiscal year was lower than the subsidy-per-passenger for any of the 3 previous fiscal years, was repealed by Pub. L. 118–63, title V, §561(a)(4)(B), May 16, 2024, 138 Stat. 1214.]

Provisions similar to those in section 332 of Pub. L. 106–69, formerly set out above, were contained in the following prior appropriation acts:

Pub. L. 105–277, div. A, §101(g) [title III, §334], Oct. 21, 1998, 112 Stat. 2681–439, 2681–471.

Pub. L. 105–66, title III, §336, Oct. 27, 1997, 111 Stat. 1447.

§41732. Basic essential air service

(a) GENERAL.—Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and cargo—

(1) to a medium or large hub airport less than 650 miles from an eligible place (unless such airport or eligible place are located in a noncontiguous State); or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest medium or large hub airport is more than 400 miles from an eligible place.

(b) MINIMUM REQUIREMENTS.—Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places.

(3) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(c) WAIVERS.—Notwithstanding section 41733(e), upon request by an eligible place, the Secretary may waive, in whole or in part, subsections (a) and (b) of this section or subsections (a) through (c) of section 41734. A waiver issued under this subsection shall remain in effect for a limited period of time, as determined by the Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1144; Pub. L. 115–254, div. B, title IV, §456, Oct. 5, 2018, 132 Stat. 3350; Pub. L. 118–63, title V, §561(b)(1), (c), May 16, 2024, 138 Stat. 1214, 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41732(a)	49 App.:1389(k)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(k)(1); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.
41732(b)	49 App.:1389(k)(1) (last sentence).	

In subsection (a), before clause (1), the words "provided under section 41733 of this title" are added for clarity. In clause (2), the words "from an eligible place" are added for clarity.

In subsection (b), before clause (1), the words "Basic essential air service" are substituted for "Such transportation" for clarity and consistency in the revised title. In clause (1)(B), the word "1976" is substituted for "calendar year 1976" to eliminate unnecessary words. The words "appropriate State authority of Alaska" are substituted for "State agency of the State of Alaska" for clarity and consistency with the source provisions restated in section 41734(a) of the revised title. The words "agree to a different level of service" are substituted for "otherwise specified under an agreement" for clarity. In clause (2), the word "prices" is substituted for "rates, fares, and charges" and "fares" because of the definition of "price" in section 40102(a) of the revised title. In clause (3), before subclause (A), the word "boardings" is substituted for "enplanements" for clarity and consistency in the revised title. The words "from 1976-1986" are substituted for "beginning after December 31, 1975, and ending on or before December 31, 1986" to eliminate unnecessary words. In subclause (B), the words "affected community" are substituted for "community concerned" for consistency with the source provisions restated in clause (1)(B) of this section. In clause (5), the words "for at least 60 consecutive operating days" are substituted for "on each of 60 consecutive operating days" for clarity.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(1). Pub. L. 118–63, §561(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "to a hub airport that has convenient connecting or single-plane air service to a substantial

number of destinations beyond that airport; or".

Subsec. (a)(2). Pub. L. 118–63, §561(c)(1), inserted "medium or large" after "nearest".

Subsec. (b)(3) to (6). Pub. L. 118–63, §561(c)(2), redesignated par. (5) as (3) and struck out former pars. (3), (4), and (6) which read as follows:

"(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

"(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

"(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

"(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

"(A) 50 percent; or

"(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

"(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude."

2018—Subsec. (c). Pub. L. 115–254 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

RESTRICTION ON LENGTH OF ROUTES

Pub. L. 118–63, title V, §561(b)(2), (3), May 16, 2024, 138 Stat. 1215, provided that:

"(2) EXCEPTION.—The amendment made by paragraph (1) [amending this section] shall not apply to an eligible place that is served by an air carrier selected to receive essential air service compensation under subchapter II of chapter 417 of title 49, United States Code, if—

"(A) such service is in effect upon the date of enactment of this Act [May 16, 2024]; and

"(B) such service is provided by the same air carrier that provided service on the date of enactment of this Act.

"(3) SUNSET.—Paragraph (2) shall cease to have effect on October 1, 2028."

§41733. Level of basic essential air service

(a) DECISIONS MADE BEFORE OCTOBER 1, 1988.—For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b) DECISIONS NOT MADE BEFORE OCTOBER 1, 1988.—(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision, the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, as defined by the Secretary, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c) AVAILABILITY OF COMPENSATION.—(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide

notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual, marketing, code-share, or interline arrangements the applicant has made with a larger air carrier serving the hub airport;

(C) the preferences of the actual and potential users of air transportation at the eligible place, including the views of the elected officials representing the users;

(D) whether the air carrier has included a plan in its proposal to market its services to the community;

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)–(h) of this title; and

(F) the total compensation proposed by the air carrier for providing scheduled air service under this section.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essential air service under this section and section 41734 of this title.

(d) COMPENSATION PAYMENTS.—The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) REVIEW.—The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate adjustments in the level of service, to the extent such adjustments are to a level not less than the basic essential air service level established under subsection (a) for the airport that serves the community.

(f) NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Secretary shall notify each community receiving basic essential air service for which compensation is being paid under this subchapter on or before the 45th day before issuing any final decision to end the payment of such compensation due to a determination by the Secretary that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap.

(2) PROCEDURES TO AVOID TERMINATION.—The Secretary shall establish, by order, procedures by which each community notified of an impending loss of subsidy under paragraph (1) may work directly with an air carrier to ensure that the air carrier is able to submit a proposal to the Secretary to provide essential air service to such community for an amount of compensation that would not exceed the subsidy cap.

(3) ASSISTANCE PROVIDED.—The Secretary shall provide, by order, information to each community notified under paragraph (1) regarding—

(A) the procedures established pursuant to paragraph (2); and

(B) the maximum amount of compensation that could be provided under this subchapter to an air carrier serving such community that would comply with basic essential air service and the subsidy cap.

(g) PROPOSALS OF STATE AND LOCAL GOVERNMENTS TO RESTORE ELIGIBILITY.—

(1) IN GENERAL.—If the Secretary, after the date of enactment of this subsection, ends payment of compensation to an air carrier for providing basic essential air service to an eligible place because the Secretary has determined that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap or that the place is no longer an eligible place pursuant

to section 41731(a)(1)(B), a State or local government may submit to the Secretary a proposal for restoring compensation for such service. Such proposal shall be a joint proposal of the State or local government and an air carrier.

(2) DETERMINATION BY SECRETARY.—The Secretary shall issue an order restoring the eligibility of the otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c) if—

(A) a State or local government submits to the Secretary a proposal under paragraph (1); and

(B) the Secretary determines that—

(i) the rate of subsidy per passenger under the proposal does not exceed the subsidy cap;

(ii) the proposal is likely to result in an average number of enplanements per day that will satisfy the requirement in section 41731(a)(1)(B); and

(iii) the proposal is consistent with the legal and regulatory requirements of the essential air service program.

(h) SUBSIDY CAP DEFINED.—In this section, the term "subsidy cap" means the subsidy-per-passenger cap established under section 41731(a)(1)(C).

(i) COMMUNITY PETITION FOR REVIEW.—

(1) PETITION.—An appropriate representative of an eligible place, as defined by the Secretary, may submit to the Secretary a petition expressing no confidence in the air carrier providing basic essential air service under this section and requesting a review by the Secretary. A petition submitted under this subsection shall demonstrate that the air carrier—

(A) is unwilling or unable to meet the operational specifications outlined in the order issued by the Secretary specifying the terms of basic essential air service to such place;

(B) is experiencing reliability challenges with the potential to adversely affect air service to such place; or

(C) is no longer able to provide service to such place at the rate of compensation specified by the Secretary.

(2) REVIEW.—Not later than 2 months after the date on which the Secretary receives a petition under paragraph (1), the Secretary shall review the operational performance of the air carrier providing basic essential air service to such place that submitted such petition and determine whether such air carrier is fully complying with the obligations specified in the order issued by the Secretary specifying the terms of basic essential air service to such place.

(3) TERMINATION.—If based on a review under paragraph (2), the Secretary determines noncompliance by an air carrier with an order specifying the terms for basic essential air service to the community, the Secretary may—

(A) terminate the order issued to the air carrier; and

(B) issue a notice pursuant to subsection (c) that an air carrier may apply to provide basic essential air service to such place for compensation under this section and select an applicant pursuant to such subsection.

(4) CONTINUATION OF SERVICE.—If the Secretary makes a determination under paragraph (3) to terminate an order issued to an air carrier under this section, the Secretary shall ensure continuity in air service to the affected place.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1145; Pub. L. 106–181, title II, §209(b), Apr. 5, 2000, 114 Stat. 95; Pub. L. 112–95, title IV, §§423–425, Feb. 14, 2012, 126 Stat. 97, 98; Pub. L. 118–63, title V, §§561(d), 565(a), May 16, 2024, 138 Stat. 1215, 1218.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41733(a)	49 App.:1389(b)(1)(A) (less last	Aug. 23, 1958, Pub. L. 85–726, 72 Stat.

	sentence last 24 words), (C).	731, §419(b)(1), (3), (4), (9); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508, 1509, 1511.
41733(b)(1)	49 App.:1389(b)(1)(A) (last sentence last 24 words), (B).	
41733(b)(2)	49 App.:1389(b)(9).	
41733(c)	49 App.:1389(b)(3).	
41733(d)	49 App.:1389(b)(4).	
41733(e)	49 App.:1389(b)(1)(D).	

In subsection (a), the words "the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place" are substituted for "Such determination shall be made" because the determinations for those places have been made. The words "by not later than December 29, 1988" are substituted for "no later than the last day of the 1-year period beginning on December 30, 1987" for clarity. The words "and only after consideration of the views of any interested community and the State agency of the State in which such community is located" and 49 App.:1389(b)(1)(C) are omitted as executed.

In subsections (b)(1) and (e), the words "appropriate State authority" are substituted for "State agency" for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In section (b)(2), the words "that appears to deprive" are substituted for "which reasonably appears to deprive" to eliminate an unnecessary word.

In subsection (c)(1), before clause (A), the words "an air carrier may apply to provide basic essential air service to the place for compensation" are substituted for "applications may be submitted by any air carrier that is willing to provide such service to such point for compensation" for clarity and to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

The date of enactment of this subsection, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

AMENDMENTS

2024—Subsec. (b)(2). Pub. L. 118–63, §565(a)(1), inserted ", as defined by the Secretary" after "appropriate representative of the place".

Subsec. (c)(1)(B). Pub. L. 118–63, §561(d)(1)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: "the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport;".

Subsec. (c)(1)(C). Pub. L. 118–63, §561(d)(1)(C), (D), redesignated subpar. (D) as (C) and substituted "including" for "giving substantial weight to". Former subpar. (C) struck out.

Pub. L. 118–63, §561(d)(1)(B), struck out subpar. (C) which read as follows: "the interline arrangements that the applicant has made with a larger carrier to allow passengers and cargo of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;".

Subsec. (c)(1)(D), (E). Pub. L. 118–63, §561(d)(1)(C), redesignated subpars. (E) and (F) as (D) and (E), respectively. Former subpar. (D) redesignated (C).

Subsec. (c)(1)(F). Pub. L. 118–63, §561(d)(1)(E)–(G), added subpar. (F). Former subpar. (F) redesignated (E).

Pub. L. 118–63, §561(d)(1)(C), redesignated subpar. (F) as (E).

Subsec. (h). Pub. L. 118–63, §561(d)(2), substituted "under section 41731(a)(1)(C)" for "by section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1022)".

Subsec. (i). Pub. L. 118–63, §565(a)(2), added subsec. (i).

2012—Subsec. (c)(1)(E), (F). Pub. L. 112–95, §423, added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (f). Pub. L. 112–95, §424, added subsec. (f).

Subsecs. (g), (h). Pub. L. 112–95, §425, added subsecs. (g) and (h).

2000—Subsec. (e). Pub. L. 106–181 inserted before period at end ", to the extent such adjustments are to a level not less than the basic essential air service level established under subsection (a) for the airport that serves the community".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

SEASONAL SERVICE

Pub. L. 115–254, div. B, title IV, §451(b), Oct. 5, 2018, 132 Stat. 3347, provided that: "The Secretary of Transportation may consider the flexibility of current operational dates and airport accessibility to meet local community needs when issuing requests for proposal of essential air service at seasonal airports."

EFFECT ON CERTAIN ORDERS

Pub. L. 106–181, title II, §209(c), Apr. 5, 2000, 114 Stat. 95, provided that: "All orders issued by the Secretary [of Transportation] after September 30, 1999, and before the date of the enactment of this Act [Apr. 5, 2000] establishing, modifying, or revoking essential air service levels shall be null and void beginning on the 90th day following such date of enactment. During the 90-day period, the Secretary shall reconsider such orders and shall issue new orders consistent with the amendments made by this section [amending this section and section 41742 of this title]."

§41734. Ending, suspending, and reducing basic essential air service

(a) NOTICE REQUIRED.—Subject to subsection (d), an air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 140 days' notice before ending, suspending, or reducing that transportation.

(b) CONTINUATION OF SERVICE FOR 30 DAYS AFTER NOTICE PERIOD.—If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the carrier providing notice to continue to provide basic essential air service to the place for an additional 30-day period or until another carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) CONTINUATION OF SERVICE FOR ADDITIONAL 30-DAY PERIODS.—If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.—

(1) IN GENERAL.—If an air carrier receiving compensation under section 41733 for providing basic essential air service to an eligible place is required to continue to provide service to such place under this section after the 140-day notice period under subsection (a), the Secretary—

(A) shall provide the carrier with compensation sufficient to pay to the carrier the amount

required by the then existing contract for performing the basic essential air service that was being provided when the 140-day notice was given under subsection (a);

(B) may pay an additional amount that represents a reasonable return on investment; and

(C) may pay an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier or provider is required to provide the service continues.

(2) AUTHORITY.—The Secretary may incorporate contract termination penalties or conditions on compensation into a contract for an air carrier to provide service to an eligible place that take effect in the event an air carrier provides notice that it is ending, suspending, or reducing basic essential air service.

(e) COMPENSATION TO AIR CARRIERS ORIGINALLY PROVIDING SERVICE WITHOUT COMPENSATION.—If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 140-day notice period required by subsection (a), the Secretary may provide the air carrier with compensation after the end of the 140-day notice period to pay for the fully allocated actual cost to the air carrier of performing the basic essential air service that was being provided when the 140-day notice was given under subsection (a) plus a reasonable return on investment that is at least 5 percent of operating costs.

(f) FINDING REPLACEMENT CARRIERS.—When the Secretary requires an air carrier to continue to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another air carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) TRANSFER OF AUTHORITY.—If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used to provide air service to another eligible place.

(h) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not consider as a factor whether slots at a high density airport are available for providing such service.

(i) EXEMPTION FROM HOLD-IN REQUIREMENTS.—If, after the date of enactment of this subsection, an air carrier commences air transportation to an eligible place that is not receiving scheduled passenger air service as a result of the failure of the eligible place to meet requirements contained in an appropriations Act, the air carrier shall not be subject to the requirements of subsections (b) and (c) with respect to such air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1146; Pub. L. 103–305, title II, §206(c), Aug. 23, 1994, 108 Stat. 1587; Pub. L. 103–429, §6(81), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 108–176, title IV, §401, Dec. 12, 2003, 117 Stat. 2542; Pub. L. 112–95, title IV, §426(b)(1), Feb. 14, 2012, 126 Stat. 98; Pub. L. 118–63, title V, §561(f), May 16, 2024, 138 Stat. 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41734(a)	49 App.:1389(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(b)(2), (5)–(8); added Oct.

		24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1509, 1510.
41734(b)	49 App.:1389(b)(5) (1st sentence).	
41734(c)	49 App.:1389(b)(5) (last sentence).	
41734(d)	49 App.:1389(b)(6)(A).	
41734(e)	49 App.:1389(b)(6)(B).	
41734(f)	49 App.:1389(b)(8).	
41734(g)	49 App.:1389(b)(7).	

In subsection (b), the words "If at the end of the notice period under subsection (a) of this section" are substituted for "If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice" for clarity and to eliminate unnecessary words.

In subsection (c), the words "either with or without compensation" are omitted as unnecessary. The words "shall require the carrier providing service to continue to provide service for additional 30-day periods" are substituted for "shall extend such requirement for such additional 30-day periods . . . as may be necessary to continue basic essential air service to such eligible point", and the words "the Secretary shall decide if another carrier will provide service on a continuing basis" are substituted for "making the same determination", for clarity.

In subsections (d)(1) and (e)(1), the word "fair" is omitted as being included in "reasonable".

In subsection (d), before clause (1), the words "basic essential air service" are substituted for "air transportation" and "such transportation" for consistency with the source provisions restated in this section. The words "to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section" are substituted for "to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point" to eliminate unnecessary words.

In subsection (e), before clause (1), the words "basic essential air service" are substituted for "air transportation" for consistency with the source provisions restated in this section. The words "after the end of the 90-day notice period that is" are substituted for "then" for clarity.

In subsection (f), the words "basic essential air service" are substituted for "air transportation which such air carrier has proposed to terminate, reduce, or suspend" for consistency with the source provisions restated in this section.

In subsection (g)(2), the words "the authority to be transferred is being used only to provide air service to the eligible place" are substituted for "unless . . . such authority is being used to provide air service with respect to more than 1 eligible point" for clarity and because of the restatement.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (i), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §561(f)(1), substituted "Subject to subsection (d), an air carrier" for "An air carrier" and "140" for "90".

Subsec. (d). Pub. L. 118–63, §561(f)(2), added subsec. (d) and struck out former subsec. (d) which related to continuation of compensation after 90-day notice period.

Subsec. (e). Pub. L. 118–63, §561(f)(3), substituted "providing that service after the 140-day notice period

required by subsection (a), the Secretary may provide the air carrier with compensation after the end of the 140-day notice period to pay for the fully allocated actual cost to the air carrier of performing the basic essential air service that was being provided when the 140-day notice was given under subsection (a) plus a reasonable return on investment that is at least 5 percent of operating costs." for "providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—" and pars. (1) and (2) which read as follows:

"(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

"(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues."

Subsec. (f). Pub. L. 118–63, §561(f)(4), inserted "air" after "find another".

2012—Subsec. (d). Pub. L. 112–95, in introductory provisions, substituted "provide the carrier with compensation sufficient—" for "continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—".

2003—Subsec. (i). Pub. L. 108–176 added subsec. (i).

1994—Subsec. (g)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the authority to be transferred is being used only to provide air service to the eligible place."

Subsec. (h). Pub. L. 103–305 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, title IV, §426(b)(2), Feb. 14, 2012, 126 Stat. 98, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to compensation to air carriers for air service provided after the 30th day following the date of enactment of this Act [Feb. 14, 2012]."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

DEFINITIONS

For definitions of the terms "slot" and "high density airport" used in subsec. (h) of this section, see section 41714(h) of this title.

[§41735. Repealed. Pub. L. 118–63, title V, §561(g), May 16, 2024, 138 Stat. 1216]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1148, related to enhanced essential air service.

§41736. Air transportation to noneligible places

(a) PROPOSALS AND DECISIONS.—(1) A State or local government may propose to the Secretary of Transportation that the Secretary provide compensation to an air carrier to provide air transportation to a place that is not an eligible place under this subchapter. Not later than 90 days after receiving a proposal under this section, the Secretary shall—

(A) decide whether to designate the place as eligible to receive compensation under this section;

and

(B)(i) approve the proposal if the State or local government or a person is willing and able to pay 50 percent of the compensation for providing the transportation, and notify the State or local government of the approval; or

(ii) disapprove the proposal if the Secretary decides the proposal is not reasonable under paragraph (2) of this subsection, and notify the State or local government of the disapproval and the reasons for the disapproval.

(2) In deciding whether a proposal is reasonable, the Secretary shall consider, among other factors—

(A) the traffic-generating potential of the place;

(B) the cost to the United States Government of providing the proposed transportation; and

(C) the distance of the place from the closest hub airport.

(b) APPROVAL FOR CERTAIN AIR TRANSPORTATION.—Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.

(c) LEVEL OF AIR TRANSPORTATION.—(1) If the Secretary designates a place under subsection (a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay

compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) REVIEW.—The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) WITHDRAWAL OF ELIGIBILITY DESIGNATIONS.—After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section.

(g) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

(h) SUNSET.—

(1) PROPOSALS.—No proposal under subsection (a) may be accepted by the Secretary after the date of enactment of this subsection.

(2) PROGRAM.—The Secretary may not provide any compensation under this section after the date that is 2 years after the date of enactment of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1149; Pub. L. 106–181, title II, §202, Apr. 5, 2000, 114 Stat. 91; Pub. L. 115–254, div. B, title IV, §453(b), Oct. 5, 2018, 132 Stat. 3348.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41736(a)	49 App.:1389(d)(1), (2)(A), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(d); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1513.
41736(b)	49 App.:1389(d)(2)(B).	
41736(c)(1)	49 App.:1389(d)(3)(A).	
41736(c)(2)	49 App.:1389(d)(4).	
41736(d)	49 App.:1389(d)(5), (7), (8).	
41736(e)	49 App.:1389(d)(3)(B).	
41736(f)	49 App.:1389(d)(2)(D).	
41736(g)	49 App.:1389(d)(6).	

In subsection (a)(1), before clause (A), the words "that the Secretary provide compensation to an air carrier to provide air transportation" are substituted for "for compensated air transportation in accordance with this subsection" for clarity. In clause (B)(i), the word "transportation" is substituted for "proposed compensated air transportation" to eliminate unnecessary words.

In subsections (c)–(g), the word "transportation" is substituted for "service" for consistency with the source provisions restated in subsections (a) and (b) of this section.

In subsections (c)(1) and (e), the words "appropriate State authority" are substituted for "State agency" for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In subsection (d), the text of 49 App.:1389(d)(5) is omitted as unnecessary because of the restatement.

In subsection (f), the word "prescribe" is substituted for "establish" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 401 of the Federal Aviation Act of 1958, referred to in subsec. (b)(1), is section 401 of Pub. L. 85–726, which was classified to section 1371 of former Title 49, Transportation, and was repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For disposition of section 1371 of former Title 49, see Table at the beginning of Title 49.

The date of enactment of this subsection, referred to in subsec. (h), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Subsec. (h). Pub. L. 115–254 added subsec. (h).

2000—Subsec. (b). Pub. L. 106–181 inserted concluding provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid;

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided;

(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals, including goals related to improving on-time performance, reducing the number of flight cancellations, establishing reasonable fares (including joint fares beyond the hub airport), establishing convenient connections to flights providing service beyond hub airports, and increasing marketing efforts; and

(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special,

segregated element of the compensation provided to a carrier under this subchapter.

(b) REQUIRED FINDING.—The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) CLAIMS.—Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government's share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government's share of the compensation.

(e) ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.—

(1) IN GENERAL.—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation for which compensation is being paid under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(2) READJUSTMENT IF COSTS SUBSEQUENTLY DECLINE.—If an adjustment is made under paragraph (1), and total unit costs subsequently decrease to at least the total unit cost reflected in the compensation rate, then the Secretary may reverse the adjustment previously made under paragraph (1) without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(3) SIGNIFICANTLY INCREASED COSTS DEFINED.—In this subsection, the term "significantly increased costs" means a total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the total unit cost reflected in the compensation rate, based on the carrier's internal audit of its financial statements if such cost increase is incurred for a period of at least 2 consecutive months.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1151; Pub. L. 108–176, title IV, §402(a), Dec. 12, 2003, 117 Stat. 2543; Pub. L. 112–95, title IV, §427(a), Feb. 14, 2012, 126 Stat. 99; Pub. L. 118–63, title V, §561(h), May 16, 2024, 138 Stat. 1216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41737(a)	49 App.:1389(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(e)(2)–(g); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.
41737(b)	49 App.:1389(e)(2).	
41737(c)	49 App.:1389(g).	
41737(d)	49 App.:1389(*l*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(*l*); added Nov. 5, 1990, Pub. L. 101–508, §9113(b)(1), 104 Stat. 1388–363.

In subsection (a)(1), before clause (A), the word "prescribe" is substituted for "establish" to eliminate an executed word. The words "air service or air transportation under this subchapter" are substituted for "air service under this section" for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clause (C), the words "the service or transportation for which compensation is being provided" are substituted for "such service" for clarity.

In subsection (a)(2), the words "compensation provided to a carrier under this subchapter" are substituted for "required compensation" for clarity.

In subsection (b), the words "air service or air transportation" are substituted for "air service" for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

In subsection (d)(2), the reference to fiscal year 1992 is omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (d). Pub. L. 118–63 struck out par. (1) designation before "The Secretary" and par. (2) which read as follows: "Not more than $38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made available under this section remain available until expended."

2012—Subsec. (a)(1)(D), (E). Pub. L. 112–95 added subpars. (D) and (E).

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title IV, §402(b), Dec. 12, 2003, 117 Stat. 2543, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 30 days after the date of enactment of this Act [Dec. 12, 2003]."

EMERGENCY ACROSS-THE-BOARD ADJUSTMENT TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS

Pub. L. 112–95, title IV, §426(a), Feb. 14, 2012, 126 Stat. 98; Pub. L. 115–254, div. B, title V, §539(s)(1), Oct. 5, 2018, 132 Stat. 3371, provided that: "Subject to the availability of funds, the Secretary of Transportation may increase the rates of compensation payable to air carriers under subchapter II of chapter 417 of title 49, United States Code, to compensate such carriers for increased aviation fuel costs without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734 of such title."

DEADLINE FOR ISSUANCE OF REVISED GUIDANCE

Pub. L. 112–95, title IV, §427(b), Feb. 14, 2012, 126 Stat. 99, provided that: "Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Secretary of Transportation shall issue revised guidelines governing the rate of compensation payable under subchapter II of chapter 417 that incorporate the amendments made by this section [amending this section]."

§41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41738	49 App.:1389(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(e)(1); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.

In this section, before clause (1), the words "air transportation to a place" are substituted for "service to a point" for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clauses (1) and (2), the words "service or transportation" are substituted for "such service" for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

§41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41739	49 App.:1389(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(i); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words "quality of transportation" are substituted for "quality of service" for clarity and consistency in this section.

[§41740. Repealed. Pub. L. 118–63, title V, §561(i), May 16, 2024, 138 Stat. 1216]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 108–176, title IV, §403, Dec. 12, 2003, 117 Stat. 2543, related to joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter.

§41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the

Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41741	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(h); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words "The Secretary of Transportation may pay . . . only when" are substituted for "An air carrier shall not receive . . . unless" for clarity. The words "approved by the Secretary" are substituted for "complies with regulations or orders issued by the Secretary governing the filing and approval" to eliminate unnecessary words. The words "The policy or plan must be sufficient to pay . . . but not more than the amount of the policy or plan limits" are substituted for "in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts" because of the restatement. The words "for which such air carrier may become liable" are omitted as unnecessary. The word "individual" is substituted for "person" because it is more precise. The word "operation" is substituted for "operation or maintenance" because it is inclusive.

§41742. Essential air service authorization

(a) IN GENERAL.—

(1) AUTHORIZATION.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of $50,000,000 for each fiscal year is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), there is authorized to be appropriated out of the Airport and Airway Trust Fund (established under section 9502 of the Internal Revenue Code of 1986) $348,544,000 for fiscal year 2024, $340,000,000 for fiscal year 2025, $342,000,000 for fiscal year 2026, $342,000,000 for fiscal year 2027, and $350,000,000 for fiscal year 2028 to carry out the essential air service program under this subchapter of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance.

(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.

(b) DISTRIBUTION OF ADDITIONAL FUNDS.—Notwithstanding any other provision of law, in any fiscal year in which funds credited to the account established under section 45303, including the funds derived from fees imposed under the authority contained in section 45301(a), exceed the $50,000,000 made available under subsection (a)(1), such funds shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.

(c) AVAILABILITY OF FUNDS.—The funds made available under this section shall remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 104–264, title II, §278(c), Oct. 9, 1996, 110 Stat. 3249; Pub. L. 106–181, title II, §209(a), Apr. 5, 2000, 114 Stat. 95; Pub. L. 108–176, title IV, §404, Dec. 12, 2003, 117 Stat. 2543; Pub. L. 112–30, title II, §209, Sept. 16, 2011, 125 Stat. 359; Pub. L. 112–91, §9, Jan. 31, 2012, 126 Stat. 5; Pub. L. 112–95, title IV, §428, Feb. 14, 2012, 126 Stat. 99; Pub. L. 114–55, title I, §107, Sept. 30, 2015, 129 Stat. 524; Pub. L. 114–141, title I, §107, Mar. 30, 2016, 130 Stat. 324; Pub. L. 114–190, title I, §1107, July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §104(a), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §104(a), Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title IV, §451(a), Oct. 5, 2018, 132 Stat. 3347; Pub. L. 118–15, div. B, title II, §2206(a), Sept. 30, 2023, 137 Stat. 85; Pub. L. 118–34, title I, §106(a), Dec. 26, 2023, 137 Stat. 1115; Pub. L. 118–41, title I, §106(a), Mar. 8, 2024, 138 Stat. 23; Pub. L. 118–63, title V, §566, May 16, 2024, 138 Stat. 1219.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41742	49 App.:1389(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(m); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517; Nov. 5, 1990, Pub. L. 101–508, §9113(b)(1), 104 Stat. 1388–363.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (a)(2), is classified to section 9502 of Title 26, Internal Revenue Code.

AMENDMENTS

2024—Subsec. (a)(2). Pub. L. 118–63 substituted "$348,544,000 for fiscal year 2024, $340,000,000 for fiscal year 2025, $342,000,000 for fiscal year 2026, $342,000,000 for fiscal year 2027, and $350,000,000 for fiscal year 2028" for "$155,000,000 for fiscal year 2018, $158,000,000 for fiscal year 2019, $161,000,000 for fiscal year 2020, $165,000,000 for fiscal year 2021, $168,000,000 for fiscal year 2022, and $172,000,000 for fiscal year 2023, and $216,192,407 for the period beginning on October 1, 2023, and ending on May 10, 2024,".

Pub. L. 118–41 substituted "$216,192,407 for the period beginning on October 1, 2023, and ending on May 10, 2024," for "$155,115,628 for the period beginning on October 1, 2023, and ending on March 8, 2024,".

2023—Subsec. (a)(2). Pub. L. 118–34 substituted "$155,115,628 for the period beginning on October 1, 2023, and ending on March 8, 2024," for "$89,191,486 for the period beginning on October 1, 2023, and ending on December 31, 2023,".

Pub. L. 118–15 substituted "2023, and $89,191,486 for the period beginning on October 1, 2023, and ending on December 31, 2023," for "2023".

2018—Subsec. (a)(2). Pub. L. 115–254 substituted "$155,000,000 for fiscal year 2018, $158,000,000 for fiscal year 2019, $161,000,000 for fiscal year 2020, $165,000,000 for fiscal year 2021, $168,000,000 for fiscal year 2022, and $172,000,000 for fiscal year 2023" for "$150,000,000 for fiscal year 2011, $143,000,000 for fiscal year 2012, $118,000,000 for fiscal year 2013, $107,000,000 for fiscal year 2014, $93,000,000 for fiscal year 2015, $175,000,000 for each of fiscal years 2016 and 2017, and $150,000,000 for fiscal year 2018".

Pub. L. 115–141 substituted "2016 and 2017, and $150,000,000 for fiscal year 2018" for "2016 and 2017, and $74,794,521 for the period beginning on October 1, 2017, and ending on March 31, 2018,".

2017—Subsec. (a)(2). Pub. L. 115–63 substituted "$175,000,000 for each of fiscal years 2016 and 2017, and $74,794,521 for the period beginning on October 1, 2017, and ending on March 31, 2018," for "and $175,000,000 for each of fiscal years 2016 and 2017".

2016—Subsec. (a)(2). Pub. L. 114–190 substituted "fiscal year 2014, $93,000,000 for fiscal year 2015, and $175,000,000 for each of fiscal years 2016 and 2017" for "fiscal year 2014, $93,000,000 for fiscal year 2015, and $122,708,333 for the period beginning on October 1, 2015, and ending on July 15, 2016,".

Pub. L. 114–141 substituted "$122,708,333 for the period beginning on October 1, 2015, and ending on July 15, 2016," for "$77,500,000 for the period beginning on October 1, 2015, and ending on March 31, 2016,".

2015—Subsec. (a)(2). Pub. L. 114–55 substituted "$93,000,000 for fiscal year 2015, and $77,500,000 for the period beginning on October 1, 2015, and ending on March 31, 2016," for "and $93,000,000 for fiscal year 2015".

2012—Subsec. (a)(1). Pub. L. 112–95, §428(a)(1), inserted "for each fiscal year" before "is authorized" and substituted "under this subchapter" for "under this subchapter for each fiscal year".

Subsec. (a)(2). Pub. L. 112–95, §428(a)(2), substituted ", $143,000,000 for fiscal year 2012, $118,000,000 for fiscal year 2013, $107,000,000 for fiscal year 2014, and $93,000,000 for fiscal year 2015" for "and $54,699,454 for the period beginning on October 1, 2011, and ending on February 17, 2012,".

Pub. L. 112–91 substituted "and $54,699,454 for the period beginning on October 1, 2011, and ending on February 17, 2012," for "and $50,309,016 for the period beginning on October 1, 2011, and ending on January 31, 2012,".

Subsec. (b). Pub. L. 112–95, §428(b), amended subsec. (b) generally. Prior to amendment, text read as follows: "Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter."

Subsec. (c). Pub. L. 112–95, §428(c), added subsec. (c).

2011—Subsec. (a)(2). Pub. L. 112–30 substituted "there is authorized to be appropriated out of the Airport and Airway Trust Fund (established under section 9502 of the Internal Revenue Code of 1986) $150,000,000 for fiscal year 2011 and $50,309,016 for the period beginning on October 1, 2011, and ending on January 31, 2012," for "there is authorized to be appropriated $77,000,000 for each fiscal year".

2003—Subsec. (a)(2). Pub. L. 108–176, §404(1), substituted "$77,000,000" for "$15,000,000" and inserted "of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance" before period at end.

Subsec. (a)(3). Pub. L. 108–176, §404(2), added par. (3).

Subsec. (c). Pub. L. 108–176, §404(3), struck out heading and text of subsec. (c). Text read as follows: "Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of $75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts."

2000—Subsec. (a). Pub. L. 106–181 designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

1996—Pub. L. 104–264 amended section generally, substituting provisions relating to essential air service authorization for provisions stating that this subchapter was not effective after Sept. 30, 1998.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–264 effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as a note under section 106 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

FUNDING FOR ESSENTIAL AIR SERVICE PROGRAM

Pub. L. 112–55, div. C, title I, Nov. 18, 2011, 125 Stat. 644, provided in part: "That no funds made available under section 41742 of title 49, United States Code, and no funds made available in this Act [div. C of Pub. L. 112–55, see Tables for classification] or any other Act in any fiscal year, shall be available to carry out the essential air service program under sections 41731 through 41742 of such title 49 in communities in the 48 contiguous States unless the community received subsidized essential air service or received a 90-day notice of intent to terminate service and the Secretary required the air carrier to continue to provide service to the community at any time between September 30, 2010, and September 30, 2011, inclusive".

FINDINGS

Pub. L. 104–264, title II, §278(b), Oct. 9, 1996, 110 Stat. 3249, provided that: "Congress finds that—

"(1) air service in rural areas is essential to a national and international transportation network;

"(2) the rural air service infrastructure supports the safe operation of all air travel;

"(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

"(4) rural air service has suffered since deregulation;

"(5) the essential air service program under the Department of Transportation—

"(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

"(B) is necessary for the economic growth and development of rural communities;

"(C) is a critical component of the national and international transportation system of the United States; and

"(D) has endured serious funding cuts in recent years; and

"(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program."

§41743. Airports not receiving sufficient service

(a) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) APPLICATION REQUIRED.—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) an assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) an analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) CRITERIA FOR PARTICIPATION.—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) SIZE.—On the date of submission of the relevant application under subsection (b), the airport serving the community or consortium—

(A) is not larger than a small hub airport, as determined using the Department of Transportation's most recently published classification; and

(B) has—

(i) insufficient air carrier service; or
(ii) unreasonably high air fares.

(2) CHARACTERISTICS.—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) STATE LIMIT.—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) OVERALL LIMIT.—

(A) IN GENERAL.—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

(B) SAME PROJECTS.—Except as provided in subparagraph (C), no community, consortia of communities, or combination thereof may participate in the program in support of the same project more than once in a 5-year period, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project at any time.

(C) EXCEPTION.—The Secretary may waive the limitation under subparagraph (B) related to projects that are the same if the Secretary determines that the community or consortium spent little or no money on its previous project or encountered industry or environmental challenges, due to circumstances that were reasonably beyond the control of the community or consortium.

(5) PRIORITIES.—The Secretary shall give priority to communities or consortia of communities where—

(A) air fares are higher than the average air fares for all communities;

(B) the community has demonstrated support from at least 1 air carrier to provide service;

(C) the community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(D) the community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(E) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited;

(F) the assistance will be used to help restore scheduled passenger air service that has been terminated or substantially reduced (as measured by enplanements, capacity (seats), schedule, connections, or routes);

(G) the assistance will be used in a timely fashion; and

(H) multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.

(d) TYPES OF ASSISTANCE.—The Secretary may use amounts made available under this section—

(1) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years, which shall begin with each new grant, including same-project new grants, and which shall be calculated on a non-consecutive basis for air carriers that provide air service that is seasonal;

(2) to provide assistance to an underserved airport, or an airport where air service has been terminated or substantially reduced, to obtain service to and from the underserved airport; and

(3) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in

terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) AUTHORITY TO MAKE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may make agreements to provide assistance under this section. The Secretary may amend the scope of a grant agreement at the request of the community or consortium and any participating air carrier, and may limit the scope of a grant agreement to only the elements using grant assistance or to only the elements achieved, if the Secretary determines that the amendment is reasonably consistent with the original purpose of the project or the community's current air service needs.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $15,000,000 for each of fiscal years 2024 through 2028, to carry out this section. Such sums shall remain available until expended.

(f) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary shall designate an employee of the Department of Transportation—

(1) to function as a facilitator between small communities and air carriers;

(2) to carry out this section;

(3) to ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) to work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities; and

(5) to provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(Added Pub. L. 106–181, title II, §203(a), Apr. 5, 2000, 114 Stat. 92; amended Pub. L. 108–11, title II, §2708, Apr. 16, 2003, 117 Stat. 601; Pub. L. 108–176, title II, §225(b)(3), title IV, §412, Dec. 12, 2003, 117 Stat. 2529, 2551; Pub. L. 110–330, §5(b), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–69, §5(b), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–249, §5(b), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 112–30, title II, §205(b), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(b), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title IV, §429, Feb. 14, 2012, 126 Stat. 100; Pub. L. 114–190, title I, §1102(e), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §104(b), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §104(b), Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title IV, §455, Oct. 5, 2018, 132 Stat. 3349; Pub. L. 118–15, div. B, title II, §2206(b), Sept. 30, 2023, 137 Stat. 85; Pub. L. 118–34, title I, §106(b), Dec. 26, 2023, 137 Stat. 1115; Pub. L. 118–41, title I, §106(b), Mar. 8, 2024, 138 Stat. 23; Pub. L. 118–63, title V, §562, May 16, 2024, 138 Stat. 1217.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c)(4)(B). Pub. L. 118–63, §562(1)(A), substituted "5-year" for "10-year".

Subsec. (c)(5)(B) to (E). Pub. L. 118–63, §562(1)(B)(i), (ii), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively. Former subpar. (E) redesignated (F).

Subsec. (c)(5)(F). Pub. L. 118–63, §562(1)(B)(i), (iii), redesignated subpar. (E) as (F) and inserted "or substantially reduced (as measured by enplanements, capacity (seats), schedule, connections, or routes)" after "terminated". Former subpar. (F) redesignated (G).

Subsec. (c)(5)(G), (H). Pub. L. 118–63, §562(1)(B)(i), redesignated subpars. (F) and (G) as (G) and (H), respectively.

Subsec. (d)(1). Pub. L. 118–63, §562(2)(A), inserted ", which shall begin with each new grant, including same-project new grants, and which shall be calculated on a non-consecutive basis for air carriers that provide air service that is seasonal" after "3 years".

Subsec. (d)(2). Pub. L. 118–63, §562(2)(B), inserted ", or an airport where air service has been terminated or substantially reduced," before "to obtain service".

Subsec. (e)(1). Pub. L. 118–63, §562(3)(A), inserted "or the community's current air service needs" after "the project".

Subsec. (e)(2). Pub. L. 118–63, §562(3)(B), substituted "$15,000,000 for each of fiscal years 2024 through 2028" for "$10,000,000 for each of fiscal years 2018 through 2023, and $6,092,896 for the period beginning on October 1, 2023, and ending on May 10, 2024".

Pub. L. 118–41 substituted "$6,092,896 for the period beginning on October 1, 2023, and ending on May 10, 2024," for "$4,371,585 for the period beginning on October 1, 2023, and ending on March 8, 2024,".

Subsec. (f). Pub. L. 118–63, §562(5), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: "Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice."

Subsec. (g). Pub. L. 118–63, §562(5), redesignated subsec. (g) as (f).

Subsec. (g)(4). Pub. L. 118–63, §562(4), struck out "and the creation of aviation development zones" after "small communities".

Subsec. (h). Pub. L. 118–63, §562(5), struck out subsec. (h). Text read as follows: "The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies."

2023—Subsec. (e)(2). Pub. L. 118–34 substituted "$4,371,585 for the period beginning on October 1, 2023, and ending on March 8, 2024," for "$2,513,661 for the period beginning on October 1, 2023, and ending on December 31, 2023,".

Pub. L. 118–15 inserted ", and $2,513,661 for the period beginning on October 1, 2023, and ending on December 31, 2023," after "fiscal years 2018 through 2023".

2018—Subsec. (c)(1). Pub. L. 115–254, §455(a)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

"(A) had insufficient air carrier service; or

"(B) had unreasonably high air fares."

Subsec. (c)(4). Pub. L. 115–254, §455(a)(2), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program. No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project."

Subsec. (c)(5)(E) to (G). Pub. L. 115–254, §455(a)(3), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (e)(1). Pub. L. 115–254, §455(b), inserted at end "The Secretary may amend the scope of a grant agreement at the request of the community or consortium and any participating air carrier, and may limit the scope of a grant agreement to only the elements using grant assistance or to only the elements achieved, if the Secretary determines that the amendment is reasonably consistent with the original purpose of the project."

Subsec. (e)(2). Pub. L. 115–254, §455(c), amended par. (2) generally. Prior to amendment, text read as follows: "There is authorized to be appropriated to the Secretary $6,000,000 for each of fiscal years 2012 through 2017 and $10,000,000 for fiscal year 2018 to carry out this section. Such sums shall remain available until expended."

Pub. L. 115–141 substituted "2012 through 2017 and $10,000,000 for fiscal year 2018" for "2012 through 2017 and $4,986,301 for the period beginning on October 1, 2017, and ending on March 31, 2018,".

2017—Subsec. (e)(2). Pub. L. 115–63 inserted "and $4,986,301 for the period beginning on October 1, 2017, and ending on March 31, 2018," after "fiscal years 2012 through 2017".

2016—Subsec. (e)(2). Pub. L. 114–190 substituted "2017" for "2015".

2012—Subsec. (c)(5)(F). Pub. L. 112–95, §429(a), added subpar. (F).

Subsec. (e)(2). Pub. L. 112–95, §429(b), amended par. (2) generally. Prior to amendment, par. (2) provided for authorization of appropriations for fiscal years 2001 through 2011 and for the portion of fiscal year 2012 ending before Feb. 18, 2012.

Pub. L. 112–91 substituted "and $2,295,082 for the portion of fiscal year 2012 ending before February 18, 2012," for "and $2,016,393 for the portion of fiscal year 2012 ending before February 1, 2012,".

2011—Subsec. (e)(2). Pub. L. 112–30 substituted "$35,000,000 for each of fiscal years 2004 through 2011,

and $2,016,393 for the portion of fiscal year 2012 ending before February 1, 2012," for "and $35,000,000 for each of fiscal years 2004 through 2011".

2010—Subsec. (e)(2). Pub. L. 111–249 substituted "2011" for "2010".

2009—Subsec. (e)(2). Pub. L. 111–69 substituted "2010" for "2009".

2008—Subsec. (e)(2). Pub. L. 110–330 substituted "2009" for "2008".

2003—Subsec. (a). Pub. L. 108–176, §412(1), (2), struck out "PILOT" before "PROGRAM" in heading and "pilot" before "program" in text.

Subsec. (c)(1). Pub. L. 108–176, §225(b)(3)(A), struck out "(as that term is defined in section 41731(a)(5))" after "small hub airport" in introductory provisions.

Subsec. (c)(3). Pub. L. 108–176, §412(3)(A), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "No more than four communities or consortia of communities, or a combination thereof, may be located in the same State."

Subsec. (c)(4). Pub. L. 108–176, §412(3)(B), inserted at end "No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project."

Pub. L. 108–11 inserted before period at end "in each year for which funds are appropriated for the program".

Subsec. (c)(5)(E). Pub. L. 108–176, §412(3)(C), added subpar. (E).

Subsec. (e)(2). Pub. L. 108–176, §412(4), substituted "fiscal year 2001," for "fiscal year 2001 and" and inserted ", and $35,000,000 for each of fiscal years 2004 through 2008" after "2003".

Subsec. (f). Pub. L. 108–176, §§225(b)(3)(B), 412(5), struck out "pilot" after "Under the" and "(as defined in section 41731(a)(3))" after "large hub airports".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

[§41744. Repealed. Pub. L. 118–63, title V, §561(j), May 16, 2024, 138 Stat. 1216]

Section, added Pub. L. 106–181, title II, §204(a), Apr. 5, 2000, 114 Stat. 93; amended Pub. L. 108–176, title II, §225(b)(4), Dec. 12, 2003, 117 Stat. 2529, related to preservation of basic essential air service at single carrier dominated hub airports.

§41745. Community and regional choice programs

(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place,

may provide assistance directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

(3) USE OF ASSISTANCE.—A unit of local government or State receiving assistance for an eligible place under the program may use the assistance for any of the following purposes:

(A) To provide assistance to air carriers that will use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment if the Secretary determines that passenger safety would not be compromised by the use of such smaller equipment and if the State or unit of local government waives the minimum service requirements under section 41732(b).

(B) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

(C) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

(D) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

(E) To pay for other transportation or related services that the Secretary may permit.

(b) APPLICATIONS.—

(1) IN GENERAL.—An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

(A) a statement of the amount of compensation or assistance required; and

(B) a description of how the compensation or assistance will be used.

(c) PARTICIPATION REQUIREMENTS.—An eligible place for which compensation or assistance is provided under this section in a fiscal year shall not be eligible in that fiscal year for the essential air service that it would otherwise be entitled to under this subchapter.

(d) SUBSEQUENT PARTICIPATION.—A unit of local government participating in the program under this subsection (a) in a fiscal year shall not be prohibited from participating in the basic essential air service program under this subchapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

(e) FUNDING.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.

(Added Pub. L. 108–176, title IV, §405, Dec. 12, 2003, 117 Stat. 2544; amended Pub. L. 118–63, title V, §561(k), May 16, 2024, 138 Stat. 1216.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(3)(E), (F). Pub. L. 118–63, §561(k)(1), redesignated subpar. (F) as (E) and struck out former subpar. (E) which read as follows: "To purchase aircraft to provide transportation to and from the eligible place or to purchase a fractional share in an aircraft to provide such transportation after the effective date of a rule the Secretary issues relating to fractional ownership."

Subsecs. (b) to (g). Pub. L. 118–63, §561(k)(2), (3), redesignated subsecs. (d) to (g) as (b) to (e), respectively, and struck out former subsecs. (b) and (c) which related to community flexibility pilot program and fractionally owned aircraft, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically

provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§41746. Tracking service

The Secretary of Transportation shall require a carrier that provides essential air service to an eligible place and that receives compensation for such service under this subchapter to report not less than semiannually—

(1) the percentage of flights to and from the place that arrive on time as defined by the Secretary; and

(2) such other information as the Secretary considers necessary to evaluate service provided to passengers traveling to and from such place.

(Added Pub. L. 108–176, title IV, §407, Dec. 12, 2003, 117 Stat. 2545.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

[§41747. Repealed. Pub. L. 112–95, title IV, §430, Feb. 14, 2012, 126 Stat. 100]

Section, added Pub. L. 108–176, title IV, §408(a), Dec. 12, 2003, 117 Stat. 2546, related to the EAS local participation program.

[§41748. Repealed. Pub. L. 118–63, title V, §561(l), May 16, 2024, 138 Stat. 1217]

Section, added Pub. L. 108–176, title IV, §410(b), Dec. 12, 2003, 117 Stat. 2548, established a marketing incentive program for eligible places that received subsidized service by an air carrier under section 41733.

Another section 410(b) of Pub. L. 108–176 amended the table of sections at the beginning of this chapter.

SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

§41761. Purpose

The purpose of this subchapter is to improve service by jet aircraft to underserved markets by providing assistance, in the form of Federal credit instruments, to commuter air carriers that purchase regional jet aircraft for use in serving those markets.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 96.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41762. Definitions

In this subchapter, the following definitions apply:

(1) AIR CARRIER.—The term "air carrier" means any air carrier holding a certificate of public convenience and necessity issued by the Secretary of Transportation under section 41102.

(2) AIRCRAFT PURCHASE.—The term "aircraft purchase" means the purchase of commercial transport aircraft, including spare parts normally associated with the aircraft.

(3) CAPITAL RESERVE SUBSIDY AMOUNT.—The term "capital reserve subsidy amount" means the amount of budget authority sufficient to cover estimated long-term cost to the United States Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on Government receipts or outlays in accordance with provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(4) COMMUTER AIR CARRIER.—The term "commuter air carrier" means an air carrier that primarily operates aircraft designed to have a maximum passenger seating capacity of 75 or less in accordance with published flight schedules.

(5) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made under this subchapter.

(6) FINANCIAL OBLIGATION.—The term "financial obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of an aircraft purchase, other than a Federal credit instrument.

(7) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation) known as Rule 144A(a) of the Security and Exchange Commission and issued under the Security Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(8) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 41763(d) to provide a direct loan at a future date upon the occurrence of certain events.

(9) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary under section 41763(c) to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(10) NEW ENTRANT AIR CARRIER.—The term "new entrant air carrier" means an air carrier that has been providing air transportation according to a published schedule for less than 5 years, including any person that has received authority from the Secretary to provide air transportation but is not providing air transportation.

(11) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(12) REGIONAL JET AIRCRAFT.—The term "regional jet aircraft" means a civil aircraft—

(A) powered by jet propulsion; and

(B) designed to have a maximum passenger seating capacity of not less than 30 nor more than 75.

(13) SECURED LOAN.—The term "secured loan" means a direct loan funded by the Secretary in connection with the financing of an aircraft purchase under section 41763(b).

(14) UNDERSERVED MARKET.—The term "underserved market" means a passenger air transportation market (as defined by the Secretary) that—

(A) is served (as determined by the Secretary) by a nonhub airport or a small hub airport;

(B) is not within a 40-mile radius of an airport that each year has at least .25 percent of the total annual boardings in the United States; and

(C) the Secretary determines does not have sufficient air service.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 96; amended Pub. L. 108–176, title II, §225(b)(5), Dec. 12, 2003, 117 Stat. 2529.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in par. (3), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Security Act of 1933, referred to in par. (7), probably means the Securities Act of 1933, title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

Sections 414(d) and 4974(c) of the Internal Revenue Code of 1986, referred to in par. (7), are classified to sections 414(d) and 4974(c), respectively, of Title 26, Internal Revenue Code.

AMENDMENTS

2003—Pars. (11) to (16). Pub. L. 108–176 redesignated pars. (12), (13), (14), and (16) as (11), (12), (13), and (14), respectively, and struck out former pars. (11) and (15), which defined "nonhub airport" and "small hub airport", respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41763. Federal credit instruments

(a) IN GENERAL.—Subject to this section and section 41766, the Secretary of Transportation may enter into agreements with one or more obligors to make available Federal credit instruments, the proceeds of which shall be used to finance aircraft purchases.

(b) SECURED LOANS.—

(1) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A secured loan under this section with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—No secured loan may be made under this section—

(i) that extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased; or

(ii) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

(C) FINAL PAYMENT DATE.—The final payment on the secured loan shall not be due later than 18 years after the date of execution of the loan agreement.

(D) SUBORDINATION.—The secured loan may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined

appropriate by the Secretary.

(E) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a secured loan under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(2) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from aircraft revenues and other repayment sources.

(B) COMMENCEMENT.—Scheduled loan repayments of principal and interest on a secured loan under this section shall commence no later than 3 years after the date of execution of the loan agreement.

(3) PREPAYMENT.—

(A) USE OF EXCESS REVENUE.—After satisfying scheduled debt service requirements on all financial obligations and secured loans and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing financial obligations, the secured loan may be prepaid at anytime without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from proceeds of refinancing from non-Federal funding sources.

(c) LOAN GUARANTEES.—

(1) IN GENERAL.—A loan guarantee under this section with respect to a loan made for an aircraft purchase shall be made in such form and on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—No loan guarantee shall be made under this section—

(A) that extends to more than the unpaid interest and 50 percent of the unpaid principal on any loan;

(B) that, for any loan or combination of loans, extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased with the loan or loan combination;

(C) on any loan with respect to which terms permit repayment more than 15 years after the date of execution of the loan; or

(D) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

(3) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a loan guarantee under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(d) LINES OF CREDIT.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may enter into agreements to make available lines of credit to one or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any aircraft purchase selected under this section.

(2) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A line of credit under this subsection with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—

(i) TOTAL AMOUNT.—The amount of any line of credit shall not exceed 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts.

(ii) 1–YEAR DRAWS.—The amount drawn in any year shall not exceed 20 percent of the total amount of the line of credit.

(C) DRAWS.—Any draw on the line of credit shall represent a direct loan.

(D) PERIOD OF AVAILABILITY.—The line of credit shall be available not more than 5 years after the aircraft purchase date.

(E) RIGHTS OF THIRD-PARTY CREDITORS.—

(i) AGAINST UNITED STATES GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the United States Government with respect to any draw on the line of credit.

(ii) ASSIGNMENT.—An obligor may assign the line of credit to one or more lenders or to a trustee on the lender's behalf.

(F) SUBORDINATION.—A direct loan under this subsection may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

(G) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all of a portion of the administrative costs to the United States Government of providing a line of credit under this subsection. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(3) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this subsection.

(B) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a direct loan under this subsection shall commence no later than 3 years after the date of the first draw on the line of credit and shall be repaid, with interest, not later than 18 years after the date of the first draw.

(e) RISK ASSESSMENT.—Before entering into an agreement under this section to make available a Federal credit instrument, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for the Federal credit instrument based on such credit evaluations as the Secretary deems necessary.

(f) CONDITIONS.—Subject to subsection (h), the Secretary may only make a Federal credit instrument available under this section if the Secretary finds that—

(1) the aircraft to be purchased with the Federal credit instrument is a regional jet aircraft needed to improve the service and efficiency of operation of a commuter air carrier or new entrant air carrier;

(2) the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to use the aircraft to provide service to underserved markets; and

(3) the prospective earning power of the commuter air carrier or new entrant air carrier, together with the character and value of the security pledged, including the collateral value of the aircraft being acquired and any other assets or pledges used to secure the Federal credit instrument, furnish—

(A) reasonable assurances of the air carrier's ability and intention to repay the Federal credit instrument within the terms established by the Secretary—

(i) to continue its operations as an air carrier; and

(ii) to the extent that the Secretary determines to be necessary, to continue its operations as an air carrier between the same route or routes being operated by the air carrier at the time of the issuance of the Federal credit instrument; and

(B) reasonable protection to the United States.

(g) LIMITATION ON COMBINED AMOUNT OF FEDERAL CREDIT INSTRUMENTS.—The Secretary shall not allow the combined amount of Federal credit instruments available for any aircraft purchase under this section to exceed—

(1) 50 percent of the cost of the aircraft purchase; or

(2) $100,000,000 for any single obligor.

(h) REQUIREMENT.—Subject to subsection (i), no Federal credit instrument may be made under this section for the purchase of any regional jet aircraft that does not comply with the stage 3 noise levels of part 36 of title 14 of the Code of Federal Regulations, as in effect on January 1, 1999.

(i) OTHER LIMITATIONS.—No Federal credit instrument shall be made by the Secretary under this section for the purchase of a regional jet aircraft unless the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to provide scheduled passenger air transportation to the underserved market for which the aircraft is purchased for a period of not less than 36 consecutive months after the date that aircraft is placed in service.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 97.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41764. Use of Federal facilities and assistance

(a) USE OF FEDERAL FACILITIES.—To permit the Secretary of Transportation to make use of such expert advice and services as the Secretary may require in carrying out this subchapter, the Secretary may use available services and facilities of other agencies and instrumentalities of the United States Government—

(1) with the consent of the appropriate Federal officials; and

(2) on a reimbursable basis.

(b) ASSISTANCE.—The head of each appropriate department or agency of the United States Government shall exercise the duties and powers of that head in such manner as to assist in carrying out the policy specified in section 41761.

(c) OVERSIGHT.—The Secretary shall make available to the Comptroller General of the United States such information with respect to any Federal credit instrument made under this subchapter as the Comptroller General may require to carry out the duties of the Comptroller General under chapter 7 of title 31, United States Code.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41765. Administrative expenses

In carrying out this subchapter, the Secretary shall use funds made available by appropriations to the Department of Transportation for the purpose of administration, in addition to the proceeds of any fees collected under this subchapter, to cover administrative expenses of the Federal credit instrument program under this subchapter.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41766. Funding

Of the amounts appropriated under section 106(k) for each of fiscal years 2001 through 2003, such sums as may be necessary may be used to carry out this subchapter, including administrative expenses.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§41767. Termination

(a) AUTHORITY TO ISSUE FEDERAL CREDIT INSTRUMENTS.—The authority of the Secretary of Transportation to issue Federal credit instruments under section 41763 shall terminate on the date that is 5 years after the date of the enactment of this subchapter.

(b) CONTINUATION OF AUTHORITY TO ADMINISTER PROGRAM FOR EXISTING FEDERAL CREDIT INSTRUMENTS.—On and after the termination date, the Secretary shall continue to administer the program established under this subchapter for Federal credit instruments issued under this subchapter before the termination date until all obligations associated with such instruments have been satisfied.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in subsec. (a), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.
41901. General authority.
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EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–405, §2(b)(8), Oct. 13, 2008, 122 Stat. 4289, redesignated items 41906, 41909, and 41910 as 41905 "Emergency mail transportation", 41906, and 41907 "Weighing mail", respectively.

Pub. L. 110–405, §2(b)(8), Oct. 13, 2008, 122 Stat. 4289, which directed redesignation of item 49112 as 41908, was executed by redesignating item 41912 as 41908 "Effect of foreign postal arrangements" to reflect the probable intent of Congress.

[1] Section catchline amended by Pub. L. 110–405 without corresponding amendment of chapter analysis.

[2] Section repealed by Pub. L. 110–405 without corresponding amendment of chapter analysis.

§41901. General authority

(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(e) and (f) of title 39, and in foreign air transportation under section 5402(b) and (c) of title 39.

(b) AUTHORITY TO PRESCRIBE PRICES.—Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the prices for each air carrier or class of air carriers; and

(3) the effective date of the prices.

(c) OTHER TRANSPORTATION.—In prescribing prices under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail

by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) AUTHORITY TO PRESCRIBE DIFFERENT PRICES.—Considering conditions peculiar to transportation by aircraft and to particular air carriers or classes of air carriers, the Secretary may prescribe different prices under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a price for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) STATEMENTS ON PRICES.—A petition for prescribing a reasonable price under this section must include a statement of the price the petitioner believes is reasonable.

(f) STATEMENTS ON REQUIRED SERVICES.—The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to the proceeding.

(Pub. L. 103–272, §§1(e), 4(k)(1), (2), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 104–52, title VI, §631(c), Nov. 19, 1995, 109 Stat. 505; Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113; Pub. L. 107–206, title III, §3002(e)(2), Aug. 2, 2002, 116 Stat. 924; Pub. L. 110–405, §2(b)(1), (2), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(a)	49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, §406(a), 72 Stat. 763; Nov. 9, 1977, Pub. L. 95–163, §13, 91 Stat. 1282.
	49 App.:1551(b)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(D); added Oct. 4, 1984, Pub. L. 95–504, §40(a), 92 Stat. 1745; Oct. 4, 1984, Pub. L. 98–443, §3(d), 98 Stat. 1704.
41901(b)	49 App.:1376(a) (1st sentence related to foreign and Alaska air transportation less words between parentheses, 2d, last sentences).	
	49 App.:1376(c).	Aug. 23, 1958, Pub. L. 85–726, §406(c), 72 Stat. 764; Oct. 24, 1978, Pub. L. 95–504, §24(b), 92 Stat. 1725.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41901(c)	49 App.:1376(a) (1st sentence words between parentheses).	

41901(d)	49 App.:1376(b).	Aug. 23, 1958, Pub. L. 85–726, §406(b), 72 Stat. 763; July 10, 1962, Pub. L. 87–528, §5, 76 Stat. 145; Oct. 15, 1966, Pub. L. 89–670, §8(a), 80 Stat. 942; Nov. 9, 1977, Pub. L. 95–163, §12(a), 91 Stat. 1282; Oct. 24, 1978, Pub. L. 95–504, §§24(a), 25(a), 92 Stat. 1725.
	49 App.:1376(d).	Aug. 23, 1958, Pub. L. 85–726, §406(d), (e), 72 Stat. 764.
	49 App.:1551(b)(1)(D), (E).	
41901(e)	49 App.:1376(e) (1st sentence).	
41901(f)	49 App.:1376(e) (last sentence).	
	49 App.:1551(b)(1)(D), (E).	
41901(g)	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1553(c).	Oct. 4, 1984, Pub. L. 98–443, §4(c), 98 Stat. 1705; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §4(c) of Civil Aeronautics Board Sunset Act of 1984), 102 Stat. 2155.

In this section, the word "prescribe" is substituted for "fix and determine" and "fixing and determining" for consistency in the revised title and with other titles of the United States Code. The word "reasonable" is substituted for "fair and reasonable" for consistency in the revised title and to eliminate an unnecessary word. See the revision notes following 49:10101.

Subsection (a) is substituted for 49 App.:1551(b)(1)(D) to make clear that the United States Postal Service derives its authority to provide for the transportation of mail by aircraft in interstate transportation from 39:5402(d) and (f). The text of 49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses) is omitted as superseded by 39:5402(d).

In subsection (b), before clause (1), the words "Except as provided in section 5402 of title 39" are added for clarity. The words "from time to time" in 49 App.:1376(a) are omitted as surplus. The text of 49 App.:1376(a) (2d, last sentences) is omitted as executed. In clauses (1) and (2), the word "prices" is substituted for "rates of compensation" for consistency in this part. In clause (1), the words "an opportunity for a hearing on the record" are substituted for "hearing" for clarity and consistency with subsection (f) of this section. The words "to be paid by the Postal Service" are substituted for "The United States Postal Service shall make payments . . . of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section" in 49 App.:1376(c) to eliminate unnecessary words because the text of 49 App.:1376(b) (2d sentence words after 2d semicolon) is being omitted. See the revision notes for subsection (d) of this section. The words "out of appropriations for the transportation of mail by aircraft" are omitted as being superseded by chapters 20 and 24 of title 39, United States Code. The text of 49 App.:1376(c) (2d sentence) is omitted as expired because of 49 App.:1376(c) (last sentence). The text of 49 App.:1376(c) (last sentence) is omitted as executed. The words "and to make such rates effective from such date as it shall determine to be proper" in 49 App.:1376(a) are omitted because the power to determine when rates go into effect is included in the power to prescribe rates. The words "transportation of mail by aircraft in foreign air transportation or between places in Alaska" are substituted for "transportation of mail by aircraft" because 49 App.:1551(b)(1)(D) and (E) provides that transportation of mail in interstate or overseas air transportation (except transportation of mail between 2 places in Alaska) is transferred to the jurisdiction of the United States Postal Service leaving the balance of authority under 49 App.:1376(a) with the Secretary of Transportation.

In subsections (c), (d), and (f), reference to service provided by the Postal Service is omitted as obsolete because of 39:5402(d).

In subsection (c), the words "In prescribing prices under subsection (b) of this section, the Secretary" are added for clarity.

In subsection (d), the text of 49 App.:1376(b) (2d sentence words after 2d semicolon, 5th–7th sentences) and (d) is omitted as obsolete because under 49 App.:1376(c) and 1376a, payments by the Board under 49 App.:1376 were terminated. The text of 49 App.:1376(b) (3d, 4th sentences) is omitted as obsolete because it applies only to rates paid for service performed between October 24, 1978, and January 1, 1983. The text of 49 App.:1376(b) (last sentence) is omitted as executed.

Subsection (g) is substituted for 49 App.:1551(b)(3) and 1553(c) because the date on which the authority of the Secretary of Transportation to provide for the transportation of mail by aircraft expires is set out in 39:5402(f). The source provisions of 49 App.:1551(b)(3) providing for the transfer of that authority from the Secretary to the Postal Service are restated in section 5(k) of this bill.

PUB. L. 103–272, §4(k)(1), (2)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(b)(1), (g)	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–405, §2(b)(1), substituted "39, and in foreign air transportation under section 5402(b) and (c) of title 39." for "39."

Subsec. (b)(1). Pub. L. 110–405, §2(b)(2), struck out "in foreign air transportation or" after "aircraft".

2002—Subsec. (a). Pub. L. 107–206 substituted "5402(e)" for "5402(d)".

1999—Subsecs. (b)(1), (g). Pub. L. 106–31 repealed Pub. L. 103–272, §4(k). See 1994 Amendment notes below.

1995—Subsec. (g). Pub. L. 104–52 struck out subsec. (g) which read as follows: "EXPIRATION DATE .—The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39."

1994—Subsec. (b)(1). Pub. L. 103–272, §4(k)(1), which directed the amendment of this section by

substituting "foreign air transportation," for "foreign air transportation or between places in Alaska,", effective Jan. 1, 1999, was repealed by Pub. L. 106–31, §6003, effective Dec. 31, 1998.

Subsec. (g). Pub. L. 103–272, §4(k)(2), which directed the amendment of this section by striking out subsec. (g), effective Jan. 1, 1999, was repealed by Pub. L. 106–31, §6003, effective Dec. 31, 1998.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as a note under section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

§41902. Schedules for certain transportation of mail

(a) REQUIREMENT.—Except as provided in section 41905 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the United States Postal Service a statement showing—

(1) the places between which the carrier is authorized to transport mail in Alaska;

(2) every schedule of aircraft regularly operated by the carrier between places described in paragraph (1) and every change in each schedule; and

(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each such place.

(c) DESIGNATING AND ADDITIONAL SCHEDULES.—The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(2) of this section for the transportation of mail between the places between which the carrier is authorized by its certificate to transport mail; and

(2) require the carrier to establish additional schedules for the transportation of mail between those places.

(d) CHANGING SCHEDULES.—A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days' notice of the change is filed as provided in subsection (b)(2) of this section. The Postal Service may disapprove a proposed change in a schedule or amend or modify the schedule or proposed change.

(Pub. L. 103–272, §§1(e), 4(k)(1), (3), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 103–429, §7(a)(3)(D), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113; Pub. L. 110–405, §2(b)(3), Oct. 13, 2008, 122 Stat. 4289; Pub. L. 115–254, div. B, title V, §539(f), Oct. 5, 2018, 132 Stat. 3370.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a)	49 App.:1375(b) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, §405(b), 72 Stat. 760.
	49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(A) (related to

		§405(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41902(b)	49 App.:1375(b) (1st sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(c)	49 App.:1375(b) (2d sentence).	
41902(d)	49 App.:1375(b) (3d, 4th sentences).	
41902(e)	49 App.:1375(b) (5th–7th sentences). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(f)	49 App.:1375(b) (8th sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	

In this chapter, the word "places" is substituted for "points" for consistency in the revised title. The words "United States Postal Service" and "Postal Service" are substituted for "Postmaster General" in sections 401, 405, and 406 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754, 760) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783).

In subsection (a), the words "Except as provided in section 41906 of this title and section 5402 of title 39" are added because section 41906 of the revised title and 39:5402 contain exceptions to the provisions restated in this subsection. The words "transport mail by aircraft in foreign air transportation or between places in Alaska" are substituted for "transport mail" because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska).

In subsection (b), before clause (1), the words "from time to time" are omitted as surplus. Clauses (1) and (2) are substituted for "to engage in air transportation" because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In clause (4), the words "between places described in clauses (1) and (2) of this subsection and every change in each schedule" are substituted for "between such points" for clarity.

In subsection (c)(1), the words "any schedule of an air carrier filed under subsection (b)(3) of this section" are substituted for "any such schedule" for clarity.

In subsection (c)(2), the words "by order" are omitted as surplus.

In subsection (d), the word "alter" is omitted as being included in "amend, or modify".

In subsection (e), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title. The words "appeal the order" are substituted for "apply . . . for a review of such order" for consistency in the revised title and with other titles of the United States Code. The words "The Board may review, and" are omitted as surplus. The words "amend, modify" are substituted for "amend, revise" for consistency in the revised title.

Subsection (f) is substituted for 49 App.:1375(b) (8th sentence) to reflect the transfer of functions of the Civil Aeronautics Board to the Secretary of Transportation.

PUB. L. 103–272, §4(k)(1), (3)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a), (b)	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L.

		100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 substituted "section 41905" for "section 41906".

2008—Subsec. (a). Pub. L. 110–405, §2(b)(3)(A), struck out "in foreign air transportation or" after "aircraft".

Subsec. (b). Pub. L. 110–405, §2(b)(3)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

"(1) the places between which the carrier is authorized to provide foreign air transportation;

"(2) the places between which the carrier is authorized to transport mail in Alaska;

"(3) every schedule of aircraft regularly operated by the carrier between places described in clauses (1) and (2) of this subsection and every change in each schedule; and

"(4) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place."

Subsecs. (c)(1), (d). Pub. L. 110–405, §2(b)(3)(C), substituted "subsection (b)(2)" for "subsection (b)(3)".

Subsecs. (e), (f). Pub. L. 110–405, §2(b)(3)(D), struck out subsecs. (e) and (f) which read as follows:

"(e) ORDERS.—An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may amend, modify, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

"(f) PROCEEDINGS PREFERENCES.—The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart."

1999—Subsecs. (a), (b)(2) to (4). Pub. L. 106–31 repealed Pub. L. 103–272, §4(k). See 1994 Amendment notes below.

1994—Subsec. (a). Pub. L. 103–272, §4(k)(1), which directed the amendment of this section by substituting "foreign air transportation" for "foreign air transportation or between places in Alaska", effective Jan. 1, 1999, was repealed by Pub. L. 106–31, §6003, effective Dec. 31, 1998.

Subsec. (b)(2) to (4). Pub. L. 103–272, §4(k)(3), as amended by Pub. L. 103–429, which directed the amendment of subsec. (b) by redesignating par. (3) as (2) and substituting "clause (1)" for "clauses (1) and (2)", striking out former par. (2) which read as follows: "the places between which the carrier is authorized to transport mail in Alaska;", and redesignating par. (4) as (3), effective Jan. 1, 1999, was repealed by Pub. L. 106–31, §6003, effective Dec. 31, 1998.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as a note under section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–429, §7(a), Oct. 31, 1994, 108 Stat. 4388, provided in part that the amendment made by that section is effective July 5, 1994.

§41903. Duty to provide certain transportation of mail

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

(Pub. L. 103–272, §§1(e), 4(k)(1), July 5, 1994, 108 Stat. 1154, 1370; Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113; Pub. L. 110–405, §2(b)(4), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903(a)	49 App.:1371(*l*).	Aug. 23, 1958, Pub. L. 85–726, §§401(*l*), 405(c), (d), 72 Stat. 757, 761.
	49 App.:1375(d).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(*l*), 1375(d)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(A) (related to §§401(*l*), 405(c), (d)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.
41903(b)	49 App.:1375(c).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1375(c)).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the words "Subject to subsection (b) of this section" are added for clarity because subsection (b) limits the effect of this section. The words "transport mail by aircraft in foreign air transportation or between places in Alaska" are substituted for "the transportation of mail" in 49 App.:1371(l) and "the transportation of mail by aircraft" in 49 App.:1375(d) because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(l) and 1375(d) no longer apply to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). Clause (2) is substituted for "shall transport mail whenever required by the United States Postal Service" in 49 App.:1371(l) and the text of 49 App.:1375(d) for clarity and to eliminate unnecessary words. The text of 49 App.:1371(l) (last sentence) is omitted as surplus because section 41901 of the revised title specifies how the rates of compensation are determined.

In subsection (b), before clause (1), the words "transportation of mail by aircraft in foreign air transportation or between places in Alaska" are added because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(c) no longer applies to interstate or overseas air transportation of mail (except transportation of mail between 2 places in Alaska).

PUB. L. 103–272, §4(k)(1)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EDITORIAL NOTES

AMENDMENTS

2008—Subsecs. (a), (b). Pub. L. 110–405 struck out "in foreign air transportation or" before "between places in Alaska" in introductory provisions.

1999—Pub. L. 106–31 repealed Pub. L. 103–272, §4(k). See 1994 Amendment note below.

1994—Pub. L. 103–272, §4(k)(1), which directed the amendment of this section by substituting "foreign air transportation" for "foreign air transportation or between places in Alaska" in introductory provisions of subsecs. (a) and (b), effective Jan. 1, 1999, was repealed by Pub. L. 106–31, §6003, effective Dec. 31, 1998.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as a note under section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

§41904. Noncitizens transporting mail

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft between two points outside the United States, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation. Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1155; Pub. L. 110–405, §2(b)(5), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41904	49 App.:1375(e)(2).	Aug. 23, 1958, Pub. L. 85–726, §405(e)(2), 72 Stat. 761.

The words "who may not be obligated to transport the mail for a foreign country" are omitted for simplicity and clarity because the omitted words impose no requirement or qualification that is meaningful.

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–405 struck out "to or in foreign countries" after "mail" in section catchline, substituted "between two points outside the United States" for "to or in a foreign country", and inserted "Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39." after "transportation."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as a note under section 101 of Title 39, Postal Service.

§41905. Emergency mail transportation

(a) CONTRACT AUTHORITY.—In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of persons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at prices provided in the contract.

(b) TRANSPORTATION NOT AIR TRANSPORTATION.—Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1155, §41906; renumbered §41905, Pub. L. 110–405, §2(b)(7)(B), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41906(a)	49 App.:1375(h) (1st, 2d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, §405(h), 72 Stat. 762.
41906(b)	49 App.:1375(h) (3d sentence).	

In subsection (a), the word "disaster" is substituted for "calamitous visitation" for consistency in the revised title and with other titles of the United States Code. The words "any or all classes of" and "of compensation" are omitted as surplus. The words "from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts" are omitted as superseded by 39:chs. 20 and 24. The authority of the Postal Service under this section is in addition to the authority of the Postal Service under 39:5001.

In subsection (b), the words "Transportation provided" are substituted for "operation" for consistency in this chapter.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 41905, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1155, related to regulating air carrier transportation of foreign mail, prior to repeal by Pub. L. 110–405, §2(b)(7)(A), (c), Oct. 13, 2008, 122 Stat. 4289, 4290, effective Oct. 1, 2008.

AMENDMENTS

2008—Pub. L. 110–405 renumbered section 41906 of this title as this section.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as a note under section 101 of Title 39, Postal Service.

§41906. Duty to oppose unreasonable prices under the Universal Postal Union Convention

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the prices paid for transporting mail under the Universal Postal Union Convention are not higher than reasonable prices for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union price that is higher than a reasonable price for transporting mail.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1156, §41909; renumbered §41906, Pub. L. 110–405, §2(b)(7)(B), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41909	49 App.:1376(h)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §406(h)(2); added Jan. 3, 1975, Pub. L. 93–623, §4, 88 Stat. 2103.

The words "necessary and" are omitted as being included in the word "appropriate". The words "each" and

"all" are omitted as surplus. The words "transporting mail" are substituted for "such services" for consistency in this section. The word "reasonable" is substituted for "fair and reasonable" for consistency in the revised title and to eliminate an unnecessary word. See revision notes following 49:10101.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 41906 was renumbered section 41905 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AMENDMENTS

2008—Pub. L. 110–405 renumbered section 41909 of this title as this section.

§41907. Weighing mail

The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and administrative computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1157, §41910; renumbered §41907 and amended Pub. L. 110–405, §2(b)(6), (7)(B), Oct. 13, 2008, 122 Stat. 4289; Pub. L. 115–254, div. B, title V, §539(g), Oct. 5, 2018, 132 Stat. 3370.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41910	49 App.:1376(f).	Aug. 23, 1958, Pub. L. 85–726, §406(f), 72 Stat. 764.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The text of 49 App.:1376(f) (2d sentence) is omitted as surplus because of 39:chs. 4 and 10. The words "upon request of the Board" are omitted as surplus because the Secretary of Transportation makes the determination. The words "therefor in like manner" are omitted as surplus.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 41907, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1155, related to prices for foreign transportation of mail, prior to repeal by Pub. L. 110–405, §2(b)(7)(A), (c), Oct. 13, 2008, 122 Stat. 4289, 4290, effective Oct. 1, 2008.

AMENDMENTS

2018—Pub. L. 115–254 substituted "and administrative" for "and –administrative".

2008—Pub. L. 110–405, §2(b)(7)(B), renumbered section 41910 of this title as this section.

Pub. L. 110–405, §2(b)(6), substituted "The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and –administrative computations necessary in the interest of mail service." for "The United States Postal Service may weigh mail transported by aircraft and make statistical and administrative computations necessary in the interest of mail service."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as a note under section 101 of Title 39, Postal Service.

§41908. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1157, §41912; renumbered §41908, Pub. L. 110–405, §2(b)(7)(B), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41912	49 App.:1375(e)(1).	Aug. 23, 1958, Pub. L. 85–726, §405(e)(1), 72 Stat. 761.

In clause (1), the words "abrogate or" are omitted as being included in "affect".

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 41908, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1156, related to prices for transporting mail of foreign countries, prior to repeal by Pub. L. 110–405, §2(b)(7)(A), (c), Oct. 13, 2008, 122 Stat. 4289, 4290, effective Oct. 1, 2008.

AMENDMENTS

2008—Pub. L. 110–405, which directed the amendment of this chapter by renumbering section 49112 as this section, was executed by renumbering section 41912 of this title as this section to reflect the probable intent of Congress.

[§41909. Renumbered §41906]

[§41910. Renumbered §41907]

[§41911. Repealed. Pub. L. 110–405, §2(b)(7)(A), Oct. 13, 2008, 122 Stat. 4289]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1157, related to evidence of providing mail service.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as an Effective Date of 2008 Amendment note under section 101 of Title 39, Postal Service.

[§41912. Renumbered §41908]

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM [1]

Sec.
42101. Definitions.
42102. Payments to eligible protected employees.
42103. Duty to hire protected employees.
42104. Congressional review of regulations.
42105. Airline Employees Protective Account.
42106. Ending effective date.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

42111. Mutual aid agreements.
42112. Labor requirements of air carriers.

SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

42121. Protection of employees providing air safety information.

AMENDMENTS

2000—Pub. L. 106–181, title V, §519(b), Apr. 5, 2000, 114 Stat. 149, added heading for subchapter III and item 42121.

[1] *Subchapter I repealed by Pub. L. 105–220 without corresponding amendment of chapter analysis.*

[SUBCHAPTER I—REPEALED]

[§§42101 to 42106. Repealed. Pub. L. 105–220, title I, §199(a)(6), Aug. 7, 1998, 112 Stat. 1059]

Section 42101, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1157, defined terms in subchapter.

Section 42102, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1158, related to payments to eligible protected employees.

Section 42103, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1159, related to duty to hire protected employees.

Section 42104, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1159; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389, related to congressional review of regulations.

Section 42105, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160, related to Airline Employees Protective Account.

Section 42106, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160, provided ending effective date for subchapter.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

§42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42111	49 App.:1382(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §412(c); added Oct. 24, 1978, Pub. L. 95–504, §29(a), 92 Stat. 1730; Feb. 15, 1980, Pub. L. 96–192, §11(2), 94 Stat. 39; Oct. 4, 1984, Pub. L. 98–443, §9(s), 98 Stat. 1708.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(C) (related to §412(c)); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, §3(a), 98 Stat. 1703.

In this section, before clause (1), the text of 49 App.:1382(c)(1) is omitted as executed. The words "For purposes of this subsection, the term . . . (A) 'mutual aid agreement' means" are omitted because of the restatement. The words "contract or", "which are parties to such contract or agreement", and "during which" are omitted as surplus. The word "providing" is substituted for "engaging in" for consistency. The words "service in" are omitted as surplus. The words "No air carrier shall enter into any mutual aid agreement with any other air carrier" are omitted as surplus. In clause (1), the words "For purposes of this subsection, the term . . . (B) 'direct operating expenses' includes" are omitted because of the restatement. The words "for any period" and "during such period" are omitted as surplus. In clause (2), the words "under the agreement" and "during any labor strike" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (3), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

§42112. Labor requirements of air carriers

(a) DEFINITIONS.—In this section—

(1) "copilot" means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) "pilot" means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) DUTIES OF AIR CARRIERS.—An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83, May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) MINIMUM ANNUAL RATE OF COMPENSATION.—A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) COLLECTIVE BARGAINING.—This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42112(a)	49 App.:1371(k)(5).	Aug. 23, 1958, Pub. L. 85–726, §401(k), 72 Stat. 756.
42112(b), (c)	49 App.:1371(k)(1), (2), (4).	
42112(d)	49 App.:1371(k)(3).	

In subsection (a), the words "properly" and "currently" are omitted as surplus.

In subsection (b), the word "providing" is substituted for "engaged in" for consistency in the revised title. In clause (1), the words "48 contiguous States and the District of Columbia" are substituted for "the continental United States (not including Alaska)" for clarity and consistency in the revised title. In clause (2), the words "overseas or" are omitted as obsolete. The word "only" is substituted for "wholly" for consistency. In clause (3), the words "as long as it holds" are substituted for "upon the holding" for clarity.

In subsection (c), the words "under subsection (b)(1) of this section" are substituted for "said decision 83 . . . engaged in interstate air transportation within the continental United States (not including Alaska)" to eliminate unnecessary words.

In subsection (d), the words "or other employees" are omitted as unnecessary because this section only applies to pilots and copilots.

EDITORIAL NOTES

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b)(3), is act May 20, 1926, ch. 347, 44 Stat. 577. Title II of the Act was added by act Apr. 10, 1936, ch. 166, 49 Stat. 1189, and is classified generally to subchapter II (§181 et seq.) of chapter 8 of Title 45, Railroads. For complete classification of this Act to the Code, see

section 151 of Title 45 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

LABOR INTEGRATION

Pub. L. 110–161, div. K, title I, §117, Dec. 26, 2007, 121 Stat. 2382, provided that:

"(a) LABOR INTEGRATION.—With respect to any covered transaction involving two or more covered air carriers that results in the combination of crafts or classes that are subject to the Railway Labor Act (45 U.S.C. 151 et seq.), sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 C.A.B. 45) shall apply to the integration of covered employees of the covered air carriers; except that—

"(1) if the same collective bargaining agent represents the combining crafts or classes at each of the covered air carriers, that collective bargaining agent's internal policies regarding integration, if any, will not be affected by and will supersede the requirements of this section; and

"(2) the requirements of any collective bargaining agreement that may be applicable to the terms of integration involving covered employees of a covered air carrier shall not be affected by the requirements of this section as to the employees covered by that agreement, so long as those provisions allow for the protections afforded by sections 3 and 13 of the Allegheny-Mohawk provisions.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) AIR CARRIER.—The term 'air carrier' means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

"(2) COVERED AIR CARRIER.—The term 'covered air carrier' means an air carrier that is involved in a covered transaction.

"(3) COVERED EMPLOYEE.—The term 'covered employee' means an employee who—

"(A) is not a temporary employee; and

"(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

"(4) COVERED TRANSACTION.—The term 'covered transaction' means—

"(A) a transaction for the combination of multiple air carriers into a single air carrier; and which

"(B) involves the transfer of ownership or control of—

"(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

"(ii) 50 percent or more (by value) of the assets of the air carrier.

"(c) APPLICATION.—This section shall not apply to any covered transaction involving a covered air carrier that took place before the date of enactment of this Act [Dec. 26, 2007].

"(d) EFFECTIVENESS OF PROVISION.—This section shall become effective on the date of enactment of this Act and shall continue in effect in fiscal years after fiscal year 2008."

SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

§42121. Protection of employees providing air safety information

(a) PROHIBITED DISCRIMINATION.—A holder of a certificate under section 44704 or 44705 of this title, or a contractor, subcontractor, or supplier of such holder, may not discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to aviation safety under this subtitle or any other law of the United States;

(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or

cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to aviation safety under this subtitle or any other law of the United States;

(3) testified or is about to testify in such a proceeding; or

(4) assisted or participated or is about to assist or participate in such a proceeding.

(b) DEPARTMENT OF LABOR AND FEDERAL AVIATION ADMINISTRATION COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor and the Administrator of the Federal Aviation Administration shall consult with each other to determine the most appropriate action to be taken, in which—

(A) the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order, for which, in actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, injunctive relief and compensatory damages; and

(B) the Administrator of the Federal Aviation Administration may assess a civil penalty pursuant to section 46301.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall

have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a holder of a certificate issued under section 44704 or 44705, or a contractor or subcontractor thereof, who, acting without direction from such certificate-holder, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to aviation safety under this subtitle or any other law of the United States.

(e) CONTRACTOR DEFINED.—In this section, the term "contractor" means—

(1) a person that performs safety-sensitive functions by contract for an air carrier or commercial operator; or

(2) a person that performs safety-sensitive functions related to the design or production of an aircraft, aircraft engine, propeller, appliance, or component thereof by contract for a holder of a certificate issued under section 44704.

(Added Pub. L. 106–181, title V, §519(a), Apr. 5, 2000, 114 Stat. 145; amended Pub. L. 116–260, div. V, title I, §118, Dec. 27, 2020, 134 Stat. 2337; Pub. L. 118–63, title III, §370, May 16, 2024, 138 Stat. 1139.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63, §370(1), substituted "Department of Labor and Federal Aviation Administration Complaint Procedure" for "Department of Labor Complaint Procedure" in heading. Text quoted in directory language of amendment was editorially conformed to the heading style used in this section.

Subsec. (b)(5). Pub. L. 118–63, §370(2), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: "Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages."

2020—Subsec. (a). Pub. L. 116–260, §118(1), added subsec. (a) and struck out former subsec. (a) which related to discrimination against airline employees.

Subsec. (d). Pub. L. 116–260, §118(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "Subsection (a) shall not apply with respect to an employee of an air carrier, contractor, or subcontractor who, acting without direction from such air carrier, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States."

Subsec. (e). Pub. L. 116–260, §118(3), added subsec. (e) and struck out former subsec. (e) which defined the term "contractor" as a company that performs safety-sensitive functions by contract for an air carrier.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Subchapter applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

CHAPTER 423—PASSENGER AIR SERVICE IMPROVEMENTS

Sec.
42301. Emergency contingency plans.
42302. Consumer complaints.
42303. Use of insecticides in passenger aircraft.
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EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title V, §§503(b), 504(c), 505(b)(2), 506(b), May 16, 2024, 138 Stat. 1190–1193, added items 42305 to 42308.

2018—Pub. L. 115–254, div. B, title IV, §428(b), Oct. 5, 2018, 132 Stat. 3341, added item 42304.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REIMBURSEMENT FOR INCURRED COSTS

Pub. L. 118–63, title V, §512, May 16, 2024, 138 Stat. 1195, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall direct all air carriers providing scheduled passenger interstate or intrastate air transportation to establish policies regarding reimbursement for lodging, transportation between such lodging and the airport, and meal costs incurred due to a flight cancellation or significant delay directly attributable to the air carrier.

"(b) DEFINITION OF SIGNIFICANTLY DELAYED.—In this section, the term 'significantly delayed' means, with respect to air transportation, the departure or arrival at the originally ticketed destination associated with such transportation has changed—

"(1) in the case of a domestic flight, 3 or more hours after the original scheduled arrival time; and

"(2) in the case of an international flight, 6 or more hours after the original scheduled arrival time.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as providing the Secretary with any additional authorities beyond the authority to require air carriers [to] establish the policies referred to in subsection (a)."

STREAMLINING OF OFFLINE TICKET DISCLOSURES

Pub. L. 118–63, title V, §513, May 16, 2024, 138 Stat. 1196, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall take such action as may be necessary to update the process by which an air carrier or ticket agent is required to fulfill disclosure obligations in ticketing transactions for air transportation not completed through a website.

"(b) REQUIREMENTS.—The process updated under subsection (a) shall—

"(1) include means of referral to the applicable air carrier website with respect to disclosures related to air carrier optional fees and policies;

"(2) include a means of referral to the website of the Department of Transportation with respect to any other required disclosures to air transportation passengers;

"(3) make no changes to air carrier or ticket agent obligations with respect to—

"(A) section 41712(c) of title 49, United States Code; or

"(B) subsections (a) and (b) of section 399.84 of title 14, Code of Federal Regulations (or any successor regulations); and

"(4) require disclosures referred to in paragraphs (1) and (2) to be made in the manner existing prior to the date of enactment of this Act upon passenger request.

"(c) AIR CARRIER DEFINED.—In this section, the term 'air carrier' has the meaning given such term in section 40102(a) of title 49, United States Code."

ADVISORY COMMITTEE ON AIR AMBULANCE AND PATIENT BILLING

Pub. L. 115–254, div. B, title IV, §418, Oct. 5, 2018, 132 Stat. 3334, provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, shall establish an advisory committee for the purpose of reviewing options to improve the disclosure of charges and fees for air medical services, better inform consumers of insurance options for such services, and protect consumers from balance billing.

"(b) COMPOSITION OF THE ADVISORY COMMITTEE.—The advisory committee shall be composed of the following members:

"(1) The Secretary of Transportation, or the Secretary's designee.

"(2) The Secretary of Health and Human Services, or the Secretary's designee.

"(3) One representative, to be appointed by the Secretary of Transportation, of each of the following:

"(A) Each relevant Federal agency, as determined by the Secretary of Transportation.

"(B) State insurance regulators[.]

"(C) Health insurance providers.

"(D) Patient advocacy groups.

"(E) Consumer advocacy groups.

"(F) Physician[s] specializing in emergency, trauma, cardiac, or stroke.

"(4) Three representatives, to be appointed by the Secretary of Transportation, to represent the various segments of the air ambulance industry.

"(5) Additional three representatives not covered under paragraphs (1) through (4), as determined necessary and appropriate by the Secretary.

"(c) CONSULTATION.—The advisory committee shall, as appropriate, consult with relevant experts and stakeholders not captured in [subsection] (b) while conducting its review.

"(d) RECOMMENDATIONS.—The advisory committee shall make recommendations with respect to disclosure of charges and fees for air ambulance services and insurance coverage, consumer protection and enforcement authorities of both the Department of Transportation and State authorities, and the prevention of balance billing to consumers. The recommendations shall address, at a minimum—

"(1) the costs, benefits, practicability, and impact on all stakeholders of clearly distinguishing between charges for air transportation services and charges for non-air transportation services in bills and invoices, including the costs, benefits, and practicability of—

"(A) developing cost-allocation methodologies to separate charges for air transportation services from charges for non-air transportation services; and

"(B) formats for bills and invoices that clearly distinguish between charges for air transportation services and charges for non-air transportation services;

"(2) options, best practices, and identified standards to prevent instances of balance billing such as improving network and contract negotiation, dispute resolution between health insurance and air medical service providers, and explanation of insurance coverage and subscription programs to consumers;

"(3) steps that can be taken by State legislatures, State insurance regulators, State attorneys general, and other State officials as appropriate, consistent with current legal authorities regarding consumer protection;

"(4) recommendations made by the Comptroller General study, GAO–17–637, including what additional data from air ambulance providers and other sources should be collected by the Department of Transportation to improve its understanding of the air ambulance market and oversight of the air ambulance industry for the purposes of pursuing action related to unfair or deceptive practices or unfair methods of competition, which may include—

"(A) cost data;

"(B) standard charges and payments received per transport;

"(C) whether the provider is part of a hospital-sponsored program, municipality-sponsored program, hospital-independent partnership (hybrid) program, or independent program;

"(D) number of transports per base and helicopter;

"(E) market shares of air ambulance providers inclusive of any parent or holding companies;

"(F) any data indicating the extent of competition among air ambulance providers on the basis of price and service;

"(G) prices assessed to consumers and insurers for air transportation and any non-transportation services provided by air ambulance providers; and

"(H) financial performance of air ambulance providers;

"(5) definitions of all applicable terms that are not defined in statute or regulations; and

"(6) other matters as determined necessary or appropriate.

"(e) REPORT.—Not later than 180 days after the date of the first meeting of the advisory committee, the

advisory committee shall submit to the Secretary of Transportation, the Secretary of Health and Human Services, and the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report containing the recommendations made under subsection (d).

"(f) RULEMAKING.—Upon receipt of the report under subsection (e), the Secretary of Transportation shall consider the recommendations of the advisory committee and issue regulations or other guidance as deemed necessary—

"(1) to require air ambulance providers to regularly report data to the Department of Transportation;

"(2) to increase transparency related to Department of Transportation actions related to consumer complaints; and

"(3) to provide other consumer protections for customers of air ambulance providers.

"(g) ELIMINATION OF ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—The Advisory Council on Transportation Statistics shall terminate on the date of enactment of this Act [Oct. 5, 2018]."

REFUNDS FOR OTHER FEES THAT ARE NOT HONORED BY A COVERED AIR CARRIER

Pub. L. 115–254, div. B, title IV, §421, Oct. 5, 2018, 132 Stat. 3337, provided that: "Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall promulgate regulations that require each covered air carrier to promptly provide a refund to a passenger of any ancillary fees paid for services related to air travel that the passenger does not receive, including on the passenger's scheduled flight, on a subsequent replacement itinerary if there has been a rescheduling, or for a flight not taken by the passenger."

[For definition of "covered air carrier" as used in section 421 of Pub. L. 115–254, set out above, see section 401 of Pub. L. 115–254, set out as a Definitions of Terms in Pub. L. 115–254 note under section 40101 of this title.]

ADVANCE BOARDING DURING PREGNANCY

Pub. L. 115–254, div. B, title IV, §422, Oct. 5, 2018, 132 Stat. 3337, provided that: "Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall review air carrier policies regarding traveling during pregnancy and, if appropriate, may revise regulations, as the Secretary considers necessary, to require an air carrier to offer advance boarding of an aircraft to a pregnant passenger who requests such assistance."

TICKETS ACT

Pub. L. 115–254, div. B, title IV, §425, Oct. 5, 2018, 132 Stat. 3338, provided that:

"(a) SHORT TITLE.—This section may be cited as the 'Transparency Improvements and Compensation to Keep Every Ticketholder Safe Act of 2018' or the 'TICKETS Act'.

"(b) BOARDED PASSENGERS.—Beginning on the date of enactment of this Act [Oct. 5, 2018], a covered air carrier may not deny a revenue passenger traveling on a confirmed reservation permission to board, or involuntarily remove that passenger from the aircraft, once a revenue passenger has—

"(1) checked in for the flight prior to the check-in deadline; and

"(2) had their ticket or boarding pass collected or electronically scanned and accepted by the gate agent.

"(c) LIMITATIONS.—The prohibition pursuant to subsection (b) shall not apply when—

"(1) there is a safety, security, or health risk with respect to that revenue passenger or there is a safety or security issue requiring removal of a revenue passenger; or

"(2) the revenue passenger is engaging in behavior that is obscene, disruptive, or otherwise unlawful.

"(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit or otherwise affect the responsibility or authority of a pilot in command of an aircraft under section 121.533 of title 14, Code of Federal Regulations, or limit any penalty under section 46504 of title 49, United States Code.

"(e) INVOLUNTARY [sic] DENIED BOARDING COMPENSATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule to revise part 250 of title 14, Code of Federal Regulations, to clarify that—

"(1) there is not a maximum level of compensation an air carrier or foreign air carrier may pay to a passenger who is involuntarily denied boarding as the result of an oversold flight;

"(2) the compensation levels set forth in that part are the minimum levels of compensation an air carrier or foreign air carrier must pay to a passenger who is involuntarily denied boarding as the result of an oversold flight; and

"(3) an air carrier or foreign air carrier must proactively offer to pay compensation to a passenger who

is voluntarily or involuntarily denied boarding on an oversold flight, rather than waiting until the passenger requests the compensation.

"(f) GAO REPORT ON OVERSALES.—

"(1) IN GENERAL.—The Comptroller General of the United States shall review airline policies and practices related to oversales of flights.

"(2) CONSIDERATIONS.—In conducting the review under paragraph (1), the Comptroller General shall examine—

"(A) the impact on passengers as a result of an oversale, including increasing or decreasing the costs of passenger air transportation;

"(B) economic and operational factors which result in oversales;

"(C) whether, and if so how, the incidence of oversales varies depending on markets;

"(D) potential consequences on the limiting of oversales; and

"(E) best practices on how oversale policies can be communicated to passengers at airline check-in desks and airport gates.

"(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the review under paragraph (2).

"(g) GATE NOTICE OF POLICIES.—The Secretary may provide guidance on how these policies should be communicated at covered air carrier check-in desks and airport gates."

[For definition of "covered air carrier" as used in section 425 of Pub. L. 115–254, set out above, see section 401 of Pub. L. 115–254, set out as a Definitions of Terms in Pub. L. 115–254 note under section 40101 of this title.]

CONSUMER PROTECTION REQUIREMENTS RELATING TO LARGE TICKET AGENTS

Pub. L. 115–254, div. B, title IV, §427, Oct. 5, 2018, 132 Stat. 3340, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall issue a final rule to require large ticket agents to adopt minimum customer service standards.

"(b) PURPOSE.—The purpose of the final rule shall be to ensure that, to the extent feasible, there is a consistent level of consumer protection regardless of where consumers purchase air fares and related air transportation services.

"(c) STANDARDS.—In issuing the final rule, the Secretary shall consider, to the extent feasible, establishing standards consistent with all customer service and disclosure requirements applicable to covered air carriers under this title [see Tables for classification] and associated regulations.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) TICKET AGENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'ticket agent' has the meaning given that term in section 40102(a) of title 49, United States Code.

"(B) INCLUSION.—The term 'ticket agent' includes a person who acts as an intermediary involved in the sale of air transportation directly or indirectly to consumers, including by operating an electronic airline information system, if the person—

"(i) holds the person out as a source of information about, or reservations for, the air transportation industry; and

"(ii) receives compensation in any way related to the sale of air transportation.

"(2) LARGE TICKET AGENT.—The term 'large ticket agent' means a ticket agent with annual revenues of $100,000,000 or more.

"(e) ENFORCEMENT.—No large ticket agent may be found in noncompliance of any standard or requirement adopted in the final rule required by this section if—

"(1) the large ticket agent is unable to meet the new standard or requirement due to the lack of information or data from the covered air carrier and the information is required for the large ticket agent to comply with such standard or requirement; or

"(2) the sale of air transportation is made by a large ticket agent pursuant to a specific corporate or government fare management contract."

[For definition of "covered air carrier" as used in section 427 of Pub. L. 115–254, set out above, see section 401 of Pub. L. 115–254, set out as a Definitions of Terms in Pub. L. 115–254 note under section 40101 of this title.]

PASSENGER RIGHTS

Pub. L. 115–254, div. B, title IV, §429, Oct. 5, 2018, 132 Stat. 3341, which provided that the Secretary of Transportation would require each covered air carrier to submit a summarized 1-page document that describes the rights of passengers, was transferred to chapter 417 of this title and redesignated as section 41727 by Pub. L. 118–63, title V, §510(a)(1), May 16, 2024, 138 Stat. 1193.

MINIMUM DIMENSIONS FOR PASSENGER SEATS

Pub. L. 118–63, title V, §519, May 16, 2024, 138 Stat. 1200, provided that: "Not later than 60 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall—

"(1) initiate a rulemaking activity based on the regulation described in section 577 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 42301 [prec.] note); or

"(2) if the Administrator decides not to pursue the rulemaking described in paragraph (1), the Administrator shall brief appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the justification of such decision."

Pub. L. 115–254, div. B, title V, §577, Oct. 5, 2018, 132 Stat. 3394, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], and after providing notice and an opportunity for comment, the Administrator of the Federal Aviation Administration shall issue regulations that establish minimum dimensions for passenger seats on aircraft operated by air carriers in interstate air transportation or intrastate air transportation, including minimums for seat pitch, width, and length, and that are necessary for the safety of passengers.

"(b) DEFINITIONS.—The definitions contained in section 40102(a) of title 49, United States Code, apply to this section."

FAMILY SEATING

Pub. L. 118–63, title V, §516, May 16, 2024, 138 Stat. 1197, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall issue a notice of proposed rulemaking to establish a policy directing air carriers that assign seats, or allow individuals to select seats in advance of the date of departure of a flight, to sit each young child adjacent to an accompanying adult, to the greatest extent practicable, if adjacent seat assignments are available at any time after the ticket is issued for each young child and before the first passenger boards the flight.

"(b) PROHIBITION ON FEES.—The notice of proposed rulemaking described in subsection (a) shall include a provision that prohibits an air carrier from charging a fee, or imposing an additional cost beyond the ticket price of the additional seat, to seat each young child adjacent to an accompanying adult within the same class of service.

"(c) RULE OF CONSTRUCTION.—Notwithstanding the requirement in subsection (a), nothing in this section may be construed to allow the Secretary to impose a change in the overall seating or boarding policy of an air carrier that has an open or flexible seating policy in place that generally allows adjacent family seating as described under this section.

"(d) YOUNG CHILD.—In this section, the term 'young child' means an individual who has not attained 14 years of age."

Pub. L. 114–190, title II, §2309, July 15, 2016, 130 Stat. 648, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Secretary of Transportation shall review and, if appropriate, establish a policy directing all air carriers providing scheduled passenger interstate or intrastate air transportation to establish policies that enable a child, who is age 13 or under on the date an applicable flight is scheduled to occur, to be seated in a seat adjacent to the seat of an accompanying family member over the age of 13, to the maximum extent practicable and at no additional cost, except when assignment to an adjacent seat would require an upgrade to another cabin class or a seat with extra legroom or seat pitch for which additional payment is normally required.

"(b) EFFECT ON AIRLINE BOARDING AND SEATING POLICIES.—When considering any new policy under this section, the Secretary shall consider the traditional seating and boarding policies of air carriers providing scheduled passenger interstate or intrastate air transportation and whether those policies generally allow families to sit together.

"(c) STATUTORY CONSTRUCTION.—Notwithstanding the requirement in subsection (a), nothing in this section may be construed to allow the Secretary to impose a significant change in the overall seating or boarding policy of an air carrier providing scheduled passenger interstate or intrastate air transportation that has an open or flexible seating policy in place that generally allows adjacent family seating as described in subsection (a)."

ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION

Pub. L. 112–95, title IV, §411, Feb. 14, 2012, 126 Stat. 88, as amended by Pub. L. 114–55, title I, §102(i), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(g), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(j), July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §102(i), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §102(g), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title IV, §415, Oct. 5, 2018, 132 Stat. 3333; Pub. L. 118–15, div. B, title II, §2202(r), Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §102(r), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(r), Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title V, §508, May 16, 2024, 138 Stat. 1193, provided that:

"(a) IN GENERAL.—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection to advise the Secretary in carrying out activities relating to airline customer service improvements.

"(b) MEMBERSHIP.—The Secretary shall appoint the members of the advisory committee, which shall be comprised of one representative each of—

"(1) air carriers;

"(2) airport operators;

"(3) State or local governments with expertise in consumer protection matters; and

"(4) nonprofit public interest groups with expertise in consumer protection matters.

"(c) VACANCIES.—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

"(d) TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(e) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

"(f) DUTIES.—The duties of the advisory committee shall include—

"(1) evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed; and

"(2) providing recommendations for establishing additional aviation consumer protection programs, if needed.

"(g) REPORT TO CONGRESS.—Not later than February 1 of each of the first 2 calendar years beginning after the date of enactment of this Act [Feb. 14, 2012], the Secretary shall transmit to Congress a report containing—

"(1) the recommendations made by the advisory committee during the preceding calendar year; and

"(2) an explanation of how the Secretary has implemented each recommendation and, for each recommendation not implemented, the Secretary's reason for not implementing the recommendation.

"(h) TERMINATION.—The advisory committee established under this section shall terminate on September 30, 2028.

"(i) CONSULTATION.—The Advisory Committee [probably should be "advisory committee"] shall consult, as appropriate, with foreign air carriers, air carriers with an ultra-low-cost business model, nonprofit public interest groups with expertise in disability and accessibility matters, ticket agents, travel management companies, and any other groups as determined by the Secretary."

DISCLOSURE OF SEAT DIMENSIONS TO FACILITATE THE USE OF CHILD SAFETY SEATS ON AIRCRAFT

Pub. L. 112–95, title IV, §412, Feb. 14, 2012, 126 Stat. 89, provided that: "Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall initiate a rulemaking to require each air carrier operating under part 121 of title 14, Code of Federal Regulations, to post on the Internet Web site of the air carrier the maximum dimensions of a child safety seat that can be used on each aircraft operated by the air carrier to enable passengers to determine which child safety seats can be used on those aircraft."

§42301. Emergency contingency plans

(a) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 90 days after the date of enactment of this section, each of the following air carriers and airport operators shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in

accordance with the requirements of this section:

(1) An air carrier providing covered air transportation at a commercial airport.

(2) An operator of a commercial airport.

(3) An operator of an airport used by an air carrier described in paragraph (1) for diversions.

(b) AIR CARRIER PLANS.—

(1) PLANS FOR INDIVIDUAL AIRPORTS.—An air carrier shall submit an emergency contingency plan under subsection (a) for—

(A) each airport at which the carrier provides covered air transportation; and

(B) each airport at which the carrier has flights for which the carrier has primary responsibility for inventory control.

(2) CONTENTS.—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the carrier will—

(A) provide adequate food, potable water, restroom facilities, comfortable cabin temperatures, and access to medical treatment for passengers onboard an aircraft at the airport when the departure of a flight is delayed or the disembarkation of passengers is delayed;

(B) share facilities and make gates available at the airport in an emergency; and

(C) allow passengers to deplane following an excessive tarmac delay in accordance with paragraph (3).

(3) DEPLANING FOLLOWING AN EXCESSIVE TARMAC DELAY.—For purposes of paragraph (2)(C), an emergency contingency plan submitted by an air carrier under subsection (a) shall incorporate the following requirements:

(A) A passenger shall have the option to deplane an aircraft and return to the airport terminal when there is an excessive tarmac delay.

(B) The option described in subparagraph (A) shall be offered to a passenger even if a flight in covered air transportation is diverted to a commercial airport other than the originally scheduled airport.

(C) In providing the option described in subparagraph (A), the air carrier shall begin to return the aircraft to a suitable disembarkation point—

(i) in the case of a flight in interstate air transportation, not later than 3 hours after the main aircraft door is closed in preparation for departure; and

(ii) in the case of a flight in foreign air transportation, not later than 4 hours after the main aircraft door is closed in preparation for departure.

(D) Notwithstanding the requirements described in subparagraphs (A), (B), and (C), a passenger shall not have an option to deplane an aircraft and return to the airport terminal in the case of an excessive tarmac delay if—

(i) an air traffic controller with authority over the aircraft advises the pilot in command that permitting a passenger to deplane would significantly disrupt airport operations; or

(ii) the pilot in command determines that permitting a passenger to deplane would jeopardize passenger safety or security.

(c) AIRPORT PLANS.—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain a description of how the operator, to the maximum extent practicable, will—

(1) provide for the deplanement of passengers following excessive tarmac delays;

(2) provide for the sharing of facilities and make gates available at the airport in an emergency; and

(3) provide a sterile area following excessive tarmac delays for passengers who have not yet cleared United States Customs and Border Protection.

(d) UPDATES.—

(1) AIR CARRIERS.—An air carrier shall update each emergency contingency plan submitted by the carrier under subsection (a) every 3 years and submit the update to the Secretary for review and approval.

(2) AIRPORTS.—An airport operator shall update each emergency contingency plan submitted by the operator under subsection (a) every 5 years and submit the update to the Secretary for review and approval.

(e) APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after the date of the receipt of an emergency contingency plan submitted under subsection (a) or an update submitted under subsection (d), the Secretary shall review and approve or, if necessary, require modifications to the plan or update to ensure that the plan or update will effectively address emergencies and provide for the health and safety of passengers.

(2) FAILURE TO APPROVE OR REQUIRE MODIFICATIONS.—If the Secretary fails to approve or require modifications to a plan or update under paragraph (1) within the timeframe specified in that paragraph, the plan or update shall be deemed to be approved.

(3) ADHERENCE REQUIRED.—An air carrier or airport operator shall adhere to an emergency contingency plan of the carrier or operator approved under this section.

(f) MINIMUM STANDARDS.—The Secretary shall establish, as necessary or desirable, minimum standards for elements in an emergency contingency plan required to be submitted under this section.

(g) PUBLIC ACCESS.—An air carrier or airport operator required to submit an emergency contingency plan under this section shall ensure public access to the plan after its approval under this section on the Internet Web site of the carrier or operator or by such other means as determined by the Secretary.

(h) REPORTS.—Not later than 30 days after any flight experiences an excessive tarmac delay, the air carrier responsible for such flight shall submit a written description of the incident and its resolution to the Aviation Consumer Protection Division of the Department of Transportation.

(i) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL AIRPORT.—The term "commercial airport" means a large hub, medium hub, small hub, or nonhub airport.

(2) COVERED AIR TRANSPORTATION.—The term "covered air transportation" means scheduled or public charter passenger air transportation provided by an air carrier that operates an aircraft that as originally designed has a passenger capacity of 30 or more seats.

(3) TARMAC DELAY.—The term "tarmac delay" means the period during which passengers are on board an aircraft on the tarmac—

(A) awaiting takeoff after the aircraft doors have been closed or after passengers have been boarded if the passengers have not been advised they are free to deplane; or

(B) awaiting deplaning after the aircraft has landed.

(4) EXCESSIVE TARMAC DELAY.—The term "excessive tarmac delay" means a tarmac delay of more than—

(A) 3 hours for a flight in interstate air transportation; or

(B) 4 hours for a flight in foreign air transportation.

(Added Pub. L. 112–95, title IV, §415(a), Feb. 14, 2012, 126 Stat. 93; amended Pub. L. 114–190, title II, §2308(a), (b), July 15, 2016, 130 Stat. 648.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 112–95,

which was approved Feb. 14, 2012.

AMENDMENTS

2016—Subsec. (b)(3)(C). Pub. L. 114–190, §2308(a)(2), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (b)(3)(D). Pub. L. 114–190, §2308(a)(1), (3), redesignated subpar. (C) as (D) and substituted "subparagraphs (A), (B), and (C)" for "subparagraphs (A) and (B)" in introductory provisions.

Subsec. (i)(4). Pub. L. 114–190, §2308(b), amended par. (4) generally. Prior to amendment, text read as follows: "The term 'excessive tarmac delay' means a tarmac delay that lasts for a length of time, as determined by the Secretary."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 112–95, title IV, §415(c), Feb. 14, 2012, 126 Stat. 96, provided that: "Except as otherwise provided, the requirements of chapter 423 of title 49, United States Code, as added by this section, shall begin to apply 60 days after the date of enactment of this Act [Feb. 14, 2012]."

REGULATIONS

Pub. L. 114–190, title II, §2308(c), July 15, 2016, 130 Stat. 648, provided that: "Not later than 90 days after the date of enactment of this section [July 15, 2016], the Secretary of Transportation shall issue regulations and take other actions necessary to carry out the amendments made by this section [amending this section]."

§42302. Consumer complaints

(a) IN GENERAL.—The Secretary of Transportation shall—

(1) maintain an accessible website through the Office of Aviation Consumer Protection to accept the submission of complaints from airline passengers regarding air travel service problems; and

(2) take appropriate actions to notify the public of such accessible website.

(b) NOTICE TO PASSENGERS ON THE INTERNET.—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include on the accessible website of the carrier—

(1) the accessible website, e-mail address, or telephone number of the air carrier for the submission of complaints by passengers about air travel service problems; and

(2) the accessible website maintained pursuant to subsection (a).

(c) USE OF ADDITIONAL OR ALTERNATIVE TECHNOLOGIES.—The Secretary shall periodically evaluate the benefits of using mobile phone applications or other widely used technologies to—

(1) provide additional or alternative means for air passengers to submit complaints; and

(2) provide such additional or alternative means as the Secretary determines appropriate.

(d) AIR AMBULANCE PROVIDERS.—Each air ambulance provider shall include the accessible website, or a link to such accessible website, maintained pursuant to subsection (a) and the contact information for the Aviation Consumer Advocate established by section 424 of the FAA Reauthorization Act of 2018 (49 U.S.C. 42302 note) on—

(1) any invoice, bill, or other communication provided to a passenger or customer of such provider; and

(2) the accessible website and any related mobile device application of such provider.

(Added Pub. L. 112–95, title IV, §415(a), Feb. 14, 2012, 126 Stat. 95; amended Pub. L. 115–254, div. B, title IV, §§405, 419(a), 423(a), Oct. 5, 2018, 132 Stat. 3329, 3336, 3337; Pub. L. 118–63, title V, §520, May 16, 2024, 138 Stat. 1200.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 424 of the FAA Reauthorization Act of 2018, referred to in subsec. (d), is section 424 of Pub. L. 115–254, which is set out as a note below.

AMENDMENTS

2024—Pub. L. 118–63 amended section generally. Prior to amendment, section related to various means by which passengers could register consumer complaints.

2018—Subsec. (a). Pub. L. 115–254, §419(a)(1), inserted "(including transportation by air ambulance (as defined by the Secretary of Transportation))" after "air transportation" in introductory provisions.

Subsec. (c). Pub. L. 115–254, §423(a)(1), substituted "Each air carrier and foreign air carrier" for "An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats" in introductory provisions.

Subsec. (c)(1). Pub. L. 115–254, §423(a)(2), substituted "carrier operates" for "air carrier operates".

Subsec. (c)(2). Pub. L. 115–254, §423(a)(3), substituted "carrier" for "air carrier".

Subsec. (d). Pub. L. 115–254, §405, added subsec. (d).

Subsec. (e). Pub. L. 115–254, §419(a)(2), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Requirements of this section to begin to apply 60 days after Feb. 14, 2012, except as otherwise provided, see section 415(c) of Pub. L. 112–95, set out as a note under section 42301 of this title.

RULEMAKING

Pub. L. 115–254, div. B, title IV, §423(b), Oct. 5, 2018, 132 Stat. 3337, provided that: "Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall promulgate regulations to implement the requirements of section 42302 of title 49, United States Code, as amended by this Act."

AVIATION CONSUMER ADVOCATE

Pub. L. 115–254, div. B, title IV, §424, Oct. 5, 2018, 132 Stat. 3337, as amended by Pub. L. 118–15, div. B, title II, §2202(s), Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §102(s), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(s), Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title V, §509, May 16, 2024, 138 Stat. 1193, provided that:

"(a) IN GENERAL.—The Secretary of Transportation shall review aviation consumer complaints received that allege a violation of law and, as appropriate, pursue enforcement or corrective actions that would be in the public interest.

"(b) CONSIDERATIONS.—In considering which cases to pursue for enforcement or corrective action under subsection (a), the Secretary shall consider—

"(1) the Air Carrier Access Act of 1986 (Public Law 99–435; 100 Stat. 1080);

"(2) unfair and deceptive practices by air carriers (including air ambulance operators), foreign air carriers, and ticket agents;

"(3) the terms and conditions agreed to between passengers and air carriers (including air ambulance operators), foreign air carriers, or ticket agents;

"(4) aviation consumer protection and tarmac delay contingency planning requirements for both airports and airlines;

"(5) protection of air ambulance consumers; and

"(6) any other applicable law.

"(c) AVIATION CONSUMER ADVOCATE.—

"(1) IN GENERAL.—Within the Aviation Consumer Protection Division of the Department of Transportation, there shall be an Aviation Consumer Advocate.

"(2) FUNCTIONS.—The Aviation Consumer Advocate shall—

"(A) assist consumers in resolving carrier service complaints filed with the Aviation Consumer Protection Division;

"(B) review the resolution by the Department of Transportation of carrier service complaints;

"(C) identify and recommend actions the Department can take to improve the enforcement of aviation consumer protection rules, protection of air ambulance consumers, and resolution of carrier service complaints; and

"(D) identify and recommend regulations and policies that can be amended to more effectively resolve carrier service complaints.

"(d) ANNUAL REPORTS.—The Secretary, through the Aviation Consumer Advocate, shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] an annual report summarizing the following:

"(1) The total number of annual complaints received by the Department, including the number of complaints by the name of each air carrier and foreign air carrier.

"(2) The total number of annual complaints by category of complaint.

"(3) The number of complaints referred in the preceding year for enforcement or corrective action by the Department.

"(4) Any recommendations under paragraphs (2)(C) and (2)(D) of subsection (c).

"(5) Such other data as the Aviation Consumer Advocate considers appropriate.

"(e) SUNSET ON REPORTING REQUIREMENT.—The reporting requirement of subsection (d) shall terminate on October 1, 2028."

[For definition of "ticket agent" as used in section 424 of Pub. L. 115–254, set out above, see section 401 of Pub. L. 115–254, set out as a Definitions of Terms in Pub. L. 115–254 note under section 40101 of this title.]

DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS

Pub. L. 112–95, title IV, §408, Feb. 14, 2012, 126 Stat. 87, provided that: "The Secretary of Transportation may investigate consumer complaints regarding—

"(1) flight cancellations;

"(2) compliance with Federal regulations concerning overbooking seats on flights;

"(3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;

"(4) problems in obtaining refunds for unused or lost tickets or fare adjustments;

"(5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;

"(6) the rights of passengers who hold frequent flyer miles or equivalent redeemable awards earned through customer-loyalty programs; and

"(7) deceptive or misleading advertising."

§42303. Use of insecticides in passenger aircraft

(a) INFORMATION TO BE PROVIDED ON THE INTERNET.—The Secretary of Transportation shall establish, and make available to the general public, an Internet Web site that contains a listing of countries that may require an air carrier or foreign air carrier to treat an aircraft passenger cabin with insecticides prior to a flight in foreign air transportation to that country or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers.

(b) REQUIRED DISCLOSURES.—An air carrier, foreign air carrier, or ticket agent selling, in the United States, a ticket for a flight in foreign air transportation to a country listed on the internet website established under subsection (a) shall—

(1) disclose, on its own internet website or through other means, that the destination country may require the air carrier or foreign air carrier to treat an aircraft passenger cabin with insecticides prior to the flight or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers; and

(2) refer the purchaser of the ticket to the internet website established under subsection (a) for additional information.

(Added Pub. L. 112–95, title IV, §415(a), Feb. 14, 2012, 126 Stat. 95; amended Pub. L. 115–254, div. B, title IV, §404, Oct. 5, 2018, 132 Stat. 3329.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b). Pub. L. 115–254 amended subsec. (b) generally. Prior to amendment, text read as follows: "An air carrier, foreign air carrier, or ticket agent selling, in the United States, a ticket for a flight in foreign air transportation to a country listed on the Internet Web site established under subsection (a) shall refer the purchaser of the ticket to the Internet Web site established under subsection (a) for additional information."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Requirements of this section to begin to apply 60 days after Feb. 14, 2012, except as otherwise provided, see section 415(c) of Pub. L. 112–95, set out as a note under section 42301 of this title.

§42304. Widespread disruptions

(a) GENERAL REQUIREMENTS.—In the event of a widespread disruption, a covered air carrier shall immediately publish, via a prominent link on the air carrier's public internet website, a clear statement indicating whether, with respect to a passenger of the air carrier whose travel is interrupted as a result of the widespread disruption, the air carrier will—

(1) provide for hotel accommodations;

(2) arrange for ground transportation;

(3) provide meal vouchers;

(4) arrange for air transportation on another air carrier or foreign air carrier to the passenger's destination; and

(5) provide for sleeping facilities inside the airport terminal.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) WIDESPREAD DISRUPTION.—The term "widespread disruption" means, with respect to a covered air carrier, the interruption of all or the overwhelming majority of the air carrier's systemwide flight operations, including flight delays and cancellations, as the result of the failure of 1 or more computer systems or computer networks of the air carrier.

(2) COVERED AIR CARRIER.—The term "covered air carrier" means an air carrier that provides scheduled passenger air transportation by operating an aircraft that as originally designed has a passenger capacity of 30 or more seats.

(c) SAVINGS PROVISION.—Nothing in this section may be construed to modify, abridge, or repeal any obligation of an air carrier under section 42301.

(Added Pub. L. 115–254, div. B, title IV, §428(a), Oct. 5, 2018, 132 Stat. 3341.)

§42305. Refunds for cancelled or significantly delayed or changed flights

(a) IN GENERAL.—In the case of a passenger that holds a nonrefundable ticket on a scheduled flight to, from, or within the United States, an air carrier or a foreign air carrier shall, upon request as set forth in subsection (f), provide a full refund, including any taxes and ancillary fees, for the fare such carrier collected for any cancelled flight or significantly delayed or changed flight where the passenger chooses not to—

(1) fly on the significantly delayed or changed flight or accept rebooking on an alternative flight; or

(2) accept any voucher, credit, or other form of compensation offered by the air carrier or foreign air carrier pursuant to subsection (c).

(b) TIMING OF REFUND.—Any refund required under subsection (a) shall be issued by the air

carrier or foreign air carrier—

(1) in the case of a ticket purchased with a credit card, not later than 7 business days after the earliest date the refund was requested as set forth in subsection (f); or

(2) in the case of a ticket purchased with cash or another form of payment, not later than 20 days after the earliest date the refund was requested as set forth in subsection (f).

(c) ALTERNATIVE TO REFUND.—An air carrier and a foreign air carrier may offer a voucher, credit, or other form of compensation as an explicit alternative to providing a refund required by subsection (a) but only if—

(1) the offer includes a clear and conspicuous notice of—

(A) the terms of the offer; and

(B) the passenger's right to a full refund under this section;

(2) the voucher, credit, or other form of compensation offered explicitly as an alternative to providing a refund required by subsection (a) remains valid and redeemable by the consumer for a period of at least 5 years from the date on which such voucher, credit, or other form of compensation is issued;

(3) upon the issuance of such voucher, credit, or other form of compensation, an air carrier, foreign air carrier, or ticket agent, where applicable, notifies the recipient of the expiration date of the voucher, credit, or other form of compensation; and

(4) upon request by an individual who self-identifies as having a disability (as defined in section 382.3 of title 14, Code of Federal Regulations), an air carrier, foreign air carrier, or ticket agent provides a notification under paragraph (3) in an electronic format that is accessible to the recipient.

(d) SIGNIFICANTLY DELAYED OR CHANGED FLIGHT DEFINED.—In this section, the term "significantly delayed or changed flight" includes, at a minimum, a flight where the passenger arrives at a destination airport—

(1) in the case of a domestic flight, 3 or more hours after the original scheduled arrival time; and

(2) in the case of an international flight, 6 or more hours after the original scheduled arrival time.

(e) APPLICATION TO TICKET AGENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall issue a final rule to apply refund requirements to ticket agents in the case of cancelled flights and significantly delayed or changed flights.

(2) TRANSFER OF FUNDS.—The Secretary shall issue regulations requiring air carriers and foreign air carriers to promptly transfer funds to a ticket agent if—

(A) the Secretary has determined that the ticket agent is responsible for providing the refund; and

(B) the ticket agent does not possess the funds of the passenger.

(3) TIMING AND ALTERNATIVES.—A refund provided by a ticket agent shall comply with the requirements in subsections (b) and (c) of this section.

(f) REFUND.—An air carrier and a foreign air carrier shall consider a passenger to have requested a refund if—

(1) a flight is cancelled and a passenger is not offered an alternative flight or any voucher, credit, or other form of compensation by the air carrier or foreign air carrier pursuant to subsection (c);

(2) a passenger rejects the significantly delayed or changed flight, rebooking on an alternative flight, or any voucher, credit, or other form of compensation offered by the air carrier or foreign air carrier pursuant to subsection (c); or

(3) a passenger does not respond to an offer of—

(A) a significantly delayed or changed flight or an alternative flight and the flight departs without the passenger; or

(B) a voucher, credit, or other form of compensation by the date on which the cancelled flight was scheduled to depart or the date that the significantly delayed or changed flight departs.

(g) REFUND NOTIFICATION.—An air carrier and a foreign air carrier shall update their passenger notification systems to ensure passengers owed a refund under this section are notified of their right to receive a refund.

(Added Pub. L. 118–63, title V, §503(a), May 16, 2024, 138 Stat. 1188.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

§42306. Know Your Rights posters

(a) IN GENERAL.—Each large hub airport, medium hub airport, and small hub airport with scheduled passenger service shall prominently display posters that clearly and concisely outline the rights of airline passengers under Federal law with respect to, at a minimum—

(1) flight delays and cancellations;

(2) refunds;

(3) bumping of passengers from flights and the oversale of flights; and

(4) lost, delayed, or damaged baggage.

(b) LOCATION.—Posters described in subsection (a) shall be displayed in conspicuous locations throughout the airport, including ticket counters, security checkpoints, and boarding gates.

(c) ACCESSIBILITY ASSISTANCE.—Each large hub airport, medium hub airport, and small hub airport with scheduled passenger service shall ensure that passengers with a disability (as such term is defined in section 382.3 of title 14, Code of Federal Regulations) who identify themselves as having such a disability are notified of the availability of accessibility assistance and shall assist such passengers in connecting to the appropriate entities to obtain the same information required in this section that is provided to other passengers.

(Added Pub. L. 118–63, title V, §504(a), May 16, 2024, 138 Stat. 1190.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 118–63, title V, §504(d), May 16, 2024, 138 Stat. 1191, provided that: "The amendments made by this section [enacting this section and amending section 46301 of this title] shall take effect on the date that is 1 year after the date of enactment of this Act [May 16, 2024]."

§42307. Requirement to maintain a live customer chat or monitored text messaging number

(a) REQUIREMENT.—

(1) IN GENERAL.—A covered air carrier that operates a domestic or international flight to, from, or within the United States shall maintain—

(A) a customer service telephone line staffed by live agents;

(B) a customer chat option that allows for customers to speak to a live agent within a

reasonable time, to the greatest extent practicable; or

(C) a monitored text messaging number that enables customers to communicate and speak with a live agent directly.

(2) PROVISION OF SERVICES.—The services required under paragraph (1) shall be provided to customers without charge for the use of such services, and shall be available at all times.

(b) RULEMAKING AUTHORITY.—The Secretary shall promulgate such rules as may be necessary to carry out this section.

(c) COVERED AIR CARRIER DEFINED.—In this section, the term "covered air carrier" means an air carrier that sells tickets for scheduled passenger air transportation on an aircraft that, as originally designed, has a passenger capacity of 30 or more seats.

(d) EFFECTIVE DATE.—Beginning on the date that is 120 days after the date of enactment of this section, a covered air carrier shall comply with the requirement specified in subsection (a) without regard to whether the Secretary has promulgated any rules to carry out this section as of the date that is 120 days after such date of enactment.

(Added Pub. L. 118–63, title V, §505(b)(1), May 16, 2024, 138 Stat. 1191.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (d), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

§42308. DOT airline customer service dashboards

(a) REQUIREMENT TO ESTABLISH AND MAINTAIN PUBLICLY AVAILABLE DASHBOARDS.—The Secretary of Transportation shall establish, maintain, and make publicly available the following online dashboards for purposes of keeping aviation consumers informed with respect to certain policies of, and services provided by, large air carriers (as such term is defined by the Secretary) to the extent that such policies or services exceed what is required by Federal law:

(1) DELAY AND CANCELLATION DASHBOARD.—A dashboard that displays information regarding the services and compensation provided by each large air carrier to mitigate any passenger inconvenience caused by a delay or cancellation due to circumstances in the control of such carrier.

(2) EXPLANATION OF CIRCUMSTANCES.—The website on which such dashboard is displayed shall explain the circumstances under which a delay or cancellation is not due to circumstances in the control of the large air carrier (such as a delay or cancellation due to a weather event or an instruction from the Federal Aviation Administration Air Traffic Control System Command Center) consistent with section 234.4 of title 14, Code of Federal Regulations.

(3) FAMILY SEATING DASHBOARD.—A dashboard that displays information regarding which large air carriers guarantee that each child shall be seated adjacent to an adult accompanying the child without charging any additional fees.

(4) SEAT SIZE DASHBOARD.—A dashboard that displays information regarding aircraft seat size for each large air carrier, including the pitch, width, and length of a seat in economy class for the aircraft models and configurations most commonly flown by such carrier.

(5) FAMILY SEATING SUNSET.—The requirement in subsection (a)(3) shall cease to be effective on the date on which the rule in section 516 of the FAA Reauthorization Act of 2024 is effective.

(b) ACCESSIBILITY REQUIREMENT.—In developing the dashboards required in subsection (a), the Secretary shall, in order to ensure the dashboards are accessible and contain pertinent

information for passengers with disabilities, consult with the Air Carrier Access Act Advisory Committee, the Architectural and Transportation Barriers Compliance Board, any other relevant department or agency to determine appropriate accessibility standards, and disability organizations, including advocacy and nonprofit organizations that represent or provide services to individuals with disabilities.

(c) LIMITATION ON DASHBOARDS.—After the rule required in section 516 of the FAA Reauthorization Act of 2024 is effective, the Secretary may not establish or maintain more than 4 different customer service dashboards at any given time.

(d) PROVISION OF INFORMATION.—Each large air carrier shall provide to the Secretary such information as the Secretary requires to carry out this section.

(e) SUNSET.—This section shall cease to be effective on October 1, 2028.

(Added Pub. L. 118–63, title V, §506(a)(1), May 16, 2024, 138 Stat. 1192.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 516 of the FAA Reauthorization Act of 2024, referred to in subsecs. (a)(5) and (c), is section 516 of Pub. L. 118–63, which is set out as a note preceding section 42301 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ESTABLISHMENT OF ONLINE DASHBOARDS

Pub. L. 118–63, title V, §506(a)(2), May 16, 2024, 138 Stat. 1193, provided that: "The Secretary [of Transportation] shall establish each of the online dashboards required by section 42308(a) of title 49, United States Code, not later than 30 days after the date of enactment of this Act [May 16, 2024]."

SUBPART III—SAFETY

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.

44101. Operation of aircraft.
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EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title VIII, §803(b), May 16, 2024, 138 Stat. 1322, added item 44114.

2004—Pub. L. 108–297, §6(b), Aug. 9, 2004, 118 Stat. 1097, added item 44113.

§44101. Operation of aircraft

(a) REGISTRATION REQUIREMENT.—Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) EXCEPTIONS.—A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the national defense forces of the United States and is identified in a way satisfactory to the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44101(a)	49 App.:1401(a) (1st sentence words before proviso less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, §501(a), 72 Stat. 771.
44101(b)	49 App.:1401(a) (1st sentence words between parentheses, proviso, last sentence).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, the word "navigate" is omitted as being included in the definition of "operate aircraft" in section 40102(a) of the revised title.

In subsection (a), the words "Except as provided in subsection (b) of this section" are added for clarity. The words "a person may . . . an aircraft only when the aircraft is registered under section 44103 of this title" are substituted for "It shall be unlawful . . . any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or . . . any aircraft not eligible for registration" for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words "A person may operate an aircraft in the United States that is not registered" are substituted for "may be operated and navigated without being so registered" and "may . . . permit the operation and navigation of aircraft without registration" for clarity. In clause (2), the words "identified in a way" are substituted for "identified, by the agency having jurisdiction over them, in a manner" to eliminate unnecessary words.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–297, §7, Aug. 9, 2004, 118 Stat. 1097, provided that: "This Act [see Short Title of 2004 Amendment note set out under section 40101 of this title], including any amendments made by this Act, shall take effect on the date the Cape Town Treaty (as defined in section 44113 of title 49, United States Code) enters into force with respect to the United States and shall not apply to any registration or recordation that was made before such effective date under chapter 441 of such title or any legal rights relating to such registration or recordation." [The Cape Town Treaty entered into force with respect to the United States on Mar. 1, 2006. See 71 F.R. 8457.]

REGULATIONS

Pub. L. 108–297, §4, Aug. 9, 2004, 118 Stat. 1096, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue regulations necessary to carry out this Act [see Short Title of 2004 Amendment note set out under section 40101 of this title], including any amendments made by this Act.

"(b) CONTENTS OF REGULATIONS.—Regulations to be issued under this Act shall specify, at a

minimum, the requirements for—

"(1) the registration of aircraft previously registered in a country in which the Cape Town Treaty is in effect; and

"(2) the cancellation of registration of a civil aircraft of the United States based on a request made in accordance with the Cape Town Treaty.

"(c) EXPEDITED RULEMAKING PROCESS.—

"(1) FINAL RULE.—The Administrator shall issue regulations under this section by publishing a final rule by December 31, 2004.

"(2) EFFECTIVE DATE.—The final rule shall not be effective before the date the Cape Town Treaty enters into force with respect to the United States [Mar. 1, 2006, see Effective Date of 2004 Amendment note above].

"(3) ECONOMIC ANALYSIS.—The Administrator shall not be required to prepare an economic analysis of the cost and benefits of the final rule.

"(d) APPLICABILITY OF TREATY.—Notwithstanding parts 47.37(a)(3)(ii) and 47.47(a)(2) of title 14, of the Code of Federal Regulations, Articles IX(5) and XIII of the Cape Town Treaty shall apply to the matters described in subsection (b) until the earlier of the effective date of the final rule under this section or December 31, 2004."

CAPE TOWN TREATY; FINDINGS AND PURPOSE

Pub. L. 108–297, §2, Aug. 9, 2004, 118 Stat. 1095, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) The Cape Town Treaty (as defined in section 44113 of title 49, United States Code) extends modern commercial laws for the sale, finance, and lease of aircraft and aircraft engines to the international arena in a manner consistent with United States law and practice.

"(2) The Cape Town Treaty provides for internationally established and recognized financing and leasing rights that will provide greater security and commercial predictability in connection with the financing and leasing of highly mobile assets, such as aircraft and aircraft engines.

"(3) The legal and financing framework of the Cape Town Treaty will provide substantial economic benefits to the aviation and aerospace sectors, including the promotion of exports, and will facilitate the acquisition of newer, safer aircraft around the world.

"(4) Only technical changes to United States law and regulations are required since the asset-based financing and leasing concepts embodied in the Cape Town Treaty are already reflected in the United States in the Uniform Commercial Code.

"(5) The new electronic registry system established under the Cape Town Treaty will work in tandem with current aircraft document recordation systems of the Federal Aviation Administration, which have served United States industry well.

"(6) The United States Government was a leader in the development of the Cape Town Treaty.

"(b) PURPOSE.—Accordingly, the purpose of this Act [see Short Title of 2004 Amendment note set out under section 40101 of this title] is to provide for the implementation of the Cape Town Treaty in the United States by making certain technical amendments to the provisions of chapter 441 of title 49, United States Code, directing the Federal Aviation Administration to complete the necessary rulemaking processes as expeditiously as possible, and clarifying the applicability of the Treaty during the rulemaking process."

§44102. Registration requirements

(a) ELIGIBILITY.—An aircraft may be registered under section 44103 of this title only when the aircraft is—

(1) not registered under the laws of a foreign country and is owned by—

(A) a citizen of the United States;

(B) an individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(C) a corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

(2) an aircraft of—

(A) the United States Government; or

(B) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) DUTY TO DEFINE CERTAIN TERM.—In carrying out subsection (a)(1)(C) of this section, the Secretary of Transportation shall define "based and primarily used in the United States".

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44102(a)(1)	49 App.:1401(b) (1st sentence cl. (1)).	Aug. 23, 1958, Pub. L. 85–726, §501(b), 72 Stat. 772; restated Nov. 9, 1977, Pub. L. 95–163, §14, 91 Stat. 1283; Mar. 8, 1978, Pub. L. 95–241, 92 Stat. 119.
44102(a)(2)	49 App.:1401(b) (1st sentence cl. (2)).	
44102(b)	49 App.:1401(b) (last sentence).	

In subsection (a), before clause (1), the words "may be registered" are substituted for "shall be eligible for registration", and the words "under section 44103 of this title" are added, for clarity. The words "only when" are substituted for "if, but only if" for consistency. In subclause (C), the words "not a citizen of the United States" are substituted for "(other than a corporation which is a citizen of the United States)" to eliminate unnecessary words. The word "lawfully" is omitted as surplus.

In subsection (b), the words "In carrying out subsection (a)(1)(C) of this section" are added because of the restatement. The words "by regulation" are omitted as unnecessary because of 49:322(a).

§44103. Registration of aircraft

(a) GENERAL.—(1) On application of the owner of an aircraft that meets the requirements of section 44102 of this title, the Administrator of the Federal Aviation Administration shall—

(A) register the aircraft; and

(B) issue a certificate of registration to its owner.

(2) The Administrator may prescribe the extent to which an aircraft owned by the holder of a dealer's certificate of registration issued under section 44104(2) of this title also is registered under this section.

(b) CONTROLLED SUBSTANCE VIOLATIONS.—(1) The Administrator may not issue an owner's certificate of registration under subsection (a)(1) of this section to a person whose certificate is revoked under section 44106 of this title during the 5-year period beginning on the date of the revocation, except—

(A) as provided in section 44106(e)(2) of this title; or

(B) that the Administrator may issue the certificate to the person after the one-year period beginning on the date of the revocation if the Administrator decides that the aircraft otherwise meets the requirements of section 44102 of this title and that denial of a certificate for the 5-year period—

(i) would be excessive considering the nature of the offense or the act committed and the burden the denial places on the person; or

(ii) would not be in the public interest.

(2) A decision of the Administrator under paragraph (1)(B)(i) or (ii) of this subsection is within the discretion of the Administrator. That decision or failure to make a decision is not subject to

administrative or judicial review.

(c) CERTIFICATES AS EVIDENCE.—A certificate of registration issued under this section is—

(1) conclusive evidence of the nationality of an aircraft for international purposes, but not conclusive evidence in a proceeding under the laws of the United States; and

(2) not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue.

(d) CERTIFICATES AVAILABLE FOR INSPECTION.—An operator of an aircraft shall make available for inspection a certificate of registration for the aircraft when requested by a United States Government, State, or local law enforcement officer.

(e) VALIDITY OF AIRCRAFT REGISTRATION DURING RENEWAL.—

(1) IN GENERAL.—An aircraft may be operated on or after the expiration date found on the certificate of registration issued for such aircraft under this section as if it were not expired if the operator of such aircraft has aboard the aircraft—

(A) documentation validating that—

(i) an aircraft registration renewal application form (AC Form 8050–1B, or a succeeding form) has been submitted to the Administrator for such aircraft but not yet approved or denied; and

(ii) such aircraft is compliant with maintenance, inspections, and any other requirements for the aircraft's airworthiness certificate issued under section 44704(d); and

(B) the most recent aircraft registration.

(2) PROOF OF PENDING RENEWAL APPLICATION.—The Administrator shall provide an applicant for renewal of registration under this section with documentation described in paragraph (1)(A). Such documentation shall—

(A) be made electronically available to the applicant immediately upon submitting an aircraft registration renewal application to the Civil Aviation Registry for an aircraft;

(B) notify the applicant of the operational allowance described in paragraph (1);

(C) deem an aircraft's airworthiness certificate issued under section 44704(d) as valid provided that the applicant confirms acknowledgment of the requirements of paragraph (1)(A)(ii);

(D) confirm the applicant acknowledged the limitations described in paragraph (3)(A) and (3)(B); and

(E) include identifying information pertaining to such aircraft and to the registered owner.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to permit any person to operate an aircraft—

(A) with an expired registration, except as specifically provided for under this subsection; or

(B) if the Administrator has denied an application to renew the registration of such aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1162; Pub. L. 118–63, title VIII, §812(a), May 16, 2024, 138 Stat. 1326.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44103(a)(1)	49 App.:1401(c), (d).	Aug. 23, 1958, Pub. L. 85–726, §§501(c), (d), (f), 505 (2d sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

44103(a)(2)	49 App.:1405 (2d sentence). 49 App.:1655(c)(1).	
44103(b)	49 App.:1401(e)(2)(D), (E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §501(e)(2)(D), (E); added Oct. 19, 1984, Pub. L. 98–499, §4(a), 98 Stat. 2315.
44103(c)	49 App.:1401(f).	
44103(d)	49 App.:1401(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §501(g); added Oct. 27, 1986, Pub. L. 99–570, §3401(a)(2), 100 Stat. 3207–99.

In subsection (a)(1), the words "On application" are substituted for "upon request", and the words "meets the requirements of section 44102 of this title" are substituted for "eligible for registration", for consistency in this subchapter. The text of 49 App.:1401(d) is omitted as unnecessary because of 49:322(a).

In subsection (b)(1)(B), before subclause (i), the words "after the one-year period beginning on the date of the revocation" are substituted for "before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation)" for clarity and to eliminate unnecessary words. The words "otherwise meets the requirements of section 44102 of this title" are substituted for "is otherwise eligible for registration under this section" because of the restatement. The words "denial of a certificate" are substituted for "revocation of the certificate" for clarity.

In subsection (c), before clause (1), the words "A certificate of registration" are substituted for "Registration" for clarity. In clause (2), the words "by a particular person" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (e). Pub. L. 118–63 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 118–63, title VIII, §812(b), May 16, 2024, 138 Stat. 1327, provided that: "Not later than 36 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a final rule, if necessary, and update all applicable guidance and policies to reflect the amendment made by this section [amending this section]."

IMPLEMENTATION OF ANTI-TERRORIST AND NARCOTIC AIR EVENTS PROGRAMS

Pub. L. 118–63, title II, §231(a), May 16, 2024, 138 Stat. 1065, provided that:

"(1) PRIORITY RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this section [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall—

"(A) implement recommendations 6, 13, 14, and 15 as set forth in the Government Accountability Office report entitled 'Aviation: FAA Needs to Better Prevent, Detect, and Respond to Fraud and Abuse Risks in Aircraft Registration,' (dated March 25, 2020); and

"(B) to the extent that rulemaking is necessary to implement such recommendations, issue a notice of proposed rulemaking pursuant to the rulemaking authority of the FAA [Federal Aviation Administration].

"(2) REMAINING RECOMMENDATIONS.—The Administrator shall implement recommendations 1 through 5 and 8 through 12 as set forth in the Government Accountability Office report described in paragraph (1) and, to the extent that rulemaking is necessary to implement such recommendations, issue a notice of proposed rulemaking pursuant to the rulemaking authority of the FAA, on the earlier of—

"(A) the date that is 90 days after the date on which the FAA implements the Civil Aviation Registry Electronic Services system; or

"(B) January 1, 2026."

DEADLINE TO ELIMINATE AIRCRAFT REGISTRATION BACKLOG

Pub. L. 118–63, title VIII, §817, May 16, 2024, 138 Stat. 1328, provided that: "Not later than 180 days after

the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall take such actions as may be necessary to reduce and maintain the aircraft registration and recordation backlog at the Civil Aviation Registry so that, on average, applications are processed not later than 10 business days after receipt."

AIRCRAFT REGISTRATION

Pub. L. 115–254, div. B, title V, §556, Oct. 5, 2018, 132 Stat. 3383, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall initiate a rulemaking to increase the duration of aircraft registrations for noncommercial general aviation aircraft to 7 years.

"(b) CONSIDERATIONS.—In promulgating the notice of proposed rulemaking described in subsection (a), the Administrator may consider any events, circumstances, changes in any ownership entity or structure, or other condition that would necessitate renewal prior to the expiration of an aircraft registration."

RIGHT TO PRIVACY WHEN USING AIR TRAFFIC CONTROL SYSTEM

Pub. L. 115–254, div. B, title V, §566, Oct. 5, 2018, 132 Stat. 3385, which provided for blocking the registration number of certain private aircraft from public dissemination upon request by the owner or operator, was repealed by Pub. L. 118–63, title VIII, §803(c), May 16, 2024, 138 Stat. 1322. See section 44114 of this title.

AIRCRAFT SITUATIONAL DISPLAY DATA

Pub. L. 106–181, title VII, §729, Apr. 5, 2000, 114 Stat. 168, provided that:

"(a) IN GENERAL.—A memorandum of agreement between the Administrator [of the Federal Aviation Administration] and any person that directly obtains aircraft situational display data from the Federal Aviation Administration shall require that—

"(1) the person demonstrate to the satisfaction of the Administrator that the person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

"(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

"(b) EXISTING MEMORANDA TO BE CONFORMED.—Not later than 30 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall conform any memoranda of agreement, in effect on such date of enactment, between the Federal Aviation Administration and a person under which that person obtains aircraft situational display data to incorporate the requirements of subsection (a)."

§44104. Registration of aircraft components and dealers' certificates of registration

The Administrator of the Federal Aviation Administration may prescribe regulations—

(1) in the interest of safety for registering and identifying an aircraft engine, propeller, or appliance; and

(2) in the public interest for issuing, suspending, and revoking a dealer's certificate of registration under this chapter and for its use by a person manufacturing, distributing, or selling aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1162.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44104(1)	49 App.:1402.	Aug. 23, 1958, Pub. L. 85–726, §§502, 505 (1st sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44104(2)	49 App.:1405 (1st sentence).	

	49 App.:1655(c)(1).	

In this section, before clause (1), the words "prescribe regulations" are substituted for "establish reasonable rules and regulations" in 49 App.:1402 and "by such reasonable regulations" in 49 App.:1405 (1st sentence) because of 49:322(a). In clause (1), the words "and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation" are omitted as surplus because of section 46301 of the revised title. In clause (2), the words "in connection with" are omitted as surplus.

§44105. Suspension and revocation of aircraft certificates

The Administrator of the Federal Aviation Administration may suspend or revoke a certificate of registration issued under section 44103 of this title when the aircraft no longer meets the requirements of section 44102 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44105	49 App.:1401(e)(1).	Aug. 23, 1958, Pub. L. 85–726, §501(e)(1), 72 Stat. 772; Oct. 19, 1984, Pub. L. 98–499, §4(a), 98 Stat. 2314.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The words "when the aircraft no longer meets" are substituted for "for any cause which renders the aircraft ineligible" for consistency.

§44106. Revocation of aircraft certificates for controlled substance violations

(a) DEFINITION.—In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATIONS.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking the certificate of registration for an aircraft issued to an owner under section 44103 of this title and any other certificate of registration that the owner of the aircraft holds under section 44103, if the Administrator finds that—

(A) the aircraft was used to carry out, or facilitate, an activity that is punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance); and

(B) the owner of the aircraft permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in clause (A) of this paragraph.

(2) An aircraft owner that is not an individual is deemed to have permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection only if a majority of the individuals who control the owner of the aircraft or who are involved in forming the major policy of the owner permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A).

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator shall—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed action; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d) APPEALS.—(1) A person whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and a hearing on the record. In conducting the hearing, the Board is not bound by the findings of fact of the Administrator.

(2) When a person files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) A person substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate of registration under this section on the basis of an activity described in subsection (b)(1)(A) of this section if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked a certificate of registration of a person under this section because of an activity described in subsection (b)(1)(A) of this section, the Administrator shall reissue a certificate to the person if the person—

(A) subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; and

(B) otherwise meets the requirements of section 44102 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44106(a)	49 App.:1401(e)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §501(e)(2)(A)– (C), (F); added Oct. 19, 1984, Pub. L. 98–499, §4(a), 98 Stat. 2314, 2315.
44106(b)	49 App.:1401(e)(2)(A) (less last sentence).	
44106(c)	49 App.:1401(e)(2)(B) (1st sentence).	
44106(d)	49 App.:1401(e)(2)(B) (2d–last sentences).	
44106(e)	49 App.:1401(e)(2)(A) (last sentence), (F).	

In subsection (b)(2), the words "knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection" are substituted for "with knowledge of such intended use" for clarity.

§44107. Recordation of conveyances, leases, and security instruments

(a) ESTABLISHMENT OF SYSTEM.—The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) conveyances that affect an interest in civil aircraft of the United States;

(2) leases and instruments executed for security purposes, including conditional sales contracts, assignments, and amendments, that affect an interest in—

(A) a specifically identified aircraft engine having at least 550 rated takeoff horsepower or its equivalent;

(B) a specifically identified aircraft propeller capable of absorbing at least 750 rated takeoff shaft horsepower;

(C) an aircraft engine, propeller, or appliance maintained for installation or use in an aircraft, aircraft engine, or propeller, by or for an air carrier holding a certificate issued under section 44705 of this title; and

(D) spare parts maintained by or for an air carrier holding a certificate issued under section 44705 of this title; and

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, lease, or instrument recorded under paragraph (1) or (2).

(b) GENERAL DESCRIPTION REQUIRED.—A lease or instrument recorded under subsection (a)(2)(C) or (D) of this section only has to describe generally the engine, propeller, appliance, or spare part by type and designate its location.

(c) ACKNOWLEDGMENT.—Except as the Administrator otherwise may provide, a conveyance, lease, or instrument may be recorded under subsection (a) of this section only after it has been acknowledged before—

(1) a notary public; or

(2) another officer authorized under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States to acknowledge deeds.

(d) RECORDS AND INDEXES.—The Administrator shall—

(1) keep a record of the time and date that each conveyance, lease, and instrument is filed and recorded with the Administrator; and

(2) record each conveyance, lease, and instrument filed with the Administrator, in the order of their receipt, and index them by—

(A) the identifying description of the aircraft, aircraft engine, or propeller, or location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section; and

(B) the names of the parties to each conveyance, lease, and instrument.

(e) INTERNATIONAL REGISTRY.—

(1) DESIGNATION OF UNITED STATES ENTRY POINT.—As permitted under the Cape Town Treaty, the Federal Aviation Administration Civil Aviation Registry is designated as the United States Entry Point to the International Registry relating to—

(A) civil aircraft of the United States;

(B) an aircraft for which a United States identification number has been assigned but only with regard to a notice filed under paragraph (2); and

(C) aircraft engines.

(2) SYSTEM FOR FILING NOTICE OF PROSPECTIVE INTERESTS.—

(A) ESTABLISHMENT.—The Administrator shall establish a system for filing notices of prospective assignments and prospective international interests in, and prospective sales of, aircraft or aircraft engines described in paragraph (1) under the Cape Town Treaty.

(B) MAINTENANCE OF VALIDITY.—A filing of a notice of prospective assignment, interest, or sale under this paragraph and the registration with the International Registry relating to such assignment, interest, or sale shall not be valid after the 60th day following the date of the filing unless documents eligible for recording under subsection (a) relating to such notice are filed for recordation on or before such 60th day.

(3) AUTHORIZATION FOR REGISTRATION OF AIRCRAFT.—A registration with the International Registry relating to an aircraft described in paragraph (1) (other than subparagraph (C)) is valid only if (A) the person seeking the registration first files documents eligible for recording under subsection (a) and relating to the registration with the United States Entry Point, and (B) the United States Entry Point authorizes the registration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1164; Pub. L. 108–297, §3, Aug. 9, 2004, 118 Stat. 1096.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44107(a)(1)	49 App.:1403(a)(1).	Aug. 23, 1958, Pub. L. 85–726, §503(a)(1), (3), (b), 72 Stat. 772.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44107(a)(2)(A), (B)	49 App.:1403(a)(2).	Aug. 23, 1958, Pub. L. 85–726, §503(a)(2), 72 Stat. 772; restated July 8, 1959, Pub. L. 86–81, §1, 73 Stat. 180.
	49 App.:1655(c)(1).	
44107(a)(2)(C), (D)	49 App.:1403(a)(3) (less words between 13th comma and semicolon).	
	49 App.:1655(c)(1).	
44107(a)(3)	49 App.:1403(b).	
	49 App.:1655(c)(1).	
44107(b)	49 App.:1403(a)(3) (words between 13th comma and semicolon).	
44107(c)	49 App.:1403(e).	Aug. 23, 1958, Pub. L. 85–726, §503(e), 72 Stat. 773; restated June 30, 1964, Pub. L. 88–346, §2, 78 Stat. 236.
	49 App.:1655(c)(1).	
44107(d)	49 App.:1403(f).	Aug. 23, 1958, Pub. L. 85–726, §503(f), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, §4, 73 Stat. 181.
	49 App.:1655(c)(1).	

In subsection (a)(1) and (2), the words "title to" are omitted as being included in "interest in".

In subsection (a)(2), before subclause (A), the word "instruments" is substituted for "any mortgage, equipment trust . . . or other instrument" because it is inclusive. The word "supplement" is omitted as being included in "amendments".

In subsection (a)(3), the words "The Secretary of Transportation shall also record under the system" are omitted as unnecessary because of the restatement.

In subsections (a)(3) and (c), the words "lease, or instrument" are substituted for "other instrument" for clarity and consistency in this subchapter.

In subsections (b) and (d), the words "or locations" are omitted because of 1:1.

In subsection (b), the words "recorded under subsection (a)(2)(C) or (D) of this section" are added for clarity. The words "lease or instrument" are substituted for "instrument" for clarity and consistency in this

subchapter.

In subsection (c), before clause (1), the words "by regulation" are omitted because of 49:322(a). In clause (2), the words "possession of the United States" are substituted for "possession thereof" for clarity.

In subsection (d), the words "lease, and instrument" are substituted for "other instruments" for clarity and consistency in this subchapter. In clause (1), the words "of the time and date of" before "recordation" are omitted as unnecessary because of the restatement. In clause (2), before subclause (A), the words "in files to be kept for that purpose" are omitted as unnecessary. In subclause (A), the words "location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section" are substituted for "in the case of an instrument referred to in subsection (a)(3) of this section, the location or locations specified therein" for clarity and consistency in this subchapter.

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (a)(2)(A). Pub. L. 108–297, §3(a)(1), substituted "550" for "750".

Subsec. (a)(3). Pub. L. 108–297, §3(a)(2), substituted "paragraph (1) or (2)" for "clause (1) or (2) of this subsection".

Subsec. (e). Pub. L. 108–297, §3(b), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–297 effective Mar. 1, 2006, and not applicable to any registration or recordation that was made before such date under this chapter or any legal rights relating to such registration or recordation, see section 7 of Pub. L. 108–297, set out as a note under section 44101 of this title.

§44108. Validity of conveyances, leases, and security instruments

(a) VALIDITY BEFORE FILING.—Until a conveyance, lease, or instrument executed for security purposes that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance, lease, or instrument is valid only against—

(1) the person making the conveyance, lease, or instrument;

(2) that person's heirs and devisees; and

(3) a person having actual notice of the conveyance, lease, or instrument.

(b) PERIOD OF VALIDITY.—When a conveyance, lease, or instrument is recorded under section 44107 of this title, the conveyance, lease, or instrument is valid from the date of filing against all persons, without other recordation, except that—

(1) a lease or instrument recorded under section 44107(a)(2)(A) or (B) of this title is valid for a specifically identified engine or propeller without regard to a lease or instrument previously or subsequently recorded under section 44107(a)(2)(C) or (D); and

(2) a lease or instrument recorded under section 44107(a)(2)(C) or (D) of this title is valid only for items at the location designated in the lease or instrument.

(c) APPLICABLE LAWS.—(1) The validity of a conveyance, lease, or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance, lease, or instrument is delivered, regardless of the place at which the subject of the conveyance, lease, or instrument is located or delivered. If the conveyance, lease, or instrument specifies the place at which delivery is intended, it is presumed that the conveyance, lease, or instrument was delivered at the specified place.

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830) or the Cape Town Treaty, as applicable.

(d) NONAPPLICATION.—This section does not apply to—

(1) a conveyance described in section 44107(a)(1) of this title that was made before August 22, 1938; or

(2) a lease or instrument described in section 44107(a)(2) of this title that was made before June 20, 1948.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1165; Pub. L. 108–297, §5, Aug. 9, 2004, 118 Stat. 1097.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44108(a)	49 App.:1403(c) (less words after semicolon).	Aug. 23, 1958, Pub. L. 85–726, §503(c), 72 Stat. 773.
44108(b)	49 App.:1403(d).	Aug. 23, 1958, Pub. L. 85–726, §503(d), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, §3, 73 Stat. 181.
44108(c)(1)	49 App.:1406.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §506; added June 30, 1964, Pub. L. 88–346, §1(a), 78 Stat. 236.
44108(c)(2)	49 App.:1406 (note).	June 30, 1964, Pub. L. 88–346, §1(c), 78 Stat. 236.
44108(d)	49 App.:1403(c) (words after semicolon).	

In subsection (a), before clause (1), the words "conveyance, lease, or instrument executed for security purposes" are substituted for "conveyance or instrument" for clarity and consistency in this subchapter. The words "in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts" are omitted as surplus. The text of 49 App.:1403(c) (proviso words before semicolon) is omitted because of section 7(d) of this bill. In clause (1), the words "person making the conveyance, lease, or instrument" are substituted for "the person by whom the conveyance or other instrument is made or given" to eliminate unnecessary words and for consistency in this subchapter.

In subsection (b), before clause (1), the words "When a conveyance, lease, or instrument is recorded under section 44107 of this title . . . from the date of filing" are substituted for "Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of the section shall from the time of its filing for recordation" for clarity and consistency in this subchapter and to eliminate unnecessary words. In clause (1), the words "is valid" are substituted for "*Provided*, That . . . shall not be affected" for consistency in this subchapter. The words "or engines . . . or propellers" are omitted because of 1:1. In clause (2), the words "is valid" are substituted for "shall be effective" for consistency in this subchapter. The words "for items at the location designated in the lease or instrument" are substituted for "which may from time to time be situated at the designated location or locations and only while so situated" for clarity and to eliminate unnecessary words.

In subsection (c)(1), the words "conveyance, lease, or" are added for consistency in this subchapter. The words "the conveyance, lease, or instrument" are substituted for "therein", and the words "it is presumed" are substituted for "it shall constitute presumptive evidence", for clarity.

In subsection (d)(2), the words "lease or instrument" are substituted for "instrument" for clarity and consistency in this subchapter.

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108–297 inserted "or the Cape Town Treaty, as applicable" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–297 effective Mar. 1, 2006, and not applicable to any registration or recordation that was made before such date under this chapter or any legal rights relating to such registration or recordation, see section 7 of Pub. L. 108–297, set out as a note under section 44101 of this title.

§44109. Reporting transfer of ownership

(a) FILING NOTICES.—A person having an ownership interest in an aircraft for which a certificate of registration was issued under section 44103 of this title shall file a notice with the Secretary of the Treasury that the Secretary requires by regulation, not later than 15 days after a sale, conditional sale, transfer, or conveyance of the interest.

(b) EXEMPTIONS.—The Secretary—

(1) shall prescribe regulations that establish guidelines for exempting a person or class from subsection (a) of this section; and

(2) may exempt a person or class under the regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44109(a)	49 App.:1509(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1109(f); added Oct. 27, 1986, Pub. L. 99–570, §3401(d)(1), 100 Stat. 3207–101.
44109(b)	49 App.:1509 (note).	Oct. 27, 1986, Pub. L. 99–570, §3401(d)(2), 100 Stat. 3207–102.

In subsection (a), the text of 49 App.:1509(f) (last sentence) is omitted as unnecessary.

In subsection (b)(1), the words "Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection" are omitted as obsolete.

§44110. Information about aircraft ownership and rights

The Administrator of the Federal Aviation Administration may provide by regulation for—

(1) endorsing information on each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title about ownership of the aircraft for which each certificate is issued; and

(2) recording transactions affecting an interest in, and for other records, proceedings, and details necessary to decide the rights of a party related to, a civil aircraft of the United States, aircraft engine, propeller, appliance, or spare part.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44110	49 App.:1403(g).	Aug. 23, 1958, Pub. L. 85–726, §503(g), 72 Stat. 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In clause (1), the words "each certificate of registration issued under section 44103 of this title and each

certificate issued under section 44704 of this title" are substituted for "certificates of registration, or aircraft certificates" for clarity and because of the restatement.

In clause (2), the words "recording transactions" are substituted for "recording of discharges and satisfactions of recorded instruments, and other transactions" to eliminate unnecessary words. The words "title to" are omitted as being included in "interest in". The words "to decide" are substituted for "to facilitate the determination" to eliminate unnecessary words. The words "related to" are substituted for "dealing with" for clarity. The word "spare" is added for consistency in this section.

§44111. Modifications in registration and recordation system for aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) AUTHORITY TO MAKE MODIFICATIONS.—The Administrator of the Federal Aviation Administration shall make modifications in the system for registering and recording aircraft necessary to make the system more effective in serving the needs of—

(1) buyers and sellers of aircraft;

(2) officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)); and

(3) other users of the system.

(c) NATURE OF MODIFICATIONS.—Modifications made under subsection (b) of this section—

(1) may include a system of titling aircraft or registering all aircraft, even aircraft not operated;

(2) shall ensure positive, verifiable, and timely identification of the true owner; and

(3) shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the registration of aircraft to fictitious persons.

(B) the use of false or nonexistent addresses by persons registering aircraft.

(C) the use by a person registering an aircraft of a post office box or "mail drop" as a return address to evade identification of the person's address.

(D) the registration of aircraft to entities established to facilitate unlawful activities.

(E) the submission of names of individuals on applications for registration of aircraft that are not identifiable.

(F) the ability to make frequent legal changes in the registration markings assigned to aircraft.

(G) the use of false registration markings on aircraft.

(H) the illegal use of "reserved" registration markings on aircraft.

(I) the large number of aircraft classified as being in "self-reported status".

(J) the lack of a system to ensure timely and adequate notice of the transfer of ownership of aircraft.

(K) the practice of allowing temporary operation and navigation of aircraft without the issuance of a certificate of registration.

(d) REGULATIONS.—(1) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out this section and provide a written explanation of how the regulations address each of the deficiencies and abuses described in subsection (c) of this section. In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of U.S. Customs and Border Protection, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(2) Regulations prescribed under this subsection shall require that—

(A) each individual listed in an application for registration of an aircraft provide with the application the individual's driver's license number; and

(B) each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1166; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44111(a)	49 App.:1303 (note).	Nov. 11, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
44111(b)	49 App.:1401(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §501(h); added Nov. 11, 1988, Pub. L. 100–690, §7203(a), 102 Stat. 4424.
44111(c)	49 App.:1401(h) (last sentence).	
44111(d)	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, §7207(a), (b), 102 Stat. 4427.

In subsection (c)(3)(D), the words "corporations and others" are omitted as surplus.

In subsection (d)(1), the words "Not later than September 18, 1989" and "final" are omitted as obsolete. The words "Administrator of Drug Enforcement" are substituted for "Drug Enforcement Administration of the Department of Justice" because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in subsec. (d)(1) on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

DRUG ENFORCEMENT STATUS AND PROGRESS; REPORTS TO CONGRESS; DEFINITIONS

Pub. L. 100–690, title VII, §7207(d), (e), Nov. 18, 1988, 102 Stat. 4428, provided that:

"(d) REPORT.—Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988] and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

"(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section [see subsec. (d) of this section].

"(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in 'sale-reported status'.

"(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act [see section 45302(b) of this title].

"(e) DEFINITIONS.—For purposes of this subtitle [subtitle E (§§7201–7214) of title VII of Pub. L.

100–690, see Tables for classification]—

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(2) AIRCRAFT.—The term 'aircraft' has the meaning such term has under section 101 of the Federal Aviation Act of 1958 [see section 40102 of this title]."

INFORMATION COORDINATION

Pub. L. 100–690, title VII, §7210, Nov. 18, 1988, 102 Stat. 4432, provided that: "Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988] and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

"(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

"(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in accordance with the amendments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act [Pub. L. 98–499, see Tables for classification], section 3401 of the Anti-Drug Abuse Act of 1986 [Pub. L. 99–570], and this subtitle [subtitle E (§§7201–7214) of title VII of Pub. L. 100–690].

"(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

"(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]), and (ii) the role of such Administration with respect to such trafficking.

"(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center."

APPLICABILITY OF PAPERWORK REDUCTION ACT

Pub. L. 100–690, title VII, §7211(b), Nov. 18, 1988, 102 Stat. 4433, provided that: "No information collection requests necessary to carry out the objectives of this subtitle [subtitle E (§§7201–7214) of title VI of Pub. L. 100–690, see Tables for classification] (including the amendments made by this subtitle) shall be subject to or affect, directly or indirectly, the annual information collection budget goals established for the Federal Aviation Administration and the Department of Transportation under chapter 35 of title 44, United States Code."

§44112. Limitation of liability

(a) DEFINITIONS.—In this section—

(1) "lessor" means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) "owner" means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) "secured party" means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) LIABILITY.—A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage only when a civil aircraft, aircraft engine, or propeller is in the actual possession or operational control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1167; Pub. L. 115–254, div. B, title V, §514, Oct. 5, 2018, 132 Stat. 3358.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44112	49 App.:1404.	Aug. 23, 1958, Pub. L. 85–726, §504, 72 Stat. 774; restated July 8, 1959, Pub. L. 86–81, §2, 73 Stat. 180.

In subsection (a), clauses (1) and (3) are derived from 49 App.:1404 (2d–57th words). Clause (2) is added for clarity. In clause (1), the words "bona fide" are omitted as surplus. In clause (3), the word "nature" is omitted as surplus.

In subsection (b), before clause (1), the words "personal injury, death" are substituted for "any injury to or death of persons", and the words "on land or water" are substituted for "on the surface of the earth (whether on land or water)", to eliminate unnecessary words. In clause (2), the words "ascent, descent, or" and "dropping or" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b). Pub. L. 115–254, in introductory provisions, struck out "on land or water" before "only when" and inserted "operational" before "control".

§44113. Definitions

In this chapter, the following definitions apply:

(1) CAPE TOWN TREATY.—The term "Cape Town Treaty" means the Convention on International Interests in Mobile Equipment, as modified by the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, signed at Rome on May 9, 2003.

(2) UNITED STATES ENTRY POINT.—The term "United States Entry Point" means the Federal Aviation Administration Civil Aviation Registry.

(3) INTERNATIONAL REGISTRY.—The term "International Registry" means the registry established under the Cape Town Treaty.

(Added Pub. L. 108–297, §6(a), Aug. 9, 2004, 118 Stat. 1097.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 1, 2006, and not applicable to any registration or recordation that was made before such date under this chapter or any legal rights relating to such registration or recordation, see section 7 of Pub. L. 108–297, set out as an Effective Date of 2004 Amendment note under section 44101 of this title.

§44114. Privacy

(a) IN GENERAL.—Notwithstanding any other provision of law, including section 552(b)(3) of title 5, the Administrator of the Federal Aviation Administration shall establish and update as necessary a process by which, upon request of a private aircraft owner or operator, the Administrator withholds the registration number and other similar identifiable data or information, except for physical markings required by law, of the aircraft of the owner or operator from any broad dissemination or display (except in furnished data or information made available to or from a Government agency pursuant to a government contract, subcontract, or agreement, including for traffic management purposes) for the noncommercial flights of the owner or operator.

(b) WITHHOLDING PERSONALLY IDENTIFIABLE INFORMATION ON THE AIRCRAFT

REGISTRY.—Not later than 2 years after the enactment of this Act and notwithstanding any other provision of law, including section 552(b)(3) of title 5, the Administrator shall establish a procedure by which, upon request of a private aircraft owner or operator, the Administrator shall withhold from broad dissemination or display by the FAA (except in furnished data or information made available to or from a Government agency pursuant to a government contract, subcontract, or agreement, including for traffic management purposes) the personally identifiable information of such individual, including on a publicly available website of the FAA.

(c) ICAO AIRCRAFT IDENTIFICATION CODE.—

(1) IN GENERAL.—The Administrator shall establish a program for aircraft owners and operators to apply for a new ICAO aircraft identification code.

(2) LIMITATIONS.—In carrying out the program described in paragraph (1), the Administrator shall require—

(A) each applicant to attest to a safety or security need in applying for a new ICAO aircraft identification code; and

(B) each approved applicant who obtains a new ICAO aircraft identification code to comply with all applicable aspects of, or related to, part 45 of title 14, Code of Federal Regulations, including updating an aircraft's registration number and N–Number to reflect such aircraft's new ICAO aircraft identification code.

(d) DEFINITIONS.—In this section:

(1) ADS–B.—The term "ADS–B" means automatic dependent surveillance-broadcast.

(2) ICAO.—The term "ICAO" means the International Civil Aviation Organization.

(3) PERSONALLY IDENTIFIABLE INFORMATION.—The term "personally identifiable information" means—

(A) the mailing address or registration address of an individual;

(B) an electronic address (including an email address) of an individual; or [1]

(C) the telephone number of an individual.[1]

(D) the names of the aircraft owner or operator, if the owner or operator is an individual.

(Added Pub. L. 118–63, title VIII, §803(a), May 16, 2024, 138 Stat. 1321.)

EDITORIAL NOTES

REFERENCES IN TEXT

The enactment of this Act, referred to in subsec. (b), probably means the enactment of Pub. L. 118–63, which enacted this section and was approved May 16, 2024.

PRIOR PROVISIONS

Provisions similar to those in subsec. (a) of this section were contained in Pub. L. 115–254, div. B, title V, §566, Oct. 5, 2018, 132 Stat. 3385, which was set out as a note under section 44103 of this title prior to repeal by Pub. L. 118–63, title VIII, §803(c), May 16, 2024, 138 Stat. 1322.

[1] *So in original.*

CHAPTER 443—INSURANCE

Sec.

44301. Definitions.
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44304. Reinsurance.
44305. Insuring United States Government property.

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EDITORIAL NOTES

AMENDMENTS

2022—Pub. L. 117–328, div. Q, §103(c), Dec. 29, 2022, 136 Stat. 5252, added item 44302a.

§44301. Definitions

In this chapter—

(1) "aircraft manufacturer" means any company or other business entity, the majority ownership and control of which is by United States citizens, that manufactures aircraft or aircraft engines.

(2) "American aircraft" means—

(A) a civil aircraft of the United States; and

(B) an aircraft owned or chartered by, or made available to—

(i) the United States Government; or

(ii) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of the State, territory, or possession.

(3) "insurance carrier" means a person authorized to do aviation insurance business in a State, including a mutual or stock insurance company and a reciprocal insurance association.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1168; Pub. L. 108–176, title I, §106(a)(2), Dec. 12, 2003, 117 Stat. 2498.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44301	49 App.:1531.	Aug. 23, 1958, Pub. L. 85–726, §1301, 72 Stat. 800; restated Nov. 9, 1977, Pub. L. 95–163, §1(a), 91 Stat. 1278.

In this section, the text of 49 App.:1531(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (1)(B)(i), the words "United States Government" are substituted for "United States or any department or agency thereof" for consistency in the revised title and with other titles of the United States Code.

In clause (1)(B)(ii), the words "the government of" are omitted for consistency in the revised title.

In clause (2), the words "insurance company" are omitted as being included in "insurance carrier". The words "means a person" are added because they are inclusive. The words "group or association" are omitted as being included in "person". The word "State" is substituted for "State of the United States" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2003—Pub. L. 108–176 added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§44302. General authority

(a) INSURANCE AND REINSURANCE.—(1) Subject to subsection (c) of this section and section 44305(a) of this title, the Secretary of Transportation may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an American aircraft or foreign-flag aircraft.

(2) An aircraft may be insured or reinsured for not more than its reasonable value as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry. Insurance or reinsurance may be provided only when the Secretary decides that the insurance cannot be obtained on reasonable terms from an insurance carrier.

(b) REIMBURSEMENT OF INSURANCE COST INCREASES.—

(1) IN GENERAL.—The Secretary may reimburse an air carrier for the increase in the cost of insurance, with respect to a premium for coverage ending before October 1, 2002, against loss or damage arising out of any risk from the operation of an American aircraft over the insurance premium that was in effect for a comparable operation during the period beginning September 4, 2001, and ending September 10, 2001, as the Secretary may determine. Such reimbursement is subject to subsections (a)(2), (c), and (d) of this section and to section 44303.

(2) PAYMENT FROM REVOLVING FUND.—A reimbursement under this subsection shall be paid from the revolving fund established by section 44307.

(3) FURTHER CONDITIONS.—The Secretary may impose such further conditions on insurance for which the increase in premium is subject to reimbursement under this subsection as the Secretary may deem appropriate in the interest of air commerce.

(4) TERMINATION OF AUTHORITY.—The authority to reimburse air carriers under this subsection shall expire 180 days after the date of enactment of this paragraph.

(c) PRESIDENTIAL APPROVAL.—The Secretary may provide insurance or reinsurance under subsection (a) of this section, or reimburse an air carrier under subsection (b) of this section, only with the approval of the President. The President may approve the insurance or reinsurance or the reimbursement only after deciding that the continued operation of the American aircraft or foreign-flag aircraft to be insured or reinsured is necessary in the interest of air commerce or national security or to carry out the foreign policy of the United States Government.

(d) CONSULTATION.—The President may require the Secretary to consult with interested departments, agencies, and instrumentalities of the Government before providing insurance or reinsurance or reimbursing an air carrier under this chapter.

(e) ADDITIONAL INSURANCE.—With the approval of the Secretary, a person having an insurable interest in an aircraft may insure with other underwriters in an amount that is more than the amount insured with the Secretary. However, the Secretary may not benefit from the additional insurance. This subsection does not prevent the Secretary from making contracts of coinsurance.

(f) EXTENSION OF POLICIES.—

(1) IN GENERAL.—The Secretary shall extend through December 11, 2014, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.

(g) AIRCRAFT MANUFACTURERS.—

(1) IN GENERAL.—The Secretary may provide to an aircraft manufacturer insurance for loss or damage resulting from operation of an aircraft by an air carrier and involving war or terrorism.

(2) AMOUNT.—Insurance provided by the Secretary under this subsection shall be for loss or damage in excess of the greater of the amount of available primary insurance or $50,000,000.

(3) TERMS AND CONDITIONS.—Insurance provided by the Secretary under this subsection shall be subject to the terms and conditions set forth in this chapter and such other terms and conditions as the Secretary may prescribe.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1168; Pub. L. 105–137, §2(a), Dec. 2, 1997, 111 Stat. 2640; Pub. L. 107–42, title II, §201(a), Sept. 22, 2001, 115 Stat. 234; Pub. L. 107–296, title XII, §1202, Nov. 25, 2002, 116 Stat. 2286; Pub. L. 108–11, title IV, §4001(a), Apr. 16, 2003, 117 Stat. 606; Pub. L. 108–176, title I, §106(a)(1), Dec. 12, 2003, 117 Stat. 2498; Pub. L. 108–447, div. H, title I, §106(a), Dec. 8, 2004, 118 Stat. 3204; Pub. L. 109–115, div. A, title I, §108(a), Nov. 30, 2005, 119 Stat. 2402; Pub. L. 110–161, div. K, title I, §114(a), Dec. 26, 2007, 121 Stat. 2381; Pub. L. 110–253, §3(c)(6), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §5(c), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(b), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(c), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(b), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–117, div. A, title I, §114(a), Dec. 16, 2009, 123 Stat. 3042; Pub. L. 111–153, §5(b), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(b), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(b), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(b), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(c), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(b), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(b), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(b), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(b), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(b), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(c), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(c), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title VII, §701, Feb. 14, 2012, 126 Stat. 118; Pub. L. 113–46, div. A, §152, Oct. 17, 2013, 127 Stat. 565; Pub. L. 113–76, div. L, title I, §119E(a), Jan. 17, 2014, 128 Stat. 582; Pub. L. 113–164, §148(a), Sept. 19, 2014, 128 Stat. 1874; Pub. L. 113–235, div. L, §102(a), Dec. 16, 2014, 128 Stat. 2767.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44302(a)	49 App.:1532(a)(1) (less words between 1st and 3d commas), (3).	Aug. 23, 1958, Pub. L. 85–726, §1302(a), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, §2, 91 Stat. 1278; Oct. 31, 1992, Pub. L. 102–581, §401(b), 106 Stat. 4897.
	49 App.:1537(a) (last sentence words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, §1307(a) (last sentence words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, §9(b), 98 Stat. 1706.
44302(b)	49 App.:1532(a)(1) (words between 1st and 2d commas), (2).	
44302(c)	49 App.:1532(a)(1) (words	

	between 2d and 3d commas).	
44302(d)	49 App.:1541.	Aug. 23, 1958, Pub. L. 85–726, §1311, 72 Stat. 806.

In subsection (a)(1), before clause (A), the words "Subject to subsection (b) of this section" are added, and the words "American aircraft or foreign-flag aircraft" are substituted for "aircraft" in 49 App.:1532(a), for clarity. The words "in the manner and to the extent provided by this subchapter" are omitted as unnecessary. The words "Insurance shall be issued under this subchapter only to cover any risk from the operation of an aircraft . . . such aircraft is" are omitted because of the restatement. In clause (B), the word "places" is substituted for "points" for consistency in the revised title.

In subsection (a)(2), the words "An aircraft may be insured or reinsured for not more than" are substituted for "and such stated amount shall not exceed" in 49 App.:1537(a) for clarity and because of the restatement. The words "its reasonable value" are substituted for "an amount . . . to represent the fair and reasonable value of the aircraft" to eliminate unnecessary words. The words "Insurance or reinsurance may be provided only" are added because of the restatement. The word "conditions" is omitted as being included in "terms".

In subsection (b), the words "The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President" are substituted for "with the approval of the President" for clarity and because of the restatement. The words "The President may" are substituted for "The President shall" because the authority of the President is discretionary.

In subsection (c), the words "the Secretary to consult . . . before providing insurance or reinsurance under this chapter" are substituted for "and after such consultation . . . as" because of the restatement. The words "departments, agencies, and instrumentalities" are substituted for "agencies" for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words "However, the Secretary may not benefit from the additional insurance" are substituted for "in that event, the Secretary shall not be entitled to the benefit of such insurance" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (b)(4), is the date of enactment of Pub. L. 107–42, which was approved Sept. 22, 2001.

The date of enactment of this subsection, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 107–296, which was approved Nov. 25, 2002.

AMENDMENTS

2014—Subsec. (f)(1). Pub. L. 113–235 substituted "December 11, 2014" for "the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015".

Pub. L. 113–164 substituted "the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015" for "September 30, 2014".

Pub. L. 113–76 substituted "September 30, 2014" for "the date specified in section 106(3) of the Continuing Appropriations Act, 2014".

2013—Subsec. (f)(1). Pub. L. 113–46 substituted "the date specified in section 106(3) of the Continuing Appropriations Act, 2014" for "September 30, 2013, and may extend through December 31, 2013".

2012—Subsec. (f)(1). Pub. L. 112–95 substituted "shall extend through September 30, 2013, and may extend through December 31, 2013, the termination date" for "shall extend through February 17, 2012, and may extend through May 17, 2012, the termination date".

Pub. L. 112–91 substituted "February 17, 2012," for "January 31, 2012," and "May 17, 2012," for "April 30, 2012,".

2011—Subsec. (f)(1). Pub. L. 112–30 substituted "January 31, 2012," for "September 16, 2011," and "April 30, 2012," for "December 31, 2011,".

Pub. L. 112–27 substituted "September 16, 2011," for "July 22, 2011," and "December 31, 2011," for "October 31, 2011,".

Pub. L. 112–21 substituted "July 22, 2011," for "June 30, 2011," and "October 31, 2011," for "September 30, 2011,".

Pub. L. 112–16 substituted "June 30, 2011," for "May 31, 2011," and "September 30, 2011," for "August 31, 2011,".

Pub. L. 112–7 substituted "May 31, 2011," for "March 31, 2011," and "August 31, 2011," for "June 30, 2011,".

2010—Subsec. (f)(1). Pub. L. 111–329, §5(b), substituted "March 31, 2011," for "December 31, 2010," and "June 30, 2011," for "March 31, 2011,".

Pub. L. 111–249 substituted "December 31, 2010," for "September 30, 2010," and "March 31, 2011," for "December 31, 2010,".

Pub. L. 111–216 substituted "September 30, 2010," for "August 1, 2010," and "December 31, 2010," for "October 31, 2010,".

Pub. L. 111–197 substituted "August 1, 2010," for "July 3, 2010," and "October 31, 2010," for "September 30, 2010,".

Pub. L. 111–161 substituted "July 3, 2010," for "April 30, 2010," and "September 30, 2010," for "July 31, 2010,".

Pub. L. 111–153 substituted "April 30, 2010," for "March 31, 2010," and "July 31, 2010," for "June 30, 2010,".

2009—Subsec. (f)(1). Pub. L. 111–117, which directed the substitution of "September 30, 2010," for "September 30, 2009," and "December 31, 2010," for "December 31, 2009,", could not be executed because of the intervening amendment by Pub. L. 111–69. See below.

Pub. L. 111–116 substituted "March 31, 2010," for "December 31, 2009," and "June 30, 2010," for "March 31, 2010,".

Pub. L. 111–69 substituted "December 31, 2009," for "September 30, 2009," and "March 31, 2010," for "December 31, 2009,".

Pub. L. 111–12 substituted "September 30, 2009," for "March 31, 2009," and "December 31, 2009," for "May 31, 2009,".

2008—Subsec. (f)(1). Pub. L. 110–330 substituted "March 31, 2009," for "November 30, 2008," and "May 31, 2009," for "December 31, 2008,".

Pub. L. 110–253 substituted "November 30, 2008" for "August 31, 2008".

2007—Subsec. (f)(1). Pub. L. 110–161 substituted "2008" for "2006" in two places.

2005—Subsec. (f)(1). Pub. L. 109–115 substituted "2006" for "2005" in two places.

2004—Subsec. (f)(1). Pub. L. 108–447 substituted "2005" for "2004" in two places.

2003—Subsec. (f)(1). Pub. L. 108–11, substituted "2004" for "2003" in two places.

Subsec. (g). Pub. L. 108–176 added subsec. (g).

2002—Subsec. (f). Pub. L. 107–296 added subsec. (f).

2001—Subsec. (a)(1). Pub. L. 107–42, §201(a)(1), substituted "subsection (c)" for "subsection (b)" and "foreign-flag aircraft." for "foreign-flag aircraft—" and struck out subpars. (A) and (B) which read as follows:

"(A) in foreign air commerce; or

"(B) between at least 2 places, all of which are outside the United States."

Subsec. (b). Pub. L. 107–42, §201(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–42, §201(a)(2), (4), redesignated subsec. (b) as (c), in first sentence inserted ", or reimburse an air carrier under subsection (b) of this section," before "only with the approval", and in second sentence inserted "or the reimbursement" before "only after deciding" and "in the interest of air commerce or national security or" before "to carry out the foreign policy". Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–42, §201(a)(2), (5), redesignated subsec. (c) as (d) and inserted "or reimbursing an air carrier" before "under this chapter". Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 107–42, §201(a)(2), redesignated subsec. (d) as (e).

1997—Subsec. (a)(2). Pub. L. 105–137 substituted "as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry." for "as determined by the Secretary."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

Amendment by Pub. L. 110–253 effective July 1, 2008, see section 3(d) of Pub. L. 110–253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EXTENSION OF TERMINATION DATE OF POLICIES

Pub. L. 109–289, div. B, title II, §21002(a), as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 47, provided that subsec. (f)(1) of this section would be applied by substituting "September 30, 2007" for "August 31, 2006, and may extend through December 31, 2006".

EXECUTIVE DOCUMENTS

PROVISION OF AVIATION INSURANCE COVERAGE FOR COMMERCIAL AIR CARRIER SERVICE

Determination of President of the United States, No. 94–39, July 26, 1994, 59 F.R. 38551, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, including 3 U.S.C. 301 and 49 U.S.C. 44302, I hereby:

(1) determine that continuation of authorized humanitarian relief air services to Haiti is necessary to carry out the foreign policy of the United States;

(2) approve provision by the Secretary of Transportation of insurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided in 49 U.S.C. 44301–44310, whenever he determines that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States;

(3) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by 49 U.S.C. 44302(b) [now 44302(c)], for purposes of responding to the current crisis in Haiti; and

(4) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by 49 U.S.C. 44306(b) [now 44306(c)] for purposes of responding to the current

crisis in Haiti.

The Secretary of Transportation is directed to bring this determination immediately to the attention of all air carriers within the meaning of 49 U.S.C. 40102(a)(2), and to arrange for its publication in the Federal Register.

WILLIAM J. CLINTON.

PROVISION OF AVIATION INSURANCE COVERAGE FOR COMMERCIAL AIR CARRIER SERVICE IN DOMESTIC AND INTERNATIONAL OPERATIONS

Memorandum for the Secretary of Transportation

Memorandum of President of the United States, Dec. 27, 2013, 79 F.R. 527, provided:

By the authority vested in me as President by the Constitution and the laws of the United States, including 49 U.S.C. 44301–44310, I hereby:

1. Determine that the continuation of U.S. air transportation is necessary in the interest of air commerce, national security, and the foreign policy of the United States.

2. Approve provision by the Secretary of Transportation of insurance or reinsurance to U.S.-certificated air carriers against loss or damage arising out of any risk from the operation of an aircraft, in the manner and to the extent provided in chapter 443 of title 49, United States Code, until January 15, 2014, if he determines that such insurance or reinsurance cannot be obtained on reasonable terms from any company authorized to conduct an insurance business in a State of the United States.

3. Delegate to the Secretary of Transportation the authority, vested in me by 49 U.S.C. 44306(c), to extend this approval and determination through December 31, 2014, or until any date prior to December 31, 2014, provided that the Congress further extends the date contained in section 44310 and further provided that he not use this delegation to extend this determination and approval beyond the dates authorized under any such provision of law with an ending effective date prior to December 31, 2014.

You are directed to bring this determination immediately to the attention of all air carriers, as defined in 49 U.S.C. 40102(a)(2), and to arrange for its publication in the Federal Register.

BARACK OBAMA.

Prior Presidential documents related to provision of insurance to U.S.-flag commercial air service were contained in the following:

Memorandum of President of the United States, Sept. 27, 2012, 77 F.R. 60035.
Memorandum of President of the United States, Sept. 28, 2011, 76 F.R. 61247.
Memorandum of President of the United States, Sept. 29, 2010, 75 F.R. 61033.
Memorandum of President of the United States, Aug. 21, 2009, 74 F.R. 43617.
Memorandum of President of the United States, Dec. 23, 2008, 73 F.R. 79589.
Memorandum of President of the United States, Dec. 27, 2007, 73 F.R. 1813.
Memorandum of President of the United States, Dec. 21, 2006, 71 F.R. 77243.
Memorandum of President of the United States, Dec. 22, 2005, 70 F.R. 76669.
Determination of President of the United States, No. 2005–15, Dec. 21, 2004, 69 F.R. 77607.
Determination of President of the United States, No. 2004–13, Dec. 11, 2003, 69 F.R. 5237.
Determination of President of the United States, No. 01–29, Sept. 23, 2001, 66 F.R. 49075.

§44302a. Temporary insurance

(a) IN GENERAL.—The Secretary may provide insurance or reinsurance under this section to or for an air carrier for 1 coverage period not to exceed 90 days. Except as otherwise provided in this section, such insurance or reinsurance shall be subject to the requirements of this chapter.

(b) RESTRICTIONS.—A policy for insurance or reinsurance issued under this section—

(1) may not be issued unless the insurance carrier of the air carrier has unilaterally terminated the air carrier's war risk liability coverage pursuant to—

(A) notice under the policy;

(B) an endorsement to the policy; or

(C) an automatic termination provision in the policy or any endorsement thereto; and

(2) may cover hull, comprehensive, and third party liability risks.

(c) PREMIUM.—A premium for insurance or reinsurance provided under this section shall be calculated based on a prorated amount equivalent to the premium that was in effect under the terminated insurance carrier policy.

(d) APPROVAL.—A policy for insurance or reinsurance provided under this section—

(1) shall be exempt from the requirements of section 44302(c); and

(2) may provide coverage to the extent allowed under section 44303, as determined by the Secretary, notwithstanding any determination by the President in subsection (a)(1) of such section.

(Added Pub. L. 117–328, div. Q, §103(a), Dec. 29, 2022, 136 Stat. 5252.)

§44303. Coverage

(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance, or reimburse insurance costs, as authorized under sections 44302 and 44302a of this title for the following:

(1) an American aircraft or foreign-flag aircraft engaged in aircraft operations the President decides are necessary in the interest of air commerce or national security or to carry out the foreign policy of the United States Government.

(2) property transported or to be transported on aircraft referred to in clause (1) of this section, including—

(A) shipments by express or registered mail;

(B) property owned by citizens or residents of the United States;

(C) property—

(i) imported to, or exported from, the United States; and

(ii) bought or sold by a citizen or resident of the United States under a contract putting the risk of loss or obligation to provide insurance against risk of loss on the citizen or resident; and

(D) property transported between—

(i) a place in a State or the District of Columbia and a place in a territory or possession of the United States;

(ii) a place in a territory or possession of the United States and a place in another territory or possession of the United States; or

(iii) 2 places in the same territory or possession of the United States.

(3) the personal effects and baggage of officers and members of the crew of an aircraft referred to in clause (1) of this section and of other individuals employed or transported on that aircraft.

(4) officers and members of the crew of an aircraft referred to in clause (1) of this section and other individuals employed or transported on that aircraft against loss of life, injury, or detention.

(5) statutory or contractual obligations or other liabilities, customarily covered by insurance, of an aircraft referred to in clause (1) of this section or of the owner or operator of that aircraft.

(6) loss or damage of an aircraft manufacturer resulting from operation of an aircraft by an air carrier and involving war or terrorism.

(b) AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—For acts of terrorism committed on or to an air carrier during the period beginning on September 22, 2001, and ending on December 11, 2014, the Secretary may certify that the air carrier was a victim of an act of terrorism and in the Secretary's judgment, based on the Secretary's analysis and conclusions regarding the facts and circumstances of each case, shall not be responsible for losses suffered by third parties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed $100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds

$100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this subsection) under a cause of action arising out of such act. The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1169; Pub. L. 107–42, title II, §201(b)(1), Sept. 22, 2001, 115 Stat. 235; Pub. L. 107–296, title XII, §1201, Nov. 25, 2002, 116 Stat. 2286; Pub. L. 108–11, title IV, §4001(b), Apr. 16, 2003, 117 Stat. 606; Pub. L. 108–176, title I, §106(a)(3), (b), Dec. 12, 2003, 117 Stat. 2499; Pub. L. 108–447, div. H, title I, §106(b), Dec. 8, 2004, 118 Stat. 3204; Pub. L. 109–115, div. A, title I, §108(b), Nov. 30, 2005, 119 Stat. 2402; Pub. L. 110–161, div. K, title I, §114(b), Dec. 26, 2007, 121 Stat. 2381; Pub. L. 110–253, §3(c)(7), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §5(d), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(c), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(d), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(c), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–117, div. A, title I, §114(b), Dec. 16, 2009, 123 Stat. 3043; Pub. L. 111–153, §5(c), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(c), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(c), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(c), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(d), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(c), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(c), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(c), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(c), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(c), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(d), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(d), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title VII, §702, Feb. 14, 2012, 126 Stat. 118; Pub. L. 113–46, div. A, §153, Oct. 17, 2013, 127 Stat. 565; Pub. L. 113–76, div. L, title I, §119E(b), Jan. 17, 2014, 128 Stat. 582; Pub. L. 113–164, §148(b), Sept. 19, 2014, 128 Stat. 1874; Pub. L. 113–235, div. L, §102(b), Dec. 16, 2014, 128 Stat. 2767; Pub. L. 117–328, div. Q, §103(b)(1), Dec. 29, 2022, 136 Stat. 5252.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44303	49 App.:1533.	Aug. 23, 1958, Pub. L. 85–726, §1303, 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, §3, 91 Stat. 1279.

In this section, before clause (1), the words "persons, property, or interest" are omitted as unnecessary. In clause (2), the word "property" is substituted for "Cargoes" and "air cargoes" for consistency in the revised title. In clause (2)(B) and (C), the words "its territories, or possessions" are omitted as unnecessary because of the definition of "United States" in section 40102(a) of the revised title. In clause (2)(C)(ii), the word "contract" is substituted for "contracts of sale or purchase", and the words "putting . . . on" are substituted for "is assumed by or falls upon", to eliminate unnecessary words. In clause (2)(D), the word "place" is substituted for "point" for consistency in the revised title. In subclause (i), the words "a State or the District of Columbia" are substituted for "the United States" for clarity and consistency because the definition of "United States" in section 40102(a) of the revised title is too broad for the context of the clause. The definition in section 40102(a) includes territories and possession and would therefore overlap with subclauses (ii) and (iii). In subclause (iii), the words "2 places in the same territory or possession of the United States" are substituted for "any point in any such territory or possession and any other point in the same territory or possession" for clarity. In clauses (3) and (4), the word "individuals" is substituted for "persons" as being more appropriate. The words "captains" and "pilots" are omitted as being included in "officers and members of the crew".

EDITORIAL NOTES

CODIFICATION

The text of section 201(b)(2) of Pub. L. 107–42, which was transferred and redesignated so as to appear as subsec. (b) of this section and amended by Pub. L. 107–296, was based on Pub. L. 107–42, title II, §201(b)(2),

Sept. 22, 2001, 115 Stat. 235, formerly included in a note set out under section 40101 of this title.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–328 substituted "sections 44302 and 44302a" for "section 44302" in introductory provisions.

2014—Subsec. (b). Pub. L. 113–235 substituted "December 11, 2014" for "the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015".

Pub. L. 113–164 substituted "the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015" for "September 30, 2014".

Pub. L. 113–76 substituted "September 30, 2014" for "the date specified in section 106(3) of the Continuing Appropriations Act, 2014".

2013—Subsec. (b). Pub. L. 113–46 substituted "the date specified in section 106(3) of the Continuing Appropriations Act, 2014" for "December 31, 2013".

2012—Subsec. (b). Pub. L. 112–95 substituted "ending on December 31, 2013, the Secretary may certify" for "ending on May 17, 2012, the Secretary may certify".

Pub. L. 112–91 substituted "May 17, 2012," for "April 30, 2012,".

2011—Subsec. (b). Pub. L. 112–30 substituted "April 30, 2012," for "December 31, 2011,".

Pub. L. 112–27 substituted "December 31, 2011," for "October 31, 2011,".

Pub. L. 112–21 substituted "October 31, 2011," for "September 30, 2011,".

Pub. L. 112–16 substituted "September 30, 2011," for "August 31, 2011,".

Pub. L. 112–7 substituted "August 31, 2011," for "June 30, 2011,".

2010—Subsec. (b). Pub. L. 111–329 substituted "June 30, 2011," for "March 31, 2011,".

Pub. L. 111–249 substituted "March 31, 2011," for "December 31, 2010,".

Pub. L. 111–216 substituted "December 31, 2010," for "October 31, 2010,".

Pub. L. 111–197 substituted "October 31, 2010," for "September 30, 2010,".

Pub. L. 111–161 substituted "September 30, 2010," for "July 31, 2010,".

Pub. L. 111–153 substituted "July 31, 2010," for "June 30, 2010,".

2009—Subsec. (b). Pub. L. 111–117, which directed the substitution of "December 31, 2010," for "December 31, 2009,", could not be executed due to the intervening amendment by Pub. L. 111–69. See below.

Pub. L. 111–116 substituted "June 30, 2010," for "March 31, 2010,".

Pub. L. 111–69 substituted "March 31, 2010," for "December 31, 2009,".

Pub. L. 111–12 substituted "December 31, 2009," for "May 31, 2009,".

2008—Subsec. (b). Pub. L. 110–330 substituted "May 31, 2009," for "March 31, 2009,".

Pub. L. 110–253 substituted "March 31, 2009" for "December 31, 2008".

2007—Subsec. (b). Pub. L. 110–161 substituted "2008," for "2006,".

2005—Subsec. (b). Pub. L. 109–115 substituted "2006" for "2005".

2004—Subsec. (b). Pub. L. 108–447 substituted "2005" for "2004'.

2003—Subsec. (a). Pub. L. 108–176, §106(a)(3)(A), substituted "IN GENERAL" for "IN GENERAL" in heading.

Subsec. (a)(6). Pub. L. 108–176, §106(a)(3)(B), added par. (6).

Subsec. (b). Pub. L. 108–176, §106(b), inserted at end "The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved."

Pub. L. 108–11 substituted "2004" for "2003".

2002—Pub. L. 107–296 designated existing provisions as subsec. (a), inserted heading, transferred and redesignated the text of section 201(b)(2) of Pub. L. 107–42 so as to appear as subsec. (b), in heading substituted "Air Carrier Liability for Third Party Claims Arising Out of Acts of Terrorism" for "Discretion of the Secretary", and in text substituted "the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary" for "the 180-day period following the date of enactment of this Act, the Secretary of Transportation" and "this subsection" for "this paragraph". See Codification note above.

2001—Pub. L. 107–42, §201(b)(1)(A), inserted ", or reimburse insurance costs, as" after "insurance and reinsurance" in introductory provisions.

Par. (1). Pub. L. 107–42, §201(b)(1)(B), inserted "in the interest of air commerce or national security or" before "to carry out the foreign policy".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

Amendment by Pub. L. 110–253 effective July 1, 2008, see section 3(d) of Pub. L. 110–253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EXTENSION OF LIMITATION OF AIR CARRIER LIABILITY

Pub. L. 109–289, div. B, title II, §21002(b), as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 48, provided that subsec. (b) of this section would be applied by substituting "September 30, 2007" for "December 31, 2006".

§44304. Reinsurance

To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, any insurance carrier any insurance or reinsurance provided by the Secretary under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1169; Pub. L. 107–42, title II, §201(c), Sept. 22, 2001, 115 Stat. 235; Pub. L. 112–95, title VII, §703, Feb. 14, 2012, 126 Stat. 118.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44304(a)	49 App.:1535(a).	Aug. 23, 1958, Pub. L. 85–726, §1305, 72 Stat. 802; Nov. 9, 1977, Pub. L. 95–163, §4(a), 91 Stat. 1279.
44304(b)	49 App.:1535(b).	

In subsection (a), the words "may reinsure any part of the insurance provided by an insurance carrier" are substituted for "may reinsure, in whole or in part, any company authorized to do an insurance business" for clarity and consistency with source provisions restated in this subchapter and the definition of "insurance carrier" in section 44301 of the revised title. The words "transfer to, or transfer back to" are substituted for "cede or retrocede to" for clarity.

In subsection (b), the word "same" is omitted as being included in "similar". The words "on account of the cost of" are omitted as surplus. The word "providing" is substituted for "rendered" and "furnished" because it is inclusive. The words "except for" are substituted for "but such allowance to the carrier shall not provide for" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–95 substituted "any insurance carrier" for "the carrier".

2001—Pub. L. 107–42 struck out subsec. (a) designation and heading "General Authority" and struck out subsec. (b) which read as follows:

"(b) PREMIUM LEVELS.—The Secretary may provide reinsurance at premiums not less than, or obtain reinsurance at premiums not higher than, the premiums the Secretary establishes on similar risks or the premiums the insurance carrier charges for the insurance to be reinsured by the Secretary, whichever is most advantageous to the Secretary. However, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practice, except for payments by the carrier for the stimulation or solicitation of insurance business."

§44305. Insuring United States Government property

(a) GENERAL.—With the approval of the President, a department, agency, or instrumentality of the United States Government may obtain—

(1) insurance under this chapter, including insurance for risks from operating an aircraft in intrastate or interstate air commerce, but not including insurance on valuables subject to sections 17302 and 17303 of title 40; and

(2) insurance for risks arising from providing goods or services directly related to and necessary for operating an aircraft covered by insurance obtained under clause (1) of this subsection if the aircraft is operated—

(A) in carrying out a contract of the department, agency, or instrumentality; or

(B) to transport military forces or materiel on behalf of the United States under an agreement between the Government and the government of a foreign country.

(b) PREMIUM WAIVERS AND INDEMNIFICATION.—With the approval required under subsection (a) of this section, the Secretary of Transportation may provide the insurance without premium at the request of the Secretary of Defense or the head of a department, agency, or instrumentality designated by the President when the Secretary of Defense or the designated head agrees to indemnify the Secretary of Transportation against all losses covered by the insurance. The Secretary of Defense and any designated head may make indemnity agreements with the Secretary of Transportation under this section. If such an agreement is countersigned by the President or the President's designee, the agreement shall constitute, for purposes of section 44302(c), a

determination that continuation of the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1170; Pub. L. 105–137, §3, Dec. 2, 1997, 111 Stat. 2640; Pub. L. 107–42, title II, §201(e), Sept. 22, 2001, 115 Stat. 236; Pub. L. 107–217, §3(n)(6), Aug. 21, 2002, 116 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44305	49 App.:1534.	Aug. 23, 1958, Pub. L. 85–726, §1304, 72 Stat. 802; Oct. 31, 1992, Pub. L. 102–581, §401(a), 106 Stat. 4897.

In this section, the words "a department, agency, or instrumentality" are substituted for "Any department or agency" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the words "obtain insurance under this chapter" are substituted for "procure from the Secretary any of the insurance provided under this subchapter" to eliminate unnecessary words. The words "overseas air commerce" are omitted for the reasons given in the revision note for section 40101.

In subsection (b), the words "or the head of a department, agency, or instrumentality designated by the President" are substituted for "and such other agencies as the President may prescribe" as being more precise and for consistency in the revised title. The words "when the Secretary of Defense or the designated head agrees" are substituted for "in consideration of" for clarity. The words "any designated head" are substituted for "the agreement of . . . such agency" and "such other agencies" for clarity and because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–217 substituted "sections 17302 and 17303 of title 40" for "sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722)".

2001—Subsec. (b). Pub. L. 107–42 substituted "44302(c)" for "44302(b)".

1997—Subsec. (b). Pub. L. 105–137 inserted at end "If such an agreement is countersigned by the President or the President's designee, the agreement shall constitute, for purposes of section 44302(b), a determination that continuation of the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States."

§44306. Premiums and limitations on coverage and claims

(a) PREMIUMS BASED ON RISK.—To the extent practical, the premium charged for insurance or reinsurance under this chapter shall be based on consideration of the risk involved.

(b) ALLOWANCES IN SETTING PREMIUM RATES FOR REINSURANCE.—In setting premium rates for reinsurance, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practices, except for payments by the insurance carrier for the stimulation or solicitation of insurance business.

(c) TIME LIMITS.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for a period of not more than 1 year. The period may be extended for additional periods of not more than 1 year each only if the President decides, before each additional period, that the continued operation of the aircraft to be insured or reinsured is necessary in the interest of air commerce or national security or to carry out the foreign policy of the United States Government.

(d) MAXIMUM INSURED AMOUNT.—The insurance policy on an aircraft insured or reinsured under this chapter shall specify a stated amount that is not more than the value of the aircraft, as

determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry. A claim under the policy may not be paid for more than that stated amount.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1170; Pub. L. 105–137, §2(b), Dec. 2, 1997, 111 Stat. 2640; Pub. L. 107–42, title II, §201(d), Sept. 22, 2001, 115 Stat. 235; Pub. L. 107–71, title I, §§124(b), 147, Nov. 19, 2001, 115 Stat. 631, 645; Pub. L. 107–296, title XII, §1203, Nov. 25, 2002, 116 Stat. 2287; Pub. L. 108–176, title I, §106(c), (e), Dec. 12, 2003, 117 Stat. 2499.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44306(a)	49 App.:1532(b).	Aug. 23, 1958, Pub. L. 85–726, §1302(b), (c), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, §2, 91 Stat. 1279.
44306(b)	49 App.:1532(c).	
44306(c)	49 App.:1537(a) (last sentence less words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, §1307(a) (last sentence less words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, §9(b), 98 Stat. 1706.

In subsection (a), the words "To the extent" are substituted for "insofar as" for consistency.

In subsection (b), the word "initial" is omitted as surplus. The words "The period" are substituted for "Such insurance or reinsurance", and the words "the President decides . . . that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government" are substituted for "the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance", for clarity.

In subsection (c), the words "or reinsured" are added for consistency. The words "to be paid in the event of total loss" are omitted as unnecessary because of the last sentence. The words "A claim under the policy may not be paid for more than that stated amount" are substituted for "the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–176, §106(c), substituted "by the insurance carrier" for "by the air carrier".

Subsec. (c). Pub. L. 108–176, §106(e), made technical correction to directory language of Pub. L. 107–71, §124(b). See 2001 Amendment note below.

2002—Subsec. (c). Pub. L. 107–296 made technical correction to directory language of Pub. L. 107–71, §147. See 2001 Amendment note below.

2001—Subsec. (b). Pub. L. 107–42, §201(d)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub.L. 107–71, §147, as amended by Pub. L. 107–296, substituted "1 year" for "60 days" in two places.

Pub. L. 107–71, §124(b), as amended by Pub. L. 108–176, §106(e), inserted "in the interest of air commerce or national security or" before "to carry out the foreign policy".

Pub. L. 107–42, §201(d)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–42, §201(d)(1), redesignated subsec. (c) as (d).

1997—Subsec. (c). Pub. L. 105–137 substituted "as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry." for "as determined by the Secretary."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 106(c) of Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

Pub. L. 108–176, title I, §106(e), Dec. 12, 2003, 117 Stat. 2499, provided that the amendment made by section 106(e) is effective Nov. 19, 2001.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–296, title XII, §1203, Nov. 25, 2002, 116 Stat. 2287, provided that the amendment made by section 1203 is effective Nov. 19, 2001.

DELEGATION OF AUTHORITY

Authority of President under subsec. (c) of this section delegated to Secretary of Transportation, with certain conditions, by Memorandum of President of the United States, Dec. 27, 2013, 79 F.R. 527, set out as a note under section 44302 of this title.

§44307. Revolving fund

(a) EXISTENCE, DISBURSEMENTS, APPROPRIATIONS, AND DEPOSITS.—(1) There is a revolving fund in the Treasury. The Secretary of the Treasury shall disburse from the fund payments to carry out this chapter.

(2) Necessary amounts to carry out this chapter may be appropriated to the fund. The amounts appropriated and other amounts received in carrying out this chapter shall be deposited in the fund.

(b) INVESTMENT.—On request of the Secretary of Transportation, the Secretary of the Treasury may invest any part of the amounts in the revolving fund in interest-bearing securities of the United States Government. The interest on, and the proceeds from the sale or redemption of, the securities shall be deposited in the fund.

(c) EXCESS AMOUNTS.—The balance in the revolving fund in excess of an amount the Secretary of Transportation determines is necessary for the requirements of the fund and for reasonable reserves to maintain the solvency of the fund shall be deposited at least annually in the Treasury as miscellaneous receipts.

(d) EXPENSES.—The Secretary of Transportation shall deposit annually an amount in the Treasury as miscellaneous receipts to cover the expenses the Government incurs when the Secretary of Transportation uses appropriated amounts in carrying out this chapter. The deposited amount shall equal an amount determined by multiplying the average monthly balance of appropriated amounts retained in the revolving fund by a percentage that is at least the current average rate payable on marketable obligations of the Government. The Secretary of the Treasury shall determine annually in advance the percentage applied.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1170.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44307(a)	49 App.:1536(a), (b).	Aug. 23, 1958, Pub. L. 85–726, §1306(a)–(d), 72 Stat. 803.
44307(b)	49 App.:1536(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1306(f); added Aug. 9, 1975, Pub. L. 94–90, §1(a), 89 Stat. 439.
44307(c)	49 App.:1536(c).	
44307(d)	49 App.:1536(d).	

In subsection (a)(1), the first sentence is added for clarity. The last sentence is substituted for 49

App.:1536(a) (last sentence) to eliminate unnecessary words and for consistency in the revised title.

In subsection (a)(2), the words "The amounts appropriated and other amounts received in carrying out this chapter" are substituted for "Moneys appropriated by Congress to carry out the provisions of this subchapter and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this subchapter" to eliminate unnecessary words.

In subsection (b), the words "any part" are substituted for "all or any part" to eliminate unnecessary words. The words "held in the revolving fund" are omitted as surplus. The words "deposited in" are substituted for "credited to and form a part of" for consistency.

In subsection (d), the words "The Secretary of Transportation shall deposit annually an amount in the Treasury" are substituted for "Annual payments shall be made by the Secretary to the Treasury of the United States", the words "The deposited amount shall equal an amount determined by multiplying" are substituted for "These payments shall be computed by applying to", and the words "a percentage that is at least the current average rate payable on marketable obligations of the Government" are substituted for "a percentage" and "Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations", for clarity.

§44308. Administrative

(a) COMMERCIAL PRACTICES.—The Secretary of Transportation may carry out this chapter consistent with commercial practices of the aviation insurance business.

(b) ISSUANCE OF POLICIES AND DISPOSITION OF CLAIMS.—(1) The Secretary may issue insurance policies to carry out this chapter. The Secretary may prescribe the forms, amounts insured under the policies, and premiums charged. Any such policy may authorize the binding arbitration of claims made thereunder in such manner as may be agreed to by the Secretary and any commercial insurer that may be responsible for any part of a loss to which such policy relates. The Secretary may change an amount of insurance or a premium for an existing policy only with the consent of the insured.

(2) For a claim under insurance authorized by this chapter, the Secretary may—

(A) settle and pay the claim made for or against the United States Government;

(B) pay the amount of a binding arbitration award made under paragraph (1); and

(C) pay the amount of a judgment entered against the Government.

(c) UNDERWRITING AGENT.—(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the agent, or a claims adjuster who is independent of the underwriting agent, to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

(2) The Secretary may pay reasonable compensation to an underwriting agent for servicing insurance the agent writes for the Secretary. Compensation may include payment for reasonable expenses incurred by the agent but may not include a payment by the agent for stimulation or solicitation of insurance business.

(3) Except as provided by this subsection, the Secretary may not pay an insurance broker or other person acting in a similar capacity any consideration for arranging insurance when the Secretary directly insures any part of the risk.

(d) BUDGET.—The Secretary shall submit annually a budget program for carrying out this chapter as provided for wholly owned Government corporations under chapter 91 of title 31.

(e) ACCOUNTS.—The Secretary shall maintain a set of accounts for audit under chapter 35 of title 31. Notwithstanding chapter 35, the Comptroller General shall allow credit for expenditures under this chapter made consistent with commercial practices in the aviation insurance business when shown to be necessary because of the business activities authorized by this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1171; Pub. L. 104–316, title I, §127(e), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–137, §4, Dec. 2, 1997, 111 Stat. 2640; Pub. L. 112–95, title VII, §704, Feb. 14, 2012, 126 Stat. 118.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44308(a)	49 App.:1537(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1307(a) (1st sentence), (c), (d), 72 Stat. 803, 804.
44308(b)(1)	49 App.:1537(a) (1st sentence words before 6th comma).	
	49 App.:1537(b).	Aug. 23, 1958, Pub. L. 85–726, §1307(b), 72 Stat. 804; Nov. 9, 1977, Pub. L. 95–163, §5(a), 91 Stat. 1280.
44308(b)(2)	49 App.:1537(a) (1st sentence words after 6th comma).	
44308(c)(1)	49 App.:1537(d) (1st, 3d sentences).	
44308(c)(2)	49 App.:1537(d) (2d, last sentences).	
44308(c)(3)	49 App.:1537(c) (last sentence).	
44308(d)	49 App.:1537(f) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1307(f), 72 Stat. 804; Jan. 2, 1975, Pub. L. 93–604, §702, 88 Stat. 1964.
44308(e)	49 App.:1537(f) (last sentence).	

In subsection (a), the words "may carry out this chapter" are substituted for "in administering this subchapter, may exercise his powers, perform his duties and functions, and make his expenditures" to eliminate unnecessary words.

In subsection (b)(1), the word "insurance" is added for clarity. The words "rules, and regulations" are omitted as unnecessary because of 49:322(a). The words "as he deems proper" and "subject to the following provisions of this subsection" are omitted as surplus. The words "and change" and "fix, adjust, and change" are omitted as being included in "prescribe". The words "under the policies" are added for clarity. The word "charged" is substituted for "provided for in this subchapter" for consistency in this subchapter.

In subsection (b)(2), before clause (A), the words "the Secretary" are added because of the restatement. In clause (A), the words "adjust and . . . losses, compromise and" are omitted as included in "settle and pay the claim". The word "made" is substituted for "whether" for clarity. In clause (B), the word "entered" is substituted for "rendered" because it is more appropriate. The words "in any suit" are omitted as surplus. The words "or the amount of any settlement agreed upon" are omitted as being included in "settle and pay the claim".

In subsection (c)(1), the words "and when practical shall" are substituted for "and whenever he finds it practical to do so shall" to eliminate unnecessary words. The word "his" is omitted as surplus. The words "The Secretary may use" are substituted for "may be utilized" for consistency. The words "The services of" are omitted as unnecessary.

In subsection (c)(2), the words "pay reasonable compensation" are substituted for "allow . . . fair and reasonable compensation" for consistency in the revised title. The words "an underwriting agent" are substituted for "such companies or groups of companies", and the words "the agent writes" are substituted for "written by such companies or groups of companies as underwriting agent", for clarity. The word "payment" is substituted for "allowance" for consistency.

In subsection (c)(3), the words "intermediary" and "fee or other" are omitted as surplus. The word "for" is substituted for "by virtue of his participation in" to eliminate unnecessary words.

In subsection (d), the word "prepare" is omitted as being included in "submit". The words "for carrying out this chapter" are substituted for "in the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter" for consistency and to eliminate unnecessary words. The words "under chapter 91 of title 31" are substituted for "by the Government Corporation Control Act, as amended (59 Stat. 597; 31 U.S.C. 841)" in section 1307(f) of the Act of August 23, 1958 (Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067).

In subsection (e), the words "under chapter 35 of title 31" are substituted for "in accordance with the provisions of the Accounting and Auditing Act of 1950" in section 1307(f) of the Act of August 23, 1958

(Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067). The words "*Provided*, That . . . the Secretary may exercise the powers conferred in said subchapter, perform the duties and functions" are omitted as surplus. The words "Notwithstanding chapter 35" are added for clarity. The words "Comptroller General" are substituted for "General Accounting Office" because of 31:702.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (c)(1). Pub. L. 112–95 substituted "agent, or a claims adjuster who is independent of the underwriting agent," for "agent" in second sentence.

1997—Subsec. (b)(1). Pub. L. 105–137, §4(a), inserted after second sentence "Any such policy may authorize the binding arbitration of claims made thereunder in such manner as may be agreed to by the Secretary and any commercial insurer that may be responsible for any part of a loss to which such policy relates."

Subsec. (b)(2). Pub. L. 105–137, §4(b), struck out "and" at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

1996—Subsec. (e). Pub. L. 104–316 substituted "for audit" for ". The Comptroller General shall audit those accounts".

§44309. Civil actions

(a) LOSSES.—

(1) ACTIONS AGAINST UNITED STATES.—A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

(A) a loss insured under this chapter is in dispute; or

(B)(i) the person is subrogated under a contract between the person and a party insured under this chapter (other than section 44305(b)) to the rights of the insured party against the United States Government; and

(ii) the person has paid to the insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary has determined is a loss covered by insurance issued under this chapter (other than section 44305(b)).

(2) LIMITATION.—A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. A civil action shall not be instituted against the United States under this chapter unless the claimant first presents the claim to the Secretary of Transportation and such claim is finally denied by the Secretary in writing and notice of the denial of such claim is sent by certified or registered mail.

(3) PROCEDURE.—To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28, United States Code, applies to an action under this subsection.

(b) VENUE AND JOINDER.—(1) A civil action under subsection (a) of this section may be brought in the judicial district for the District of Columbia or in the judicial district in which the plaintiff or the agent of the plaintiff resides if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the judicial district for the District of Columbia or in the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) TIME REQUIREMENTS.—(1) Except as provided under paragraph (2), an insurance claim made under this chapter against the United States shall be forever barred unless it is presented in writing to the Secretary of Transportation within two years after the date on which the loss event occurred. Any civil action arising out of the denial of such a claim shall be filed by not later than six

months after the date of the mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary.

(2)(A) For claims based on liability to persons with whom the insured has no privity of contract, an insurance claim made under the authority of this chapter against the United States shall be forever barred unless it is presented in writing to the Secretary of Transportation by not later than the earlier of—

(i) the date that is 60 days after the date on which final judgment is entered by a tribunal of competent jurisdiction; or

(ii) the date that is six years after the date on which the loss event occurred.

(B) Any civil action arising out of the denial of such claim shall be filed by not later than six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary.

(3) A claim made under this chapter shall be deemed to be administratively denied if the Secretary fails to make a final disposition of the claim before the date that is 6 months after the date on which the claim is presented to the Secretary, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement.

(d) INTERPLEADER.—(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader in a district court of the United States against the persons that may be entitled to payment. The action may be brought in the judicial district for the District of Columbia or in the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1172; Pub. L. 105–277, div. C, title I, §110(c)(1), Oct. 21, 1998, 112 Stat. 2681–587; Pub. L. 113–291, div. A, title X, §1074(a), Dec. 19, 2014, 128 Stat. 3518.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44309(a)	49 App.:1540 (1st sentence less 19th–70th words, 3d sentence).	Aug. 23, 1958, Pub. L. 85–726, §1310, 72 Stat. 805.
44309(b)(1)	49 App.:1540 (1st sentence 19th–70th words, 2d sentence).	
44309(b)(2)	49 App.:1540 (4th sentence).	
44309(c)	49 App.:1540 (last sentence).	
44309(d)	49 App.:1540 (5th–8th sentences).	

In subsection (a), the words "A person may bring" are substituted for "may be maintained" for clarity. The words "a civil action" are substituted for "suit" because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "A civil action . . . (except the action authorized by this subsection) may not be brought" are substituted for "and this remedy shall be exclusive of any other action", and the words "involving the" are substituted for "by reason of", for clarity. The words "carrying out this chapter" are substituted for

"employed or retained under this subchapter", and the words "in an action" are substituted for "for suits in the district courts", for consistency. The words "applies to" are substituted for "shall otherwise be the same as that provided for" to eliminate unnecessary words. The words "an action under this subsection" are substituted for "such suits" for consistency.

In subsection (b)(1), the words "A civil action under subsection (a) of this section may be brought" are added for clarity. The words "the plaintiff or the agent of the plaintiff resides" are substituted for "the claimant or his agent resides" for consistency in the revised title. The words "if the plaintiff resides in the United States" are added for clarity. The words "notwithstanding the amount of the claim" are omitted as obsolete because jurisdiction under 28:1331 no longer depends on the amount of the claim. The words "and any provision of existing law as to the jurisdiction of United States district courts" are omitted as obsolete.

In subsection (b)(2), the words "interested person" are substituted for "All persons having or claiming or who might have an interest in such insurance" to eliminate unnecessary words. The word "either" is omitted as surplus. The words "to a civil action brought under subsection (a) of this section" are added for clarity.

In subsection (c), the words "during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section" are substituted for "within which suits may be commenced contained in section 2401 of title 28 providing for bringing of suits against the United States" for clarity. The words "from such time of filing" are omitted as surplus. The words "60 days after the Secretary of Transportation denies the claim" are substituted for "the claim shall have been administratively denied by the Secretary and for sixty days thereafter" for clarity.

In subsection (d)(1), the words "a civil action of interpleader" are substituted for "an action in the nature of a bill of interpleader" because of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "persons that may be entitled to payment" are substituted for "such parties" for clarity.

In subsection (d)(2), the words "in which the action is brought" are added for clarity. The words "The order shall be" are added because of the restatement. The words "the court may order service on that person" are substituted for "it may direct service upon such persons unknown" as being more precise.

In subsection (d)(3), the words "in a civil action under this subsection" are substituted for "in any such suit" for clarity.

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113–291, §1074(a)(1), inserted at end "A civil action shall not be instituted against the United States under this chapter unless the claimant first presents the claim to the Secretary of Transportation and such claim is finally denied by the Secretary in writing and notice of the denial of such claim is sent by certified or registered mail."

Subsec. (c). Pub. L. 113–291, §1074(a)(2), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "When an insurance claim is made under this chapter, the period during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement."

1998—Subsec. (a). Pub. L. 105–277 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "A person may bring a civil action in a district court of the United States against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title X, §1074(b), Dec. 19, 2014, 128 Stat. 3519, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to a claim arising after the date of the enactment of this Act [Dec. 19, 2014]."

§44310. Ending effective date

(a) IN GENERAL.—The authority of the Secretary of Transportation to provide insurance and reinsurance under any provision of this chapter other than sections 44302a and 44305 is not effective after December 11, 2014.

(b) INSURANCE OF UNITED STATES GOVERNMENT PROPERTY.—The authority of the Secretary of Transportation to provide insurance and reinsurance for a department, agency, or instrumentality of the United States Government under section 44305 is not effective after September 30, 2028.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1173; Pub. L. 105–85, div. A, title X, §1088(a), Nov. 18, 1997, 111 Stat. 1921; Pub. L. 105–137, §5(a), Dec. 2, 1997, 111 Stat. 2641; Pub. L. 105–277, div. C, title I, §110(c)(2), Oct. 21, 1998, 112 Stat. 2681–588; Pub. L. 106–6, §6, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, §6002(f), May 21, 1999, 113 Stat. 113; Pub. L. 106–181, title VII, §711, Apr. 5, 2000, 114 Stat. 160; Pub. L. 108–11, title IV, §4001(c), Apr. 16, 2003, 117 Stat. 606; Pub. L. 108–176, title I, §106(d), Dec. 12, 2003, 117 Stat. 2499; Pub. L. 110–181, div. A, title III, §378, Jan. 28, 2008, 122 Stat. 85; Pub. L. 113–46, div. A, §154, Oct. 17, 2013, 127 Stat. 565; Pub. L. 113–66, div. A, title X, §1093, Dec. 26, 2013, 127 Stat. 878; Pub. L. 113–76, div. L, title I, §119E(c), Jan. 17, 2014, 128 Stat. 582; Pub. L. 113–164, §148(c), Sept. 19, 2014, 128 Stat. 1874; Pub. L. 113–235, div. L, §102(c), Dec. 16, 2014, 128 Stat. 2767; Pub. L. 114–328, div. A, title X, §1046, Dec. 23, 2016, 130 Stat. 2395; Pub. L. 116–92, div. A, title III, §374, Dec. 20, 2019, 133 Stat. 1332; Pub. L. 117–328, div. Q, §103(b)(2), Dec. 29, 2022, 136 Stat. 5252; Pub. L. 118–15, div. B, title II, §2202(a), Sept. 30, 2023, 137 Stat. 82; Pub. L. 118–34, title I, §102(a), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(a), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title I, §104(a), May 16, 2024, 138 Stat. 1034.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44310	49 App.:1542.	Aug. 23, 1958, Pub. L. 85–726, §1312, 72 Stat. 806; July 20, 1961, Pub. L. 87–89, 75 Stat. 210; June 13, 1966, Pub. L. 89–447, 80 Stat. 199; Sept. 8, 1970, Pub. L. 91–399, 84 Stat. 837; Aug. 9, 1975, Pub. L. 94–90, §2, 89 Stat. 439; July 31, 1976, Pub. L. 94–374, 90 Stat. 1065; Nov. 9, 1977, Pub. L. 95–163, §6, 91 Stat. 1280; Oct. 14, 1982, Pub. L. 97–309, §3, 96 Stat. 1453; Oct. 30, 1987, Pub. L. 100–148, 101 Stat. 878; Oct. 31, 1992, Pub. L. 102–581, §402, 106 Stat. 4897.

The words "is not effective after" are substituted for "shall expire at the termination of" for clarity and consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63 substituted "September 30, 2028" for "May 10, 2024".
Pub. L. 118–41 substituted "May 10, 2024" for "March 8, 2024".
2023—Subsec. (b). Pub. L. 118–34 substituted "March 8, 2024" for "December 31, 2023".
Pub. L. 118–15 substituted "December 31, 2023" for "September 30, 2023".
2022—Subsec. (a). Pub. L. 117–328 substituted "sections 44302a and 44305" for "section 44305".

2019—Subsec. (b). Pub. L. 116–92 substituted "September 30, 2023" for "December 31, 2019".

2016—Subsec. (b). Pub. L. 114–328 substituted "December 31, 2019" for "December 31, 2018".

2014—Subsec. (a). Pub. L. 113–235 substituted "December 11, 2014" for "the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015".

Pub. L. 113–164 substituted "the date specified in section 106(3) of the Continuing Appropriations Resolution, 2015" for "September 30, 2014".

Pub. L. 113–76 substituted "September 30, 2014" for "the date specified in section 106(3) of the Continuing Appropriations Act, 2014".

2013—Pub. L. 113–66 designated existing provisions as subsec. (a) and inserted heading, substituted "any provision of this chapter other than section 4430" for "this chapter", and added subsec. (b).

Pub. L. 113–46 substituted "the date specified in section 106(3) of the Continuing Appropriations Act, 2014" for "December 31, 2013".

2008—Pub. L. 110–181 substituted "December 31, 2013" for "March 30, 2008".

2003—Pub. L. 108–176 substituted "March 30, 2008" for "December 31, 2004".

Pub. L. 108–11, substituted "2004" for "2003".

2000—Pub. L. 106–181 substituted "after December 31, 2003." for "after August 6, 1999."

1999—Pub. L. 106–31 substituted "August 6, 1999" for "May 31, 1999".

Pub. L. 106–6 substituted "May" for "March".

1998—Pub. L. 105–277 substituted "March 31, 1999" for "December 31, 1998".

1997—Pub. L. 105–137 substituted "December 31, 1998" for "September 30, 2002".

Pub. L. 105–85 substituted "September 30, 2002" for "September 30, 1997".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Pub. L. 105–137, §5(b), Dec. 2, 1997, 111 Stat. 2641, provided that: "The amendment made by subsection (a) [amending this section] takes effect on October 1, 1997."

Pub. L. 105–85, div. A, title X, §1088(b), Nov. 18, 1997, 111 Stat. 1921, provided that: "This section [amending this section] shall take effect as of September 30, 1997."

CONTINUATION OF AVIATION INSURANCE LAWS

Pub. L. 102–581, title IV, §404, Oct. 31, 1992, 106 Stat. 4898, provided that: "Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 [now this chapter] and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act [Oct. 31, 1992]."

CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

Sec.

44501. Plans and policy.
44502. General facilities and personnel authority.
44503. Reducing nonessential expenditures.
44504. Improved aircraft, aircraft engines, propellers, and appliances.
44505. Systems, procedures, facilities, services, and devices.
44506. Air traffic controllers.
44507. Regions and centers.
44508. Research advisory committee.

44509. Demonstration projects.
[44510. Repealed.]
44511. Aviation research grants.
44512. Catastrophic failure prevention research grants.
44513. Regional centers of air transportation excellence.
[44514, Repealed.]
44515.
44516. Human factors program.
44517. Program to permit cost sharing of air traffic modernization projects.
44518. Advanced Materials Center of Excellence.
44519. Certification personnel continuing education and training.
44520. Center of Excellence for Alternative Jet Fuels and Environment.

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title III, §337, title IV, §401(b), title VI, §618(b)(2), title X, §1017(b), May 16, 2024, 138 Stat. 1093, 1148, 1231, 1397, added items 44505 and 44520 and struck out former item 44505 "Systems, procedures, facilities, and devices" and items 44510 "Airway science curriculum grants", 44514 "Flight service stations", and 44515 "Advanced training facilities for maintenance technicians for air carrier aircraft".

2020—Pub. L. 116–260, div. V, title I, §112(b), Dec. 27, 2020, 134 Stat. 2332, added item 44519.

2018—Pub. L. 115–254, div. B, title V, §524(b), title VII, §762(b), Oct. 5, 2018, 132 Stat. 3364, 3428, substituted "Regions and centers" for "Civil aeromedical research" in item 44507 and added item 44518.

2003—Pub. L. 108–176, title I, §183(b), Dec. 12, 2003, 117 Stat. 2517, added item 44517.

2000—Pub. L. 106–181, title VII, §713(c), Apr. 5, 2000, 114 Stat. 161, added item 44516.

§44501. Plans and policy

(a) LONG RANGE PLANS AND POLICY REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall make long range plans and policy for the orderly development and use of the navigable airspace, and the orderly development of air navigation facilities and services, that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern.

(b) AIRWAY CAPITAL INVESTMENT PLAN.—The Administrator of the Federal Aviation Administration shall review, revise, and publish a national airways system plan, known as the Airway Capital Investment Plan, before the beginning of each fiscal year. The plan shall set forth—

(1) for a 10-year period, the research, engineering, procurement, and development programs and the facilities, services, and equipment that the Administrator considers necessary for a system of airways, air traffic services, and navigation aids that will—

(A) meet the forecasted needs of civil aeronautics;

(B) meet the requirements that the Secretary of Defense establishes for the support of the national defense; and

(C) provide the highest degree of safety in air commerce;

(2) for the first and second years of the plan, detailed annual estimates of—

(A) the number, type, location, and cost of acquiring, operating, and maintaining required facilities and services;

(B) the cost of research, engineering, procurement, and development required to improve safety, system capacity, and efficiency; and

(C) personnel levels required for the activities described in subparagraphs (A) and (B);

(3) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for the 3-year period, and additional major research programs, acquisition of systems,

services, and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements;

(4) a 10-year investment plan that considers long range objectives that the Administrator considers necessary to—

(A) ensure that safety is given the highest priority in providing for a safe and efficient airway system; and

(B) meet the current and projected growth of the aerospace industry and the requirements of interstate commerce, the United States Postal Service, and the national defense; and

(5) a list of capital projects that are part of the Next Generation Air Transportation System and funded by amounts appropriated under section 48101(a).

(c) NATIONAL AVIATION RESEARCH PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare and publish annually a national aviation research plan and submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The plan shall be submitted not later than the date that is 30 days after the date of submission of the President's budget to Congress. If such report cannot be prepared and submitted by the date that is 30 days after the date of submission of the President's budget to Congress, the Administrator shall submit, before such date, a letter to the Chairman and Ranking Member of the Committee on Commerce, Science, and Transportation of the Senate and the Committee of [1] Science, Space, and Technology of the House of Representatives stating the reason for delayed submission, impacts of the delay, and actions taken to address circumstances that led to the delay.

(2)(A) The plan shall describe, for a 5-year period, the research, engineering, and development that the Administrator of the Federal Aviation Administration considers necessary—

(i) to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics; and

(ii) to provide the highest degree of safety in air travel.

(B) The plan shall—

(i) provide estimates by year of the schedule, cost, and work force levels for each active and planned major research and development project under sections 44504, 44505, 44507, 44509, 44511–44513, and 44912 of this title, including activities carried out under cooperative agreements with other Federal departments and agencies;

(ii) specify the goals and the priorities for allocation of resources among the major categories of research and development activities, including the rationale for the priorities identified;

(iii) identify the allocation of resources among long-term research, near-term research, and development activities;

(iv) identify the individual research and development projects in each funding category that are described in the annual budget request;

(v) highlight the research and development activities that address specific recommendations of the research advisory committee established under section 44508 of this title, and document the recommendations of the committee that are not accepted, specifying the reasons for nonacceptance; and

(vi) highlight the research and development technology transfer activities that promote technology sharing among government, industry, and academia through the Stevenson-Wydler Technology Innovation Act of 1980.

(3) Subject to section 44912(d)(2) and regulations prescribed under such section, the Administrator of the Federal Aviation Administration shall submit to the committees named in paragraph (1) of this subsection an annual report on the accomplishments of the research completed during the prior fiscal year, including a description of the dissemination to the private sector of research results and a description of any new technologies developed. The report shall be submitted

with the plan required under paragraph (1) and be organized to allow comparison with the plan in effect for the prior fiscal year. The report shall be prepared in accordance with requirements of section 1116 of title 31.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1173; Pub. L. 104–264, title XI, §1105, Oct. 9, 1996, 110 Stat. 3279; Pub. L. 104–287, §5(74), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 106–181, title IX, §902(a), Apr. 5, 2000, 114 Stat. 195; Pub. L. 112–95, title I, §105, Feb. 14, 2012, 126 Stat. 17; Pub. L. 118–63, title VI, §618(a), title X, §1004(a), title XI, §1101(j), May 16, 2024, 138 Stat. 1230, 1386, 1413.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44501(a)	49 App.:1353(a).	Aug. 23, 1958, Pub. L. 85–726, §312(a), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44501(b)	49 App.:2203(b).	Sept. 3, 1982, Pub. L. 97–248, §504(b), 96 Stat. 675; Nov. 5, 1990, Pub. L. 101–508, §9105(a), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §114, 106 Stat. 4881.
44501(c)	49 App.:1353(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(d); added Nov. 3, 1988, Pub. L. 100–591, §4(a), 102 Stat. 3011.

In subsection (a), the word "Administrator" in section 312(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g). The words "air navigation facilities" are substituted for "landing areas, Federal airways, radar installations and all other aids and facilities for air navigation" because of the definition of "air navigation facility" in section 40102(a) of the revised title. The words "the armed forces" are substituted for "military agencies" because of 10:101.

In subsection (b), before clause (1), the words "the requirements of" are omitted as surplus. The text of 49 App.:2203(b) (1st sentence) is omitted as executed. The words "thereafter" and "For fiscal year 1991 and thereafter" are omitted as obsolete. In clauses (2)(C) and (3), the word "personnel" is substituted for "manpower" for consistency in the revised title. In clause (2)(C), the word "all" is omitted as surplus.

In subsection (c), before clause (1), the word "completed" is omitted as surplus.

In subsection (d)(1), the words "review, revise" are omitted as surplus. The word "annually" is substituted for "for fiscal year 1990, and for each fiscal year thereafter" to eliminate obsolete language.

In subsection (d)(2)(B), before clause (i), the words "an appropriation" are substituted for "funding", and in clause (ii), the word "appropriations" is substituted for "funding", for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (d)(3), the words "beginning with the date of transmission of the first aviation research plan as required by paragraph (1)" are omitted as obsolete.

EDITORIAL NOTES

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (c)(2)(B)(vi), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §618(a)(1), substituted "development of air navigation facilities and services" for "development and location of air navigation facilities".

Subsec. (b)(1). Pub. L. 118–63, §618(a)(2)(A), (B), substituted "procurement, and development" for "and development" and "facilities, services, and equipment" for "facilities and equipment" in introductory provisions.

Subsec. (b)(2). Pub. L. 118–63, §618(a)(2)(C)(i), substituted "first and second years" for "first and 2d years" in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 118–63, §618(a)(2)(A), substituted "procurement, and development" for "and development".

Subsec. (b)(2)(C). Pub. L. 118–63, §618(a)(2)(C)(ii), substituted "subparagraphs (A) and (B)" for "subclauses (A) and (B) of this clause".

Subsec. (b)(3). Pub. L. 118–63, §618(a)(2)(D), substituted "the third, fourth, and fifth" for "the 3d, 4th, and 5th" and "systems, services, and facilities" for "systems and facilities".

Subsec. (b)(4)(B). Pub. L. 118–63, §618(a)(2)(E), substituted "growth of the aerospace industry" for "growth of aviation".

Subsec. (c)(1). Pub. L. 118–63, §1004(a), substituted "not later than the date that is 30 days after the date of submission" for "not later than the date of submission" and inserted at end "If such report cannot be prepared and submitted by the date that is 30 days after the date of submission of the President's budget to Congress, the Administrator shall submit, before such date, a letter to the Chairman and Ranking Member of the Committee on Commerce, Science, and Transportation of the Senate and the Committee of Science, Space, and Technology of the House of Representatives stating the reason for delayed submission, impacts of the delay, and actions taken to address circumstances that led to the delay."

Subsec. (c)(2)(B)(i). Pub. L. 118–63, §1101(j)(1), struck out "40119," after "under sections".

Subsec. (c)(3). Pub. L. 118–63, §1101(j)(2), substituted "Subject to section 44912(d)(2) and regulations prescribed under such section," for "Subject to section 40119(b) of this title and regulations prescribed under section 40119(b),".

2012—Subsec. (b)(5). Pub. L. 112–95 added par. (5).

2000—Subsec. (c)(2)(B)(iv) to (vi). Pub. L. 106–181, §902(a)(1), added cls. (iv) and (vi) and redesignated former cl. (iv) as (v).

Subsec. (c)(3). Pub. L. 106–181, §902(a)(2), inserted at end "The report shall be prepared in accordance with requirements of section 1116 of title 31."

1996—Subsec. (c)(1). Pub. L. 104–287 substituted "Committee on Science" for "Committee on Science, Space, and Technology".

Subsec. (c)(2)(A). Pub. L. 104–264, §1105(1), substituted "5-year period" for "15-year period".

Subsec. (c)(2)(B). Pub. L. 104–264, §1105(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) set out the requirements for research plans including specific requirements for the first two years of the plan, for the 3rd, 4th, and 5th years, and for the 6th and subsequent years.

Subsec. (c)(3). Pub. L. 104–264, §1105(3), inserted ", including a description of the dissemination to the private sector of research results and a description of any new technologies developed" after "during the prior fiscal year".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

RULE OF CONSTRUCTION REGARDING COLLABORATIONS

Pub. L. 118–63, title X, §1031, May 16, 2024, 138 Stat. 1406, provided that: "Nothing in this title [enacting sections 44520, 44813, and 44814 of this title, amending sections 44501, 44518, 47511, and 48102 of this title, enacting provisions set out as notes under sections 40101, 40103, 45501, 44504, 44505, 44701, and 47101 of this title, and amending provisions set out as a note under section 44505 of this title] may be construed as modifying or limiting existing collaborations, or limiting potential engagement on future collaborations, between the Administrator [of the Federal Aviation Administration], stakeholders, and labor organizations, including the exclusive bargaining representative of air traffic controllers certified under section 7111 of title 5, United States Code, pertaining to FAA [Federal Aviation Administration] research, engineering, development, demonstration, and testing activities."

ADVANCED AVIATION TECHNOLOGY AND INNOVATION STEERING COMMITTEE

Pub. L. 118–63, title II, §229, May 16, 2024, 138 Stat. 1064, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish an Advanced Aviation Technology and Innovation Steering Committee (in this section referred to as the 'Steering Committee') to assist the FAA [Federal Aviation Administration] in planning for and integrating advanced aviation technologies.

"(b) PURPOSE.—The Steering Committee shall—

"(1) create and regularly update a comprehensive strategy and action plan for integrating advanced aviation technologies into the national airspace system and aviation ecosystem; and

"(2) provide direction and resolution for complex issues related to advanced aviation technologies that span multiple offices or lines of business of the FAA, as needed.

"(c) CHAIR.—The Deputy Administrator of the FAA shall serve as the Chair of the Steering Committee.

"(d) COMPOSITION.—In addition to the Chair, the Steering Committee shall consist of the Assistant or Associate Administrator, or the designee of such Administrator, of each of the following FAA offices:

"(1) Office of Aviation Safety.

"(2) Air Traffic Organization.

"(3) Office of Airports.

"(4) Office of Commercial Space Transportation.

"(5) Office of Finance and Management.

"(6) Office of the Chief Counsel.

"(7) Office of Rulemaking and Regulatory Improvement.

"(8) Office of Policy, International Affairs, and Environment.

"(9) Office of Security and Hazardous Materials Safety.

"(10) Any other Office the Administrator determines necessary."

CONSOLIDATION AND REALIGNMENT OF FAA SERVICES AND FACILITIES

Pub. L. 112–95, title VIII, §804, Feb. 14, 2012, 126 Stat. 119, as amended by Pub. L. 115–254, div. B, title V, §§510, 545(b)(2), Oct. 5, 2018, 132 Stat. 3355, 3376, provided that:

"(a) NATIONAL FACILITIES REALIGNMENT AND CONSOLIDATION REPORT.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a report, to be known as the National Facilities Realignment and Consolidation Report, in accordance with the requirements of this subsection.

"(2) PURPOSE.—The purpose of the report shall be to reduce capital, operating, maintenance, and administrative costs of the FAA where such cost reductions can be implemented without adversely affecting safety.

"(3) CONTENTS.—The report shall include—

"(A) recommendations of the Administrator on realignment and consolidation of services and facilities (including regional offices) of the FAA; and

"(B) for each of the recommendations, a description of—

"(i) the Administrator's justification;

"(ii) the projected costs and savings; and

"(iii) the proposed timing for implementation.

"(4) INPUT.—The report shall be prepared by the Administrator (or the Administrator's designee) with the participation of—

"(A) representatives of labor organizations representing air traffic control system employees of the FAA; and

"(B) industry stakeholders.

"(5) SUBMISSION TO CONGRESS.—Not later than 120 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit the report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(6) PUBLIC NOTICE AND COMMENT.—The Administrator shall publish the report in the Federal Register and allow 45 days for the submission of public comments.

"(b) REPORT TO CONGRESS CONTAINING RECOMMENDATIONS OF ADMINISTRATOR.—Not later than 60 days after the last day of the period for public comment under subsection (a)(6), the Administrator shall submit to the committees specified in subsection (a)(5)—

"(1) a report containing the recommendations of the Administrator on realignment and consolidation of services and facilities (including regional offices) of the FAA; and

"(2) copies of any public comments received by the Administrator under subsection (a)(6).

"(c) REALIGNMENT AND CONSOLIDATION OF FAA SERVICES AND FACILITIES.—Except as provided in subsection (d), the Administrator shall realign and consolidate the services and facilities of the FAA in accordance with the recommendations included in the report submitted under subsection (b).

"(d) CONGRESSIONAL DISAPPROVAL.—

"(1) IN GENERAL.—The Administrator may not carry out a recommendation for realignment or consolidation of services or facilities of the FAA that is included in the report submitted under subsection (b) if a joint resolution of disapproval is enacted disapproving such recommendation before the earlier of—

"(A) the last day of the 30-day period beginning on the date of submission of the report; or

"(B) the adjournment of Congress sine die for the session during which the report is transmitted.

"(2) COMPUTATION OF 30-DAY PERIOD.—For purposes of paragraph (1)(A), the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in computation of the 30-day period.

"(e) MILITARY OPERATIONS EXCLUSION.—

"(1) IN GENERAL.—The Administrator may not realign or consolidate a combined TRACON and tower with radar facility of the FAA under this section if, in 2015, the total annual military operations at the facility comprised at least 40 percent of the total annual TRACON operations at the facility.

"(2) TRACON DEFINED.—In this subsection, the term 'TRACON' means terminal radar approach control.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) FAA.—The term 'FAA' means the Federal Aviation Administration.

"(2) REALIGNMENT; CONSOLIDATION.—

"(A) IN GENERAL.—The terms 'realignment' and 'consolidation' include any action that—

"(i) relocates functions, services, or personnel positions;

"(ii) discontinues or severs existing facility functions or services; or

"(iii) combines the results described in clauses (i) and (ii).

"(B) EXCLUSION.—The terms do not include a reduction in personnel resulting from workload adjustments."

[Section 545(b)(2) of Pub. L. 115–254, which directed amendment of section 804 of Pub. L. 112–95, set out above, by substituting "Chief Technology Officer" for "Chief NextGen Officer" in subsec. (a)(4)(A), could not be executed because the words "Chief NextGen Officer" did not appear after the intervening amendment of subsec. (a)(4) by section 510(a)(2) of Pub. L. 115–254.]

PROGRAM AUTHORIZATIONS

Pub. L. 112–95, title IX, §901(c), Feb. 14, 2012, 126 Stat. 137, provided that: "From the other accounts described in the national aviation research plan required under section 44501(c) of title 49, United States Code, the following research and development activities are authorized:

"(1) Runway Incursion Reduction.

"(2) System Capacity, Planning, and Improvement.

"(3) Operations Concept Validation.

"(4) NAS Weather Requirements.

"(5) Airspace Management Program.

"(6) NextGen—Air Traffic Control/Technical Operations Human Factors.

"(7) NextGen—Environment and Energy—Environmental Management System and Advanced Noise and Emissions Reduction.

"(8) NextGen—New Air Traffic Management Requirements.

"(9) NextGen—Operations Concept Validation—Validation Modeling.

"(10) NextGen—System Safety Management Transformation.
"(11) NextGen—Wake Turbulence—Recategorization.
"(12) NextGen—Operational Assessments.
"(13) NextGen—Staffed NextGen Towers.
"(14) Center for Advanced Aviation System Development.
"(15) Airports Technology Research Program—Capacity.
"(16) Airports Technology Research Program—Safety.
"(17) Airports Technology Research Program—Environment.
"(18) Airport Cooperative Research—Capacity.
"(19) Airport Cooperative Research—Environment.
"(20) Airport Cooperative Research—Safety."

[1] *So in original. Probably should be "on".*

§44502. General facilities and personnel authority

(a) GENERAL AUTHORITY.—(1) The Administrator of the Federal Aviation Administration may—

(A) acquire, establish, improve, operate, and maintain air navigation facilities; and

(B) provide facilities and personnel to regulate and protect air traffic.

(2) The cost of site preparation work associated with acquiring, establishing, or improving an air navigation facility under paragraph (1)(A) of this subsection shall be charged to amounts available for that purpose appropriated under section 48101(a) of this title. The Secretary of Transportation may make an agreement with an airport owner or sponsor (as defined in section 47102 of this title) so that the owner or sponsor will provide the work and be paid or reimbursed by the Secretary from the appropriated amounts.

(3) The Secretary of Transportation may authorize a department, agency, or instrumentality of the United States Government to carry out any duty or power under this subsection with the consent of the head of the department, agency, or instrumentality.

(4) PURCHASE OF INSTRUMENT LANDING SYSTEM.—

(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall purchase precision approach instrument landing system equipment for installation at airports on an expedited basis.

(B) AUTHORIZATION.—No less than $30,000,000 of the amounts appropriated under section 48101(a) for each of fiscal years 2000 through 2002 shall be used for the purpose of carrying out this paragraph, including acquisition under new or existing contracts, site preparation work, installation, and related expenditures.

(5) IMPROVEMENTS ON LEASED PROPERTIES.—The Administrator may make improvements to real property leased for no or nominal consideration for an air navigation facility, regardless of whether the cost of making the improvements exceeds the cost of leasing the real property, if—

(A) the improvements primarily benefit the Government;

(B) the improvements are essential for accomplishment of the mission of the Federal Aviation Administration; and

(C) the interest of the United States Government in the improvements is protected.

(b) CERTIFICATION OF NECESSITY.—Except for Government money expended under this part or for a military purpose, Government money may be expended to acquire, establish, construct, operate, repair, alter, or maintain an air navigation facility only if the Administrator of the Federal Aviation Administration certifies in writing that the facility is reasonably necessary for use in air

commerce or for the national defense. An interested person may apply for a certificate for a facility to be acquired, established, constructed, operated, repaired, altered, or maintained by or for the person.

(c) ENSURING CONFORMITY WITH PLANS AND POLICIES.—(1) To ensure conformity with plans and policies for, and allocation of, airspace by the Administrator of the Federal Aviation Administration under section 40103(b)(1) of this title, a military airport, military landing area, or missile or rocket site may be acquired, established, or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator of the Federal Aviation Administration may advise the appropriate committees of Congress and interested departments, agencies, and instrumentalities of the Government on the effect of the acquisition, establishment, construction, or alteration on the use of airspace by aircraft. A disagreement between the Administrator of the Federal Aviation Administration and the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration may be appealed to the President for a final decision.

(2) To ensure conformity, an airport or landing area not involving the expenditure of Government money may be established or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may provide advice on the effects of the establishment, construction, or alteration on the use of airspace by aircraft.

(d) PUBLIC USE AND EMERGENCY ASSISTANCE.—(1) The head of a department, agency, or instrumentality of the Government having jurisdiction over an air navigation facility owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for public use of the facility.

(2) The head of a department, agency, or instrumentality of the Government having jurisdiction over an airport or emergency landing field owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for assistance, and the sale of fuel, oil, equipment, and supplies, to an aircraft, but only when necessary, because of an emergency, to allow the aircraft to continue to the nearest airport operated by private enterprise. The head of the department, agency, or instrumentality shall provide for the assistance and sale at the prevailing local fair market value as determined by the head of the department, agency, or instrumentality. An amount that the head decides is equal to the cost of the assistance provided and the fuel, oil, equipment, and supplies sold shall be credited to the appropriation from which the cost was paid. The balance shall be credited to miscellaneous receipts.

(e) [1] TRANSFERS OF AIR TRAFFIC SYSTEMS.—

(1) IN GENERAL.—Subject to paragraph (4), an airport in a non-contiguous State may transfer, without consideration, to the Administrator of the Federal Aviation Administration, an eligible air traffic system or equipment that conforms to performance specifications of the Administrator if a Government airport aid program, airport development aid program, or airport improvement project grant was used to assist in purchasing the system or equipment.

(2) ACCEPTANCE.—The Administrator shall accept the eligible air traffic system or equipment and operate and maintain it under criteria of the Administrator.

(3) DEFINITION.—In this subsection, the term "eligible air traffic system or equipment" means—

(A) an instrument landing system consisting of a glide slope and localizer (if the Administrator has determined that a satellite navigation system cannot provide a suitable approach to an airport);

(B) an Automated Weather Observing System weather observation system;

(C) a Remote Communication Air/Ground and Remote Communication Outlet communications facility; or

(D) a Medium Intensity Approach Lighting System with Runway Alignment Indicator Lights.

(4) EXCEPTION.—The requirement under paragraph (1) that an eligible air traffic system or equipment be purchased in part using a Government airport aid program, airport development aid

program, or airport improvement project grant shall not apply if the air traffic system or equipment is installed at an airport that is categorized as a basic or local general aviation airport under the most recently published national plan of integrated airport systems under section 47103.

(f) AIRPORT SPACE.—

(1) RESTRICTION.—The Administrator may not require an airport owner or sponsor (as defined in section 47102) to provide to the Federal Aviation Administration without cost any of the following:

(A) Building construction, maintenance, utilities, or expenses for services relating to air traffic control, air navigation, or weather reporting.

(B) Space in a facility owned by the airport owner or sponsor for services relating to air traffic control, air navigation, or weather reporting.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect—

(A) any agreement the Secretary may have or make with an airport owner or sponsor for the airport owner or sponsor to provide any of the items described in paragraph (1)(A) or (1)(B) at below-market rates; or

(B) any grant assurance that requires an airport owner or sponsor to provide land to the Administration without cost for an air traffic control facility.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1175; Pub. L. 103–305, title I, §120(a), Aug. 23, 1994, 108 Stat. 1581; Pub. L. 103–429, §6(54), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–287, §5(75), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 106–181, title I, §153, title VII, §712, Apr. 5, 2000, 114 Stat. 87, 160; Pub. L. 115–254, div. B, title I, §147, Oct. 5, 2018, 132 Stat. 3213; Pub. L. 118–63, title VII, §728(a), May 16, 2024, 138 Stat. 1271.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44502(a)(1)	49 App.:1348(b) (1st sentence less cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, §307(b) (1st sentence less cl. (3), 2d sentence), 72 Stat. 750; Jan. 12, 1983, Pub. L. 97–449, §4(c), 96 Stat. 2442.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44502(a)(2)	49 App.:2205(a)(3).	Sept. 3, 1982, Pub. L. 97–248, §506(a)(3), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, §105(a)(1), (g)(1), 101 Stat. 1489, 1494.
44502(a)(3)	49 App.:1348(b) (2d sentence).	
44502(b)	49 App.:1349(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§308(a) (1st, 2d sentences), (b), 309, 1107, 72 Stat. 750, 751, 798.
	49 App.:1655(c)(1).	
44502(c)(1)	49 App.:1349(b).	
	49 App.:1655(c)(1).	
44502(c)(2)	49 App.:1350.	
	49 App.:1655(c)(1).	
44502(d)	49 App.:1507.	

44502(e)	49 App.:1743.	Aug. 11, 1959, Pub. L. 86–154, 73 Stat. 333.
44502(f)	49 App.:2205 (notes).	Nov. 21, 1989, Pub. L. 101–164, §331, 103 Stat. 1097. Nov. 5, 1990, Pub. L. 101–516, §324, 104 Stat. 2182. Oct. 28, 1991, Pub. L. 102–143, §324, 105 Stat. 943. Oct. 6, 1992, Pub. L. 102–388, §324, 106 Stat. 1547.

In this section, the words "department, agency, or instrumentality of the United States Government" are substituted for "Federal department or agency" in 49 App.:1348(b), "agencies" in 49 App.:1349(b), and "department or other agency" and "Government department or other agency" in 49 App.:1507 for consistency in the revised title and with other titles of the United States Code.

In subsections (a)(1), (b), and (c), the word "Administrator" in sections 303(c) (1st sentence), 307(b), 308(a) (1st and 2d sentences) and (b), and 309 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750, 751) is retained on authority of 49:106(g).

In subsection (a)(1), before clause (A), the words "within the limits of available appropriations made by the Congress" are omitted as surplus. In clause (A), the words "wherever necessary" are omitted as surplus. In clause (B), the word "necessary" is omitted as surplus.

In subsection (a)(2), the words "by the Secretary" and "to the Secretary" are omitted as surplus. The last sentence is substituted for 49 App.:2205(a)(3) (last sentence) to eliminate unnecessary words.

In subsection (a)(3), the words "subject to such regulations, supervision, and review as he may prescribe" are omitted because of 49:322(a). The words "from time to time make such provision as he shall deem appropriate" are omitted as surplus. The words "duty or power" are substituted for "function" for consistency in the revised title and with other titles of the Code. The words "the head of" are added for clarity and consistency.

In subsection (b), the words "(whether or not in cooperation with State or other local governmental agencies)" and "thereon" are omitted as surplus. The words "landing area" are omitted as being included in the definition of "air navigation facility" in section 40102(a) of the revised title. The words "recommendation and" are omitted as surplus. The words "under regulations prescribed by him" are omitted because of 49:322(a). The word "proposed" is omitted as surplus. The word "acquired" is added for consistency in this subsection.

In subsection (c)(1), the words "In order", "layout", and "In case of . . . the matter" are omitted as surplus. The words "Secretary of Defense" are substituted for "Department of Defense" because of 10:133(a). The words "the Administrator of" are added because of 42:2472(a).

In subsection (c)(2), the word "layout" is omitted as surplus. The words "pursuant to regulations prescribed by him" are omitted because of 49:322(a). The words "the establishment, building, or alteration" are substituted for "such construction" for clarity and consistency in this section.

In subsection (d)(1), the words "under such conditions and to such extent as . . . deems advisable and" are omitted as surplus. The word "provide" is substituted for "be made available", and the words "of the facility" are added, for clarity.

In subsection (d)(2), the words "All amounts received under this subsection shall be covered into the Treasury" are omitted because of 31:3302(b). The words "services, shelter . . . other" and "if any" are omitted as surplus.

In subsection (e), the words "or compact" are omitted as surplus. The words "or States" are omitted because of 1:1. The text of 49 App.:1743 (last sentence) is omitted as surplus.

In subsection (f), the words "Notwithstanding any other provision of law" and "thereafter" are omitted as surplus.

PUB. L. 103–429

This amends 49:44502(b) to clarify the restatement of 49 App.:1349(a) (1st, 2d sentences) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1175).

PUB. L. 104–287, §5(75)(A)

This amends 49:44502(c)(1) to correct an error in the codification enacted by section 1 of the Act of July 5,

1994 (Public Law 103–272, 108 Stat. 1175).

PUB. L. 104–287, §5(75)(B)

This strikes 49:44502(e) and redesignates 49:44502(f) as 49:44502(e) because of the restatement of former 49:44502(e) as 49:40121.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (e)(1). Pub. L. 118–63, §728(a)(1), substituted "Subject to paragraph (4), an airport in a non-contiguous State" for "An airport".

Subsec. (e)(3)(D). Pub. L. 118–63, §728(a)(2), added subpar. (D).

Subsec. (e)(4). Pub. L. 118–63, §728(a)(3), added par. (4).

2018—Subsec. (e). Pub. L. 115–254, §147(1), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) that conforms to performance specifications of the Administrator if a Government airport aid program, airport development aid program, or airport improvement project grant was used to assist in purchasing the system. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator."

Subsec. (f). Pub. L. 115–254, §147(2), added subsec. (f).

2000—Subsec. (a)(4)(B). Pub. L. 106–181, §153, substituted "each of fiscal years 2000 through 2002" for "each of fiscal years 1995 and 1996" and inserted "under new or existing contracts" after "including acquisition".

Subsec. (a)(5). Pub. L. 106–181, §712, added par. (5).

1996—Subsec. (c)(1). Pub. L. 104–287, §5(75)(A), substituted "To ensure" for "To ensure that".

Subsecs. (e), (f). Pub. L. 104–287, §5(75)(B), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows:

"(e) CONSENT OF CONGRESS.—Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility."

1994—Subsec. (a)(4). Pub. L. 103–305 added par. (4).

Subsec. (b). Pub. L. 103–429 inserted "Government" before "money may be expended".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–63, title VII, §728(b), May 16, 2024, 138 Stat. 1271, as amended by Pub. L. 118–83, div. B, title I, §114, Sept. 26, 2024, 138 Stat. 1537, provided that: "The amendments made by this section [amending this section] shall take effect beginning on December 20, 2024."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

LIMITATIONS ON TRANSFERS OF ELIGIBLE AIR TRAFFIC SYSTEMS OR EQUIPMENT

Pub. L. 119–75, div. D, title I, §119F, Feb. 3, 2026, 140 Stat. 341, provided that: "Section 44502(e) of title 49, United States Code, shall be applied by inserting the following after paragraph (4):

" '(5) LIMITATIONS.—

" '(A) SYSTEMS OR EQUIPMENT.—Eligible air traffic systems or equipment identified in subparagraphs (A) through (C) of paragraph (3) of this subsection to be transferred to the Administrator under this subsection must have been purchased by the transferor airport on or after October 5, 2018.

" '(B) OTHER SYSTEMS OR EQUIPMENT.—Eligible air traffic systems or equipment identified in subparagraph (D) of paragraph (3) of this subsection to be transferred to the Administrator under this subsection must have been purchased by the transferor airport on or after October 1, 2024.

" '(6) AIRPORTS CLASSIFIED AS A BASIC OR LOCAL GENERAL AVIATION AIRPORT.—An airport that is categorized as a basic or local general aviation airport under the most recently published national plan of integrated airport systems under section 47103 may only transfer an eligible air traffic system or equipment under this subsection in accordance with the exception provided in paragraph (4) if such system or equipment was purchased by the transferor airport on or after October 1, 2024.' "

DIRECT-HIRE AUTHORITY UTILIZATION

Pub. L. 118–63, title IV, §428, May 16, 2024, 138 Stat. 1170, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall utilize direct hire authorities (as such authorities existed on the day before the date of enactment of this Act [May 16, 2024]) to hire individuals on a non-competitive basis for positions related to aircraft certification and aviation safety. In utilizing such authorities, the Administrator shall take into consideration any staffing gaps in the safety workforce of the FAA [Federal Aviation Administration], including in positions supporting the safe integration of unmanned aircraft systems and other new airspace entrants.

"(b) CONGRESSIONAL BRIEFING.—Not later than 180 days after the date of enactment of this Act, and annually thereafter through 2028, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the—

"(1) utilization of the Administrator's direct-hire authorities described in subsection (a);

"(2) utilization of the Administrator's direct-hire authorities with respect to the Unmanned Aircraft System Collegiate Training Initiative of the FAA; and

"(3) number of employees hired as a result of the utilization of such authorities by the Administrator, the relevant lines of business or offices in which such employees were hired, and the occupational series of the positions filled."

AIRPORT DIAGRAM TERMINOLOGY

Pub. L. 118–63, title VII, §749, May 16, 2024, 138 Stat. 1283, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall update Airport Diagram Order JO 7910.4 and any related advisory circulars, policy, and guidance to ensure the clear and consistent use of terms to delineate the types of parking available to general aviation pilots.

"(b) COLLABORATION.—In carrying out subsection (a), the Administrator shall collaborate with industry stakeholders, commercial service airports, and general aviation airports in—

"(1) facilitating basic standardization of general aviation parking terms;

"(2) accounting for the majority of uses of general aviation parking terms; and

"(3) providing clarity for chart users.

"(c) IAC SPECIFICATIONS.—The Administrator shall encourage the Interagency Air Committee to incorporate the terms developed pursuant to subsection (a) in publications produced by the Committee."

PILOT PROGRAM FOR UAS INSPECTIONS OF FAA INFRASTRUCTURE

Pub. L. 118–63, title IX, §911, May 16, 2024, 138 Stat. 1347, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall initiate a pilot program to supplement inspection and oversight activities of the Department of Transportation with unmanned aircraft systems to increase employee safety, enhance data collection, increase the accuracy of inspections, reduce costs, and for other purposes the Secretary considers to be appropriate.

"(b) GROUND-BASED AVIATION INFRASTRUCTURE.—In participating in the program under subsection (a), the Administrator [of the Federal Aviation Administration] shall evaluate the use of unmanned aircraft systems to inspect ground-based aviation infrastructure that may require visual inspection in hard-to-reach areas, including—

"(1) navigational aids;

"(2) air traffic control towers;

"(3) radar facilities;

"(4) communication facilities; and

"(5) other air traffic control facilities.

"(c) COORDINATION.—In carrying out subsection (b), the Administrator shall consult with the labor union certified under section 7111 of title 5, United States Code, to represent personnel responsible for the inspection of the ground-based aviation infrastructure.

"(d) BRIEFING.—Not later than 2 years after the date of enactment of this Act, and annually thereafter until the termination of the pilot program under this section, the Secretary shall provide to the appropriate

committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a briefing on the status and results of the pilot program established under subsection (a), including—

"(1) cost savings;

"(2) a description of how unmanned aircraft systems were used to supplement existing inspection, data collection, or oversight activities of Department employees, including the number of operations and types of activities performed;

"(3) efficiency or safety improvements, if any, associated with the use of unmanned aircraft systems to supplement conventional inspection, data collection, or oversight activities;

"(4) the fleet of unmanned aircraft systems maintained by the Department for the program, or an overview of the services used as part of the pilot program; and

"(5) recommendations for improving the use or efficacy of unmanned aircraft systems to supplement the Department's inspection, data collection, or oversight activities.

"(e) SUNSET AND INCORPORATION INTO STANDARD PRACTICE.—

"(1) SUNSET.—The pilot program established under subsection (a) and the briefing requirement under subsection (d) shall terminate on the date that is 4 years after the date of enactment of this Act [May 16, 2024].

"(2) INCORPORATION INTO STANDARD PRACTICE.—Upon termination of the pilot program under this section, the Secretary shall assess the results and determine whether to permanently incorporate the use of unmanned aircraft systems into the regular inspection, data collection, and oversight activities of the Department.

"(3) REPORT TO CONGRESS.—Not later than 9 months after the termination of the pilot program under paragraph (1), the Secretary shall submit to the appropriate committees of Congress a report on the final results of the pilot program and the actions taken by the Administrator under paragraph (2)."

[For definition of "unmanned aircraft system" as used in section 911 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note below.]

HIGH PERFORMANCE, SUSTAINABLE, AND COST-EFFECTIVE AIR TRAFFIC CONTROL FACILITIES

Pub. L. 112–95, title V, §508, Feb. 14, 2012, 126 Stat. 106, provided that: "The Administrator of the Federal Aviation Administration may implement, to the extent practicable, sustainable practices for the incorporation of energy-efficient design, equipment, systems, and other measures in the construction and major renovation of air traffic control facilities of the Administration in order to reduce energy consumption at, improve the environmental performance of, and reduce the cost of maintenance for such facilities."

STRATEGY FOR STAFFING, HIRING, AND TRAINING FLIGHT STANDARDS AND AIRCRAFT CERTIFICATION STAFF

Pub. L. 116–6, div. G, title I, Feb. 15, 2019, 133 Stat. 401, provided in part: "That not later than March 31 of each fiscal year hereafter, the Administrator [of the Federal Aviation Administration] shall transmit to Congress a companion report that describes a comprehensive strategy for staffing, hiring, and training flight standards and aircraft certification staff in a format similar to the one utilized for the controller staffing plan, including stated attrition estimates and numerical hiring goals by fiscal year".

Similar provisions were contained in the following appropriation acts:

Pub. L. 119–75, div. D, title I, Feb. 3, 2026, 140 Stat. 333.
Pub. L. 118–42, div. F, title I, Mar. 9, 2024, 138 Stat. 307.
Pub. L. 117–328, div. L, title I, Dec. 29, 2022, 136 Stat. 5102.
Pub. L. 117–103, div. L, title I, Mar. 15, 2022, 136 Stat. 691.
Pub. L. 116–260, div. L, title I, Dec. 27, 2020, 134 Stat. 1830.
Pub. L. 116–94, div. H, title I, Dec. 20, 2019, 133 Stat. 2940.
Pub. L. 115–141, div. L, title I, Mar. 23, 2018, 132 Stat. 977.
Pub. L. 115–31, div. K, title I, May 5, 2017, 131 Stat. 730.
Pub. L. 114–113, div. L, title I, Dec. 18, 2015, 129 Stat. 2839.
Pub. L. 113–235, div. K, title I, Dec. 16, 2014, 128 Stat. 2700.
Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 578.
Pub. L. 112–55, div. C, title I, Nov. 18, 2011, 125 Stat. 646.
Pub. L. 111–117, div. A, title I, Dec. 16, 2009, 123 Stat. 3040.

PILOT PROGRAM FOR INNOVATIVE FINANCING OF AIR TRAFFIC CONTROL EQUIPMENT

Pub. L. 108–176, title I, §182, Dec. 12, 2003, 117 Stat. 2515, as amended by Pub. L. 113–188, title XV, §1501(d), Nov. 26, 2014, 128 Stat. 2024, provided that:

"(a) IN GENERAL.—In order to test the cost effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending, subject to section 1341 of title 31, United States Code, a contract for more than one, but not more than 20, fiscal years to purchase and install air traffic control equipment for the Administration. Such amendments may be for more than one, but not more than 10, fiscal years.

"(b) CANCELLATION.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

"(c) CONTRACT PROVISIONS.—If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic-lot purchases and more efficient production rates.

"(d) LIMITATION.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

"(e) FUNDING.—Out of amounts appropriated under section 48101 [probably means section 48101 of title 49, United States Code] for fiscal year 2004, such sums as may be necessary shall be available to carry out this section."

ENHANCED VISION TECHNOLOGIES

Pub. L. 106–181, title I, §124, Apr. 5, 2000, 114 Stat. 75, provided that:

"(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall enter into a cooperative research and development agreement to study the benefits of utilizing enhanced vision technologies to replace, enhance, or add to conventional airport approach and runway lighting systems.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a progress report on the work accomplished under the cooperative agreements detailing the evaluations performed to determine the potential of enhanced vision technology to meet the operational requirements of the intended application.

"(c) CERTIFICATION.—Not later than 180 days after the conclusion of work under the research agreements, the Administrator shall transmit to Congress a report on the potential of enhanced vision technology to satisfy the operational requirements of the Federal Aviation Administration and a schedule for the development of performance standards for certification appropriate to the application of the enhanced vision technologies. If the Administrator certifies an enhanced vision technology as meeting such performance standards, the technology shall be treated as a navigation aid or other aid for purposes of section 47102(3)(B)(i) of title 49, United States Code."

TRANSFER BY AIRPORTS OF INSTRUMENT LANDING SYSTEMS AND ASSOCIATED EQUIPMENT TO FEDERAL AVIATION ADMINISTRATION

Pub. L. 109–115, div. A, title I, §101, Nov. 30, 2005, 119 Stat. 2401, which provided that airports may transfer to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant, provided that the FAA accept such equipment and operate and maintain it in accordance with agency criteria, was from the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. H, title I, §101, Dec. 8, 2004, 118 Stat. 3203.

Pub. L. 108–199, div. F, title I, §101, Jan. 23, 2004, 118 Stat. 284.

Pub. L. 108–7, div. I, title III, §313, Feb. 20, 2003, 117 Stat. 410.

Pub. L. 107–87, title III, §313, Dec. 18, 2001, 115 Stat. 858.

Pub. L. 106–346, §101(a) [title III, §314], Oct. 23, 2000, 114 Stat. 1356, 1356A–27.

Pub. L. 106–69, title III, §314, Oct. 9, 1999, 113 Stat. 1018.

Pub. L. 105–277, div. A, §101(g) [title III, §314], Oct. 21, 1998, 112 Stat. 2681–439, 2681–468.

Pub. L. 105–66, title III, §314, Oct. 27, 1997, 111 Stat. 1443.

Pub. L. 104–205, title III, §314, Sept. 30, 1996, 110 Stat. 2971.

Pub. L. 104–50, title III, §317, Nov. 15, 1995, 109 Stat. 455.

Pub. L. 103–331, title III, §317, Sept. 30, 1994, 108 Stat. 2491, repealed by Pub. L. 104–287, §7(4), Oct. 11, 1996, 110 Stat. 3400.

COST SAVINGS ASSOCIATED WITH PURCHASE

Pub. L. 103–305, title I, §120(b), Aug. 23, 1994, 108 Stat. 1581, provided that: "Notwithstanding other provisions of law or regulations to the contrary, the Administrator [of the Federal Aviation Administration] shall establish, within 120 days after the date of the enactment of this Act [Aug. 23, 1994], a process through which airport sponsors may take advantage of cost savings associated with the purchase and installation of instrument landing systems, along with associated equipment, under existing or future Federal Aviation Administration contracts. The process established by the Administrator may provide for the direct reimbursement (including administrative costs) of the Administrator by an airport sponsor using grants funds under subchapter I of chapter 471 of subtitle VII of title 49, United States Code, relating to airport improvement, for the ordering of such equipment and installation or for the direct ordering of such equipment and installation by an airport sponsor, using such grant funds, from the suppliers with which the Administrator has contracted."

GRANDFATHER PROVISION FOR FAA DEMONSTRATION PROJECT

Pub. L. 103–260, title IV, §401, May 26, 1994, 108 Stat. 702, provided that:

"(a) IN GENERAL.—Notwithstanding the termination of the personnel demonstration project for certain Federal Aviation Administration employees on June 17, 1994, pursuant to section 4703 of title 5, United States Code, the Federal Aviation Administration, subject to subsection (d), shall continue to pay quarterly retention allowance payments in accordance with subsection (b) to those employees who are entitled to quarterly retention allowance payments under the demonstration project as of June 16, 1994.

"(b) COMPUTATION RULES.—

"(1) IN GENERAL.—The amount of each quarterly retention allowance payment to which an employee is entitled under subsection (a) shall be the amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994, reduced by that portion of the amount of any increase in the employee's annual rate of basic pay subsequent to June 17, 1994, from any source, which is allocable to the quarter for which the allowance is to be paid (or, if applicable, to that portion of the quarter for which the allowance is to be paid). For purposes of the preceding sentence, the increase in an employee's annual rate of basic pay includes—

"(A) any increase under section 5303 of title 5, United States Code;

"(B) any increase in locality-based comparability payments under section 5304 of such title 5 (except if, or to the extent that, such increase is offset by a reduction of an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5304 note));

"(C) any establishment or increase in a special rate of pay under section 5305 of such title 5;

"(D) any increase in basic pay pursuant to a promotion under section 5334 of such title 5;

"(E) any periodic step-increase under section 5335 of such title 5;

"(F) any additional step-increase under section 5336 of such title 5; and

"(G) any other increase in annual rate of basic pay under any other provision of law.

"(2) SECTION RULE.—In the case of an employee on leave without pay or other similar status for any part of the quarter prior to June 17, 1994, based on which the amount of the allowance payments for such employee under subsection (a) are computed, the 'amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994' shall, for purposes of paragraph (1), be deemed to be the amount of the allowance which would have been payable to such employee for such quarter under such project had such employee been in pay status throughout such quarter.

"(c) TERMINATION.—An employee's entitlement to quarterly retention allowance payments under this section shall cease when—

"(1) the amount of such allowance is reduced to zero under subsection (b), or

"(2) the employee separates or moves to a position in which the employee would not, prior to June 17, 1994, have been entitled to receive an allowance under the demonstration project,

whichever is earlier.

"(d) SPECIAL PAYMENT RULE.—The Administrator of the Federal Aviation Administration may make payment for the costs incurred under the program established by subsection (a) for the period between June 18, 1994, and September 30, 1994, following the end of the first full pay period that begins on or after October 1, 1994, subject to appropriations made available in fiscal year 1995.

"(e) STUDY OF RECRUITMENT AND RETENTION INCENTIVES.—The Administrator of the Federal

Aviation Administration shall conduct a study of impediments that may exist to achieving appropriate air traffic controller staffing levels at hard-to-staff facilities. In conducting such study, the Administrator shall identify and evaluate the extent to which special incentives, of a financial or non-financial nature, could be useful in recruiting or retaining air traffic controllers at such facilities. The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 180 days after the date of enactment of this Act [May 26, 1994] a report on (1) the results of such study, (2) planned administrative actions, and (3) any recommended legislation."

DEFINITIONS APPLICABLE IN PUB. L. 118–63

Pub. L. 118–63, title IX, §901, May 16, 2024, 138 Stat. 1341, provided that: "Except as otherwise provided, the definitions contained in section 44801 of title 49, United States Code, apply to this subtitle [subtitle A (§§901–937) of title IX of Pub. L. 118–63, see Tables for classification]."

[1] *See Limitations on Transfers of Eligible Air Traffic Systems or Equipment note below.*

§44503. Reducing nonessential expenditures

The Secretary of Transportation shall attempt to reduce the capital, operating, maintenance, and administrative costs of the national airport and airway system to the maximum extent practicable consistent with the highest degree of aviation safety. At least annually, the Secretary shall consult with and consider the recommendations of users of the system on ways to reduce nonessential expenditures of the United States Government for aviation. The Secretary shall give particular attention to a recommendation that may reduce, with no adverse effect on safety, future personnel requirements and costs to the Government required to be recovered from user charges.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1176.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44503	49 App.:1704.	July 12, 1976, Pub. L. 94–353, §25, 90 Stat. 885.

The words "in accordance with this section" and "due" are omitted as surplus. The word "personnel" is substituted for "manpower" for consistency in the revised title.

§44504. Improved aircraft, aircraft engines, propellers, and appliances

(a) DEVELOPMENTAL WORK AND SERVICE TESTING.—The Administrator of the Federal Aviation Administration may conduct or supervise developmental work and service testing to improve aircraft, aircraft engines, propellers, and appliances.

(b) RESEARCH.—The Administrator shall conduct or supervise research—

(1) to develop technologies and analyze information to predict the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft, including nonstructural aircraft systems, and air safety;

(2) to develop methods of analyzing and improving aircraft maintenance technology and practices, including nondestructive evaluation of aircraft structures;

(3) to assess the fire and smoke resistance of aircraft material;

(4) to develop improved fire and smoke resistant material for aircraft interiors;

(5) to develop and improve fire and smoke containment systems for inflight aircraft fires;

(6) to develop advanced aircraft fuels with low flammability and technologies that will contain aircraft fuels to minimize post-crash fire hazards;

(7) to develop technologies and methods to assess the risk of and prevent defects, failures, and

malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft; and

(8) in conjunction with other Federal agencies, as appropriate, to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, and processes for use in all classes of unmanned aircraft systems that could result in a catastrophic failure of the unmanned aircraft that would endanger other aircraft in the national airspace system.

(c) AUTHORITY TO BUY ITEMS OFFERING SPECIAL ADVANTAGES.—In carrying out this section, the Administrator, by negotiation or otherwise, may buy or exchange experimental aircraft, aircraft engines, propellers, and appliances that the Administrator decides may offer special advantages to aeronautics.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1176; Pub. L. 106–181, title IX, §904, Apr. 5, 2000, 114 Stat. 196; Pub. L. 112–95, title IX, §903(a), Feb. 14, 2012, 126 Stat. 138.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44504(a)	49 App.:1353(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §312(b) (1st, last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44504(b)	49 App.:1353(b) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(b) (2d sentence); added Nov. 3, 1988, Pub. L. 100–591, §2, 102 Stat. 3011; Nov. 5, 1990, Pub. L. 101–508, §9208(a), 104 Stat. 1388–376.
44504(c)	49 App.:1353(b) (last sentence) 49 App.:1655(c)(1).	

In this section, the word "Administrator" in section 312(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a), the words "to improve" are substituted for "such . . . as tends to the creation of improved" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (b)(8). Pub. L. 112–95 added par. (8).

2000—Subsec. (b)(1). Pub. L. 106–181 inserted ", including nonstructural aircraft systems," after "life of aircraft".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

ELECTRIC AIRCRAFT INFRASTRUCTURE PILOT PROGRAM

Pub. L. 118–63, title VII, §745, May 16, 2024, 138 Stat. 1282, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] may establish a pilot program under which airport

sponsors may use funds made available under chapter 471 or section 48103 of title 49, United States Code, for use at up to 10 airports to carry out—

"(1) activities associated with the acquisition, by purchase or lease, operation, and installation of equipment to support the operations of electric aircraft, including interoperable electric vehicle charging equipment; and

"(2) the construction or modification of infrastructure to facilitate the delivery of power or services necessary for the use of electric aircraft, including—

"(A) on airport utility upgrades; and

"(B) associated design costs.

"(b) ELIGIBILITY.—A public-use airport is eligible for participation in the pilot program under this section if the Secretary finds that funds made available under subsection (a) would support—

"(1) electric aircraft operators at such airport, or using such airport; or

"(2) electric aircraft operators planning to operate at such airport with an associated agreement in place.

"(c) SUNSET.—The pilot program established under subsection (a) shall terminate on October 1, 2028."

NEXT GENERATION RADIO ALTIMETERS

Pub. L. 118–63, title X, §1018, May 16, 2024, 138 Stat. 1397, provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration], in coordination with the aviation and commercial wireless industries, the National Telecommunications and Information Administration, the Federal Communications Commission, and other relevant government stakeholders, shall carry out an accelerated research and development program to inform the development and testing of the standards and technology necessary to ensure appropriate FAA [Federal Aviation Administration] certification actions and industry production that meets the installation requirements for next generation radio altimeters across all necessary aircraft by January 1, 2028.

"(b) GRANT PROGRAM.—Subject to the availability of appropriations, the Administrator may award grants for the purposes of research and development, testing, and other activities necessary to ensure that next generation radio altimeter technology is developed, tested, certified, and installed on necessary aircraft by 2028, including through public-private partnership grants (which shall include protections for necessary intellectual property with respect to any private sector entity testing, certifying, or producing next generation radio altimeters under the program carried out under this section) with industry to ensure the accelerated production and installation by January 1, 2028.

"(c) REVIEW AND REPORT.—Not later than 180 days after the enactment of this Act, the Administrator shall submit to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] and the Committee on Transportation and Infrastructure of the House of Representatives a report on the steps the Administrator has taken as of the date on which such report is submitted and any actions the Administrator plans to take, including as part of the program carried out under this section, to ensure that next generation radio altimeter technology is developed, tested, certified, and installed by 2028.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to efforts to retrofit the existing supply of altimeters in place as of the date of enactment of this Act."

HYDROGEN AVIATION STRATEGY

Pub. L. 118–63, title X, §1019, May 16, 2024, 138 Stat. 1398, provided that:

"(a) FAA AND DEPARTMENT OF ENERGY LEADERSHIP ON USING HYDROGEN TO PROPEL COMMERCIAL AIRCRAFT.—The Secretary [of Transportation], acting through the Administrator [of the Federal Aviation Administration] and jointly with the Secretary of Energy, shall exercise leadership in and shall conduct research and development activities relating to enabling the safe use of hydrogen in civil aviation, including the safe and efficient use and sourcing of hydrogen to propel commercial aircraft.

"(b) RESEARCH STRATEGY.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator, in consultation with the Administrator of NASA [National Aeronautics and Space Administration] and other relevant Federal agencies, shall complete the development of a research and development strategy on the safe use of hydrogen in civil aviation.

"(c) CONSIDERATIONS.—The strategy developed under subsection (b) shall consider the following:

"(1) The feasibility, opportunities, challenges, and pathways toward the potential and safe uses of hydrogen in civil aviation.

"(2) The use of hydrogen in addition to electric propulsion to propel commercial aircraft and any related operational efficiencies.

"(d) EXERCISE OF LEADERSHIP.—The Secretary, the Administrator, and the Secretary of Energy shall carry out the research activities consistent with the strategy in subsection (b), and that may include the following:

"(1) Establishing positions and goals for the safe use of hydrogen in civil aviation, including to propel commercial aircraft.

"(2) Understanding of the qualification of hydrogen aviation fuel, the safe transition to such fuel for aircraft, the advancement of certification efforts for such fuel, and risk mitigation measures for the use of such fuel in aircraft systems, including propulsion and storage systems.

"(3) Through grant, contract, or interagency agreements, carrying out research and development to understand the contribution that the use of hydrogen would have on civil aviation, including hydrogen as an input for conventional jet fuel, hydrogen fuel cells as a source of electric propulsion, sustainable aviation fuel, and power to liquids or synthetic fuel, and researching ways of accelerating the introduction of hydrogen-propelled aircraft.

"(4) Reviewing grant eligibility requirements, loans, loan guarantees, and other policies and requirements of the FAA [Federal Aviation Administration] and the Department of Energy to identify ways to increase the safe and efficient use of hydrogen in civil aviation.

"(5) Considering the needs of the aerospace industry, aviation suppliers, hydrogen producers, airlines, airport sponsors, fixed base operators, and other stakeholders in creating policies that enable the safe use of hydrogen in civil aviation.

"(6) Coordinating with NASA, and obtaining input from the aerospace industry, aviation suppliers, hydrogen producers, airlines, airport sponsors, fixed base operators, academia and other stakeholders regarding—

"(A) the safe and efficient use of hydrogen in civil aviation, including—

"(i) updating or modifying existing policies on such use;

"(ii) assessing barriers to, and benefits of, the introduction of hydrogen in civil aviation, including aircraft propelled by hydrogen;

"(iii) the operational differences between aircraft propelled by hydrogen and aircraft propelled with other types of fuels; and

"(iv) public, economic, and noise benefits of the operation of commercial aircraft propelled by hydrogen and associated aerospace industry activity; and

"(B) other issues identified by the Secretary, the Administrator, the Secretary of Energy, or the advisory committee established under paragraph (7) that must be addressed in order to enable the safe and efficient use of hydrogen in civil aviation.

"(7) Establish an advisory committee composed of representatives of NASA, the aerospace industry, aviation suppliers, hydrogen producers, airlines, airport sponsors, fixed base operators, and other stakeholders to advise the Secretary, the Administrator, and the Secretary of Energy on the activities carried out under this subsection.

"(e) INTERNATIONAL LEADERSHIP.—The Secretary, the Administrator, and the Secretary of Energy, in the appropriate international forums, shall take actions that—

"(1) demonstrate global leadership in carrying out the activities required by subsections (a) and (b);

"(2) consider the needs of the aerospace industry, aviation suppliers, hydrogen producers, airlines, airport sponsors, fixed base operators, and other stakeholders identified under subsection (b);

"(3) consider the needs of fuel cell manufacturers; and

"(4) seek to advance the competitiveness of the United States in the safe use of hydrogen in civil aviation.

"(f) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Secretary, acting through the Administrator and jointly with the Secretary of Energy, shall submit to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing—

"(1) the actions of the Secretary, the Administrator, and the Secretary of Energy to exercise leadership in conducting research relating to the safe and efficient use of hydrogen in civil aviation;

"(2) the planned, proposed, and anticipated actions to update or modify existing policies related to the safe and efficient use of hydrogen in civil aviation, based on the results of the research and development carried out under this section, including such actions identified as a result of consultation with, and feedback from, the aerospace industry, aviation suppliers, hydrogen producers, airlines, airport sponsors, fixed base operators, academia and other stakeholders identified under subsection (b); and

"(3) a proposed timeline for any such actions pursuant to paragraph (2)."

FAA LEADERSHIP IN HYDROGEN AVIATION

Pub. L. 118–63, title XI, §1109, May 16, 2024, 138 Stat. 1418, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall exercise leadership in the development of Federal regulations, standards, best practices, and guidance relating to the safe and efficient certification of the use of hydrogen in civil aviation, including the certification of hydrogen-powered commercial aircraft.

"(b) EXERCISE OF LEADERSHIP.—In carrying out subsection (a), the Administrator shall—

"(1) develop a viable path for the certification of the safe use of hydrogen in civil aviation, including hydrogen-powered aircraft, that considers existing frameworks, modifying an existing framework, or developing new standards, best practices, or guidance to complement the existing frameworks, as appropriate;

"(2) review certification regulations, guidance, and other requirements of the FAA [Federal Aviation Administration] to identify ways to safely and efficiently certify hydrogen-powered commercial aircraft;

"(3) consider the needs of the aerospace industry, aviation suppliers, hydrogen producers, airlines, airport sponsors, fixed base operators, and other stakeholders when developing regulations and standards that enable the safe certification and deployment of the use of hydrogen in civil aviation, including hydrogen-powered commercial aircraft, in the national airspace system; and

"(4) obtain the input of the aerospace industry, aviation suppliers, hydrogen producers, airlines, airport sponsors, fixed base operators, academia, research institutions, and other stakeholders regarding—

"(A) an appropriate regulatory framework and timeline for permitting the safe and efficient use of hydrogen in civil aviation, including the deployment and operation of hydrogen-powered commercial aircraft in the United States, which may include updating or modifying existing regulations;

"(B) how to accelerate the resolution of issues related to data, standards development, and related regulations necessary to facilitate the safe and efficient certification of the use of hydrogen in civil aviation, including hydrogen-powered commercial aircraft; and

"(C) other issues identified and determined appropriate by the Administrator or the advisory committee established under section 1019(d)(7) [of Pub. L. 118–63, set out in a note above] to be addressed to enable the safe and efficient use of hydrogen in civil aviation, including the deployment and operation of hydrogen-powered commercial aircraft."

ALTERNATIVE FUEL AND LOW-EMISSION AVIATION TECHNOLOGY PROGRAM

Pub. L. 117–169, title IV, §40007, Aug. 16, 2022, 136 Stat. 2030, provided that:

"(a) APPROPRIATION AND ESTABLISHMENT.—For purposes of establishing a competitive grant program for eligible entities to carry out projects located in the United States that produce, transport, blend, or store sustainable aviation fuel, or develop, demonstrate, or apply low-emission aviation technologies, in addition to amounts otherwise available, there are appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2026—

"(1) $244,530,000 for projects relating to the production, transportation, blending, or storage of sustainable aviation fuel;

"(2) $46,530,000 for projects relating to low-emission aviation technologies; and

"(3) $5,940,000 to fund the award of grants under this section, and oversight of the program, by the Secretary.

"(b) CONSIDERATIONS.—In carrying out subsection (a), the Secretary shall consider, with respect to a proposed project—

"(1) the capacity for the eligible entity to increase the domestic production and deployment of sustainable aviation fuel or the use of low-emission aviation technologies among the United States commercial aviation and aerospace industry;

"(2) the projected greenhouse gas emissions from such project, including emissions resulting from the development of the project, and the potential the project has to reduce or displace, on a lifecycle basis, United States greenhouse gas emissions associated with air travel;

"(3) the capacity to create new jobs and develop supply chain partnerships in the United States;

"(4) for projects related to the production of sustainable aviation fuel, the projected lifecycle greenhouse gas emissions benefits from the proposed project, which shall include feedstock and fuel production and potential direct and indirect greenhouse gas emissions (including resulting from changes in land use); and

"(5) the benefits of ensuring a diversity of feedstocks for sustainable aviation fuel, including the use of waste carbon oxides and direct air capture.

"(c) COST SHARE.—The Federal share of the cost of a project carried out using grant funds under

subsection (a) shall be 75 percent of the total proposed cost of the project, except that such Federal share shall increase to 90 percent of the total proposed cost of the project if the eligible entity is a small hub airport or nonhub airport, as such terms are defined in section 47102 of title 49, United States Code.

"(d) FUEL EMISSIONS REDUCTION TEST.—For purposes of clause (ii) of subsection (e)(7)(E), the Secretary shall, not later than 2 years after the date of enactment of this section [Aug. 16, 2022], adopt at least 1 methodology for testing lifecycle greenhouse gas emissions that meets the requirements of such clause.

"(e) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State or local government, including the District of Columbia, other than an airport sponsor;

"(B) an air carrier;

"(C) an airport sponsor;

"(D) an accredited institution of higher education;

"(E) a research institution;

"(F) a person or entity engaged in the production, transportation, blending, or storage of sustainable aviation fuel in the United States or feedstocks in the United States that could be used to produce sustainable aviation fuel;

"(G) a person or entity engaged in the development, demonstration, or application of low-emission aviation technologies; or

"(H) nonprofit entities or nonprofit consortia with experience in sustainable aviation fuels, low-emission aviation technologies, or other clean transportation research programs.

"(2) FEEDSTOCK.—The term 'feedstock' means sources of hydrogen and carbon not originating from unrefined or refined petrochemicals.

"(3) INDUCED LAND-USE CHANGE VALUES.—The term 'induced land-use change values' means the greenhouse gas emissions resulting from the conversion of land to the production of feedstocks and from the conversion of other land due to the displacement of crops or animals for which the original land was previously used.

"(4) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term 'lifecycle greenhouse gas emissions' means the combined greenhouse gas emissions from feedstock production, collection of feedstock, transportation of feedstock to fuel production facilities, conversion of feedstock to fuel, transportation and distribution of fuel, and fuel combustion in an aircraft engine, as well as from induced land-use change values.

"(5) LOW-EMISSION AVIATION TECHNOLOGIES.—The term 'low-emission aviation technologies' means technologies, produced in the United States, that significantly—

"(A) improve aircraft fuel efficiency;

"(B) increase utilization of sustainable aviation fuel; or

"(C) reduce greenhouse gas emissions produced during operation of civil aircraft.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(7) SUSTAINABLE AVIATION FUEL.—The term 'sustainable aviation fuel' means liquid fuel, produced in the United States, that—

"(A) consists of synthesized hydrocarbons;

"(B) meets the requirements of—

"(i) ASTM International Standard D7566; or

"(ii) the co-processing provisions of ASTM International Standard D1655, Annex A1 (or such successor standard);

"(C) is derived from biomass (in a similar manner as such term is defined in section 45K(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 45K(c)(3)]), waste streams, renewable energy sources, or gaseous carbon oxides;

"(D) is not derived from palm fatty acid distillates; and

"(E) achieves at least a 50 percent lifecycle greenhouse gas emissions reduction in comparison with petroleum-based jet fuel, as determined by a test that shows—

"(i) the fuel production pathway achieves at least a 50 percent reduction of the aggregate attributional core lifecycle emissions and the induced land-use change values under a lifecycle methodology for sustainable aviation fuels similar to that adopted by the International Civil Aviation Organization with the agreement of the United States; or

"(ii) the fuel production pathway achieves at least a 50 percent reduction of the aggregate attributional core lifecycle greenhouse gas emissions values and the induced land-use change values under another methodology that the Secretary determines is—

"(I) reflective of the latest scientific understanding of lifecycle greenhouse gas emissions; and

"(II) as stringent as the requirement under clause (i)."

CRASH-RESISTANT FUEL SYSTEMS

Pub. L. 114–190, title II, §2105, July 15, 2016, 130 Stat. 620, provided that: "Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration shall evaluate and update, as necessary, standards for crash-resistant fuel systems for civilian rotorcraft."

AVIATION FUEL RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 112–95, title IX, §910, Feb. 14, 2012, 126 Stat. 141, provided that:

"(a) IN GENERAL.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator [of the Federal Aviation Administration], in coordination with the Administrator of NASA [National Aeronautics and Space Administration], shall continue research and development activities into the qualification of an unleaded aviation fuel and safe transition to this fuel for the fleet of piston engine aircraft.

"(b) REQUIREMENTS.—In carrying out the program under subsection (a), the Administrator shall, at a minimum—

"(1) not later than 120 days after the date of enactment of this Act [Feb. 14, 2012], develop a research and development plan containing the specific research and development objectives, including consideration of aviation safety, technical feasibility, and other relevant factors, and the anticipated timetable for achieving the objectives;

"(2) assess the methods and processes by which the FAA and industry may expeditiously certify and approve new aircraft and recertify existing aircraft with respect to unleaded aviation fuel;

"(3) assess technologies that modify existing piston engine aircraft to enable safe operation of the aircraft using unleaded aviation fuel and determine the resources necessary to certify those technologies; and

"(4) develop recommendations for appropriate policies and guidelines to facilitate a transition to unleaded aviation fuel for piston engine aircraft.

"(c) COLLABORATION.—In carrying out the program under subsection (a), the Administrator shall collaborate with—

"(1) industry groups representing aviation consumers, manufacturers, and fuel producers and distributors; and

"(2) other appropriate Federal agencies.

"(d) REPORT.—Not later than 270 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the plan, information obtained, and policies and guidelines developed pursuant to subsection (b)."

RESEARCH PROGRAM ON ALTERNATIVE JET FUEL TECHNOLOGY FOR CIVIL AIRCRAFT

Pub. L. 112–95, title IX, §911, Feb. 14, 2012, 126 Stat. 142, provided that:

"(a) IN GENERAL.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator [of the Federal Aviation Administration (FAA)] shall establish a research program to assist in the development and qualification of jet fuel from alternative sources (such as natural gas, biomass, ethanol, butanol, and hydrogen) and other renewable sources.

"(b) AUTHORITY TO MAKE GRANTS.—The Administrator shall carry out the program through the use of grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies.

"(c) PARTICIPATION IN PROGRAM.—

"(1) PARTICIPATION OF EDUCATIONAL AND RESEARCH INSTITUTIONS.—In carrying out the program, the Administrator shall include participation by—

"(A) educational and research institutions that have existing facilities and leverage private sector partnerships; and

"(B) consortia with experience across the supply chain, including with research, feedstock development and production, small-scale development, testing, and technology evaluation related to the creation, processing, production, and transportation of alternative aviation fuel.

"(2) USE OF NASA FACILITIES.—In carrying out the program, the Administrator shall consider utilizing the existing capacity in aeronautics research at Langley Research Center, Glenn Research Center

[renamed NASA John H. Glenn Research Center at the Neil A. Armstrong Test Facility by Pub. L. 116–263, 134 Stat. 3316], and other appropriate facilities of NASA [National Aeronautics and Space Administration].

"(d) DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator may designate an institution described in subsection (c)(1)(A) as a Center of Excellence for Alternative Jet-Fuel Research in Civil Aircraft.

"(2) EFFECT OF DESIGNATION.—The center designated under paragraph (1) shall become, upon its designation—

"(A) a member of the Consortium for Continuous Low Energy, Emissions, and Noise of the FAA; and

"(B) part of a Joint Center of Excellence with the Partnership for Air Transportation Noise and Emission Reduction FAA Center of Excellence."

PRODUCTION OF CLEAN COAL FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT

Pub. L. 112–95, title IX, §914, Feb. 14, 2012, 126 Stat. 144, provided that:

"(a) ESTABLISHMENT OF RESEARCH PROGRAM.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator [of the Federal Aviation Administration] shall establish a research program related to developing jet fuel from clean coal.

"(b) AUTHORITY TO MAKE GRANTS.—The Administrator shall carry out the program through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies.

"(c) PARTICIPATION IN PROGRAM.—In carrying out the program, the Administrator shall include participation by educational and research institutions that have existing facilities and experience in the development and deployment of technology that processes coal into aviation fuel.

"(d) DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator may designate an institution described in subsection (c) as a Center of Excellence for Coal-to-Jet-Fuel Research."

RESEARCH AND DEVELOPMENT OF EQUIPMENT TO CLEAN AND MONITOR THE ENGINE AND APU BLEED AIR SUPPLIED ON PRESSURIZED AIRCRAFT

Pub. L. 112–95, title IX, §917, Feb. 14, 2012, 126 Stat. 145, provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator [of the Federal Aviation Administration], to the extent practicable, shall implement a research program for the identification or development of appropriate and effective air cleaning technology and sensor technology for the engine and auxiliary power unit bleed air supplied to the passenger cabin and flight deck of a pressurized aircraft.

"(b) TECHNOLOGY REQUIREMENTS.—The technology referred to in subsection (a) shall have the capacity, at a minimum—

"(1) to remove oil-based contaminants from the bleed air supplied to the passenger cabin and flight deck; and

"(2) to detect and record oil-based contaminants in the portion of the total air supplied to the passenger cabin and flight deck from bleed air.

"(c) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of the research and development work carried out under this section."

FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT

Pub. L. 108–176, title VII, §708, Dec. 12, 2003, 117 Stat. 2582, as amended by Pub. L. 112–95, title IX, §916, Feb. 14, 2012, 126 Stat. 145, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport airframe structures. The Center shall—

"(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

"(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $500,000 for each of fiscal years 2012 through 2015 to carry out this section."

ROTORCRAFT RESEARCH AND DEVELOPMENT INITIATIVE

Pub. L. 108–176, title VII, §711, Dec. 12, 2003, 117 Stat. 2585, provided that:

"(a) OBJECTIVE.—The Administrator of the Federal Aviation Administration shall establish a rotorcraft initiative with the objective of developing, and demonstrating in a relevant environment, within 10 years after the date of the enactment of this Act [Dec. 12, 2003], technologies to enable rotorcraft with the following improvements relative to rotorcraft existing as of the date of the enactment of this Act:

"(1) 80 percent reduction in noise levels on takeoff and on approach and landing as perceived by a human observer.

"(2) Factor of 10 reduction in vibration.

"(3) 30 percent reduction in empty weight.

"(4) Predicted accident rate equivalent to that of fixed-wing aircraft in commercial service within 10 years after the date of the enactment of this Act.

"(5) Capability for zero-ceiling, zero-visibility operations.

"(b) IMPLEMENTATION.—Within 180 days after the date of the enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall provide a plan to the Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate for the implementation of the initiative described in subsection (a)."

SPECIALTY METALS CONSORTIUM

Pub. L. 106–181, title VII, §742, Apr. 5, 2000, 114 Stat. 175, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] may work with a consortium of domestic metal producers and aircraft engine manufacturers to improve the quality of turbine engine materials and to address melting technology enhancements.

"(b) REPORT.—Not later than 6 months after entering into an agreement with a consortium described in subsection (a), the Administrator shall transmit to Congress a report on the goals and efforts of the consortium."

§44505. Systems, procedures, facilities, services, and devices

(a) GENERAL REQUIREMENTS.—(1) The Administrator of the Federal Aviation Administration shall—

(A) develop, alter, test, and evaluate systems, procedures, facilities, services, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern; and

(B) select systems, procedures, facilities, services, and devices that will best serve those needs and promote maximum coordination of air traffic control and air defense systems.

(2) The Administrator may make contracts to carry out this subsection without regard to section 3324(a) and (b) of title 31.

(3) When a substantial question exists under paragraph (1) of this subsection about whether a matter is of primary concern to the armed forces, the Administrator shall decide whether the Administrator or the Secretary of the appropriate military department has responsibility. The Administrator shall be given technical information related to each research and development project of the armed forces that potentially applies to, or potentially conflicts with, the common system to ensure that potential application to the common system is considered properly and that potential conflicts with the system are eliminated.

(b) RESEARCH ON HUMAN FACTORS AND SIMULATION MODELS.—The Administrator shall conduct or supervise research—

(1) to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety;

(2) to enhance air traffic controller, mechanic, and flight crew performance;

(3) to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews;

(4) to identify innovative and effective corrective measures for human errors that adversely affect air safety;

(5) to develop or procure dynamic simulation models and tools of the air traffic control system and airport design and operating procedures that will provide analytical technology—

(A) to predict airport and air traffic control safety and capacity problems;

(B) to evaluate planned research projects; and

(C) to test proposed revisions in airport and air traffic control operations programs;

(6) to develop a better understanding of the relationship between human factors and unmanned aircraft system safety; and

(7) to develop or procure dynamic simulation models and tools for integrating all classes of unmanned aircraft systems into the national airspace system without any degradation of existing levels of safety for all national airspace system users.

(c) RESEARCH ON DEVELOPING AND MAINTAINING A SAFE AND EFFICIENT SYSTEM.—The Administrator shall conduct or supervise research on—

(1) airspace and airport planning and design;

(2) airport capacity enhancement techniques;

(3) human performance in the air transportation environment;

(4) aviation safety and security;

(5) the supply of trained air transportation personnel, including pilots and mechanics; and

(6) other aviation issues related to developing and maintaining a safe and efficient air transportation system.

(d) RESEARCH ON DESIGN FOR CERTIFICATION.—

(1) RESEARCH.—Not later than 1 year after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator shall conduct research on methods and procedures to improve both confidence in and the timeliness of certification of new technologies for their introduction into the national airspace system.

(2) RESEARCH PLAN.—Not later than 6 months after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator shall develop a plan for the research under paragraph (1) that contains objectives, proposed tasks, milestones, and a 5-year budgetary profile.

(3) REVIEW.—The Administrator shall enter into an arrangement with the National Research Council to conduct an independent review of the plan developed under paragraph (2) and shall provide the results of that review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after the date of enactment of the FAA Modernization and Reform Act of 2012.

(e) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements on a cost-shared basis with Federal and non-Federal entities that the Administrator may select in order to conduct, encourage, and promote aviation research, engineering, and development, including the development of prototypes and demonstration models.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1177; Pub. L. 103–305, title III, §307, Aug. 23, 1994, 108 Stat. 1593; Pub. L. 112–95, title IX, §§903(b), 905, Feb. 14, 2012, 126 Stat. 138, 139; Pub. L. 118–63, title VI, §618(b)(1), May 16, 2024, 138 Stat. 1231.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44505(a)(1)	49 App.:1353(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §312(c) (1st, 5th–last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44505(a)(2)	49 App.:1353(c) (5th sentence).	
	49 App.:1655(c)(1).	
44505(a)(3)	49 App.:1353(c) (6th, last sentences).	
	49 App.:1655(c)(1).	
44505(b)	49 App.:1353(c) (2d, 3d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(c) (2d, 3d sentences); added Nov. 3, 1988, Pub. L. 100–591, §3, 102 Stat. 3011.
44505(c)	49 App.:1353(c) (4th sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(c) (4th sentence); added Nov. 5, 1990, Pub. L. 101–508, §9209(c), 104 Stat. 1388–378.

In this section, the word "Administrator" in section 312(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a)(1) and (3), the words "the armed forces" are substituted for "military agencies" and "the military" because of the definition of "armed forces" in 10:101.

In subsection (a)(3), the words "military department" are substituted for "military agency" because of the definition of "military department" in 10:101. The words "the needs of" and "to the maximum extent necessary" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (d), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

AMENDMENTS

2024—Pub. L. 118–63, §618(b)(1)(A), substituted "services, and devices" for "and devices" in section catchline.

Subsec. (a)(1). Pub. L. 118–63, §618(b)(1)(B), substituted "services, and devices" for "and devices" in subpars. (A) and (B).

Subsec. (b)(5), (7). Pub. L. 118–63, §618(b)(1)(C), substituted "develop or procure dynamic simulation models and tools" for "develop dynamic simulation models".

2012—Subsec. (b)(6), (7). Pub. L. 112–95, §903(b), added pars. (6) and (7).

Subsecs. (d), (e). Pub. L. 112–95, §905, added subsec. (d) and redesignated former subsec. (d) as (e).

1994—Subsec. (d). Pub. L. 103–305 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REDUCING TURBULENCE-RELATED INJURIES ON PART 121 AIRCRAFT OPERATIONS

Pub. L. 118–63, title III, §321, May 16, 2024, 138 Stat. 1083, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall review the recommendations made by the Chair

of the National Transportation Safety Board to the Administrator contained in the safety research report titled 'Preventing Turbulence-Related Injuries in Air Carrier Operations Conducted Under Title 14 Code of Federal Regulations Part 121', issued on August 10, 2021 (NTSB/SS–21/01) and provide a briefing to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] with any planned actions in response to the recommendations of the report.

"(b) IMPLEMENTATION.—Not later than 3 years after the date of enactment of this Act, the Administrator shall implement, as appropriate, the recommendations in the safety research report described in subsection (a).

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 2 years after completing the review under subsection (a), and every 2 years thereafter, the Administrator shall submit to the appropriate committees of Congress a report on the implementation status of the recommendations in the safety research report described in subsection (a) until the earlier of—

"(A) the date on which such recommendations have been adopted or adjudicated as described in paragraph (2); or

"(B) the date that is 10 years after the date of enactment of this Act.

"(2) CONTENTS.—If the Administrator decides not to implement a recommendation in the safety research report described in subsection (a), the Administrator shall provide, as a part of the report required under paragraph (1), a description of why the Administrator did not implement such recommendation."

FLIGHT PROFILE OPTIMIZATION

Pub. L. 118–63, title VI, §609, May 16, 2024, 138 Stat. 1225, provided that:

"(a) PILOT PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration] shall establish a pilot program to award grants to air traffic flow management technology providers to develop prototype capabilities to incorporate flight profile optimization (in this section referred to as 'FPO') into the trajectory based-operations air traffic flow management system of the FAA [Federal Aviation Administration].

"(2) CONSIDERATIONS.—In establishing the pilot program under paragraph (1), the Administrator shall consider the following:

"(A) The extent to which developed FPO capabilities may reduce strain on the national airspace system infrastructure while facilitating safe and efficient flow of future air traffic volumes and diverse range of aircraft and advanced aviation aircraft.

"(B) The extent to which developed FPO capabilities may achieve environmental benefits and time savings.

"(C) The perspectives of FAA employees responsible for air traffic flow management development projects, bilateral civil aviation regulatory partners, and industry applicants on the performance of the FAA in carrying out air traffic flow management system development projects.

"(D) Any other information the Administrator determines appropriate.

"(3) APPLICATION.—To be eligible to receive a grant under the program, an air traffic flow management technology provider shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

"(4) MAXIMUM AMOUNT.—A grant awarded under the program may not exceed $2,000,000 to a single air traffic flow management technology provider.

"(b) BRIEFING TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], and annually thereafter until the termination of the pilot program under subsection (d) established under this section, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the progress of such pilot program, including any implementation challenges of the program, detailed metrics of the program, and any recommendations to achieve the adoption of FPO.

"(c) TRAJECTORY-BASED OPERATIONS DEFINED.—In this section, the term 'trajectory-based operations' means an air traffic flow management method for strategically planning, managing, and optimizing flights that uses time-based management, performance-based navigation, and other capabilities and processes to achieve air traffic flow management operational objectives and improvements.

"(d) SUNSET.—The pilot program under this section shall terminate on October 1, 2028."

AERONAUTICAL MOBILE COMMUNICATIONS SERVICES

Pub. L. 118–63, title VI, §613, May 16, 2024, 138 Stat. 1227, provided that:

"(a) SATELLITE VOICE COMMUNICATIONS SERVICES.—The Administrator [of the Federal

Aviation Administration] shall evaluate the addition of satellite voice communication services (in this section referred to as 'SatVoice') to the Aeronautical Mobile Communications program (in this section referred to as the 'AMCS program') that provides for the delivery of air traffic control messages in oceanic and remote continental airspace.

"(b) ANALYSIS AND IMPLEMENTATION PROCEDURES.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator shall begin to develop the safety case analysis and implementation procedures for SatVoice instructions over the controlled oceanic and remote continental airspace regions of the FAA [Federal Aviation Administration].

"(c) REQUIREMENTS.—The analysis and implementation procedures required under subsection (b) shall include, at a minimum, the following:

"(1) Network and protocol testing and integration with satellite service providers.

"(2) Operational testing with aircraft to identify and resolve performance issues.

"(3) A definition of Satcom Standards and Recommended Practices established through a collaboration with the International Civil Aviation Organization, which shall include an RCP–130 performance standard as well as SatVoice standards.

"(4) Training for radio operators on new operation procedures and protocols.

"(5) A phased implementation plan for incorporating SatVoice services into the AMCS program.

"(6) The estimated cost of the implementation procedures for relevant stakeholders.

"(d) HF/VHF MINIMUM EQUIPAGE.—

"(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the HF/VHF equipage requirement for communications in oceanic and remote continental airspace as of the date of enactment of this Act.

"(2) MAINTENANCE OF HF/VHF SERVICES.—The Administrator shall maintain HF/VHF services existing as of the date of enactment of this Act as minimum equipage under the AMCS program to provide for auxiliary communication and maintain safety in the event of a satellite outage."

DELIVERY OF CLEARANCE TO PILOTS VIA INTERNET PROTOCOL

Pub. L. 118–63, title VI, §614, May 16, 2024, 138 Stat. 1228, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a pilot program to conduct testing and an evaluation to determine the feasibility of the use, in air traffic control towers, of technology for mobile clearance delivery for general aviation and on-demand air carriers operating under part 135 of title 14, Code of Federal Regulations, at suitable airports that do not have tower data link services.

"(b) AIRPORT SELECTION.—

"(1) IN GENERAL.—The Administrator shall designate 5 suitable airports for participation in the program established under subsection (a) after consultation with the exclusive representatives of air traffic controllers certified under section 7111 of title 5, United States Code, airport sponsors, aircraft and avionics manufacturers, MITRE, and aircraft operators

"(2) AIRPORT SIZE AND COMPLEXITY.—In designating airports under paragraph (1), the Administrator shall designate airports of different size and complexity.

"(c) PROGRAM OBJECTIVE.—The program established under subsection (a) shall address and include safety, security, and operational requirements for mobile clearance delivery at airports and heliports across the United States.

"(d) REPORT.—Not later than 1 year after the date on which the program under subsection (a) is established, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the safety, security, and operational performance of mobile clearance delivery at airports pursuant to this section and recommendations on how best to improve the program.

"(e) DEFINITIONS.—In this section:

"(1) MOBILE CLEARANCE DELIVERY.—The term 'mobile clearance delivery' means the delivery of access to departure clearance and clearance cancellation via internet protocol via applications to pilots while aircraft are on the ground where traditional data link installations are not feasible or possible.

"(2) TOWER DATA LINK SERVICES.—The term 'tower data link services' means communications between controllers and pilots using controller-pilot data link communications.

"(3) SUITABLE AIRPORT.—The term 'suitable airport' means towered airports, non-towered airports, and heliports."

AUDIT OF LEGACY SYSTEMS

Pub. L. 118–63, title VI, §622, May 16, 2024, 138 Stat. 1237, provided that:

"(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall initiate an audit of all legacy systems of the national airspace system to determine the level of operational risk, functionality, and security of such systems and the compatibility of such systems with current and future technology.

"(b) SCOPE OF AUDIT.—The audit required under subsection (a)—

"(1) shall be conducted by an independent third-party contractor or a federally funded research and development center selected by the Administrator;

"(2) shall include an assessment of whether a legacy system is an outdated, insufficient, unsafe, or unstable legacy system;

"(3) with respect to any legacy systems identified in the audit as an outdated, insufficient, unsafe, or unstable legacy system, shall include—

"(A) an analysis of the operational risks associated with using such legacy systems;

"(B) recommendations for replacement or enhancement of such legacy systems; and

"(C) an analysis of any potential impact on aviation safety and efficiency; and

"(4) shall include recommended performance metrics by which the Administrator can assess the circumstances in which safety-critical communication, navigation, and surveillance aviation infrastructure within the national airspace system can remain in operational service, which take into account—

"(A) the expected lifespan of such aviation infrastructure;

"(B) the number and type of mechanical failures of such aviation infrastructure;

"(C) the average annual costs of maintaining such aviation infrastructure over a 5-year period and whether such costs exceed the cost to replace such aviation infrastructure; and

"(D) the availability of replacement parts or labor capable of maintaining such aviation infrastructure.

"(c) DEADLINE.—Not later than 15 months after the date of enactment of this Act, the audit required under subsection (a) shall be completed.

"(d) REPORT.—Not later than 180 days after the audit required under subsection (a) is completed, the Administrator shall provide to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the findings and recommendations of such audit, including—

"(1) an inventory of the legacy systems in use;

"(2) an assessment of the operational condition of the legacy systems in use, including the interoperability of such systems;

"(3) the average age of such legacy systems and, for each such legacy system, the intended design life of the system, by type; and

"(4) the availability of replacement parts, equipment, or technology to maintain such legacy systems.

"(e) PLAN TO ACCELERATE DRAWDOWN, REPLACEMENT, OR ENHANCEMENT OF IDENTIFIED LEGACY SYSTEMS.—

"(1) IN GENERAL.—Not later than 120 days after the date on which the Administrator provides the report under subsection (d), the Administrator shall develop and implement a plan, in consultation with industry representatives, to accelerate the drawdown, replacement, or enhancement of any legacy systems that are identified in the audit required under subsection (a) as outdated, insufficient, unsafe, or unstable legacy systems.

"(2) PRIORITIES.—In developing the plan under paragraph (1), the Administrator shall prioritize the drawdown, replacement, or enhancement of such legacy systems based on the operational risks such legacy systems pose to aviation safety and the costs associated with the replacement or enhancement of such legacy systems.

"(3) COLLABORATION WITH EXTERNAL EXPERTS.—In carrying out this subsection, the Administrator shall—

"(A) collaborate with industry representatives and other external experts in information technology to develop the plan under paragraph (1) within a reasonable timeframe;

"(B) identify technologies in existence or in development that, with or without adaptation, are expected to be suitable to meet the technical information technology needs of the FAA [Federal Aviation Administration]; and

"(C) maintain consistency with the acquisition management system established and updated pursuant to section 40110(d) of title 49, United States Code.

"(4) PROGRESS UPDATES.—The Administrator shall provide the appropriate committees of Congress with semiannual updates through September 30, 2028 on the progress made in carrying out the

plan under paragraph (1).

"(5) INSPECTOR GENERAL REVIEW.—

"(A) IN GENERAL.—Not later than 3 years after the Administrator develops the plan required under paragraph (1), the inspector general of the Department of Transportation shall assess such efforts of the Administration to drawdown, replace, or enhance any legacy systems identified under subsection (a).

"(B) REPORT.—The inspector general shall submit to the appropriate committees of Congress a report on the results of the review carried out under subparagraph (A).

"(f) DEFINITIONS.—In this section:

"(1) INDUSTRY.—The term 'industry' means aviation industry organizations with expertise in aviation-dedicated network systems, systems engineering platforms, aviation software services, air traffic management, flight operations, and International Civil Aviation Organization standards.

"(2) LEGACY SYSTEM.—The term 'legacy system' means any communication, navigation, surveillance, or automation or network applications or ground-based aviation infrastructure, or other critical software and hardware systems owned by the FAA, that were deployed prior to the year 2000, including the Notice to Air Missions system.

"(3) OUTDATED, INSUFFICIENT, UNSAFE, OR UNSTABLE LEGACY SYSTEM.—The term 'outdated, insufficient, unsafe, or unstable legacy system' means a legacy system for which the likelihood of failure of such system creates a risk to air safety or security due to the age, ability to be maintained in a cost-effective manner, vulnerability to degradation, errors, or malicious attacks of such system, or any other factors that may compromise the performance or security of such system, including a legacy system—

"(A) that is vulnerable or susceptible to mechanical failure; and

"(B) with a risk of a single point of failure or that lacks sufficient contingencies in the event of such failure."

RADAR DATA PILOT PROGRAM

Pub. L. 118–63, title IX, §905, May 16, 2024, 138 Stat. 1341, provided that:

"(a) SENSITIVE RADAR DATA FEED PILOT PROGRAM.—Not later than 270 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration], in coordination with the Secretary of Defense, and other heads of relevant Federal agencies, shall establish a pilot program to make airspace data feeds containing controlled unclassified information available to qualified users (as determined by the Administrator), consistent with subsection (b).

"(b) AUTHORIZATION.—In carrying out subsection (a), the Administrator, in coordination with the Secretary of Defense and other heads of relevant Federal agencies, shall establish a process to authorize qualified users to receive airspace data feeds containing controlled unclassified information related to air traffic within the national airspace system and use such information in an agreed upon manner to—

"(1) provide and enable—

"(A) air traffic management services; and

"(B) unmanned aircraft system traffic management services; or

"(2) to test technologies that may enable or enhance the provision of the services described in paragraph (1).

"(c) CONSULTATION.—In establishing the process described in subsection (b), the Administrator shall consult with representatives of the unmanned aircraft systems industry and related technical groups to identify an efficient, secure, and effective format and method for providing data described in this section.

"(d) BRIEFING.—Not later than 90 days after establishing the pilot program under subsection (a), and annually thereafter through 2028, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the findings of the pilot program established under this section.

"(e) SUNSET.—This section shall cease to be effective on October 1, 2028."

[For definition of "unmanned aircraft system" as used in section 905 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

RESEARCH AND DEVELOPMENT OF FAA'S AERONAUTICAL INFORMATION SYSTEMS MODERNIZATION ACTIVITIES

Pub. L. 118–63, title X, §1016, May 16, 2024, 138 Stat. 1395, provided that:

"(a) IN GENERAL.—Using amounts made available under section 48102(a) of title 49, United States Code, and subject to the availability of appropriations, the Administrator [of the Federal Aviation

Administration], in coordination with the John A. Volpe National Transportation Systems Center, shall establish a research and development program, not later than 60 days after the date of enactment of this Act [May 16, 2024], to inform the continuous modernization of the aeronautical information systems of the FAA [Federal Aviation Administration], including—

"(1) the Aeronautical Information Management Modernization, including the Notice to Air Missions system of the FAA;

"(2) the Aviation Safety Information Analysis and Sharing system; and

"(3) the Service Difficulty Reporting System.

"(b) REVIEW AND REPORT.—

"(1) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Administrator shall seek to enter into an agreement with a federally funded research and development center to conduct and complete a review of planned and ongoing modernization efforts of the aeronautical information systems of the FAA. Such review shall identify opportunities for additional coordination between the Administrator and the John A. Volpe National Transportation Systems Center to further modernize such systems.

"(2) REPORT.—Not later than 1 year after the Administrator enters into the agreement with the center under paragraph (1), the Center shall submit to the Administrator, the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate], and the Committee on Transportation and Infrastructure of the House of Representatives a report on the review conducted under paragraph (1) and such recommendations as the Center determines appropriate."

AIR TRAFFIC SURVEILLANCE OVER UNITED STATES CONTROLLED OCEANIC AIRSPACE AND OTHER REMOTE LOCATIONS

Pub. L. 118–63, title X, §1021, May 16, 2024, 138 Stat. 1400, provided that:

"(a) PERSISTENT AVIATION SURVEILLANCE OVER OCEANS AND REMOTE LOCATIONS .—Subject to the availability of appropriations, the Administrator [of the Federal Aviation Administration], in consultation with the Administrator of NASA [National Aeronautics and Space Administration] and other relevant Federal agencies, shall carry out research, development, demonstration, and testing to enable civil aviation surveillance over oceans and other remote locations to improve safety.

"(b) REPORT.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator shall submit to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] a report on the activities carried out under this section.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to duplicate existing efforts conducted by the Administrator, in coordination with other Federal agencies."

ELECTROMAGNETIC SPECTRUM RESEARCH AND DEVELOPMENT

Pub. L. 118–63, title X, §1026, May 16, 2024, 138 Stat. 1402, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration], in consultation with the National Telecommunications and Information Administration and the Federal Communications Commission, shall conduct research, engineering, and development related to the effective and efficient use and management of radio frequency spectrum in the civil aviation domain, including for aircraft, unmanned aircraft systems, and advanced air mobility.

"(b) CONTENTS.—The research, engineering, and development conducted under subsection (a) shall, at a minimum, address the following:

"(1) How reallocation or repurposing of radio frequency spectrum adjacent to spectrum allocated for communication, navigation, and surveillance may impact the safety of civil aviation.

"(2) The effectiveness of measures to identify risks, protect, and mitigate against spectrum interference in frequency bands used in civil aviation operations to ensure public safety.

"(3) The identification of any emerging civil aviation systems and their anticipated spectrum requirements.

"(4) The implications of paragraphs (1) through (3) on existing civil aviation systems that use radio frequency spectrum, including on the operational specifications of such systems, as it relates to existing and to future radio frequency spectrum requirements for civil aviation.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator shall submit to the covered committees of Congress [Committee on Science, Space, and

Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] a report containing the results of the research, engineering, and development conducted under subsection (a)."

TURBULENCE RESEARCH AND DEVELOPMENT

Pub. L. 118–63, title X, §1030, May 16, 2024, 138 Stat. 1404, provided that:

"(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator [of the Federal Aviation Administration], in collaboration with the Administrator of the National Oceanic and Atmospheric Administration, and in consultation with the Administrator of NASA [National Aeronautics and Space Administration], shall carry out applied research and development to—

"(1) enhance the monitoring and understanding of severe turbulence, including clear-air turbulence; and

"(2) inform the development of measures to mitigate safety impacts on crew and the flying public that may result from severe turbulence.

"(b) RESEARCH AND DEVELOPMENT ACTIVITIES.—In carrying out the research and development under subsection (a), the Administrator shall—

"(1) establish processes and procedures for comprehensive and systematic data collection, through both instrumentation and pilot reporting, of severe turbulence, including clear-air turbulence;

"(2) establish measures for storing and managing such data collection;

"(3) support measures for monitoring and characterizing incidents of severe turbulence;

"(4) consider relevant existing research and development from other entities, including Federal departments and agencies, academia, and the private sector; and

"(5) carry out research and development—

"(A) to understand the impacts of relevant factors on the nature of turbulence, including severe turbulence and clear-air turbulence;

"(B) to enhance turbulence forecasts for flight planning and execution, seasonal predictions for schedule and route-planning, and long-term projections of severe turbulence, including clear-air turbulence; and

"(C) on other subject matters areas related to severe turbulence, as determined by the Administrator; and

"(6) support the effective transition of the results of research and development to operations, in cases in which such transition is appropriate.

"(c) DUPLICATIVE RESEARCH AND DEVELOPMENT ACTIVITIES.—The Administrator shall ensure that research and development activities under this section do not duplicate other Federal programs relating to turbulence.

"(d) TURBULENCE DATA.—

"(1) COMMERCIAL PROVIDERS.—In carrying out the research and development under subsection (a) and the activities described in subsection (b), the Administrator may enter into agreements with commercial providers for the following:

"(A) The purchase of turbulence data.

"(B) The placement on aircraft of instruments relevant to understanding and monitoring turbulence.

"(2) DATA ACCESS.—The Administrator shall make the data collected under subsection (b) widely available and accessible to the scientific research, user, and stakeholder communities, including the Administrator of the National Oceanic and Atmospheric Administration, to the greatest extent practicable and in accordance with FAA [Federal Aviation Administration] data management policies.

"(e) REPORT ON TURBULENCE RESEARCH.—Not later than 15 months after the date of enactment of this Act [May 16, 2024], the Administrator, in collaboration with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] a report that—

"(1) details the activities conducted under this section, including how the requirements of subsection (b) have contributed to the goals described in paragraphs (1) and (2) of subsection (a);

"(2) assesses the current state of scientific understanding of the causes, occurrence rates, and past and projected future trends in occurrence rates of severe turbulence, including clear-air turbulence;

"(3) describes the processes and procedures for collecting, storing, and managing, data in pursuant to subsection (b);

"(4) assesses—

"(A) the use of commercial providers pursuant to subsection (d)(1); and

"(B) the need for any future Federal Government collection or procurement of data and instruments related to turbulence, including an assessment of costs;

"(5) describes how such data will be made available to the scientific research, user, and stakeholder communities; and

"(6) identifies future research and development needed to inform the development of measures to predict and mitigate the safety impacts that may result from severe turbulence, including clear-air turbulence."

RESEARCH AND DEPLOYMENT OF CERTAIN AIRFIELD PAVEMENT TECHNOLOGIES

Pub. L. 115–254, div. B, title VII, §744, Oct. 5, 2018, 132 Stat. 3413, as amended by Pub. L. 118–63, title X, §1014, May 16, 2024, 138 Stat. 1393, provided that: "Using amounts made available under section 48102(a) of title 49, United States Code, the Secretary [of Transportation] may carry out a program for the research and development of airfield pavement technologies under which the Secretary makes grants to, and enters into cooperative agreements with, institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) and nonprofit organizations that—

"(1) research concrete and asphalt pavement technologies that extend the life of airfield pavements;

"(2) develop sustainability and resiliency guidelines to improve long-term pavement performance;

"(3) develop and conduct training with respect to such airfield pavement technologies;

"(4) provide for demonstration projects of such airfield pavement technologies; and

"(5) promote the latest airfield pavement technologies to aid the development of safer, more cost effective, and more resilient and sustainable airfield pavements."

AIRCRAFT DEPARTURE QUEUE MANAGEMENT PILOT PROGRAM

Pub. L. 112–95, title V, §507, Feb. 14, 2012, 126 Stat. 106, as amended by Pub. L. 115–254, div. B, title V, §539(t), Oct. 5, 2018, 132 Stat. 3372, provided that:

"(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 5 public-use airports under which the Federal Aviation Administration shall use funds made available under section 48101(a) of title 49, United States Code, to test air traffic flow management tools, methodologies, and procedures that will allow air traffic controllers of the Administration to better manage the flow of aircraft on the ground and reduce the length of ground holds and idling time for aircraft.

"(b) SELECTION CRITERIA.—In selecting from among airports at which to conduct the pilot program, the Secretary shall give priority consideration to airports at which improvements in ground control efficiencies are likely to achieve the greatest fuel savings or air quality or other environmental benefits, as measured by the amount of reduced fuel, reduced emissions, or other environmental benefits per dollar of funds expended under the pilot program.

"(c) MAXIMUM AMOUNT.—Not more than a total of $2,500,000 may be expended under the pilot program at any single public-use airport."

RESEARCH PROGRAM ON RUNWAYS

Pub. L. 112–95, title IX, §904, Feb. 14, 2012, 126 Stat. 139, provided that: "Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator [of the Federal Aviation Administration] shall continue to carry out a research program under which the Administrator may make grants to and enter into cooperative agreements with institutions of higher education and pavement research organizations for research and technology demonstrations related to—

"(1) the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements; and

"(2) engineered material restraining systems for runways at both general aviation airports and airports with commercial air carrier operations."

WAKE TURBULENCE, VOLCANIC ASH, AND WEATHER RESEARCH

Pub. L. 112–95, title IX, §915, Feb. 14, 2012, 126 Stat. 144, provided that: "Not later than 60 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator [of the Federal Aviation Administration] shall—

"(1) initiate an evaluation of proposals related to research on the nature of wake vortexes that would increase national airspace system capacity by reducing existing spacing requirements between aircraft of all sizes;

"(2) begin implementation of a system to improve volcanic ash avoidance options for aircraft, including the development of a volcanic ash warning and notification system for aviation; and

"(3) coordinate with NOAA [National Oceanic and Atmospheric Administration], NASA [National Aeronautics and Space Administration], and other appropriate Federal agencies to conduct research to reduce the hazards presented to commercial aviation related to—

"(A) ground de-icing and anti-icing, ice pellets, and freezing drizzle;

"(B) oceanic weather, including convective weather;

"(C) en route turbulence prediction and detection; and

"(D) all hazards during oceanic operations, where commercial traffic is high and only rudimentary satellite sensing is available."

ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 108–176, title V, §505, Dec. 12, 2003, 117 Stat. 2559, required the Administrator of the Federal Aviation Administration to enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration's proposed wake turbulence research and development program and required that a report on the assessment be provided to Committees of Congress not later than 1 year after Dec. 12, 2003.

ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS

Pub. L. 108–176, title VII, §705, Dec. 12, 2003, 117 Stat. 2581, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

"(b) REPORT.—Within 1 year after the date of enactment of this Act [Dec. 12, 2003], the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Science [now Committee on Science, Space, and Technology]."

USE OF RECYCLED MATERIALS

Pub. L. 106–181, title I, §157, Apr. 5, 2000, 114 Stat. 89, provided that:

"(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall conduct a study of the use of recycled materials (including recycled pavements, waste materials, and byproducts) in pavement used for runways, taxiways, and aprons and the specification standards in tests necessary for the use of recycled materials in such pavement. The primary focus of the study shall be on the long-term physical performance, safety implications, and environmental benefits of using recycled materials in aviation pavement.

"(b) CONTRACTING.—The Administrator may carry out the study by entering into a contract with a university of higher education with expertise necessary to carry out the study.

"(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study, together with recommendations concerning the use of recycled materials in aviation pavement.

"(d) FUNDING.—Of the amounts appropriated pursuant to section 106(k) of title 49, United States Code, not to exceed $1,500,000 may be used to carry out this section."

AIRFIELD PAVEMENT CONDITIONS

Pub. L. 106–181, title I, §160, Apr. 5, 2000, 114 Stat. 90, provided that:

"(a) EVALUATION OF OPTIONS.—The Administrator [of the Federal Aviation Administration] shall evaluate options for improving the quality of information available to the Federal Aviation Administration on airfield pavement conditions for airports that are part of the national air transportation system, including—

"(1) improving the existing runway condition information contained in the airport safety data program by reviewing and revising rating criteria and providing increased training for inspectors;

"(2) requiring such airports to submit pavement condition index information as part of their airport master plan or as support in applications for airport improvement grants; and

"(3) requiring all such airports to submit pavement condition index information on a regular basis and using this information to create a pavement condition database that could be used in evaluating the cost-effectiveness of project applications and forecasting anticipated pavement needs.

"(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act [Apr.

5, 2000], the Administrator shall transmit a report containing an evaluation of the options described in subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure."

PILOT PROGRAM TO PERMIT COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS

Pub. L. 106–181, title III, §304, Apr. 5, 2000, 114 Stat. 122, provided that:

"(a) PURPOSE.—It is the purpose of this section to improve aviation safety and enhance mobility of the Nation's air transportation system by encouraging non-Federal investment on a pilot program basis in critical air traffic control facilities and equipment.

"(b) IN GENERAL.—Subject to the requirements of this section, the Secretary [of Transportation] shall carry out a pilot program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects.

"(c) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of title 49, United States Code.

"(d) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $15,000,000 under the program.

"(e) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) of title 49, United States Code, for fiscal years 2001 through 2003 to carry out the program.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project relating to the Nation's air traffic control system that is certified or approved by the Administrator [of the Federal Aviation Administration] and that promotes safety, efficiency, or mobility. Such projects may include—

"(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landings systems, weather and wind shear detection equipment, lighting improvements, and control towers;

"(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

"(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

"(2) PROJECT SPONSOR.—The term 'project sponsor' means a public-use airport or a joint venture between a public-use airport and one or more air carriers.

"(g) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, and automation tools, the purchase of which was assisted by a grant made under this section. The Administration shall accept such facilities, equipment, and automation tools, which shall thereafter be operated and maintained by the Administration in accordance with criteria of the Administration.

"(h) GUIDELINES.—Not later than 90 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall issue advisory guidelines on the implementation of the program."

AIRCRAFT DISPATCHERS

Pub. L. 106–181, title V, §516, Apr. 5, 2000, 114 Stat. 145, provided that:

"(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall conduct a study of the role of aircraft dispatchers in enhancing aviation safety.

"(b) CONTENTS.—The study shall include an assessment of whether or not aircraft dispatchers should be required for those operations not presently requiring aircraft dispatcher assistance, operational control issues related to the aircraft dispatching functions, and whether or not designation of positions within the Federal Aviation Administration for oversight of dispatchers would enhance aviation safety.

"(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study conducted under this section."

OCCUPATIONAL INJURIES OF AIRPORT WORKERS

Pub. L. 106–181, title V, §520, Apr. 5, 2000, 114 Stat. 149, provided that:

"(a) STUDY.—The Administrator [of the Federal Aviation Administration] shall conduct a study to determine the number of persons working at airports who are injured or killed as a result of being struck by a moving vehicle while on an airport tarmac, the seriousness of the injuries to such persons, and whether or not

reflective safety vests or other actions should be required to enhance the safety of such workers.

"(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study conducted under this section."

ALKALI SILICA REACTIVITY DISTRESS

Pub. L. 106–181, title VII, §743, Apr. 5, 2000, 114 Stat. 175, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] may conduct a study on the impact of alkali silica reactivity distress on airport runways and taxiways and the use of lithium salts and other alternatives for mitigation and prevention of such distress. The study shall include a determination based on in-the-field inspections followed by petrographic analysis or other similar techniques.

"(b) AUTHORITY TO MAKE GRANTS.—The Administrator may carry out the study by making a grant to, or entering into a cooperative agreement with, a nonprofit organization for the conduct of all or a part of the study.

"(c) REPORT.—Not later than 18 months after the date of initiation of the study under subsection (a), the Administrator shall transmit to Congress a report on the results of the study."

RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS

Pub. L. 108–176, title VII, §704, Dec. 12, 2003, 117 Stat. 2581, provided that:

"(a) CONTINUATION OF PROGRAM.—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

"(b) USE OF GRANTS OR COOPERATIVE AGREEMENTS.—The Administrator may use grants or cooperative agreements in carrying out this section.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs."

Pub. L. 106–181, title IX, §905, Apr. 5, 2000, 114 Stat. 196, provided that: "The Administrator [of the Federal Aviation Administration] shall consider awards to nonprofit concrete pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and durable airfield pavements. The Administrator may use a grant or cooperative agreement for this purpose. Nothing in this section shall require the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs."

§44506. Air traffic controllers

(a) RESEARCH ON EFFECT OF AUTOMATION ON PERFORMANCE.—To develop the means necessary to establish appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system. The research shall include investigating—

(1) methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including the use of simulation technology;

(2) the role of automation in the air traffic control system and its physical and psychological effects on air traffic controllers;

(3) the attributes and aptitudes needed to function well in a highly automated air traffic control system and the development of appropriate testing methods for identifying individuals with those attributes and aptitudes;

(4) innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system; and

(5) new technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(b) RESEARCH ON HUMAN FACTOR ASPECTS OF AUTOMATION.—The Administrators

of the Federal Aviation Administration and National Aeronautics and Space Administration may make an agreement for the use of the National Aeronautics and Space Administration's unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers. The research activities shall include investigating—

(1) human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers;

(2) information management techniques for advanced air traffic control display systems; and

(3) air traffic controller workload and performance measures, including the development of predictive models.

(c) COLLEGIATE TRAINING INITIATIVE.—(1) The Administrator of the Federal Aviation Administration may maintain the Collegiate Training Initiative program by making new agreements and continuing existing agreements with institutions of higher education (as defined by the Administrator) under which the institutions prepare students for the position of air traffic controller with the Department of Transportation (as defined in section 2109 of title 5). The Administrator may establish standards for the entry of institutions into the program and for their continued participation.

(2)(A) The Administrator of the Federal Aviation Administration may appoint an individual who has successfully completed a course of training in a program described in paragraph (1) of this subsection to the position of air traffic controller noncompetitively in the excepted service (as defined in section 2103 of title 5). An individual appointed under this paragraph serves at the pleasure of the Administrator, subject to section 7511 of title 5. However, an appointment under this paragraph may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service (as defined in section 2102 of title 5) when the individual achieves full performance level air traffic controller status, as decided by the Administrator.

(B) The authority under subparagraph (A) of this paragraph to make appointments in the excepted service expires on October 6, 1997, except that the Administrator of the Federal Aviation Administration may extend the authority for one or more successive one-year periods.

(d) AIR TRAFFIC CONTROL SPECIALIST QUALIFICATION TRAINING.—

(1) APPOINTMENT OF AIR TRAFFIC CONTROL SPECIALISTS.—The Administrator is authorized to appoint a qualified air traffic control specialist candidate for placement in an airport traffic control facility if the candidate has—

(A) received a control tower operator certification (referred to in this subsection as a "CTO" certificate); and

(B) satisfied all other applicable qualification requirements for an air traffic control specialist position, including successful completion of orientation training at the Federal Aviation Administration Academy.

(2) COMPENSATION AND BENEFITS.—An individual appointed under paragraph (1) shall receive the same compensation and benefits, and be treated in the same manner as, any other individual appointed as a developmental air traffic controller.

(3) REPORT.—Not later than 2 years after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator shall submit to Congress a report that evaluates the effectiveness of the air traffic control specialist qualification training provided pursuant to this section, including the graduation rates of candidates who received a CTO certificate and are working in airport traffic control facilities.

(4) ADDITIONAL APPOINTMENTS.—If the Administrator determines that air traffic control specialists appointed pursuant to this subsection are more successful in carrying out the duties of an air traffic controller than air traffic control specialists hired from the general public without any such certification, the Administrator shall increase, to the maximum extent practicable, the number of appointments of candidates who possess such certification.

(5) REIMBURSEMENT FOR TRAVEL EXPENSES ASSOCIATED WITH

CERTIFICATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Administrator may accept reimbursement from an educational entity that provides training to an air traffic control specialist candidate to cover reasonable travel expenses of the Administrator associated with issuing certifications to such candidates.

(B) TREATMENT OF REIMBURSEMENTS.—Notwithstanding section 3302 of title 31, any reimbursement authorized to be collected under subparagraph (A) shall—

(i) be credited as offsetting collections to the account that finances the activities and services for which the reimbursement is accepted;

(ii) be available for expenditure only to pay the costs of activities and services for which the reimbursement is accepted, including all costs associated with collecting such reimbursement; and

(iii) remain available until expended.

(e) STAFFING REPORT.—The Administrator of the Federal Aviation Administration shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) the staffing standards used to determine the number of fully certified air traffic controllers needed to operate the air traffic control system of the United States;

(2) for each air traffic control facility operated by the Federal Aviation Administration—

(A) the current certified professional controller staffing levels;

(B) the operational staffing targets for certified professional controllers;

(C) the anticipated certified professional controller attrition for each of the next 3 years; and

(D) the number of certified professional controller trainees;

(3) a 3-year projection of the number of controllers needed to be employed to operate the system to meet the standards; and

(4) a detailed plan for employing the controllers, including projected budget requests.

(f) HIRING OF CERTAIN AIR TRAFFIC CONTROL SPECIALISTS.—

(1) CONSIDERATION OF APPLICANTS.—

(A) ENSURING SELECTION OF MOST QUALIFIED APPLICANTS.—In appointing individuals to the position of air traffic controller, the Administrator shall give preferential consideration to qualified individuals maintaining 52 consecutive weeks of air traffic control experience involving the full-time active separation of air traffic after receipt of an air traffic certification or air traffic control facility rating within 5 years of application while serving at—

(i) a Federal Aviation Administration air traffic control facility;

(ii) a civilian or military air traffic control facility of the Department of Defense (including a facility of the National Guard); or

(iii) a tower operating under contract with the Federal Aviation Administration under section 47124.

(B) CONSIDERATION OF ADDITIONAL APPLICANTS.—

(i) IN GENERAL.—After giving preferential consideration to applicants under subparagraph (A), the Administrator shall consider additional applicants for the position of air traffic controller by giving further preferential consideration, within each qualification category based upon pre-employment testing results (including application of veterans' preference as required under section 40122(g)(2)(B)), to pool 1 applicants described in clause (ii) before pool 2 applicants described in clause (iii).

(ii) POOL 1.—Pool 1 applicants are individuals who—

(I) have successfully completed air traffic controller training and graduated from an institution participating in the Collegiate Training Initiative program maintained under

subsection (c)(1) and who have received from the institution—

(aa) an appropriate recommendation; or

(bb) an endorsement certifying that the individual would have met the requirements in effect as of December 31, 2013, for an appropriate recommendation;

(II) are eligible for a veterans recruitment appointment pursuant to section 4214 of title 38 and provide a Certificate of Release or Discharge from Active Duty within 120 days of the announcement closing;

(III) are eligible veterans (as defined in section 4211 of title 38) maintaining aviation experience obtained in the course of the individual's military experience; or

(IV) are preference eligible veterans (as defined in section 2108 of title 5).

(iii) POOL 2.—Pool 2 applicants are individuals who apply under a vacancy announcement recruiting from all United States citizens.

(C) SPECIAL RULE.—

(i) IN GENERAL.—Notwithstanding subparagraph (B), after giving preferential consideration to applicants under subparagraph (A) and if, after consulting with the labor organization recognized as the exclusive representative of air traffic controllers under section 7111 of title 5, the Administrator determines there are unique circumstances affecting a covered facility that warrant a vacancy announcement with a limited area of consideration, the Administrator may consider applicants for the position of air traffic controller who apply under a vacancy announcement recruiting from the local commuting area for that covered facility.

(ii) BIOGRAPHICAL ASSESSMENTS.—The Administrator shall not use any biographical assessment with respect to an applicant under this subparagraph who would otherwise qualify as a Pool 1 applicant under subparagraph (B)(ii).

(iii) COVERED FACILITY DEFINED.—In this subparagraph the term "covered facility" means a radar facility with at least 1,000,000 operations annually that is located in a metropolitan statistical area (as defined by the Office of Management and Budget) with a population estimate by the Bureau of the Census of more than 15,000,000 (as of July 1, 2016).

(2) USE OF BIOGRAPHICAL ASSESSMENTS.—

(A) BIOGRAPHICAL ASSESSMENTS.—The Administrator shall not use any biographical assessment when hiring under paragraph (1)(A) or paragraph (1)(B).

(B) RECONSIDERATION OF APPLICANTS DISQUALIFIED ON BASIS OF BIOGRAPHICAL ASSESSMENTS.—

(i) IN GENERAL.—If an individual described in paragraph (1)(A) or paragraph (1)(B)(ii), who applied for the position of air traffic controller with the Administration in response to Vacancy Announcement FAA–AMC–14–ALLSRCE–33537 (issued on February 10, 2014), was disqualified from the position as the result of a biographical assessment, the Administrator shall provide the applicant an opportunity to reapply for the position as soon as practicable under the revised hiring practices.

(ii) WAIVER OF AGE RESTRICTION.—The Administrator shall waive any maximum age restriction for the position of air traffic controller with the Administration that would otherwise disqualify an individual from the position if the individual—

(I) is reapplying for the position pursuant to clause (i) on or before December 31, 2017; and

(II) met the maximum age requirement on the date of the individual's previous application for the position during the interim hiring process.

(3) MAXIMUM ENTRY AGE FOR EXPERIENCED CONTROLLERS.—Notwithstanding

section 3307 of title 5, except for individuals covered by the program described in paragraph (4), the maximum limit of age for an original appointment to a position as an air traffic controller shall be 35 years of age for those maintaining 52 weeks of air traffic control experience involving the full-time active separation of air traffic after receipt of an air traffic certification or air traffic control facility rating in a civilian or military air traffic control facility.

(4) RETIRED MILITARY CONTROLLERS.—The Administrator may establish a program to provide an original appointment to a position as an air traffic controller for individuals who—

(A) are on terminal leave pending retirement from active duty military service or have retired from active duty military service within 5 years of applying for the appointment; and

(B) have held either an air traffic certification or air traffic control facility rating according to Administration standards within 5 years of applying for the appointment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1178; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 112–95, title VI, §607, Feb. 14, 2012, 126 Stat. 114; Pub. L. 114–190, title II, §2106(a), July 15, 2016, 130 Stat. 620; Pub. L. 115–141, div. M, title I, §108, Mar. 23, 2018, 132 Stat. 1047; Pub. L. 116–92, div. A, title XI, §§1132, 1133, Dec. 20, 2019, 133 Stat. 1615, 1616; Pub. L. 118–63, title IV, §§433, 437(e)(2), May 16, 2024, 138 Stat. 1174, 1178.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44506(a), (b)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, §8(a)–(c), 102 Stat. 3015; Nov. 17, 1988, Pub. L. 100–685, §§601–603, 102 Stat. 4102.
44506(c)	49 App.:1348a.	Oct. 6, 1992, Pub. L. 102–388, §362, 106 Stat. 1560.
44506(d)	49 App.:1348 (note).	Oct. 31, 1992, Pub. L. 102–581, §120, 106 Stat. 4884.

In subsections (a) and (b), the text of section 8(a) and (b)(3) of the Aviation Safety Research Act of 1988 (Public Law 100–581, 102 Stat. 3015, 3016) and sections 601 and 602(3) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (Public Law 100–685, 102 Stat. 4102, 4103) is omitted as executed.

In subsection (c), the words "institutions of higher education" are substituted for "post-secondary educational institutions" for consistency in the revised title.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (d)(3), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

AMENDMENTS

2024—Subsec. (e)(1). Pub. L. 118–63, §437(e)(2)(A), substituted "the number of fully certified air traffic controllers needed" for "the number of air traffic controllers needed".

Subsec. (e)(2) to (4). Pub. L. 118–63, §437(e)(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f)(2)(A). Pub. L. 118–63, §433, substituted "paragraph (1)(B)" for "paragraph (1)(B)(ii)".

2019—Subsec. (f)(1)(A)(ii). Pub. L. 116–92, §1133, inserted "(including a facility of the National Guard)" after "Department of Defense".

Subsec. (f)(1)(B)(i). Pub. L. 116–92, §1132, substituted "giving further preferential consideration, within each qualification category based upon pre-employment testing results (including application of veterans' preference as required under section 40122(g)(2)(B)), to pool 1 applicants described in clause (ii) before pool 2 applicants described in clause (iii)." for "referring an approximately equal number of individuals for

appointment among the 2 applicant pools described in this subparagraph. The number of individuals referred for consideration from each group shall not differ by more than 10 percent."

2018—Subsec. (f)(1)(C). Pub. L. 115–141, §108(1), added subpar. (C).

Subsec. (f)(3). Pub. L. 115–141, §108(2)(A), inserted "except for individuals covered by the program described in paragraph (4)," after "section 3307 of title 5,".

Subsec. (f)(4). Pub. L. 115–141, §108(2)(B), added par. (4).

2016—Subsec. (f). Pub. L. 114–190 added subsec. (f).

2012—Subsecs. (d), (e). Pub. L. 112–95 added subsec. (d) and redesignated former subsec. (d) as (e).

1996—Subsec. (d). Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

IMPROVED ACCESS TO AIR TRAFFIC CONTROL SIMULATION TRAINING

Pub. L. 118–63, title IV, §415, May 16, 2024, 138 Stat. 1160, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall continue making tower simulator systems (in this section referred to as 'TSS') more accessible to all air traffic controller specialists assigned to an air traffic control tower of the FAA [Federal Aviation Administration] (in this section referred to as an 'ATCT'), regardless of facility assignment.

"(b) CLOUD-BASED VISUAL DATABASE AND SOFTWARE SYSTEM.—Not later than 30 months after the date of enactment of this Act [May 16, 2024], the Administrator shall develop and implement a cloud-based visual database and software system that is compatible with existing and future TSS that, at a minimum, includes—

"(1) the unique runway layout, approach paths, and lines of sight of every ATCT; and

"(2) specifications that meet all applicable data security requirements.

"(c) TSS UPGRADES.—Not later than 2 years after the date of enactment of this Act, the Administrator shall upgrade existing, permanent TSS so that the TSS is, at a minimum, capable of—

"(1) securely and quickly downloading data from the cloud-based visual database and software system described in subsection (b); and

"(2) running scenarios for each ATCT involving differing levels of air traffic volume and varying complexities, including, aircraft emergencies, rapidly changing weather, issuance of safety alerts, special air traffic procedures for events of national or international significance, and recovering from unforeseen events or losses of separation.

"(d) MOBILE TSS.—Not later than 4 years after the date of enactment of this Act, the Administrator shall acquire and implement mobile TSS at each ATCT that is without an existing, permanent TSS so that the mobile TSS is capable of, at a minimum, the capabilities described in paragraphs (1) and (2) of subsection (c).

"(e) COLLABORATION.—In carrying out this section, the Administrator may collaborate with the exclusive bargaining representative of air traffic controllers certified under section 7111 of title 5, United States Code."

ENSURING HIRING OF AIR TRAFFIC CONTROL SPECIALISTS IS BASED ON ASSESSMENT OF JOB-RELEVANT APTITUDES

Pub. L. 118–63, title IV, §417, May 16, 2024, 138 Stat. 1162, provided that:

"(a) REVIEW OF THE AIR TRAFFIC SKILLS ASSESSMENT.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall review and revise, if necessary, the Air Traffic Skills Assessment (in this section referred to as the 'AT–SA') administered to air traffic controller applicants described in clauses (ii) and (iii) of section 44506(f)(1)(B) of title 49, United States Code, in accordance with the following requirements, the Administrator shall:

"(1) Evaluate all questions on the AT–SA and determine whether a peer-reviewed job analysis that ensures all questions test job-relevant aptitudes would result in improvements in the air traffic control specialist workforce training and hiring process.

"(2) Assess the assumptions and methodologies used to develop the AT–SA, the job-relevant aptitudes measured, and the scoring process for the assessment.

"(3) Assess whether any other revisions to the AT–SA are necessary to enhance the air traffic control specialist workforce training and hiring process.

"(b) DOT INSPECTOR GENERAL REPORT.—Not later than 180 days after the completion of the review and any necessary revision of the AT–SA required under subsection (a), the inspector general of the Department of Transportation shall submit to the Administrator, the appropriate committees of Congress

[Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives], and, upon request, to any member of Congress, a report that assesses the AT–SA and any applicable revisions, a description of any associated actions taken by the Administrator, and any other recommendations to address the results of the report."

AIR TRAFFIC CONTROL WORKFORCE STAFFING

Pub. L. 118–63, title IV, §437, May 16, 2024, 138 Stat. 1176, provided that:

"(a) MAXIMUM HIRING.—Subject to the availability of appropriations, for each of fiscal years 2024 through 2028, the Administrator [of the Federal Aviation Administration] shall set as the minimum hiring target for new air traffic controllers (excluding individuals described in section 44506(f)(1)(A) of title 49, United States Code) the maximum number of individuals able to be trained at the Federal Aviation Administration Academy.

"(b) TRANSPORTATION RESEARCH BOARD ASSESSMENT.—

"(1) REVIEW.—Not later than 30 days after the date of enactment of this Act [May 16, 2024], the Administrator shall submit an attestation to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] demonstrating an agreement entered into with the with the National Academies Transportation Research Board to—

"(A) compare the Certified Professional Controller (in this section referred to as 'CPC') operational staffing models and methodologies in determining the FAA [Federal Aviation Administration] Controller Staffing Standard included in the 2023 Air Traffic Controller Workforce Plan of the FAA, with such models and methodologies developed by the Collaborative Resource Workgroup of the FAA (in this subsection referred to as 'CRWG') to determine CPC operational staffing targets necessary to meet facility operational, statutory, contractual and safety requirements, including—

"(i) the availability factor multiplier and other formula components;

"(ii) the independent facility staffing targets of CPCs able to control traffic;

"(iii) air traffic controller position utilization;

"(iv) attrition rates at each air traffic control facility operated by the Administration; and

"(v) the time needed to meet facility operational, statutory, and contractual requirements, including relevant resources to develop, evaluate, and implement processes and initiatives affecting the national airspace system;

"(B) examine the current and estimated budgets of the FAA to implement the FAA Controller Staffing Standard included in the 2023 Controller Workforce Plan in comparison to the funding needed to implement the CRWG CPC operational staffing targets;

"(C) assess future needs of the air traffic control system and potential impacts on staffing standards, including projected air traffic in the airspace of each air traffic control facility operated by the Administration; and

"(D) determine which staffing models and methodologies evaluated pursuant to this subsection best accounts for the operational staffing needs of the air traffic control system and provide a justification for such determination.

"(2) REPORT.—Not later than 180 days after the agreement entered into pursuant to paragraph (b)(1), the Transportation Research Board of the National Academies shall submit a report to the Administrator and appropriate committees of Congress on the findings and recommendations under this subsection, including the determination pursuant to subparagraph (D).

"(3) CONSULTATION.—In conducting the assessment under this subsection, the Transportation Research Board shall consult with—

"(A) the exclusive bargaining representatives of air traffic control specialists of the Administration certified under section 7111 of title 5, United States Code;

"(B) front line managers of the air traffic control system;

"(C) managers and employees responsible for training air traffic controllers;

"(D) the MITRE Corporation;

"(E) the Chief Operating Officer of the Air Traffic Organization of the FAA, and other Federal Government representatives;

"(F) users and operators in the air traffic control system;

"(G) relevant industry representatives; and

"(H) other parties determined appropriate by the Transportation Research Board of the National Academies.

"(c) REQUIRED IMPLEMENTATION OF IDENTIFIED STAFFING MODEL.—

"(1) USE OF STAFFING MODEL.—The Administrator shall, as appropriate, take such action that may be necessary to implement and use the staffing model identified by the Transportation Research Board pursuant to subsection (b)(1)(D), including any recommendations for improving such model, not later than one year after enactment of this Act.

"(2) BRIEFING.—Not later than 90 days after taking such actions to implement and use the staffing model identified by the Transportation Research Board pursuant to subsection (b)(1)(D), the Administrator shall brief the appropriate committees of Congress regarding the reasons for why any recommendation by the Transportation Research Board study was not incorporated into the implemented staffing model.

"(d) REVISED STAFFING STANDARDS.—The Administration shall revise the FAA CPC operational staffing standards of the Administration implemented under subsection (c) to—

"(1) provide that the controller and management workforce is sufficiently staffed to safely and efficiently manage and oversee the air traffic control system;

"(2) account for the target number of CPCs able to control traffic at each independent facility; and

"(3) avoid any required or requested reduction of national airspace system capacity or aircraft operations as a result of inadequate air traffic control system staffing.

"(e) INTERIM ADOPTION OF COLLABORATIVE RESOURCE WORKGROUP MODELS.—

"(1) IN GENERAL.—In submitting a Controller Workforce Plan of the FAA to Congress published after the date of enactment of this Act, the Administrator shall adopt and use the staffing models and methodologies developed by the Collaborative Resource Workgroup that were recommended in the 2023 Controller Workforce Plan.

"(2) REVISIONS TO THE CONTROLLER WORKFORCE PLAN.—[Amended this section.]

"(3) EFFECTIVE DATE.—The requirements of paragraph (1) shall cease to be effective upon the adoption and implementation of a revised staffing model by the Administrator as required under subsection (c).

"(f) CONTROLLER TRAINING.—In any Controller Workforce Plan of the FAA published after the date of enactment of this Act [May 16, 2024], the Administrator shall—

"(1) identify all limiting factors on the ability of the Administrator to hire and train controllers in line with the staffing standards target set out in such Plan; and

"(2) describe what actions the Administrator intends to take to rectify any impediments to meeting staffing standards targets and identify contributing factors that are outside the control of the Administrator."

NOTIFICATION OF VACANCIES

Pub. L. 114–190, title II, §2106(b), July 15, 2016, 130 Stat. 622, provided that: "The Administrator of the Federal Aviation Administration shall consider directly notifying secondary schools and institutions of higher learning, including Historically Black Colleges and Universities, Hispanic-serving institutions, Minority Institutions, and Tribal Colleges and Universities, of a vacancy announcement under section 44506(f)(1)(B)(iii) of title 49, United States Code."

AIR TRAFFIC CONTROLLER STAFFING INITIATIVES AND ANALYSIS

Pub. L. 112–95, title II, §224, Feb. 14, 2012, 126 Stat. 55, provided that: "As soon as practicable, and not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall—

"(1) ensure, to the extent practicable, a sufficient number of contract instructors, classroom space (including off-site locations as needed), and simulators to allow for an increase in the number of air traffic controllers at air traffic control facilities;

"(2) distribute, to the extent practicable, the placement of certified professional air traffic controllers-in-training and developmental air traffic controllers at facilities evenly across the calendar year in order to avoid training bottlenecks;

"(3) initiate an analysis, to be conducted in consultation with the exclusive bargaining representative of air traffic controllers certified under section 7111 of title 5, United States Code, of scheduling processes and practices, including overtime scheduling practices at those facilities;

"(4) provide, to the extent practicable and where appropriate, priority to certified professional air traffic controllers-in-training when filling staffing vacancies at facilities;

"(5) assess training programs at air traffic control facilities with below-average success rates to determine if training is being carried out in accordance with Administration standards, and conduct exit interview analyses with all candidates to determine potential weaknesses in training protocols, or in the execution of such training protocols; and

"(6) prioritize, to the extent practicable, such efforts to address the recommendations for the facilities identified in the Department of Transportation's Office of the Inspector General Report Number:

AV-2009-047."

FACILITY TRAINING PROGRAM

Pub. L. 112–95, title VI, §609(b), Feb. 14, 2012, 126 Stat. 116, provided that: "Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator [of the Federal Aviation Administration] shall conduct a comprehensive review and evaluation of its Academy and facility training efforts. The Administrator shall—

"(1) clarify responsibility for oversight and direction of the Academy's facility training program at the national level;

"(2) communicate information concerning that responsibility to facility managers; and

"(3) establish standards to identify the number of developmental air traffic controllers that can be accommodated at each facility, based on—

"(A) the number of available on-the-job training instructors;

"(B) available classroom space;

"(C) the number of available simulators;

"(D) training requirements; and

"(E) the number of recently placed new personnel already in training."

CONTROLLER STAFFING

Pub. L. 116–6, div. G, title I, Feb. 15, 2019, 133 Stat. 401, provided in part: "That not later than March 31 of each fiscal year hereafter, the Administrator of the Federal Aviation Administration shall transmit to Congress an annual update to the report submitted to Congress in December 2004 pursuant to section 221 of Public Law 108–176 [set out below]".

Similar provisions were contained in the following appropriation acts:

Pub. L. 119–75, div. D, title I, Feb. 3, 2026, 140 Stat. 333.

Pub. L. 118–42, div. F, title I, Mar. 9, 2024, 138 Stat. 307.

Pub. L. 117–328, div. L, title I, Dec. 29, 2022, 136 Stat. 5102.

Pub. L. 117–103, div. L, title I, Mar. 15, 2022, 136 Stat. 691.

Pub. L. 116–260, div. L, title I, Dec. 27, 2020, 134 Stat. 1830.

Pub. L. 116–94, div. H, title I, Dec. 20, 2019, 133 Stat. 2940.

Pub. L. 115–141, div. L, title I, Mar. 23, 2018, 132 Stat. 977.

Pub. L. 115–31, div. K, title I, May 5, 2017, 131 Stat. 730.

Pub. L. 114–113, div. L, title I, Dec. 18, 2015, 129 Stat. 2839.

Pub. L. 113–235, div. K, title I, Dec. 16, 2014, 128 Stat. 2700.

Pub. L. 113–76, div. L, title I, Jan. 17, 2014, 128 Stat. 578.

Pub. L. 112–55, div. C, title I, Nov. 18, 2011, 125 Stat. 645.

Pub. L. 111–117, div. A, title I, Dec. 16, 2009, 123 Stat. 3039.

Pub. L. 111–8, div. I, title I, Mar. 11, 2009, 123 Stat. 918.

Pub. L. 110–161, div. K, title I, Dec. 26, 2007, 121 Stat. 2378.

Pub. L. 108–176, title II, §221, Dec. 12, 2003, 117 Stat. 2526, provided that:

"(a) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2005, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

"(b) HUMAN CAPITAL WORKFORCE STRATEGY.—

"(1) DEVELOPMENT.—The Administrator shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is identified in the June 2002 report of the General Accounting Office [now Government Accountability Office].

"(2) COMPLETION DATE.—Not later than 1 year after the date of enactment of this Act [Dec. 12, 2003], the Administrator shall complete development of the strategy.

"(3) REPORT.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy."

EXECUTIVE DOCUMENTS

KEEPING AMERICANS SAFE IN AVIATION

Memorandum of President of the United States, Jan. 21, 2025, 90 F.R. 8651, provided:

Memorandum for the Secretary of Transportation [and] the Administrator of the Federal Aviation Administration

Every day, the Federal Aviation Administration (FAA), within the U.S. Department of Transportation, oversees safety for more than 45,000 flights and 2.9 million airline passengers. These Americans trust the FAA's public servants with their lives, and it is therefore imperative that they maintain a commitment to excellence and efficiency.

During the prior administration, however, the FAA betrayed its mission by elevating dangerous discrimination over excellence. For example, prior to my Inauguration, the FAA Diversity and Inclusion website revealed that the prior administration sought to specifically recruit and hire individuals with serious infirmities that could impact the execution of their essential life-saving duties.

Illegal and discriminatory diversity, equity, and inclusion (DEI) hiring, including on the basis of race, sex, disability, or any other criteria other than the safety of airline passengers and overall job excellence, competency, and qualification, harms all Americans, who deserve to fly with confidence. It also penalizes hard-working Americans who want to serve in the FAA but are unable to do so, as they lack a requisite disability or skin color. FAA Federal servants must hold the qualifications and ability to perform their jobs to the highest possible standard of excellence.

I hereby order the Secretary of Transportation and the Federal Aviation Administrator to immediately return to non-discriminatory, merit-based hiring, as required by law. All so-called DEI initiatives, including all dangerous preferencing policies or practices, shall immediately be rescinded in favor of hiring, promoting, and otherwise treating employees on the basis of individual capability, competence, achievement, and dedication.

The Secretary of Transportation and the Federal Aviation Administrator shall review the past performance and performance standards of all individuals in critical safety positions and take all appropriate action to ensure that any individual who fails or has failed to demonstrate requisite capability is replaced by a high-capability individual that will ensure top-notch air safety and efficiency.

DONALD J. TRUMP.

§44507. Regions and centers

The Civil Aeromedical Institute established by section 106(j) of this title may—

(1) conduct civil aeromedical research, including research related to—

(A) the protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other individuals involved in operating and maintaining aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) make comments to the Administrator of the Federal Aviation Administration on human factors aspects of proposed air safety regulations;

(3) make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between the Administration and the National Aeronautics and Space Administration, other departments, agencies, and instrumentalities of the United States Government, industry, and governments of foreign countries; and

(5) provide medical consultation services to the Administrator about medical certification of airmen.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1179; Pub. L. 115–254, div. B, title V, §524(a), Oct. 5, 2018, 132 Stat. 3363; Pub. L. 118–63, title II, §206(h), May 16, 2024, 138 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44507	49 App.:1353(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(e); added Nov. 3, 1988, Pub. L. 100–591, §5(b), 102 Stat. 3013.

In clause (4), the words "departments, agencies, and instrumentalities of the United States Government" are substituted for "Government agencies" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63 struck out subsec. (a) designation and heading "Civil Aeromedical Institute" at beginning of section and struck out subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "The Secretary of Transportation shall define the roles and responsibilities of the William J. Hughes Technical Center in a manner that is consistent with the defined roles and responsibilities of the Civil Aeromedical Institute under subsection (a)." See section 106(h) of this title.

2018—Pub. L. 115–254 substituted "Regions and centers" for "Civil aeromedical research" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§44508. Research advisory committee

(a) ESTABLISHMENT AND DUTIES.—(1) There is a research advisory committee in the Federal Aviation Administration. The committee shall—

(A) provide advice and recommendations to the Administrator of the Federal Aviation Administration and Congress about needs, objectives, plans, approaches, content, and accomplishments of all aviation research and development activities and programs carried out, including those under sections 44504, 44505, 44507, 44511–44513, and 44912 of this title;

(B) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration;

(C) review the operations of the regional centers of air transportation excellence established under section 44513 of this title; and

(D) annually review the allocation made by the Administrator of the amounts authorized by section 48102(a) of this title among the major categories of research and development activities carried out by the Administration and provide advice and recommendations to the Administrator on whether such allocation is appropriate to meet the needs and objectives identified under subparagraph (A).

(2) The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 44504, 44505, 44507, 44511–44513, and 44912 of this title.

(b) MEMBERS, CHAIRMAN, PAY, AND EXPENSES.—(1) The committee is composed of not more than 30 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Administrator shall ensure that the regional centers of air transportation excellence, universities, corporations, associations, consumers, and other departments, agencies, and instrumentalities of the United States Government are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a

member, when attending meetings of the committee or a subordinate committee, expenses as authorized under section 5703 of title 5.

(c) SUPPORT STAFF, INFORMATION, AND SERVICES.—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(d) NONAPPLICATION.—Section 1013 of title 5 does not apply to the committee.

(e) USE AND LIMITATION OF AMOUNTS.—(1) Not more than .1 percent of the amounts made available to conduct research under sections 44504, 44505, 44507, 44511–44513, and 44912 of this title may be used by the Administrator to carry out this section.

(2) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

(f) WRITTEN REPLY.—

(1) IN GENERAL.—Not later than 60 days after receiving any recommendation from the research advisory committee, the Administrator shall provide a written reply to the research advisory committee that, at a minimum—

(A) clearly states whether the Administrator accepts or rejects the recommendation;

(B) explains the rationale for the Administrator's decision;

(C) sets forth the timeframe in which the Administrator will implement the recommendation; and

(D) describes the steps the Administrator will take to implement the recommendation.

(2) TRANSPARENCY.—The written reply to the research advisory committee, when transmitted to the research advisory committee, shall be—

(A) made publicly available on the research advisory committee website; and

(B) transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(3) NATIONAL AVIATION RESEARCH PLAN.—The national aviation research plan required under section 44501(c) shall include a summary of all research advisory committee recommendations and a description of the status of their implementation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1180; Pub. L. 104–264, title XI, §1104, Oct. 9, 1996, 110 Stat. 3279; Pub. L. 115–254, div. B, title VII, §712, Oct. 5, 2018, 132 Stat. 3410; Pub. L. 117–286, §4(a)(313), Dec. 27, 2022, 136 Stat. 4340; Pub. L. 118–63, title XI, §1101(l), May 16, 2024, 138 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44508(a)(1)	49 App.:1353(f)(1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(f); added Nov. 3, 1988, Pub. L. 100–591, §6, 102 Stat. 3013; Nov. 5, 1990, Pub. L. 101–508, §9209(b), 104 Stat. 1388–377.
44508(a)(2)	49 App.:1353(f)(6) (last sentence).	
44508(b)	49 App.:1353(f)(3)–(5).	
44508(c)	49 App.:1353(f)(6) (1st sentence), (7).	
44508(d)	49 App.:1353(f)(8).	
44508(e)	49 App.:1353(f)(9).	

In subsection (a)(1), before clause (A), the words "There is a" are substituted for "Not later than 180 days after November 3, 1988, the Administrator shall establish" to eliminate obsolete words. In clause (C), the words "operations of" are substituted for "research and training to be carried out by" for consistency with section 44513 of the revised title.

In subsection (a)(2), the words "to the advisory committee" are omitted as surplus.

In subsection (b)(1), the words "departments, agencies, and instrumentalities" are substituted for "agencies" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(3), the words "travel or transportation" are omitted as surplus.

In subsection (e), the words "for fiscal years beginning after September 30, 1988" are omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

2024—Subsecs. (a)(1)(A), (2), (e)(1). Pub. L. 118–63 struck out "40119," after "under sections".

2022—Subsec. (d). Pub. L. 117–286 substituted "Section 1013 of title 5" for "Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.)".

2018—Subsec. (a)(1)(A). Pub. L. 115–254, §712(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "provide advice and recommendations to the Administrator of the Federal Aviation Administration about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title;".

Subsec. (f). Pub. L. 115–254, §712(b), added subsec. (f).

1996—Subsec. (a)(1)(D). Pub. L. 104–264 added subpar. (D).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§44509. Demonstration projects

The Secretary of Transportation may carry out under this chapter demonstration projects that the Secretary considers necessary for research and development activities under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44509	49 App.:2205(b)(1).	Sept. 3, 1982, Pub. L. 97–248, §506(b)(1), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, §105(b)(1), 101 Stat. 1490.

[§44510. Repealed. Pub. L. 118–63, title IV, §401(a), May 16, 2024, 138 Stat. 1148]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1181, related to airway science curriculum grants.

§44511. Aviation research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations to conduct aviation research in areas the Administrator considers necessary for the long-term growth of civil aviation.

(b) APPLICATIONS.—An institution of higher education or nonprofit research organization interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information the Administrator requires.

(c) SOLICITATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, review, and evaluation process that ensures—

(1) providing grants under this section for proposals having adequate merit and relevancy to the mission of the Administration;

(2) a fair geographical distribution of grants under this section; and

(3) the inclusion of historically black institutions of higher education and other minority nonprofit research organizations for grant consideration under this section.

(d) RECORDS.—Each person receiving a grant under this section shall maintain records that the Administrator requires as being necessary to facilitate an effective audit and evaluation of the use of money provided under the grant.

(e) ANNUAL REPORT.—The Administrator shall submit an annual report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on carrying out this section.

(f) AIRPORT COOPERATIVE RESEARCH PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall maintain an airport cooperative research program to—

(A) identify problems that are shared by airport operating agencies and can be solved through applied research but that are not being adequately addressed by existing Federal research programs; and

(B) fund research to address those problems.

(2) GOVERNANCE.—The Secretary of Transportation shall appoint an independent governing board for the research program established under this subsection. The governing board shall be appointed from candidates nominated by national associations representing public airport operating agencies, airport executives, State aviation officials, and the scheduled airlines, and shall include representatives of appropriate Federal agencies. Section 1013 of title 5 shall not apply to the governing board.

(3) IMPLEMENTATION.—The Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences to provide staff support to the governing board established under paragraph (2) and to carry out projects proposed by the governing board that the Secretary considers appropriate.

(4) REPORT.—Not later than September 30, 2012, the Secretary shall transmit to the Congress a report on the program.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1181; Pub. L. 104–287, §5(74), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 108–176, title VII, §712, Dec. 12, 2003, 117 Stat. 2586; Pub. L. 112–95, title IX, §906, Feb. 14, 2012, 126 Stat. 139; Pub. L. 117–286, §4(a)(314), Dec. 27, 2022, 136 Stat. 4340.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44511	49 App.:1353(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(g); added Nov. 5, 1990, Pub. L. 101–508, §9205(a), 104 Stat. 1388–373.

In this section, the words "institutions of higher education" and "institution of higher education" are substituted for "colleges, universities", "university, college", and "colleges and universities" for consistency in the revised title.

In subsection (c), the words "providing grants" are substituted for "the funding", the word "grants" is substituted for "grant funds", and the words "grant consideration" are substituted for "funding consideration", for consistency in the revised title.

In subsection (d), the words "money provided under the grant" are substituted for "grant funds" for consistency.

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (f)(2). Pub. L. 117–286 substituted "Section 1013 of title 5" for "Section 14 of the Federal Advisory Committee Act".

2012—Subsec. (f)(1). Pub. L. 112–95, §906(1), substituted "maintain an" for "establish a 4-year pilot" in introductory provisions.

Subsec. (f)(4). Pub. L. 112–95, §906(2), substituted "Not later than September 30, 2012," for "Not later than 6 months after the expiration of the program under this subsection," and "program" for "program, including recommendations as to the need for establishing a permanent airport cooperative research program".

2003—Subsec. (f). Pub. L. 108–176 added subsec. (f).

1996—Subsec. (e). Pub. L. 104–287 substituted "Committee on Science" for "Committee on Science, Space, and Technology".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§44512. Catastrophic failure prevention research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations—

(1) to conduct aviation research related to the development of technologies and methods to assess the risk of, and prevent, defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft; and

(2) to establish centers of excellence for continuing the research.

(b) SOLICITATION, APPLICATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures providing grants under this section for proposals having adequate merit and relevancy to the research described in subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1182.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44512	49 App.:1353(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(h); added Nov. 5, 1990, Pub. L. 101–508, §9208(b), 104 Stat. 1388–376.

In this section, the words "institutions of higher education" are substituted for "colleges, universities" for consistency in the revised title.

In subsection (b), the words "providing grants" are substituted for "the funding" for consistency in the revised title.

§44513. Regional centers of air transportation excellence

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education to establish and operate regional centers of air transportation excellence. The locations shall be distributed in a geographically fair way.

(b) RESPONSIBILITIES.—(1) The responsibilities of each center established under this section shall include—

(A) conducting research on—

(i) airspace and airport planning and design;

(ii) airport capacity enhancement techniques;

(iii) human performance in the air transportation environment;

(iv) aviation safety and security;

(v) the supply of trained air transportation personnel, including pilots and mechanics; and

(vi) other aviation issues related to developing and maintaining a safe and efficient air transportation system; and

(B) interpreting, publishing, and disseminating the results of the research.

(2) In conducting research described in paragraph (1)(A) of this subsection, each center may make contracts with nonprofit research organizations and other appropriate persons.

(c) APPLICATIONS.—An institution of higher education interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information that the Administrator requires by regulation.

(d) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this section on the basis of the following criteria:

(1) the extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

(2) the demonstrated research and extension resources available to the applicant to carry out this section.

(3) the ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

(4) the extent to which the applicant has an established air transportation program.

(5) the demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

(6) the projects the applicant proposes to carry out under the grant.

(e) EXPENDITURE AGREEMENTS.—A grant may be made under this section in a fiscal year only if the recipient makes an agreement with the Administrator that the Administrator requires to ensure that the recipient will maintain its total expenditures from all other sources for establishing

and operating the center and related research activities at a level at least equal to the average level of those expenditures in the 2 fiscal years of the recipient occurring immediately before November 5, 1990.

(f) GOVERNMENT'S SHARE OF COSTS.—The United States Government's share of establishing and operating a center and all related research activities that grant recipients carry out shall not exceed 50 percent of the costs, except that the Administrator may increase such share to a maximum of 75 percent of the costs for a fiscal year if the Administrator determines that a center would be unable to carry out the authorized activities described in this section without additional funds.

(g) ALLOCATING AMOUNTS.—The Administrator shall allocate amounts made available to carry out this section in a geographically fair way.

(h) ANNUAL REPORT.—The Administrator shall transmit annually to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at the time of the President's budget request a report that lists—

(1) the research projects that have been initiated by each center in the preceding year;

(2) the amount of funding for each research project and the funding source;

(3) the institutions participating in each research project and their shares of the overall funding for each research project; and

(4) the level of cost-sharing for each research project.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1182; Pub. L. 112–95, title IX, §907, Feb. 14, 2012, 126 Stat. 140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44513	49 App.:1353(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(i); added Nov. 5, 1990, Pub. L. 101–508, §9209(a), 104 Stat. 1388–376.

In this section, the words "institutions of higher education" and "institution of higher education" are substituted for "colleges or universities" and "college or university" for consistency in the revised title.

In subsection (a), the words "one or more" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (f). Pub. L. 112–95, §907(a), amended subsec. (f) generally. Prior to amendment, text read as follows: "The United States Government's share of a grant under this section is 50 percent of the costs of establishing and operating the center and related research activities that the grant recipient carries out."

Subsec. (h). Pub. L. 112–95, §907(b), added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FAA CENTER OF EXCELLENCE FOR AUTOMATED SYSTEMS AND HUMAN FACTORS IN AIRCRAFT

Pub. L. 116–260, div. V, title I, §127, Dec. 27, 2020, 134 Stat. 2348, provided that:

"(a) IN GENERAL.—The Administrator shall develop or expand a Center of Excellence focused on automated systems and human factors in transport category aircraft.

"(b) DUTIES.—The Center of Excellence shall, as appropriate—

"(1) facilitate collaboration among academia, the FAA, and the aircraft and airline industries, including aircraft, engine, and equipment manufacturers, air carriers, and representatives of the pilot community;

"(2) establish goals for research in areas of study relevant to advancing technology, improving

engineering practices, and facilitating better understanding of human factors concepts in the context of the growing development and reliance on automated or complex systems in commercial aircraft, including continuing education and training;

"(3) examine issues related to human system integration and flight crew and aircraft interfaces, including tools and methods to support the integration of human factors considerations into the aircraft design and certification process; and

"(4) review safety reports to identify potential human factors issues for research.

"(c) AVOIDING DUPLICATION OF WORK.—In developing or expanding the Center of Excellence, the Administrator shall ensure the work of the Center of Excellence does not duplicate or overlap with the work of any other established center of excellence.

"(d) MEMBER PRIORITIZATION.—

"(1) IN GENERAL.—The Administrator, when developing or expanding the Center of Excellence, shall prioritize the inclusion of subject-matter experts whose professional experience enables them to be objective and impartial in their contributions to the greatest extent possible.

"(2) REPRESENTATION.—The Administrator shall require that the membership of the Center of Excellence reflect a balanced viewpoint across broad disciplines in the aviation industry.

"(3) DISCLOSURE.—Any member of the Center of Excellence who is a Boeing Company or FAA employee who participated in the certification of the Maneuvering Characteristics Augmentation System for the 737 MAX-8 airplane must disclose such involvement to the FAA prior to performing any work on behalf of the FAA.

"(4) TRANSPARENCY.—In developing or expanding the Center of Excellence, the Administrator shall develop procedures to facilitate transparency and appropriate maintenance of records to the maximum extent practicable.

"(5) COORDINATION.—Nothing in this section shall preclude coordination and collaboration between the Center of Excellence developed or expanded under this section and any other established center of excellence.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $2,000,000 for each of fiscal years 2021 through 2023, out of funds made available under section 48102(a) of title 49, United States Code, to carry out this section. Amounts appropriated under the preceding sentence for any fiscal year shall remain available until expended."

[For definitions of terms used in section 127 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

CENTER OF EXCELLENCE FOR AVIATION HUMAN RESOURCE RESEARCH

Pub. L. 112–95, title IX, §908, Feb. 14, 2012, 126 Stat. 140, provided that:

"(a) ESTABLISHMENT.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator [of the Federal Aviation Administration] may establish a center of excellence to conduct research on—

"(1) human performance in the air transportation environment, including among air transportation personnel such as air traffic controllers, pilots, and technicians; and

"(2) any other aviation human resource issue pertinent to developing and maintaining a safe and efficient air transportation system.

"(b) ACTIVITIES.—Activities conducted under this section may include the following:

"(1) Research, development, and evaluation of training programs for air traffic controllers, aviation safety inspectors, airway transportation safety specialists, and engineers.

"(2) Research and development of best practices for recruitment of individuals into the aviation field for mission critical positions.

"(3) Research, in consultation with other relevant Federal agencies, to develop a baseline of general aviation employment statistics and an analysis of future needs in the aviation field.

"(4) Research and the development of a comprehensive assessment of the airframe and power plant technician certification process and its effect on employment trends.

"(5) Evaluation of aviation maintenance technician school environments.

"(6) Research and an assessment of the ability to develop training programs to allow for the transition of recently unemployed and highly skilled mechanics into the aviation field."

[§44514. Repealed. Pub. L. 118–63, title III, §337, May 16, 2024, 138 Stat. 1093]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1183, related to closing, reopening, and reducing

hours of certain flight service stations and establishment of manned auxiliary flight service stations.

[§44515. Repealed. Pub. L. 118–63, title IV, §401(a), May 16, 2024, 138 Stat. 1148]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1184, related to grants for advanced training facilities for maintenance technicians for air carrier aircraft.

§44516. Human factors program

(a) HUMAN FACTORS TRAINING.—

(1) AIR TRAFFIC CONTROLLERS.—The Administrator of the Federal Aviation Administration shall—

(A) address the problems and concerns raised by the National Research Council in its report "The Future of Air Traffic Control" on air traffic control automation; and

(B) respond to the recommendations made by the National Research Council.

(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with representatives of the aviation industry and appropriate aviation programs associated with universities to develop specific training curricula to address critical safety problems, including problems of pilots—

(A) in recovering from loss of control of an aircraft, including handling unusual attitudes and mechanical malfunctions;

(B) in deviating from standard operating procedures, including inappropriate responses to emergencies and hazardous weather;

(C) in awareness of altitude and location relative to terrain to prevent controlled flight into terrain; and

(D) in landing and approaches, including nonprecision approaches and go-around procedures.

(b) TEST PROGRAM.—The Administrator shall establish a test program in cooperation with air carriers to use model Jeppesen approach plates or other similar tools to improve precision-like landing approaches for aircraft.

(c) REPORT.—Not later than 1 year after the date of the enactment of this section, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Administration's efforts to encourage the adoption and implementation of advanced qualification programs for air carriers under this section.

(d) ADVANCED QUALIFICATION PROGRAM DEFINED.—In this section, the term "advanced qualification program" means an alternative method for qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of parts 121 and 135 of title 14, Code of Federal Regulations.

(Added Pub. L. 106–181, title VII, §713(a), Apr. 5, 2000, 114 Stat. 160.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

HUMAN FACTORS PROFESSIONALS

Pub. L. 118–63, title IV, §410, May 16, 2024, 138 Stat. 1156, provided that: "The Administrator [of the Federal Aviation Administration] shall take such actions as may be necessary to establish a new work code for human factors professionals who—

"(1) perform work involving the design and testing of technologies, processes, and systems which require effective and safe human performance;

"(2) generate and apply theories, principles, practical concepts, systems, and processes related to the design and testing of technologies, systems, and training programs to support and evaluate human performance in work contexts; and

"(3) meet education or experience requirements as determined by the Administrator."

HUMAN FACTORS EDUCATION PROGRAM

Pub. L. 116–260, div. V, title I, §124, Dec. 27, 2020, 134 Stat. 2346, provided that:

"(a) HUMAN FACTORS EDUCATION PROGRAM.—

"(1) IN GENERAL.—The Administrator shall develop a human factors education program that addresses the effects of modern flight deck systems, including automated systems, on human performance for transport airplanes and the approaches for better integration of human factors in aircraft design and certification.

"(2) TARGET AUDIENCE.—The human factors education program shall be integrated into the training protocols (as in existence as of the date of enactment of this title [Dec. 27, 2020]) for, and be routinely administered to, the following:

"(A) Appropriate employees within the Flight Standards Service.

"(B) Appropriate employees within the Aircraft Certification Service.

"(C) Other employees or authorized representatives determined to be necessary by the Administrator.

"(b) TRANSPORT AIRPLANE MANUFACTURER INFORMATION SHARING.—The Administrator shall—

"(1) require each transport airplane manufacturer to provide the Administrator with the information or findings necessary for flight crew to be trained on flight deck systems;

"(2) ensure the information or findings under paragraph (1) adequately includes consideration of human factors; and

"(3) ensure that each transport airplane manufacturer identifies any technical basis, justification or rationale for the information and findings under paragraph (1)."

[For definitions of "Administrator" and "transport airplanes" as used in section 124 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

§44517. Program to permit cost sharing of air traffic modernization projects

(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control equipment and software.

(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117.

(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $5,000,000 in Federal funds under the program.

(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) to carry out the program.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE PROJECT.—The term "eligible project" means a project to purchase equipment

or software relating to the Nation's air traffic control system that is certified or approved by the Administrator of the Federal Aviation Administration and that promotes safety, efficiency, or mobility. Such projects may include—

(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, and lighting improvements;

(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

(C) equipment and software that enhance airspace control procedures or assist in en route surveillance, including oceanic and offshore flight tracking.

(2) PROJECT SPONSOR.—The term "project sponsor" means any major user of the national airspace system, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

(f) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, and upon agreement by the Administrator, a project sponsor may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

(g) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program. The guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.

(Added Pub. L. 108–176, title I, §183(a), Dec. 12, 2003, 117 Stat. 2516.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§44518. Advanced Materials Center of Excellence

(a) IN GENERAL.—

(1) CONTINUED OPERATIONS.—The Administrator shall—

(A) continue operation of the Advanced Materials Center of Excellence (referred to in this section as the "Center"); and

(B) make a determination on whether to award a grant to the Center not later than 90 days after the date on which the grants officer of the Federal Aviation Administration recommends a proposal for award of such grant to the Administrator.

(2) PURPOSES.—The Center shall—

(A) focus on applied research and training on the safe use of composites and advanced materials, and related manufacturing practices, in airframe structures; and

(B) conduct research and development into aircraft structure crash worthiness and passenger safety, as well as address safe and accessible air travel of individuals with a disability (as defined in section 382.3 of title 14, Code of Federal Regulations (or any successor regulation)), including materials required to facilitate safe wheelchair restraint systems on commercial aircraft.

(b) RESPONSIBILITIES.—The Center shall—

(1) promote and facilitate collaboration among member universities, academia, the

Administration, the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers, and other appropriate stakeholders for the purposes under subsection (a) and the activities described in paragraphs (2) through (4);

(2) carry out research and development activities to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study, which shall include—

(A) all structural materials, including—

(i) metallic and non-metallic based additive materials, ceramic materials, carbon fiber polymers, and thermoplastic composites;

(ii) the long-term material and structural behavior of such materials; and

(iii) evaluating the resiliency and long-term durability of advanced materials in high temperature conditions and in engines for applications in advanced aircraft; and

(B) structural technologies, such as additive manufacturing, to be used in applications within the commercial aircraft industry, including traditional fixed-wing aircraft, rotorcraft, and emerging aircraft types such as advanced air mobility aircraft; and

(3) conduct research activities for the purpose of improving the safety and certification of aviation structures, materials, and additively manufactured aviation products and components; and

(4) conducting [1] research activities to advance the safe movement of all passengers, including individuals with a disability (as defined in section 382.3 of title 14, Code of Federal Regulations (or any successor regulation)), and individuals using personal wheelchairs in flight, that takes into account the modeling, engineering, testing, operating, and training issues significant to all passengers and relevant stakeholders.

(c) AUTHORIZATION OF APPROPRIATIONS.—Out of amounts appropriated under section 48102(a), the Administrator may expend not more than $10,000,000 for each of fiscal years 2021 through 2023 to carry out this section. Amounts appropriated under the preceding sentence for each fiscal year shall remain available until expended.

(Added Pub. L. 115–254, div. B, title VII, §762(a), Oct. 5, 2018, 132 Stat. 3428; amended Pub. L. 116–260, div. V, title I, §134, Dec. 27, 2020, 134 Stat. 2356; Pub. L. 118–63, title X, §1005, May 16, 2024, 138 Stat. 1387.)

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §1005(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Administrator of the Federal Aviation Administration shall continue operation of the Advanced Materials Center of Excellence (referred to in this section as the "Center") under its structure as in effect on March 1, 2016, which shall focus on applied research and training on the durability and maintainability of advanced materials in transport airframe structures."

Subsec. (b). Pub. L. 118–63, §1005(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The Center shall—

"(1) promote and facilitate collaboration among academia, the Transportation Division of the Federal Aviation Administration, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

"(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study."

2020—Subsec. (c). Pub. L. 116–260 added subsec. (c).

[1] *So in original. Probably should be "conduct".*

§44519. Certification personnel continuing education and training

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall—

(1) develop a program for regular recurrent training of engineers, inspectors, and other

subject-matter experts employed in the Aircraft Certification Service of the Administration in accordance with the training strategy developed pursuant to section 231 of the FAA Reauthorization Act of 2018 (Public Law 115–254; 132 Stat. 3256);

(2) to the maximum extent practicable, implement measures, including assignments in multiple divisions of the Aircraft Certification Service, to ensure that such engineers and other subject-matter experts in the Aircraft Certification Service have access to diverse professional opportunities that expand their knowledge and skills;

(3) develop a program to provide continuing education and training to Administration personnel who hold positions involving aircraft certification and flight standards, including human factors specialists, engineers, flight test pilots, inspectors, and, as determined appropriate by the Administrator, industry personnel who may be responsible for compliance activities including designees; and

(4) in consultation with outside experts, develop—

(A) an education and training curriculum on current and new aircraft technologies, human factors, project management, and the roles and responsibilities associated with oversight of designees; and

(B) recommended practices for compliance with Administration regulations.

(b) IMPLEMENTATION.—The Administrator shall, to the maximum extent practicable, ensure that actions taken pursuant to subsection (a)—

(1) permit engineers, inspectors, and other subject matter experts to continue developing knowledge of, and expertise in, new and emerging technologies in systems design, flight controls, principles of aviation safety, system oversight, and certification project management;

(2) minimize the likelihood of an individual developing an inappropriate bias toward a designer or manufacturer of aircraft, aircraft engines, propellers, or appliances;

(3) are consistent with any applicable collective bargaining agreements; and

(4) account for gaps in knowledge and skills (as identified by the Administrator in consultation with the exclusive bargaining representatives certified under section 7111 of title 5, United States Code) between Administration employees and private-sector employees for each group of Administration employees covered under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator, $10,000,000 for each of fiscal years 2021 through 2028 to carry out this section. Amounts appropriated under the preceding sentence for any fiscal year shall remain available until expended.

(Added Pub. L. 116–260, div. V, title I, §112(a), Dec. 27, 2020, 134 Stat. 2331; amended Pub. L. 118–63, title III, §306(d), May 16, 2024, 138 Stat. 1072.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 231 of the FAA Reauthorization Act of 2018 (Public Law 115–254; 132 Stat. 3256), referred to in subsec. (a)(1), is section 231 of Pub. L. 115–254, div. B, title II, Oct. 5, 2018, 132 Stat. 3256, which is not classified to the Code.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 substituted "2028" for "2023".

§44520. Center of Excellence for Alternative Jet Fuels and Environment

(a) IN GENERAL.—The Administrator shall continue operation of the Center of Excellence for Alternative Jet Fuels and Environment (in this section referred to as the "Center").

(b) RESPONSIBILITIES.—The Center shall—

(1) focus on research to—

(A) assist in the development, qualification, and certification of the use of aviation fuel from alternative and renewable sources (such as biomass, next-generation feedstocks, alcohols, organic acids, hydrogen, bioderived chemicals and gaseous carbon) for commercial aircraft;

(B) assist in informing the safe use of alternative aviation fuels in commercial aircraft that also apply electrified aircraft propulsion systems;

(C) reduce community exposure to civilian aircraft noise and pollutant emissions;

(D) inform decision making to support United States leadership on international aviation environmental issues, including the development of domestic and international standards; and

(E) improve and expand the scientific understanding of civil aviation noise and pollutant emissions and their impacts, as well as support the development of improved modeling approaches and tools;

(2) examine the use of novel technologies and other forms of innovation to reduce noise, emissions, and fuel burn in commercial aircraft; and

(3) support collaboration with other Federal agencies, industry stakeholders, research institutions, and other relevant entities to accelerate the research, development, testing, evaluation, and demonstration programs and facilitate United States sustainability and competitiveness in aviation.

(c) GRANT AUTHORITY.—The Administrator shall carry out the work of the Center through the use of grants or other measures, as determined appropriate by the Administrator pursuant to section 44513, including through interagency agreements and coordination with other Federal agencies.

(d) PARTICIPATION.—

(1) PARTICIPATION OF EDUCATIONAL AND RESEARCH INSTITUTIONS.—In carrying out the responsibilities described in subsection (b), the Center shall include, as appropriate, participation by—

(A) institutions of higher education and research institutions that—

(i) have existing facilities for research, development, and testing; and

(ii) leverage private sector partnerships;

(B) other Federal agencies;

(C) consortia with experience across the alternative fuels supply chain, including with research, feedstock development and production, small-scale development, testing, and technology evaluation related to the creation, processing, production, and transportation of alternative aviation fuel; and

(D) consortia with experience in innovative technologies to reduce noise, emissions, and fuel burn in commercial aircraft.

(2) USE OF NASA FACILITIES.—The Center shall, in consultation with the Administrator of NASA, consider using, on a reimbursable basis, the existing and available capacity in aeronautics research facilities at the Langley Research Center, the NASA John H. Glenn Center at the Neil A. Armstrong Test Facility, and other appropriate facilities of the National Aeronautics and Space Administration.

(Added Pub. L. 118–63, title X, §1017(a), May 16, 2024, 138 Stat. 1396.)

CHAPTER 447—SAFETY REGULATION

Sec.
44701. General requirements.
44702. Issuance of certificates.

44703. Airman certificates.
44704. Type certificates, production certificates, airworthiness certificates, and design and production organization certificates.
44705. Air carrier operating certificates.
44706. Airport operating certificates.
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44724. Manipulation of flight controls.
44725. Life-limited aircraft parts.
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44733. Oversight of repair stations located outside the United States.
44734. Training of flight attendants.
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44736. Organization designation authorizations.
44737. Helicopter fuel system safety.
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44739. Pets on airplanes.
44740. Special rule for certain aircraft operations.
44741. Approval of organization designation authorization unit members.
44742. Interference with the duties of organization designation authorization unit members.
44743. Pilot training requirements.
44744. Flight Crew Alerting.[1]
44745. Don Young Alaska Aviation Safety Initiative.
44746. Flight data recovery from overwater operations.
44747. Aviation safety oversight measures carried out by foreign countries.
44748. Aircraft dispatching.

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title III, §§302(a)(3), 342(f), 352(b), 369(c), title IV, §420(b)(2), May 16, 2024, 138 Stat. 1069, 1101, 1112, 1139, 1165, added items 44733 and 44745 to 44748 and struck out former item 44733 "Inspection of repair stations located outside the United States".

2022—Pub. L. 117–328, div. O, title V, §501(e), Dec. 29, 2022, 136 Stat. 5231, added item 44744.

2020—Pub. L. 116–260, div. V, title I, §§107(d)(2), 119(b), Dec. 27, 2020, 134 Stat. 2326, 2339, added items 44740 to 44743 and struck out second item 44737 "Special rule for certain aircraft operations".

2018—Pub. L. 115–254, div. B, title II, §212(b), title III, §317(b), title IV, §§408(b), 417(b), title V, §581(b)(2), Oct. 5, 2018, 132 Stat. 3249, 3269, 3330, 3334, 3398, added item 44736, two items 44737, and items 44738 and 44739.

2016—Pub. L. 114–328, div. A, title III, §341(a)(4)(B), Dec. 23, 2016, 130 Stat. 2081, substituted "Structures interfering with air commerce or national security" for "Structures interfering with air commerce" in item 44718.

2012—Pub. L. 112–95, title III, §§303(c)(2), 306(c), 307(c), 308(b), 309(b), 310(b), Feb. 14, 2012, 126 Stat. 58, 61, 62, 64, 65, substituted "Type certificates, production certificates, airworthiness certificates, and design and production organization certificates" for "Type certificates, production certificates, airworthiness certificates, and design organization certificates" in item 44704 and added items 44730 to 44735.

2007—Pub. L. 110–135, §2(b), Dec. 13, 2007, 121 Stat. 1452, added item 44729.

2003—Pub. L. 108–176, title II, §227(e)(2), title V, §502(b), title VIII, §814(b), Dec. 12, 2003, 117 Stat. 2532, 2557, 2592, substituted "Type certificates, production certificates, airworthiness certificates, and design organization certificates" for "Type certificates, production certificates, and airworthiness certificates" in item 44704 and added items 44727 and 44728.

2000—Pub. L. 106–181, title V, §§504(c), 505(a)(2), title VI, §603(b), Apr. 5, 2000, 114 Stat. 134, 136, 152, substituted "Aeronautical charts and related products and services" for "Aeronautical maps and charts" in item 44721 and added items 44725 and 44726.

1996—Pub. L. 104–264, title VI, §602(a)(2), Oct. 9, 1996, 110 Stat. 3264, added item 44724.

[1] So in original. Does not conform to section catchline.

§44701. General requirements

(a) PROMOTING SAFETY.—The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing—

(1) minimum standards required in the interest of safety for appliances and for the design, material, construction, quality of work, cybersecurity, and performance of aircraft, aircraft engines, and propellers;

(2) regulations and minimum standards in the interest of safety for—

(A) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(B) equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and

(C) a qualified private person, instead of an officer or employee of the Administration, to examine and report on the inspecting, servicing, and overhauling;

(3) regulations required in the interest of safety for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers; and

(5) regulations and minimum standards for cybersecurity and other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security.

(b) PRESCRIBING MINIMUM SAFETY STANDARDS.—The Administrator may prescribe minimum safety standards for—

(1) an air carrier to whom a certificate is issued under section 44705 of this title; and

(2) operating an airport serving any passenger operation of air carrier aircraft designed for at least 31 passenger seats.

(c) REDUCING AND ELIMINATING ACCIDENTS.—The Administrator shall carry out this

chapter in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation. However, the Administrator is not required to give preference either to air transportation or to other air commerce in carrying out this chapter.

(d) CONSIDERATIONS AND CLASSIFICATION OF REGULATIONS AND STANDARDS .—When prescribing a regulation or standard under subsection (a) or (b) of this section or any of sections 44702–44716 of this title, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a regulation or standard appropriate to the differences between air transportation and other air commerce.

(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

(1) IN GENERAL.—Notwithstanding the provisions of this chapter, the Administrator, pursuant to Article 83 bis of the Convention on International Civil Aviation and by a bilateral agreement with the aeronautical authorities of another country, may exchange with that country all or part of their respective functions and duties with respect to registered aircraft under the following articles of the Convention: Article 12 (Rules of the Air); Article 31 (Certificates of Airworthiness); or Article 32a (Licenses of Personnel).

(2) RELINQUISHMENT AND ACCEPTANCE OF RESPONSIBILITY.—The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) for United States-registered aircraft described in paragraph (4)(A) transferred abroad and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad and described in paragraph (4)(B) that are transferred to the United States.

(3) CONDITIONS.—The Administrator may predicate, in the agreement, the transfer of functions and duties under this subsection on any conditions the Administrator deems necessary and prudent, except that the Administrator may not transfer responsibilities for United States registered aircraft described in paragraph (4)(A) to a country that the Administrator determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.

(4) REGISTERED AIRCRAFT DEFINED.—In this subsection, the term "registered aircraft" means—

(A) aircraft registered in the United States and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in another country; and

(B) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.

(5) FOREIGN AIRWORTHINESS DIRECTIVES.—

(A) ACCEPTANCE.—Subject to subparagraph (D), the Administrator may accept an airworthiness directive, as defined in section 39.3 of title 14, Code of Federal Regulations, issued by an aeronautical safety authority of a foreign country, and leverage that authority's regulatory process, if—

(i) the country is the state of design for the product that is the subject of the airworthiness directive;

(ii) the United States has a bilateral safety agreement relating to aircraft certification with the country;

(iii) as part of the bilateral safety agreement with the country, the Administrator has determined that such aeronautical safety authority has an aircraft certification system relating to safety that produces a level of safety equivalent to the level produced by the system of the Federal Aviation Administration;

(iv) the aeronautical safety authority of the country utilizes an open and transparent notice and comment process in the issuance of airworthiness directives; and

(v) the airworthiness directive is necessary to provide for the safe operation of the aircraft subject to the directive.

(B) ALTERNATIVE APPROVAL PROCESS.—Notwithstanding subparagraph (A), the Administrator may issue a Federal Aviation Administration airworthiness directive instead of accepting an airworthiness directive otherwise eligible for acceptance under such subparagraph, if the Administrator determines that such issuance is necessary for safety or operational reasons due to the complexity or unique features of the Federal Aviation Administration airworthiness directive or the United States aviation system.

(C) ALTERNATIVE MEANS OF COMPLIANCE.—The Administrator may—

(i) accept an alternative means of compliance, with respect to an airworthiness directive accepted under subparagraph (A), that was approved by the aeronautical safety authority of the foreign country that issued the airworthiness directive; or

(ii) notwithstanding subparagraph (A), and at the request of any person affected by an airworthiness directive accepted under such subparagraph, approve an alternative means of compliance with respect to the airworthiness directive.

(D) LIMITATION.—The Administrator may not accept an airworthiness directive issued by an aeronautical safety authority of a foreign country if the airworthiness directive addresses matters other than those involving the safe operation of an aircraft.

(f) EXEMPTIONS.—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any of sections 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

(g) EXCLUSIVE RULEMAKING AUTHORITY.—Notwithstanding any other provision of law and except as provided in section 40131, the Administrator, in consultation with the heads of such other agencies as the Administrator determines necessary, shall have exclusive authority to prescribe regulations for purposes of assuring the cybersecurity of civil aircraft, aircraft engines, propellers, and appliances.

(h) POLICIES, ORDERS, AND GUIDANCE.—

(1) CONSISTENCY OF APPLICATION.—The Administrator shall ensure consistency in the application of policies, orders, and guidance of the Administration by—

(A) audits of the application and interpretation of such material by Administration personnel from person to person and office to office;

(B) updating policies, orders, and guidance to resolve inconsistencies and clarify demonstrated ambiguities, such as through repeated inconsistent interpretation; and

(C) ensuring officials are properly documenting findings and decisions throughout a project to decrease the occurrence of duplicative work and inconsistent findings by subsequent officials assigned to the same project.

(2) ALTERATIONS.—The Administrator shall consult as appropriate with regulated entities who will be impacted by proposed changes to the content or application of policies, orders, and guidance before making such changes.

(3) AUTHORITIES AND REGULATIONS.—The Administrator shall issue policies, orders, and guidance documents that are related to a law or regulation or clarify the intent of or compliance with specific laws and regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1185; Pub. L. 103–429, §6(55), Oct. 31, 1994, 108

Stat. 4385; Pub. L. 106–181, title VII, §714, Apr. 5, 2000, 114 Stat. 161; Pub. L. 115–254, div. B, title II, §242, Oct. 5, 2018, 132 Stat. 3258; Pub. L. 118–63, title III, §392, title VIII, §822, May 16, 2024, 138 Stat. 1143, 1331.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44701(a)	49 App.:1421(a).	Aug. 23, 1958, Pub. L. 85–726, §§601(a), (b) (1st sentence related to standards, rules, and regulations, last sentence), (c), 604(a) (related to standards), 72 Stat. 775, 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44701(b)	49 App.:1424(a) (related to standards).	
	49 App.:1432(a) (related to standards).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(a) (related to standards); added May 21, 1970, Pub. L. 91–258, §51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, §525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	
44701(c)	49 App.:1421(b) (last sentence).	
	49 App.:1655(c)(1).	
44701(d)	49 App.:1421(b) (1st sentence related to standards, rules, and regulations).	
	49 App.:1655(c)(1).	
44701(e)	49 App.:1421(c).	
	49 App.:1655(c)(1).	

In this section, the word "Administrator" in sections 601(a)–(c) and 604 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 778) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words "is empowered and it . . . be his duty to" and "and revising from time to time" are omitted as surplus. In clause (1), the words "as may be" are omitted as surplus. In clauses (2)–(5), the words "Reasonable" and "reasonable" are omitted as surplus and the word "rules" is omitted as being synonymous with "regulations". In clause (5), the words "to provide adequately" are omitted as surplus.

In subsection (b)(1), the words "the operation of" are omitted as surplus. The words "under section 44705 of this title" are added for clarity.

In subsection (b)(2), the words "scheduled or unscheduled" are omitted as surplus.

In subsection (c), the words "carry out" are substituted for "exercise and perform his powers and duties under", and the words "in carrying out" are substituted for "in the administration and enforcement of", for consistency and to eliminate unnecessary words.

In subsection (d), before clause (1), the word "rules" is omitted as being synonymous with "regulations". In clause (1), before subclause (A), the word "full" is omitted as surplus. In clause (1)(A), the word "provide" is substituted for "perform" for consistency in the revised title.

In subsection (e), the words "from time to time" are omitted as surplus. The word "rule" is omitted as being synonymous with "regulation".

This amends 49:44701(d) and (e) to correct erroneous cross-references.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(1). Pub. L. 118–63, §392(a)(1), inserted "cybersecurity," after "quality of work,".

Subsec. (a)(5). Pub. L. 118–63, §392(a)(2), inserted "cybersecurity and" after "standards for" and substituted "procedures" for "procedure".

Subsec. (g). Pub. L. 118–63, §392(b), added subsec. (g).

Subsec. (h). Pub. L. 118–63, §822, added subsec. (h).

2018—Subsec. (e)(5). Pub. L. 115–254 added par. (5).

2000—Subsecs. (e), (f). Pub. L. 106–181 added subsec. (e) and redesignated former subsec. (e) as (f).

1994—Subsecs. (d), (e). Pub. L. 103–429 substituted "any of sections 44702–44716" for "section 44702–44716".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SCALABILITY OF SAFETY MANAGEMENT SYSTEMS

Pub. L. 118–63, title III, §308, May 16, 2024, 138 Stat. 1072, provided that: "In conducting any rulemaking to require, or implementing a regulation requiring, a safety management system, the Administrator [of the Federal Aviation Administration] shall consider the scalability of such safety management system requirements, to the full range of entities in terms of size or complexity that may be affected by such rulemaking or regulation, including—

"(1) how an entity can demonstrate compliance using various documentation, tools, and methods, including, as appropriate, systems with multiple small operators collectively monitoring for and addressing risks;

"(2) a review of traditional safety management techniques and the suitability of such techniques for small entities;

"(3) the applicability of existing safety management system programs implemented by an entity;

"(4) the suitability of existing requirements under part 5 of title 14, Code of Federal Regulations, for small entities; and

"(5) other unique challenges relating to small entities the Administrator determines appropriate to consider."

NATIONAL SIMULATOR PROGRAM POLICIES AND GUIDANCE

Pub. L. 118–63, title III, §325, May 16, 2024, 138 Stat. 1085, provided that:

"(a) REVIEW.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall review relevant policies and guidance, including all advisory circulars, information bulletins, and directives, pertaining to part 60 of title 14, Code of Federal Regulations.

"(b) UPDATES.—Upon completion of the review required under subsection (a), the Administrator shall, at a minimum, update relevant policies and guidance, including all advisory circulars, information bulletins, and directives, pertaining to part 60 of title 14, Code of Federal Regulations.

"(c) CONSULTATION.—In carrying out the review required under subsection (a), the Administrator shall convene and consult with entities required to comply with part 60 of title 14, Code of Federal Regulations, including representatives of—

"(1) air carriers;

"(2) flight schools certificated under part 141 of title 14, Code of Federal Regulations;

"(3) training centers certificated under part 142 of title 14, Code of Federal Regulations; and

"(4) manufacturers and suppliers of flight simulation training devices (as defined in part 1 of title 14, Code of Federal Regulations, and Appendix F to part 60 of such title).

"(d) GAO STUDY ON FAA NATIONAL SIMULATOR PROGRAM.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General [of the United States] shall conduct a study on the National Simulator Program of the FAA [Federal Aviation Administration] that is part of the Training and Simulation Group of the Air Transportation Division.

"(2) CONSIDERATIONS.—In conducting the study required under paragraph (1), the Comptroller General shall, at a minimum, assess—

"(A) how the program described in paragraph (1) is maintained to reflect and account for advancement in technologies pertaining to flight simulation training devices (as defined in part 1 of title 14, Code of Federal Regulations, and appendix F to part 60 of such title);

"(B) the staffing levels, critical competencies, and skills gaps of FAA personnel responsible for carrying out and supporting the program described in paragraph (1); and

"(C) how the program described in paragraph (1) engages air carriers and relevant industry stakeholders, including flight schools, to ensure efficient compliance with part 60 of title 14, Code of Federal Regulations.

"(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the findings of the study conducted under paragraph (1)."

AIRCRAFT INTERCHANGE AGREEMENT LIMITATIONS

Pub. L. 118–63, title III, §329, May 16, 2024, 138 Stat. 1086, provided that:

"(a) STUDY.—Not later than 90 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall conduct a study of foreign interchange agreements.

"(b) CONTENTS.—In carrying out the study required under subsection (a), the Administrator shall address the following:

"(1) Methods for updating regulations under part 121.569 of title 14, Code of Federal Regulations, for foreign interchange agreements.

"(2) Time limits for foreign aircraft interchange agreements.

"(3) Minimum breaks between foreign aircraft interchange agreements.

"(4) Limits for no more than 1 foreign aircraft interchange agreement between 2 airlines.

"(5) Limits for no more than 2 foreign aircraft on the interchange agreement.

"(c) BRIEFING.—Not later than 2 years after the date of enactment of this Act, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the results of the study required under subsection (a).

"(d) RULEMAKING.—Based on the results of the study required under subsection (a), the Administrator may, if appropriate, update the relevant sections of part 121 of title 14, Code of Federal Regulations."

TARMAC OPERATIONS MONITORING STUDY

Pub. L. 118–63, title III, §338, May 16, 2024, 138 Stat. 1093, provided that:

"(a) IN GENERAL.—The Director of the Bureau of Transportation Statistics, in consultation with relevant offices within the Office of the Secretary [of Transportation] and the FAA [Federal Aviation Administration] (as determined by the Secretary), shall conduct a study to explore the capture, storage, analysis, and feasibility of monitoring ground source data at airports.

"(b) OBJECTIVES.—The objectives of the study conducted under subsection (a) shall include the following:

"(1) Determining the current state of ground source data coverage at airports.

"(2) Understanding the technology requirements for monitoring ground movements at airports through sensors, receivers, or other technologies.

"(3) Conducting data collection through a pilot program established under subsection (c) and collecting ground-based tarmac delay statistics.

"(4) Performing an evaluation and feasibility analysis of potential system-level tarmac operations monitoring solutions.

"(c) PILOT PROGRAM.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024],

the Director shall establish a pilot program to collect data and develop ground-based tarmac delay statistics or other relevant statistics with respect to airports.

"(2) REQUIREMENTS.—The pilot program established under paragraph (1) shall—

"(A) include up to 6 airports that the Director determines reflect a diversity of factors, including geography, size, and air traffic;

"(B) terminate not more than 3 years after the date of enactment of this Act; and

"(C) be subject to any guidelines issued by the Director.

"(d) REPORT.—Not later than 4 years after the date of enactment of this Act, the Director shall publish the results of the study conducted under subsection (a) and the pilot program established under subsection (c) on a publicly available website."

IMPROVEMENTS TO AVIATION SAFETY INFORMATION ANALYSIS AND SHARING PROGRAM

Pub. L. 118–63, title III, §348, May 16, 2024, 138 Stat. 1107, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall implement improvements to the Aviation Safety Information Analysis and Sharing Program with respect to safety data sharing and risk mitigation.

"(b) REQUIREMENTS.—In carrying out subsection (a), the Administrator shall—

"(1) identify methods to increase the rate at which data is collected, processed, and analyzed to expeditiously share safety intelligence;

"(2) develop predictive capabilities to anticipate emerging safety risks;

"(3) identify methods to improve shared data environments with external stakeholders;

"(4) establish a robust process for prioritizing requests for safety information;

"(5) establish guidance to encourage regular safety inspector review of non-confidential aviation safety and performance data;

"(6) identify industry segments not yet included and conduct outreach to such industry segments to increase the rate of participation, including—

"(A) general aviation;

"(B) air transportation and commercial aviation;

"(C) rotorcraft operations;

"(D) air ambulance operations; and

"(E) aviation maintenance;

"(7) establish processes for obtaining and analyzing comprehensive and aggregate data for new and future industry segments; and

"(8) integrate safety data from unmanned aircraft system operators, as appropriate.

"(c) IMPLEMENTATION.—In carrying out subsection (a), the Administrator shall—

"(1) prioritize production-ready configurable solutions over custom development, as appropriate, to support FAA [Federal Aviation Administration] critical aviation safety programs; and

"(2) ensure that adequate market research is completed in accordance with FAA acquisition management system requirements, including appropriate demonstrations of proposed solutions, as part of the evaluation criteria.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to require the Administrator to share confidential or proprietary information and data to safety inspectors for purposes of enforcement; or

"(2) to limit the applicability of section 44735 of title 49, United States Code, to the Aviation Safety Information Analysis and Sharing Program.

"(e) BRIEFING.—Not later than 180 days after the date of enactment of this Act, and every 6 months thereafter until the improvements under subsection (a) are made, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the progress of implementation of the Aviation Safety Information Analysis and Sharing Program, including—

"(1) an assessment of the progress of the FAA toward achieving milestones for such program identified by the inspector general of the Department of Transportation and the Special Committee to Review FAA Aircraft Certification Reports;

"(2) a description of the plan to use appropriate deployable commercial solutions to assist the FAA in meeting such milestones;

"(3) steps taken to make improvements under subsection (b); and

"(4) a summary of the efforts of the FAA to address gaps in safety data provided from any of the

industry segments described in subsection (b)(6)."

PART 135 DUTY AND REST

Pub. L. 118–63, title III, §351, May 16, 2024, 138 Stat. 1111, provided that:

"(a) PART 91 TAIL–END FERRY RULEMAKING.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall require that any operation conducted by a flight crewmember during an assigned duty period under the operational control of an operator holding a certificate under part 135 of title 14, Code of Federal Regulations, before, during, or after the duty period (including any operations under part 91 of title 14, Code of Federal Regulations), without an intervening rest period, shall count towards the flight time and duty period limitations of such flight crewmember under part 135 of title 14, Code of Federal Regulations.

"(b) RECORD KEEPING.—Not later than 1 year after the date of enactment of this Act, the Administrator shall update any Administration policy and guidance regarding complete and accurate record keeping practices for operators holding a certificate under part 135 of title 14, Code of Federal Regulations, in order to properly document, at a minimum—

"(1) flight crew assignments;

"(2) flight crew prospective rest notifications;

"(3) compliance with flight and duty times limitations and post-duty rest requirements; and

"(4) duty period start and end times.

"(c) SAFETY MANAGEMENT SYSTEM OVERSIGHT.—The Administrator, in performing oversight of the safety management system of an operator holding a certificate under part 135 of title 14, Code of Federal Regulations, following the implementation of the final rule issued based on the final rule titled 'Safety Management Systems', and published on April 26, 2024 (89 Fed. Reg. 33068), shall ensure such operator is evaluating and appropriately mitigating aviation safety risks, including, at minimum, risks associated with—

"(1) inadequate flight crewmember duty and rest periods; and

"(2) incomplete records pertaining to flight crew rest, duty, and flight times.

"(d) ORGAN TRANSPORTATION FLIGHTS.—In updating guidance and policy pursuant to subsection (b), the Administrator shall consider and allow for appropriate accommodations, including accommodations related to subsections (b)(2) and (b)(4) for operators—

"(1) performing organ transportation operations; and

"(2) who have in place a means by which to identify and mitigate risks associated with flight crew duty and rest."

RAMP WORKER SAFETY CALL TO ACTION

Pub. L. 118–63, title III, §353, May 16, 2024, 138 Stat. 1112, provided that:

"(a) CALL TO ACTION RAMP WORKER SAFETY REVIEW.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall initiate a Call to Action safety review of airport ramp worker safety and ways to minimize or eliminate ingestion zone and jet blast zone accidents.

"(b) CONTENTS.—The Call to Action safety review required pursuant to subsection (a) shall include—

"(1) a description of Administration regulations, guidance, and directives related to airport ramp worker safety procedures and oversight of such processes;

"(2) a description of reportable accidents and incidents involving airport ramp workers in 5-year period preceding the date of enactment of this Act, including any identified contributing factors to the reportable accident or incident;

"(3) training and related educational materials for airport ramp workers, including supervisory and contract employees;

"(4) any recommended devices and methods for communication on the airport ramp, including considerations of requirements for operable radios and headsets;

"(5) a review of markings on the airport ramp that define restriction, staging, safety, or hazard zones, including markings to clearly define and graphically indicate the engine ingestion zones and envelope of safety for the variety of aircraft that may park at the same gate of the airport;

"(6) a review of aircraft jet blast and engine intake safety markings, including incorporation of markings on aircraft to indicate engine inlet danger zones; and

"(7) a process for stakeholders, including airlines, aircraft manufacturers, airports, labor, and aviation safety experts, to provide feedback and share best practices.

"(c) REPORT AND ACTIONS.—Not later than 180 days after the conclusion of the Call to Action safety review pursuant to subsection (a), the Administrator shall—

"(1) submit to the appropriate committees of Congress [Committee on Commerce, Science, and

Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the review and any recommendations for actions or best practices to improve airport ramp worker safety, including the identification of risks and possible ways to mitigate such risks to be considered in any applicable safety management system of air carriers and airports; and

"(2) initiate such actions as are necessary to act upon the findings of the review.

"(d) TRAINING MATERIALS.—Not later than 6 months after the completion of the safety review required under subsection (a), the Administrator shall develop and publish training and related educational materials about aircraft engine ingestion and jet blast hazards for ground crews, including supervisory and contract employees, that includes information on—

"(1) the specific dangers and consequences of entering engine ingestion or jet blast zones;

"(2) proper protocols to avoid entering an engine ingestion or jet blast zone; and

"(3) on-the-job, instructor-led training to physically demonstrate the engine ingestion zone boundaries and jet blast zones for each kind of aircraft the ground crew may encounter.

"(e) CONSULTATION.—In carrying out this section, the Administrator shall consult with aviation safety experts, air carriers, aircraft manufacturers, relevant labor organizations, and airport operators.

"(f) TRAINING REQUIREMENTS.—Not later than 6 months after the publication of the training and related educational materials required under subsection (d), the Administrator may require any ramp worker, as appropriate, to receive the relevant engine ingestion and jet blast zone hazard training before such ramp worker may perform work on any airport ramp."

MODERNIZATION AND IMPROVEMENTS TO AIRCRAFT EVACUATION

Pub. L. 118–63, title III, §365, May 16, 2024, 138 Stat. 1132, provided that:

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall conduct a study on improvements to the safety and efficiency of evacuation standards for manufacturers and carriers of transport category airplanes, as described in parts 25 and 121 of title 14, Code of Federal Regulations.

"(2) CONTENTS.—

"(A) REQUIREMENTS.—The study required under paragraph (1) shall include—

"(i) a prospective risk analysis, as well as an evaluation of relevant past incidents with respect to evacuation safety and evacuation standards;

"(ii) an assessment of the evacuation testing procedures described in section 25.803 of such title 14, as well as recommendations for how to revise such testing procedures to ensure that the testing procedures assess, in a safe manner, the ability of passengers with disabilities, including passengers who use wheelchairs or other mobility assistive devices, to safely and efficiently evacuate an aircraft;

"(iii) an assessment of the evacuation demonstration procedures described in such part 121, as well as recommendations for how to improve such demonstration procedures to ensure that the demonstration procedures assess, in a safe manner, the ability of passengers with disabilities, including passengers who use wheelchairs or other mobility assistive devices, to safely and efficiently evacuate an aircraft;

"(iv) the research proposed in National Transportation Safety Board Safety Recommendation A–18–009; and

"(v) any other analysis determined appropriate by the Administrator.

"(B) CONSIDERATIONS.—In conducting the study under paragraph (1), the Administrator shall assess the following:

"(i) The ability of passengers of different ages (including infants, children, and senior citizens) to safely and efficiently evacuate a transport category airplane.

"(ii) The ability of passengers of different heights and weights to safely and efficiently evacuate a transport category airplane.

"(iii) The ability of passengers with disabilities to safely and efficiently evacuate a transport category airplane.

"(iv) The ability of passengers who cannot speak, have difficulty speaking, use synthetic speech, or are non-vocal or non-verbal to safely and efficiently evacuate a transport category airplane.

"(v) The ability of passengers who do not speak English to safely and efficiently evacuate a transport category airplane.

"(vi) The impact of the presence of carry-on luggage and personal items (such as a purse, briefcase, laptop, or backpack) on the ability of passengers to safely and efficiently evacuate a transport category airplane.

"(vii) The impact of seat size and passenger seating space and pitch on the ability of passengers to safely and efficiently evacuate a transport category airplane.

"(viii) The impact of seats and other obstacles in the pathway to the exit opening from the nearest aisle on the ability of passengers to safely and efficiently evacuate a transport category airplane.

"(ix) With respect to aircraft with parallel longitudinal aisles, the impact of seat pods or other seating configurations that block access between such aisles within a cabin on the ability of passengers to safely and efficiently evacuate a transport category airplane.

"(x) The impact of passenger load on the ability of passengers to safely and efficiently evacuate a transport category airplane.

"(xi) The impact of animals approved to accompany a passenger, including service animals, on the ability of passengers to safely and efficiently evacuate a transport category airplane.

"(xii) Whether an applicant for a type certificate (as defined in section 44704(e)(7) of title 49, United States Code) should be required to demonstrate compliance with FAA [Federal Aviation Administration] emergency evacuation regulations (as described in section 25.803 and Appendix J of part 25 of title 14, Code of Federal Regulations) through live testing in any case in which the Administrator determines that the new aircraft design is significant.

"(xiii) Any other factor determined appropriate by the Administrator.

"(C) DEFINITIONS.—In this paragraph:

"(i) PASSENGER LOAD.—The term 'passenger load' means the number of passengers relative to the number of seats onboard the aircraft.

"(ii) PASSENGERS WITH DISABILITIES.—The term 'passengers with disabilities' means any qualified individual with a disability, as defined in section 382.3 of title 14, Code of Federal Regulations.

"(b) AVIATION RULEMAKING COMMITTEE FOR EVACUATION STANDARDS.—

"(1) IN GENERAL.—Not later than 180 days after the completion of the study conducted under subsection (a), the Administrator shall establish an aviation rulemaking committee (in this section referred to as the 'Committee') to—

"(A) review the findings of the study; and

"(B) develop and submit to the Administrator recommendations regarding improvements to the evacuation standards described in parts 25 and 121 of title 14, Code of Federal Regulations.

"(2) COMPOSITION.—The Committee shall consist of members appointed by the Administrator, including the following:

"(A) Representatives of industry.

"(B) Representatives of aviation labor organizations.

"(C) Aviation safety experts with specific knowledge of the evacuation standards and requirements under such parts 25 and 121.

"(D) Representatives of individuals with disabilities with specific knowledge of accessibility standards regarding evacuations in emergency circumstances.

"(E) Representatives of the senior citizen community.

"(F) Representatives of pediatricians.

"(3) CONSIDERATIONS.—In reviewing the findings of the study conducted under subsection (a) and developing recommendations regarding the improvement of the evacuation standards under subsection (b)(1)(B), the Committee shall consider the following:

"(A) The recommendations made by any prior aviation rulemaking committee regarding the evacuation standards described in such parts 25 and 121.

"(B) Scientific data derived from the study conducted under subsection (a).

"(C) Any data gathered from aviation safety reporting programs.

"(D) The cost-benefit analysis and risk analysis of any recommended standards.

"(E) Any other item determined appropriate by the Committee.

"(c) REPORT TO CONGRESS.—Not later than 180 days after the date on which the Committee submits to the Administrator the recommendations under subsection (b)(1)(B), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on—

"(1) the findings of the study conducted under subsection (a);

"(2) the recommendations of the Committee under subsection (b)(1)(B); and

"(3) the Administrator's plan, if any, to implement such recommendations.

"(d) RULEMAKING.—Not later than 90 days after submitting to Congress the report under subsection (c),

the Administrator shall issue a notice of proposed rulemaking to implement the recommendations of the Committee that the Administrator considers appropriate."

25-HOUR COCKPIT VOICE RECORDER

Pub. L. 118–63, title III, §366, May 16, 2024, 138 Stat. 1135, provided that:

"(a) IN GENERAL.—

"(1) COCKPIT VOICE RECORDER FOR NEWLY MANUFACTURED AIRCRAFT.—A covered operator may not operate a covered aircraft manufactured later than the date that is 1 year after the date of enactment of this Act [May 16, 2024] unless such aircraft has a cockpit voice recorder installed that retains the last 25 hours of recorded information using a recorder that meets the standards of Technical Standard Order TSO–C123c, or any later revision.

"(2) COCKPIT VOICE RECORDER FOR COVERED AIRCRAFT.—Not later than 6 years after the date of enactment of this Act, a covered operator may not operate a covered aircraft unless such aircraft has a cockpit voice recorder installed that retains the last 25 hours of recorded information using a recorder that meets the standards of Technical Standard Order TSO–C123c, or any later revision.

"(b) PROHIBITED USE.—The Administrator [of the Federal Aviation Administration] or any covered operator may not use a cockpit voice recorder recording for a certificate action, civil penalty, or disciplinary proceedings against a flight crewmember.

"(c) RULEMAKING.—Not later than 3 years after the date of enactment of this Act, the Administrator shall—

"(1) issue a final rule to update applicable regulations, as necessary, to conform to the requirements of subsection (a)(2); and

"(2) issue a rule to update applicable regulations, as necessary, to ensure, to the greatest extent practicable, that any data from a cockpit voice recorder—

"(A) is protected from unlawful or unauthorized disclosure to the public;

"(B) is used exclusively by a Federal agency or a foreign accident investigative agency for a criminal investigation, aircraft accident, or aircraft incident investigation; and

"(C) is not deliberately erased or tampered with following a National Transportation Safety Board reportable event under part 830 of title 49, Code of Federal Regulations, for which civil and criminal penalties may be assessed in accordance with section 1155 of title 49, United States Code, and section 32 of title 18, United States Code.

"(d) SAVINGS CLAUSE.—Nothing in this section shall be construed as rescoping, constraining, or otherwise mandating delays to FAA [Federal Aviation Administration] actions in the notice of proposed rulemaking titled '25–Hour Cockpit Voice Recorder (CVR) Requirements, New Aircraft Production', issued on December 4, 2023 (88 Fed. Reg. 84090).

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect—

"(1) the confidentiality of recording and transcripts under section 1114(c) of title 49, United States Code;

"(2) the ban on recording for civil penalty or certificate under section 121.359(h) of title 14, Code of Federal Regulations; or

"(3) the prohibition against use of data from flight operational quality assurance programs for enforcement purposes under section 13.401 of title 14, Code of Federal Regulations.

"(f) DEFINITIONS.—In this section:

"(1) COVERED AIRCRAFT.—The term 'covered aircraft' means—

"(A) an aircraft operated by an air carrier under part 121 of title 14, Code of Federal Regulations; or

"(B) a transport category aircraft designed for operations by an air carrier or foreign air carrier type-certificated with a passenger seating capacity of 30 or more or an all-cargo or combi derivative of such an aircraft.

"(2) COVERED OPERATOR.—The term 'covered operator' means the operator of a covered aircraft."

STAFFING MODEL FOR AVIATION SAFETY INSPECTORS; SAFETY-CRITICAL STAFFING

Pub. L. 118–63, title IV, §§430, 431, May 16, 2024, 138 Stat. 1172, 1173, provided that:

"SEC. 430. STAFFING MODEL FOR AVIATION SAFETY INSPECTORS.

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall review and, as necessary, revise the staffing model for aviation safety inspectors.

"(b) REQUIREMENTS.—

"(1) CONSIDERATION OF PRIOR STUDIES AND REPORTS.—In reviewing and revising the model, the Administrator shall take into consideration the contents and recommendations contained in the following:

"(A) The 2006 report released by the National Research Council titled 'Staffing Standards for Aviation Safety Inspectors'.

"(B) The 2007 study released by the National Academy of Sciences titled 'Staffing Standards for Aviation Safety Inspectors'.

"(C) The 2013 report released by Grant Thornton LLP, titled 'ASTARS Gap Analysis Study: Comparison of the AVS Staffing Model for Aviation Safety Inspectors to the National Academy of Sciences' Recommendations Final Report'.

"(D) The 2021 report released by the inspector general of the Department of Transportation titled 'FAA [Federal Aviation Administration] Can Increase Its Inspector Staffing Model's Effectiveness by Implementing System Improvements and Maximizing Its Capabilities".

"(E) The FAA Fiscal Year 2023 Aviation Safety Workforce Plan conducted to satisfy the requirements of section 104 of the Aircraft Certification, Safety, and Accountability Act, as enacted in the Consolidated Appropriations Act, 2021 (49 U.S.C. 44701 note).

"(2) ASSESSMENTS.—In carrying out this section, the Administrator shall assess the following:

"(A) Projected staffing needs at the service and office level.

"(B) Forecasted attrition of the aviation safety inspector workforce.

"(C) Forecasted workload of aviation safety inspectors, including responsibilities associated with overseeing aviation manufacturers and new airspace entrants.

"(D) Means by which field managers use the model to assess aviation safety inspector staffing and provide feedback on resources needed at the office level.

"(E) Work performed by aviation safety inspectors in comparison to designees acting on behalf of the Administrator.

"(F) Any associated performance metrics to inform periodic comparisons to actual aviation safety inspector staffing level results.

"(3) CONSULTATION.—In carrying out this section, the Administrator shall consult with interested persons, including the exclusive collective bargaining representative for aviation safety inspectors certified under section 7111 of title 5, United States Code.

"SEC. 431. SAFETY-CRITICAL STAFFING.

"(a) IMPLEMENTATION OF STAFFING STANDARDS FOR SAFETY INSPECTORS.—Upon completion of the revised staffing model for aviation safety inspectors under section 430, and validation of the model by the Administrator, the Administrator shall take all appropriate actions in response to the number of aviation safety inspectors, aviation safety technicians, and operation support positions that are identified in such model to meet the responsibilities of the Flight Standards Service and Aircraft Certification Service, including potentially increasing the number of safety critical positions in the Flight Standards Service and Aircraft Certification Service each fiscal year, as appropriate, so long as such staffing increases are measured relative to the number of individuals serving in safety-critical positions as of September 30, 2023.

"(b) AVAILABILITY OF APPROPRIATIONS.—Any increase in safety critical staffing pursuant to this subsection shall be subject to the availability of appropriations.

"(c) SAFETY-CRITICAL POSITIONS DEFINED.—In this section, the term 'safety-critical positions' means—

"(1) aviation safety inspectors, aviation safety specialists (1801 job series), aviation safety technicians, and operations support positions in the Flight Standards Service; and

"(2) manufacturing safety inspectors, pilots, engineers, Chief Scientist Technical Advisors, aviation safety specialists (1801 job series), safety technical specialists, and operational support positions in the Aircraft Certification Service."

DETERRING CREWMEMBER INTERFERENCE

Pub. L. 118–63, title IV, §432, May 16, 2024, 138 Stat. 1173, provided that:

"(a) TASK FORCE.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall convene a task force to develop voluntary standards and best practices relating to suspected violations of sections 46318, 46503, and 46504 of title 49, United States Code, including—

"(A) proper and consistent incident documentation and reporting techniques;

"(B) best practices for flight crew and cabin crew response, including de-escalation;

"(C) improved coordination between stakeholders, including flight crew and cabin crew, airport staff, other Federal agencies as appropriate, and law enforcement; and

"(D) appropriate enforcement actions.

"(2) MEMBERSHIP.—The task force convened under paragraph (1) shall be comprised of representatives of—

"(A) air carriers;

"(B) airport sponsors and airport law enforcement agencies;

"(C) other Federal agencies determined necessary by the Administrator;

"(D) labor organizations representing air carrier pilots;

"(E) labor organizations representing flight attendants; and

"(F) labor organizations representing ticketing, check-in, or other customer service representatives employed by air carriers.

"(b) ANNOUNCEMENTS.—Not later than 90 days after the date of enactment of this Act, the Administrator shall initiate such actions as may be necessary to include in the briefing of passengers before takeoff required under section 121.571 of title 14, Code of Federal Regulations, a statement informing passengers that it is against Federal law to assault or threaten to assault any individual on an aircraft or interfere with the duties of a crewmember.

"(c) DEFINITIONS.—For purposes of this section, the definitions in section 40102(a) of title 49, United States Code, shall apply to terms in this section."

UPDATING PASSENGER INFORMATION REQUIREMENT REGULATIONS

Pub. L. 118–63, title V, §518, May 16, 2024, 138 Stat. 1199, provided that:

"(a) ARAC TASKING.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall task the Aviation Rulemaking Advisory Committee with—

"(1) reviewing passenger information requirement regulations under section 121.317 of title 14, Code of Federal Regulation[s], and such other related regulations as the Administrator determines appropriate; and

"(2) making recommendations to update and improve such regulations.

"(b) FINAL REGULATION.—Not later than 6 years after the date of enactment of this Act, the Administrator shall issue a final regulation revising section 121.317 of title 14, Code of Federal Regulations, and such other related regulations as the Administrator determines appropriate, to—

"(1) update such section and regulations to incorporate exemptions commonly issued by the Administrator;

"(2) reflect civil penalty inflation adjustments; and

"(3) incorporate such updates and improvements recommended by the Aviation Rulemaking Advisory Committee that the Administrator determines appropriate."

SURFACE SURVEILLANCE

Pub. L. 118–63, title VI, §617, May 16, 2024, 138 Stat. 1229, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall conduct a review of surface surveillance systems that are operational as of such date of enactment.

"(b) CONTENTS.—In carrying out the review under subsection (a), the Administrator shall—

"(1) demonstrate that any change to the configuration of surface surveillance systems or decommissioning of a sensor from such systems provides an equivalent level of safety as the current system;

"(2) determine how a technology refresh of legacy sensor equipment can reduce operational and maintenance costs of surface surveillance systems compared to current costs and extend the useful life and affordability of such systems; and

"(3) consider how to enhance such systems through new capabilities and software tools that improve the safety of terminal airspace and the airport surface.

"(c) CONSULTATION.—In carrying out the review under subsection (a), the Administrator shall consult with—

"(1) aviation safety experts with specific knowledge of surface surveillance technology, including multilateration and automatic dependent surveillance-broadcast;

"(2) representatives of the exclusive bargaining representative of the air traffic controllers certified under section 7111 of title 5, United States Code, with expertise in surface safety; and

"(3) representatives of the exclusive bargaining representative of airway transportation systems

specialists of the FAA [Federal Aviation Administration] certified under section 7111 of title 5, United States Code.

"(d) BRIEFING.—Upon completion of the review under subsection (a), the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the findings of such review.

"(e) IMPLEMENTATION.—The Administrator may implement changes to surface surveillance systems consistent with the findings of the review described in subsection (d)."

ENSURING SAFE LANDINGS DURING OFF-AIRPORT OPERATIONS

Pub. L. 118–63, title VIII, §809, May 16, 2024, 138 Stat. 1325, provided that: "The Administrator [of the Federal Aviation Administration] shall not apply section 91.119 of title 14, Code of Federal Regulations, in any manner that requires a pilot to continue a landing that is unsafe."

LETTER OF DEVIATION AUTHORITY

Pub. L. 118–63, title VIII, §814, May 16, 2024, 138 Stat. 1327, provided that:

"(a) IN GENERAL.—A flight instructor, registered owner, lessor, or lessee of a covered aircraft shall not be required to obtain a letter of deviation authority from the Administrator [of the Federal Aviation Administration] to allow, conduct, or receive flight training, checking, and testing in such aircraft if—

"(1) the flight instructor is not providing both the training and the aircraft;

"(2) no person advertises or broadly offers the aircraft as available for flight training, checking, or testing; and

"(3) no person receives compensation for use of the aircraft for a specific flight during which flight training, checking, or testing was received, other than expenses for owning, operating, and maintaining the aircraft.

"(b) COVERED AIRCRAFT DEFINED.—In this section, the term 'covered aircraft' means—

"(1) an experimental category aircraft;

"(2) a limited category aircraft; and

"(3) a primary category aircraft."

CONSISTENCY OF POLICY APPLICATION IN FLIGHT STANDARDS AND AIRCRAFT CERTIFICATION

Pub. L. 118–63, title VIII, §821, May 16, 2024, 138 Stat. 1330, provided that:

"(a) IN GENERAL.—The inspector general of the Department of Transportation shall initiate audits, as described in subsection (d), of the Flight Standards and Aircraft Certification Services of the FAA [Federal Aviation Administration], and the personnel of such offices, on the consistency of—

"(1) the interpretation of policies, orders, guidance, and regulations; and

"(2) the application of policies, orders, guidance, and regulations.

"(b) COMPONENTS.—In completing the audits required under this section, the inspector general shall interview stakeholders, including at a minimum, individuals or entities that—

"(1) hold a certificate or authorization related to the issue being audited under subsection (d);

"(2) are from different regions of the country with matters before different flight standards district offices or before different FAA Flight Standards Service and Aircraft Certification Service offices;

"(3) work with multiple flight standards district offices or aircraft certification offices of the Administration; or

"(4) hold a single or multiple relevant certificates or authorizations.

"(c) REPORTS.—The inspector general of the Department of Transportation shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives], the Secretary [of Transportation], and the Administrator [of the Federal Aviation Administration] a report for each audit required in this section, containing the results of the audit, including findings and necessary recommendations to the Administrator to improve the consistency of decision-making by Flight Standards and Aircraft Certification Services offices of the Administration.

"(d) AUDITS.—The inspector general shall complete an audit and issue the associated report required under subsection (c) not later than—

"(1) 18 months after the date of enactment of this Act [May 16, 2024], with regard to supplemental type certificates;

"(2) 34 months after the date of enactment of this Act, with regard to repair stations certificated under part 145 of title 14, Code of Federal Regulations; and

"(3) 50 months after the date of enactment of this Act, with regard to technical standards orders.

"(e) IMPLEMENTATION.—In addressing any recommendations from the inspector general contained in the reports required under subsection (c), the Administrator may—

"(1) maintain an implementation plan; and

"(2) broadly adopt any best practices to improve the consistency of interpretation and application of policies, orders, guidance, and regulations by other offices of the Administration and with regard to other activities of the Administration.

"(f) BRIEFING.—Not later than 6 months after receiving a report required under subsection (c), the Administrator shall brief the appropriate committees of Congress on the implementation plan required under subsection (d), the status of any recommendation received pursuant to this section, and any best practices that are being implemented more broadly."

PART 135 PILOT SUPPLEMENTAL OXYGEN REQUIREMENT

Pub. L. 118–63, title VIII, §834, May 16, 2024, 138 Stat. 1340, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a notice of proposed rulemaking concerning whether to revise the requirements under paragraphs (3) and (4) of section 135.89(b) of title 14, Code of Federal Regulations, to apply only to aircraft operating at altitudes above flight level 410.

"(b) CONSIDERATIONS.—In issuing the notice of proposed rulemaking, the Administrator shall consider applicable safety data and risks, including in relation to applicable incidents and accidents, as well as the investigations and recommendations of the National Transportation Safety Board."

HIGH-SPEED FLIGHT TESTING

Pub. L. 118–63, title X, §1009, May 16, 2024, 138 Stat. 1389, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration], in consultation with the Administrator of NASA [National Aeronautics and Space Administration], shall establish procedures for the exclusive purposes of developmental and airworthiness testing and demonstration flights, which may include the establishment of high-speed testing corridors in the national airspace system—

"(1) with respect to manufacturers and operators of high-speed aircraft that conduct flights operating with supersonic speed, not later than 1 year after the date of enactment of this Act [May 16, 2024]; and

"(2) with respect to manufacturers and operators of high-speed aircraft that conduct flights operating with hypersonic speed, not later than 2 years after the date of enactment of this Act.

"(b) AREAS OF TESTING AND DEMONSTRATION.—The Administrator shall take action, as appropriate, to ensure flight testing and demonstration flights occur in areas where such flights will not interfere with the safety of other aircraft or the efficient use of airspace in the national airspace system.

"(c) CONSIDERATIONS.—In carrying out subsection (a), the Administrator shall consider—

"(1) sections 91.817 and 91.818 of title 14, Code of Federal Regulations;

"(2) applications for special flight authorizations for flights operating at supersonic or hypersonic speed, as described in section 91.818 of such title;

"(3) the environmental impacts of developmental and airworthiness testing operations;

"(4) requiring applicants to include specification of proposed flight areas;

"(5) the authorization of flights to and from airports in Class D airspace within 10 nautical miles of oceanic coastline;

"(6) developing the vertical limits at or above the altitude necessary for safe supersonic and hypersonic operations;

"(7) proponent-provided data regarding the design and operational analysis of the aircraft, as well as data regarding sonic boom overpressures;

"(8) the safety of the uninvolved public; and

"(9) community outreach, education, and engagement.

"(d) CONSULTATION.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Environmental Protection Agency and other stakeholders, shall assess and report to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] on a means for supporting continued compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Administrator shall seek to enter into an agreement with an appropriate federally funded research and development center, or other independent nonprofit organization that recommends long term solutions for maintaining compliance with such Act for 1 or more over-land or near-land hypersonic and supersonic test areas as established by the Administrator.

"(e) DEFINITIONS.—In this section:

"(1) HIGH-SPEED AIRCRAFT.—The term 'high-speed aircraft' means an aircraft operating at speeds in excess of Mach 1, including supersonic and hypersonic aircraft.

"(2) HYPERSONIC.—The term 'hypersonic' means flights operating at speeds that exceed Mach 5.

"(3) SUPERSONIC.—The term 'supersonic' means flights operating at speeds in excess of Mach 1 but less than Mach 5."

LETTER OF DEVIATION AUTHORITY

Pub. L. 117–263, div. E, title LVI, §5604, Dec. 23, 2022, 136 Stat. 3406, provided that: "A flight instructor, registered owner, lessor, or lessee of an aircraft shall not be required to obtain a letter of deviation authority from the Administrator of the Federal Aviation Administration to allow, conduct or receive flight training, checking, and testing in an experimental aircraft if—

"(1) the flight instructor is not providing both the training and the aircraft;

"(2) no person advertises or broadly offers the aircraft as available for flight training, checking, or testing; and

"(3) no person receives compensation for use of the aircraft for a specific flight during which flight training, checking, or testing was received, other than expenses for owning, operating, and maintaining the aircraft."

SAFETY MANAGEMENT SYSTEMS

Pub. L. 118–63, title III, §309, May 16, 2024, 138 Stat. 1073, provided that:

"(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall review the final rule of the FAA [Federal Aviation Administration] titled 'Safety Management Systems' and issued on April 26, 2024 (89 Fed. Reg. 33068).

"(b) APPLICABILITY.—In reviewing the final rule under subsection (a), the Administrator shall ensure that the safety management system requirement under such final rule described in subsection (a) is applied to all certificate holders operating under the rules for commuter and on-demand operations under part 135 of title 14, Code of Federal Regulations, commercial air tour operators operating under section 91.147 of such title, production certificate holders that are holders or licensees of a type certificate for the same product, and holders of a type certificate who license out such certificate for production under part 21 of such title.

"(c) DETERMINATION.—If the Administrator determines the final rule does not apply the safety management system requirement in the manner described in subsection (b), the Administrator shall issue such regulation, guidance, or policy as may be necessary to ensure such safety management system requirement is applied in such manner."

Pub. L. 116–260, div. V, title I, §102(a)–(f), Dec. 27, 2020, 134 Stat. 2309, 2310, provided that:

"(a) RULEMAKING PROCEEDING.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title [Dec. 27, 2020], the Administrator shall initiate a rulemaking proceeding to require that manufacturers that hold both a type certificate and a production certificate issued pursuant to section 44704 of title 49, United States Code, where the United States is the State of Design and State of Manufacture, have in place a safety management system that is consistent with the standards and recommended practices established by ICAO and contained in annex 19 to the Convention on International Civil Aviation (61 Stat. 1180), for such systems.

"(2) CONTENTS OF REGULATIONS.—The regulations issued under paragraph (1) shall, at a minimum—

"(A) ensure safety management systems are consistent with, and complementary to, existing safety management systems;

"(B) include provisions that would permit operational feedback from operators and pilots qualified on the manufacturers' equipment to ensure that the operational assumptions made during design and certification remain valid;

"(C) include provisions for the Administrator's approval of, and regular oversight of adherence to, a certificate holder's safety management system adopted pursuant to such regulations; and

"(D) require such certificate holder to adopt, not later than 4 years after the date of enactment of this title, a safety management system.

"(b) FINAL RULE DEADLINE.—Not later than 24 months after initiating the rulemaking under subsection (a), the Administrator shall issue a final rule.

"(c) SURVEILLANCE AND AUDIT REQUIREMENT.—The final rule issued pursuant to subsection (b) shall include a requirement for the Administrator to implement a systems approach to risk-based surveillance

by defining and planning inspections, audits, and monitoring activities on a continuous basis, to ensure that design and production approval holders of aviation products meet and continue to meet safety management system requirements under the rule.

"(d) ENGAGEMENT WITH ICAO.—The Administrator shall engage with ICAO and foreign civil aviation authorities to help encourage the adoption of safety management systems for manufacturers on a global basis, consistent with ICAO standards.

"(e) SAFETY REPORTING PROGRAM.—The regulations issued under subsection (a) shall require a safety management system to include a confidential employee reporting system through which employees can report hazards, issues, concerns, occurrences, and incidents. A reporting system under this subsection shall include provisions for reporting, without concern for reprisal for reporting, of such items by employees in a manner consistent with confidential employee reporting systems administered by the Administrator. Such regulations shall also require a certificate holder described in subsection (a) to submit a summary of reports received under this subsection to the Administrator at least twice per year.

"(f) CODE OF ETHICS.—The regulations issued under subsection (a) shall require a safety management system to include establishment of a code of ethics applicable to all appropriate employees of a certificate holder, including officers (as determined by the FAA), which clarifies that safety is the organization's highest priority.

[For definitions of terms used in section 102(a)–(f) of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

CERTIFICATION OVERSIGHT STAFF

Pub. L. 116–260, div. V, title I, §104, Dec. 27, 2020, 134 Stat. 2316, provided that:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $27,000,000 for each of fiscal years 2021 through 2023 to recruit and retain engineers, safety inspectors, human factors specialists, chief scientific and technical advisors, software and cybersecurity experts, and other qualified technical experts who perform duties related to the certification of aircraft, aircraft engines, propellers, appliances, and new and emerging technologies, and perform other regulatory activities.

"(b) IN GENERAL.—Not later than 60 days after the date of enactment of this title [Dec. 27, 2020], and without duplicating any recently completed or ongoing reviews, the Administrator shall initiate a review of—

"(1) the inspectors, human factors specialists, flight test pilots, engineers, managers, and executives in the FAA who are responsible for the certification of the design, manufacture, and operation of aircraft intended for air transportation for purposes of determining whether the FAA has the expertise and capability to adequately understand the safety implications of, and oversee the adoption of, new or innovative technologies, materials, and procedures used by designers and manufacturers of such aircraft; and

"(2) the Senior Technical Experts Program to determine whether the program should be enhanced or expanded to bolster and support the programs of the FAA's Office of Aviation Safety, with particular focus placed on the Aircraft Certification Service and the Flight Standards Service (or any successor organizations), particularly with respect to understanding the safety implications of new or innovative technologies, materials, aircraft operations, and procedures used by designers and manufacturers of such aircraft.

"(c) DEADLINE FOR COMPLETION.—Not later than 270 days after the date of enactment of this title, the Administrator shall complete the review required by subsection (b).

"(d) BRIEFING.—Not later than 30 days after the completion of the review required by subsection (b), the Administrator shall brief the congressional committees of jurisdiction on the results of the review. The briefing shall include the following:

"(1) An analysis of the Administration's ability to hire safety inspectors, human factors specialists, flight test pilots, engineers, managers, executives, scientists, and technical advisors, who have the requisite expertise to oversee new developments in aerospace design and manufacturing.

"(2) A plan for the Administration to improve the overall expertise of the FAA's personnel who are responsible for the oversight of the design and manufacture of aircraft.

"(e) CONSULTATION REQUIREMENT.—In completing the review under subsection (b), the Administrator shall consult and collaborate with appropriate stakeholders, including labor organizations (including those representing aviation workers, FAA aviation safety engineers, human factors specialists, flight test pilots, and FAA aviation safety inspectors), and aerospace manufacturers.

"(f) RECRUITMENT AND RETENTION.—

"(1) BARGAINING UNITS.—Not later than 30 days after the date of enactment of this title, the Administrator shall begin collaboration with the exclusive bargaining representatives of engineers, safety

inspectors, systems safety specialists, and other qualified technical experts certified under section 7111 of title 5, United States Code, to improve recruitment of employees for, and to implement retention incentives for employees holding, positions with respect to the certification of aircraft, aircraft engines, propellers, and appliances. If the Administrator and such representatives are unable to reach an agreement collaboratively, the Administrator and such representatives shall negotiate in accordance with section 40122(a) of title 49, United States Code, to improve recruitment and implement retention incentives for employees described in subsection (a) who are covered under a collective bargaining agreement.

"(2) OTHER EMPLOYEES.—Notwithstanding any other provision of law, not later than 30 days after the date of enactment of this title, the Administrator shall initiate actions to improve recruitment of, and implement retention incentives for, any individual described in subsection (a) who is not covered under a collective bargaining agreement.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to vest in any exclusive bargaining representative any management right of the Administrator, as such right existed on the day before the date of enactment of this title.

"(4) AVAILABILITY OF APPROPRIATIONS.—Any action taken by the Administrator under this section shall be subject to the availability of appropriations authorized under subsection (a)."

[For definitions of terms used in section 104 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

VOLUNTARY SAFETY REPORTING PROGRAM

Pub. L. 116–260, div. V, title I, §113, Dec. 27, 2020, 134 Stat. 2332, as amended by Pub. L. 118–63, title III, §306(e), May 16, 2024, 138 Stat. 1072, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title [Dec. 27, 2020], the Administrator shall establish a voluntary safety reporting program for engineers, safety inspectors, systems safety specialists, and other subject matter experts certified under section 7111 of title 5, United States Code, to confidentially report instances where they have identified safety concerns during certification or oversight processes.

"(b) SAFETY REPORTING PROGRAM REQUIREMENTS.—In establishing the safety reporting program under subsection (a), the Administrator shall ensure the following:

"(1) The FAA maintains a reporting culture that encourages human factors specialists, engineers, flight test pilots, inspectors, and other appropriate FAA employees to voluntarily report safety concerns.

"(2) The safety reporting program is non-punitive, confidential, and protects employees from adverse employment actions related to their participation in the program.

"(3) The safety reporting program identifies exclusionary criteria for the program.

"(4) Collaborative development of the program with bargaining representatives of employees under section 7111 of title 5, United States Code, who are employed in the Aircraft Certification Service or Flight Standards Service of the Administration (or, if unable to reach an agreement collaboratively, the Administrator shall negotiate with the representatives in accordance with section 40122(a) of title 49, United States Code, regarding the development of the program).

"(5) Full and collaborative participation in the program by the bargaining representatives of employees described in paragraph (4).

"(6) The Administrator thoroughly reviews safety reports to determine whether there is a safety issue, including a hazard, defect, noncompliance, nonconformance, or process error.

"(7) The Administrator thoroughly reviews safety reports to determine whether any aircraft certification process contributed to the safety concern being raised.

"(8) The creation of a corrective action process in order to address safety issues that are identified through the program.

"(c) OUTCOMES.—Results of safety report reviews under this section may be used to—

"(1) improve—

"(A) safety systems, hazard control, and risk reduction;

"(B) certification systems;

"(C) FAA oversight;

"(D) compliance and conformance; and

"(E) any other matter determined necessary by the Administrator; and

"(2) implement lessons learned.

"(d) REPORT FILING.—The Administrator shall establish requirements for when in the certification process reports may be filed to—

"(1) ensure that identified issues can be addressed in a timely manner; and

"(2) foster open dialogue between applicants and FAA employees throughout the certification process.

"(e) INTEGRATION WITH OTHER SAFETY REPORTING PROGRAMS.—The Administrator shall implement the safety reporting program established under subsection (a) and the reporting requirements established pursuant to subsection (d) in a manner that is consistent with other voluntary safety reporting programs administered by the Administrator.

"(f) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this title, and annually thereafter through fiscal year 2028, the Administrator shall submit to the congressional committees of jurisdiction a report on the effectiveness of the safety reporting program established under subsection (a)."

[For definitions of terms used in section 113 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

FAA SAFETY OVERSIGHT AND CERTIFICATION AND PERFORMANCE METRICS

Pub. L. 115–254, div. B, title II, §§201, 202, 211, 221, 223, 224, 243, Oct. 5, 2018, 132 Stat. 3242, 3246, 3252, 3254, 3255, 3259, as amended by Pub. L. 116–260, div. V, title I, §129, Dec. 27, 2020, 134 Stat. 2349; Pub. L. 118–63, title I, §104(e), title VIII, §823, May 16, 2024, 138 Stat. 1035, 1332, provided that:

"SEC. 201. DEFINITIONS.

"In this title [enacting this note and section 44736 of this title and amending this section and sections 40104, 44704, and 45305 of this title], the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the FAA.

"(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Safety Oversight and Certification Advisory Committee established under section 202.

"(3) FAA.—The term 'FAA' means the Federal Aviation Administration.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(5) SYSTEMS SAFETY APPROACH.—The term 'systems safety approach' means the application of specialized technical and managerial skills to the systematic, forward-looking identification and control of hazards throughout the lifecycle of a project, program, or activity.

"SEC. 202. SAFETY OVERSIGHT AND CERTIFICATION ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary shall establish a Safety Oversight and Certification Advisory Committee.

"(b) DUTIES.—The Advisory Committee shall provide advice to the Secretary on policy-level issues facing the aviation community that are related to FAA safety oversight and certification programs and activities, including, at a minimum, the following:

"(1) Aircraft and flight standards certification processes, including efforts to streamline those processes.

"(2) Implementation and oversight of safety management systems.

"(3) Risk-based oversight efforts.

"(4) Utilization of delegation and designation authorities, including organization designation authorization.

"(5) Regulatory interpretation standardization efforts.

"(6) Training programs.

"(7) Expediting the rulemaking process and giving priority to rules related to safety.

"(8) Enhancing global competitiveness of United States manufactured and United States certificated aerospace and aviation products and services throughout the world.

"(c) FUNCTIONS.—In carrying out its duties under subsection (b), the Advisory Committee shall:

"(1) Foster industry collaboration in an open and transparent manner.

"(2) Consult with, and ensure participation by—

"(A) the private sector, including representatives of—

"(i) general aviation;

"(ii) commercial aviation;

"(iii) aviation labor;

"(iv) aviation maintenance, repair, and overhaul;

"(v) aviation, aerospace, and avionics manufacturing;

"(vi) unmanned aircraft systems operators and manufacturers; and

"(vii) the commercial space transportation industry;

"(B) members of the public; and

"(C) other interested parties.

"(3) Recommend consensus national goals, strategic objectives, and priorities for the most efficient,

streamlined, and cost-effective certification and safety oversight processes in order to maintain the safety of the aviation system and, at the same time, allow the FAA to meet future needs and ensure that aviation stakeholders remain competitive in the global marketplace.

"(4) Provide policy guidance recommendations for the FAA's certification and safety oversight efforts.

"(5) On a regular basis, review and provide recommendations on the FAA's certification and safety oversight efforts.

"(6) Periodically review and evaluate registration, certification, and related fees.

"(7) Provide appropriate legislative, regulatory, and guidance recommendations for the air transportation system and the aviation safety regulatory environment.

"[(8), (9). Repealed. Pub. L. 116–260, div. V, title I, §129(b), Dec. 27, 2020, 134 Stat. 2349.]

"(10) Provide a venue for tracking progress toward national goals and sustaining joint commitments.

"(11) Recommend recruiting, hiring, training, and continuing education objectives for FAA aviation safety engineers and aviation safety inspectors.

"(12) Provide advice and recommendations to the FAA on how to prioritize safety rulemaking projects.

"(13) Improve the development of FAA regulations by providing information, advice, and recommendations related to aviation issues.

"(14) Facilitate the validation and acceptance of United States manufactured and United States certificated products and services throughout the world.

"(d) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Committee shall be composed of the following members:

"(A) The Administrator (or the Administrator's designee).

"(B) At least 11 individuals, appointed by the Secretary, each of whom represents at least 1 of the following interests:

"(i) Transport aircraft and engine manufacturers.

"(ii) General aviation aircraft and engine manufacturers.

"(iii) Avionics and equipment manufacturers.

"(iv) Aviation labor organizations, including collective bargaining representatives of FAA aviation safety inspectors and aviation safety engineers.

"(v) General aviation operators.

"(vi) Air carriers.

"(vii) Business aviation operators.

"(viii) Unmanned aircraft systems manufacturers and operators.

"(ix) Aviation safety management experts.

"(x) Aviation maintenance, repair, and overhaul.

"(xi) Airport owners and operators.

"(2) NONVOTING MEMBERS.—

"(A) IN GENERAL.—In addition to the members appointed under paragraph (1), the Advisory Committee shall be composed of nonvoting members appointed by the Secretary from among individuals representing FAA safety oversight program offices.

"(B) DUTIES.—The nonvoting members may—

"(i) take part in deliberations of the Advisory Committee; and

"(ii) provide input with respect to any final reports or recommendations of the Advisory Committee.

"(C) LIMITATION.—The nonvoting members may not represent any stakeholder interest other than that of an FAA safety oversight program office.

"(3) TERMS.—Each voting member and nonvoting member of the Advisory Committee appointed by the Secretary shall be appointed for a term of 2 years.

"(4) COMMITTEE CHARACTERISTICS.—The Advisory Committee shall have the following characteristics:

"(A) Each voting member under paragraph (1)(B) shall be an executive officer of the organization who has decisionmaking authority within the member's organization and can represent and enter into commitments on behalf of such organization.

"(B) The ability to obtain necessary information from experts in the aviation and aerospace communities.

"(C) A membership size that enables the Advisory Committee to have substantive discussions and reach consensus on issues in a timely manner.

"(D) Appropriate expertise, including expertise in certification and risked-based safety oversight

processes, operations, policy, technology, labor relations, training, and finance.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Public Law 104–65 [the Lobbying Disclosure Act of 1995] (2 U.S.C. 1601 et seq.) may not be construed to prohibit or otherwise limit the appointment of any individual as a member of the Advisory Committee.

"(e) CHAIRPERSON.—

"(1) IN GENERAL.—The Chairperson of the Advisory Committee shall be appointed by the Secretary from among those members of the Advisory Committee that are voting members under subsection (d)(1)(B).

"(2) TERM.—Each member appointed under paragraph (1) shall serve a term of 2 years as Chairperson.

"(f) MEETINGS.—

"(1) FREQUENCY.—The Advisory Committee shall meet at least twice each year at the call of the Chairperson.

"(2) PUBLIC ATTENDANCE.—The meetings of the Advisory Committee shall be open and accessible to the public.

"(g) SPECIAL COMMITTEES.—

"(1) ESTABLISHMENT.—The Advisory Committee may establish special committees composed of private sector representatives, members of the public, labor representatives, and other relevant parties in complying with consultation and participation requirements under this section.

"(2) RULEMAKING ADVICE.—A special committee established by the Advisory Committee may—

"(A) provide rulemaking advice and recommendations to the Advisory Committee with respect to aviation-related issues;

"(B) provide the FAA additional opportunities to obtain firsthand information and insight from those parties that are most affected by existing and proposed regulations; and

"(C) assist in expediting the development, revision, or elimination of rules without circumventing public rulemaking processes and procedures.

"(3) APPLICABLE LAW.—Public Law 92–463 [the Federal Advisory Committee Act, see 5 U.S.C. 1001 et seq.] shall not apply to a special committee established by the Advisory Committee.

"(h) SUNSET.—The Advisory Committee shall terminate on October 1, 2028.

"(i) TERMINATION OF AIR TRAFFIC PROCEDURES ADVISORY COMMITTEE.—The Air Traffic Procedures Advisory Committee established by the FAA shall terminate on the date of the initial appointment of the members of the Advisory Committee.

"[SECS. 211, 221. REPEALED. PUB. L. 116–260, DIV. V, TITLE I, §129(A), DEC. 27, 2020, 134 STAT. 2349.]

"SEC. 223. CENTRALIZED SAFETY GUIDANCE DATABASE.

"(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall establish a centralized safety guidance database that will—

"(1) encompass all of the regulatory guidance documents of the FAA Office of Aviation Safety;

"(2) contain, for each such guidance document, a link to the Code of Federal Regulations provision to which the document relates; and

"(3) be publicly available in a manner that—

"(A) protects from disclosure identifying information regarding an individual or entity; and

"(B) prevents inappropriate disclosure proprietary information.

"(b) DATA ENTRY TIMING.—

"(1) EXISTING DOCUMENTS.—Not later than 14 months after the date of enactment of this Act, the Administrator shall begin entering into the database established under subsection (a) all of the regulatory guidance documents of the Office of Aviation Safety that are in effect and were issued before the date on which the Administrator begins such entry process.

"(2) NEW DOCUMENTS AND CHANGES.—On and after the date on which the Administrator begins the document entry process under paragraph (1), the Administrator shall ensure that all new regulatory guidance documents of the Office of Aviation Safety and any changes to existing documents are included in the database established under subsection (a) as such documents or changes to existing documents are issued.

"(c) CONSULTATION REQUIREMENT.—In establishing the database under subsection (a), the Administrator shall consult and collaborate with appropriate stakeholders, including labor organizations (including those representing aviation workers, FAA aviation safety engineers and FAA aviation safety inspectors) and aviation industry stakeholders.

"(d) REGULATORY GUIDANCE DOCUMENTS DEFINED.—In this section, the term 'regulatory guidance documents' means all forms of written information issued by the FAA that an individual or entity may use to interpret or apply FAA regulations and requirements, including information an individual or entity may use to determine acceptable means of compliance with such regulations and requirements, such as an order, manual, circular, policy statement, legal interpretation memorandum, or rulemaking document.

"SEC. 224. REGULATORY CONSISTENCY COMMUNICATIONS BOARD.

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall establish a Regulatory Consistency Communications Board (in this section referred to as the 'Board').

"(b) CONSULTATION REQUIREMENT.—In establishing the Board, the Administrator shall consult and collaborate with appropriate stakeholders, including FAA labor organizations (including labor organizations representing FAA aviation safety inspectors) and industry stakeholders.

"(c) MEMBERSHIP.—The Board shall be composed of FAA representatives, appointed by the Administrator, from—

"(1) the Flight Standards Service;

"(2) the Aircraft Certification Service;

"(3) the Office of the Chief Counsel;

"(4) the Office of Airports;

"(5) the Office of Security and Hazardous Materials Safety;

"(6) the Office of Rulemaking and Regulatory Improvement; and

"(7) such other offices as the Administrator determines appropriate.

"(d) FUNCTIONS.—The Board shall carry out the following functions:

"(1) Establish, at a minimum, processes by which—

"(A) FAA personnel and persons regulated by the FAA may submit regulatory interpretation questions, including anonymously, without fear of retaliation;

"(B) FAA personnel may submit written questions, and receive written responses, as to whether a previous approval or regulatory interpretation issued by FAA personnel in another office or region is correct or incorrect; and

"(C) any other person may submit written regulatory interpretation questions, including anonymously.

"(2) Meet on a regular basis to discuss and resolve questions submitted pursuant to paragraph (1) and the appropriate application of regulations and policy with respect to each question.

"(3) Provide to a person that submitted a question pursuant to subparagraph (A) or (B) of paragraph (1) a timely written response to the question.

"(4) Establish a process to make resolutions of common regulatory interpretation questions publicly available to FAA personnel, persons regulated by the FAA, and the public without revealing any identifying data of the person that submitted the question and in a manner that protects any proprietary information.

"(5) Ensure the incorporation of resolutions of questions submitted pursuant to paragraph (1) into regulatory guidance documents, as such term is defined in section 223(d).

"(6) Submit recommendations, as needed, to the Assistant Administrator for Rulemaking and Regulatory Improvement for consideration.

"(e) PERFORMANCE METRICS, TIMELINES, AND GOALS.—Not later than 180 days after the date on which the Advisory Committee recommends performance objectives and performance metrics for the FAA and the regulated aviation industry under section 202, the Administrator, in collaboration with the Advisory Committee, shall—

"(1) establish performance metrics, timelines, and goals to measure the progress of the Board in resolving regulatory interpretation questions submitted pursuant to subsection (d)(1); and

"(2) implement a process for tracking the progress of the Board in meeting the performance metrics, timelines, and goals established under paragraph (1).

"SEC. 243. FAA LEADERSHIP ABROAD.

"(a) IN GENERAL.—To promote United States aerospace safety standards, reduce redundant regulatory activity, and facilitate acceptance of FAA design and production approvals abroad, the Administrator shall—

"(1) attain greater expertise in issues related to dispute resolution, intellectual property, and export control laws to better support FAA certification and other aerospace regulatory activities abroad;

"(2) work with United States companies to more accurately track the amount of time it takes foreign authorities, including bilateral partners, to validate United States certificated aeronautical products;

"(3) provide assistance to United States companies that have experienced significantly long foreign

validation wait times;

"(4) work with foreign authorities, including bilateral partners, to collect and analyze data to determine the timeliness of the acceptance and validation of FAA design and production approvals by foreign authorities and the acceptance and validation of foreign-certified products by the FAA;

"(5) establish appropriate benchmarks and metrics to measure the success of bilateral aviation safety agreements and to reduce the validation time for United States certificated aeronautical products abroad; and

"(6) work with foreign authorities, including bilateral partners, to improve the timeliness of the acceptance and validation of FAA design and production approvals by foreign authorities and the acceptance and validation of foreign-certified products by the FAA.

"(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress a report that—

"(1) describes the FAA's strategic plan for international engagement;

"(2) describes the structure and responsibilities of all FAA offices that have international responsibilities, including the Aircraft Certification Office, and all the activities conducted by those offices related to certification and production;

"(3) describes current and forecasted staffing and travel needs for the FAA's international engagement activities, including the needs of the Aircraft Certification Office in the current and forecasted budgetary environment;

"(4) provides recommendations, if appropriate, to improve the existing structure and personnel and travel policies supporting the FAA's international engagement activities, including the activities of the Aviation Certification Office, to better support the growth of United States aerospace exports; and

"(5) identifies cost-effective policy initiatives, regulatory initiatives, or legislative initiatives needed to improve and enhance the timely acceptance of United States aerospace products abroad.

"(c) INTERNATIONAL TRAVEL.—The Administrator, or the Administrator's designee, may authorize international travel for any FAA employee, without the approval of any other person or entity, if the Administrator determines that the travel is necessary—

"(1) to promote United States aerospace safety standards; or

"(2) to support expedited acceptance of FAA design and production approvals."

FAA TECHNICAL TRAINING

Pub. L. 115–254, div. B, title III, §302, Oct. 5, 2018, 132 Stat. 3260, provided that:

"(a) E-LEARNING TRAINING PILOT PROGRAM.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration], in collaboration with the exclusive bargaining representatives of covered FAA personnel, shall establish an e-learning training pilot program in accordance with the requirements of this section.

"(b) CURRICULUM.—The pilot program shall—

"(1) include a recurrent training curriculum for covered FAA personnel to ensure that the covered FAA personnel receive instruction on the latest aviation technologies, processes, and procedures;

"(2) focus on providing specialized technical training for covered FAA personnel, as determined necessary by the Administrator;

"(3) include training courses on applicable regulations of the Federal Aviation Administration; and

"(4) consider the efficacy of instructor-led online training.

"(c) PILOT PROGRAM TERMINATION.—The pilot program shall terminate 1 year after the date of establishment of the pilot program.

"(d) E-LEARNING TRAINING PROGRAM.—Upon termination of the pilot program, the Administrator shall assess and establish or update an e-learning training program that incorporates lessons learned for covered FAA personnel as a result of the pilot program.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) COVERED FAA PERSONNEL.—The term 'covered FAA personnel' means airway transportation systems specialists and aviation safety inspectors of the Federal Aviation Administration.

"(2) E-LEARNING TRAINING.—The term 'e-learning training' means learning utilizing electronic technologies to access educational curriculum outside of a traditional classroom."

SAFETY CRITICAL STAFFING

Pub. L. 115–254, div. B, title III, §303, Oct. 5, 2018, 132 Stat. 3261, provided that:

"(a) UPDATE OF FAA'S SAFETY CRITICAL STAFFING MODEL.—Not later than 270 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall update the safety critical staffing model of the Administration to determine the number of aviation safety

inspectors that will be needed to fulfill the safety oversight mission of the Administration.

"(b) AUDIT BY DOT INSPECTOR GENERAL.—

"(1) IN GENERAL.—Not later than 90 days after the date on which the Administrator has updated the safety critical staffing model under subsection (a), the Inspector General of the Department of Transportation shall conduct an audit of the staffing model.

"(2) CONTENTS.—The audit shall include, at a minimum—

"(A) a review of the assumptions and methodologies used in devising and implementing the staffing model to assess the adequacy of the staffing model in predicting the number of aviation safety inspectors needed—

"(i) to properly fulfill the mission of the Administration; and

"(ii) to meet the future growth of the aviation industry; and

"(B) a determination on whether the staffing model takes into account the Administration's authority to fully utilize designees.

"(3) REPORT ON AUDIT.—

"(A) REPORT TO SECRETARY.—Not later than 30 days after the date of completion of the audit, the Inspector General shall submit to the Secretary a report on the results of the audit.

"(B) REPORT TO CONGRESS.—Not later than 60 days after the date of receipt of the report, the Secretary shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a copy of the report, together with, if appropriate, a description of any actions taken or to be taken to address the results of the audit."

EMERGENCY MEDICAL EQUIPMENT ON PASSENGER AIRCRAFT

Pub. L. 118–63, title III, §368, May 16, 2024, 138 Stat. 1136, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a notice of proposed rulemaking regarding first aid and emergency medical kit equipment and training required for flight crewmembers, as provided in part 121 of title 14, Code of Federal Regulations, applicable to all certificate holders operating passenger aircraft under such part.

"(b) CONSIDERATIONS.—In carrying out subsection (a), the Administrator shall consider—

"(1) the benefits and costs (including the costs of flight diversions and emergency landings) of requiring any new medications or equipment necessary to be included in approved emergency medical kits;

"(2) whether the contents of the emergency medical kits include, at a minimum, appropriate medications and equipment that can practicably be administered to address—

"(A) the emergency medical needs of children and pregnant women;

"(B) opioid overdose reversal;

"(C) anaphylaxis; and

"(D) cardiac arrest;

"(3) what contents of the emergency medical kits should be readily available, to the extent practicable, for use by flight crews without prior approval by a medical professional.

"(c) REGULAR REVIEW.—Not later than 5 years after the issuance of the final rule under subsection (a), and every 5 years thereafter, the Administrator shall evaluate and revise, if appropriate—

"(1) the first aid and emergency medical kit equipment and training required for flight crewmembers; and

"(2) any required training for flight crewmembers regarding the content, location, and function of such kit."

Pub. L. 115–254, div. B, title III, §307, Oct. 5, 2018, 132 Stat. 3263, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall evaluate and revise, as appropriate, regulations in part 121 of title 14, Code of Federal Regulations, regarding emergency medical equipment, including the contents of first-aid kits, applicable to all certificate holders operating passenger aircraft under that part.

"(b) CONSIDERATION.—In carrying out subsection (a), the Administrator shall consider whether the minimum contents of approved emergency medical kits, including approved first-aid kits, include appropriate medications and equipment to meet the emergency medical needs of children and pregnant women."

FAA AND NTSB REVIEW OF GENERAL AVIATION SAFETY

Pub. L. 115–254, div. B, title III, §308, Oct. 5, 2018, 132 Stat. 3263, provided that:

"(a) STUDY REQUIRED.—Not later than 30 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration], in coordination with the Chairman of the National

Transportation Safety Board, shall initiate a study of general aviation safety.

"(b) STUDY CONTENTS.—The study required under subsection (a) shall include—

"(1) a review of all general aviation accidents since 2000, including a review of—

"(A) the number of such accidents;

"(B) the number of injuries and fatalities, including with respect to both occupants of aircraft and individuals on the ground, as a result of such accidents;

"(C) the number of such accidents investigated by the National Transportation Safety Board;

"(D) the number of such accidents investigated by the FAA [Federal Aviation Administration]; and

"(E) a summary of the factual findings and probable cause determinations with respect to such accidents;

"(2) an assessment of the most common probable cause determinations issued for general aviation accidents since 2000;

"(3) an assessment of the most common facts analyzed by the FAA and the National Transportation Safety Board in the course of investigations of general aviation accidents since 2000, including operational details;

"(4) a review of the safety recommendations of the National Transportation Safety Board related to general aviation accidents since 2000;

"(5) an assessment of the responses of the FAA and the general aviation community to the safety recommendations of the National Transportation Safety Board related to general aviation accidents since 2000;

"(6) an assessment of the most common general aviation safety issues;

"(7) a review of the total costs to the Federal Government to conduct investigations of general aviation accidents over the last 10 years; and

"(8) other matters the Administrator or the Chairman considers appropriate.

"(c) RECOMMENDATIONS AND ACTIONS TO ADDRESS GENERAL AVIATION SAFETY.—Based on the results of the study required under subsection (a), the Administrator, in consultation with the Chairman, shall make such recommendations, including with respect to regulations and enforcement activities, as the Administrator considers necessary to—

"(1) address general aviation safety issues identified under the study;

"(2) protect persons and property on the ground; and

"(3) improve the safety of general aviation operators in the United States.

"(d) AUTHORITY.—Notwithstanding any other provision of law, the Administrator shall have the authority to undertake actions to address the recommendations made under subsection (c).

"(e) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the study required under subsection (a), including the recommendations described in subsection (c).

"(f) GENERAL AVIATION DEFINED.—In this section, the term 'general aviation' means aircraft operation for personal, recreational, or other noncommercial purposes."

AVIATION RULEMAKING COMMITTEE FOR PART 135 PILOT REST AND DUTY RULES

Pub. L. 115–254, div. B, title III, §315, Oct. 5, 2018, 132 Stat. 3267, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall convene an aviation rulemaking committee to review, and develop findings and recommendations regarding, pilot rest and duty rules under part 135 of title 14, Code of Federal Regulations.

"(b) DUTIES.—The Administrator shall—

"(1) not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report based on the findings of the aviation rulemaking committee; and

"(2) not later than 1 year after the date of submission of the report under paragraph (1), issue a notice of proposed rulemaking based on any consensus recommendations reached by the aviation rulemaking committee.

"(c) COMPOSITION.—The aviation rulemaking committee shall consist of members appointed by the Administrator, including—

"(1) representatives of industry;

"(2) representatives of aviation labor organizations, including collective bargaining units representing pilots who are covered by part 135 of title 14, Code of Federal Regulations, and subpart K of part 91 of such title; and

"(3) aviation safety experts with specific knowledge of flight crewmember education and training requirements under part 135 of such title.

"(d) CONSIDERATIONS.—The Administrator shall direct the aviation rulemaking committee to consider—

"(1) recommendations of prior part 135 rulemaking committees;

"(2) accommodations necessary for small businesses;

"(3) scientific data derived from aviation-related fatigue and sleep research;

"(4) data gathered from aviation safety reporting programs;

"(5) the need to accommodate the diversity of operations conducted under part 135, including the unique duty and rest time requirements of air ambulance pilots; and

"(6) other items, as appropriate."

VOLUNTARY REPORTS OF OPERATIONAL OR MAINTENANCE ISSUES RELATED TO AVIATION SAFETY

Pub. L. 115–254, div. B, title III, §320, Oct. 5, 2018, 132 Stat. 3269, provided that:

"(a) IN GENERAL.—There shall be a presumption that an individual's voluntary report of an operational or maintenance issue related to aviation safety under an aviation safety action program meets the criteria for acceptance as a valid report under such program.

"(b) DISCLAIMER REQUIRED.—Any dissemination, within the participating organization, of a report that was submitted and accepted under an aviation safety action program pursuant to the presumption under subsection (a), but that has not undergone review by an event review committee, shall be accompanied by a disclaimer stating that the report—

"(1) has not been reviewed by an event review committee tasked with reviewing such reports; and

"(2) may subsequently be determined to be ineligible for inclusion in the aviation safety action program.

"(c) REJECTION OF REPORT.—

"(1) IN GENERAL.—A report described under subsection (a) shall be rejected from an aviation safety action program if, after a review of the report, an event review committee tasked with reviewing such report, or the Federal Aviation Administration member of the event review committee in the case that the review committee does not reach consensus, determines that the report fails to meet the criteria for acceptance under such program.

"(2) PROTECTIONS.—In any case in which a report of an individual described under subsection (a) is rejected under paragraph (1)—

"(A) the enforcement-related incentive offered to the individual for making such a report shall not apply; and

"(B) the protection from disclosure of the report itself under section 40123 of title 49, United States Code, shall not apply.

"(3) AVIATION SAFETY ACTION PROGRAM DEFINED.—In this section, the term 'aviation safety action program' means a program established in accordance with Federal Aviation Administration Advisory Circular 120–66B, issued November 15, 2002 (including any similar successor advisory circular), to allow an individual to voluntarily disclose operational or maintenance issues related to aviation safety."

FLIGHT ATTENDANT DUTY PERIOD LIMITATIONS AND REST REQUIREMENTS

Pub. L. 115–254, div. B, title III, §335, Oct. 5, 2018, 132 Stat. 3280, provided that:

"(a) MODIFICATION OF FINAL RULE.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall modify the final rule of the Federal Aviation Administration published in the Federal Register on August 19, 1994 (59 Fed. Reg. 42974; relating to flight attendant duty period limitations and rest requirements) in accordance with the requirements of this subsection.

"(2) CONTENTS.—The final rule, as modified under paragraph (1), shall ensure that—

"(A) a flight attendant scheduled to a duty period of 14 hours or less is given a scheduled rest period of at least 10 consecutive hours; and

"(B) the rest period is not reduced under any circumstances.

"(b) FATIGUE RISK MANAGEMENT PLAN.—

"(1) SUBMISSION OF PLAN BY PART 121 AIR CARRIERS.—Not later than 90 days after the date

of enactment of this Act, each air carrier operating under part 121 of title 14, Code of Federal Regulations (in this section referred to as a 'part 121 air carrier'), shall submit to the Administrator of the Federal Aviation Administration for review and acceptance a fatigue risk management plan for the carrier's flight attendants.

"(2) CONTENTS OF PLAN.—A fatigue risk management plan submitted by a part 121 air carrier under paragraph (1) shall include the following:

"(A) Current flight time and duty period limitations.

"(B) A rest scheme consistent with such limitations that enables the management of flight attendant fatigue, including annual training to increase awareness of—

"(i) fatigue;

"(ii) the effects of fatigue on flight attendants; and

"(iii) fatigue countermeasures.

"(C) Development and use of a methodology that continually assesses the effectiveness of implementation of the plan, including the ability of the plan—

"(i) to improve alertness; and

"(ii) to mitigate performance errors.

"(3) REVIEW.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall review and accept or reject each fatigue risk management plan submitted under this subsection. If the Administrator rejects a plan, the Administrator shall provide suggested modifications for resubmission of the plan.

"(4) PLAN UPDATES.—

"(A) IN GENERAL.—A part 121 air carrier shall update its fatigue risk management plan under paragraph (1) every 2 years and submit the update to the Administrator for review and acceptance.

"(B) REVIEW.—Not later than 1 year after the date of submission of a plan update under subparagraph (A), the Administrator shall review and accept or reject the update. If the Administrator rejects an update, the Administrator shall provide suggested modifications for resubmission of the update.

"(5) COMPLIANCE.—A part 121 air carrier shall comply with the fatigue risk management plan of the air carrier that is accepted by the Administrator under this subsection.

"(6) CIVIL PENALTIES.—A violation of this subsection by a part 121 air carrier shall be treated as a violation of chapter 447 of title 49, United States Code, for purposes of the application of civil penalties under chapter 463 of that title."

CLARIFICATION OF REQUIREMENTS FOR LIVING HISTORY FLIGHTS

Pub. L. 115–254, div. B, title V, §532, Oct. 5, 2018, 132 Stat. 3366, provided that:

"(a) IN GENERAL.—Notwithstanding any other law or regulation, in administering sections 61.113(c), 91.9, 91.315, 91.319(a)(1), 91.319(a)(2), 119.5(g), and 119.21(a) of title 14, Code of Federal Regulations (or any successor regulations), the Administrator [of the Federal Aviation Administration] shall allow an aircraft owner or operator to accept monetary or in-kind donations for a flight operated by a living history flight experience provider, if the aircraft owner or operator has—

"(1) volunteered to provide such transportation; and

"(2) notified any individual that will be on the flight, at the time of inquiry about the flight, that the flight operation is for charitable purposes and is not subject to the same requirements as a commercial flight.

"(b) CONDITIONS TO ENSURE PUBLIC SAFETY.—The Administrator, consistent with current standards of the [Federal Aviation] Administration for such operations, shall impose minimum standards with respect to training and flight hours for operations conducted by an owner or operator of an aircraft providing living history flight experience operations, including mandating that the pilot in command of such aircraft hold a commercial pilot certificate with instrument rating and be current and qualified with respect to all ratings or authorizations applicable to the specific aircraft being flown to ensure the safety of flight operations described in subsection (a).

"(c) LIVING HISTORY FLIGHT EXPERIENCE PROVIDER DEFINED.—In this section, the term 'living history flight experience provider' means an aircraft owner, aircraft operator, or organization that provides, arranges, or otherwise fosters living history flight experiences for the purpose of fulfilling its mission."

FAA CIVIL AVIATION REGISTRY UPGRADE

Pub. L. 115–254, div. B, title V, §546, Oct. 5, 2018, 132 Stat. 3376, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall complete covered upgrades of the Administration's

Civil Aviation Registry (in this section referred to as the 'Registry').

"(b) COVERED UPGRADE DEFINED.—In this section, the term 'covered upgrades' means—

"(1) the digitization of nondigital Registry information, including paper documents, microfilm images, and photographs, from an analog or nondigital format to a digital format;

"(2) the digitalization of Registry manual and paper-based processes, business operations, and functions by leveraging digital technologies and a broader use of digitized data;

"(3) the implementation of systems allowing a member of the public to submit any information or form to the Registry and conduct any transaction with the Registry by electronic or other remote means; and

"(4) allowing more efficient, broader, and remote access to the Registry.

"(c) APPLICABILITY.—The requirements of subsection (a) shall apply to the entire Civil Aviation Registry, including the Aircraft Registration Branch and the Airmen Certification Branch.

"(d) MANUAL SURCHARGE.—[Enacted section 45306 of this title.]

"(e) REPORT.—Not later than 1 year after date of enactment of this Act, and annually thereafter until the covered upgrades required under subsection (a) are complete, the Administrator shall submit a report to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] describing—

"(1) the schedule for the covered upgrades to the Registry;

"(2) the office responsible for the implementation of the such covered upgrades;

"(3) the metrics being used to measure progress in implementing the covered upgrades; and

"(4) the status of the covered upgrades as of the date of the report."

UNDECLARED HAZARDOUS MATERIALS PUBLIC AWARENESS CAMPAIGN

Pub. L. 115–254, div. B, title V, §583, Oct. 5, 2018, 132 Stat. 3399, provided that:

"(a) IN GENERAL.—The Secretary of Transportation shall carry out a public awareness campaign to reduce the amount of undeclared hazardous materials traveling through air commerce.

"(b) CAMPAIGN REQUIREMENTS.—The public awareness campaign required under subsection (a) shall do the following:

"(1) Focus on targeting segments of the hazardous materials industry with high rates of undeclared shipments through air commerce and educate air carriers, shippers, manufacturers, and other relevant stakeholders of such segments on properly packaging and classifying such shipments.

"(2) Educate the public on proper ways to declare and ship hazardous materials, examples of everyday items that are considered hazardous materials, and penalties associated with intentional shipments of undeclared hazardous materials.

"(c) INTERAGENCY WORKING GROUP.—

"(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall establish an interagency working group to promote collaboration and engagement between the Department of Transportation and other relevant agencies, and develop recommendations and guidance on how best to conduct the public awareness campaign required under subsection (a).

"(2) DUTIES.—The interagency working group shall consult with relevant stakeholders, including cargo air carriers, passenger air carriers, and labor organizations representing pilots for cargo and passenger air carriers operating under part 121 of title 14, Code of Federal Regulations.

"(d) UPDATE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall provide to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] an update on the status of the public awareness campaign required under subsection (a)."

COCKPIT AUTOMATION MANAGEMENT

Pub. L. 114–190, title II, §2102, July 15, 2016, 130 Stat. 619, provided that: "Not later than 180 days after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration shall—

"(1) develop a process to verify that air carrier training programs incorporate measures to train pilots on—

"(A) monitoring automation systems; and

"(B) controlling the flightpath of aircraft without autopilot or autoflight systems engaged;

"(2) develop metrics or measurable tasks that air carriers can use to evaluate pilot monitoring proficiency;

"(3) issue guidance to aviation safety inspectors responsible for oversight of the operations of air carriers on tracking and assessing pilots' proficiency in manual flight; and

"(4) issue guidance to air carriers and inspectors regarding standards for compliance with the requirements for enhanced pilot training contained in the final rule published in the Federal Register on November 12, 2013 (78 Fed. Reg. 67800)."

ADDITIONAL CERTIFICATION RESOURCES

Pub. L. 114–190, title II, §2109, July 15, 2016, 130 Stat. 623, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the requirements of subsection (b), the Administrator of the FAA may enter into a reimbursable agreement with an applicant or certificate-holder for the reasonable travel and per diem expenses of the FAA associated with official travel to expedite the acceptance or validation by a foreign authority of an FAA certificate or design approval or the acceptance or validation by the FAA of a foreign authority certificate or design approval.

"(b) CONDITIONS.—The Administrator may enter into an agreement under subsection (a) only if—

"(1) the travel covered under the agreement is deemed necessary, by both the Administrator and the applicant or certificate-holder, to expedite the acceptance or validation of the relevant certificate or approval;

"(2) the travel is conducted at the request of the applicant or certificate-holder;

"(3) travel plans and expenses are approved by the applicant or certificate-holder prior to travel; and

"(4) the agreement requires payment in advance of FAA services and is consistent with the processes under section 106(l)(6) of title 49, United States Code.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act [July 15, 2016], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on—

"(1) the number of occasions on which the Administrator entered into reimbursable agreements under this section;

"(2) the number of occasions on which the Administrator declined a request by an applicant or certificate-holder to enter into a reimbursable agreement under this section;

"(3) the amount of reimbursements collected in accordance with agreements under this section; and

"(4) the extent to which reimbursable agreements under this section assisted in reducing the amount of time necessary for validations of certificates and design approvals.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) APPLICANT.—The term 'applicant' means a person that has—

"(A) applied to a foreign authority for the acceptance or validation of an FAA certificate or design approval; or

"(B) applied to the FAA for the acceptance or validation of a foreign authority certificate or design approval.

"(2) CERTIFICATE-HOLDER.—The term 'certificate-holder' means a person that holds a certificate issued by the Administrator under part 21 of title 14, Code of Federal Regulations.

"(3) FAA.—The term 'FAA' means the Federal Aviation Administration."

NOTICES TO AIR MISSIONS

Pub. L. 118–4, §3, June 3, 2023, 137 Stat. 9, provided that: "Not later than September 30, 2024, the Administrator of the Federal Aviation Administration shall make the following improvements:

"(1) Complete implementation of a Federal NOTAM System (in this section referred to as a 'FNS').

"(2) Implement a back-up system to the FNS.

"(3) Brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on a plan to enhance the capability to deliver information through the FNS that is machine-readable, filterable, and in the format used by the International Civil Aviation Organization (ICAO) to promote further global harmonization among neighboring Air Navigation Service Providers (ANSPs) and provide users of the National Airspace System with one consistent format for domestic and international operations."

Pub. L. 115–254, div. B, title III, §394(a), Oct. 5, 2018, 132 Stat. 3325, provided that: "Beginning on the date that is 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] may not take any enforcement action against any individual for a violation of a NOTAM (as defined in section 3 of the Pilot's Bill of Rights [Pub. L. 112–153] (49 U.S.C. 44701 note)) until the Administrator certifies to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] that the Administrator has complied with the requirements of section 3 of the Pilot's Bill of Rights, as amended by this section."

Pub. L. 112–153, §3, Aug. 3, 2012, 126 Stat. 1162, as amended by Pub. L. 115–254, div. B, title III, §394(b), Oct. 5, 2018, 132 Stat. 3325, provided that:

"(a) IN GENERAL.—

"(1) DEFINITION.—In this section, the term 'NOTAM' means Notices to Airmen.

"(2) IMPROVEMENTS.—Not later than 180 days after the date of the enactment of the Fairness for Pilots Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall complete the implementation of a Notice to Airmen Improvement Program (in this section referred to as the 'NOTAM Improvement Program')—

"(A) to improve the system of providing airmen with pertinent and timely information regarding the national airspace system;

"(B) to continue developing and modernizing the NOTAM repository, in a public central location, to maintain and archive all NOTAMs, including the original content and form of the notices, the original date of publication, and any amendments to such notices with the date of each amendment, in a manner that is Internet-accessible, machine-readable, and searchable;

"(C) to apply filters so that pilots can prioritize critical flight safety information from other airspace system information; and

"(D) to specify the times during which temporary flight restrictions are in effect and the duration of a designation of special use airspace in a specific area.

"(b) GOALS OF PROGRAM.—The goals of the NOTAM Improvement Program are—

"(1) to decrease the overwhelming volume of NOTAMs an airman receives when retrieving airman information prior to a flight in the national airspace system;

"(2) make the NOTAMs more specific and relevant to the airman's route and in a format that is more useable to the airman;

"(3) to provide a full set of NOTAM results in addition to specific information requested by airmen;

"(4) to provide a document that is easily searchable; and

"(5) to provide a filtering mechanism similar to that provided by the Department of Defense Notices to Airmen.

"(c) ADVICE FROM PRIVATE SECTOR GROUPS.—The Administrator shall establish a NOTAM Improvement Panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, to advise the Administrator in carrying out the goals of the NOTAM Improvement Program under this section.

"(d) DESIGNATION OF REPOSITORY AS SOLE SOURCE FOR NOTAMS.—

"(1) IN GENERAL.—The Administrator—

"(A) shall consider the repository for NOTAMs under subsection (a)(2)(B) to be the sole location for airmen to check for NOTAMs; and

"(B) may not consider a NOTAM to be announced or published until the NOTAM is included in the repository for NOTAMs under subsection (a)(2)(B).

"(2) PROHIBITION ON TAKING ACTION FOR VIOLATIONS OF NOTAMS NOT IN REPOSITORY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), beginning on the date that the repository under subsection (a)(2)(B) is final and published, the Administrator may not take any enforcement action against an airman for a violation of a NOTAM during a flight if—

"(i) that NOTAM is not available through the repository before the commencement of the flight; and

"(ii) that NOTAM is not reasonably accessible and identifiable to the airman.

"(B) EXCEPTION FOR NATIONAL SECURITY.—Subparagraph (A) shall not apply in the case of an enforcement action for a violation of a NOTAM that directly relates to national security."

CONSISTENCY OF REGULATORY INTERPRETATION

Pub. L. 112–95, title III, §313, Feb. 14, 2012, 126 Stat. 67, provided that:

"(a) ESTABLISHMENT OF ADVISORY PANEL.—Not later than 90 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall establish an advisory panel comprised of both Government and industry representatives to—

"(1) review the October 2010 report by the Government Accountability Office on certification and approval processes (GAO–11–14); and

"(2) develop recommendations to address the findings in the report and other concerns raised by interested parties, including representatives of the aviation industry.

"(b) MATTERS TO BE CONSIDERED.—The advisory panel shall—

"(1) determine the root causes of inconsistent interpretation of regulations by the Administration's Flight Standards Service and Aircraft Certification Service;

"(2) develop recommendations to improve the consistency of interpreting regulations by the Administration's Flight Standards Service and Aircraft Certification Service; and

"(3) develop recommendations to improve communications between the Administration's Flight Standards Service and Aircraft Certification Service and applicants and certificate and approval holders for the identification and resolution of potentially adverse issues in an expeditious and fair manner.

"(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of the advisory panel, together with an explanation of how the Administrator will implement the recommendations of the advisory panel and measure the effectiveness of the recommendations."

FLIGHT STANDARDS EVALUATION PROGRAM

Pub. L. 112–95, title III, §315, Feb. 14, 2012, 126 Stat. 68, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall modify the Flight Standards Evaluation Program—

"(1) to include periodic and random reviews as part of the Administration's oversight of air carriers; and

"(2) to prohibit an individual from participating in a review or audit of an office with responsibility for an air carrier under the program if the individual, at any time in the 5-year period preceding the date of the review or audit, had responsibility for inspecting, or overseeing the inspection of, the operations of that carrier.

"(b) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], and annually thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Flight Standards Evaluation Program, including the Administrator's findings and recommendations with respect to the program.

"(c) FLIGHT STANDARDS EVALUATION PROGRAM DEFINED.—In this section, the term 'Flight Standards Evaluation Program' means the program established by the Federal Aviation Administration in FS 1100.1B CHG3, including any subsequent revisions thereto."

REVIEW OF AIR TRANSPORTATION OVERSIGHT SYSTEM DATABASE

Pub. L. 112–95, title III, §343, Feb. 14, 2012, 126 Stat. 80, provided that:

"(a) REVIEWS.—The Administrator of the Federal Aviation Administration shall establish a process by which the air transportation oversight system database of the Administration is reviewed by regional teams of employees of the Administration, including at least one employee on each team representing aviation safety inspectors, on a monthly basis to ensure that—

"(1) any trends in regulatory compliance are identified; and

"(2) appropriate corrective actions are taken in accordance with Administration regulations, advisory directives, policies, and procedures.

"(b) MONTHLY TEAM REPORTS.—

"(1) IN GENERAL.—A regional team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Associate Administrator for Aviation Safety, and the Director of Flight Standards Service a report each month on the results of the review.

"(2) CONTENTS.—A report submitted under paragraph (1) shall identify—

"(A) any trends in regulatory compliance discovered by the team of employees in conducting the monthly review; and

"(B) any corrective actions taken or proposed to be taken in response to the trends.

"(c) BIANNUAL REPORTS TO CONGRESS.—The Administrator, on a biannual basis, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the reviews of the air transportation oversight system database conducted under this section, including copies of reports received under subsection (b)."

DUTY PERIODS AND FLIGHT TIME LIMITATIONS APPLICABLE TO FLIGHT CREWMEMBERS

Pub. L. 112–95, title III, §345, Feb. 14, 2012, 126 Stat. 81, which provided for rulemaking proceedings

relating to duty periods and flight time limitations applicable to flight crewmembers, was repealed by Pub. L. 118–63, title II, §218(l), May 16, 2024, 138 Stat. 1056.

SAFETY CRITICAL STAFFING

Pub. L. 112–95, title VI, §606, Feb. 14, 2012, 126 Stat. 113, provided that:

"(a) IN GENERAL.—Not later than October 1, 2012, the Administrator of the Federal Aviation Administration shall implement, in as cost-effective a manner as possible, the staffing model for aviation safety inspectors developed pursuant to the National Academy of Sciences study entitled 'Staffing Standards for Aviation Safety Inspectors'. In doing so, the Administrator shall consult with interested persons, including the exclusive bargaining representative for aviation safety inspectors certified under section 7111 of title 5, United States Code.

"(b) REPORT.—Not later than January 1 of each year beginning after September 30, 2012, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, the staffing model described in subsection (a)."

AIR TRANSPORTATION OF LITHIUM CELLS AND BATTERIES

Pub. L. 115–254, div. B, title III, §333, Oct. 5, 2018, 132 Stat. 3274, provided that:

"(a) HARMONIZATION WITH ICAO TECHNICAL INSTRUCTIONS.—

"(1) ADOPTION OF ICAO INSTRUCTIONS.—

"(A) IN GENERAL.—Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] (49 U.S.C. 44701 note), not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall conform United States regulations on the air transport of lithium cells and batteries with the lithium cells and battery requirements in the 2015–2016 edition of the International Civil Aviation Organization's (referred to in this subsection as 'ICAO') Technical Instructions (to include all addenda), including the revised standards adopted by ICAO which became effective on April 1, 2016 and any further revisions adopted by ICAO prior to the effective date of the FAA Reauthorization Act of 2018 [probably means Oct. 5, 2018].

"(B) FURTHER PROCEEDINGS.—Beginning on the date the revised regulations under subparagraph (A) are published in the Federal Register, any lithium cell and battery rulemaking action or update commenced on or after that date shall continue to comply with the requirements under section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

"(2) REVIEW OF OTHER REGULATIONS.—Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note), the Secretary of Transportation may initiate a review of other existing regulations regarding the air transportation, including passenger-carrying and cargo aircraft, of lithium batteries and cells.

"(b) MEDICAL DEVICE BATTERIES.—

"(1) IN GENERAL.—For United States applicants, the Secretary of Transportation shall consider and either grant or deny, not later than 45 days after receipt of an application, an application submitted in compliance with part 107 of title 49, Code of Federal Regulations, for special permits or approvals for air transportation of lithium ion cells or batteries specifically used by medical devices. Not later than 30 days after the date of application, the Pipeline and Hazardous Materials Safety Administration shall provide a draft special permit to the Federal Aviation Administration based on the application. The Federal Aviation Administration shall conduct an on-site inspection for issuance of the special permit not later than 20 days after the date of receipt of the draft special permit from the Pipeline and Hazardous Materials Safety Administration.

"(2) LIMITED EXCEPTIONS TO RESTRICTIONS ON AIR TRANSPORTATION OF MEDICAL DEVICE BATTERIES.—The Secretary shall issue limited exceptions to the restrictions on transportation of lithium ion and lithium metal batteries to allow the shipment on a passenger aircraft of not more than 2 replacement batteries specifically used for a medical device if—

"(A) the intended destination of the batteries is not serviced daily by cargo aircraft if a battery is required for medically necessary care; and

"(B) with regard to a shipper of lithium ion or lithium metal batteries for medical devices that cannot comply with a charge limitation in place at the time, each battery is—

"(i) individually packed in an inner packaging that completely encloses the battery;

"(ii) placed in a rigid outer packaging; and

"(iii) protected to prevent a short circuit.

"(3) MEDIAL [sic] DEVICE DEFINED.—ln [sic] this subsection, the term 'medical device' means an instrument, apparatus, implement, machine, contrivance, implant, or in vitro reagent, including any

component, part, or accessory thereof, which is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, of a person.

"(4) SAVINGS CLAUSE.—Nothing in this subsection shall be construed as expanding or constricting any other authority the Secretary of Transportation has under section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

"(c) LITHIUM BATTERY SAFETY WORKING GROUP.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall establish a lithium battery safety working group (referred to as the 'working group' in this section) to promote and coordinate efforts related to the promotion of the safe manufacture, use, and transportation of lithium batteries and cells.

"(2) DUTIES.—The working group shall coordinate and facilitate the transfer of knowledge and expertise among the following Federal agencies:

"(A) The Department of Transportation.

"(B) The Consumer Product Safety Commission.

"(C) The National Institute on Standards and Technology.

"(D) The Food and Drug Administration.

"(3) MEMBERS.—The Secretary shall appoint not more than 8 members to the working group with expertise in the safe manufacture, use, or transportation of lithium batteries and cells.

"(4) SUBCOMMITTEES.—The Secretary, or members of the working group, may—

"(A) establish working group subcommittees to focus on specific issues related to the safe manufacture, use, or transportation of lithium batteries and cells; and

"(B) include in a subcommittee the participation of nonmember stakeholders with expertise in areas that the Secretary or members consider necessary.

"(5) REPORT.—Not later than 1 year after the date it is established, the working group shall—

"(A) identify and assess—

"(i) additional ways to decrease the risk of fires and explosions from lithium batteries and cells;

"(ii) additional ways to ensure uniform transportation requirements for both bulk and individual batteries; and

"(iii) new or existing technologies that may reduce the fire and explosion risk of lithium batteries and cells; and

"(B) transmit to the appropriate committees of Congress a report on the assessments conducted under subparagraph (A), including any legislative recommendations to effectuate the safety improvements described in clauses (i) through (iii) of that subparagraph.

"(6) TERMINATION.—The working group, and any working group subcommittees, shall terminate 90 days after the date the report is transmitted under paragraph (5).

"(d) LITHIUM BATTERY AIR SAFETY ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary shall establish, in accordance with the requirements of the Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.], a lithium ion and lithium metal battery air safety advisory committee (in this subsection referred to as the 'Committee').

"(2) DUTIES.—The Committee shall—

"(A) facilitate communication between manufacturers of lithium ion and lithium metal cells and batteries, manufacturers of products incorporating both large and small lithium ion and lithium metal batteries, air carriers, and the Federal Government regarding the safe air transportation of lithium ion and lithium metal cells and batteries and the effectiveness and economic and social impacts of the regulation of such transportation;

"(B) provide the Secretary, the Federal Aviation Administration, and the Pipeline and Hazardous Materials Safety Administration with timely information about new lithium ion and lithium metal battery technology and transportation safety practices and methodologies;

"(C) provide a forum for the Secretary to provide information on and to discuss the activities of the Department of Transportation relating to lithium ion and lithium metal battery transportation safety, the policies underlying the activities, and positions to be advocated in international forums;

"(D) provide a forum for the Secretary to provide information and receive advice on—

"(i) activities carried out throughout the world to communicate and enforce relevant United States regulations and the ICAO Technical Instructions; and

"(ii) the effectiveness of the activities;

"(E) provide advice and recommendations to the Secretary with respect to lithium ion and lithium

metal battery air transportation safety, including how best to implement activities to increase awareness of relevant requirements and their importance to travelers and shippers; and

"(F) review methods to decrease the risk posed by air shipment of undeclared hazardous materials and efforts to educate those who prepare and offer hazardous materials for shipment via air transport.

"(3) MEMBERSHIP.—The Committee shall be composed of the following members:

"(A) Individuals appointed by the Secretary to represent—

"(i) large volume manufacturers of lithium ion and lithium metal cells and batteries;

"(ii) domestic manufacturers of lithium ion and lithium metal batteries or battery packs;

"(iii) manufacturers of consumer products powered by lithium ion and lithium metal batteries;

"(iv) manufacturers of vehicles powered by lithium ion and lithium metal batteries;

"(v) marketers of products powered by lithium ion and lithium metal batteries;

"(vi) cargo air service providers based in the United States;

"(vii) passenger air service providers based in the United States;

"(viii) pilots and employees of air service providers described in clauses (vi) and (vii);

"(ix) shippers of lithium ion and lithium metal batteries for air transportation;

"(x) manufacturers of battery-powered medical devices or batteries used in medical devices; and

"(xi) employees of the Department of Transportation, including employees of the Federal Aviation Administration and the Pipeline and Hazardous Materials Safety Administration.

"(B) Representatives of such other Government departments and agencies as the Secretary determines appropriate.

"(C) Any other individuals the Secretary determines are appropriate to comply with Federal law.

"(4) REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the establishment of the Committee, the Committee shall submit to the Secretary and the appropriate committees of Congress a report that—

"(i) describes and evaluates the steps being taken in the private sector and by international regulatory authorities to implement and enforce requirements relating to the safe transportation by air of bulk shipments of lithium ion cells and batteries; and

"(ii) identifies any areas of enforcement or regulatory requirements for which there is consensus that greater attention is needed.

"(B) INDEPENDENT STATEMENTS.—Each member of the Committee shall be provided an opportunity to submit an independent statement of views with the report submitted pursuant to subparagraph (A).

"(5) MEETINGS.—

"(A) IN GENERAL.—The Committee shall meet at the direction of the Secretary and at least twice a year.

"(B) PREPARATION FOR ICAO MEETINGS.—Notwithstanding subparagraph (A), the Secretary shall convene a meeting of the Committee in connection with and in advance of each meeting of the International Civil Aviation Organization, or any of its panels or working groups, addressing the safety of air transportation of lithium ion and lithium metal batteries to brief Committee members on positions to be taken by the United States at such meeting and provide Committee members a meaningful opportunity to comment.

"(6) TERMINATION.—The Committee shall terminate on the date that is 6 years after the date on which the Committee is established.

"(7) TERMINATION OF FUTURE OF AVIATION ADVISORY COMMITTEE.—The Future of Aviation Advisory Committee shall terminate on the date on which the lithium ion battery air safety advisory committee is established.

"(e) COOPERATIVE EFFORTS TO ENSURE COMPLIANCE WITH SAFETY REGULATIONS.—

"(1) IN GENERAL.—The Secretary of Transportation, in coordination with appropriate Federal agencies, shall carry out cooperative efforts to ensure that shippers who offer lithium ion and lithium metal batteries for air transport to or from the United States comply with U.S. Hazardous Materials Regulations and ICAO Technical Instructions.

"(2) COOPERATIVE EFFORTS.—The cooperative efforts the Secretary shall carry out pursuant to paragraph (1) include the following:

"(A) Encouraging training programs at locations outside the United States from which substantial cargo shipments of lithium ion or lithium metal batteries originate for manufacturers, freight forwarders, and other shippers and potential shippers of lithium ion and lithium metal batteries.

"(B) Working with Federal, regional, and international transportation agencies to ensure enforcement of U.S. Hazardous Materials Regulations and ICAO Technical Instructions with respect to shippers who offer noncompliant shipments of lithium ion and lithium metal batteries.

"(C) Sharing information, as appropriate, with Federal, regional, and international transportation agencies regarding noncompliant shipments.

"(D) Pursuing a joint effort with the international aviation community to develop a process to obtain assurances that appropriate enforcement actions are taken to reduce the likelihood of noncompliant shipments, especially with respect to jurisdictions in which enforcement activities historically have been limited.

"(E) Providing information in brochures and on the internet in appropriate foreign languages and dialects that describes the actions required to comply with U.S. Hazardous Materials Regulations and ICAO Technical Instructions.

"(F) Developing joint efforts with the international aviation community to promote a better understanding of the requirements of and methods of compliance with U.S. Hazardous Materials Regulations and ICAO Technical Instructions.

"(3) REPORTING.—Not later than 120 days after the date of enactment of this Act, and annually thereafter for 2 years, the Secretary shall submit to the appropriate committees of Congress a report on compliance with the policy set forth in subsection (e) and the cooperative efforts carried out, or planned to be carried out, under this subsection.

"(f) PACKAGING IMPROVEMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with interested stakeholders, shall submit to the appropriate committees of Congress an evaluation of current practices for the packaging of lithium ion batteries and cells for air transportation, including recommendations, if any, to improve the packaging of such batteries and cells for air transportation in a safe, efficient, and cost-effective manner.

"(g) DEPARTMENT OF TRANSPORTATION POLICY ON INTERNATIONAL REPRESENTATION.—

"(1) IN GENERAL.—It shall be the policy of the Department of Transportation to support the participation of industry and labor stakeholders in all panels and working groups of the dangerous goods panel of the ICAO and any other international test or standard setting organization that considers proposals on the safety or transportation of lithium ion and lithium metal batteries in which the United States participates.

"(2) PARTICIPATION.—The Secretary of Transportation shall request that as part of the ICAO deliberations in the dangerous goods panel on these issues, that appropriate experts on issues under consideration be allowed to participate.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) ICAO TECHNICAL INSTRUCTIONS.—The term 'ICAO Technical Instructions' has the meaning given that term in section 828(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

"(2) U.S. HAZARDOUS MATERIALS REGULATIONS.—The term 'U.S. Hazardous Materials Regulations' means the regulations in parts 100 through 177 of title 49, Code of Federal Regulations (including amendments adopted after the date of enactment of this Act [Oct. 5, 2018])."

Pub. L. 112–95, title VIII, §828, Feb. 14, 2012, 126 Stat. 133, provided that:

"(a) IN GENERAL.—The Secretary of Transportation, including a designee of the Secretary, may not issue or enforce any regulation or other requirement regarding the transportation by aircraft of lithium metal cells or batteries or lithium ion cells or batteries, whether transported separately or packed with or contained in equipment, if the requirement is more stringent than the requirements of the ICAO Technical Instructions.

"(b) EXCEPTIONS.—

"(1) PASSENGER CARRYING AIRCRAFT.—Notwithstanding subsection (a), the Secretary may enforce the prohibition on transporting primary (non-rechargeable) lithium batteries and cells aboard passenger carrying aircraft set forth in special provision A100 under section 172.102(c)(2) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act [Feb. 14, 2012]).

"(2) CREDIBLE REPORTS.—Notwithstanding subsection (a), if the Secretary obtains a credible report with respect to a safety incident from a national or international governmental regulatory or investigating body that demonstrates that the presence of lithium metal cells or batteries or lithium ion cells or batteries on an aircraft, whether transported separately or packed with or contained in equipment, in accordance with the requirements of the ICAO Technical Instructions, has substantially contributed to the initiation or propagation of an onboard fire, the Secretary—

"(A) may issue and enforce an emergency regulation, more stringent than the requirements of the

ICAO Technical Instructions, that governs the transportation by aircraft of such cells or batteries, if that regulation—

"(i) addresses solely deficiencies referenced in the report; and

"(ii) is effective for not more than 1 year; and

"(B) may adopt and enforce a permanent regulation, more stringent than the requirements of the ICAO Technical Instructions, that governs the transportation by aircraft of such cells or batteries, if—

"(i) the Secretary bases the regulation upon substantial credible evidence that the otherwise permissible presence of such cells or batteries would substantially contribute to the initiation or propagation of an onboard fire;

"(ii) the regulation addresses solely the deficiencies in existing regulations; and

"(iii) the regulation imposes the least disruptive and least expensive variation from existing requirements while adequately addressing identified deficiencies.

"(c) ICAO TECHNICAL INSTRUCTIONS DEFINED.—In this section, the term 'ICAO Technical Instructions' means the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (as amended, including amendments adopted after the date of enactment of this Act [Feb. 14, 2012])."

AIRLINE SAFETY AND PILOT TRAINING IMPROVEMENT

Pub. L. 111–216, title II, Aug. 1, 2010, 124 Stat. 2350, as amended by Pub. L. 111–249, §6, Sept. 30, 2010, 124 Stat. 2628; Pub. L. 117–286, §4(a)(315), Dec. 27, 2022, 136 Stat. 4340, provided that:

"SEC. 201. DEFINITIONS.

"(a) [sic] DEFINITIONS.—In this title, the following definitions apply:

"(1) ADVANCED QUALIFICATION PROGRAM.—The term 'advanced qualification program' means the program established by the Federal Aviation Administration in Advisory Circular 120–54A, dated June 23, 2006, including any subsequent revisions thereto.

"(2) AIR CARRIER.—The term 'air carrier' has the meaning given that term in section 40102 of title 49, United States Code.

"(3) AVIATION SAFETY ACTION PROGRAM.—The term 'aviation safety action program' means the program established by the Federal Aviation Administration in Advisory Circular 120–66B, dated November 15, 2002, including any subsequent revisions thereto.

"(4) FLIGHT CREWMEMBER.—The term 'flight crewmember' has the meaning given the term 'flightcrew member' in part 1 of title 14, Code of Federal Regulations.

"(5) FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM.—The term 'flight operational quality assurance program' means the program established by the Federal Aviation Administration in Advisory Circular 120–82, dated April 12, 2004, including any subsequent revisions thereto.

"(6) LINE OPERATIONS SAFETY AUDIT.—The term 'line operations safety audit' means the procedure referenced by the Federal Aviation Administration in Advisory Circular 120–90, dated April 27, 2006, including any subsequent revisions thereto.

"(7) PART 121 AIR CARRIER.—The term 'part 121 air carrier' means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

"(8) PART 135 AIR CARRIER.—The term 'part 135 air carrier' means an air carrier that holds a certificate issued under part 135 of title 14, Code of Federal Regulations.

"SEC. 202. SECRETARY OF TRANSPORTATION RESPONSES TO SAFETY RECOMMENDATIONS.

"[Amended section 1135 of this title.]

"SEC. 203. FAA PILOT RECORDS DATABASE.

"[Amended section 44703 of this title.]

"SEC. 204. FAA TASK FORCE ON AIR CARRIER SAFETY AND PILOT TRAINING.

"(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish a special task force to be known as the FAA Task Force on Air Carrier Safety and Pilot Training (in this section referred to as the 'Task Force').

"(b) COMPOSITION.—The Task Force shall consist of members appointed by the Administrator and shall include air carrier representatives, labor union representatives, and aviation safety experts with knowledge of foreign and domestic regulatory requirements for flight crewmember education and training.

"(c) DUTIES.—The duties of the Task Force shall include, at a minimum, evaluating best practices in the air carrier industry and providing recommendations in the following areas:

"(1) Air carrier management responsibilities for flight crewmember education and support.

"(2) Flight crewmember professional standards.

"(3) Flight crewmember training standards and performance.

"(4) Mentoring and information sharing between air carriers.

"(d) REPORT.—Not later than one year after the date of enactment of this Act [Aug. 1, 2010], and before the last day of each one-year period thereafter until termination of the Task Force, the Task Force shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing—

"(1) the progress of the Task Force in identifying best practices in the air carrier industry;

"(2) the progress of air carriers and labor unions in implementing the best practices identified by the Task Force;

"(3) recommendations of the Task Force, if any, for legislative or regulatory actions;

"(4) the progress of air carriers and labor unions in implementing training-related, nonregulatory actions recommended by the Administrator; and

"(5) the progress of air carriers in developing specific programs to share safety data and ensure implementation of the most effective safety practices.

"(e) TERMINATION.—The Task Force shall terminate on September 30, 2012.

"(f) APPLICABILITY OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Chapter 10 of title 5, United States Code, shall not apply to the Task Force.

"SEC. 205. AVIATION SAFETY INSPECTORS AND OPERATIONAL RESEARCH ANALYSTS.

"(a) REVIEW BY DOT INSPECTOR GENERAL.—Not later than 9 months after the date of enactment of this Act [Aug. 1, 2010], the Inspector General of the Department of Transportation shall conduct a review of the aviation safety inspectors and operational research analysts of the Federal Aviation Administration assigned to part 121 air carriers and submit to the Administrator of the Federal Aviation Administration a report on the results of the review.

"(b) PURPOSES.—The purpose of the review shall be, at a minimum—

"(1) to review the level of the Administration's oversight of each part 121 air carrier;

"(2) to make recommendations to ensure that each part 121 air carrier is receiving an equivalent level of oversight;

"(3) to assess the number and level of experience of aviation safety inspectors assigned to each part 121 air carrier;

"(4) to evaluate how the Administration is making assignments of aviation safety inspectors to each part 121 air carrier;

"(5) to review various safety inspector oversight programs, including the geographic inspector program;

"(6) to evaluate the adequacy of the number of operational research analysts assigned to each part 121 air carrier;

"(7) to evaluate the surveillance responsibilities of aviation safety inspectors, including en route inspections;

"(8) to evaluate whether inspectors are able to effectively use data sources, such as the Safety Performance Analysis System and the Air Transportation Oversight System, to assist in targeting oversight of each part 121 air carrier;

"(9) to assess the feasibility of establishment by the Administration of a comprehensive repository of information that encompasses multiple Administration data sources and allows access by aviation safety inspectors and operational research analysts to assist in the oversight of each part 121 air carrier; and

"(10) to conduct such other analyses as the Inspector General considers relevant to the review.

"SEC. 206. FLIGHT CREWMEMBER MENTORING, PROFESSIONAL DEVELOPMENT, AND LEADERSHIP.

"(a) AVIATION RULEMAKING COMMITTEE.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall convene an aviation rulemaking committee to develop procedures for each part 121 air carrier to take the following actions:

"(A) Establish flight crewmember mentoring programs under which the air carrier will pair highly experienced flight crewmembers who will serve as mentor pilots and be paired with newly employed flight crewmembers. Mentor pilots should be provided, at a minimum, specific instruction on techniques for instilling and reinforcing the highest standards of technical performance, airmanship, and professionalism in newly employed flight crewmembers.

"(B) Establish flight crewmember professional development committees made up of air carrier

management and labor union or professional association representatives to develop, administer, and oversee formal mentoring programs of the carrier to assist flight crewmembers to reach their maximum potential as safe, seasoned, and proficient flight crewmembers.

"(C) Establish or modify training programs to accommodate substantially different levels and types of flight experience by newly employed flight crewmembers.

"(D) Establish or modify training programs for second-in-command flight crewmembers attempting to qualify as pilot-in-command flight crewmembers for the first time in a specific aircraft type and ensure that such programs include leadership and command training.

"(E) Ensure that recurrent training for pilots in command includes leadership and command training.

"(F) Such other actions as the aviation rulemaking committee determines appropriate to enhance flight crewmember professional development.

"(2) COMPLIANCE WITH STERILE COCKPIT RULE.—Leadership and command training described in paragraphs (1)(D) and (1)(E) shall include instruction on compliance with flight crewmember duties under part 121.542 of title 14, Code of Federal Regulations.

"(3) STREAMLINED PROGRAM REVIEW.—

"(A) IN GENERAL.—As part of the rulemaking required by subsection (b), the Administrator shall establish a streamlined review process for part 121 air carriers that have in effect, as of the date of enactment of this Act [Aug. 1, 2010], the programs described in paragraph (1).

"(B) EXPEDITED APPROVALS.—Under the streamlined review process, the Administrator shall—

"(i) review the programs of such part 121 air carriers to determine whether the programs meet the requirements set forth in the final rule referred to in subsection (b)(2); and

"(ii) expedite the approval of the programs that the Administrator determines meet such requirements.

"(b) RULEMAKING.—The Administrator shall issue—

"(1) not later than one year after the date of enactment of this Act, a notice of proposed rulemaking based on the recommendations of the aviation rulemaking committee convened under subsection (a); and

"(2) not later than 36 months after such date of enactment, a final rule based on such recommendations.

"SEC. 207. FLIGHT CREWMEMBER PAIRING AND CREW RESOURCE MANAGEMENT TECHNIQUES.

"(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study on aviation industry best practices with regard to flight crewmember pairing, crew resource management techniques, and pilot commuting.

"(b) REPORT.—Not later than one year after the date of enactment of this Act [Aug. 1, 2010], the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

"SEC. 208. IMPLEMENTATION OF NTSB FLIGHT CREWMEMBER TRAINING RECOMMENDATIONS.

"(a) RULEMAKING PROCEEDINGS.—

"(1) STALL AND UPSET RECOGNITION AND RECOVERY TRAINING.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require part 121 air carriers to provide flight crewmembers with ground training and flight training or flight simulator training—

"(A) to recognize and avoid a stall of an aircraft or, if not avoided, to recover from the stall; and

"(B) to recognize and avoid an upset of an aircraft or, if not avoided, to execute such techniques as available data indicate are appropriate to recover from the upset in a given make, model, and series of aircraft.

"(2) REMEDIAL TRAINING PROGRAMS.—The Administrator shall conduct a rulemaking proceeding to require part 121 air carriers to establish remedial training programs for flight crewmembers who have demonstrated performance deficiencies or experienced failures in the training environment.

"(3) DEADLINES.—The Administrator shall—

"(A) not later than one year after the date of enactment of this Act [Aug. 1, 2010], issue a notice of proposed rulemaking under each of paragraphs (1) and (2); and

"(B) not later than 36 months after the date of enactment of this Act, issue a final rule for the rulemaking under each of paragraphs (1) and (2).

"(b) STICK PUSHER TRAINING AND WEATHER EVENT TRAINING.—

"(1) MULTIDISCIPLINARY PANEL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall convene a multidisciplinary panel of specialists in aircraft operations, flight crewmember training, human factors, and aviation safety to study and submit to the Administrator a report on methods to increase the familiarity of flight crewmembers with, and improve the response of flight crewmembers to, stick pusher systems, icing conditions, and microburst and windshear weather events.

"(2) REPORT TO CONGRESS AND NTSB.—Not later than one year after the date on which the Administrator convenes the panel, the Administrator shall—

"(A) submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the National Transportation Safety Board a report based on the findings of the panel; and

"(B) with respect to stick pusher systems, initiate appropriate actions to implement the recommendations of the panel.

"(c) DEFINITIONS.—In this section, the following definitions apply:

"(1) FLIGHT TRAINING AND FLIGHT SIMULATOR.—The terms 'flight training' and 'flight simulator' have the meanings given those terms in part 61.1 of title 14, Code of Federal Regulations (or any successor regulation).

"(2) STALL.—The term 'stall' means an aerodynamic loss of lift caused by exceeding the critical angle of attack.

"(3) STICK PUSHER.—The term 'stick pusher' means a device that, at or near a stall, applies a nose down pitch force to an aircraft's control columns to attempt to decrease the aircraft's angle of attack.

"(4) UPSET.—The term 'upset' means an unusual aircraft attitude.

"SEC. 209. FAA RULEMAKING ON TRAINING PROGRAMS.

"(a) COMPLETION OF RULEMAKING ON TRAINING PROGRAMS.—Not later than 14 months after the date of enactment of this Act [Aug. 1, 2010], the Administrator of the Federal Aviation Administration shall issue a final rule with respect to the notice of proposed rulemaking published in the Federal Register on January 12, 2009 (74 Fed. Reg. 1280; relating to training programs for flight crewmembers and aircraft dispatchers).

"(b) EXPERT PANEL TO REVIEW PART 121 AND PART 135 TRAINING HOURS.—

"(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall convene a multidisciplinary expert panel comprised of, at a minimum, air carrier representatives, training facility representatives, instructional design experts, aircraft manufacturers, safety organization representatives, and labor union representatives.

"(2) ASSESSMENT AND RECOMMENDATIONS.—The panel shall assess and make recommendations concerning—

"(A) the best methods and optimal time needed for flight crewmembers of part 121 air carriers and flight crewmembers of part 135 air carriers to master aircraft systems, maneuvers, procedures, takeoffs and landings, and crew coordination;

"(B) initial and recurrent testing requirements for pilots, including the rigor and consistency of testing programs such as check rides;

"(C) the optimal length of time between training events for such flight crewmembers, including recurrent training events;

"(D) the best methods reliably to evaluate mastery by such flight crewmembers of aircraft systems, maneuvers, procedures, takeoffs and landings, and crew coordination;

"(E) classroom instruction requirements governing curriculum content and hours of instruction;

"(F) the best methods to allow specific academic training courses to be credited toward the total flight hours required to receive an airline transport pilot certificate; and

"(G) crew leadership training.

"(3) BEST PRACTICES.—In making recommendations under subsection (b)(2), the panel shall consider, if appropriate, best practices in the aviation industry with respect to training protocols, methods, and procedures.

"(4) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the National Transportation Safety Board a report based on the findings of the panel.

"SEC. 210. DISCLOSURE OF AIR CARRIERS OPERATING FLIGHTS FOR TICKETS SOLD FOR AIR TRANSPORTATION.

"[Amended section 41712 of this title.]

"SEC. 211. SAFETY INSPECTIONS OF REGIONAL AIR CARRIERS.

"The Administrator of the Federal Aviation Administration shall perform, not less frequently than once each year, random, onsite inspections of air carriers that provide air transportation pursuant to a contract with a part 121 air carrier to ensure that such air carriers are complying with all applicable safety standards of the Administration.

"SEC. 212. PILOT FATIGUE.

"(a) FLIGHT AND DUTY TIME REGULATIONS.—

"(1) IN GENERAL.—In accordance with paragraph (3), the Administrator of the Federal Aviation Administration shall issue regulations, based on the best available scientific information, to specify limitations on the hours of flight and duty time allowed for pilots to address problems relating to pilot fatigue.

"(2) MATTERS TO BE ADDRESSED.—In conducting the rulemaking proceeding under this subsection, the Administrator shall consider and review the following:

"(A) Time of day of flights in a duty period.

"(B) Number of takeoff and landings in a duty period.

"(C) Number of time zones crossed in a duty period.

"(D) The impact of functioning in multiple time zones or on different daily schedules.

"(E) Research conducted on fatigue, sleep, and circadian rhythms.

"(F) Sleep and rest requirements recommended by the National Transportation Safety Board and the National Aeronautics and Space Administration.

"(G) International standards regarding flight schedules and duty periods.

"(H) Alternative procedures to facilitate alertness in the cockpit.

"(I) Scheduling and attendance policies and practices, including sick leave.

"(J) The effects of commuting, the means of commuting, and the length of the commute.

"(K) Medical screening and treatment.

"(L) Rest environments.

"(M) Any other matters the Administrator considers appropriate.

"(3) RULEMAKING.—The Administrator shall issue—

"(A) not later than 180 days after the date of enactment of this Act [Aug. 1, 2010], a notice of proposed rulemaking under paragraph (1); and

"(B) not later than one year after the date of enactment of this Act, a final rule under paragraph (1).

"(b) FATIGUE RISK MANAGEMENT PLAN.—

"(1) SUBMISSION OF FATIGUE RISK MANAGEMENT PLAN BY PART 121 AIR CARRIERS .—Not later than 90 days after the date of enactment of this Act, each part 121 air carrier shall submit to the Administrator for review and acceptance a fatigue risk management plan for the carrier's pilots.

"(2) CONTENTS OF PLAN.—A fatigue risk management plan submitted by a part 121 air carrier under paragraph (1) shall include the following:

"(A) Current flight time and duty period limitations.

"(B) A rest scheme consistent with such limitations that enables the management of pilot fatigue, including annual training to increase awareness of—

"(i) fatigue;

"(ii) the effects of fatigue on pilots; and

"(iii) fatigue countermeasures.

"(C) Development and use of a methodology that continually assesses the effectiveness of the program, including the ability of the program—

"(i) to improve alertness; and

"(ii) to mitigate performance errors.

"(3) REVIEW.—Not later than 12 months after the date of enactment of this Act, the Administrator shall review and accept or reject the fatigue risk management plans submitted under this subsection. If the Administrator rejects a plan, the Administrator shall provide suggested modifications for resubmission of the plan.

"(4) PLAN UPDATES.—

"(A) IN GENERAL.—A part 121 air carrier shall update its fatigue risk management plan under paragraph (1) every 2 years and submit the update to the Administrator for review and acceptance.

"(B) REVIEW.—Not later than 12 months after the date of submission of a plan update under subparagraph (A), the Administrator shall review and accept or reject the update. If the Administrator

rejects an update, the Administrator shall provide suggested modifications for resubmission of the update.

"(5) COMPLIANCE.—A part 121 air carrier shall comply with the fatigue risk management plan of the air carrier that is accepted by the Administrator under this subsection.

"(6) CIVIL PENALTIES.—A violation of this subsection by a part 121 air carrier shall be treated as a violation of chapter 447 of title 49, United States Code, for purposes of the application of civil penalties under chapter 463 of that title.

"(c) EFFECT OF COMMUTING ON FATIGUE.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the effects of commuting on pilot fatigue and report its findings to the Administrator.

"(2) STUDY.—In conducting the study, the National Academy of Sciences shall consider—

"(A) the prevalence of pilot commuting in the commercial air carrier industry, including the number and percentage of pilots who commute;

"(B) information relating to commuting by pilots, including distances traveled, time zones crossed, time spent, and methods used;

"(C) research on the impact of commuting on pilot fatigue, sleep, and circadian rhythms;

"(D) commuting policies of commercial air carriers (including passenger and all-cargo air carriers), including pilot check-in requirements and sick leave and fatigue policies;

"(E) postconference materials from the Federal Aviation Administration's June 2008 symposium titled 'Aviation Fatigue Management Symposium: Partnerships for Solutions';

"(F) Federal Aviation Administration and international policies and guidance regarding commuting; and

"(G) any other matters as the Administrator considers appropriate.

"(3) PRELIMINARY FINDINGS.—Not later than 120 days after the date of entering into arrangements under paragraph (1), the National Academy of Sciences shall submit to the Administrator its preliminary findings under the study.

"(4) REPORT.—Not later than 9 months after the date of entering into arrangements under paragraph (1), the National Academy of Sciences shall submit a report to the Administrator containing its findings under the study and any recommendations for regulatory or administrative actions by the Federal Aviation Administration concerning commuting by pilots.

"(5) RULEMAKING.—Following receipt of the report of the National Academy of Sciences under paragraph (4), the Administrator shall—

"(A) consider the findings and recommendations in the report; and

"(B) update, as appropriate based on scientific data, regulations required by subsection (a) on flight and duty time.

"SEC. 213. VOLUNTARY SAFETY PROGRAMS.

"(a) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 1, 2010], the Administrator of the Federal Aviation Administration shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the aviation safety action program, the flight operational quality assurance program, the line operations safety audit, and the advanced qualification program.

"(b) CONTENTS.—The report shall include—

"(1) a list of—

"(A) which air carriers are using one or more of the voluntary safety programs referred to in subsection (a); and

"(B) the voluntary safety programs each air carrier is using;

"(2) if an air carrier is not using one or more of the voluntary safety programs—

"(A) a list of such programs the carrier is not using; and

"(B) the reasons the carrier is not using each such program;

"(3) if an air carrier is using one or more of the voluntary safety programs, an explanation of the benefits and challenges of using each such program;

"(4) a detailed analysis of how the Administration is using data derived from each of the voluntary safety programs as safety analysis and accident or incident prevention tools and a detailed plan on how the Administration intends to expand data analysis of such programs;

"(5) an explanation of—

"(A) where the data derived from the voluntary safety programs is stored;

"(B) how the data derived from such programs is protected and secured; and

"(C) what data analysis processes air carriers are implementing to ensure the effective use of the data derived from such programs;

"(6) a description of the extent to which aviation safety inspectors are able to review data derived from the voluntary safety programs to enhance their oversight responsibilities;

"(7) a description of how the Administration plans to incorporate operational trends identified under the voluntary safety programs into the air transport oversight system and other surveillance databases so that such system and databases are more effectively utilized;

"(8) other plans to strengthen the voluntary safety programs, taking into account reviews of such programs by the Inspector General of the Department of Transportation; and

"(9) such other matters as the Administrator determines are appropriate.

"SEC. 214. ASAP AND FOQA IMPLEMENTATION PLAN.

"(a) DEVELOPMENT AND IMPLEMENTATION PLAN.—The Administrator of the Federal Aviation Administration shall develop and implement a plan to facilitate the establishment of an aviation safety action program and a flight operational quality assurance program by all part 121 air carriers.

"(b) MATTERS TO BE CONSIDERED.—In developing the plan under subsection (a), the Administrator shall consider—

"(1) how the Administration can assist part 121 air carriers with smaller fleet sizes to derive a benefit from establishing a flight operational quality assurance program;

"(2) how part 121 air carriers with established aviation safety action and flight operational quality assurance programs can quickly begin to report data into the aviation safety information analysis sharing database; and

"(3) how part 121 air carriers and aviation safety inspectors can better utilize data from such database as accident and incident prevention tools.

"(c) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 1, 2010], the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the plan developed under subsection (a) and an explanation of how the Administration will implement the plan.

"(d) DEADLINE FOR BEGINNING IMPLEMENTATION OF PLAN.—Not later than one year after the date of enactment of this Act, the Administrator shall begin implementation of the plan developed under subsection (a).

"SEC. 215. SAFETY MANAGEMENT SYSTEMS.

"(a) RULEMAKING.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require all part 121 air carriers to implement a safety management system.

"(b) MATTERS TO CONSIDER.—In conducting the rulemaking under subsection (a), the Administrator shall consider, at a minimum, including each of the following as a part of the safety management system:

"(1) An aviation safety action program.

"(2) A flight operational quality assurance program.

"(3) A line operations safety audit.

"(4) An advanced qualification program.

"(c) DEADLINES.—The Administrator shall issue—

"(1) not later than 90 days after the date of enactment of this Act [Aug. 1, 2010], a notice of proposed rulemaking under subsection (a); and

"(2) not later than 24 months after the date of enactment of this Act, a final rule under subsection (a).

"(d) SAFETY MANAGEMENT SYSTEM DEFINED.—In this section, the term 'safety management system' means the program established by the Federal Aviation Administration in Advisory Circular 120–92, dated June 22, 2006, including any subsequent revisions thereto.

"SEC. 216. FLIGHT CREWMEMBER SCREENING AND QUALIFICATIONS.

"(a) REQUIREMENTS.—

"(1) RULEMAKING PROCEEDING.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require part 121 air carriers to develop and implement means and methods for ensuring that flight crewmembers have proper qualifications and experience.

"(2) MINIMUM REQUIREMENTS.—

"(A) PROSPECTIVE FLIGHT CREWMEMBERS.—Rules issued under paragraph (1) shall ensure that prospective flight crewmembers undergo comprehensive preemployment screening, including an assessment of the skills, aptitudes, airmanship, and suitability of each applicant for a position as a flight crewmember in terms of functioning effectively in the air carrier's operational environment.

"(B) ALL FLIGHT CREWMEMBERS.—Rules issued under paragraph (1) shall ensure that, after the date that is 3 years after the date of enactment of this Act [Aug. 1, 2010], all flight crewmembers—

"(i) have obtained an airline transport pilot certificate under part 61 of title 14, Code of Federal Regulations; and

"(ii) have appropriate multi-engine aircraft flight experience, as determined by the Administrator.

"(b) DEADLINES.—The Administrator shall issue—

"(1) not later than 180 days after the date of enactment of this Act, a notice of proposed rulemaking under subsection (a); and

"(2) not later than 24 months after such date of enactment, a final rule under subsection (a).

"(c) DEFAULT.—The requirement that each flight crewmember for a part 121 air carrier hold an airline transport pilot certificate under part 61 of title 14, Code of Federal Regulations, shall begin to apply on the date that is 3 years after the date of enactment of this Act even if the Administrator fails to meet a deadline established under this section.

"SEC. 217. AIRLINE TRANSPORT PILOT CERTIFICATION.

"(a) RULEMAKING PROCEEDING.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to amend part 61 of title 14, Code of Federal Regulations, to modify requirements for the issuance of an airline transport pilot certificate.

"(b) MINIMUM REQUIREMENTS.—To be qualified to receive an airline transport pilot certificate pursuant to subsection (a), an individual shall—

"(1) have sufficient flight hours, as determined by the Administrator, to enable a pilot to function effectively in an air carrier operational environment; and

"(2) have received flight training, academic training, or operational experience that will prepare a pilot, at a minimum, to—

"(A) function effectively in a multipilot environment;

"(B) function effectively in adverse weather conditions, including icing conditions;

"(C) function effectively during high altitude operations;

"(D) adhere to the highest professional standards; and

"(E) function effectively in an air carrier operational environment.

"(c) FLIGHT HOURS.—

"(1) NUMBERS OF FLIGHT HOURS.—The total flight hours required by the Administrator under subsection (b)(1) shall be at least 1,500 flight hours.

"(2) FLIGHT HOURS IN DIFFICULT OPERATIONAL CONDITIONS.—The total flight hours required by the Administrator under subsection (b)(1) shall include sufficient flight hours, as determined by the Administrator, in difficult operational conditions that may be encountered by an air carrier to enable a pilot to operate safely in such conditions.

"(d) CREDIT TOWARD FLIGHT HOURS.—The Administrator may allow specific academic training courses, beyond those required under subsection (b)(2), to be credited toward the total flight hours required under subsection (c). The Administrator may allow such credit based on a determination by the Administrator that allowing a pilot to take specific academic training courses will enhance safety more than requiring the pilot to fully comply with the flight hours requirement.

"(e) RECOMMENDATIONS OF EXPERT PANEL.—In conducting the rulemaking proceeding under this section, the Administrator shall review and consider the assessment and recommendations of the expert panel to review part 121 and part 135 training hours established by section 209(b) of this Act.

"(f) DEADLINE.—Not later than 36 months after the date of enactment of this Act [Aug. 1, 2010], the Administrator shall issue a final rule under subsection (a)."

FAA INSPECTOR TRAINING

Pub. L. 108–176, title V, §506, Dec. 12, 2003, 117 Stat. 2560, provided that:

"(a) STUDY.—

"(1) IN GENERAL.—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as 'FAA inspectors').

"(2) CONTENTS.—The study shall include—

"(A) an analysis of the type of training provided to FAA inspectors;

"(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

"(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid pro quo basis; and

"(D) the amount of travel that is required of FAA inspectors in receiving training.

"(3) REPORT.—Not later than 1 year after the date of enactment of this Act [Dec. 12, 2003], the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

"(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that—

"(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

"(2) FAA inspector training should have a direct relation to an individual's job requirements; and

"(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

"(c) WORKLOAD OF INSPECTORS.—

"(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

"(2) CONTENTS.—The study shall include the following:

"(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

"(B) The approximate cost and length of time for developing such models.

"(3) REPORT.—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study."

AIR TRANSPORTATION OVERSIGHT SYSTEM

Pub. L. 106–181, title V, §513, Apr. 5, 2000, 114 Stat. 144, provided that:

"(a) REPORT.—Not later than August 1, 2000, the Administrator [of the Federal Aviation Administration] shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the progress of the Federal Aviation Administration in implementing the air transportation oversight system, including in detail the training of inspectors under the system, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

"(b) REQUIRED CONTENTS.—At a minimum, the report shall indicate—

"(1) any funding or staffing constraints that would adversely impact the Administration's ability to continue to develop and implement the air transportation oversight system;

"(2) progress in integrating the aviation safety data derived from such system's inspections with existing aviation data of the Administration in the safety performance analysis system of the Administration; and

"(3) the Administration's efforts in collaboration with the aviation industry to develop and validate safety performance measures and appropriate risk weightings for such system.

"(c) UPDATE.—Not later than August 1, 2002, the Administrator shall update the report submitted under this section and transmit the updated report to the committees referred to in subsection (a)."

REGULATION OF ALASKA GUIDE PILOTS

Pub. L. 106–181, title VII, §732, Apr. 5, 2000, 114 Stat. 168, as amended by Pub. L. 118–63, title II, §218(h), May 16, 2024, 138 Stat. 1056, provided that:

"(a) IN GENERAL.—Beginning on the date of the enactment of this Act [Apr. 5, 2000], flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Federal Regulations.

"(b) DEFINITION OF ALASKA GUIDE PILOT.—In this section the term 'Alaska guide pilot' means a pilot who—

"(1) conducts aircraft operations over or within the State of Alaska;

"(2) operates single engine, fixed-wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

"(3) transports clients by such aircraft incidental to hunting, fishing, or other guide services."

AVIATION MEDICAL ASSISTANCE

Pub. L. 105–170, Apr. 24, 1998, 112 Stat. 47, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Aviation Medical Assistance Act of 1998'.

"SEC. 2. MEDICAL KIT EQUIPMENT AND TRAINING.

"Not later than 1 year after the date of the enactment of this Act [Apr. 24, 1998], the Administrator of the Federal Aviation Administration shall reevaluate regulations regarding: (1) the equipment required to be carried in medical kits of aircraft operated by air carriers; and (2) the training required of flight attendants in the use of such equipment, and, if the Administrator determines that such regulations should be modified as a result of such reevaluation, shall issue a notice of proposed rulemaking to modify such regulations.

"SEC. 3. REPORTS REGARDING DEATHS ON AIRCRAFT.

"(a) IN GENERAL.—During the 1-year period beginning on the 90th day following the date of the enactment of this Act [Apr. 24, 1998], a major air carrier shall make a good faith effort to obtain, and shall submit quarterly reports to the Administrator of the Federal Aviation Administration on, the following:

"(1) The number of persons who died on aircraft of the air carrier, including any person who was declared dead after being removed from such an aircraft as a result of a medical incident that occurred on such aircraft.

"(2) The age of each such person.

"(3) Any information concerning cause of death that is available at the time such person died on the aircraft or is removed from the aircraft or that subsequently becomes known to the air carrier.

"(4) Whether or not the aircraft was diverted as a result of the death or incident.

"(5) Such other information as the Administrator may request as necessary to aid in a decision as to whether or not to require automatic external defibrillators in airports or on aircraft operated by air carriers, or both.

"(b) FORMAT.—The Administrator may specify a format for reports to be submitted under this section.

"SEC. 4. DECISION ON AUTOMATIC EXTERNAL DEFIBRILLATORS.

"(a) IN GENERAL.—Not later than 120 days after the last day of the 1-year period described in section 3, the Administrator of the Federal Aviation Administration shall make a decision on whether or not to require automatic external defibrillators on passenger aircraft operated by air carriers and whether or not to require automatic external defibrillators at airports.

"(b) FORM OF DECISION.—A decision under this section shall be in the form of a notice of proposed rulemaking requiring automatic external defibrillators in airports or on passenger aircraft operated by air carriers, or both, or a recommendation to Congress for legislation requiring such defibrillators or a notice in the Federal Register that such defibrillators should not be required in airports or on such aircraft. If a decision under this section is in the form of a notice of proposed rulemaking, the Administrator shall make a final decision not later than the 120th day following the date on which comments are due on the notice of proposed rulemaking.

"(c) CONTENTS.—If the Administrator decides that automatic external defibrillators should be required—

"(1) on passenger aircraft operated by air carriers, the proposed rulemaking or recommendation shall include—

"(A) the size of the aircraft on which such defibrillators should be required;

"(B) the class flights (whether interstate, overseas, or foreign air transportation or any combination thereof) on which such defibrillators should be required;

"(C) the training that should be required for air carrier personnel in the use of such defibrillators; and

"(D) the associated equipment and medication that should be required to be carried in the aircraft medical kit; and

"(2) at airports, the proposed rulemaking or recommendation shall include—

"(A) the size of the airport at which such defibrillators should be required;

"(B) the training that should be required for airport personnel in the use of such defibrillators; and

"(C) the associated equipment and medication that should be required at the airport.

"(d) LIMITATION.—The Administrator may not require automatic external defibrillators on helicopters and on aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less.

"(e) SPECIAL RULE.—If the Administrator decides that automatic external defibrillators should be required at airports, the proposed rulemaking or recommendation shall provide that the airports are responsible for providing the defibrillators.

"SEC. 5. LIMITATIONS ON LIABILITY.

"(a) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in obtaining or attempting to obtain the assistance of a passenger in an in-flight medical emergency, or out of the acts or omissions of the passenger rendering the assistance, if the passenger is not an employee or agent of the carrier and the carrier in good faith believes that the passenger is a medically qualified individual.

"(b) LIABILITY OF INDIVIDUALS.—An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the individual in providing or attempting to provide assistance in the case of an in-flight medical emergency unless the individual, while rendering such assistance, is guilty of gross negligence or willful misconduct.

"SEC. 6. DEFINITIONS.

"In this Act—

"(1) the terms 'air carrier', 'aircraft', 'airport', 'interstate air transportation', 'overseas air transportation', and 'foreign air transportation' have the meanings such terms have under section 40102 of title 49, United States Code;

"(2) the term 'major air carrier' means an air carrier certificated under section 41102 of title 49, United States Code, that accounted for at least 1 percent of domestic scheduled-passenger revenues in the 12 months ending March 31 of the most recent year preceding the date of the enactment of this Act [Apr. 24, 1998], as reported to the Department of Transportation pursuant to part 241 of title 14 of the Code of Federal Regulations; and

"(3) the term 'medically qualified individual' includes any person who is licensed, certified, or otherwise qualified to provide medical care in a State, including a physician, nurse, physician assistant, paramedic, and emergency medical technician."

DEFINITIONS

Pub. L. 115–254, div. B, title III, §301, Oct. 5, 2018, 132 Stat. 3260, provided that: "In this title [see Tables for classification], the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the FAA.

"(2) FAA.—The term 'FAA' means the Federal Aviation Administration."

§44702. Issuance of certificates

(a) GENERAL AUTHORITY AND APPLICATIONS.—The Administrator of the Federal Aviation Administration may issue airman certificates, design organization certificates, type certificates, production certificates, airworthiness certificates, air carrier operating certificates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

(1) be under oath when the Administrator requires; and

(2) be in the form, contain information, and be filed and served in the way the Administrator prescribes.

(b) CONSIDERATIONS.—When issuing a certificate under this chapter, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a certificate according to the differences between air transportation and other air commerce.

(c) PRIOR CERTIFICATION.—The Administrator may authorize an aircraft, aircraft engine, propeller, or appliance for which a certificate has been issued authorizing the use of the aircraft, aircraft engine, propeller, or appliance in air transportation to be used in air commerce without another certificate being issued.

(d) DELEGATION.—(1) Subject to regulations, supervision, and review the Administrator may

prescribe, the Administrator may delegate to a qualified private person, or to an employee under the supervision of that person, a matter related to—

(A) the examination, testing, and inspection necessary to issue a certificate under this chapter; and

(B) issuing the certificate.

(2) The Administrator may rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.

(3) A person affected by an action of a private person under this subsection may apply for reconsideration of the action by the Administrator. On the Administrator's own initiative, the Administrator may reconsider the action of a private person at any time. If the Administrator decides on reconsideration that the action is unreasonable or unwarranted, the Administrator shall change, modify, or reverse the action. If the Administrator decides the action is warranted, the Administrator shall affirm the action.

(4)(A) With respect to a critical system design feature of a transport category airplane, the Administrator may not delegate any finding of compliance with applicable airworthiness standards or review of any system safety assessment required for the issuance of a certificate, including a type certificate, or amended or supplemental type certificate, under section 44704, until the Administrator has reviewed and validated any underlying assumptions related to human factors.

(B) The requirement under subparagraph (A) shall not apply if the Administrator determines the matter involved is a routine task.

(C) For purposes of subparagraph (A), the term critical system design feature includes any feature (including a novel or unusual design feature) for which the failure of such feature, either independently or in combination with other failures, could result in catastrophic or hazardous failure conditions, as those terms are defined by the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1186; Pub. L. 108–176, title II, §227(a), Dec. 12, 2003, 117 Stat. 2531; Pub. L. 116–260, div. V, title I, §106, Dec. 27, 2020, 134 Stat. 2320.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44702(a)	49 App.:1422(a) (1st–10th words).	Aug. 23, 1958, Pub. L. 85–726, §§314 (less (a) (last sentence related to fees)), 601(b) (1st sentence related to issuing certificates, 2d sentence), 602(a) (1st–8th words), 603(a)(1), (b), (c) (as §603(a)(1), (b), (c) relate to issuing certificates), 604(a) (related to issuing certificates), 606 (last sentence), 607 (last sentence), 608, 72 Stat. 754, 775, 776, 777, 778, 779.
	49 App.:1423(a)(1), (b), (c) (as 49 App.:1423(a)(1), (b), (c) relate to issuing certificates).	
	49 App.:1424(a) (related to issuing certificates).	
	49 App.:1426 (last sentence).	
	49 App.:1427 (last sentence).	
	49 App.:1428.	
	49 App.:1432(a) (related to issuing certificates).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(a) (related to issuing

		certificates); added May 21, 1970, Pub. L. 91–258, §51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, §525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44702(b)	49 App.:1421(b) (1st sentence related to issuing certificates).	
	49 App.:1655(c)(1).	
44702(c)	49 App.:1421(b) (2d sentence).	
	49 App.:1655(c)(1).	
44702(d)	49 App.:1355 (less (a) (last sentence related to fees)).	
	49 App.:1655(c)(1).	

In this section, the word "Administrator" in sections 601(b), 602(a), 603(a)(1), 604(a), 606 (last sentence), 607 (last sentence), and 608 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 776, 778, 779) is retained on authority of 49:106(g).

In subsection (a), the reference to a type certificate and production certificate is added for clarity.

In subsection (b)(1), before subclause (A), the word "full" is omitted as surplus. In clause (1)(A), the word "provide" is substituted for "perform" for consistency in the revised title.

In subsection (d)(1), before clause (A), the words "In exercising the powers and duties vested in him by this chapter" and "properly" are omitted as surplus. The words "or employees" are omitted because of 1:1. The word "matter" is substituted for "work, business, or function" to eliminate unnecessary words. In clause (B), the words "in accordance with standards established by him" are omitted as surplus.

In subsection (d)(2), the words "made by him" are omitted as surplus.

In subsection (d)(3), the words "exercising delegated authority" and "with respect to the authority granted under subsection (a) of this section" are omitted as surplus. The words "at any time" are substituted for "either before or after it has become effective", and the words "If the Administrator decides on reconsideration that the action is unreasonable or unwarranted" are substituted for "If, upon reconsideration by the Secretary of Transportation, it shall appear that the action in question is in any respect unjust or unwarranted", to eliminate unnecessary words. The words "the action" are substituted for "the same accordingly", and the words "If the Administrator decides the action is warranted, the Administrator shall affirm the action" are substituted for "otherwise, such action shall be affirmed", for clarity. The text of 49 App.:1355(b) (proviso) is omitted as unnecessary because of 5:559 (last sentence).

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (d)(4). Pub. L. 116–260 added par. (4).

2003—Subsec. (a). Pub. L. 108–176 inserted "design organization certificates," after "airman certificates," in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title II, §227(a), Dec. 12, 2003, 117 Stat. 2531, provided that the amendment made by section 227(a) is effective on the last day of the 7-year period beginning on Dec. 12, 2003.

DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS

Pub. L. 108–176, title VII, §706, Dec. 12, 2003, 117 Stat. 2582, provided that: "The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products."

§44703. Airman certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate.

(b) CONTENTS.—(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce, including terms on the duration of the certificate, periodic or special examinations, and tests of physical fitness;

(D) specify the capacity in which the holder of the certificate may serve as an airman with respect to an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation "airline transport pilot" of the appropriate class.

(c) PUBLIC INFORMATION.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, the information contained in the records of contents of any airman certificate issued under this section that is limited to an airman's name, address, and ratings held shall be made available to the public after the 120th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.

(2) OPPORTUNITY TO WITHHOLD INFORMATION.—Before making any information concerning an airman available to the public under paragraph (1), the airman shall be given an opportunity to elect that the information not be made available to the public.

(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.—Not later than 60 days after the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making information concerning an airman available to the public under paragraph (1) and to carry out paragraph (2). The Administrator shall also provide such written notification to each individual who becomes an airman after such date of enactment.

(d) APPEALS.—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

(A) is suspended at the time of denial; or

(B) was revoked within one year from the date of the denial.

(2) The Board shall conduct a hearing on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration. At the end of the hearing, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(3) A person who is substantially affected by an order of the Board under this subsection, or the Administrator if the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this subtitle, may seek judicial review of the order under section 46110. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.

(e) RESTRICTIONS AND PROHIBITIONS.—The Administrator of the Federal Aviation

Administration may—

(1) restrict or prohibit issuing an airman certificate to an alien; or

(2) make issuing the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(f) CONTROLLED SUBSTANCE VIOLATIONS.—The Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) when the Administrator decides that issuing the certificate will facilitate law enforcement efforts; and

(2) as provided in section 44710(e)(2) of this title.

(g) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of airmen and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) and related to combating acts of terrorism. The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificates.

(C) the use by an applicant of a post office box or "mail drop" as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of U.S. Customs and Border Protection, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(3) For purposes of this section, the term "acts of terrorism" means an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State, and appears to be intended to intimidate or coerce a civilian population to influence the policy of a government by intimidation or coercion or to affect the conduct of a government by assassination or kidnaping.

(4) The Administrator is authorized and directed to work with State and local authorities, and other Federal agencies, to assist in the identification of individuals applying for or holding airmen certificates.

(h) [1] RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

(1) IN GENERAL.—Subject to paragraph (14), before allowing an individual to begin service as a pilot, an air carrier shall request and receive the following information:

(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not

subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces) that has employed the individual as a pilot of a civil or public aircraft at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

(I) section 121.683 of title 14, Code of Federal Regulations;

(II) paragraph (A) of section VI, appendix I, part 121 of such title;

(III) paragraph (A) of section IV, appendix J, part 121 of such title;

(IV) section 125.401 of such title; and

(V) section 135.63(a)(4) of such title; and

(ii) other records pertaining to the individual's performance as a pilot that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator and air carriers shall maintain pilot records described in paragraphs (1)(A) and (1)(B) for a period of at least 5 years.

(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested; except that, for purposes of paragraph (15), the Administrator may allow an individual designated by the Administrator to accept and maintain written consent on behalf of the Administrator for records requested under paragraph (1)(A). A person who receives a request for records under this subsection shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

(A) on or before the 20th day following the date of receipt of the request, written notice of the request and of the individual's right to receive a copy of such records; and

(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

(8) STANDARD FORMS.—The Administrator shall promulgate—

(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

(B) standard forms that may be used by an air carrier to—

(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

(ii) inform the individual of—

(I) the request; and

(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot who is or has been employed by such carrier, make available, within a reasonable time, but not later than 30 days after the date of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B)(i) or (ii) pertaining to the employment of the pilot.

(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

(12) PERIODIC REVIEW.—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

(13) REGULATIONS.—The Administrator shall prescribe such regulations as may be necessary—

(A) to protect—

(i) the personal privacy of any individual whose records are requested under paragraph (1) and disseminated under paragraph (15); and

(ii) the confidentiality of those records;

(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

(C) to ensure prompt compliance with any request made under paragraph (1).

(14) SPECIAL RULES WITH RESPECT TO CERTAIN PILOTS.—

(A) PILOTS OF CERTAIN SMALL AIRCRAFT.—Notwithstanding paragraph (1), an air carrier, before receiving information requested about an individual under paragraph (1), may allow the individual to begin service for a period not to exceed 90 days as a pilot of an aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less, or a helicopter, on a flight that is not a scheduled operation (as defined in such section). Before the end of the 90-day period, the air carrier shall obtain and evaluate such information. The contract between the carrier and the individual shall contain a term that provides that the continuation of the individual's employment, after the last day of the 90-day period, depends on a satisfactory evaluation.

(B) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier, without obtaining information about an individual under paragraph (1)(B) from an air carrier or other person that no longer exists or from a foreign government or entity that employed the individual, may allow the individual to begin service as a pilot if the air carrier required to request the information has made a documented good faith attempt to obtain such information.

(15) ELECTRONIC ACCESS TO FAA RECORDS.—For the purpose of increasing timely and efficient access to Federal Aviation Administration records described in paragraph (1), the Administrator may allow, under terms established by the Administrator, an individual designated by the air carrier to have electronic access to a specified database containing information about such records. The terms shall limit such access to instances in which information in the database is required by the designated individual in making a hiring decision concerning a pilot applicant and shall require that the designated individual provide assurances satisfactory to the Administrator that information obtained using such access will not be used for any purpose other than making the hiring decision.

(16) APPLICABILITY.—This subsection shall cease to be effective on the date specified in regulations issued under subsection (i).

(i) FAA PILOT RECORDS DATABASE.—

(1) IN GENERAL.—Before allowing an individual to begin service as a pilot, an air carrier shall access and evaluate, in accordance with the requirements of this subsection, information pertaining to the individual from the pilot records database established under paragraph (2).

(2) PILOT RECORDS DATABASE.—Not later than April 30, 2017, the Administrator shall establish and make available for use an electronic database (in this subsection referred to as the "database") containing the following records:

(A) FAA RECORDS.—From the Administrator—

(i) records that are maintained by the Administrator concerning current airman certificates, including airman medical certificates and associated type ratings and information on any limitations to those certificates and ratings;

(ii) records that are maintained by the Administrator concerning any failed attempt of an individual to pass a practical test required to obtain a certificate or type rating under part 61 of title 14, Code of Federal Regulations; and

(iii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the Armed Forces, the National Guard, or a reserve component of the Armed Forces) that has employed an individual as a pilot of a civil or public aircraft, or from the trustee

in bankruptcy for the air carrier or person—

(i) records pertaining to the individual that are maintained by the air carrier (other than records relating to flight time, duty time, or rest time) or person, including records under regulations set forth in—

(I) section 121.683 of title 14, Code of Federal Regulations;
(II) section 121.111(a) of such title;
(III) section 121.219(a) of such title;
(IV) section 125.401 of such title; and
(V) section 135.63(a)(4) of such title; and

(ii) other records pertaining to the individual's performance as a pilot that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

(3) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier—

(A) shall obtain the written consent of an individual before accessing records pertaining to the individual under paragraph (1); and

(B) may, notwithstanding any other provision of law or agreement to the contrary, require an individual with respect to whom the carrier is accessing records under paragraph (1) to execute a release from liability for any claim arising from accessing the records or the use of such records by the air carrier in accordance with this section (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

(4) REPORTING.—

(A) REPORTING BY ADMINISTRATOR.—The Administrator shall enter data described in paragraph (2)(A) into the database promptly to ensure that an individual's records are current.

(B) REPORTING BY AIR CARRIERS AND OTHER PERSONS.—

(i) IN GENERAL.—Air carriers and other persons shall report data described in paragraphs (2)(B) and (2)(C) to the Administrator promptly for entry into the database.

(ii) DATA TO BE REPORTED.—Air carriers and other persons shall report, at a minimum, under clause (i) the following data described in paragraph (2)(B):

(I) Records that are generated by the air carrier or other person after the date of enactment of this paragraph.

(II) Records that the air carrier or other person is maintaining, on such date of enactment, pursuant to subsection (h)(4).

(5) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator—

(A) shall maintain all records entered into the database under paragraph (2) pertaining to an individual until the date of receipt of notification that the individual is deceased; and

(B) may remove the individual's records from the database after that date.

(6) RECEIPT OF CONSENT.—The Administrator shall not permit an air carrier to access records pertaining to an individual from the database under paragraph (1) without the air carrier

first demonstrating to the satisfaction of the Administrator that the air carrier has obtained the written consent of the individual.

(7) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS AND CORRECT INACCURACIES.—Notwithstanding any other provision of law or agreement, the Administrator, upon receipt of written request from an individual—

(A) shall make available, not later than 30 days after the date of the request, to the individual for review all records referred to in paragraph (2) pertaining to the individual; and

(B) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records.

(8) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—

(A) IN GENERAL.—The Administrator may establish a reasonable charge for the cost of processing a request under paragraph (1) or (7) and for the cost of furnishing copies of requested records under paragraph (7).

(B) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this paragraph shall—

(i) be credited to the appropriation current when the amount is received;

(ii) be merged with and available for the purposes of such appropriation; and

(iii) remain available until expended.

(9) PRIVACY PROTECTIONS.—

(A) USE OF RECORDS.—An air carrier that accesses records pertaining to an individual under paragraph (1) may use the records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the individual and the confidentiality of the records accessed, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

(B) DISCLOSURE OF INFORMATION.—

(i) IN GENERAL.—Except as provided by clause (ii), information collected by the Administrator under paragraph (2) shall be exempt from the disclosure requirements of section 552(b)(3)(B) of title 5.

(ii) EXCEPTIONS.—Clause (i) shall not apply to—

(I) deidentified, summarized information to explain the need for changes in policies and regulations;

(II) information to correct a condition that compromises safety;

(III) information to carry out a criminal investigation or prosecution;

(IV) information to comply with section 44905, regarding information about threats to civil aviation; and

(V) such information as the Administrator determines necessary, if withholding the information would not be consistent with the safety responsibilities of the Federal Aviation Administration.

(10) PERIODIC REVIEW.—Not later than 18 months after the date of enactment of this paragraph, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be included in the database under paragraph (2); or

(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

(11) REGULATIONS FOR PROTECTION AND SECURITY OF RECORDS.—The

Administrator shall prescribe such regulations as may be necessary—

(A) to protect and secure—

(i) the personal privacy of any individual whose records are accessed under paragraph (1); and

(ii) the confidentiality of those records; and

(B) to preclude the further dissemination of records received under paragraph (1) by the person who accessed the records.

(12) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier may allow an individual to begin service as a pilot, without first obtaining information described in paragraph (2)(B) from the database pertaining to the individual, if—

(A) the air carrier has made a documented good faith attempt to access the information from the database; and

(B) the air carrier has received written notice from the Administrator that the information is not contained in the database because the individual was employed by an air carrier or other person that no longer exists or by a foreign government or other entity that has not provided the information to the database.

(13) LIMITATIONS ON ELECTRONIC ACCESS TO RECORDS.—

(A) ACCESS BY INDIVIDUALS DESIGNATED BY AIR CARRIERS.—For the purpose of increasing timely and efficient access to records described in paragraph (2), the Administrator may allow, under terms established by the Administrator, an individual designated by an air carrier to have electronic access to the database.

(B) TERMS.—The terms established by the Administrator under subparagraph (A) for allowing a designated individual to have electronic access to the database shall limit such access to instances in which information in the database is required by the designated individual in making a hiring decision concerning a pilot applicant and shall require that the designated individual provide assurances satisfactory to the Administrator that—

(i) the designated individual has received the written consent of the pilot applicant to access the information; and

(ii) information obtained using such access will not be used for any purpose other than making the hiring decision.

(14) AUTHORIZED EXPENDITURES.—Of amounts appropriated under section 106(k)(1), a total of $6,000,000 for fiscal years 2010 through 2013 may be used to carry out this subsection.

(15) REGULATIONS.—

(A) IN GENERAL.—The Administrator shall issue regulations to carry out this subsection.

(B) EFFECTIVE DATE.—The regulations shall specify the date on which the requirements of this subsection take effect and the date on which the requirements of subsection (h) cease to be effective.

(C) EXCEPTIONS.—Notwithstanding subparagraph (B)—

(i) the Administrator shall begin to establish the database under paragraph (2) not later than 90 days after the date of enactment of this paragraph;

(ii) the Administrator shall maintain records in accordance with paragraph (5) beginning on the date of enactment of this paragraph; and

(iii) air carriers and other persons shall maintain records to be reported to the database under paragraph (4)(B) in the period beginning on such date of enactment and ending on the date that is 5 years after the requirements of subsection (h) cease to be effective pursuant to subparagraph (B).

(16) SPECIAL RULE.—During the one-year period beginning on the date on which the requirements of this section become effective pursuant to paragraph (15)(B), paragraph (7)(A)

shall be applied by substituting "45 days" for "30 days".

(j) LIMITATIONS ON LIABILITY; PREEMPTION OF STATE LAW.—

(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under subsection (h)(2) or (i)(3), against—

(A) the air carrier requesting the records of that individual under subsection (h)(1) or accessing the records of that individual under subsection (i)(1);

(B) a person who has complied with such request;

(C) a person who has entered information contained in the individual's records; or

(D) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (h) or (i).

(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (h) or (i).

(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (h)(1) or who furnished information to the database established under subsection (i)(2), that—

(A) the person knows is false; and

(B) was maintained in violation of a criminal statute of the United States.

(4) PROHIBITION ON ACTIONS AND PROCEEDINGS AGAINST AIR CARRIERS.—

(A) HIRING DECISIONS.—An air carrier may refuse to hire an individual as a pilot if the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute the release from liability requested under subsection (h)(2)(B) or (i)(3)(B).

(B) ACTIONS AND PROCEEDINGS.—No action or proceeding may be brought against an air carrier by or on behalf of an individual who has applied for or is seeking a position as a pilot with the air carrier if the air carrier refused to hire the individual after the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute a release from liability requested under subsection (h)(2)(B) or (i)(3)(B).

(k) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsection (h) or (i) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.

(l) TEMPORARY AIRMAN CERTIFICATE.—An individual may obtain a temporary airman certificate from the Administrator after requesting a permanent replacement airman certificate issued under this section. A temporary airman certificate shall be—

(1) made available—

(A) electronically to the individual immediately upon submitting an online application for a replacement certificate to the Administrator; or

(B) physically to the individual at a flight standards district office—

(i) if the individual submits an online application for a replacement certificate; or

(ii) if the individual applies for a permanent replacement certificate other than by online application and such application has been received by the Federal Aviation Administration; and

(2) destroyed upon receipt of the permanent replacement airman certificate from the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1186; Pub. L. 106–181, title VII, §715, Apr. 5, 2000, 114 Stat. 162; Pub. L. 107–71, title I, §§129, 138(b), 140(a), Nov. 19, 2001, 115 Stat. 633, 640, 641; Pub. L. 111–216, title II, §203, Aug. 1, 2010, 124 Stat. 2352; Pub. L. 111–249, §6(3), (4), Sept. 30, 2010, 124 Stat. 2629; Pub. L. 112–95, title III, §§301(a), 310(c), Feb. 14, 2012, 126 Stat. 56, 65; Pub. L. 112–153, §2(c)(1), Aug. 3, 2012, 126 Stat. 1160; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210; Pub. L. 114–190, title II, §2101, July 15, 2016, 130 Stat. 619; Pub. L. 118–63, title VIII, §813, May 16, 2024, 138 Stat. 1327.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44703(a)	49 App.:1422(b)(1) (1st sentence, 2d sentence words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, §602(b)(1), 72 Stat. 776; Oct. 19, 1984, Pub. L. 98–499, §3, 98 Stat. 2313; Aug. 26, 1992, Pub. L. 102–345, §4, 106 Stat. 926.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44703(b)	49 App.:1422(a) (11th–last words).	Aug. 23, 1958, Pub. L. 85–726, §602(a) (9th–last words), (c), 72 Stat. 776.
	49 App.:1422(b)(1) (2d sentence words after 6th comma), (c).	
	49 App.:1655(c)(1).	
44703(c)(1)	49 App.:1422(b)(1) (3d sentence).	
44703(c)(2)	49 App.:1422(b)(1) (4th, 5th sentences, last sentence words before proviso).	
	49 App.:1655(c)(1).	
44703(d)	49 App.:1422(b)(1) (last sentence proviso).	
	49 App.:1655(c)(1).	
44703(e)	49 App.:1422(b)(2)(A), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §602(b)(2)(A), (B); added Oct. 19, 1984, Pub. L. 98–499, §3, 98 Stat. 2313; restated Nov. 18, 1988, Pub. L. 100–690, §7204(a), 102 Stat. 4425.
44703(f)(1)	49 App.:1422(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §602(d); added Nov. 18, 1988, Pub. L. 100–690, §7205(a), 102 Stat. 4426.
44703(f)(2)	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, §7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(d), the word "Administrator" in section 602(a), (b)(1), and (c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a), the text of 49 App.:1422(b) (1st sentence) is omitted as surplus. The words "is qualified" are substituted for "possesses proper qualifications" to eliminate unnecessary words. The words "to be authorized by the certificate" are substituted for "for which the airman certificate is sought" for clarity.

In subsection (b)(1)(C), the words "conditions, and limitations" are omitted as being included in "terms".

In subsection (b)(1)(E), the word "designate" is substituted for "be entitled with the designation of" to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words "may appeal . . . to" are substituted for "may file with . . . a petition for review of the Secretary of Transportation's action" for consistency with section 1109 of the revised title. The words "the individual holds a certificate that" are substituted for "persons whose certificates" for clarity.

In subsection (c)(2), the words "conduct a hearing on the appeal" are substituted for "thereupon assign such petition for hearing" for consistency. The words "In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards" are omitted as surplus. The word "Administrator" is substituted for "Federal Aviation Administration" because of 49:106(b) and (g). The words "meets the applicable regulations" are substituted for "meets the pertinent rules, regulations" because "rules" and "regulations" are synonymous and for consistency in the revised title.

In subsection (d), before clause (1), the words "in his discretion" are omitted as surplus. In clause (2), the words "the terms of" and "entered into" are omitted as surplus. The words "government of a foreign country" are substituted for "foreign governments" for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), before clause (A), the words "established under this chapter" and "to pilots" are omitted as surplus.

In subsection (f)(2), the words "Not later than September 18, 1989" and "final" are omitted as obsolete. The words "Administrator of Drug Enforcement" are substituted for "Drug Enforcement Administration of the Department of Justice" because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words "Commissioner of Customs" are substituted for "United States Customs Service" because of 19:2071.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (c)(1), (3), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of the enactment of the Pilot Records Improvement Act of 1996, referred to in subsec. (h)(12), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

The date of enactment of this paragraph, referred to in subsec. (i)(4)(B)(ii), (10), (15)(C), is the date of enactment of Pub. L. 111–216, which was approved Aug. 1, 2010.

CODIFICATION

The text of section 44936(f) to (h) of this title, which was transferred to the end of this section, redesignated as subsecs. (h) to (j), respectively, and amended by Pub. L. 107–71, §§138(b), 140(a), was based on Pub. L. 104–264, title V, §502(a), Oct. 9, 1996, 110 Stat. 3259; amended Pub. L. 105–102, §2(25), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–142, §1, Dec. 5, 1997, 111 Stat. 2650; Pub. L. 106–181, title V, §508(b), Apr. 5, 2000, 114 Stat. 140.

AMENDMENTS

2024—Subsec. (l). Pub. L. 118–63 added subsec. (l).

2016—Subsec. (i)(2). Pub. L. 114–190 substituted "Not later than April 30, 2017, the Administrator shall establish and make available for use" for "The Administrator shall establish".

2012—Subsec. (d)(2). Pub. L. 112–153 struck out "but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law" after "Federal Aviation Administration".

Subsec. (d)(3). Pub. L. 112–95, §301(a), added par. (3).

Subsec. (i)(9)(B)(i). Pub. L. 112–95, §310(c), substituted "section 552(b)(3)(B) of title 5" for "section 552 of title 5".

2010—Subsec. (h)(16). Pub. L. 111–216, §203(a), added par. (16).

Subsec. (i). Pub. L. 111–216, §203(b)(2), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 111–216, §203(c)(1)(A), as amended by Pub. L. 111–249, §6(3), substituted "Limitations" for "Limitation" in heading.

Pub. L. 111–216, §203(b)(1), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(1). Pub. L. 111–216, §203(c)(1)(B)(i), (iii), as amended by Pub. L. 111–249, §6(3), substituted "subsection (h)(2) or (i)(3)" for "paragraph (2)" in introductory provisions and "subsection (h) or (i)" for "subsection (h)" in concluding provisions.

Subsec. (j)(1)(A). Pub. L. 111–216, §203(c)(1)(B)(ii), as amended by Pub. L. 111–249, §6(3), inserted "or accessing the records of that individual under subsection (i)(1)" before semicolon.

Subsec. (j)(2). Pub. L. 111–216, §203(c)(1)(C), as amended by Pub. L. 111–249, §6(3), substituted "subsection (h) or (i)" for "subsection (h)".

Subsec. (j)(3). Pub. L. 111–216, §203(c)(1)(D), as amended by Pub. L. 111–249, §6(3), inserted "or who furnished information to the database established under subsection (i)(2)" after "subsection (h)(1)" in introductory provisions.

Subsec. (j)(4). Pub. L. 111–216, §203(c)(1)(E), as amended by Pub. L. 111–249, §6(3), added par. (4).

Subsec. (k). Pub. L. 111–216, §203(c)(2), as amended by Pub. L. 111–249, §6(4), substituted "subsection (h) or (i)" for "subsection (h)".

Pub. L. 111–216, §203(b)(1), redesignated subsec. (j) as (k).

2001—Subsec. (g)(1). Pub. L. 107–71, §129(1), in first sentence, substituted "needs of airmen" for "needs of pilots" and inserted "and related to combating acts of terrorism" before period at end.

Subsec. (g)(3), (4). Pub. L. 107–71, §129(2), added pars. (3) and (4).

Subsecs. (h) to (j). Pub. L. 107–71, §§138(b), 140(a), amended section identically, redesignating subsecs. (f) to (h) of section 44936 of this title as subsecs. (h) to (j), respectively, of this section, and substituting "subsection (h)" for "subsection (f)" wherever appearing in subsecs. (i) and (j). See Codification note above.

2000—Subsecs. (c) to (g). Pub. L. 106–181 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in subsec. (g)(2) on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–249, §6, Sept. 30, 2010, 124 Stat. 2628, provided that the amendments made by section 6 of Pub. L. 111–249 are effective as of Aug. 1, 2010, and as if included in Pub. L. 111–216 as enacted.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TERMINATION DATE

Subsec. (h) of this section ceased to be effective beginning on Sept. 9, 2024, pursuant to par. (16) of that subsec. See 14 C.F.R. §111.5(b).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of

this title.

ENHANCED QUALIFICATION PROGRAM FOR RESTRICTED AIRLINE TRANSPORT PILOT CERTIFICATE

Pub. L. 118–63, title III, §372, May 16, 2024, 138 Stat. 1139, provided that:

"(a) PROGRAM.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish the requirements for a program to be known as the Enhanced Qualification Program (in this section referred to as the 'Program') under which—

"(A) qualified air carriers are certified by the Administrator to provide enhanced training for eligible pilots seeking to obtain restricted airline transport certificates, either directly by the air carrier or by a certified training institution under part 141 or part 142 of title 14, Code of Federal Regulations, that is under contract with the qualified air carrier; and

"(B) qualified instructors and evaluators provide enhanced training to eligible pilots pursuant to the curriculum requirements under paragraph (4).

"(2) QUALIFIED INSTRUCTORS AND EVALUATORS.—Under the Program—

"(A) all testing and training shall be performed by qualified instructors; and

"(B) all evaluations shall be performed by qualified evaluators.

"(3) PILOT ASSESSMENT.—Under the Program, the Administrator shall establish guidelines for an assessment that prospective pilots are required to pass in order to participate in the training under the Program. Such assessment shall include an evaluation of the pilot's aptitude, ability, and readiness for operation of transport category aircraft.

"(4) PROGRAM CURRICULUM.—Under the Program, the Administrator shall establish requirements for the curriculum to be provided under the Program. Such curriculum shall include—

"(A) a nationally standardized, non-air carrier or aircraft-specific training curriculum which shall—

"(i) ensure prospective pilots have appropriate knowledge at the commercial pilot certificate, multi-engine rating, and instrument rating level;

"(ii) introduce the pilots to concepts associated with air carrier operations;

"(iii) meet all requirements for an ATP Certification Training Program under part 61.156 or part 142 of title 14, Code of Federal Regulations; and

"(iv) include a course of instruction designed to prepare the prospective pilot to take the ATP Multiengine Airplane Knowledge Test;

"(B) an aircraft-specific training curriculum, developed by the air carrier using objectives and learning standards developed by the Administrator, which shall—

"(i) only be administered to prospective pilots who have completed the requirements under subparagraph (A);

"(ii) resemble a type rating training curriculum that includes aircraft ground and flight training that culminates in—

"(I) the completion of a maneuvers evaluation that incorporates elements of a type rating practical test; or

"(II) at the discretion of the air carrier, an actual type rating practical test resulting in the issuance of a type rating for the specific aircraft; and

"(iii) ensure the prospective pilot has an adequate understanding and working knowledge of transport category aircraft automation and autoflight systems; and

"(C) air carrier-specific procedures using objectives and learning standards developed by the Administrator to further expand on the concepts described in subparagraphs (A) and (B), which shall—

"(i) only be administered to prospective pilots who have completed requirements under subparagraphs (A) and (B) and an ATP Multiengine Airplane Knowledge Test;

"(ii) include instructions on air carrier checklist usage and standard operating procedures; and

"(iii) integrate aircraft-specific training in appropriate flight simulation training devices representing the specific aircraft type, including complete crew resource management and scenario-based training.

"(5) APPLICATION AND CERTIFICATION.—Under the Program, the Administrator shall establish a process for air carriers to apply for training program certification. Such process shall include a review to ensure that the training provided by the air carrier will meet the requirements of this section, including—

"(A) the assessment requirements under paragraph (3);

"(B) the curriculum requirements under paragraph (4);

"(C) the requirements for qualified instructors under subsection (d)(5); and

"(D) the requirements for eligible pilots under subsection (d)(2).

"(6) DATA.—Under the Program, the Administrator shall require that each qualified air carrier participating in the Program collect and submit to the Administrator such data from the Program that the Administrator determines is appropriate for the Administrator to provide for oversight of the Program.

"(7) REGULAR INSPECTION.—Under the Program, the Administrator shall provide for the regular inspection of qualified air carriers certified under paragraph (5) to ensure that the air carrier continues to meet the requirements under the Program.

"(b) REGULATIONS.—The Administrator may issue regulations or guidance as determined necessary to carry out the Program.

"(c) CLARIFICATION REGARDING REQUIRED FLIGHT HOURS.—The provisions of this section shall have no effect on the total flight hours required under part 61.159 of title 14, Code of Federal Regulations, to receive an airline transport pilot certificate, or the Administrator's authority under section 217(d) of the Airline Safety and Federal Aviation Administration Extension Act of 2010 [Pub. L. 111–216] (49 U.S.C. 44701 note) (as in effect on the date of enactment of this section [May 16, 2024]).

"(d) DEFINITIONS.—In this section:

"(1) AIR CARRIER.—The term 'air carrier' has the meaning given that term in section 40102 of title 49, United States Code.

"(2) ELIGIBLE PILOT.—The term 'eligible pilot' means a pilot that—

"(A) has—

"(i) graduated from a United States Armed Forces undergraduate pilot training school;

"(ii) obtained a degree with an aviation major from an institution of higher education (as defined in part 61.1 of title 14, Code of Federal Regulations) that has been issued a letter of authorization by the Administrator under part 61.169 of such title 14; or

"(iii) completed flight and ground training for a commercial pilot certificate in the airplane category and an airplane instrument rating at a certified training institution under part 141 of such title 14;

"(B) has a current commercial pilot certificate under part 61.123 of such title 14, with airplane category multi-engine and instrument ratings under part 61.129 of such title 14; and

"(C) meets the pilot assessment requirements under subsection (a)(3).

"(3) QUALIFIED AIR CARRIER.—The term 'qualified air carrier' means an air carrier that has been issued a part 119 operating certificate for conducting operations under part 121 of title 14, Code of Federal Regulations.

"(4) QUALIFIED EVALUATOR.—The term 'qualified evaluator' means an individual that meets the requirements for a training center evaluator under part 142.55 of title 14, Code of Federal Regulations, or for check airmen under part 121.411 of such title.

"(5) QUALIFIED INSTRUCTOR.—The term 'qualified instructor' means an individual that—

"(A) is qualified in accordance with the minimum training requirements for an ATP Certification Training Program under paragraphs (1) through (3) of part 121.410(b) of title 14, Code of Federal Regulations;

"(B) if the instructor is a flight instructor, is qualified in accordance with part 121.410(b)(4) of such title;

"(C) if the instructor is administering type rating practical tests, is qualified as an appropriate examiner for such rating;

"(D) received training in threat and error management, facilitation, and risk mitigation determined appropriate by the Administrator; and

"(E) meets any other requirement determined appropriate by the Administrator."

CIVIL AIRMEN STATISTICS

Pub. L. 118–63, title IV, §402, May 16, 2024, 138 Stat. 1148, provided that:

"(a) PUBLICATION FREQUENCY.—The Administrator [of the Federal Aviation Administration] shall publish the study commonly referred to as the 'U.S. Civil Airmen Statistics' on a monthly basis.

"(b) PRESENTATION OF DATA.—The Administrator shall make the data from the study under subsection (a) publicly available on the website of the Administration in a user-friendly, downloadable format.

"(c) EXPANDED DATA CRITERIA.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator shall ensure that data sets and tables published as part of the study described in subsection (a) display information relating to the sex of certificate holders in more instances.

"(d) HISTORICAL DATA.—Not later than 1 year after the date of enactment of this Act, the Administrator shall make all previously published annual data from the study described in subsection (a) available on the website of the Administration."

AIRMAN'S MEDICAL BILL OF RIGHTS

Pub. L. 118–63, title IV, §407, May 16, 2024, 138 Stat. 1153, provided that:

"(a) IN GENERAL.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall develop a document (in this section referred to as the 'Airman's Medical Bill of Rights') detailing the rights of an individual before, during, and after a medical examination conducted by an Aviation Medical Examiner.

"(2) CONTENTS.—The Airman's Medical Bill of Rights required under paragraph (1) shall, at a minimum, contain information about the right of an individual to—

"(A) bring a trusted companion or request to have a chaperone present for a medical examination;

"(B) terminate an exam in accordance with guidelines from the Administrator for appropriately terminating such exam;

"(C) receive medical examination with respect and recognition of the dignity of the individual;

"(D) be assured of privacy and confidentiality;

"(E) select an Aviation Medical Examiner of the choice of the individual, as long as the Aviation Medical Examiner has the required designations;

"(F) privacy when changing, undressing, and using the restroom;

"(G) ask questions about FAA [Federal Aviation Administration] medical standards and the applicability to the current health status of the individual;

"(H) report an incident of misconduct by an Aviation Medical Examiner to the appropriate authorities, including to the State licensing board of the Aviation Medical Examiner or the FAA;

"(I) report to the Administrator an allegation regarding alleged Aviation Medical Examiner misconduct without fear of retaliation or negative action relating to an airman certificate of the individual; and

"(J) be advised of any known conflicts of interest an Aviation Medical Examiner may have with respect to the medical examination of the individual.

"(3) PUBLIC AVAILABILITY.—The Airman's Medical Bill of Rights required under paragraph (1) shall be—

"(A) made available to, and acknowledged by, an individual in the MedXpress system (or any successor system);

"(B) made available in a hard-copy format by an Aviation Medical Examiner at the time of exam upon request by an individual; and

"(C) displayed in a common space in the office of the Aviation Medical Examiner.

"(b) EXPECTATIONS FOR MEDICAL EXAMINATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop a simplified document explaining the standard procedures performed during a medical examination conducted by an Aviation Medical Examiner.

"(2) PUBLIC AVAILABILITY.—The document required under paragraph (1) shall be—

"(A) made available to, and acknowledged by, an individual in the MedXpress system (or any successor system);

"(B) made available in a hard-copy format by an Aviation Medical Examiner at the time of exam upon request by an individual; and

"(C) displayed in a common space in the office of the Aviation Medical Examiner."

IMPROVED DESIGNEE MISCONDUCT REPORTING PROCESS

Pub. L. 118–63, title IV, §408, May 16, 2024, 138 Stat. 1154, provided that:

"(a) IMPROVED DESIGNEE MISCONDUCT REPORTING PROCESS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a streamlined process for individuals involved in incidents of alleged misconduct by a designee to report such incidents in a manner that protects the privacy and confidentiality of such individuals.

"(2) PUBLIC ACCESS TO REPORTING PROCESS.—The process for reporting alleged misconduct by a designee shall be made available to the public on the website of the Administration, including—

"(A) the designee locator search webpage; and

"(B) the webpage of the Office of Audit and Evaluation of the FAA [Federal Aviation

Administration].

"(3) OBLIGATION TO REPORT CRIMINAL CHARGES.—Not later than 90 days after the date of enactment of this Act, the Administrator shall revise the orders and policies governing the Designee Management System to clarify that designees are obligated to report any arrest, indictment, or conviction for violation of a local, State, or Federal law within a period of time specified by the Administrator.

"(4) AUDIT OF REPORTING PROCESS BY INSPECTOR GENERAL.—

"(A) IN GENERAL.—Not later than 3 years after the date on which the Administrator finalizes the update of the reporting process under paragraph (1), the inspector general of the Department of Transportation shall conduct an audit of such reporting process.

"(B) CONTENTS.—In conducting the audit of the reporting process described in subparagraph (A), the inspector general shall, at a minimum—

"(i) review the efforts of the Administration to improve the reporting process and solutions developed to respond to and investigate allegations of misconduct;

"(ii) analyze reports of misconduct brought to the Administrator prior to any changes made to the reporting process as a result of the enactment of this Act [Pub. L. 118–63], including the ultimate outcomes of those reports and whether any reports resulted in the Administrator taking action against the accused designee;

"(iii) determine whether the reporting process results in appropriate action, including reviewing, investigating, and closing out reports; and

"(iv) if applicable, make recommendations to improve the reporting process.

"(C) REPORT.—Not later than 1 year after the date of initiation of the audit described in subparagraph (A), the inspector general shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of such audit, including findings and recommendations.

"(b) DESIGNEE DEFINED.—In this section, the term 'designee' means an individual who has been designated to act as a representative of the Administrator as—

"(1) an Aviation Medical Examiner (as described in section 183.21 of title 14, Code of Federal Regulations);

"(2) a pilot examiner (as described in section 183.23 of such title); or

"(3) a technical personnel examiner (as described in section 183.25 of such title)."

AEROMEDICAL INNOVATION AND MODERNIZATION WORKING GROUP

Pub. L. 118–63, title IV, §411, May 16, 2024, 138 Stat. 1156, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a working group (in this section referred to as the 'working group') to review the medical processes, policies, and procedures of the Administration and to make recommendations to the Administrator on modernizing such processes, policies, and procedures to ensure timely and efficient certification of airmen.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The working group shall consist of—

"(A) 2 co-chairs described in paragraph (2); and

"(B) not less than 15 individuals appointed by the Administrator, each of whom shall have knowledge or a background in aerospace medicine, psychiatry, neurology, cardiology, or internal medicine.

"(2) CO-CHAIRS.—The working group shall be co-chaired by—

"(A) the Federal Air Surgeon of the FAA [Federal Aviation Administration]; and

"(B) a member described under paragraph (1)(A) to be selected by members of the working group.

"(3) PREFERENCE.—The Administrator, in appointing members pursuant to paragraph (1)(B), shall give preference to—

"(A) Aviation Medical Examiners (as described in section 183.21 of title 14, Code of Federal Regulations);

"(B) licensed medical physicians;

"(C) practitioners holding a pilot certificate; and

"(D) individuals having demonstrated research and expertise in aeromedical research or sciences.

"(c) ACTIVITIES.—In reviewing the aeromedical decision-making processes, policies, and procedures of the Administration in accordance with subsection (a), the working group, at a minimum, shall—

"(1) assess the medical conditions an Aviation Medical Examiner may issue a medical certificate directly to an individual;

"(2) determine the appropriateness of the list of such medical conditions as of the date of enactment of this Act;

"(3) assess the special issuance process;

"(4) determine the appropriateness of whether a renewal of a special issuance can be based on a medical evaluation and treatment plan by the treating medical specialist of the individual pursuant to approval from an Aviation Medical Examiner;

"(5) evaluate advancements in technologies to address forms of red-green color blindness and determine whether such technologies may be approved for use by airmen;

"(6) review policies and guidance relating to Attention-Deficit Hyperactivity Disorder and Attention Deficit Disorder;

"(7) evaluate whether medications used to treat such disorders may be safely prescribed to airmen;

"(8) review protocols pertaining to the Human Intervention Motivation Study of the FAA;

"(9) review protocols and policies relating to—

"(A) neurological disorders; and

"(B) cardiovascular conditions to ensure alignment with medical best practices, latest research;

"(10) review mental health protocols and medications approved for treating such mental health conditions, including such actions taken resulting from recommendations by the Mental Health and Aviation Medical Clearances Rulemaking Committee;

"(11) assess processes and protocols pertaining to recertification of airmen receiving disability insurance post-recovery from the medical condition, injury, or disability that precludes airmen from exercising the privileges of an airman certificate;

"(12) assess processes and protocols pertaining to the certification of veterans reporting a disability rating from the Department of Veterans Affairs; and

"(13) assess and evaluate the user interface and information-sharing capabilities of any online medical portal administered by the FAA.

"(d) AVIATION WORKFORCE MENTAL HEALTH TASK GROUP.—

"(1) ESTABLISHMENT.—Not later than 120 days after the working group pursuant to subsection (a) is established, the co-chairs of such working group shall establish an aviation workforce mental health task group (referred to in this subsection as the 'task group') to oversee, monitor, and evaluate efforts of the Administrator related to supporting the mental health of the aviation workforce.

"(2) COMPOSITION.—The co-chairs of such working group shall appoint—

"(A) a Chair of the task group; and

"(B) members of the task group from among the members of the working group appointed by the Administrator under subsection (b)(1).

"(3) DUTIES.—The duties of the task group shall include—

"(A) carrying out the activities described in subsection (c)(10);

"(B) soliciting feedback from aviation industry professionals or other licensed professionals representing air carrier operations under part 121 and part 135 of title 14, Code of Federal Regulations, and general aviation operations under part 91 of title 14, Code of Federal Regulations;

"(C) reviewing and evaluating guidance issued by the International Civil Aviation Organization on aviation workforce mental health;

"(D) providing advice, as appropriate, on the implementation of the final recommendations issued by the inspector general of the Department of Transportation in the report titled, 'FAA Conduct Comprehensive Evaluations of Pilots With Mental Health Challenges, but Opportunities Exist to Further Mitigate Safety Risks', published on July 12, 2023 (AV2023038);

"(E) monitoring and evaluating the implementation of recommendations by the Mental Health and Aviation Medical Clearances Rulemaking Committee;

"(F) expanding and improving mental health outreach, education, and assistance programs for the aviation workforce; and

"(G) reducing the stigma associated with mental healthcare in the aviation workforce.

"(4) REPORT.—Not later than 2 years after the date of the establishment of the task group, the task group shall submit to the Secretary [of Transportation] and the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report detailing—

"(A) the results of the review under paragraph (3)(A); and

"(B) progress on the implementation of recommendations pursuant to subparagraphs (D) and (E)

of paragraph (3); and

"(C) the activities carried out pursuant to fulfilling the duties described in subparagraphs (F) and (G) of paragraph (3).

"(e) SUPPORT.—The Administrator shall seek to enter into 1 or more agreements with the National Academies to support the activities of the working group described in subsection (c).

"(f) FINDINGS AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the working group shall submit to the Administrator and the appropriate committees of Congress a report on the findings and recommendations resulting from the activities carried out under subsection (c).

"(g) IMPLEMENTATION.—Not later than 1 year after receiving recommendations outlined in the report under subsection (f), the Administrator may take such action, as appropriate, to implement such recommendations.

"(h) SUNSET.—The working group shall terminate on October 1, 2028."

MEDICAL PORTAL MODERNIZATION TASK GROUP

Pub. L. 118–63, title IV, §413, May 16, 2024, 138 Stat. 1159, provided that:

"(a) ESTABLISHMENT.—Not later than 120 days after the working group pursuant to section 411 [of Pub. L. 118–63, set out as a note above] is established, the co-chairs of such working group shall establish a medical portal modernization task group (in this section referred to as the 'task group') to evaluate the user interface and information sharing capabilities of an online medical portal administered by the FAA [Federal Aviation Administration].

"(b) COMPOSITION.—The co-chairs of the working group provided for in section 411 shall appoint—

"(1) a Chair of the task group; and

"(2) members of the task group from among the members of the working group appointed by the Administrator [of the Federal Aviation Administration] under section 411(b).

"(c) ASSESSMENT; RECOMMENDATIONS.—The task group shall, at a minimum, assess and evaluate the capabilities of any such medical portal and provide recommendations to improve the following:

"(1) The cybersecurity protections and protocols of any such medical portal, including the secure exchange of health information and records between Aviation Medical Examiners and pilots, or their designee, including the ability for airmen to submit additional information requested by the Administrator.

"(2) The status of an airman's medical application and the disclosure of how long an airman can expect to wait for a final determination to be issued by the Administrator.

"(3) The disclosure of the name and contact information of the Administrator's representative managing an airman's case so that an Aviation Medical Examiner has a point of contact within the Administration who is familiar with an airman's application.

"(d) CONSULTATION.—In carrying out the duties described in subsection (c), the task group may consult with cybersecurity experts and individuals with a knowledge of securing electronic health care transactions.

"(e) REPORT.—Not later than 1 year after the date of the establishment of the task group, the task group shall submit to the Administrator and the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report detailing activities and recommendations of the task group.

"(f) IMPLEMENTATION.—Not later than 1 year after receiving the report described in subsection (e), the Administrator may take such action as may be necessary to implement recommendations of the task group to improve any such medical portal."

MILITARY AVIATION MAINTENANCE TECHNICIANS RULE

Pub. L. 118–63, title IV, §426, May 16, 2024, 138 Stat. 1168, provided that:

"(a) STREAMLINED CERTIFICATION FOR ELIGIBLE MILITARY MAINTENANCE TECHNICIANS.—

"(1) RULEMAKING.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a notice of proposed rulemaking to revise part 65 of title 14, Code of Federal Regulations, to—

"(A) create a military mechanic written competency test that addresses gaps between military and civilian experience; and

"(B) develop, as necessary, a relevant Airman Certification Standard to qualify eligible military maintenance technicians for a civilian mechanic certificate with airframe or powerplant ratings.

"(2) CONSIDERATION.—In carrying out paragraph (1), the Administrator shall evaluate and consider—

"(A) whether to allow a certificate of eligibility from the Joint Services Aviation Maintenance

Technician Certification Council (in this section referred to as the 'JSAMTCC') evidencing completion of a training curriculum for any rating sought to serve as a substitute to fulfill the requirement under such part 65 for oral and practical tests administered by a designated mechanic examiner for eligible military maintenance technicians;

"(B) aeronautical knowledge subject areas contained in the Aviation Mechanic General, Airframe, and Powerplant Airman Certification Standards as described in section 65.75 of title 14, Code of Federal Regulations, as appropriate, to the rating sought; and

"(C) any applicable recommendations by the Aviation Rulemaking Advisory Committee Airman Certification System Working Group.

"(b) EXPANSION OF TESTING LOCATIONS.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Defense and the Secretary of Homeland Security, shall determine—

"(1) whether an expansion of the number of active testing locations operated within military installation testing centers would increase access to testing; and

"(2) how to implement such expansion, if appropriate.

"(c) OUTREACH AND AWARENESS.—Not later than 1 year after the date of enactment of this Act, the Administrator, in coordination with the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Homeland Security, shall develop a plan to increase outreach and awareness regarding services made available by the JSAMTCC and how such services can assist in facilitating the transition between military and civilian aviation maintenance careers.

"(d) BRIEFINGS.—

"(1) INITIAL BRIEFING.—Not later than 180 days after the date on which the Administrator develops the outreach and awareness plan pursuant to subsection (c), the Administrator shall provide to the Committee on Commerce, Science, and Transportation and the Committee on Veterans' Affairs of the Senate and the Committee on Transportation and Infrastructure and the Committee on Veterans' Affairs of the House of Representatives a briefing on the activities planned to implement the outreach and awareness plan.

"(2) PERIODIC BRIEFING.—Not later than 2 years after the date of enactment of this Act, and 2 years thereafter, the Administrator shall provide to the Committee on Commerce, Science, and Transportation and the Committee on Veterans' Affairs of the Senate and the Committee on Transportation and Infrastructure and the Committee on Veterans' Affairs of the House of Representatives a briefing on any rulemaking activities carried out pursuant to subsection (a), including a timeline for the issuance of a final rule.

"(e) ELIGIBLE MILITARY MAINTENANCE TECHNICIAN DEFINED.—For purposes of this section, the term 'eligible military maintenance technician' means an individual who—

"(1) has been a maintenance technician during service in the armed forces who was honorably discharged or has retired from the armed forces (as defined in section 101 of title 10, United States Code);

"(2) presents an official record of service in the armed forces confirming that the individual has been a military aviation maintenance technician, holding an appropriate Military Occupational Specialty Code, as determined by the Administrator, in coordination with the Secretary of Defense; and

"(3) presents documentary evidence of experience in accordance with the requirements under section 65.77 of title 14, Code of Federal Regulations."

TIMELY RESOLUTION OF INVESTIGATIONS

Pub. L. 118–63, title VIII, §805, May 16, 2024, 138 Stat. 1323, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of issuance of a letter of investigation to any person, as required by section 2(b) of the Pilot's Bill of Rights [Pub. L. 112–153] (49 U.S.C. 44703 note), the Administrator [of the Federal Aviation Administration] shall—

"(1) make a determination regarding such investigation and pursue subsequent action; or

"(2) close such investigation.

"(b) EXTENSION.—

"(1) IN GENERAL.—If, upon review of the facts and status of an investigation described in subsection (a), the Administrator determines that the time provided to make a final determination or close such investigation is insufficient, the Administrator shall approve an extension of such investigation for 2 years.

"(2) ADDITIONAL EXTENSIONS.—The Administrator may approve consecutive extensions under paragraph (1).

"(c) DELEGATION.—The Administrator may not delegate the authority to approve an extension described

in subsection (b) to anyone other than the leadership of the Administration as described in section 106(b) of title 49, United States Code."

ALL MAKES AND MODELS AUTHORIZATION

Pub. L. 118–63, title VIII, §806, May 16, 2024, 138 Stat. 1323, provided that:

"(a) IN GENERAL.—

"(1) UNLIMITED LETTER OF AUTHORIZATION.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall take such action as may be necessary to allow for the issuance of letters of authorizations to airmen with the authorization for—

"(A) all types and makes of experimental high–performance single engine piston powered aircraft; and

"(B) all types and makes of experimental high–performance multiengine piston powered aircraft.

"(2) REQUIREMENTS.—An individual who holds a letter of authorization and applies for an authorization described in paragraph (1)(A) or (1)(B)—

"(A) shall be given an all-makes and models authorization of—

"(i) experimental single–engine piston powered authorized aircraft; or

"(ii) experimental multiengine piston powered authorized aircraft;

"(B) shall hold the appropriate category and class rating for the authorized aircraft;

"(C) shall hold 3 experimental aircraft authorizations in aircraft of the same category and class rating for the authorization sought; and

"(D) may become qualified in additional experimental aircraft by completing aircraft-specific ground and flight training.

"(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to disallow an individual from being given both an authorization described in paragraph (1)(A) and an authorization described in paragraph (1)(B).

"(c) FAILURE TO COMPLY.—

"(1) IN GENERAL.—If the Administrator fails to implement subsection (a) within the time period prescribed in such subsection, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the status of the implementation of such subsection on a monthly basis until the implementation is complete.

"(2) NO DELEGATION.—The Administrator may not delegate the briefing described in paragraph (1)."

BASICMED FOR EXAMINERS ADMINISTERING TESTS OR PROFICIENCY CHECKS

Pub. L. 118–63, title VIII, §815, May 16, 2024, 138 Stat. 1328, provided that:

"(a) EQUIVALENT PILOT-IN-COMMAND MEDICAL REQUIREMENTS.—Notwithstanding section 61.23(a)(3)(iv) of title 14, Code of Federal Regulations, an examiner may administer a practical test or proficiency check if such examiner meets the medical qualification requirements under part 68 of title 14, Code of Federal Regulations, if the operation being conducted is in a covered aircraft, as such term is defined in section 2307(j) of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 44703 note).

"(b) RULEMAKING.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a final rule to update part 61 of title 14, Code of Federal Regulations, to implement the requirements under subsection (a), in addition to any related requirements the Administrator finds are in the interest of aviation safety."

DESIGNEE LOCATOR TOOL IMPROVEMENTS

Pub. L. 118–63, title VIII, §816, May 16, 2024, 138 Stat. 1328, provided that: "Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall ensure that the designee locator search function of the public website of the Designee Management System of the Administration has the functionality to—

"(1) filter a search for an Aviation Medical Examiner (as described in section 183.21 of title 14, Code of Federal Regulations) by sex, if such information is available;

"(2) display credentials and aircraft qualifications of a designated pilot examiner (as described in section 183.23 of such title); and

"(3) display the scheduling availability of a designated pilot examiner (as described in section 183.23 of such title) to administer a test or proficiency check to an airman."

NATIONAL COORDINATION AND OVERSIGHT OF DESIGNATED PILOT EXAMINERS

Pub. L. 118–63, title VIII, §833, May 16, 2024, 138 Stat. 1339, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall establish an office to provide oversight and facilitate national coordination of designated pilot examiners appointed under section 183.23 of title 14, Code of Federal Regulations.

"(b) RESPONSIBILITIES.—The office described in subsection (a) shall be responsible for the following:

"(1) Oversight of designated pilot examiners appointed under section 183.23 of title 14, Code of Federal Regulations.

"(2) Coordinating with other offices, as appropriate, to support the standardization of policy, guidance, and regulations across the FAA [Federal Aviation Administration] pertaining to the selection, training, duties, and deployment of designated pilot examiners appointed under section 183.23 of title 14, Code of Federal Regulations, including evaluating the consistency by which such examiners apply Administration policies, orders, and guidance.

"(3) Evaluating the consistency by which such examiners apply FAA policies, orders, and guidance.

"(4) Coordinating placement and deployment of such examiners across regions based on demand for examinations from the pilot community.

"(5) Developing a code of conduct for such examiners.

"(6) Deploying a survey system to track the performance and merit of such examiners.

"(7) Facilitating an industry partnership to create a formal mentorship program for such examiners.

"(c) COORDINATION.—In carrying out the responsibilities listed in subsection (b), the Administrator shall ensure the office—

"(1) coordinates on an ongoing basis with flight standards district offices, designated pilot examiner managing specialists, and aviation industry stakeholders, including representatives of the general aviation community; and

"(2) considers whether to implement the final recommendations report issued by the Designated Pilot Examiner Reforms Working Group and accepted by the Aviation Rulemaking Advisory Committee on June 17, 2021.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], and biennially thereafter through fiscal year 2028, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report that evaluates the use of designated pilot examiners appointed under section 183.23 of title 14, Code of Federal Regulations (or any successor regulation), for testing, including both written and practical tests.

"(2) CONTENTS.—The report under paragraph (1) shall include an analysis of—

"(A) the methodology and rationale by which designated pilot examiners are deployed;

"(B) with respect to the previous fiscal year, the average time an individual in each region must wait to schedule an appointment with a designated pilot examiner;

"(C) with respect to the previous fiscal year, the estimated total time individuals in each region were forced to wait to schedule an appointment with a designated pilot examiner;

"(D) the primary reasons and best ways to reduce wait times described in subparagraph (C);

"(E) the number of tests conducted by designated pilot examiners;

"(F) the number and percentage of available designated pilot examiners that perform such tests; and

"(G) the average rate of retests, including of both written and practical tests."

APPLICABILITY OF MEDICAL CERTIFICATION STANDARDS TO OPERATORS OF AIR BALLOONS

Pub. L. 115–254, div. B, title III, §318, Oct. 5, 2018, 132 Stat. 3269, provided that:

"(a) SHORT TITLE.—This section may be cited as the 'Commercial Balloon Pilot Safety Act of 2018'.

"(b) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall revise section 61.3(c) of title 14, Code of Federal Regulations (relating to second-class medical certificates), to apply to an operator of an air balloon to the same extent such regulations apply to a pilot flight crewmember of other aircraft.

"(c) AIR BALLOON DEFINED.—In this section, the term 'air balloon' has the meaning given the term 'balloon' in section 1.1 of title 14, Code of Federal Regulations (or any corresponding similar regulation or ruling)."

DESIGNATED PILOT EXAMINER REFORMS

Pub. L. 115–254, div. B, title III, §319, Oct. 5, 2018, 132 Stat. 3269, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall assign to the Aviation Rulemaking Advisory Committee (in this section referred to as the 'Committee') the task of reviewing all regulations and policies related to designated pilot examiners appointed under section 183.23 of title 14, Code of Federal Regulations. The Committee shall focus on the processes and requirements by which the FAA [Federal Aviation Administration] selects, trains, and deploys individuals as designated pilot examiners, and provide recommendations with respect to the regulatory and policy changes necessary to ensure an adequate number of designated pilot examiners are deployed and available to perform their duties. The Committee also shall make recommendations with respect to the regulatory and policy changes if necessary to allow a designated pilot examiner perform a daily limit of 3 new check rides with no limit for partial check rides and to serve as a designed pilot examiner without regard to any individual managing office.

"(b) ACTION BASED ON RECOMMENDATIONS.—Not later than 1 year after receiving recommendations under subsection (a), the Administrator shall take such action as the Administrator considers appropriate with respect to those recommendations."

PUBLIC AIRCRAFT ELIGIBLE FOR LOGGING FLIGHT TIMES

Pub. L. 118–63, title VIII, §826, May 16, 2024, 138 Stat. 1332, provided that:

"(a) FORESTRY AND FIRE PROTECTION FLIGHT TIME LOGGING.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, aircraft under the direct operational control of forestry and fire protection agencies are eligible to log pilot flight times, if the flight time was acquired by the pilot while engaged on an official forestry or fire protection flight, in the same manner as aircraft under the direct operational control of a Federal, State, county, or municipal law enforcement agency.

"(2) RETROACTIVE APPLICATION.—Paragraph (1) shall be applied as if enacted on October 5, 2018.

"(b) REGULATIONS.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall make such regulatory changes as are necessary to conform to the requirements of this section."

Pub. L. 115–254, div. B, title V, §517, Oct. 5, 2018, 132 Stat. 3359, provided that: "The Administrator [of the Federal Aviation Administration] shall issue regulations modifying section 61.51(j)(4) of title 14, Code of Federal Regulations, so as to include aircraft under the direct operational control of forestry and fire protection agencies as public aircraft eligible for logging flight times."

PORTABILITY OF REPAIRMAN CERTIFICATES

Pub. L. 115–254, div. B, title V, §582, Oct. 5, 2018, 132 Stat. 3399, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall assign to the Aviation Rulemaking Advisory Committee the task of making recommendations with respect to the regulatory and policy changes, as appropriate, to allow a repairman certificate issued under section 65.101 of title 14, Code of Federal Regulations, to be portable from one employing certificate holder to another.

"(b) ACTION BASED ON RECOMMENDATIONS.—Not later than 1 year after receiving recommendations under subsection (a), the Administrator may take such action as the Administrator considers appropriate with respect to those recommendations."

MEDICAL CERTIFICATION OF CERTAIN SMALL AIRCRAFT PILOTS

Pub. L. 114–190, title II, §2307, July 15, 2016, 130 Stat. 641, as amended by Pub. L. 118–63, title VIII, §828(a), May 16, 2024, 138 Stat. 1336, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration shall issue or revise regulations to ensure that an individual may operate as pilot in command of a covered aircraft if—

"(1) the individual possesses a valid driver's license issued by a State, territory, or possession of the United States and complies with all medical requirements or restrictions associated with that license;

"(2) the individual holds a medical certificate issued by the Federal Aviation Administration or has held such a certificate at any time after July 14, 2006;

"(3) the most recent medical certificate issued by the Federal Aviation Administration to the individual—

"(A) indicates whether the certificate is first, second, or third class;

"(B) may include authorization for special issuance;

"(C) may be expired;

"(D) cannot have been revoked or suspended; and

"(E) cannot have been withdrawn;

"(4) the most recent application for airman medical certification submitted to the Federal Aviation Administration by the individual cannot have been completed and denied;

"(5) the individual has completed a medical education course described in subsection (c) during the 24 calendar months before acting as pilot in command of a covered aircraft and demonstrates proof of completion of the course;

"(6) the individual, when serving as a pilot in command, is under the care and treatment of a physician if the individual has been diagnosed with any medical condition that may impact the ability of the individual to fly;

"(7) the individual has received a comprehensive medical examination from a State-licensed physician during the previous 48 calendar months and—

"(A) prior to the examination, the individual—

"(i) completed the individual's section of the checklist described in subsection (b); and

"(ii) provided the completed checklist to the physician performing the examination; and

"(B) the physician conducted the comprehensive medical examination in accordance with the checklist described in subsection (b), checking each item specified during the examination and addressing, as medically appropriate, every medical condition listed, and any medications the individual is taking; and

"(8) the individual is operating in accordance with the following conditions:

"(A) The covered aircraft is carrying not more than 6 passengers.

"(B) The individual is operating the covered aircraft under visual flight rules or instrument flight rules.

"(C) The flight, including each portion of that flight, is not carried out—

"(i) for compensation or hire, including that no passenger or property on the flight is being carried for compensation or hire;

"(ii) at an altitude that is more than 18,000 feet above mean sea level;

"(iii) outside the United States, unless authorized by the country in which the flight is conducted; or

"(iv) at an indicated air speed exceeding 250 knots.

"(b) COMPREHENSIVE MEDICAL EXAMINATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [July 15, 2016], the Administrator shall develop a checklist for an individual to complete and provide to the physician performing the comprehensive medical examination required in subsection (a)(7).

"(2) REQUIREMENTS.—The checklist shall contain—

"(A) a section, for the individual to complete that contains—

"(i) boxes 3 through 13 and boxes 16 through 19 of the Federal Aviation Administration Form 8500–8 (3–99) (or any successor form); and

"(ii) a signature line for the individual to affirm that—

"(I) the answers provided by the individual on that checklist, including the individual's answers regarding medical history, are true and complete;

"(II) the individual understands that he or she is prohibited under Federal Aviation Administration regulations from acting as pilot in command, or any other capacity as a required flight crew member, if he or she knows or has reason to know of any medical deficiency or medically disqualifying condition that would make the individual unable to operate the aircraft in a safe manner; and

"(III) the individual is aware of the regulations pertaining to the prohibition on operations during medical deficiency and has no medically disqualifying conditions in accordance with applicable law;

"(B) a section with instructions for the individual to provide the completed checklist to the physician performing the comprehensive medical examination required in subsection (a)(7); and

"(C) a section, for the physician to complete, that instructs the physician—

"(i) to perform a clinical examination of—

"(I) head, face, neck, and scalp;

"(II) nose, sinuses, mouth, and throat;

"(III) ears, general (internal and external canals), and eardrums (perforation);

"(IV) eyes (general), ophthalmoscopic, pupils (equality and reaction), and ocular motility (associated parallel movement, nystagmus);

"(V) lungs and chest (not including breast examination);

"(VI) heart (precordial activity, rhythm, sounds, and murmurs);
"(VII) vascular system (pulse, amplitude, and character, and arms, legs, and others);
"(VIII) abdomen and viscera (including hernia);
"(IX) anus (not including digital examination);
"(X) skin;
"(XI) G–U system (not including pelvic examination);
"(XII) upper and lower extremities (strength and range of motion);
"(XIII) spine and other musculoskeletal;
"(XIV) identifying body marks, scars, and tattoos (size and location);
"(XV) lymphatics;
"(XVI) neurologic (tendon reflexes, equilibrium, senses, cranial nerves, and coordination, etc.);
"(XVII) psychiatric (appearance, behavior, mood, communication, and memory);
"(XVIII) general systemic;
"(XIX) hearing;
"(XX) vision (distant, near, and intermediate vision, field of vision, color vision, and ocular alignment);
"(XXI) blood pressure and pulse; and
"(XXII) anything else the physician, in his or her medical judgment, considers necessary;

"(ii) to exercise medical discretion to address, as medically appropriate, any medical conditions identified, and to exercise medical discretion in determining whether any medical tests are warranted as part of the comprehensive medical examination;

"(iii) to discuss all drugs the individual reports taking (prescription and nonprescription) and their potential to interfere with the safe operation of an aircraft or motor vehicle;

"(iv) to sign the checklist, stating: 'I certify that I discussed all items on this checklist with the individual during my examination, discussed any medications the individual is taking that could interfere with their ability to safely operate an aircraft or motor vehicle, and performed an examination that included all of the items on this checklist. I certify that I am not aware of any medical condition that, as presently treated, could interfere with the individual's ability to safely operate an aircraft.'; and

"(v) to provide the date the comprehensive medical examination was completed, and the physician's full name, address, telephone number, and State medical license number.

"(3) LOGBOOK.—The completed checklist shall be retained in the individual's logbook and made available on request.

"(c) MEDICAL EDUCATION COURSE REQUIREMENTS.—The medical education course described in this subsection shall—

"(1) be available on the Internet free of charge;

"(2) be developed and periodically updated in coordination with representatives of relevant nonprofit and not-for-profit general aviation stakeholder groups;

"(3) educate pilots on conducting medical self-assessments;

"(4) advise pilots on identifying warning signs of potential serious medical conditions;

"(5) identify risk mitigation strategies for medical conditions;

"(6) increase awareness of the impacts of potentially impairing over-the-counter and prescription drug medications;

"(7) encourage regular medical examinations and consultations with primary care physicians;

"(8) inform pilots of the regulations pertaining to the prohibition on operations during medical deficiency and medically disqualifying conditions;

"(9) provide the checklist developed by the Federal Aviation Administration in accordance with subsection (b); and

"(10) upon successful completion of the course, electronically provide to the individual and transmit to the Federal Aviation Administration—

"(A) a certification of completion of the medical education course, which shall be printed and retained in the individual's logbook and made available upon request, and shall contain the individual's name, address, and airman certificate number;

"(B) subject to subsection (d), a release authorizing the National Driver Register through a designated State Department of Motor Vehicles to furnish to the Federal Aviation Administration information pertaining to the individual's driving record;

"(C) a certification by the individual that the individual is under the care and treatment of a physician if the individual has been diagnosed with any medical condition that may impact the ability of the individual to fly, as required under subsection (a)(6);

"(D) a form that includes—

"(i) the name, address, telephone number, and airman certificate number of the individual;

"(ii) the name, address, telephone number, and State medical license number of the physician performing the comprehensive medical examination required in subsection (a)(7);

"(iii) the date of the comprehensive medical examination required in subsection (a)(7); and

"(iv) a certification by the individual that the checklist described in subsection (b) was followed and signed by the physician in the comprehensive medical examination required in subsection (a)(7); and

"(E) a statement, which shall be printed, and signed by the individual certifying that the individual understands the existing prohibition on operations during medical deficiency by stating: 'I understand that I cannot act as pilot in command, or any other capacity as a required flight crew member, if I know or have reason to know of any medical condition that would make me unable to operate the aircraft in a safe manner.'.

"(d) NATIONAL DRIVER REGISTER.—The authorization under subsection (c)(10)(B) shall be an authorization for a single access to the information contained in the National Driver Register.

"(e) SPECIAL ISSUANCE PROCESS.—

"(1) IN GENERAL.—An individual who has qualified for the third-class medical certificate exemption under subsection (a) and is seeking to serve as a pilot in command of a covered aircraft shall be required to have completed the process for obtaining an Authorization for Special Issuance of a Medical Certificate for each of the following:

"(A) A mental health disorder, limited to an established medical history or clinical diagnosis of—

"(i) personality disorder that is severe enough to have repeatedly manifested itself by overt acts;

"(ii) psychosis, defined as a case in which an individual—

"(I) has manifested delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of psychosis; or

"(II) may reasonably be expected to manifest delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of psychosis;

"(iii) bipolar disorder; or

"(iv) substance dependence within the previous 2 years, as defined in section 67.307(a)(4) of title 14, Code of Federal Regulations.

"(B) A neurological disorder, limited to an established medical history or clinical diagnosis of any of the following:

"(i) Epilepsy.

"(ii) Disturbance of consciousness without satisfactory medical explanation of the cause.

"(iii) A transient loss of control of nervous system functions without satisfactory medical explanation of the cause.

"(C) A cardiovascular condition, limited to a one-time special issuance for each diagnosis of the following:

"(i) Myocardial infraction [sic].

"(ii) Coronary heart disease that has required treatment.

"(iii) Cardiac valve replacement.

"(iv) Heart replacement.

"(2) SPECIAL RULE FOR CARDIOVASCULAR CONDITIONS.—In the case of an individual with a cardiovascular condition, the process for obtaining an Authorization for Special Issuance of a Medical Certificate shall be satisfied with the successful completion of an appropriate clinical evaluation without a mandatory wait period.

"(3) SPECIAL RULE FOR MENTAL HEALTH CONDITIONS.—

"(A) IN GENERAL.—In the case of an individual with a clinically diagnosed mental health condition, the third-class medical certificate exemption under subsection (a) shall not apply if—

"(i) in the judgment of the individual's State-licensed medical specialist, the condition—

"(I) renders the individual unable to safely perform the duties or exercise the airman privileges described in subsection (a)(8); or

"(II) may reasonably be expected to make the individual unable to perform the duties or exercise the privileges described in subsection (a)(8); or

"(ii) the individual's driver's license is revoked by the issuing agency as a result of a clinically diagnosed mental health condition.

"(B) CERTIFICATION.—Subject to subparagraph (A), an individual clinically diagnosed with a mental health condition shall certify every 2 years, in conjunction with the certification under subsection

(c)(10)(C), that the individual is under the care of a State-licensed medical specialist for that mental health condition.

"(4) SPECIAL RULE FOR NEUROLOGICAL CONDITIONS.—

"(A) IN GENERAL.—In the case of an individual with a clinically diagnosed neurological condition, the third-class medical certificate exemption under subsection (a) shall not apply if—

"(i) in the judgment of the individual's State-licensed medical specialist, the condition—

"(I) renders the individual unable to safely perform the duties or exercise the airman privileges described in subsection (a)(8); or

"(II) may reasonably be expected to make the individual unable to perform the duties or exercise the privileges described in subsection (a)(8); or

"(ii) the individual's driver's license is revoked by the issuing agency as a result of a clinically diagnosed neurological condition.

"(B) CERTIFICATION.—Subject to subparagraph (A), an individual clinically diagnosed with a neurological condition shall certify every 2 years, in conjunction with the certification under subsection (c)(10)(C), that the individual is under the care of a State-licensed medical specialist for that neurological condition.

"(f) IDENTIFICATION OF ADDITIONAL MEDICAL CONDITIONS FOR CACI PROGRAM.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [July 15, 2016], the Administrator shall review and identify additional medical conditions that could be added to the program known as the Conditions AMEs Can Issue (CACI) program.

"(2) CONSULTATIONS.—In carrying out paragraph (1), the Administrator shall consult with aviation, medical, and union stakeholders.

"(3) REPORT REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report listing the medical conditions that have been added to the CACI program under paragraph (1).

"(g) EXPEDITED AUTHORIZATION FOR SPECIAL ISSUANCE OF A MEDICAL CERTIFICATE.—

"(1) IN GENERAL.—The Administrator shall implement procedures to expedite the process for obtaining an Authorization for Special Issuance of a Medical Certificate under section 67.401 of title 14, Code of Federal Regulations.

"(2) CONSULTATIONS.—In carrying out paragraph (1), the Administrator shall consult with aviation, medical, and union stakeholders.

"(3) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing how the procedures implemented under paragraph (1) will streamline the process for obtaining an Authorization for Special Issuance of a Medical Certificate and reduce the amount of time needed to review and decide special issuance cases.

"(h) REPORT REQUIRED.—Not later than 4 years after the date of enactment of the FAA Reauthorization Act of 2024 [May 16, 2024], the Administrator, in coordination with the National Transportation Safety Board, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes the effect of the regulations issued or revised under subsection (a) and includes statistics with respect to changes in small aircraft activity and safety incidents.

"(i) PROHIBITION ON ENFORCEMENT ACTIONS.—Beginning on the date that is 1 year after the date of enactment of this Act, the Administrator may not take an enforcement action for not holding a valid third-class medical certificate against a pilot of a covered aircraft for a flight if the pilot and the flight meet, through a good faith effort, the applicable requirements under subsection (a), except paragraph (5) of that subsection, unless the Administrator has published final regulations in the Federal Register under that subsection.

"(j) COVERED AIRCRAFT DEFINED.—In this section, the term 'covered aircraft' means an aircraft that—

"(1) is authorized under Federal law to carry not more than 7 occupants;

"(2) has a maximum certificated takeoff weight of not more than 12,500 pounds; and

"(3) is not a transport category rotorcraft certified to airworthiness standards under part 29 of title 14, Code of Federal Regulations.

"(k) OPERATIONS COVERED.—The provisions and requirements covered in this section do not apply to pilots who elect to operate under the medical requirements under subsection (b) or subsection (c) of section

61.23 of title 14, Code of Federal Regulations.

"(l) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—

"(1) IN GENERAL.—If the Administrator receives credible or urgent information, including from the National Driver Register or the Administrator's Safety Hotline, that reflects on an individual's ability to safely operate a covered aircraft under the third-class medical certificate exemption in subsection (a), the Administrator may require the individual to provide additional information or history so that the Administrator may determine whether the individual is safe to continue operating a covered aircraft.

"(2) USE OF INFORMATION.—The Administrator may use credible or urgent information received under paragraph (1) to request an individual to provide additional information or to take actions under section 44709(b) of title 49, United States Code."

[Pub. L. 118–63, title VIII, §828(b), (c), May 16, 2024, 138 Stat. 1336, provided that:

["(b) RULEMAKING.—The Administrator [of the Federal Aviation Administration] shall update regulations in parts 61 and 68 of title 14, Code of Federal Regulations, as necessary, to implement the amendments made by this section [amending section 2307 of Pub. L. 114–190, set out above].

["(c) APPLICABILITY.—Beginning on the date that is 180 days after the date of enactment of this Act [May 16, 2024], the Administrator shall apply parts 61 and 68, Code of Federal Regulations, in a manner reflecting the amendments made by this section."]

FEDERAL AVIATION ADMINISTRATION ENFORCEMENT PROCEEDINGS AND ELIMINATION OF DEFERENCE

Pub. L. 112–153, §2, Aug. 3, 2012, 126 Stat. 1159, as amended by Pub. L. 115–254, div. B, title III, §392, Oct. 5, 2018, 132 Stat. 3323; Pub. L. 118–63, title VIII, §807, May 16, 2024, 138 Stat. 1324, provided that:

"(a) IN GENERAL.—Any proceeding conducted under subpart C, D, or F of part 821 of title 49, Code of Federal Regulations, relating to denial, amendment, modification, suspension, or revocation of an airman certificate, shall be conducted, to the extent practicable, in accordance with the Federal Rules of Civil Procedure [28 U.S.C. App.] and the Federal Rules of Evidence [28 U.S.C. App.].

"(b) ACCESS TO INFORMATION.—

"(1) IN GENERAL.—Except as provided under paragraph (3), the Administrator of the Federal Aviation Administration (referred to in this section as the 'Administrator') shall provide timely, written notification to an individual who is the subject of an investigation relating to the approval, denial, suspension, modification, or revocation of an airman certificate under chapter 447 of title 49, United States Code.

"(2) INFORMATION REQUIRED.—The notification required under paragraph (1) shall inform the individual—

"(A) of the nature of the investigation and the specific activity on which the investigation is based;

"(B) that an oral or written response to a Letter of Investigation from the Administrator is not required;

"(C) that no action or adverse inference can be taken against the individual for declining to respond to a Letter of Investigation from the Administrator;

"(D) that any response to a Letter of Investigation from the Administrator or to an inquiry made by a representative of the Administrator by the individual may be used as evidence against the individual;

"(E) that the releasable portions of the Administrator's investigative report will be available to the individual; and

"(F) that the individual is entitled to access or otherwise obtain air traffic data described in paragraph (4).

"(3) EXCEPTION.—The Administrator may delay notification under paragraph (1) if the Administrator determines that such notification may threaten the integrity of the investigation.

"(4) ACCESS TO AIR TRAFFIC DATA.—

"(A) FAA AIR TRAFFIC DATA.—The Administrator shall provide an individual described in paragraph (1) with timely access to any air traffic data in the possession of the Federal Aviation Administration that would facilitate the individual's ability to productively participate in a proceeding relating to an investigation described in such paragraph.

"(B) AIR TRAFFIC DATA DEFINED.—As used in subparagraph (A), the term 'air traffic data' includes—

"(i) relevant air traffic communication tapes;

"(ii) radar information;

"(iii) air traffic controller statements;

"(iv) flight data;

"(v) investigative reports; and

"(vi) any other air traffic or flight data in the Federal Aviation Administration's possession that would facilitate the individual's ability to productively participate in the proceeding.

"(C) GOVERNMENT CONTRACTOR AIR TRAFFIC DATA.—

"(i) IN GENERAL.—Any individual described in paragraph (1) is entitled to obtain any air traffic data that would facilitate the individual's ability to productively participate in a proceeding relating to an investigation described in such paragraph from a government contractor that provides operational services to the Federal Aviation Administration, including control towers and flight service stations.

"(ii) REQUIRED INFORMATION FROM INDIVIDUAL.—The individual may obtain the information described in clause (i) by submitting a request to the Administrator that—

"(I) describes the facility at which such information is located; and

"(II) identifies the date on which such information was generated.

"(iii) PROVISION OF INFORMATION TO INDIVIDUAL.—If the Administrator receives a request under this subparagraph, the Administrator shall—

"(I) request the contractor to provide the requested information; and

"(II) upon receiving such information, transmitting the information to the requesting individual in a timely manner.

"(5) TIMING.—Except when the Administrator determines that an emergency exists under section 44709(e)(2) or 46105(c) [of title 49, United States Code], the Administrator may not proceed against an individual that is the subject of an investigation described in paragraph (1) during the 30-day period beginning on the date on which the air traffic data required under paragraph (4) is made available to the individual.

"(6) RESPONSE TO LETTER OF INVESTIGATION.—

"(A) IN GENERAL.—If an individual decides to respond to a Letter of Investigation described in paragraph (2)(B), such individual may respond not later than 30 days after receipt of such Letter, including providing written comments on the incident to the investigating office.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to diminish the authority of the Administrator (as of the day before the date of enactment of the FAA Reauthorization Act of 2024 [May 16, 2024]) to take emergency action relating to an airman certificate.

"(c) AMENDMENTS TO TITLE 49.—

"(1) AIRMAN CERTIFICATES.—[Amended this section.]

"(2) AMENDMENTS, MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS OF CERTIFICATES.—[Amended section 44709 of this title.]

"(3) REVOCATION OF AIRMAN CERTIFICATES FOR CONTROLLED SUBSTANCE VIOLATIONS.—[Amended section 44710 of this title.]

"(d) APPEAL FROM CERTIFICATE ACTIONS.—

"(1) IN GENERAL.—Upon a decision by the National Transportation Safety Board upholding an order or a final decision by the Administrator denying an airman certificate under section 44703(d) of title 49, United States Code, or imposing a punitive civil action or an emergency order of revocation under subsections (d) and (e) of section 44709 of such title, an individual substantially affected by an order of the Board may, at the individual's election, file an appeal in the United States district court in which the individual resides or in which the action in question occurred, or in the United States District Court for the District of Columbia. If the individual substantially affected by an order of the Board elects not to file an appeal in a United States district court, the individual may file an appeal in an appropriate United States court of appeals.

"(2) EMERGENCY ORDER PENDING JUDICIAL REVIEW.—Subsequent to a decision by the Board to uphold an Administrator's emergency order under section 44709(e)(2) of title 49, United States Code, and absent a stay of the enforcement of that order by the Board, the emergency order of amendment, modification, suspension, or revocation of a certificate shall remain in effect, pending the exhaustion of an appeal to a Federal district court as provided in this Act [amending this section and sections 44709 and 44710 of this title and enacting provisions set out as notes under this section and sections 40101 and 44701 of this title].

"(e) STANDARD OF REVIEW.—

"(1) IN GENERAL.—In an appeal filed under subsection (d) in a United States district court, the district court shall give full independent review of a denial, suspension, or revocation ordered by the Administrator, including substantive independent and expedited review of any decision by the

Administrator to make such order effective immediately.

"(2) EVIDENCE.—A United States district court's review under paragraph (1) shall include in evidence any record of the proceeding before the Administrator and any record of the proceeding before the National Transportation Safety Board, including hearing testimony, transcripts, exhibits, decisions, and briefs submitted by the parties.

"(f) RELEASE OF INVESTIGATIVE REPORTS.—

"(1) IN GENERAL.—

"(A) EMERGENCY ORDERS.—In any proceeding conducted under part 821 of title 49, Code of Federal Regulations, relating to the amendment, modification, suspension, or revocation of an airman certificate, in which the Administrator issues an emergency order under subsections (d) and (e) of section 44709, section 44710, or section 46105(c) of title 49, United States Code, or another order that takes effect immediately, the Administrator shall provide, upon request, to the individual holding the airman certificate the releasable portion of the investigative report at the time the Administrator issues the order. If the complete Report of Investigation is not available at the time of the request, the Administrator shall issue all portions of the report that are available at the time and shall provide the full report not later than 5 days after its completion.

"(B) OTHER ORDERS.—In any nonemergency proceeding conducted under part 821 of title 49, Code of Federal Regulations, relating to the amendment, modification, suspension, or revocation of an airman certificate, in which the Administrator notifies the certificate holder of a proposed certificate action under subsections (b) and (c) of section 44709 or section 44710 of title 49, United States Code, the Administrator shall, upon the written request of the covered certificate holder and at any time after that notification, provide to the covered certificate holder the releasable portion of the investigative report.

"(2) MOTION FOR DISMISSAL.—If the Administrator does not provide the releasable portions of the investigative report to the individual holding the airman certificate subject to the proceeding referred to in paragraph (1) by the time required by that paragraph, the individual may move to dismiss the complaint of the Administrator or for other relief and, unless the Administrator establishes good cause for the failure to provide the investigative report or for a lack of timeliness, the administrative law judge shall order such relief as the judge considers appropriate.

"(3) RELEASABLE PORTION OF INVESTIGATIVE REPORT.—For purposes of paragraph (1), the releasable portion of an investigative report is all information in the report, except for the following:

"(A) Information that is privileged.

"(B) Information that constitutes work product or reflects internal deliberative process.

"(C) Information that would disclose the identity of a confidential source.

"(D) Information the disclosure of which is prohibited by any other provision of law.

"(E) Information that is not relevant to the subject matter of the proceeding.

"(F) Information the Administrator can demonstrate is withheld for good cause.

"(G) Sensitive security information, as defined in section 15.5 of title 49, Code of Federal Regulations (or any corresponding similar ruling or regulation).

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Administrator from releasing to an individual subject to an investigation described in subsection (b)(1)—

"(A) information in addition to the information included in the releasable portion of the investigative report; or

"(B) a copy of the investigative report before the Administrator issues a complaint."

MEDICAL CERTIFICATION

Pub. L. 112–153, §4, Aug. 3, 2012, 126 Stat. 1162, provided that:

"(a) ASSESSMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Aug. 3, 2012], the Comptroller General of the United States shall initiate an assessment of the Federal Aviation Administration's medical certification process and the associated medical standards and forms.

"(2) REPORT.—The Comptroller General shall submit a report to Congress based on the assessment required under paragraph (1) that examines—

"(A) revisions to the medical application form that would provide greater clarity and guidance to applicants;

"(B) the alignment of medical qualification policies with present-day qualified medical judgment and practices, as applied to an individual's medically relevant circumstances; and

"(C) steps that could be taken to promote the public's understanding of the medical requirements that determine an airman's medical certificate eligibility.

"(b) GOALS OF THE FEDERAL AVIATION ADMINISTRATION'S MEDICAL CERTIFICATION PROCESS.—The goals of the Federal Aviation Administration's medical certification process are—

"(1) to provide questions in the medical application form that—

"(A) are appropriate without being overly broad;

"(B) are subject to a minimum amount of misinterpretation and mistaken responses;

"(C) allow for consistent treatment and responses during the medical application process; and

"(D) avoid unnecessary allegations that an individual has intentionally falsified answers on the form;

"(2) to provide questions that elicit information that is relevant to making a determination of an individual's medical qualifications within the standards identified in the Administrator's regulations;

"(3) to give medical standards greater meaning by ensuring the information requested aligns with present-day medical judgment and practices; and

"(4) to ensure that—

"(A) the application of such medical standards provides an appropriate and fair evaluation of an individual's qualifications; and

"(B) the individual understands the basis for determining medical qualifications.

"(c) ADVICE FROM PRIVATE SECTOR GROUPS.—The Administrator shall establish a panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, aviation medical examiners, and other qualified medical experts, to advise the Administrator in carrying out the goals of the assessment required under this section.

"(d) FEDERAL AVIATION ADMINISTRATION RESPONSE.—Not later than 1 year after the issuance of the report by the Comptroller General pursuant to subsection (a)(2), the Administrator shall take appropriate actions to respond to such report."

REEXAMINATION OF AN AIRMAN CERTIFICATE

Pub. L. 112–153, §5, as added by Pub. L. 118–63, title VIII, §801, May 16, 2024, 138 Stat. 1320, provided that:

"(a) IN GENERAL.—The Administrator shall provide timely, written notification to an individual subject to a reexamination of an airman certificate issued under chapter 447 of title 49, United States Code.

"(b) INFORMATION REQUIRED.—In providing notification under subsection (a), the Administrator shall inform the individual—

"(1) of the nature of the reexamination and the specific activity on which the reexamination is necessitated;

"(2) that the reexamination shall occur within 1 year from the date of the notice provided by the Administrator, however, if the reexamination is not conducted within 30 days, the Administrator may restrict passenger carrying operations;

"(3) that if such reexamination is not conducted after 1 year from date of notice, the airman certificate of the individual may be suspended or revoked; and

"(4) when, as determined by the Administrator, an oral or written response to the notification from the Administrator is not required.

"(c) EXCEPTION.—Nothing in this section prohibits the Administrator from reexamining a certificate holder if the Administrator has reasonable grounds—

"(1) to establish that an airman may not be qualified to exercise the privileges of a certificate or rating based upon an act or omission committed by the airman while exercising such privileges or performing ancillary duties associated with the exercise of such privileges; or

"(2) to demonstrate that the airman obtained such a certificate or rating through fraudulent means or through an examination that was inadequate to establish the qualifications of an airman.

"(d) STANDARD OF REVIEW.—An order issued by the Administrator to amend, modify, suspend, or revoke an airman certificate after reexamination of the airman is subject to the standard of review provided for under section 2 of this Act [Pub. L. 112–153, set out as a note above]."

IMPROVED PILOT LICENSES

Pub. L. 112–95, title III, §321, Feb. 14, 2012, 126 Stat. 71, which related to the issuance by the Administrator of the Federal Aviation Administration of improved pilot licenses and required reports to Congress, was repealed by Pub. L. 118–63, title II, §218(j)(2), May 16, 2024, 138 Stat. 1056.

Pub. L. 108–458, title IV, §4022, Dec. 17, 2004, 118 Stat. 3723, which related to the issuance of improved pilot licenses, was repealed by Pub. L. 118–63, title II, §218(j)(1), May 16, 2024, 138 Stat. 1056.

CREDITING OF LAW ENFORCEMENT FLIGHT TIME

Pub. L. 106–424, §14, Nov. 1, 2000, 114 Stat. 1888, provided that: "In determining whether an individual meets the aeronautical experience requirements imposed under section 44703 of title 49, United States Code, for an airman certificate or rating, the Secretary of Transportation shall take into account any time spent by that individual operating a public aircraft as defined in section 40102 of title 49, United States Code, if that aircraft is—

"(1) identifiable by category and class; and

"(2) used in law enforcement activities."

[1] *See Termination Date note below.*

§44704. Type certificates, production certificates, airworthiness certificates, and design and production organization certificates

(a) TYPE CERTIFICATES.—

(1) ISSUANCE, INVESTIGATIONS, AND TESTS.—The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.

(2) SPECIFICATIONS.—The Administrator may—

(A) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(B) include in a type certificate terms required in the interest of safety; and

(C) record on the certificate a numerical specification of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

(3) SPECIAL RULES FOR NEW AIRCRAFT AND APPLIANCES.—Except as provided in paragraph (4), if the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. Such other person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if such other person is the holder of the type certificate or has permission from the holder.

(4) LIMITATION FOR AIRCRAFT MANUFACTURED BEFORE AUGUST 5, 2004 .—Paragraph (3) shall not apply to a person who began the manufacture of an aircraft before August 5, 2004, and who demonstrates to the satisfaction of the Administrator that such manufacture began before August 5, 2004, if the name of the holder of the type certificate for the aircraft does not appear on the airworthiness certificate or identification plate of the aircraft. The holder of the type certificate for the aircraft shall not be responsible for the continued airworthiness of the aircraft. A person may invoke the exception provided by this paragraph with regard to the manufacture of only one aircraft.

(5) RELEASE OF DATA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may make available upon request, to a person seeking to maintain the airworthiness or develop product improvements of an aircraft, engine, propeller, or appliance, engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate for such aircraft, engine, propeller, or appliance, without the consent of the owner of record, if the Administrator determines that—

(i) the certificate containing the requested data has been inactive for 3 or more years,

except that the Administrator may reduce this time if required to address an unsafe condition associated with the product;

(ii) after using due diligence, the Administrator is unable to find the owner of record, or the owner of record's heir, of the type certificate or supplemental type certificate; and

(iii) making such data available will enhance aviation safety.

(B) ENGINEERING DATA DEFINED.—In this section, the term "engineering data" as used with respect to an aircraft, engine, propeller, or appliance means type design drawing and specifications for the entire aircraft, engine, propeller, or appliance or change to the aircraft, engine, propeller, or appliance, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular certificate for the aircraft, engine, propeller, or appliance.

(C) REQUIREMENT TO MAINTAIN DATA.—The Administrator shall maintain engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate that has been inactive for 3 or more years.

(6) SUBMISSION OF DATA.—When an applicant submits design data to the Administrator for a finding of compliance as part of an application for a type certificate, the applicant shall certify to the Administrator that—

(A) the submitted design data demonstrates compliance with the applicable airworthiness standards; and

(B) any airworthiness standards not complied with are compensated for by factors that provide an equivalent level of safety, as agreed upon by the Administrator.

(b) SUPPLEMENTAL TYPE CERTIFICATES.—

(1) ISSUANCE.—The Administrator may issue a type certificate designated as a supplemental type certificate for a change to an aircraft, aircraft engine, propeller, or appliance.

(2) CONTENTS.—A supplemental type certificate issued under paragraph (1) shall consist of the change to the aircraft, aircraft engine, propeller, or appliance with respect to the previously issued type certificate for the aircraft, aircraft engine, propeller, or appliance.

(3) REQUIREMENT.—If the holder of a supplemental type certificate agrees to permit another person to use the certificate to modify an aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may change an aircraft, aircraft engine, propeller, or appliance based on a supplemental type certificate only if the person requesting the change is the holder of the supplemental type certificate or has permission from the holder to make the change.

(c) PRODUCTION CERTIFICATES.—The Administrator shall issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator finds the duplicate will conform to the certificate. On receiving an application, the Administrator shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

(d) AIRWORTHINESS CERTIFICATES.—(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator finds that the aircraft conforms to its type certificate and, after inspection, is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. The certificate number or other individual designation the Administrator requires shall be displayed on the aircraft. The Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is

necessary to identify each person having a property interest in the aircraft and the kind and extent of the interest.

(3) NONCONFORMITY WITH APPROVED TYPE DESIGN.—

(A) IN GENERAL.—Consistent with the requirements of paragraph (1), a holder of a production certificate for an aircraft may not present a nonconforming aircraft, either directly or through the registered owner of such aircraft or a person described in paragraph (2), to the Administrator for issuance of an initial airworthiness certificate.

(B) CIVIL PENALTY.—Notwithstanding section 46301, a production certificate holder who knowingly violates subparagraph (A) shall be liable to the Administrator for a civil penalty of not more than $1,000,000 for each nonconforming aircraft.

(C) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subparagraph (B), the Administrator shall consider—

(i) the nature, circumstances, extent, and gravity of the violation, including the length of time the nonconformity was known by the holder of a production certificate but not disclosed; and

(ii) with respect to the violator, the degree of culpability, any history of prior violations, and the size of the business concern.

(D) NONCONFORMING AIRCRAFT DEFINED.—In this paragraph, the term "nonconforming aircraft" means an aircraft that does not conform to the approved type design for such aircraft type.

(e) DISCLOSURE OF SAFETY CRITICAL INFORMATION.—

(1) IN GENERAL.—Notwithstanding a delegation described in section 44702(d), the Administrator shall require an applicant for, or holder of, a type certificate for a transport category airplane covered under part 25 of title 14, Code of Federal Regulations, to submit safety critical information with respect to such airplane to the Administrator in such form, manner, or time as the Administrator may require. Such safety critical information shall include—

(A) any design and operational details, intended functions, and failure modes of any system that, without being commanded by the flight crew, commands the operation of any safety critical function or feature required for control of an airplane during flight or that otherwise changes the flight path or airspeed of an airplane;

(B) the design and operational details, intended functions, failure modes, and mode annunciations of autopilot and autothrottle systems, if applicable;

(C) any failure or operating condition that the applicant or holder anticipates or has concluded would result in an outcome with a severity level of hazardous or catastrophic, as defined in the appropriate Administration airworthiness requirements and guidance applicable to transport category airplanes defining risk severity;

(D) any adverse handling quality that fails to meet the requirements of applicable regulations without the addition of a software system to augment the flight controls of the airplane to produce compliant handling qualities; and

(E) a system safety assessment with respect to a system described in subparagraph (A) or (B) or with respect to any component or other system for which failure or erroneous operation of such component or system could result in an outcome with a severity level of hazardous or catastrophic, as defined in the appropriate Administration airworthiness requirements and guidance applicable to transport category airplanes defining risk severity.

(2) ONGOING COMMUNICATIONS.—

(A) NEWLY DISCOVERED INFORMATION.—The Administrator shall require that an applicant for, or holder of, a type certificate disclose to the Administrator, in such form, manner, or time as the Administrator may require, any newly discovered information or design or analysis change that would materially alter any submission to the Administrator under paragraph (1).

(B) SYSTEM DEVELOPMENT CHANGES.—The Administrator shall establish multiple

milestones throughout the certification process at which a proposed airplane system will be assessed to determine whether any change to such system during the certification process is such that such system should be considered novel or unusual by the Administrator.

(3) FLIGHT MANUALS.—The Administrator shall ensure that an airplane flight manual and a flight crew operating manual (as appropriate or applicable) for an airplane contains a description of the operation of a system described in paragraph (1)(A) and flight crew procedures for responding to a failure or aberrant operation of such system.

(4) CIVIL PENALTY.—

(A) AMOUNT.—Notwithstanding section 46301, an applicant for, or holder of, a type certificate that knowingly violates paragraph (1), (2), or (3) of this subsection shall be liable to the Administrator for a civil penalty of not more than $1,000,000 for each violation.

(B) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subparagraph (A), the Administrator shall consider—

(i) the nature, circumstances, extent, and gravity of the violation, including the length of time that such safety critical information was known but not disclosed; and

(ii) with respect to the violator, the degree of culpability, any history of prior violations, and the size of the business concern.

(5) REVOCATION AND CIVIL PENALTY FOR INDIVIDUALS.—

(A) IN GENERAL.—The Administrator shall revoke any airline transport pilot certificate issued under section 44703 held by any individual who, while acting on behalf of an applicant for, or holder of, a type certificate, knowingly makes a false statement with respect to any of the matters described in subparagraphs (A) through (E) of paragraph (1).

(B) AUTHORITY TO IMPOSE CIVIL PENALTY.—The Administrator may impose a civil penalty under section 46301 for each violation described in subparagraph (A).

(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect or otherwise inhibit the authority of the Administrator to deny an application by an applicant for a type certificate or to revoke or amend a type certificate of a holder of such certificate.

(7) DEFINITION OF TYPE CERTIFICATE.—In this subsection, the term "type certificate"—

(A) means a type certificate issued under subsection (a) or an amendment to such certificate; and

(B) does not include a supplemental type certificate issued under subsection (b).

(f) HEARING REQUIREMENT.—The Administrator may find that a person has violated subsection (d)(3) or paragraph (1), (2), or (3) of subsection (e) and impose a civil penalty under the applicable subsection only after notice and an opportunity for a hearing. The Administrator shall provide a person—

(1) written notice of the violation and the amount of penalty; and

(2) the opportunity for a hearing under subpart G of part 13 of title 14, Code of Federal Regulations.

(g) CERTIFICATION DISPUTE RESOLUTION.—

(1) DISPUTE RESOLUTION PROCESS AND APPEALS.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Administrator shall issue an order establishing—

(i) an effective, timely, and milestone-based issue resolution process for type certification activities under subsection (a); and

(ii) a process by which a decision, finding of compliance or noncompliance, or other act of the Administration, with respect to compliance with design requirements, may be appealed by

a covered person directly involved with the certification activities in dispute on the basis that such decision, finding, or act is erroneous or inconsistent with this chapter, regulations, or guidance materials promulgated by the Administrator, or other requirements.

(B) ESCALATION.—The order issued under subparagraph (A) shall provide processes for—

(i) resolution of technical issues at pre-established stages of the certification process, as agreed to by the Administrator and the type certificate applicant;

(ii) automatic elevation to appropriate management personnel of the Administration and the type certificate applicant of any major certification process milestone that is not completed or resolved within a specific period of time agreed to by the Administrator and the type certificate applicant;

(iii) resolution of a major certification process milestone elevated pursuant to clause (ii) within a specific period of time agreed to by the Administrator and the type certificate applicant;

(iv) initial review by appropriate Administration employees of any appeal described in subparagraph (A)(ii); and

(v) subsequent review of any further appeal by appropriate management personnel of the Administration and the Associate Administrator for Aviation Safety.

(C) DISPOSITION.—

(i) WRITTEN DECISION.—The Associate Administrator for Aviation Safety shall issue a written decision that states the grounds for the decision of the Associate Administrator on—

(I) each appeal submitted under subparagraph (A)(ii); and

(II) An appeal to the Associate Administrator submitted under subparagraph (B)(v).

(ii) REPORT TO CONGRESS.—Not later than December 31 of each calendar year through calendar year 2028, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing each appeal resolved under this subsection.

(D) FINAL REVIEW.—

(i) IN GENERAL.—A written decision of the Associate Administrator under subparagraph (C) may be appealed to the Administrator for a final review and determination.

(ii) DECLINE TO REVIEW.—The Administrator may decline to review an appeal initiated pursuant to clause (i).

(iii) JUDICIAL REVIEW.—No decision under this paragraph (including a decision to decline to review an appeal) shall be subject to judicial review.

(2) PROHIBITED CONTACTS.—

(A) PROHIBITION GENERALLY.—During the course of an appeal under this subsection, no covered official may engage in an ex parte communication (as defined in section 551 of title 5) with an individual representing or acting on behalf of an applicant for, or holder of, a certificate under this section in relation to such appeal unless such communication is disclosed pursuant to subparagraph (B).

(B) DISCLOSURE.—If, during the course of an appeal under this subsection, a covered official engages in, receives, or is otherwise made aware of an ex parte communication, the covered official shall disclose such communication in the public record at the time of the issuance of the written decision under paragraph (1)(C), including the time and date of the communication, subject of communication, and all persons engaged in such communication.

(3) DEFINITIONS.—In this subsection:

(A) COVERED PERSON.—The term "covered person" means either—

(i) an employee of the Administration whose responsibilities relate to the certification of aircraft, engines, propellers, or appliances; or

(ii) an applicant for, or holder of, a type certificate or amended type certificate issued under this section.

(B) COVERED OFFICIAL.—The term "covered official" means the following officials:

(i) The Executive Director or any Deputy Director of the Aircraft Certification Service.

(ii) The Deputy Executive Director for Regulatory Operations of the Aircraft Certification Service.

(iii) The Director or Deputy Director of the Compliance and Airworthiness Division of the Aircraft Certification Service.

(iv) The Director or Deputy Director of the System Oversight Division of the Aircraft Certification Service.

(v) The Director or Deputy Director of the Policy and Innovation Division of the Aircraft Certification Service.

(vi) The Executive Director or any Deputy Executive Director of the Flight Standards Service.

(vii) The Associate Administrator or Deputy Associate Administrator for Aviation Safety.

(viii) The Deputy Administrator of the Federal Aviation Administration.

(ix) The Administrator of the Federal Aviation Administration.

(x) Any similarly situated or successor FAA management position to those described in clauses (i) through (ix), as determined by the Administrator.

(C) MAJOR CERTIFICATION PROCESS MILESTONE.—The term "major certification process milestone" means a milestone related to the type certification basis, type certification plan, type inspection authorization, issue paper, or other major type certification activity agreed to by the Administrator and the type certificate applicant.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall apply to the communication of a good-faith complaint by any individual alleging—

(A) gross misconduct;

(B) a violation of title 18; or

(C) a violation of any of the provisions of part 2635 or 6001 of title 5, Code of Federal Regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1188; Pub. L. 104–264, title IV, §403, Oct. 9, 1996, 110 Stat. 3256; Pub. L. 108–176, title II, §227(b)(2), (e)(1), title VIII, §811, Dec. 12, 2003, 117 Stat. 2531, 2532, 2590; Pub. L. 109–59, title IV, §4405, Aug. 10, 2005, 119 Stat. 1776; Pub. L. 112–95, title III, §§302, 303(a), (c)(1), Feb. 14, 2012, 126 Stat. 56, 57; Pub. L. 115–254, div. B, title II, §214, Oct. 5, 2018, 132 Stat. 3250; Pub. L. 116–260, div. V, title I, §§105(a), (b), 110, 120, Dec. 27, 2020, 134 Stat. 2317, 2328, 2343; Pub. L. 118–63, title III, §§306(c), 343(a), title XI, §1101(k), May 16, 2024, 138 Stat. 1072, 1101, 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44704(a)(1)	49 App.:1423(a)(2) (1st–4th sentences).	Aug. 23, 1958, Pub. L. 85–726, §§503(h), 603(a)(1) (related to regulations for appliances), (2), (b) (related to basis for issuing, and contents of, certificates), (c) (related to basis for issuing, and contents of, certificates), 72 Stat. 774, 776.

	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44704(a)(2)	49 App.:1423(a)(1) (related to regulations for appliances), (2) (5th, last sentences).	
	49 App.:1655(c)(1).	
44704(b)	49 App.:1423(b) (related to basis for issuing, and contents of, certificates).	
	49 App.:1655(c)(1).	
44704(c)(1)	49 App.:1423(c) (related to basis for issuing, and contents of, certificates).	
	49 App.:1655(c)(1).	
44704(c)(2)	49 App.:1403(h).	
	49 App.:1655(c)(1).	

In subsections (a)–(c)(1), the word "Administrator" in section 603 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a)(1), the text of 49 App.:1423(a)(2) (1st sentence 1st–16th words) and the words "in regulations" are omitted as surplus. The words "properly designed and manufactured, performs properly" are substituted for "of proper design, material, specification, construction, and performance for safe operation" to eliminate unnecessary words. The word "rules" is omitted as being synonymous with "regulations". The words "under section 44701(a) of this title" and "for a type certificate" are added for clarity. The words "including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance" are omitted as surplus.

In subsection (a)(2)(A), the words "issuance of" are omitted as surplus.

In subsection (a)(2)(B), the words "the duration thereof and such other" are omitted as surplus. The words "conditions, and limitations" are omitted as being included in "terms".

In subsection (a)(2)(C), the words "issued for aircraft, aircraft engines, or propellers" and "all of" are omitted as surplus. The word "specification" is substituted for "determination" for clarity.

In subsection (b), the word "satisfactorily" is omitted as surplus. The words "shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate" are substituted for "shall make such inspection and may require such tests of any aircraft, aircraft engine, propeller, or appliance manufactured under a production certificate as may be necessary to assure manufacture of each unit in conformity with the type certificate or any amendment or modification thereof" to eliminate unnecessary words. The words "the duration thereof and such other . . . conditions, and limitations" are omitted as surplus.

In subsection (c)(1), the words "may apply to" are substituted for "may file with . . . an application" to eliminate unnecessary words. The words "in accordance with regulations prescribed by the Secretary of Transportation" are omitted because of 49:322(a). The words "the duration of such certificate, the type of service for which the aircraft may be used, and such other . . . conditions, and limitations" are omitted as surplus.

In subsection (c)(2), the words "having a property interest" are substituted for "who are holders of property interests" to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (g)(1)(A), is the date of enactment of Pub. L. 116–260, which was approved Dec. 27, 2020.

AMENDMENTS

2024—Subsec. (a)(6). Pub. L. 118–63, §343(a), added par. (6).

Subsec. (f). Pub. L. 118–63, §1101(k), substituted "subsection (d)(3)" for "subsection (a)(6)" in introductory

provisions.

Subsec. (g)(1)(C)(ii). Pub. L. 118–63, §306(c), substituted "calendar year 2028" for "calendar year 2025".

2020—Subsec. (a)(6). Pub. L. 116–260, §110(b), struck out par. (6) which related to type certification resolution process.

Subsec. (d)(3). Pub. L. 116–260, §120, added par. (3).

Subsec. (e). Pub. L. 116–260, §105(a), added subsec. (e) and struck out former subsec. (e) which related to design and production organization certificates.

Subsec. (f). Pub. L. 116–260, §105(b), added subsec. (f).

Subsec. (g). Pub. L. 116–260, §110(a), added subsec. (g).

2018—Pub. L. 115–254, §214(b), substituted "airworthiness certificates," for "airworthiness certificates,," in section catchline.

Subsec. (a)(6). Pub. L. 115–254, §214(a), added par. (6).

2012—Pub. L. 112–95, §303(c)(1), substituted ", and design and production organization certificates" for "and design organization certificates" in section catchline.

Subsec. (a)(5). Pub. L. 112–95, §302, added par. (5).

Subsec. (e). Pub. L. 112–95, §303(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to design organization certificates.

2005—Subsec. (a)(1) to (3). Pub. L. 109–59, §4405(1)–(3), (5), (6), inserted par. headings, realigned margins, and substituted "Except as provided in paragraph (4), if" for "If" in par. (3).

Subsec. (a)(4). Pub. L. 109–59, §4405(4), added par. (4).

2003—Pub. L. 108–176, §227(e)(1), added section catchline and struck out former section catchline which read as follows: "Type certificates, production certificates, and airworthiness certificates".

Subsec. (a)(3). Pub. L. 108–176, §811, added par. (3).

Subsec. (e). Pub. L. 108–176, §227(b)(2), added subsec. (e).

1996—Subsecs. (b) to (d). Pub. L. 104–264 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

USE OF ADVANCED TOOLS AND HIGH-RISK FLIGHT TESTING IN CERTIFYING AEROSPACE PRODUCTS

Pub. L. 118–63, title III, §311, May 16, 2024, 138 Stat. 1074, provided that:

"(a) ASSESSMENT.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall complete an assessment of the use of advanced tools during the testing, analysis, and verification stages of aerospace certification projects to reduce the risks associated with high-risk flight profiles and performing limit testing.

"(b) CONSIDERATIONS.—In carrying out the assessment under subsection (a), the Administrator shall consider—

"(1) instances in which high-risk flight profiles and limit testing have occurred in the certification process and the applicability of the data produced by such testing for use in other aspects of flight testing;

"(2) the safety of pilots during such testing;

"(3) the value and accuracy of data collected using the advanced tools described in subsection (a);

"(4) the ability to produce more extensive data sets using such advanced tools;

"(5) any aspects of such testing for which the use of such advanced tools would not be valuable or applicable;

"(6) the cost of using such advanced tools; and

"(7) the best practices of other international civil aviation authorities that permit the use of advanced tools during aerospace certification projects.

"(c) CONSULTATION.—In carrying out the assessment under subsection (a), the Administrator shall consult with—

"(1) aircraft manufacturers, including manufacturers that have designed and certified aircraft under—

"(A) part 23 of title 14, Code of Federal Regulations;

"(B) part 25 of such title; or

"(C) part 27 of such title;

"(2) aircraft manufacturers that have designed and certified, or are in the process of certifying, aircraft with a novel design under part 21.17(b) of such title;

"(3) associations representing aircraft manufacturers;

"(4) researchers and academics in related fields; and

"(5) pilots who are experts in flight testing.

"(d) CONGRESSIONAL REPORT.—Not later than 60 days after the completion of the assessment under subsection (a), the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the results of the assessment conducted under subsection (a).

"(e) REQUIRED UPDATES.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall take necessary actions based on the results of the assessment under subsection (a), including, as appropriate—

"(A) amending part 21 of title 14, Code of Federal Regulations; and

"(B) modifying any associated advisory circulars, guidance, or policy of the FAA [Federal Aviation Administration].

"(2) REQUIREMENTS.—In taking actions under paragraph (1), the Administrator shall consider—

"(A) developing validation criteria and procedures whereby data produced in high-fidelity engineering laboratories and facilities may be allowed (in conjunction with, or in lieu of) data produced on a flying test article to support an applicant's showing of compliance required under section 21.35(a)(1) of title 14, Code of Federal Regulations;

"(B) developing criteria and procedures whereby an Organization Designation Authorization (as defined in section 44736(c)(5) of title 49, United States Code) may recommend that certain data produced during an applicant's flight test program may be accepted by the FAA as final compliance data in accordance with section 21.35(b) of title 14, Code of Federal Regulations, at the sole discretion of the FAA; and

"(C) working with other international civil aviation authorities representing States of Design to—

"(i) identify their best practices relative to high risk-flight testing; and

"(ii) adopt such practices into the flight-testing requirements of the FAA to the maximum extent practicable."

TRANSPORT AIRPLANE AND PROPULSION CERTIFICATION MODERNIZATION

Pub. L. 118–63, title III, §312, May 16, 2024, 138 Stat. 1076, provided that: "Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall publish a notice of proposed rulemaking for the item titled 'Transport Airplane and Propulsion Certification Modernization', published in Fall 2022 in the Unified Agenda of Federal Regulatory and Deregulatory Actions (RIN 2120–AL42)."

INSTRUCTIONS FOR CONTINUED AIRWORTHINESS AVIATION RULEMAKING COMMITTEE

Pub. L. 118–63, title III, §349, May 16, 2024, 138 Stat. 1109, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall convene an aviation rulemaking committee to review, and develop findings and recommendations regarding, instructions for continued airworthiness (as described in section 21.50 of title 14, Code of Federal Regulations), and provide to the Administrator a report on such findings and recommendations and for other related purposes as determined by the Administrator.

"(b) COMPOSITION.—The aviation rulemaking committee established pursuant to subsection (a) shall consist of members appointed by the Administrator, including representatives of—

"(1) holders of type certificates (as described in subpart B of part 21, title 14, Code of Federal Regulations);

"(2) holders of production certificates (as described in subpart G of part 21, title 14, Code of Federal Regulations);

"(3) holders of parts manufacturer approvals (as described in subpart K of part 21, title 14, Code of

Federal Regulations);

"(4) holders of technical standard order authorizations (as described in subpart O of part 21, title 14, Code of Federal Regulations);

"(5) operators under parts 121, 125, or 135 of title 14, Code of Federal Regulations;

"(6) holders of repair station certificates (as described in section 145 of title 14, Code of Federal Regulations) that are not also type certificate holders as included under paragraph (1), production certificate holders as included under paragraph (2), or aircraft operators as included under paragraph (5) (or associated with any such entities);

"(7) the certified bargaining representative of aviation safety inspectors and engineers for the Administration;

"(8) general aviation operators;

"(9) mechanics certificated under part 65 of title 14, Code of Federal Regulations;

"(10) holders of supplemental type certificates (as described in subpart E of part 21 of title 14, Code of Federal Regulations);

"(11) designated engineering representatives employed by repair stations described in paragraph (6); and

"(12) aviation safety experts with specific knowledge of instructions for continued airworthiness policies and regulations.

"(c) CONSIDERATIONS.—The aviation rulemaking committee established pursuant to subsection (a) shall consider—

"(1) existing standards, regulations, certifications, assessments, and guidance related to instructions for continued airworthiness and the clarity of such standards, regulations, certifications, assessments, and guidance to all parties;

"(2) the sufficiency of safety data used in preparing instructions for continued airworthiness;

"(3) the sufficiency of maintenance data used in preparing instructions for continued airworthiness;

"(4) the protection of proprietary information and intellectual property in instructions for continued airworthiness;

"(5) the availability of instructions for continued airworthiness, as needed, for maintenance activities;

"(6) the need to harmonize or deconflict proposed and existing regulations with other Federal regulations, guidance, and policies;

"(7) international collaboration, where appropriate and consistent with the interests of safety in air commerce and national security, with other civil aviation authorities, international aviation and standards organizations, and any other appropriate entities; and

"(8) any other matter the Administrator determines appropriate.

"(d) DUTIES.—The Administrator shall—

"(1) not later than 1 year after the date of enactment of this Act [May 16, 2024], submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a copy of the aviation rulemaking committee report under subsection (a); and

"(2) not later than 180 days after the date of submission of the report under paragraph (1), initiate a rulemaking activity or make such policy and guidance updates necessary to address any consensus recommendations reached by the aviation rulemaking committee established pursuant to subsection (a), as determined appropriate by the Administrator."

WILDFIRE SUPPRESSION

Pub. L. 118–63, title III, §360, May 16, 2024, 138 Stat. 1120, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], to ensure that sufficient firefighting resources are available to suppress wildfires and protect public safety and property, and notwithstanding any other provision of law or agency regulation, the Administrator [of the Federal Aviation Administration] shall issue a rule under which—

"(1) an operation described in section 21.25(b)(7) of title 14, Code of Federal Regulations, shall allow for the transport of firefighters to and from the site of a wildfire to perform ground wildfire suppression and designate the firefighters conducting such an operation as essential crewmembers on board a covered aircraft operated on a mission to suppress wildfire;

"(2) the aircraft maintenance, inspections, and pilot training requirements under part 135 of such title 14 may apply to such an operation, if determined by the Administrator to be necessary to maintain the safety of firefighters carrying out wildfire suppression missions; and

"(3) the noise standards described in part 36 of such title 14 shall not apply to such an operation.

"(b) SURPLUS MILITARY AIRCRAFT.—In issuing a rule under subsection (a), the Administrator may not enable any aircraft of a type that has been—

"(1) manufactured in accordance with the requirements of, and accepted for use by, the armed forces (as defined in section 101 of title 10, United States Code); and

"(2) later modified to be used for wildfire suppression operations.

"(c) CONFORMING AMENDMENTS TO FAA DOCUMENTS.—In issuing a rule under subsection (a), the Administrator shall revise the order of the FAA [Federal Aviation Administration] titled 'Restricted Category Type Certification', issued on February 27, 2006 (FAA Order 8110.56), as well as any corresponding policy or guidance material, to reflect the requirements of this section.

"(d) SAVINGS PROVISION.—Nothing in this section shall be construed to limit the authority of the Administrator to take action otherwise authorized by law to protect aviation safety or passenger safety.

"(e) DEFINITIONS.—In this section:

"(1) COVERED AIRCRAFT.—The term 'covered aircraft' means an aircraft type-certificated in the restricted category under section 21.25 of title 14, Code of Federal Regulations, used for transporting firefighters to and from the site of a wildfire in order to perform ground wildfire suppression for the purpose of extinguishing a wildfire on behalf of, or pursuant to a contract with, a Federal, State, or local government agency.

"(2) FIREFIGHTERS.—The term 'firefighters' means a trained fire suppression professional the transport of whom is necessary to accomplish a wildfire suppression operation."

REQUIRED SUBMISSION OF OUTLINE OF SYSTEM CHANGES AT THE BEGINNING OF THE CERTIFICATION PROCESS

Pub. L. 116–260, div. V, title I, §105(c), Dec. 27, 2020, 134 Stat. 2319, provided that:

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this title [Dec. 27, 2020], the Administrator shall initiate a process to revise procedures to require an applicant for an amendment to a type certificate for a transport category aircraft to disclose to the Administrator, in a single document submitted at the beginning of the process for amending such certificate, all new systems and intended changes to existing systems then known to such applicant. The Administrator shall finalize the revision of such procedures not later than 18 months after initiating such process.

"(2) APPLICATION.—Compliance with the procedures revised pursuant to paragraph (1) shall not preclude an applicant from making additional changes to aircraft systems as the design and application process proceeds.

"(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to limit the obligations of an applicant for an amended type certificate for a transport category airplane under section 44704(e) of title 49, United States Code, as amended in this title."

[For definitions of "Administrator" and "type certificate" as used in section 105(c) of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

INTEGRATED PROJECT TEAMS

Pub. L. 116–260, div. V, title I, §108, Dec. 27, 2020, 134 Stat. 2326, as amended by Pub. L. 118–63, title III, §306(b), May 16, 2024, 138 Stat. 1072, provided that:

"(a) IN GENERAL.—Upon receipt of an application for a type certificate for a transport category airplane, the Administrator shall convene an interdisciplinary integrated project team responsible for coordinating review and providing advice and recommendations, as appropriate, to the Administrator on such application.

"(b) MEMBERSHIP.—In convening an interdisciplinary integrated project team under subsection (a), the Administrator shall appoint employees of the Administration or other Federal agencies, such as the Air Force, Volpe National Transportation Systems Center, or the National Aeronautics and Space Administration (with the concurrence of the head of such other Federal agency), with specialized expertise and experience in the fields of engineering, systems design, human factors, and pilot training, including, at a minimum—

"(1) not less than 1 designee of the Associate Administrator for Aviation Safety whose duty station is in the Administration's headquarters;

"(2) representatives of the Aircraft Certification Service of the Administration;

"(3) representatives of the Flight Standards Service of the Administration;

"(4) experts in the fields of human factors, aerodynamics, flight controls, software, and systems design; and

"(5) any other subject matter expert whom the Administrator determines appropriate.

"(c) AVAILABILITY.—In order to carry out its duties with respect to the areas specified in subsection (d), a project team shall be available to the Administrator, upon request, at any time during the certification

process.

"(d) DUTIES.—A project team shall advise the Administrator and make written recommendations to the Administrator, to be retained in the certification project file, including recommendations for any plans, analyses, assessments, and reports required to support and document the certification project, in the following areas associated with a new technology or novel design:

"(1) Initial review of design proposals proposed by the applicant and the establishment of the certification basis.

"(2) Identification of new technology, novel design, or safety critical design features or systems that are potentially catastrophic, either alone or in combination with another failure.

"(3) Determination of compliance findings, system safety assessments, and safety critical functions the Administration should retain in terms of new technology, novel design, or safety critical design features or systems.

"(4) Evaluation of the Administration's expertise or experience necessary to support the project.

"(5) Review and evaluation of an applicant's request for exceptions or exemptions from compliance with airworthiness standards codified in title 14 of the Code of Federal Regulations, as in effect on the date of application for the change.

"(6) Conduct of design reviews, procedure evaluations, and training evaluations.

"(7) Review of the applicant's final design documentation and other data to evaluate compliance with all relevant Administration regulations.

"(e) DOCUMENTATION OF FAA RESPONSE.—The Administrator shall provide a written response to each recommendation of each project team and shall retain such response in the certification project file.

"(f) REPORT.—Not later than 1 year after the date of enactment of this section [Dec. 27, 2020], and annually thereafter through fiscal year 2028, the Administrator shall submit to the congressional committees of jurisdiction a report on the establishment of each integrated project team in accordance with this section during such fiscal year, including the role and composition of each such project team."

[For definitions of terms used in section 108 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

EMPLOYMENT RESTRICTIONS: DISQUALIFICATION BASED ON PRIOR EMPLOYMENT

Pub. L. 116–260, div. V, title I, §111(a), Dec. 27, 2020, 134 Stat. 2330, provided that: "An employee of the [Federal Aviation] Administration with supervisory responsibility may not direct, conduct, or otherwise participate in oversight of a holder of a certificate issued under section 44704 of title 49, United States Code, that previously employed such employee in the preceding 1-year period."

SYSTEM SAFETY ASSESSMENTS AND OTHER REQUIREMENTS

Pub. L. 116–260, div. V, title I, §115, Dec. 27, 2020, 134 Stat. 2333, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title [Dec. 27, 2020], the Administrator shall issue such regulations as are necessary to amend part 25 of title 14, Code of Federal Regulations, and any associated advisory circular, guidance, or policy of the Administration, in accordance with this section.

"(b) SYSTEM SAFETY ASSESSMENTS AND OTHER REQUIREMENTS.—In developing regulations under subsection (a), the Administrator shall—

"(1) require an applicant for an amended type certificate for a transport airplane to—

"(A) perform a system safety assessment with respect to each proposed design change that the Administrator determines is significant, with such assessment considering the airplane-level effects of individual errors, malfunctions, or failures and realistic pilot response times to such errors, malfunctions, or failures;

"(B) update such assessment to account for each subsequent proposed design change that the Administrator determines is significant;

"(C) provide appropriate employees of the Administration with the data and assumptions underlying each assessment and amended assessment; and

"(D) provide for document traceability and clarity of explanations for changes to aircraft type designs and system safety assessment certification documents; and

"(2) work with other civil aviation authorities representing states of design to ensure such regulations remain harmonized internationally.

"(c) GUIDANCE.—Guidance or an advisory circular issued under subsection (a) shall, at minimum—

"(1) emphasize the importance of clear documentation of the technical details and failure modes and effects of a design change described in subsection (b)(1); and

"(2) ensure appropriate review of any change that results in a functional hazard assessment

classification of major or greater, as such term is defined in FAA Advisory Circular 25.1309-1A (or any successor or replacement document).

"(d) FAA REVIEW.—Appropriate employees of the Aircraft Certification Service and the Flight Standards Service of the Administration shall review each system safety assessment required under subsection (b)(1)(A), updated assessment required under subsection (b)(1)(B), and supporting data and assumptions required under subsection (b)(1)(C), to ensure that each such assessment sufficiently addresses the considerations listed in subsection (b)(1)(A)."

[For definitions of terms used in section 115 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

FLIGHT CREW ALERTING

Pub. L. 116–260, div. V, title I, §116, Dec. 27, 2020, 134 Stat. 2334, as amended by Pub. L. 117–328, div. O, title V, §501(b), Dec. 29, 2022, 136 Stat. 5231, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title [Dec. 27, 2020], the Administrator shall implement National Transportation Safety Board recommendations A–19–11 and A–19–12 (as contained in the safety recommendation report adopted on September 9, 2019).

"(b) PROHIBITION.—Beginning on December 27, 2022, the Administrator may not issue a type certificate for a transport category aircraft unless, in the case of a transport category aircraft other than a transport airplane, the type certificate applicant provides a means acceptable to the Administrator to assist the flight crew in prioritizing corrective actions and responding to systems failures (including by cockpit or flight manual procedures).

"(c) EXISTING AIRPLANE DESIGNS.—It is the sense of Congress that the FAA shall ensure that any system safety assessment with respect to the Boeing 737-7, 737-8, 737-9, and 737-10 airplanes, as described in National Transportation Safety Board recommendation A-19-10, is conducted in accordance with such recommendation."

[For definitions of terms used in section 116 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

CHANGED PRODUCT RULE

Pub. L. 118–63, title III, §344, May 16, 2024, 138 Stat. 1101, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a notice of proposed rulemaking to revise section 21.101 of title 14, Code of Federal Regulations, to achieve the following objectives:

"(1) For any significant design change, as determined by the Administrator, to require that the exception related to impracticality under subsection (b)(3) of such section from the requirement to comply with the latest amendments of the applicable airworthiness standards in effect on the date of application for the change be approved only after providing public notice and opportunity to comment on such exception.

"(2) To ensure appropriate documentation of any exception or exemption from airworthiness requirements in title 14, Code of Federal Regulations, as in effect on the date of application for the change.

"(b) CONGRESSIONAL BRIEFING.—Not later than 1 year after the date of enactment of this Act, the Administrator shall provide to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a briefing on the implementation by the FAA [Federal Aviation Administration] of the recommendations of the Changed Product Rule International Authorities Working Group, established for purposes of carrying out the requirements of section 117 of the Aircraft Certification, Safety, and Accountability Act [Pub. L. 116–260, div. V, title I] (49 U.S.C. 44704 note), including recommendations on harmonized changes and reforms regarding the impractical exception.

"(c) FINAL RULE.—Not later than 3 years after the date of enactment of this Act, the Administrator shall issue a final rule based on the notice of proposed rulemaking issued under subsection (a).

"(d) ANNUAL REPORT.—Beginning in 2025 and annually thereafter through 2028, the Administrator shall submit to the appropriate committees of Congress an annual report detailing the number of all significant design change exceptions approved and denied under paragraphs (1) through (3) of section 21.101(b) of title 14, Code of Federal Regulations."

Pub. L. 116–260, div. V, title I, §117, Dec. 27, 2020, 134 Stat. 2335, as amended by Pub. L. 118–63, title III, §306(f), May 16, 2024, 138 Stat. 1072, provided that:

"(a) REVIEW AND REEVALUATION OF AMENDED TYPE CERTIFICATES.—

"(1) INTERNATIONAL LEADERSHIP.—The Administrator shall exercise leadership in the creation of international policies and standards relating to the issuance of amended type certificates within the Certification Management Team.

"(2) REEVALUATION OF AMENDED TYPE CERTIFICATES.—In carrying out this subsection, the Administrator shall—

"(A) encourage Certification Management Team members to examine and address any relevant covered recommendations (as defined in section 121(c) [134 Stat. 2344]) relating to the issuance of amended type certificates;

"(B) reevaluate existing assumptions and practices inherent in the amended type certificate process and assess whether such assumptions and practices are valid; and

"(C) ensure, to the greatest extent practicable, that Federal regulations relating to the issuance of amended type certificates are harmonized with the regulations of other international states of design.

"(b) AMENDED TYPE CERTIFICATE REPORT AND RULEMAKING.—

"(1) BRIEFINGS.—Not later than 12 months after the date of enactment of this title [Dec. 27, 2020], and annually thereafter through fiscal year 2028, the Administrator shall brief the congressional committees of jurisdiction on the work and status of the development of such recommendations by the Certification Management Team.

"(2) INITIATION OF ACTION.—Not later than 2 years after the date of enactment of this title, the Administrator shall take action to revise and improve the process of issuing amended type certificates in accordance with this section. Such action shall include, at minimum—

"(A) initiation of a rulemaking proceeding; and

"(B) development or revision of guidance and training materials.

"(3) CONTENTS.—In taking actions required under paragraph (2), the Administrator shall do the following:

"(A) Ensure that proposed changes to an aircraft are evaluated from an integrated whole aircraft system perspective that examines the integration of proposed changes with existing systems and associated impacts.

"(B) Define key terms used for the changed product process under sections 21.19 and 21.101 of title 14, Code of Federal Regulations.

"(C) Consider—

"(i) the findings and work of the Certification Management Team and other similar international harmonization efforts;

"(ii) any relevant covered recommendations (as defined in section 121(c) [134 Stat. 2344]); and

"(iii) whether a fixed time beyond which a type certificate may not be amended would improve aviation safety.

"(D) Establish the extent to which the following design characteristics should preclude the issuance of an amended type certificate:

"(i) A new or revised flight control system.

"(ii) Any substantial changes to aerodynamic stability resulting from a physical change that may require a new or modified software system or control law in order to produce positive and acceptable stability and handling qualities.

"(iii) A flight control system or augmented software to maintain aerodynamic stability in any portion of the flight envelope that was not required for a previously certified derivative.

"(iv) A change in structural components (other than a stretch or shrink of the fuselage) that results in a change in structural load paths or the magnitude of structural loads attributed to flight maneuvers or cabin pressurization.

"(v) A novel or unusual system, component, or other feature whose failure would present a hazardous or catastrophic risk.

"(E) Develop objective criteria for helping to determine what constitutes a substantial change and a significant change.

"(F) Implement mandatory aircraft-level reviews throughout the certification process to validate the certification basis and assumptions.

"(G) Require maintenance of relevant records of agreements between the FAA and an applicant that affect certification documentation and deliverables.

"(H) Ensure appropriate documentation of any exception or exemption from airworthiness requirements codified in title 14 of the Code of Federal Regulations, as in effect on the date of application for the change.

"(4) GUIDANCE MATERIALS.—The Administrator shall consider the following when developing orders and regulatory guidance, including advisory circulars, where appropriate:

"(A) Early FAA involvement and feedback paths in the aircraft certification process to ensure the

FAA is aware of changes to design assumptions and product design impacting a changed product assessment.

"(B) Presentation to the FAA of new technology, novel design, or safety critical features or systems, initially and throughout the certification process, when development and certification prompt design or compliance method revision.

"(C) Examples of key terms used for the changed product process under sections 21.19 and 21.101 of title 14, Code of Federal Regulations.

"(D) Type certificate data sheet improvements to accurately state which regulations and amendment level the aircraft complies to and when compliance is limited to a subset of the aircraft.

"(E) Policies to guide applicants on proper visibility, clarity, and consistency of key design and compliance information that is submitted for certification, particularly with new design features.

"(F) The creation, validation, and implementation of analytical tools appropriate for the analysis of complex system for the FAA and applicants.

"(G) Early coordination processes with the FAA for the functional hazard assessments validation and preliminary system safety assessments review.

"(5) TRAINING MATERIALS.—The Administrator shall—

"(A) develop training materials for establishing the certification basis for changed aeronautical products pursuant to section 21.101 of title 14, Code of Federal Regulations, applications for a new type certificate pursuant to section 21.19 of such title, and the regulatory guidance developed as a result of the rulemaking conducted pursuant to paragraph (2); and

"(B) procedures for disseminating such materials to implementing personnel of the FAA, designees, and applicants.

"(6) CERTIFICATION MANAGEMENT TEAM DEFINED.—In this section, the term 'Certification Management Team' means the team framework under which the FAA, the European Aviation Safety Agency, the Transport Canada Civil Aviation, and the National Civil Aviation Agency of Brazil, manage the technical, policy, certification, manufacturing, export, and continued airworthiness issues common among the 4 authorities.

"(7) DEADLINE.—The Administrator shall finalize the actions initiated under paragraph (2) not later than 3 years after the date of enactment of this title.

"(c) INTERNATIONAL LEADERSHIP.—The Administrator shall exercise leadership within the ICAO and among other civil aviation regulators representing states of aircraft design to advocate for the adoption of an amended changed product rule on a global basis, consistent with ICAO standards."

[For definitions of terms used in section 117 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

EXPERT SAFETY REVIEW

Pub. L. 116–260, div. V, title I, §119(c), Dec. 27, 2020, 134 Stat. 2339, provided that:

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title [Dec. 27, 2020], the Administrator shall initiate an expert safety review of assumptions relied upon by the Administration and manufacturers of transport category aircraft in the design and certification of such aircraft.

"(2) CONTENTS.—The expert safety review required under paragraph (1) shall include—

"(A) a review of Administration regulations, guidance, and directives related to pilot response assumptions relied upon by the FAA and manufacturers of transport category aircraft in the design and certification of such aircraft, and human factors and human system integration, particularly those related to pilot and aircraft interfaces;

"(B) a focused review of the assumptions relied on regarding the time for pilot responses to non-normal conditions in designing such aircraft's systems and instrumentation, including responses to safety-significant failure conditions and failure scenarios that trigger multiple, and possibly conflicting, warnings and alerts;

"(C) a review of human factors assumptions with applicable operational data, human factors research and the input of human factors experts and FAA operational data, and as appropriate, recommendations for modifications to existing assumptions;

"(D) a review of revisions made to the airman certification standards for certificates over the last 4 years, including any possible effects on pilot competency in basic manual flying skills;

"(E) consideration of the global nature of the aviation marketplace, varying levels of pilot competency, and differences in pilot training programs worldwide;

"(F) a process for aviation stakeholders, including pilots, airlines, inspectors, engineers, test pilots, human factors experts, and other aviation safety experts, to provide and discuss any observations, feedback,

and best practices;

"(G) a review of processes currently in place to ensure that when carrying out the certification of a new aircraft type, or an amended type, the cumulative effects that new technologies, and the interaction between new technologies and unchanged systems for an amended type certificate, may have on pilot interactions with aircraft systems are properly assessed through system safety assessments or otherwise; and

"(H) a review of processes currently in place to account for any necessary adjustments to system safety assessments, pilot procedures and training requirements, or design requirements when there are changes to the assumptions relied upon by the Administration and manufacturers of transport category aircraft in the design and certification of such aircraft.

"(3) REPORT AND RECOMMENDATIONS.—Not later than 30 days after the conclusion of the expert safety review pursuant to paragraph (1), the Administrator shall submit to the congressional committees of jurisdiction a report on the results of the review, including any recommendations for actions or best practices to ensure the FAA and the manufacturers of transport category aircraft have accounted for pilot response assumptions to be relied upon in the design and certification of transport category aircraft and tools or methods identified to better integrate human factors throughout the process for such certification.

"(4) INTERNATIONAL ENGAGEMENT.—The Administrator shall notify other international regulators that certify transport category aircraft type designs of the expert panel report and encourage them to review the report and evaluate their regulations and processes in light of the recommendations included in the report.

"(5) TERMINATION.—The expert safety review shall end upon submission of the report required pursuant to paragraph (3).

"(6) REGULATIONS.—The Administrator shall issue or update such regulations as are necessary to implement the recommendations of the expert safety review that the Administrator determines are necessary to improve aviation safety."

[For definitions of terms used in section 119(c) of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

HUMAN FACTORS RESEARCH

Pub. L. 116–260, div. V, title I, §126, Dec. 27, 2020, 134 Stat. 2347, provided that:

"(a) HUMAN FACTORS.—Not later than 180 days after the date of enactment of this title [Dec. 27, 2020], the Administrator, in consultation with aircraft manufacturers, operators, and pilots, and in coordination with the head of such other Federal agency that the Administrator determines appropriate, shall develop research requirements to address the integration of human factors in the design and certification of aircraft that are intended for use in air transportation.

"(b) REQUIREMENTS.—In developing such research requirements, the Administrator shall—

"(1) establish goals for research in areas of study relevant to advancing technology, improving design engineering and certification practices, and facilitating better understanding of human factors concepts in the context of the growing development and reliance on automated or complex flight deck systems in aircraft operations, including the development of tools to validate pilot recognition and response assumptions and diagnostic tools to improve the clarity of failure indications presented to pilots;

"(2) take into consideration and leverage any existing or planned research that is conducted by, or conducted in partnership with, the FAA; and

"(3) focus on—

"(A) preventing a recurrence of the types of accidents that have involved transport category airplanes designed and manufactured in the United States; and

"(B) increasingly complex aircraft systems and designs.

"(c) IMPLEMENTATION.—In implementing the research requirements developed under this section, the Administrator shall work with appropriate organizations and authorities with expertise including, to the maximum extent practicable, the Center of Excellence for Technical Training and Human Performance and the Center of Excellence developed or expanded pursuant to section 127 [set out as a note under section 44513 of this title].

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $7,500,000 for each of fiscal years 2021 through 2023, out of funds made available under section 48102(a) of title 49, United States Code, to carry out this section."

[For definitions of terms used in section 126 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

PILOT OPERATIONAL EVALUATIONS

Pub. L. 116–260, div. V, title I, §128, Dec. 27, 2020, 134 Stat. 2349, provided that:

"(a) PILOT OPERATIONAL EVALUATIONS.—Not later than 1 year after the date of enactment of this title [Dec. 27, 2020], the Administrator shall revise existing policies for manufacturers of transport airplanes to ensure that pilot operational evaluations for airplane types that are submitted for certification utilize pilots from air carriers that are expected to operate such airplanes.

"(b) REQUIREMENT.—Such manufacturer shall ensure, to the satisfaction of the Administrator, that the air carrier and foreign air carrier pilots used for such evaluations include pilots of varying levels of experience."

[For definitions of terms used in section 128 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

SECURING AIRCRAFT AVIONICS SYSTEMS

Pub. L. 115–254, div. B, title V, §506, Oct. 5, 2018, 132 Stat. 3354, as amended by Pub. L. 118–63, title III, §394, May 16, 2024, 138 Stat. 1145, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall revise, as appropriate, existing Federal Aviation Administration regulations regarding airworthiness certification—

"(1) to address cybersecurity for avionics systems, including software components;

"(2) to require that aircraft avionics systems used for flight guidance or aircraft control be secured against unauthorized access via passenger in-flight entertainment systems through such means as the Administrator determines appropriate to protect the avionics systems from unauthorized external and internal access; and

"(3) to establish a process and timeline by which software-based systems and equipment, including aircraft flight critical systems of aircraft operated under part 121 of title 14, Code of Federal Regulations, can be regularly screened to attempt to determine whether the software-based systems and equipment have been compromised by unauthorized external or internal access.

"(b) CONSIDERATION.—In carrying out subsection (a), the Administrator shall consider the recommendations of the Aircraft Systems Information Security Protection Working Group under section 2111 of the FAA Extension Safety and Security Act of 2016 (Public Law 114–190; 130 Stat. 615 [625]) [49 U.S.C. 44903 note]."

SMALL AIRPLANE REVITALIZATION

Pub. L. 113–53, Nov. 27, 2013, 127 Stat. 584, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Small Airplane Revitalization Act of 2013'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) A healthy small aircraft industry is integral to economic growth and to maintaining an effective transportation infrastructure for communities and countries around the world.

"(2) Small airplanes comprise nearly 90 percent of general aviation aircraft certified by the Federal Aviation Administration.

"(3) General aviation provides for the cultivation of a workforce of engineers, manufacturing and maintenance professionals, and pilots who secure the economic success and defense of the United States.

"(4) General aviation contributes to well-paying jobs in the manufacturing and technology sectors in the United States and products produced by those sectors are exported in great numbers.

"(5) Technology developed and proven in general aviation aids in the success and safety of all sectors of aviation and scientific competence.

"(6) The average small airplane in the United States is now 40 years old and the regulatory barriers to bringing new designs to the market are resulting in a lack of innovation and investment in small airplane design.

"(7) Since 2003, the United States lost 10,000 active private pilots per year on average, partially due to a lack of cost-effective, new small airplanes.

"(8) General aviation safety can be improved by modernizing and revamping the regulations relating to small airplanes to clear the path for technology adoption and cost-effective means to retrofit the existing fleet with new safety technologies.

"SEC. 3. SAFETY AND REGULATORY IMPROVEMENTS FOR GENERAL AVIATION.

"(a) IN GENERAL.—Not later than December 15, 2015, the Administrator of the Federal Aviation Administration shall issue a final rule—

"(1) to advance the safety and continued development of small airplanes by reorganizing the

certification requirements for such airplanes under part 23 to streamline the approval of safety advancements; and

"(2) that meets the objectives described in subsection (b).

"(b) OBJECTIVES DESCRIBED.—The objectives described in this subsection are based on the recommendations of the Part 23 Reorganization Aviation Rulemaking Committee:

"(1) The establishment of a regulatory regime for small airplanes that will improve safety and reduce the regulatory cost burden for the Federal Aviation Administration and the aviation industry.

"(2) The establishment of broad, outcome-driven safety objectives that will spur innovation and technology adoption.

"(3) The replacement of current, prescriptive requirements under part 23 with performance-based regulations.

"(4) The use of consensus standards accepted by the Federal Aviation Administration to clarify how the safety objectives of part 23 may be met using specific designs and technologies.

"(c) CONSENSUS-BASED STANDARDS.—In prescribing regulations under this section, the Administrator shall use consensus standards, as described in section 12(d) of the National Technology Transfer and Advancement Act of 1996 [1995] (15 U.S.C. 272 note), to the extent practicable while continuing traditional methods for meeting part 23.

"(d) SAFETY COOPERATION.—The Administrator shall lead the effort to improve general aviation safety by working with leading aviation regulators to assist them in adopting a complementary regulatory approach for small airplanes.

"(e) DEFINITIONS.—In this section:

"(1) CONSENSUS STANDARDS.—

"(A) IN GENERAL.—The term 'consensus standards' means standards developed by an organization described in subparagraph (B) that may include provisions requiring that owners of relevant intellectual property have agreed to make that intellectual property available on a nondiscriminatory, royalty-free, or reasonable royalty basis to all interested persons.

"(B) ORGANIZATIONS DESCRIBED.—An organization described in this subparagraph is a domestic or international organization that—

"(i) plans, develops, establishes, or coordinates, through a process based on consensus and using agreed-upon procedures, voluntary standards; and

"(ii) operates in a transparent manner, considers a balanced set of interests with respect to such standards, and provides for due process and an appeals process with respect to such standards.

"(2) PART 23.—The term 'part 23' means part 23 of title 14, Code of Federal Regulations.

"(3) PART 23 REORGANIZATION AVIATION RULEMAKING COMMITTEE.—The term 'Part 23 Reorganization Aviation Rulemaking Committee' means the aviation rulemaking committee established by the Federal Aviation Administration in August 2011 to consider the reorganization of the regulations under part 23.

"(4) SMALL AIRPLANE.—The term 'small airplane' means an airplane which is certified to part 23 standards."

APPLICABILITY

Pub. L. 112–95, title III, §303(b), Feb. 14, 2012, 126 Stat. 57, provided that: "Before January 1, 2013, the Administrator of the Federal Aviation Administration may continue to issue certificates under section 44704(e) of title 49, United States Code, as in effect on the day before the date of enactment of this Act [Feb. 14, 2012]."

AIRCRAFT CERTIFICATION PROCESS REVIEW AND REFORM

Pub. L. 112–95, title III, §312, Feb. 14, 2012, 126 Stat. 66, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration, in consultation with representatives of the aviation industry, shall conduct an assessment of the certification and approval process under section 44704 of title 49, United States Code.

"(b) CONTENTS.—In conducting the assessment, the Administrator shall consider—

"(1) the expected number of applications for product certifications and approvals the Administrator will receive under section 44704 of such title in the 1-year, 5-year, and 10-year periods following the date of enactment of this Act [Feb. 14, 2012];

"(2) process reforms and improvements necessary to allow the Administrator to review and approve the applications in a fair and timely fashion;

"(3) the status of recommendations made in previous reports on the Administration's certification process;

"(4) methods for enhancing the effective use of delegation systems, including organizational designation authorization;

"(5) methods for training the Administration's field office employees in the safety management system and auditing; and

"(6) the status of updating airworthiness requirements, including implementing recommendations in the Administration's report entitled 'Part 23—Small Airplane Certification Process Study' (OK–09–3468, dated July 2009).

"(c) RECOMMENDATIONS.—In conducting the assessment, the Administrator shall make recommendations to improve efficiency and reduce costs through streamlining and reengineering the certification process under section 44704 of such title to ensure that the Administrator can conduct certifications and approvals under such section in a manner that supports and enables the development of new products and technologies and the global competitiveness of the United States aviation industry.

"(d) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the assessment, together with an explanation of how the Administrator will implement recommendations made under subsection (c) and measure the effectiveness of the recommendations.

"(e) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall begin to implement the recommendations made under subsection (c)."

HISTORICAL AIRCRAFT DOCUMENTS

Pub. L. 112–95, title VIII, §816, Feb. 14, 2012, 126 Stat. 126, provided that:

"(a) PRESERVATION OF DOCUMENTS.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take such actions as the Administrator determines necessary to preserve original aircraft type certificate engineering and technical data in the possession of the Federal Aviation Administration related to—

"(A) approved aircraft type certificate numbers ATC 1 through ATC 713; and

"(B) Group-2 approved aircraft type certificate numbers 2–1 through 2–544.

"(2) REVISION OF ORDER.—Not later than 3 years after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall revise FAA Order 1350.15C, Item Number 8110. Such revision shall prohibit the destruction of the historical aircraft documents identified in paragraph (1).

"(3) CONSULTATION.—The Administrator may carry out paragraph (1) in consultation with the Archivist of the United States and the Administrator of General Services.

"(b) AVAILABILITY OF DOCUMENTS.—

"(1) FREEDOM OF INFORMATION ACT REQUESTS.—The Administrator shall make the documents to be preserved under subsection (a)(1) available to a person—

"(A) upon receipt of a request made by the person pursuant to section 552 of title 5, United States Code; and

"(B) subject to a prohibition on use of the documents for commercial purposes.

"(2) TRADE SECRETS, COMMERCIAL, AND FINANCIAL INFORMATION.—Section 552(b)(4) of such title shall not apply to requests for documents to be made available pursuant to paragraph (1).

"(c) HOLDER OF TYPE CERTIFICATE.—

"(1) RIGHTS OF HOLDER.—Nothing in this section shall affect the rights of a holder or owner of a type certificate identified in subsection (a)(1), nor require the holder or owner to provide, surrender, or preserve any original or duplicate engineering or technical data to or for the Federal Aviation Administration, a person, or the public.

"(2) LIABILITY.—There shall be no liability on the part of, and no cause of action of any nature shall arise against, a holder of a type certificate, its authorized representative, its agents, or its employees, or any firm, person, corporation, or insurer related to the type certificate data and documents identified in subsection (a)(1).

"(3) AIRWORTHINESS.—Notwithstanding any other provision of law, the holder of a type certificate identified in subsection (a)(1) shall only be responsible for Federal Aviation Administration regulation requirements related to type certificate data and documents identified in subsection (a)(1) for aircraft having a standard airworthiness certificate issued prior to the date the documents are released to a person by the Federal Aviation Administration under subsection (b)(1)."

PLAN FOR DEVELOPMENT AND OVERSIGHT OF SYSTEM FOR CERTIFICATION OF DESIGN ORGANIZATIONS

Pub. L. 108–176, title II, §227(b)(1), Dec. 12, 2003, 117 Stat. 2531, provided that, not later than 4 years after Dec. 12, 2003, the Administrator of the Federal Aviation Administration was to transmit to Congress a plan for the development and oversight of a certification system of design organizations to ensure compliance with the requirements and minimum standards of section 44701(a) of this title.

§44705. Air carrier operating certificates

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part. An air carrier operating certificate shall—

(1) contain terms necessary to ensure safety in air transportation; and

(2) specify the places to and from which, and the airways of the United States over which, a person may operate as an air carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1189.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44705	49 App.:1424(b).	Aug. 23, 1958, Pub. L. 85–726, §604(b), 72 Stat. 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, the word "Administrator" in section 604(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g). Before clause (1), the words "may file with the Secretary of Transportation an application for an air carrier operating certificate" and "the requirements of" are omitted as surplus. The word "rules" is omitted as being synonymous with "regulations". In clause (1), the words "conditions, and limitations . . . reasonably" are omitted as surplus. In clause (2), the word "places" is substituted for "points" for consistency in the revised title. The words "under an air carrier operating certificate" are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMMERCIAL AIR TOUR AND SPORT PARACHUTING SAFETY

Pub. L. 118–63, title III, §363, May 16, 2024, 138 Stat. 1126, provided that:

"(a) SAFETY REQUIREMENTS FOR COMMERCIAL AIR TOUR OPERATORS.—

"(1) SAFETY REFORMS.—

"(A) AUTHORITY TO CONDUCT NONSTOP COMMERCIAL AIR TOURS.—

"(i) IN GENERAL.—Subject to clause (ii), beginning on the date that is 2 years after the date a final rule is published pursuant to paragraph (3), no person may conduct commercial air tours unless such person either—

"(I) holds a certificate identifying the person as an air carrier or commercial operator under part 119 of title 14, Code of Federal Regulations[,] and conducts all commercial air tours under the applicable provisions of part 121 or part 135 of title 14, Code of Federal Regulations; or

"(II) conducts all commercial air tours pursuant to the requirements established by the Administrator [of the Federal Aviation Administration] under the final rule published pursuant to paragraph (3).

"(ii) SMALL BUSINESS EXCEPTION.—The provisions of clause (i) shall not apply to a person who conducts 100 or fewer commercial air tours in a calendar year.

"(B) ADDITIONAL SAFETY REQUIREMENTS.—

"(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator shall issue new or revised regulations to require a commercial air tour

operator seeking to conduct an operation with a removed or modified door and a person conducting aerial photography operations seeking to conduct an operation with a removed or modified door to receive approval from the Administrator prior to conducting such operation.

"(ii) CONDITIONS AND RESTRICTIONS.—In issuing new or revised regulations under clause (i), the Administrator may impose such conditions and restrictions as determined necessary for safety.

"(iii) CONSIDERATIONS.—In issuing new or revised regulations under clause (i), the Administrator shall require a commercial air tour operator to demonstrate to any representative of the FAA [Federal Aviation Administration], upon request, that a pilot authorized to operate such an air tour has received avoidance training for controlled flight into terrain and in-flight loss of control. Such training shall address reducing the risk of accidents involving unintentional flight into instrument meteorological conditions to address day, night, and low-visibility environments with special attention paid to research available as of the date of enactment of this Act on human factors issues involved in such accidents, including, at a minimum—

"(I) specific terrain, weather, and infrastructure challenges relevant in the local operating environment that increase the risk of such accidents;

"(II) pilot decision-making relevant to the avoidance of instrument meteorological conditions while operating under visual flight rules;

"(III) use of terrain awareness displays;

"(IV) spatial disorientation risk factors and countermeasures; and

"(V) strategies for maintaining control, including the use of automated systems.

"(2) AVIATION RULEMAKING COMMITTEE.—

"(A) IN GENERAL.—The Administrator shall convene an aviation rulemaking committee to review and develop findings and recommendations to increase the safety of commercial air tours.

"(B) CONSIDERATIONS.—The aviation rulemaking committee convened under subparagraph (A) shall consider, at a minimum—

"(i) potential changes to operations regulations or requirements for commercial air tours, including requiring—

"(I) the adoption of pilot training standards that are comparable, as applicable, to the standards under subpart H of part 135 of title 14, Code of Federal Regulations; and

"(II) the adoption of maintenance standards that are comparable, as applicable, to the standards under subpart J of part 135 of title 14, Code of Federal Regulations;

"(ii) establishing a performance-based standard for flight data monitoring for all commercial air tour operators that reviews all available data sources to identify deviations from established areas of operation and potential safety issues;

"(iii) requiring all commercial air tour operators to install flight data recording devices capable of supporting collection and dissemination of the data incorporated in the Flight Operational Quality Assurance Program under section 13.401 of title 14, Code of Federal Regulations (or, if an aircraft cannot be retrofitted with such equipment, requiring the commercial air tour operator for such aircraft to collect and maintain flight data through alternative methods);

"(iv) requiring all commercial air tour operators to implement a flight data monitoring program, such as a Flight Operational Quality Assurance Program;

"(v) establishing methods to provide effective terrain awareness and warning; and

"(vi) establishing methods to provide effective traffic avoidance in identified high-traffic tour areas, such as requiring commercial air tour operators that operate within such areas be equipped with an automatic dependent surveillance-broadcast out- and in-supported traffic advisory system that—

"(I) includes both visual and aural alerts;

"(II) is driven by an algorithm designed to eliminate nuisance alerts; and

"(III) is operational during all flight operations.

"(vii) codifying and uniformly applying Living History Flight Experience exemption conditions and limitations.

"(C) MEMBERSHIP.—The aviation rulemaking committee convened under subparagraph (A) shall consist of members appointed by the Administrator, including—

"(i) representatives of industry, including manufacturers of aircraft and aircraft technologies;

"(ii) air tour operators or organizations that represent such operators; and

"(iii) aviation safety experts with specific knowledge of safety management systems and flight data monitoring programs under part 135 of title 14, Code of Federal Regulations.

"(D) DUTIES.—

"(i) IN GENERAL.—The Administrator shall direct the aviation rulemaking committee to make findings and submit recommendations regarding each of the matters specified in clauses (i) through (vi) of subparagraph (B).

"(ii) CONSIDERATIONS.—In carrying out the duties of the aviation rulemaking committee under clause (i), the Administrator shall direct the aviation rulemaking committee to consider—

"(I) recommendations of the National Transportation Safety Board;

"(II) recommendations of previous aviation rulemaking committees that reviewed flight data monitoring program requirements for commercial operators under part 135 of title 14, Code of Federal Regulations;

"(III) recommendations from industry safety organizations, including the Vertical Aviation Safety Team, the General Aviation Joint Safety Committee, and the United States Helicopter Safety Team;

"(IV) scientific data derived from a broad range of flight data recording technologies capable of continuously transmitting and that support a measurable and viable means of assessing data to identify and correct hazardous trends;

"(V) appropriate use of data for modifying behavior to prevent accidents;

"(VI) the need to accommodate technological advancements in flight data recording technology;

"(VII) data gathered from aviation safety reporting programs;

"(VIII) appropriate methods to provide effective terrain awareness and warning system protections while mitigating nuisance alerts for aircraft;

"(IX) the need to accommodate the diversity of airworthiness standards under part 27 and part 29 of title 14, Code of Federal Regulations;

"(X) the need to accommodate diversity of operations and mission sets;

"(XI) benefits of third-party data analysis for large and small operations;

"(XII) accommodations necessary for small businesses; and

"(XIII) other issues, as necessary.

"(E) REPORTS AND REGULATIONS.—Not later than 20 months after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report based on the findings of the aviation rulemaking committee.

"(3) RULEMAKING REQUIRED.—

"(A) NOTICE OF PROPOSED RULEMAKING.—Not later than 1 year after the date the Administrator submits a report under paragraph (2)(E), the Administrator shall issue a notice of proposed rulemaking establishing increasing safety regulations for commercial air tour operators based on the recommendations of the rulemaking committee established under paragraph (2).

"(B) CONTENTS.—The notice of proposed rulemaking under subparagraph (A) shall require, at a minimum—

"(i) the adoption of pilot training standards that are comparable, as applicable, to the standards under subpart H of part 135 of title 14, Code of Federal Regulations[,] for commercial tour operators;

"(ii) the adoption of maintenance standards that are comparable, as applicable, to the standards under subpart J of part 135 of title 14, Code of Federal Regulations[,] for commercial tour operators; and

"(iii) that beginning on a date determined appropriate by the Administrator, a helicopter operated by a commercial air tour operator be equipped with an approved flight data monitoring system capable of recording flight performance data.

"(C) FINAL RULE.—Not later than 2 years after the issuance of a notice of proposed rulemaking under subparagraph (A), the Administrator shall finalize the rule.

"(b) SAFETY REQUIREMENTS FOR SPORT PARACHUTE OPERATIONS.—

"(1) AVIATION RULEMAKING COMMITTEE.—The Administrator shall convene an aviation rulemaking committee to review and develop findings and recommendations to increase the safety of sport parachute operations.

"(2) CONTENTS.—This aviation rulemaking committee convened under paragraph (1) shall consider, at a minimum—

"(A) potential regulatory action governing parachute operations that are conducted in the United States and are subject to the requirements of part 105 of title 14, Code of Federal Regulations, to address—

"(i) whether FAA-approved aircraft maintenance and inspection programs that consider, at a minimum, minimum equipment standards informed by recommended maintenance instructions of engine manufacturers, such as service bulletins and service information letters for time between overhauls and component life limits, should be implemented; and

"(ii) initial and annual recurrent pilot training and proficiency checks for pilots conducting parachute operations that address, at a minimum, operation- and aircraft-specific weight and balance calculations, preflight inspections, emergency and recovery procedures, and parachutist egress procedures for each type of aircraft flown; and

"(B) the revision of guidance material contained in the advisory circular of the FAA [Federal Aviation Administration] titled 'Sport Parachuting' (AC 105–2E) to include guidance for parachute operations in implementing the FAA-approved aircraft maintenance and inspection program and the pilot training and pilot proficiency checking programs required under any new or revised regulations; and

"(C) the revision of guidance materials issued in the order of the FAA titled 'Flight Standards Information Management System' (FAA Order 8900.1), to include guidance for FAA inspectors who oversee an operation conducted under—

"(i) part 91 of title 14, Code of Federal Regulations; and

"(ii) an exception specified in section 119.1(e) of title 14, Code of Federal Regulations.

"(3) MEMBERSHIP.—The aviation rulemaking committee under paragraph (1) shall consist of members appointed by the Administrator, including—

"(A) representatives of industry, including manufacturers of aircraft and aircraft technologies;

"(B) parachute operators, or organizations that represent such operators; and

"(C) aviation safety experts with specific knowledge of safety management systems and flight data monitoring programs under part 135 and part 105 of title 14, Code of Federal Regulations.

"(4) DUTIES.—

"(A) IN GENERAL.—The Administrator shall direct the aviation rulemaking committee to make findings and submit recommendations regarding each of the matters specified in subparagraphs (A) through (C) of paragraph (2).

"(B) CONSIDERATIONS.—In carrying out its duties under subparagraph (A), the Administrator shall direct the aviation rulemaking committee to consider—

"(i) findings and recommendations of the National Transportation Safety Board, as relevant, and specifically such findings and recommendations related to parachute operations, including the June 21, 2019, incident in Mokuleia, Hawaii;

"(ii) recommendations of previous aviation rulemaking committees that considered similar issues;

"(iii) recommendations from industry safety organizations, including, at a minimum, the United States Parachute Association;

"(iv) appropriate use of data for modifying behavior to prevent accidents;

"(v) data gathered from aviation safety reporting programs;

"(vi) the need to accommodate diversity of operations and mission sets;

"(vii) accommodations necessary for small businesses; and

"(viii) other issues as necessary.

"(5) REPORTS AND REGULATIONS.—

"(A) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report based on the findings of the aviation rulemaking committee.

"(B) CONTENTS.—The report under subparagraph (A) shall include—

"(i) any recommendations submitted by the aviation rulemaking committee; and

"(ii) any actions the Administrator intends to initiate, if necessary, as a result of such recommendations.

"(c) DEFINITIONS.—In this section:

"(1) AIR CARRIER.—The term 'air carrier' has the meaning given such term in section 40102 of title 49, United States Code.

"(2) COMMERCIAL AIR TOUR.—The term 'commercial air tour' has the meaning given such term in section 136.1 of title 14, Code of Federal Regulations.

"(3) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' has the meaning given such term in section 136.1 of title 14, Code of Federal Regulations.

"(4) PARACHUTE OPERATION.—The term 'parachute operation' has the meaning given such term in section 105.3 of title 14, Code of Federal Regulations (or any successor regulation)."

§44706. Airport operating certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

(2) that is not located in the State of Alaska and serves any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats; and

(3) that the Administrator requires to have a certificate;

if the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

(b) TERMS.—An airport operating certificate issued under this section shall contain terms necessary to ensure safety in air transportation. Unless the Administrator decides that it is not in the public interest, the terms shall include conditions related to—

(1) operating and maintaining adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft; and

(2) friction treatment for primary and secondary runways that the Secretary of Transportation decides is necessary.

(c) EXEMPTIONS.—The Administrator may exempt from the requirements of this section, related to firefighting and rescue equipment, an operator of an airport described in subsection (a) of this section having less than .25 percent of the total number of passenger boardings each year at all airports described in subsection (a) when the Administrator decides that the requirements are or would be unreasonably costly, burdensome, or impractical.

(d) COMMUTER AIRPORTS.—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).

(e) EFFECTIVE DATE.—Any regulation establishing the terms required by subsection (b) for airports covered by subsection (a)(2) shall not take effect until such regulation, and a report on the economic impact of the regulation on air service to the airports covered by the rule, has been submitted to Congress and 120 days have elapsed following the date of such submission.

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1189; Pub. L. 104–264, title IV, §404, Oct. 9, 1996, 110 Stat. 3256.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44706(a)	49 App.:1432(b) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(b); added May 21, 1970, Pub. L. 91–258, §51(b)(1), 84 Stat. 234; Nov. 27, 1971, Pub. L. 92–174, §5(b), 85 Stat. 492; Sept. 3, 1982, Pub. L. 97–248, §§524(f), 525(b), 96 Stat. 697.
44706(b)	49 App.:1432(b) (3d, last	

	sentences).	
44706(c)	49 App.:1432(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(c); added July 12, 1976, Pub. L. 94–353, §19(a), 90 Stat. 883; Sept. 3, 1982, Pub. L. 97–248, §525(c), 96 Stat. 697.

In subsection (a), before clause (1), the words "may file with the Administrator an application for an airport operating certificate" are omitted as surplus. In clause (3), the words "the requirements of" are omitted as surplus. The word "rules" is omitted as being synonymous with "regulations".

In subsection (b), before clause (1), the words "conditions, and limitations . . . reasonably" are omitted as surplus. In clause (2), the words "grooving or other" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–264, §404(a), added par. (2), redesignated former par. (2) as (3), substituted "if" for "(3) when" in former par. (3) and adjusted the margins of that par. to make it a flush provision following par. (3).

Subsec. (d). Pub. L. 104–264, §404(b), added subsec. (d).

Subsec. (e). Pub. L. 104–264, §404(c), added subsec. (e).

Subsec. (f). Pub. L. 104–264, §404(d), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

PFAS-RELATED RESOURCES FOR AIRPORTS

Pub. L. 118–63, title VII, §767, May 16, 2024, 138 Stat. 1291, provided that:

"(a) PFAS REPLACEMENT PROGRAM FOR AIRPORTS.—Not later than 90 days after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation], in consultation with the Administrator of the Environmental Protection Agency, shall establish a program to reimburse sponsors of eligible airports for the reasonable and appropriate costs incurred after September 12, 2023, and associated with any of the following:

"(1) The one-time initial acquisition by the sponsor of an eligible airport of an approved fluorine-free firefighting agent under Military Specification MIL–PRE–32725, dated January 12, 2023, in a quantity of—

"(A) the capacity of all required aircraft rescue and firefighting equipment listed in the most recent FAA [Federal Aviation Administration]-approved Airport Certification Manual, regardless of how the equipment was initially acquired; and

"(B) twice the quantity carried onboard each required truck available in the fire station for the eligible airport.

"(2) The disposal of perfluoroalkyl or polyfluoroalkyl products, including fluorinated aqueous film-forming agents, to the extent such disposal is necessary to facilitate the transition to such approved fluorine-free firefighting agent, including aqueous film-forming agents currently in firefighting equipment and vehicles and any wastewater generated during the cleaning of firefighting equipment and vehicles.

"(3) The cleaning or disposal of existing equipment or components thereof, to the extent such cleaning or disposal is necessary to facilitate the transition to such approved fluorine-free firefighting agent.

"(4) The acquisition of any equipment, or components thereof, necessary to facilitate the transition to such approved fluorine-free firefighting agent.

"(5) The replacement of any aircraft rescue and firefighting equipment determined necessary to be replaced by the Secretary.

"(b) DISTRIBUTION OF FUNDS.—

"(1) GRANTS TO REPLACE AIRCRAFT RESCUE AND FIREFIGHTING VEHICLES.—

"(A) IN GENERAL.—Of the amounts made available to carry out the PFAS replacement program, the Secretary [of Transportation] shall reserve up to $30,000,000 to make grants to each eligible airport that is designated under part 139 as an Index A airport and does not have existing capabilities to produce fluorine-free firefighting foam for the replacement of aircraft rescue and firefighting vehicles.

"(B) AMOUNT.—The maximum amount of a grant made under subparagraph (A) may not exceed $2,000,000.

"(2) REMAINING AMOUNTS.—

"(A) DETERMINATION OF NEED.—With respect to the amount of firefighting foam concentrate required for foam production commensurate with applicable aircraft rescue and firefighting equipment required in accordance with the most recent FAA-approved Airport Certification Manual, the Secretary shall determine—

"(i) for each eligible airport, the total amount of such concentrate required for all of the federally required aircraft rescue and firefighting vehicles that meet index requirements under part 139, in gallons; and

"(ii) for all eligible airports, the total amount of firefighting foam concentrate, in gallons.

"(B) DETERMINATION OF GRANT AMOUNTS.—The Secretary shall make a grant to the sponsor of each eligible airport in an amount equal to the product of—

"(i) the amount of funds made available to carry out this section that remain available after the Secretary reserves the amount described in paragraph (1); and

"(ii) the ratio of the amount determined under subparagraph (A)(i) for such eligible airport to the amount determined under subparagraph (A)(ii).

"(c) PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall determine the eligibility of costs payable under the PFAS replacement program by taking into account all engineering, technical, and environmental protocols and generally accepted industry standards that are developed or established for approved fluorine-free firefighting foams.

"(2) COMPLIANCE WITH APPLICABLE LAW.—To be eligible for reimbursement under the program established under subsection (a), the sponsor of an eligible airport shall carry out all actions related to the acquisition, disposal, and transition to approved fluorine-free firefighting foams, including the cleaning and disposal of equipment, in full compliance with all applicable Federal laws in effect at the time of obligation of a grant under this section.

"(3) FEDERAL SHARE.—The Federal share of allowable costs under the PFAS replacement program shall be 100 percent.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated not more than $350,000,000 to carry out the PFAS replacement program.

"(2) REQUIREMENTS.—Amounts made available to carry out the PFAS replacement program shall—

"(A) REMAIN AVAILABLE FOR EXPENDITURE FOR A PERIOD OF 5 FISCAL YEARS; AND

"(B) be available in addition to any other funding available for similar purposes under any other Federal, State, local, or Tribal program.

"(e) DEFINITIONS.—In this section:

"(1) ELIGIBLE AIRPORT.—The term 'eligible airport' means an airport holding an Airport Operating Certificate issued under part 139.

"(2) PART 139.—The term 'part 139' means part 139 of title 14, Code of Federal Regulations.

"(3) PFAS REPLACEMENT PROGRAM.—The term 'PFAS replacement program' means the program established under subsection (a)."

MAINTAINING SAFE FIRE AND RESCUE STAFFING LEVELS

Pub. L. 118–63, title VII, §769, May 16, 2024, 138 Stat. 1295, provided that:

"(a) UPDATE TO REGULATION.—The Administrator [of the Federal Aviation Administration] shall update the regulations contained in section 139.319 of title 14, Code of Federal Regulations, to ensure that paragraph (4) of such section provides that at least 1 individual maintains certification at the emergency

medical technician basic level, or higher, at a small, medium, or large hub airport.

"(b) STAFFING REVIEW.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Administrator shall conduct a review of airport environments and related regulations to evaluate sufficient staffing levels necessary for firefighting, rescue, and emergency medical services and response at airports certified under part 139 of title 14, Code of Federal Regulations.

"(c) REPORT.—Not later than 1 year after completing the review under subsection (b), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report containing the results of the review."

FIREFIGHTING FOAM AND FLUORINATED CHEMICALS

Pub. L. 115–254, div. B, title III, §332(a), Oct. 5, 2018, 132 Stat. 3273, provided that: "Not later than 3 years after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration], using the latest version of National Fire Protection Association 403, 'Standard for Aircraft Rescue and Fire-Fighting Services at Airports', and in coordination with the Administrator of the Environmental Protection Agency, aircraft manufacturers and airports, shall not require the use of fluorinated chemicals to meet the performance standards referenced in chapter 6 of AC No: 150/5210–6D and acceptable under [section] 139.319(l) of title 14, Code of Federal Regulations."

IMPROVEMENT OF RUNWAY SAFETY AREAS

Pub. L. 109–115, div. A, title I, Nov. 30, 2005, 119 Stat. 2401, provided in part: "That not later than December 31, 2015, the owner or operator of an airport certificated under 49 U.S.C. 44706 shall improve the airport's runway safety areas to comply with the Federal Aviation Administration design standards required by 14 CFR part 139: *Provided further*, That the Federal Aviation Administration shall report annually to the Congress on the agency's progress toward improving the runway safety areas at 49 U.S.C. 44706 airports."

SMALL AIRPORT CERTIFICATION

Pub. L. 106–181, title V, §518, Apr. 5, 2000, 114 Stat. 145, provided that, not later than 60 days after Apr. 5, 2000, the Administrator of the Federal Aviation Administration would issue a notice of proposed rulemaking on implementing subsec. (a)(2) of this section relating to issuance of airport operating certificates for small scheduled passenger air carrier operations, and not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator would issue a final rule on implementing this program.

§44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing, altering, and maintaining aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair, alter, and maintain aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44707	49 App.:1427 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §607 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983,

		Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, the word "Administrator" in section 607 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). In clauses (1) and (2), the word "overhaul" is omitted as surplus. In clause (1), the words "course of" are omitted as surplus. In clause (3), the words "in his opinion" are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AIRCRAFT REPAIR AND MAINTENANCE ADVISORY PANEL

Pub. L. 106–181, title VII, §734, Apr. 5, 2000, 114 Stat. 170, provided that:

"(a) ESTABLISHMENT OF PANEL.—The Administrator [of the Federal Aviation Administration]—

"(1) shall establish an aircraft repair and maintenance advisory panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities (in this section referred to as 'aircraft repair facilities') located within, or outside of, the United States; and

"(2) may seek the advice of the panel on any issue related to methods to increase safety by improving the oversight of aircraft repair facilities.

"(b) MEMBERSHIP.—The panel shall consist of—

"(1) nine members appointed by the Administrator as follows:

"(A) three representatives of labor organizations representing aviation mechanics;

"(B) one representative of cargo air carriers;

"(C) one representative of passenger air carriers;

"(D) one representative of aircraft repair facilities;

"(E) one representative of aircraft manufacturers;

"(F) one representative of on-demand passenger air carriers and corporate aircraft operations; and

"(G) one representative of regional passenger air carriers;

"(2) one representative from the Department of Commerce, designated by the Secretary of Commerce;

"(3) one representative from the Department of State, designated by the Secretary of State; and

"(4) one representative from the Federal Aviation Administration, designated by the Administrator.

"(c) RESPONSIBILITIES.—The panel shall—

"(1) determine the amount and type of work that is being performed by aircraft repair facilities located within, and outside of, the United States; and

"(2) provide advice and counsel to the Secretary [of Transportation] with respect to the aircraft and aviation component repair work performed by aircraft repair facilities and air carriers, staffing needs, and any balance of trade or safety issues associated with that work.

"(d) DOT TO REQUEST INFORMATION FROM AIR CARRIERS AND REPAIR FACILITIES.—

"(1) COLLECTION OF INFORMATION.—The Secretary, by regulation, shall require air carriers, foreign air carriers, domestic repair facilities, and foreign repair facilities to submit such information as the Secretary may require in order to assess balance of trade and safety issues with respect to work performed on aircraft used by air carriers, foreign air carriers, United States corporate operators, and foreign corporate operators.

"(2) DRUG AND ALCOHOL TESTING INFORMATION.—Included in the information the Secretary requires under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at the foreign repair facilities, if applicable. The Secretary, if necessary, shall work with the International Civil Aviation Organization to increase the number and improve the administration of employee drug and alcohol testing programs at the foreign repair facilities.

"(3) DESCRIPTION OF WORK DONE.—Included in the information the Secretary requires under paragraph (1) shall be information on the amount and type of work performed on aircraft registered in and outside of the United States.

"(e) DOT TO FACILITATE COLLECTION OF INFORMATION ABOUT AIRCRAFT MAINTENANCE .—The Secretary shall facilitate the collection of information from the National Transportation Safety Board, the Federal Aviation Administration, and other appropriate agencies regarding maintenance performed by aircraft repair facilities.

"(f) DOT TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Secretary shall make any relevant information received under subsection (d) available to the public, consistent with the authority to withhold trade secrets or commercial, financial, and other proprietary information under section 552 of title 5, United States Code.

"(g) TERMINATION.—The panel established under subsection (a) shall terminate on the earlier of—
"(1) the date that is 2 years after the date of the enactment of this Act [Apr. 5, 2000]; or
"(2) December 31, 2001.
"(h) DEFINITIONS.—The definitions contained in section 40102 of title 49, United States Code, shall apply to this section."

§44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility available for the use of civil aircraft on the suitability of the facility for that use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44708	49 App.:1426 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §606 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The word "Administrator" in section 606 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g).

§44709. Amendments, modifications, suspensions, and revocations of certificates

(a) REINSPECTION AND REEXAMINATION.—
(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, design organization, production certificate holder, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.
(2) NOTIFICATION OF REEXAMINATION OF AIRMAN.—Before taking any action to reexamine an airman under paragraph (1) the Administrator shall provide to the airman—
(A) a reasonable basis, described in detail, for requesting the reexamination; and
(B) any information gathered by the Federal Aviation Administration, that the Administrator determines is appropriate to provide, such as the scope and nature of the requested reexamination, that formed the basis for that justification.

(b) ACTIONS OF THE ADMINISTRATOR.—The Administrator may issue an order amending, modifying, suspending, or revoking—
(1) any part of a certificate issued under this chapter if—
(A) the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or
(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(a)).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate

of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under subsection (b)(1)(A) of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under subsection (b)(1)(B) of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d), the order of the Administrator is stayed.

(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator's order under paragraph (2) may petition for a review by the Board, under procedures promulgated by the Board, of the Administrator's determination that an emergency exists. Any such review shall be requested not later than 48 hours after the order is received by the person. If the Board finds that an emergency does not exist that requires the immediate application of the order in the interest of safety in air commerce or air transportation, the order shall be stayed, notwithstanding paragraph (2). The Board shall dispose of a review request under this paragraph not later than 5 days after the date on which the request is filed.

(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) not later than 60 days after the date on which the appeal is filed.

(f) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this section, or the Administrator when the Administrator decides that an order of the Board under this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1190; Pub. L. 106–181, title VII, §716, Apr. 5, 2000, 114 Stat. 162; Pub. L. 108–176, title II, §227(c), Dec. 12, 2003, 117 Stat. 2532; Pub. L. 112–153, §2(c)(2), Aug. 3, 2012, 126 Stat. 1161; Pub. L. 115–254, div. B, title III, §393(a), Oct. 5, 2018, 132 Stat. 3325.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44709(a)	49 App.:1429(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §609(a) (1st–7th sentences, 8th–last

		sentences less Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92–159, §2(a), 85 Stat. 481; Nov. 27, 1971, Pub. L. 92–174, §6, 85 Stat. 492; Aug. 26, 1992, Pub. L. 102–345, §3(a)(1), 106 Stat. 925.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44709(b)	49 App.:1429(a) (2d sentence).	
	49 App.:1429(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(b); added Nov. 18, 1971, Pub. L. 92–159, §2(a), 85 Stat. 481.
	49 App.:1431(e) (words before 4th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §611(e); added July 21, 1968, Pub. L. 90–411, §1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, §7(b), 86 Stat. 1241.
	49 App.:1655(c)(1).	
44709(c)	49 App.:1429(a) (3d sentence).	
	49 App.:1431(e) (words between 4th and 5th commas).	
	49 App.:1655(c)(1).	
44709(d)(1)	49 App.:1429(a) (4th sentence).	
	49 App.:1431(e) (words after 4th comma).	
44709(d)(2)	49 App.:1429(a) (6th sentence).	
44709(d)(3)	49 App.:1429(a) (5th sentence).	
	49 App.:1655(c)(1).	
44709(e)	49 App.:1429(a) (7th sentence).	
	49 App.:1655(c)(1).	
44709(f)	49 App.:1429(a) (8th–last sentences less Administrator under subch. VII).	
	49 App.:1655(c)(1).	

In this section, the word "Administrator" in section 609(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). The words "modifying", "modify", and "modified" are omitted as surplus.

In subsection (a), the words "airman holding a certificate issued under section 44703 of this title" are substituted for "civil airman" for clarity.

In subsection (b)(1), before subclause (A), the words "certificate issued under this chapter" are substituted for "type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate" to eliminate unnecessary words.

In subsection (b)(2), the words "in his discretion" and "regarding the use or operation of an aircraft" in 49 App.:1429(b) are omitted as surplus.

In subsection (c), the words "cases of" in 49 App.:1429(a) are omitted as surplus.

In subsection (d)(1), before clause (A), the word "adversely" is substituted for "whose certificate is" in 49 App.:1429(a), and the words "an opportunity for a" are added, for consistency in the revised title and with other titles of the United States Code. The words "of the FAA" in 49 App.:1431(e) are omitted as surplus.

In subsection (d)(2), the words "consistent with this subsection" are omitted as surplus.

In subsection (d)(3), the word "Administrator" is substituted for "Federal Aviation Administration" because

of 49:106(b) and (g).

In subsection (e), before clause (1), the words "the effectiveness of" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 designated existing provisions as par. (1), inserted heading, and added par. (2).

2012—Subsec. (d)(3). Pub. L. 112–153 struck out "but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law" after "Administrator".

2003—Subsec. (a). Pub. L. 108–176 inserted "design organization, production certificate holder," after "appliance,".

2000—Subsec. (e). Pub. L. 106–181 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

"(1) the order is effective; and

"(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

RISK MODEL FOR PRODUCTION FACILITY INSPECTIONS

Pub. L. 118–63, title III, §314, May 16, 2024, 138 Stat. 1077, provided that:

"(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act [May 16, 2024], and periodically thereafter, the Administrator [of the Federal Aviation Administration] shall—

"(1) conduct a review of the risk-based model used by certification management offices of the FAA [Federal Aviation Administration] to inform the frequency of aircraft manufacturing or production facility inspections; and

"(2) update the model to ensure such model adequately accounts for risk at facilities during periods of increased production.

"(b) BRIEFINGS.—Not later than 60 days after the date on which the review is completed under subsection (a), the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on—

"(1) the results of the review;

"(2) any changes made to the risk-based model described in subsection (a); and

"(3) how such changes would help improve the in-plant inspection process."

§44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator relies for the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and be heard why the certificate should not be revoked.

(d) APPEALS.—(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. When conducting the hearing, the Board is not bound by findings of fact of the Administrator.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(3) An individual substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse effect on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the conviction on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) WAIVERS.—The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1191; Pub. L. 112–153, §2(c)(3), Aug. 3, 2012, 126 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44710(a)	49 App.:1429(c)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(c)(1), (2), (4); added Oct. 19, 1984, Pub. L. 98–499, §2(a), 98 Stat. 2312, 2313.
44710(b)(1)	49 App.:1429(c)(1) (1st sentence).	
44710(b)(2)	49 App.:1429(c)(2) (1st sentence).	
44710(b)(3)	49 App.:1429(c)(1) (last sentence).	
44710(c)	49 App.:1429(c)(3) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(c)(3); added Oct. 19, 1984, Pub. L. 98–499, §2(a), 98 Stat. 2312; Aug. 26, 1992, Pub. L. 102–345, §3(b), 106 Stat. 926.
44710(d)	49 App.:1429(c)(3) (2d–last sentences).	
44710(e)(1)	49 App.:1429(c)(2) (last sentence).	
44710(e)(2)	49 App.:1422(b)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §602(b)(2)(C); added Oct. 19, 1984, Pub. L. 98–499, §3, 98 Stat. 2313.
44710(f)	49 App.:1429(c)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(c)(5); added Nov. 18, 1988, Pub. L. 100–690, §7204(b), 102 Stat. 4425.

In subsection (b)(1) and (2), before each clause (A), the words "of any person" are omitted as surplus. The words "issued . . . under section 44703 of this title" are added for clarity.

In subsection (b)(1), the word "offense" is substituted for "crime" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(2)(C), the words "in connection with carrying out, or facilitating the carrying out of, the activity" are substituted for "in connection with such activity or the facilitation of such activity" for consistency with the source provisions restated in paragraph (1)(B) of this subsection.

In subsection (d)(1), the word "Administrator" is substituted for "Federal Aviation Administration" because of 49:106(b) and (g).

In subsection (e)(1), the words "on appeal" and "contained" are omitted as surplus.
In subsection (e)(2)(B)(i), the word "contained" is omitted as surplus.
In subsection (e)(2)(B)(ii), the words "judgment of" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (d)(1). Pub. L. 112–153 struck out "but shall be bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law" after "findings of fact of the Administrator".

§44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) operate a civil aircraft in air commerce without an airworthiness certificate in effect or in violation of a term of the certificate;

(2) serve in any capacity as an airman with respect to a civil aircraft, aircraft engine, propeller, or appliance used, or intended for use, in air commerce—

(A) without an airman certificate authorizing the airman to serve in the capacity for which the certificate was issued; or

(B) in violation of a term of the certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(3) employ for service related to civil aircraft used in air commerce an airman who does not have an airman certificate authorizing the airman to serve in the capacity for which the airman is employed;

(4) operate as an air carrier without an air carrier operating certificate or in violation of a term of the certificate;

(5) operate aircraft in air commerce in violation of a regulation prescribed or certificate issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(6) operate a seaplane or other aircraft of United States registry on the high seas in violation of a regulation under section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602);

(7) violate a term of an air agency, design organization certificate, or production certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title related to the holder of the certificate;

(8) operate an airport without an airport operating certificate required under section 44706 of this title or in violation of a term of the certificate;

(9) manufacture, deliver, sell, or offer for sale any aviation fuel or additive in violation of a regulation prescribed under section 44714 of this title;

(10) work as an aircraft dispatcher outside of a physical location designated as a dispatching center or flight following center of an air carrier, except as provided under section 44747; or

(11) violate section 44732 or any regulation issued thereunder.

(b) EXEMPTION.—On terms the Administrator of the Federal Aviation Administration prescribes as being in the public interest, the Administrator may exempt a foreign aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted.

(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART TRAFFICKERS.—No person subject to this chapter may knowingly employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the

installation of a part into a civil aircraft, who has been convicted in a court of law of a violation of any Federal law relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material.

(d) POST-EMPLOYMENT RESTRICTIONS FOR INSPECTORS AND ENGINEERS.—

(1) PROHIBITION.—A person holding a certificate issued under part 21 or 119 of title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement that permits, an individual to act as an agent or representative of such person in any matter before the Administration if the individual, in the preceding 2-year period—

(A) served as, or was responsible for oversight of—

(i) a flight standards inspector of the Administration; or

(ii) an employee of the Administration with responsibility for certification functions with respect to a holder of a certificate issued under section 44704(a); and

(B) had responsibility to inspect, or oversee inspection of, the operations of such person.

(2) WRITTEN AND ORAL COMMUNICATIONS.—For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Administration if the individual makes any written or oral communication on behalf of the certificate holder to the Administration (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as an individual covered under paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1193; Pub. L. 103–429, §6(56), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 106–181, title V, §505(b), Apr. 5, 2000, 114 Stat. 136; Pub. L. 108–176, title II, §227(d), Dec. 12, 2003, 117 Stat. 2532; Pub. L. 112–95, title III, §§307(b), 342(a), Feb. 14, 2012, 126 Stat. 61, 79; Pub. L. 116–260, div. V, title I, §111(b), Dec. 27, 2020, 134 Stat. 2330; Pub. L. 118–63, title IV, §420(a)(1), May 16, 2024, 138 Stat. 1164.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44711(a)(1)	49 App.:1430(a)(1).	Aug. 23, 1958, Pub. L. 85–726, §610(a)(1)–(5), (b), 72 Stat. 780.
44711(a)(2)	49 App.:1430(a)(2).	
44711(a)(3)	49 App.:1430(a)(3).	
44711(a)(4)	49 App.:1430(a)(4).	
44711(a)(5)	49 App.:1430(a)(5).	
44711(a)(6)	49 App.:1430(a)(6).	Aug. 23, 1958, Pub. L. 85–726, §610(a)(6), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, §51(b)(3)(A), 84 Stat. 235.
44711(a)(7)	49 App.:1430(a)(7).	Aug. 23, 1958, Pub. L. 85–726, §610(a)(7), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, §51(b)(3)(B), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, §11(b)(2), 84 Stat. 1705.
44711(a)(8)	49 App.:1430(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §610(a)(8); added May 21, 1970, Pub. L. 91–258, §51(b)(3)(C), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, §11(b)(2), 84 Stat. 1705;

		restated Sept. 3, 1982, Pub. L. 97–248, §525(d), 96 Stat. 697.
44711(a)(9)	49 App.:1430(a)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §610(a)(9); added Dec. 31, 1970, Pub. L. 91–604, §11(b)(2), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, §15(b)(2), 91 Stat. 1283.
44711(b)	49 App.:1430(b).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In subsection (a)(1) and (7), the words "condition, or limitation" are omitted as being included in "term".

In subsection (a)(1), the words "without . . . in effect" are substituted for "for which there is not currently in effect an" to eliminate unnecessary words.

In subsection (a)(2), (5), and (7), the word "rule" is omitted as being synonymous with "regulations".

In subsection (a)(2)(B), the word "prescribed" is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(5) and (7), the words "prescribed . . . issued" are added for consistency in the revised title and with other titles of the Code.

In subsection (a)(5), the words "of the Secretary of Transportation" are omitted as surplus.

In subsection (a)(6), the words "proclaimed by the President" are omitted as surplus. The words "section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602)" are substituted for "section 143 of title 33" because the section was part of the Act of October 11, 1951 (ch. 495, 65 Stat. 406), that was repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608.

In subsection (a)(7), the words "holding . . . such certificate" are omitted because of the restatement.

In subsection (a)(8), the words "by the Administrator" are omitted as surplus.

In subsection (b), the word "Administrator" in section 610(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 780) is retained on authority of 49:106(g). The words "to the extent, and . . . and conditions" and "by such airmen" are omitted as surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(10), (11). Pub. L. 118–63 added par. (10) and redesignated former par. (10) as (11).

2020—Subsec. (d). Pub. L. 116–260 amended subsec. (d) generally. Prior to amendment, subsec. (d) related to postemployment restrictions for flight standards inspectors.

2012—Subsec. (a)(10). Pub. L. 112–95, §307(b), added par. (10).

Subsec. (d). Pub. L. 112–95, §342(a), added subsec. (d).

2003—Subsec. (a)(7). Pub. L. 108–176 substituted "agency, design organization certificate," for "agency".

2000—Subsec. (c). Pub. L. 106–181 added subsec. (c).

1994—Subsec. (a)(2)(B), (5), (7). Pub. L. 103–429 inserted "any of sections" before "44702–44716".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, title III, §342(b), Feb. 14, 2012, 126 Stat. 80, provided that: "The amendment made by subsection (a) [amending this section] shall not apply to an individual employed by a certificate holder as of the date of enactment of this Act [Feb. 14, 2012]."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

REGULATIONS

Pub. L. 118–63, title IV, §420(a)(2), May 16, 2024, 138 Stat. 1164, provided that: "Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue regulations requiring persons to comply with section 44711(a)(10) of title 49, United States Code (as added by paragraph (1))."

§44712. Emergency locator transmitters

(a) INSTALLATION.—An emergency locator transmitter must be installed on a fixed-wing powered civil aircraft for use in air commerce.

(b) NONAPPLICATION.—Prior to January 1, 2002, subsection (a) does not apply to—

(1) turbojet-powered aircraft;

(2) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(3) aircraft when used in training operations conducted entirely within a 50 mile radius of the airport from which the training operations begin;

(4) aircraft when used in flight operations related to design and testing, the manufacture, preparation, and delivery of the aircraft, or the aerial application of a substance for an agricultural purpose;

(5) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

(6) aircraft when used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(7) aircraft equipped to carry only one individual.

(c) NONAPPLICATION BEGINNING ON JANUARY 1, 2002.—

(1) IN GENERAL.—Subject to paragraph (2), on and after January 1, 2002, subsection (a) does not apply to—

(A) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(B) aircraft when used in training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

(C) aircraft when used in flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

(D) aircraft when used in research and development if the aircraft holds a certificate from the Administrator of the Federal Aviation Administration to carry out such research and development;

(E) aircraft when used in showing compliance with regulations, crew training, exhibition, air racing, or market surveys;

(F) aircraft when used in the aerial application of a substance for an agricultural purpose;

(G) aircraft with a maximum payload capacity of more than 18,000 pounds when used in air transportation; or

(H) aircraft equipped to carry only one individual.

(2) DELAY IN IMPLEMENTATION.—The Administrator of the Federal Aviation Administration may continue to implement subsection (b) rather than subsection (c) for a period not to exceed 2 years after January 1, 2002, if the Administrator finds such action is necessary to promote—

(A) a safe and orderly transition to the operation of civil aircraft equipped with an emergency locator; or

(B) other safety objectives.

(d) COMPLIANCE.—An aircraft meets the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency or with other equipment approved by the Secretary for meeting the requirement of subsection (a).

(e) REMOVAL.—The Administrator shall prescribe regulations specifying the conditions under which an aircraft subject to subsection (a) of this section may operate when its emergency locator transmitter has been removed for inspection, repair, alteration, or replacement.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1194; Pub. L. 106–181, title V, §501(a), Apr. 5, 2000, 114 Stat. 131.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44712(a)	49 App.:1421(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §601(d)(1); added Dec. 29, 1970, Pub. L. 91–596, §31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, §4, 87 Stat. 1048; Nov. 9, 1977, Pub. L. 95–163, §15(a)(1), 91 Stat. 1283.
44712(b)	49 App.:1421(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §601(d)(2); added Dec. 29, 1970, Pub. L. 91–596, §31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, §4, 87 Stat. 1048.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
44712(c)	49 App.:1421(d)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §601(d)(3); added Nov. 9, 1977, Pub. L. 95–163, §15(a)(2), 91 Stat. 1283.

In subsection (a), the words "Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection" are omitted as surplus. The words "minimum standards pursuant to this section shall include a requirement that", the text of 49 App.:1421(d)(1)(A), and the words "after three years and six months following such date" are omitted as executed.

In subsection (b), the word "used" is substituted for "engaged" for consistency. In clause (3), the word "training" is substituted for "local flight" for consistency. In clause (4), the words "chemicals and other" are omitted as surplus. In clause (5), the word "purposes" is omitted as surplus.

In subsection (c), the words "prescribe regulations" are substituted for "shall issue regulations . . . as he prescribes in such regulations" to eliminate unnecessary words. The words "such limitations and" and "from such aircraft" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–181, §501(a)(1), substituted "Prior to January 1, 2002, subsection (a)" for "Subsection (a) of this section" in introductory provisions.

Subsecs. (c) to (e). Pub. L. 106–181, §501(a)(2), (3), added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

REGULATIONS

Pub. L. 106–181, title V, §501(b), Apr. 5, 2000, 114 Stat. 132, provided that: "The Secretary [of Transportation] shall issue regulations to carry out section 44712(c) of title 49, United States Code, as amended by this section, not later than January 1, 2001."

EMERGENCY LOCATOR TRANSMITTERS ON GENERAL AVIATION AIRCRAFT

Pub. L. 112–95, title III, §347, Feb. 14, 2012, 126 Stat. 82, provided that:

"(a) INSPECTION.—As part of the annual inspection of general aviation aircraft, the Administrator of the Federal Aviation Administration shall require a detailed inspection of each emergency locator transmitter (in this section referred to as an 'ELT') installed in general aviation aircraft operating in the United States to ensure that the ELT is mounted and retained in accordance with the manufacturer's specifications.

"(b) MOUNTING AND RETENTION.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall determine if the ELT mounting requirements and retention tests specified by Technical Standard Orders C91a and C126 are adequate to assess retention capabilities in ELT designs.

"(2) REVISION.—Based on the determination under paragraph (1), the Administrator shall make any necessary revisions to the requirements and retention tests referred to in paragraph (1) to ensure that ELTs are properly retained in the event of an aircraft accident.

"(c) REPORT.—Upon the completion of any revisions under subsection (b)(2), the Administrator shall submit a report on the implementation of this section to—

"(1) the Committee on Commerce, Science, and Transportation of the Senate; and

"(2) the Committee on Transportation and Infrastructure of the House of Representatives."

§44713. Inspection and maintenance

(a) GENERAL EQUIPMENT REQUIREMENTS.—An air carrier shall make, or cause to be made, any inspection, repair, or maintenance of equipment used in air transportation as required by this part or regulations prescribed or orders issued by the Administrator of the Federal Aviation Administration under this part. A person operating, inspecting, repairing, or maintaining the equipment shall comply with those requirements, regulations, and orders.

(b) DUTIES OF INSPECTORS.—The Administrator of the Federal Aviation Administration shall employ inspectors who shall—

(1) inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft, aircraft engines, propellers, or appliances are in safe condition and maintained properly; and

(2) advise and cooperate with the air carrier during that inspection and maintenance.

(c) UNSAFE AIRCRAFT, ENGINES, PROPELLERS, AND APPLIANCES.—When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not in condition for safe

operation, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is in condition for safe operation.

(d) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for processing forms for major repairs or alterations to fuel tanks and fuel systems of aircraft not used to provide air transportation that are necessary to make the system more effective in serving the needs of users of the system, including officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the lack of a special identification feature to allow the forms to be distinguished easily from other major repair and alteration forms.

(B) the excessive period of time required to receive the forms at the Airmen and Aircraft Registry of the Administration.

(C) the backlog of forms waiting for processing at the Registry.

(D) the lack of ready access by law enforcement officials to information contained on the forms.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of U.S. Customs and Border Protection, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(e) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—

(1) IN GENERAL.—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

(2) DEADLINES FOR DEPLOYMENT.—

(A) INITIAL PHASE.—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

(B) FINAL PHASE.—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

(3) INTEGRATION OF INFORMATION.—In developing the system under this section, the Administration shall consider the near-term integration of accident and incident data into the safety performance analysis system under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1194; Pub. L. 104–264, title IV, §407(b), Oct. 9, 1996, 110 Stat. 3258; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44713(a)	49 App.:1425(a).	Aug. 23, 1958, Pub. L. 85–726,

		§605(a), (b), 72 Stat. 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44713(b)	49 App.:1425(b) (1st sentence). 49 App.:1655(c)(1).	
44713(c)	49 App.:1425(b) (last sentence). 49 App.:1655(c)(1).	
44713(d)(1)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
	49 App.:1425(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §605(c); added Nov. 18, 1988, Pub. L. 100–690, §7206(a), 102 Stat. 4426.
44713(d)(2)	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, §7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(c), the word "Administrator" in section 605(a) and (b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g).

In subsection (a), the word "overhaul" is omitted as being included in "repair". The word "prescribed" is added for consistency in the revised title and with other titles of the United States Code. The words "A person operating, inspecting, overhauling, or maintaining the equipment shall comply with those requirements, regulations, and orders" are substituted for 49 App.:1425(a) (last sentence) to eliminate unnecessary words.

In subsection (b), before clause (1), the words "be charged with the duty . . . of" are omitted as surplus. In clause (1), the words "in use" are substituted for "used by an air carrier in air transportation" to eliminate unnecessary words. The words "as may be necessary" and "for operation in air transportation" are omitted as surplus.

In subsection (c), the words "in the performance of his duty", "used or intended to be used by any air carrier in air transportation", and "a period of" are omitted as surplus.

In subsection (d)(1), before clause (A), the words "not used to provide air transportation" are substituted for section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4434) because of the restatement.

In subsection (d)(2), the words "Not later than September 18, 1989" and "final" are omitted as obsolete. The words "Administrator of Drug Enforcement" are substituted for "Drug Enforcement Administration of the Department of Justice" because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words "Commissioner of Customs" are substituted for "United States Customs Service" because of 19:2071.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–264 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in subsec. (d)(2) on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

MAINTENANCE PROVIDERS

Pub. L. 112–95, title III, §319, Feb. 14, 2012, 126 Stat. 69, provided that:

"(a) REGULATIONS.—Not later than 3 years after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall issue regulations requiring that covered work on an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by persons in accordance with subsection (b).

"(b) PERSONS AUTHORIZED TO PERFORM CERTAIN WORK.—A person may perform covered work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, only if the person is employed by—

"(1) a part 121 air carrier;

"(2) a part 145 repair station or a person authorized under section 43.17 of title 14, Code of Federal Regulations (or any successor regulation); or

"(3) subject to subsection (c), a person that—

"(A) provides contract maintenance workers, services, or maintenance functions to a part 121 air carrier or part 145 repair station; and

"(B) meets the requirements of the part 121 air carrier or the part 145 repair station, as appropriate.

"(c) TERMS AND CONDITIONS.—Covered work performed by a person who is employed by a person described in subsection (b)(3) shall be subject to the following terms and conditions:

"(1) The applicable part 121 air carrier shall be directly in charge of the covered work being performed.

"(2) The covered work shall be carried out in accordance with the part 121 air carrier's maintenance manual.

"(3) The person shall carry out the covered work under the supervision and control of the part 121 air carrier directly in charge of the covered work being performed on its aircraft.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) COVERED WORK.—The term 'covered work' means any of the following:

"(A) Essential maintenance that could result in a failure, malfunction, or defect endangering the safe operation of an aircraft if not performed properly or if improper parts or materials are used.

"(B) Regularly scheduled maintenance.

"(C) A required inspection item (as defined by the Administrator).

"(2) PART 121 AIR CARRIER.—The term 'part 121 air carrier' means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

"(3) PART 145 REPAIR STATION.—The term 'part 145 repair station' means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.

"(4) PERSON.—The term 'person' means an individual, firm, partnership, corporation, company, or association that performs maintenance, preventative maintenance, or alterations."

§44714. Aviation fuel standards

The Administrator of the Federal Aviation Administration shall prescribe—

(1) standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions the Administrator of the Environmental Protection Agency decides under section 231 of the Clean Air Act (42 U.S.C. 7571) endanger the public health or welfare; and

(2) regulations providing for carrying out and enforcing those standards.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1195.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44714	49 App.:1421(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §601(e); added Dec. 31, 1970, Pub. L. 91–604, §11(b)(1), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, §15(b)(1), 91 Stat. 1283.

In this section, before clause (1), the words "and from time to time revise" are omitted as surplus. In clause (1), the words "establishing" and "the purpose of" are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

LOW LEAD AVIATION FUEL IN ALASKA

Pub. L. 118–63, title VII, §771(a), May 16, 2024, 138 Stat. 1296, provided that:

"(1) PROHIBITION ON RESTRICTION OF FUEL USAGE OR AVAILABILITY.—The Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall not restrict the continued use or availability of 100-octane low lead aviation gasoline in the State of Alaska until the earlier of—

"(A) December 31, 2032; or

"(B) 6 months after the date on which the Administrator of the Federal Aviation Administration finds that an unleaded aviation fuel is widely commercially available at airports throughout the State of Alaska that—

"(i) has been authorized for use by the Administrator of the Federal Aviation Administration as a replacement for 100-octane low lead aviation gasoline; and

"(ii) meets either an industry consensus standard or other standard that facilitates and ensures the safe use, production, and distribution of such unleaded aviation fuel.

"(2) SAVINGS CLAUSE.—Nothing in this section shall limit the authority of the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency to address the endangerment to public health and welfare posed by lead emissions—

"(A) in the United States outside of the State of Alaska; or

"(B) within the State of Alaska after the date specified in paragraph (1)."

EAGLE INITIATIVE

Pub. L. 118–63, title VIII, §827, May 16, 2024, 138 Stat. 1333, provided that:

"(a) EAGLE INITIATIVE.—

"(1) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall continue to partner with industry and other Federal Government stakeholders in carrying out the Eliminate Aviation Gasoline Lead Emissions Initiative (in this section referred to as the 'EAGLE Initiative') through the end of 2030.

"(2) FAA [FEDERAL AVIATION ADMINISTRATION] RESPONSIBILITIES.—In collaborating with industry and other Government stakeholders to carry out the EAGLE Initiative, the Administrator shall take such actions as may be necessary under the authority of the Administrator to facilitate—

"(A) the safe elimination of the use of leaded aviation gasoline by piston-engine aircraft by the end of 2030 without adversely affecting the safe and efficient operation of the piston-engine aircraft fleet;

"(B) the approval of the use of unleaded alternatives to leaded aviation gasoline for use in all piston-engine aircraft types and piston-engine models;

"(C) the implementation of the requirements of section 47107(a)(22) of title 49, United States Code, as added by this Act, as such requirements relate to the continued availability of aviation gasoline;

"(D) efforts to make unleaded aviation gasoline that is approved for use in piston-engine aircraft and engines widely available for purchase and use at airports in the National Plan of Integrated Airport Systems; and

"(E) the development of a transition plan to safely enable the transition of the piston-engine general aviation aircraft fleet to unleaded aviation gasoline by 2030, to the extent practicable.

"(3) ACTIVITIES.—In carrying out the responsibilities of the Administrator pursuant to paragraph (2), the Administrator shall, at a minimum—

"(A) maintain a fleet authorization process for the efficient approval or authorization of eligible piston-engine aircraft and engine models to operate safely using qualified unleaded aviation gasolines;

"(B) review, update, and prioritize, as soon as practicable, certification processes and projects, as necessary, for aircraft engines and modifications to such engines to operate with unleaded aviation gasoline;

"(C) seek to facilitate programs that accelerate the creation, evaluation, qualification, deployment, and use of unleaded aviation gasolines;

"(D) carry out, in partnership with the general aviation community, an ongoing campaign for training and educating aircraft owners and operators on how to safely transition to unleaded aviation gasoline;

"(E) evaluate aircraft and aircraft engines to ensure that such aircraft and aircraft engines can safely operate with unleaded aviation gasoline candidates during cold weather conditions; and

"(F) facilitate the development of agency policies and processes, as appropriate, to support the deployment of necessary infrastructure at airports to enable the distribution and storage of unleaded aviation gasolines.

"(4) CONSULTATION AND COLLABORATION WITH RELEVANT STAKEHOLDERS.—In carrying out the EAGLE Initiative, the Administrator shall continue to consult and collaborate, as appropriate, with relevant stakeholders, including—

"(A) general aviation aircraft engine, aircraft propulsion, and aircraft airframe manufacturers;

"(B) general aviation aircraft users, aircraft owners, aircraft pilots, and aircraft operators;

"(C) airports and fixed-base operators;

"(D) State, local, and Tribal aviation officials;

"(E) representatives of the petroleum industry, including developers, refiners, producers, and distributors of unleaded aviation gasolines; and

"(F) air carriers and commercial operators operating under part 135 of title 14, Code of Federal Regulations.

"(5) REPORT TO CONGRESS.—

"(A) INITIAL REPORT.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report that—

"(i) contains an updated strategic plan for maintaining a fleet authorization process for the efficient approval and authorization of eligible piston-engine aircraft and engine models to operate using unleaded aviation gasolines in a manner that ensures safety;

"(ii) describes the structure and involvement of all FAA offices that have responsibilities described in paragraph (2); and

"(iii) identifies policy initiatives, regulatory initiatives, or legislative initiatives needed to improve and enhance the timely and safe transition to unleaded aviation gasoline for the piston-engine aircraft fleet.

"(B) ANNUAL BRIEFING.—Not later than 1 year after the date on which the Administrator submits the initial report under subparagraph (A), and annually thereafter through 2030, the Administrator shall brief the appropriate committees of Congress on activities and progress of the EAGLE Initiative.

"(C) SUNSET.—Subparagraph (B) shall cease to be effective after December 31, 2030.

"(b) TRANSITION PLAN TO UNLEADED AVIATION GASOLINE.—

"(1) IN GENERAL.—In developing the transition plan under subsection (a)(2)(E), the Administrator may, at a minimum, assess the following:

"(A) Efforts undertaken by the EAGLE Initiative, including progress towards—

"(i) safely eliminating the use of leaded aviation gasoline by piston-engine aircraft by the end of 2030 without adversely affecting the safe and efficient operation of the piston-engine aircraft fleet;

"(ii) approving the use of unleaded alternatives to leaded aviation gasoline for use in all piston-engine aircraft types and piston-engine models; and

"(iii) facilitating efforts to make approved unleaded aviation gasoline that is approved for use in piston-engine aircraft and engines widely available at airports for purchase and use in the National Plan of Integrated Airport Systems.

"(B) The evaluation and development of necessary airport infrastructure, including fuel storage and dispensing facilities, to support the distribution and storage of unleaded aviation gasoline.

"(C) The establishment of best practices for piston-engine aircraft owners and operators, airport operators and personnel, aircraft maintenance technicians, and other appropriate personnel for protecting against exposure to lead containment when—

"(i) conducting fueling operations;

"(ii) disposing of inspected gasoline samples;

"(iii) performing aircraft maintenance; and

"(iv) conducting engine run-ups.

"(D) Efforts to address supply chain and other logistical barriers inhibiting the timely distribution of unleaded aviation gasoline to airports.

"(E) Outreach efforts to educate and update piston-engine aircraft owners and operators, airport operators, and other members of the general aviation community on the potential benefits, availability, and safety of unleaded aviation gasoline.

"(2) PUBLICATION; GUIDANCE.—Upon completion of developing such transition plan, the Administrator shall—

"(A) make the plan available to the public on an appropriate website of the FAA; and

"(B) provide guidance supporting the implementation of the transition plan.

"(3) COLLABORATION WITH EAGLE INITIATIVE.—In supporting the development of such transition plan and issuing associated guidance pertaining to the implementation of such transition plan, the Administrator shall consult and collaborate with individuals carrying out the EAGLE Initiative.

"(4) UNLEADED AVIATION GASOLINE COMMUNICATION MATERIALS.—The Administrator may collaborate with individuals carrying out the EAGLE Initiative to jointly develop and continuously update websites, brochures, and other communication materials associated with such transition plan to clearly convey the availability of unleaded aviation gasoline at airports.

"(5) BRIEFING TO CONGRESS.—Not later than 60 days after the publication of such transition plan, the Administrator shall brief the appropriate committees of Congress on such transition plan and any agency efforts or actions pertaining to the implementation of such transition plan.

"(6) SAVINGS CLAUSE.—Nothing in this section shall be construed to delay or alter the ongoing work of the EAGLE Initiative established by the Administrator in 2022."

LIMITATIONS FOR CERTAIN CARGO AIRCRAFT

Pub. L. 118–63, title XI, §1105, May 16, 2024, 138 Stat. 1416, provided that:

"(a) IN GENERAL.—The standards adopted by the Administrator of the Environmental Protection Agency in part 1030 of title 40, Code of Federal Regulations, and the requirements in part 38 of title 14, Code of Federal Regulations, that were finalized by the Administrator of the FAA [Federal Aviation Administration] under the final rule titled 'Airplane Fuel Efficiency Certification', and published on February 16, 2024 (89 Fed. Reg. 12634) in part 38 of title 14, Code of Federal Regulations, shall not apply to any covered airplane before the date that is 5 years after January 1, 2028.

"(b) OPERATIONAL LIMITATION.—The Administrator [of the Federal Aviation Administration] shall limit to domestic use or international operations, consistent with relevant international agreements and standards, the operation of any covered airplane that—

"(1) does not meet the standards and requirements described in subsection (a); and

"(2) received an original certificate of airworthiness issued by the Administrator on or after January 1, 2028.

"(c) DEFINITIONS.—In this section:

"(1) COVERED AIRPLANE.—The term 'covered airplane' means an airplane that—

"(A) is a subsonic jet that is a purpose-built freighter;

"(B) has a maximum takeoff mass greater than 180,000 kilograms but not greater than 240,000 kilograms; and

"(C) has a type design certificated prior to January 1, 2023.

"(2) PURPOSE-BUILT FREIGHTER.—The term 'purpose-built freighter' means any airplane that—

"(A) was configured to carry cargo rather than passengers prior to receiving an original certificate of airworthiness; and

"(B) is configured to carry cargo rather than passengers."

AVIATION FUEL

Pub. L. 115–254, div. B, title V, §565, Oct. 5, 2018, 132 Stat. 3385, provided that:

"(a) USE OF UNLEADED AVIATION GASOLINE.—The Administrator [of the Federal Aviation

Administration] shall allow the use of an unleaded aviation gasoline in an aircraft as a replacement for a leaded gasoline if the Administrator—

"(1) determines that the unleaded aviation gasoline qualifies as a replacement for an approved leaded gasoline;

"(2) identifies the aircraft and engines that are eligible to use the qualified replacement unleaded gasoline; and

"(3) adopts a process (other than the traditional means of certification) to allow eligible aircraft and engines to operate using qualified replacement unleaded gasoline in a manner that ensures safety.

"(b) TIMING.—The Administrator shall adopt the process described in subsection (a)(3) not later than 180 days after the later of—

"(1) the date on which the [Federal Aviation] Administration completes the Piston Aviation Fuels Initiative; or

"(2) the date on which the American Society for Testing and Materials publishes a production specification for an unleaded aviation gasoline.

"(c) TYPE CERTIFICATION.—Existing regulatory mechanisms by which an unleaded aviation gasoline can be approved for use in an engine or aircraft by Type or Supplemental Type Certificate for individual aircraft and engine types or by Approved Model List Supplemental Type Certificate providing coverage for a broad range of applicable types of aircraft or engines identified in the application shall continue to be fully available as a means of approving and bringing an unleaded aviation gasoline into general use in the United States. Such approvals shall be issued when the Administrator finds that the aircraft or engine performs properly and meets the applicable regulations and minimum standards under the normal certification process."

§44715. Controlling aircraft noise and sonic boom

(a) STANDARDS AND REGULATIONS.—(1)(A) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

(i) standards to measure aircraft noise and sonic boom; and

(ii) regulations to control and abate aircraft noise and sonic boom.

(B) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, amending, modifying, suspending, or revoking a certificate authorized under this chapter.

(3) An original type certificate may be issued under section 44704(a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall—

(1) consider relevant information related to aircraft noise and sonic boom;

(2) consult with appropriate departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;

(3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out the purposes of this section.

(c) PROPOSED REGULATIONS OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed regulations not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a hearing at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the hearing is completed and after consulting with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall—

(1) prescribe regulations as provided by this section—

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that amend the proposed regulations; or

(2) publish in the Federal Register—

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d) CONSULTATION AND REPORTS.—(1) If the Administrator of the Environmental Protection Agency believes that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations in subsection (b) of this section, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time, if any, specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall—

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify whether and where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken.

(e) SUPPLEMENTAL REPORTS.—The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the Act (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain a comparison of the environmental effects, including those that

cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) EXEMPTIONS.—An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration finds that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the Environmental Protection Agency as soon as practicable after the exemption is granted.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1196; Pub. L. 104–264, title IV, §406(a), Oct. 9, 1996, 110 Stat. 3257.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44715(a)(1), (2)	49 App.:1431(a), (b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §611(a), (b), (d); added July 21, 1968, Pub. L. 90–411, §1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, §7(b), 86 Stat. 1239, 1241.
44715(a)(3)	49 App.:1431(b)(2).	
44715(b)	49 App.:1431(d).	
44715(c)	49 App.:1431(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §611(c); added July 21, 1968, Pub. L. 90–411, §1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, §7(b), 86 Stat. 1240; Nov. 8, 1978, Pub. L. 95–609, §3, 92 Stat. 3080.
44715(d)	49 App.:1431(c)(2).	
44715(e)	49 App.:1431(c)(3).	
44715(f)	49 App.:1431(b)(1) (last sentence).	

In subsection (a)(1), before clause (A), the text of 49 App.:1431(a) is omitted because the revised section identifies the appropriate Administrator each time the Administrator is mentioned. The words "present and future" and "and amend" are omitted as surplus. In clause (B), the words "as the FAA may find necessary to provide" are omitted as surplus.

In subsection (a)(2), the word "only" is added for clarity.

Subsection (a)(3) is substituted for 49 App.:1431(b)(2) to eliminate unnecessary words.

In subsection (b), before clause (1), the words "and amending" are omitted as surplus. In clause (1), the words "available . . . including the results of research, development, testing, and evaluation activities conducted pursuant to this chapter and the Department of Transportation Act" are omitted as surplus. In clause (2), the words "departments, agencies, and instrumentalities of the United States Government and State and interstate authorities" are substituted for "Federal, State, and interstate agencies" for consistency in the revised title and with other titles of the United States Code. The words "as he deems" are omitted as surplus. In clauses (3) and (4), the word "proposed" is omitted as surplus. In clause (4), the word "applicable" is substituted for "particular type of . . . to which it will apply" to eliminate unnecessary words. In clause (5), the words "contribute to" are omitted as surplus.

In subsection (c), before clause (1), the words "Not earlier than the date of submission of the report required by section 4906 of title 42" are omitted as executed. The words "regulatory . . . over air commerce or transportation or over aircraft or airport operations" and "submitted by the EPA under this paragraph" are omitted as surplus. The word "regulations" is substituted for "rulemaking" for consistency in the revised title.

The words "after they are received" are substituted for "of the date of its submission to the FAA" to eliminate unnecessary words. The words "of data, views, and arguments" are omitted as surplus. In clause (1), the words "in accordance with subsection (b) of this section" are omitted because of the restatement. In clause (2)(B), the words "documentation or other" are omitted as surplus.

In subsection (d)(1), the words "listed" and "the FAA to review, and . . . to EPA . . . by EPA" are omitted as surplus.

In subsection (d)(2), before clause (A), the words "shall complete the review requested and" are omitted as surplus. In clause (B), the words "of the FAA" are omitted as surplus.

In subsection (e), the words "actually taken . . . in response to EPA's proposed regulations" are omitted as surplus.

In subsection (f), the words "under any provision of this chapter" and "that . . . be granted" are omitted as surplus. The words "the exemption may be granted" are added for clarity.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–264, which in directing the general amendment of par. (1) inserted an additional subsec. (a) designation and heading identical to the existing subsec. heading as well as restating the text of par. (1), was executed by restating the text only to reflect the probable intent of Congress. Prior to amendment, par. (1) read as follows: "To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration shall prescribe—

"(A) standards to measure aircraft noise and sonic boom; and

"(B) regulations to control and abate aircraft noise and sonic boom."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

HAWAII AIR NOISE AND SAFETY TASK FORCE

Pub. L. 118–63, title III, §364, May 16, 2024, 138 Stat. 1131, provided that:

"(a) PARTICIPATION.—To the extent acceptable to the State of Hawaii, the Administrator [of the Federal Aviation Administration] shall participate as a technical advisor in the air noise and safety task force established by State legislation in the State of Hawaii.

"(b) RULEMAKING.—Not later than 18 months after the date on which the task force described in subsection (a) delivers findings and consensus recommendations to the FAA [Federal Aviation Administration], the Administrator shall, consistent with maintaining the safety and efficiency of the national airspace system—

"(1) issue an intent to proceed with a proposed rulemaking;

"(2) take other action sufficient to carry out feasible, consensus recommendations; or

"(3) issue a statement determining that no such rule or other action is warranted, including a detailed explanation of the rationale for such determination.

"(c) CONSIDERATIONS.—In determining whether to proceed with a proposed rulemaking, guidance, or other action under subsection (b) and, if applicable, in developing the proposed rule, guidance, or carrying out the other action, the Administrator shall consider the findings and consensus recommendations of the task force described in subsection (a).

"(d) AUTHORITIES.—In issuing the rule, guidance, or carrying out the other action described in subsection (b), the Administrator may take actions in the State of Hawaii to—

"(1) provide commercial air tour operators with preferred routes, times, and minimum altitudes for the purpose of noise reduction, so long as such recommendations do not negatively impact safety conditions;

"(2) provide commercial air tour operators with information regarding quiet aircraft technology; and

"(3) establish a method for residents of the State of Hawaii to publicly report noise disruptions due to commercial air tours and for commercial air tour operators to respond to complaints.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as providing the Administrator with authority to ban commercial air tour flights in the State of Hawaii for the purposes of noise

reduction.

"(f) DEFINITIONS.—In this section:

"(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' has the meaning given such term in section 136.1 of title 14, Code of Federal Regulations.

"(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' has the meaning given such term in section 136.1 of title 14, Code of Federal Regulations."

§44716. Collision avoidance systems

(a) DEVELOPMENT AND CERTIFICATION.—The Administrator of the Federal Aviation Administration shall—

(1) complete the development of the collision avoidance system known as TCAS–II so that TCAS–II can operate under visual and instrument flight rules and can be upgraded to the performance standards applicable to the collision avoidance system known as TCAS–III;

(2) develop and carry out a schedule for developing and certifying TCAS–II that will result in certification not later than June 30, 1989; and

(3) submit to Congress monthly reports on the progress being made in developing and certifying TCAS–II.

(b) INSTALLATION AND OPERATION.—The Administrator shall require by regulation that, not later than 30 months after the date certification is made under subsection (a)(2) of this section, TCAS–II be installed and operated on each civil aircraft that has a maximum passenger capacity of at least 31 seats and is used to provide air transportation of passengers, including intrastate air transportation of passengers. The Administrator may extend the deadline in this subsection for not more than 2 years if the Administrator finds the extension is necessary to promote—

(1) a safe and orderly transition to the operation of a fleet of civil aircraft described in this subsection equipped with TCAS–II; or

(2) other safety objectives.

(c) OPERATIONAL EVALUATION.—Not later than December 30, 1990, the Administrator shall establish a one-year program to collect and assess safety and operational information from civil aircraft equipped with TCAS–II for the operational evaluation of TCAS–II. The Administrator shall encourage foreign air carriers that operate civil aircraft equipped with TCAS–II to participate in the program.

(d) AMENDING SCHEDULE FOR WINDSHEAR EQUIPMENT.—The Administrator shall consider the feasibility and desirability of amending the schedule for installing airborne low-altitude windshear equipment to make the schedule compatible with the schedule for installing TCAS–II.

(e) DEADLINE FOR DEVELOPMENT AND CERTIFICATION.—(1) The Administrator shall complete developing and certifying TCAS–III as soon as possible.

(2) Necessary amounts may be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out this subsection.

(f) INSTALLING AND USING TRANSPONDERS.—The Administrator shall prescribe regulations requiring that, not later than December 30, 1990, operating transponders with automatic altitude reporting capability be installed and used for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. The Administrator may provide for access to that airspace (except terminal control areas and airport radar service areas) by nonequipped aircraft if the Administrator finds the access will not interfere with the normal traffic flow.

(g) CARGO COLLISION AVOIDANCE SYSTEMS.—

(1) IN GENERAL.—The Administrator shall require by regulation that, no later than December 31, 2002, collision avoidance equipment be installed on each cargo aircraft with a maximum certificated takeoff weight in excess of 15,000 kilograms.

(2) EXTENSION OF DEADLINE.—The Administrator may extend the deadline established by paragraph (1) by not more than 2 years if the Administrator finds that the extension is needed to promote—

(A) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(B) other safety or public interest objectives.

(3) COLLISION AVOIDANCE EQUIPMENT DEFINED.—In this subsection, the term "collision avoidance equipment" means equipment that provides protection from mid-air collisions using technology that provides—

(A) cockpit-based collision detection and conflict resolution guidance, including display of traffic; and

(B) a margin of safety of at least the same level as provided by the collision avoidance system known as TCAS–II.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1198; Pub. L. 106–181, title V, §502, Apr. 5, 2000, 114 Stat. 132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44716(a)	49 App.:1421(f)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §601(f); added Dec. 30, 1987, Pub. L. 100–223, §203(b), 101 Stat. 1518; Dec. 15, 1989, Pub. L. 101–236, §2, 103 Stat. 2060.
44716(b)	49 App.:1421(f)(2), (4).	
44716(c)	49 App.:1421(f)(3).	
44716(d)	49 App.:1421(f)(5).	
44716(e)	49 App.:1421 (note).	Dec. 30, 1987, Pub. L. 100–223, §203(d), 101 Stat. 1519.
44716(f)	49 App.:1421(f)(6).	

In subsection (c), the words "In conducting the program" are omitted as surplus.

In subsection (e)(1), the word "research" is omitted as included in "developing".

In subsection (e)(2), the words "established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)" are added for consistency in the revised title.

In subsection (f), the words "Not later than 6 months after December 30, 1987, the Administrator shall promulgate a final rule" and "Such final rule" are omitted as executed.

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (g). Pub. L. 106–181 added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (a)(3) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and

the 8th item on page 138 of House Document No. 103–7.

§44717. Aging aircraft

(a) INSPECTIONS AND REVIEWS.—The Administrator of the Federal Aviation Administration shall prescribe regulations that ensure the continuing airworthiness of aging aircraft. The regulations prescribed under subsection (a) of this section—

(1) at least shall require the Administrator to make inspections, and review the maintenance and other records, of each aircraft an air carrier uses to provide air transportation that the Administrator decides may be necessary to enable the Administrator to decide whether the aircraft is in safe condition and maintained properly for operation in air transportation;

(2) at least shall require an air carrier to demonstrate to the Administrator, as part of the inspection, that maintenance of the aircraft's age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety;

(3) shall require the air carrier to make available to the Administrator the aircraft and any records about the aircraft that the Administrator requires to carry out a review; and

(4) shall establish procedures to be followed in carrying out an inspection.

(b) WHEN AND HOW INSPECTIONS AND REVIEWS SHALL BE CARRIED OUT.—(1) Inspections and reviews required under subsection (a)(1) of this section shall be carried out as part of each heavy maintenance check of the aircraft conducted after the 14th year in which the aircraft has been in service.

(2) Inspections under subsection (a)(1) of this section shall be carried out as provided under section 44701(a)(2)(B) and (C) of this title.

(c) AIRCRAFT MAINTENANCE SAFETY PROGRAMS.—The Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft according to maintenance programs approved by the Administrator;

(2) a program—

(A) to provide inspectors and engineers of the Administration with training necessary to conduct auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of those inspectors and engineers in those inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to ensure the airworthiness of aircraft that the carriers operate.

(d) FOREIGN AIR TRANSPORTATION.—(1) The Administrator shall take all possible steps to encourage governments of foreign countries and relevant international organizations to develop standards and requirements for inspections and reviews that—

(A) will ensure the continuing airworthiness of aging aircraft used by foreign air carriers to provide foreign air transportation to and from the United States; and

(B) will provide passengers of those foreign air carriers with the same level of safety that will be provided passengers of air carriers by carrying out this section.

(2) Not later than September 30, 1994, the Administrator shall report to Congress on carrying out this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1199.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44717(a)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143,

		§§402(a), (b)(1), (c)–(e), 405, 105 Stat. 951, 952.
44717(b)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §402(b)(2), (3), 105 Stat. 951.
44717(c)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §403, 105 Stat. 952.
44717(d)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §404, 105 Stat. 952.

In subsections (a) and (c), before clause (1), the words "Not later than 180 days after the date of the enactment of this title" are omitted as obsolete.

In subsection (a), before clause (1), the text of section 405 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 952) is omitted as surplus because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section. The word "regulations" is substituted for "rule" because the terms are synonymous. In clauses (2)–(4), the words "required by the rule" are omitted as surplus. In clause (2), the words "structure, skin, and other" are omitted as surplus. In clause (3), the words "inspection, maintenance, and other" are omitted as surplus.

In subsection (c)(1), the word "Administrator" is substituted for "Federal Aviation Administration" for consistency in the revised title.

In subsection (d)(1), before clause (A), the words "governments of foreign countries" are substituted for "foreign governments" for consistency in the revised title and with other titles of the United States Code.

§44718. Structures interfering with air commerce or national security

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce;

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports; or

(3) the interests of national security, as determined by the Secretary of Defense.

(b) STUDIES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace, an interference with air or space navigation facilities and equipment or the navigable airspace, or, after consultation with the Secretary of Defense, an adverse impact on military operations and readiness, the Secretary of Transportation shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall—

(A) consider factors relevant to the efficient and effective use of the navigable airspace, including—

(i) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(ii) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(iii) the impact on existing public-use airports and aeronautical facilities;

(iv) the impact on planned public-use airports and aeronautical facilities;

(v) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures;

(vi) the impact on launch and reentry for launch and reentry vehicles arriving or departing from a launch site or reentry site licensed by the Secretary of Transportation; and

(vii) other factors relevant to the efficient and effective use of navigable airspace; and

(B) include the finding made by the Secretary of Defense under subsection (f).

(2) REPORT.—On completing the study, the Secretary of Transportation shall issue a report disclosing the extent of the—

(A) adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure; and

(B) unacceptable risk to the national security of the United States, as determined by the Secretary of Defense under subsection (f).

(3) SEVERABILITY.—A determination by the Secretary of Transportation on hazard to air navigation under this section shall remain independent of a determination of unacceptable risk to the national security of the United States by the Secretary of Defense under subsection (f).

(c) BROADCAST APPLICATIONS AND TOWER STUDIES.—In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

(d) LIMITATION ON CONSTRUCTION OF LANDFILLS.—

(1) IN GENERAL.—No person shall construct or establish a municipal solid waste landfill (as defined in section 258.2 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this subsection) that receives putrescible waste (as defined in section 257.3–8 of such title) within 6 miles of a public airport that has received grants under chapter 471 and is primarily served by general aviation aircraft and regularly scheduled flights of aircraft designed for 60 passengers or less unless the State aviation agency of the State in which the airport is located requests that the Administrator of the Federal Aviation Administration exempt the landfill from the application of this subsection and the Administrator determines that such exemption would have no adverse impact on aviation safety.

(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply in the State of Alaska and shall not apply to the construction, establishment, expansion, or modification of, or to any other activity undertaken with respect to, a municipal solid waste landfill if the construction or establishment of the landfill was commenced on or before the date of the enactment of this subsection.

(e) REVIEW OF AERONAUTICAL STUDIES.—The Administrator of the Federal Aviation Administration shall develop procedures to allow the Department of Defense and the Department of Homeland Security to review and comment on an aeronautical study conducted pursuant to subsection (b) prior to the completion of the study.

(f) NATIONAL SECURITY FINDING.—As part of an aeronautical study conducted under subsection (b) and in accordance with section 183a(e) of title 10, the Secretary of Defense shall—

(1) make a finding on whether the construction, alteration, establishment, or expansion of a structure or sanitary landfill included in the study would result in an unacceptable risk to the national security of the United States; and

(2) transmit the finding to the Secretary of Transportation for inclusion in the report required under subsection (b)(2).

(g) SPECIAL RULE FOR IDENTIFIED GEOGRAPHIC AREAS.—In the case of a proposed structure to be located within a geographic area identified under section 183a(d)(2)(B) of title 10, the Secretary of Transportation may not issue a determination pursuant to this section until the Secretary

of Defense issues a finding under section 183a(e) of title 10, the Secretary of Defense advises the Secretary of Transportation that no finding under section 183a(e) of title 10 will be forthcoming, or 180 days have lapsed since the project was filed with the Secretary of Transportation pursuant to this section, whichever occurs first.

(h) DEFINITIONS.—In this section, the terms "adverse impact on military operations and readiness" and "unacceptable risk to the national security of the United States" have the meaning given those terms in section 183a(h) of title 10.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1200; Pub. L. 104–264, title XII, §1220(a), Oct. 9, 1996, 110 Stat. 3286; Pub. L. 106–181, title V, §503(b), Apr. 5, 2000, 114 Stat. 133; Pub. L. 112–81, div. A, title III, §332, Dec. 31, 2011, 125 Stat. 1369; Pub. L. 114–248, §1(a), Nov. 28, 2016, 130 Stat. 998; Pub. L. 114–328, div. A, title III, §341(a)(1)–(4)(A), Dec. 23, 2016, 130 Stat. 2079–2081; Pub. L. 115–91, div. A, title III, §311(b)(2), (3), (e), Dec. 12, 2017, 131 Stat. 1347, 1348; Pub. L. 115–232, div. A, title X, §1081(e)(2), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 115–254, div. B, title V, §539(h), Oct. 5, 2018, 132 Stat. 3371; Pub. L. 118–63, title XI, §1101(m), May 16, 2024, 138 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44718(a)	49 App.:1501(a).	Aug. 23, 1958, Pub. L. 85–726, §1101, 72 Stat. 797; restated Dec. 30, 1987, Pub. L. 100–223, §206 (less (b)), 101 Stat. 1521; Oct. 31, 1992, Pub. L. 102–581, §203(a), 106 Stat. 4890.
44718(b)	49 App.:1501(b).	
44718(c)	49 App.:1501(c).	

In subsection (a), before clause (1), the words "(hereinafter in this section referred to as the 'Secretary')" and "where necessary" are omitted as surplus.

In subsection (b)(1), before clause (A), the word "thoroughly" is omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), probably means the date of enactment of Pub. L. 106–181, which amended subsec. (d) generally, and which was approved Apr. 5, 2000.

AMENDMENTS

2024—Subsec. (h). Pub. L. 118–63 amended subsec. (h) generally. Prior to amendment, subsec. (h) defined "adverse impact on military operations and readiness" and "unacceptable risk to the national security of the United States".

2018—Subsec. (b)(1). Pub. L. 115–254, §539(h)(1), substituted "air or space navigation facilities and equipment" for "air navigation facilities and equipment" in introductory provisions.

Subsec. (b)(1)(A)(vi), (vii). Pub. L. 115–254, §539(h)(2), added cl. (vi) and redesignated former cl. (vi) as (vii).

Subsec. (h)(1). Pub. L. 115–232, §1081(e)(2)(A), substituted "section 183a(h)(1) of title 10" for "section 183a(g) of title 10".

Subsec. (h)(2). Pub. L. 115–232, §1081(e)(2)(B), substituted "section 183a(h)(7) of title 10" for "section 183a(g) of title 10".

2017—Subsec. (f). Pub. L. 115–91, §311(b)(2), inserted "and in accordance with section 183a(e) of title 10" after "conducted under subsection (b)" in introductory provisions.

Subsec. (g). Pub. L. 115–91, §311(e)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 115–91, §311(b)(3), substituted "183a(g) of title 10" for "211.3 of title 32, Code of Federal Regulations, as in effect on January 6, 2014" in pars. (1) and (2).

Subsec. (h). Pub. L. 115–91, §311(e)(1), redesignated subsec. (g) as (h).

2016—Pub. L. 114–328, §341(a)(4)(A), inserted "or national security" after "air commerce" in section catchline.

Subsec. (a)(3). Pub. L. 114–328, §341(a)(1), added par. (3).

Subsec. (b). Pub. L. 114–328, §341(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to studies by Secretary to determine obstruction of airspace by newly contructed or altered structures.

Subsec. (b)(1). Pub. L. 114–248, §1(a)(1), substituted "air or space navigation facilities and equipment" for "air navigation facilities and equipment" in introductory provisions.

Subsec. (b)(1)(F). Pub. L. 114–248, §1(a)(2)–(4), added subpar. (F).

Subsecs. (f), (g). Pub. L. 114–328, §341(a)(3), added subsecs. (f) and (g).

2011—Subsec. (e). Pub. L. 112–81 added subsec. (e).

2000—Subsec. (d). Pub. L. 106–181 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill."

1996—Subsec. (d). Pub. L. 104–264 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TOWER MARKING NOTICE OF PROPOSED RULEMAKING

Pub. L. 118–63, title III, §355, May 16, 2024, 138 Stat. 1114, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a notice of proposed rulemaking to implement section 2110 of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 44718 note).

"(b) REPORT.—If the Administrator fails to issue the notice of proposed rulemaking pursuant to subsection (a), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] an annual report on the status of such rulemaking, including—

"(1) the reasons that the Administrator has failed to issue the rulemaking; and

"(2) a list of fatal aircraft accidents associated with unmarked towers that have occurred during the 5-year period preceding the date of submission of the report."

RULEMAKING

Pub. L. 114–248, §1(b), Nov. 28, 2016, 130 Stat. 998, provided that: "Not later than 18 months after the date of enactment of this Act [Nov. 28, 2016], the Administrator of the Federal Aviation Administration shall initiate a rulemaking to implement the amendments made by subsection (a) [amending this section]."

PROTECTION OF SAFE AND EFFICIENT USE OF AIRSPACE AT AIRPORTS

Pub. L. 118–63, title VII, §744, May 16, 2024, 138 Stat. 1281, provided that:

"(a) AIRSPACE REVIEW PROCESS REQUIREMENTS.—The Administrator [of the Federal Aviation Administration] shall consider the following additional factors in the evaluation of cumulative impacts when making a determination of hazard or no hazard, or objection or no objection, as applicable, under part 77 of

title 14, Code of Federal Regulations, regarding proposed construction or alteration within 3 miles of the runway ends and runway centerlines (as depicted in the FAA [Federal Aviation Administration]-approved Airport Layout Plan of the airport) on any land not owned by any such airport:

"(1) The accumulation and spacing of structures or other obstructions that might constrain radar or communication capabilities, thereby reducing the capacity of an airport, flight procedure minimums or availability, or aircraft takeoff or landing capabilities.

"(2) Safety risks of lasers, lights, or light sources, inclusive of lighted billboards and screens, affixed to structures, that may pose hazards to air navigation.

"(3) Water features or hazardous wildlife attractants, as defined by the Administrator.

"(4) Impacts to visual flight rule traffic patterns for both fixed and rotary wing aircraft, inclusive of special visual flight rule procedures established by Letters of Agreement between air traffic facilities, the airport, and flight operators.

"(5) Impacts to FAA-funded airport improvement projects, improvements depicted on or described in FAA-approved Airport Layout Plans and master plans, and preservation of the navigable airspace necessary for achieving the objectives and utilization of the projects and plans.

"(b) REQUIRED INFORMATION.—A notice submitted under part 77 of title 14, Code of Federal Regulations, shall include the following:

"(1) Actual designs of an entire project and property, without regard to whether a proposed construction or alteration within 3 miles of the end of a runway of an airport and runway centerlines as depicted in the FAA-approved Airport Layout Plan of the airport is limited to a singular location on a property.

"(2) If there are any changes to such designs or addition of equipment, such as cranes used to construct a building, after submission of such a notice, all information included with the notice submitted before such change or addition shall be resubmitted, along with information regarding the change or addition.

"(c) EXPIRATION.—

"(1) IN GENERAL.—Unless extended, revised, or terminated, each determination of no hazard issued by the Administrator under part 77 of title 14, Code of Federal Regulations, shall expire 18 months after the effective date of the determination, or on the date the proposed construction or alteration is abandoned, whichever is earlier.

"(2) AFTER EXPIRATION.—Determinations under paragraph (1) are no longer valid with regard to whether a proposed construction or alteration would be a hazard to air navigation after such determination has expired.

"(d) AUTHORITY TO CONSOLIDATE OEI SURFACE CRITERIA.—The Administrator may develop a single set of One Engine Inoperative surface criteria that is specific to an airport. The Administrator shall consult with the airport operator and flight operators that use such airport, on the development of such surface criteria.

"(e) DEVELOPMENT OF POLICIES TO PROTECT OEI SURFACES.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] regarding the status of the efforts of the FAA to protect One Engine Inoperative surfaces from encroachment at United States certificated and federally obligated airports, including the current status of efforts to incorporate such protections into FAA Obstruction Evaluation/Airport Airspace Analysis processes.

"(f) AUTHORITY TO CONSULT WITH OTHER AGENCIES.—The Administrator may consult with other Federal, State, or local agencies as necessary to carry out the requirements of this section.

"(g) APPLICABILITY.—This section shall only apply to an airport in a county adjacent to 2 States with converging intersecting cross runway operations within 12 nautical miles of an Air Force base."

TOWER MARKING

Pub. L. 114–190, title II, §2110, July 15, 2016, 130 Stat. 623, as amended by Pub. L. 115–254, div. B, title V, §576, Oct. 5, 2018, 132 Stat. 3391, provided that:

"(a) APPLICATION.—

"(1) IN GENERAL.—Except as provided by paragraph (2), not later than 18 months after the date of enactment of the FAA Reauthorization Act of 2018 [Oct. 5, 2018] or the date of availability of the database developed by the Administrator pursuant to subsection (c), whichever is later, all covered towers shall be either—

"(A) clearly marked consistent with applicable guidance in the advisory circular of the FAA issued December 4, 2015 (AC 70/7460-IL); or

"(B) included in the database described in subsection (c).

"(2) METEOROLOGICAL EVALUATION TOWER.—A covered tower that is a meteorological evaluation tower shall be subject to the requirements of subparagraphs (A) and (B) of paragraph (1).

"(b) DEFINITIONS.—

"(1) IN GENERAL.—In this section, the following definitions apply:

"(A) COVERED TOWER.—

"(i) IN GENERAL.—The term 'covered tower' means a structure that—

"(I) is a meteorological evaluation tower, a self-standing tower, or [a] tower supported by guy wires and ground anchors;

"(II) is 10 feet or less in diameter at the above-ground base, excluding concrete footing;

"(III) at the highest point of the structure is at least 50 feet above ground level;

"(IV) at the highest point of the structure is not more than 200 feet above ground level;

"(V) has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other equipment is mounted; and

"(VI) is located on land that is—

"(aa) in a rural area; and

"(bb) used for agricultural purposes or immediately adjacent to such land.

"(ii) EXCLUSIONS.—The term 'covered tower' does not include any structure that—

"(I) is adjacent to a house, barn, electric utility station, or other building;

"(II) is within the curtilage of a farmstead or adjacent to another building or visible structure;

"(III) supports electric utility transmission or distribution lines;

"(IV) is a wind-powered electrical generator with a rotor blade radius that exceeds 6 feet;

"(V) is a street light erected or maintained by a Federal, State, local, or tribal entity;

"(VI) is designed and constructed to resemble a tree or visible structure other than a tower;

"(VII) is an advertising billboard;

"(VIII) is located within the right-of-way of a rail carrier, including within the boundaries of a rail yard, and is used for a railroad purpose;

"(IX)(aa) is registered with the Federal Communications Commission under the Antenna Structure Registration program set forth under part 17 of title 47, Code of Federal Regulations; and

"(bb) is determined by the Administrator to pose no hazard to air navigation; or

"(X) has already mitigated any hazard to aviation safety in accordance with Federal Aviation Administration guidance or as otherwise approved by the Administrator.

"(B) RURAL AREA.—The term 'rural area' has the meaning given the term in section 609(a)(5) of the Public Utility Regulatory Policies Act of 1978 (7 U.S.C. 918c(a)(5)).

"(C) AGRICULTURAL PURPOSES.—The term 'agricultural purposes' means farming in all its branches and the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities performed by a farmer or on a farm, or on pasture land or rangeland.

"(2) OTHER DEFINITIONS.—The Administrator shall define such other terms as may be necessary to carry out this section.

"(c) DATABASE.—The Administrator shall—

"(1) develop a new database, or if appropriate use an existing database that meets the requirements under this section, that contains the location and height of each covered tower that, pursuant to subsection (a), the owner or operator of such tower elects not to mark (unless the Administrator has determined that there is a significant safety risk requiring that the tower be marked), except that meteorological evaluation towers shall be marked and contained in the database;

"(2) keep the database current to the extent practicable;

"(3) ensure that any proprietary information in the database is protected from disclosure in accordance with law;

"(4) ensure that, by virtue of accessing the database, users agree and acknowledge that information in the database—

"(A) may only be used for aviation safety purposes; and

"(B) may not be disclosed for purposes other than aviation safety, regardless of whether or not the information is marked or labeled as proprietary or with a similar designation;

"(5) ensure that the tower information in the database is de-identified and that the information only includes the location and height of covered towers and whether the tower has guy wires;

"(6) ensure that information in the dataset is encrypted at rest and in transit and is protected from unauthorized access and acquisition;

"(7) ensure that towers excluded from the definition of covered tower under subsection (d)(1)(B)(ii)(VIII) must be registered by its owner in the database;

"(8) ensure that a tower to be included in the database pursuant to subsection (c)(1) and constructed after the date on which the database is fully operational is submitted by its owner to the FAA for inclusion in the database before its construction;

"(9) ensure that pilots who intend to conduct low-altitude operations in locations described in subsection (b)(1)(A)(i)(VI) consult the relevant parts of the database before conducting such operations; and

"(10) make the database available for use not later than 1 year after the date of enactment of the FAA Reauthorization Act of 2018 [Oct. 5, 2018].

"(d) EXCLUSION AND WAIVER AUTHORITIES.—As part of a rulemaking conducted pursuant to this section, the Administrator—

"(1) may exclude a class, category, or type of tower that is determined by the Administrator, after public notice and comment, to not pose a hazard to aviation safety;

"(2) shall establish a process to waive specific covered towers from the marking requirements under this section as required under the rulemaking if the Administrator later determines such tower or towers do not pose a hazard to aviation safety;

"(3) shall consider, in establishing exclusions and granting waivers under this subsection, factors that may sufficiently mitigate risks to aviation safety, such as the length of time the tower has been in existence or alternative marking methods or technologies that maintains a tower's level of conspicuousness to a degree which adequately maintains the safety of the airspace; and

"(4) shall consider excluding towers located in a State that has enacted tower marking requirements according to the Federal Aviation Administration's recommended guidance for the voluntary marking of meteorological evaluation towers erected in remote and rural areas that are less than 200 feet above ground level to enhance the conspicuity of the towers for low level agricultural operations in the vicinity of those towers.

"(e) PERIODIC REVIEW.—The Administrator shall, in consultation with the Federal Communications Commission, periodically review any regulations or guidance regarding the marking of covered towers issued pursuant to this section and update them as necessary, consistent with this section, and in the interest of safety of low-altitude aircraft operations.

"(f) FCC REGULATIONS.—The Federal Communications Commission shall amend section 17.7 of title 47, Code of Federal Regulations, to require a notification to the Federal Aviation Administration for any construction or alteration of an antenna structure, as defined in section 17.2(a) of title 47, Code of Federal Regulations, that is a covered tower as defined by this section."

STUDY OF EFFECTS OF NEW CONSTRUCTION OF OBSTRUCTIONS ON MILITARY INSTALLATIONS AND OPERATIONS

Pub. L. 111–383, div. A, title III, §358, Jan. 7, 2011, 124 Stat. 4198, as amended by Pub. L. 112–81, div. A, title III, §331, Dec. 31, 2011, 125 Stat. 1369; Pub. L. 112–239, div. A, title X, §1076(b)(1), Jan. 2, 2013, 126 Stat. 1949; Pub. L. 114–92, div. A, title III, §314, Nov. 25, 2015, 129 Stat. 790, related to study of effects of new construction of obstructions on military installations and operations, prior to repeal by Pub. L. 115–91, div. A, title III, §311(b)(1), Dec. 12, 2017, 131 Stat. 1347. See section 183a of Title 10, Armed Forces.

LANDFILLS INTERFERING WITH AIR COMMERCE

Pub. L. 106–181, title V, §503(a), Apr. 5, 2000, 114 Stat. 133, provided that: "Congress finds that—

"(1) collisions between aircraft and birds have resulted in fatal accidents;

"(2) bird strikes pose a special danger to smaller aircraft;

"(3) landfills near airports pose a potential hazard to aircraft operating there because they attract birds;

"(4) even if the landfill is not located in the approach path of the airport's runway, it still poses a hazard because of the birds' ability to fly away from the landfill and into the path of oncoming planes;

"(5) while certain mileage limits have the potential to be arbitrary, keeping landfills at least 6 miles away from an airport, especially an airport served by small planes, is an appropriate minimum requirement for aviation safety; and

"(6) closure of existing landfills (due to concerns about aviation safety) should be avoided because of the likely disruption to those who use and depend on such landfills."

§44719. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44719	49 App.:1348 (note).	Dec. 30, 1987, Pub. L. 100–223, §308, 101 Stat. 1526.

The words "Not later than December 31, 1988" are omitted as obsolete.

§44720. Meteorological services

(a) RECOMMENDATIONS.—The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) PROMOTING SAFETY AND EFFICIENCY.—To promote safety and efficiency in air navigation to the highest possible degree, the Secretary shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator, to persons engaged in civil aeronautics that are designated by the Administrator, and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, maintain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of foreign countries, and persons engaged in air commerce, participate in developing an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries;

(6) coordinate meteorological requirements in the United States to maintain standard observations, to promote efficient use of facilities, and to avoid duplication of services unless the duplication tends to promote the safety and efficiency of air navigation; and

(7) promote and develop meteorological science and foster and support research projects in meteorology through the use of private and governmental research facilities and provide for publishing the results of the projects unless publication would not be in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1201; Pub. L. 118–63, title XI, §1101(n), May 16, 2024, 138 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

44720(a)	49 App.:1351.	Aug. 23, 1958, Pub. L. 85–726, §§310, 803, 72 Stat. 751, 783.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44720(b)	49 App.:1463. 49 App.:1655(c)(1).	

In subsection (b), the title "Secretary" [of Commerce] is substituted for "Chief of the Weather Bureau" in section 803 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). Before clause (1), the words "In order" and "in addition to any other functions or duties pertaining to weather information for other purposes" are omitted as surplus. In clause (2), the words "forecasts, warnings, and advices" are omitted as being included in "reports". In clause (3), the words "or employees thereof" and "establish and" are omitted as surplus. The words "with those persons" are added for clarity. In clause (5), the words "departments, agencies, and instrumentalities of the United States Government" are substituted for "governmental agencies of the United States" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b)(2). Pub. L. 118–63 substituted "the Administrator, to persons" for "the Administrator to persons" and "the Administrator, and to" for "the Administrator and to".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ASOS/AWOS SERVICE REPORT DASHBOARD

Pub. L. 118–63, title III, §332, May 16, 2024, 138 Stat. 1089, provided that:

"(a) IN GENERAL.—The applicable Administrators shall work in collaboration to collect the real-time service status of all automated surface observation systems/automated weather observing systems (in this section referred to as 'ASOS/AWOS').

"(b) AVAILABILITY OF RESULTS.—

"(1) IN GENERAL.—In carrying out this section, the applicable Administrators shall make available on a publicly available website the following:

"(A) The service status of all ASOS/AWOS.

"(B) Information on any actions to repair or replace ASOS/AWOS that are out of service due to technical or weather-related events, including an estimated timeline to return the systems to service.

"(C) A portal on such publicly available website for the public to report ASOS/AWOS outages.

"(2) DATA FILES.—The applicable Administrators shall make available the underlying data required under paragraph (1) for each ASOS/AWOS in a machine-readable format.

"(c) APPLICABLE ADMINISTRATORS.—In this section, the term 'applicable Administrators' means—

"(1) the Administrator of the FAA [Federal Aviation Administration]; and

"(2) the Administrator of the National Oceanic and Atmospheric Administration."

PROVIDING NON-FEDERAL WEATHER OBSERVER TRAINING TO AIRPORT PERSONNEL

Pub. L. 118–63, title IV, §419, May 16, 2024, 138 Stat. 1163, provided that: "The Administrator [of the Federal Aviation Administration] may take such actions as are necessary to provide training that is easily accessible and streamlined for airport personnel to become certified as non-Federal weather observers so that such personnel can manually provide weather observations in any case in which automated surface observing systems and automated weather observing systems experience outages and errors to ensure operational safety at airports."

IMPROVED SAFETY IN RURAL AREAS

Pub. L. 115–254, div. B, title III, §322, Oct. 5, 2018, 132 Stat. 3270, as amended by Pub. L. 118–63, title III, §339(a), May 16, 2024, 138 Stat. 1093, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall permit an air carrier operating pursuant to part 135 of title 14, Code of Federal Regulations—

"(1) to operate under instrument flight rules (in this section referred to as 'IFR') to a destination in a noncontiguous State that has a published instrument approach but does not have a Meteorological Aerodrome Report (in this section referred to as 'METAR'); and

"(2) to conduct an instrument approach at such destination if—

"(A) a current Area Forecast, supplemented by noncertified destination weather observations (such as weather cameras and other noncertified observations), is available, and, at the time of departure, the combination of the Area Forecast and noncertified observation indicates that weather is expected to be at or above approach minimums upon arrival;

"(B) prior to commencing an approach, the air carrier has a means to communicate to the pilot of the aircraft whether the destination weather observation is either at or above minimums for the approach to be flown; and

"(C) in the event the destination weather observation is below such minimums, a suitable alternate airport that has a METAR is specified in the IFR flight plan.

"(b) APPLICATION TEMPLATE.—

"(1) IN GENERAL.—The Administrator shall develop an application template with standardized, specific approval criteria to enable FAA [Federal Aviation Administration] inspectors to objectively evaluate the application of an air carrier to operate in the manner described in subsection (a).

"(2) REQUIREMENTS.—The template required under paragraph (1) shall include a place in such template for an air carrier to describe—

"(A) how any non-certified human observations will be conducted; and

"(B) how such observations will be communicated—

"(i) to air carriers prior to dispatch; and

"(ii) to pilots prior to approach.

"(3) RESPONSE TO APPLICATION.—

"(A) TIMELINE.—The Administrator shall ensure—

"(i) that the Administrator has the ability to respond to an application of an air carrier not later than 30 days after receipt of such application; and

"(ii) in the event the Administrator cannot respond within 30 days, that the Administrator informs the air carrier of the expected response time with respect to the application of the air carrier.

"(B) REJECTION.—In the event that the Administrator rejects an application of an air carrier, the Administrator shall inform the air carrier of the specific criteria that were the cause for rejection."

[Pub. L. 118–63, title III, §339(b), May 16, 2024, 138 Stat. 1094, provided that: "The amendments made by this section [amending section 322 of Pub. L. 115–254, set out above] shall take effect on the date that is 12 months after the date of enactment of this Act [May 16, 2024]."]

TERMINAL AERODROME FORECAST

Pub. L. 115–254, div. B, title V, §516, Oct. 5, 2018, 132 Stat. 3358, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall permit a covered air carrier to operate to or from a location in a noncontiguous State without a Terminal Aerodrome Forecast or Meteorological Aerodrome Report if—

"(1) such location is determined to be under visual meteorological conditions;

"(2) a current Area Forecast, supplemented by other local weather observations or reports, is available; and

"(3) an alternate airport that has an available Terminal Aerodrome Forecast and weather report is specified.

"(b) PROCEDURES.—A covered air carrier shall—

"(1) have approved procedures for dispatch or release and enroute weather evaluation; and

"(2) operate under instrument flight rules enroute to the destination.

"(c) LIMITATION.—Without a written finding of necessity, based on objective and historical evidence of imminent threat to safety, the Administrator shall not promulgate any operation specification, policy, or guidance document pursuant to this section that is more restrictive than, or requires procedures that are not expressly stated in, the regulations.

"(d) COVERED AIR CARRIER DEFINED.—In this section, the term 'covered air carrier' means an air carrier operating in a noncontiguous State under part 121 of title 14, Code of Federal Regulations."

AUTOMATED WEATHER OBSERVING SYSTEMS POLICY

Pub. L. 115–254, div. B, title V, §553, Oct. 5, 2018, 132 Stat. 3379, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall—

"(1) update automated weather observing systems standards to maximize the use of new technologies that promote the reduction of equipment or maintenance cost for non-Federal automated weather observing systems, including the use of remote monitoring and maintenance, unless demonstrated to be ineffective;

"(2) review, and if necessary update, existing policies in accordance with the standards developed under paragraph (1); and

"(3) establish a process under which appropriate onsite airport personnel or an aviation official may, with appropriate manufacturer training or alternative training as determined by the Administrator, be permitted to conduct the minimum triannual preventative maintenance checks under the advisory circular for non-Federal automated weather observing systems (AC 150/5220–16E) and any other similar, successor checks.

"(b) PERMISSION.—Permission to conduct the minimum triannual preventative maintenance checks described under subsection (a)(3) and any similar, successor checks shall not be withheld but for specific cause.

"(c) STANDARDS.—In updating the standards under subsection (a)(1), the Administrator shall—

"(1) ensure the standards are performance-based;

"(2) use risk analysis to determine the accuracy of the automated weather observing systems outputs required for pilots to perform safe aircraft operations; and

"(3) provide a cost-benefit analysis to determine whether the benefits outweigh the cost for any requirement not directly related to safety.

"(d) AIP ELIGIBILITY OF AWOS EQUIPMENT.—

"(1) IN GENERAL.—Notwithstanding any other law, the Administrator is authorized to and shall waive any positive benefit-cost ratio requirement for automated weather-observing system equipment under subchapter I of chapter 471, of title 49, United States Code, if—

"(A) the airport sponsor or State, as applicable, certifies that a grant for such automated weather observing systems equipment under that chapter will assist an applicable airport to respond to regional emergency needs, including medical, firefighting, and search and rescue needs;

"(B) the Secretary determines, after consultation with the airport sponsor or State, as applicable, that the placement of automated weather-observing equipment at the airport will not cause unacceptable radio frequency congestion; and

"(C) the other requirements under that chapter are met.

"(2) APPLICABILITY TO LOW POPULATION DENSITY STATES.—This subsection is applicable only to airports located in states with a population density, based on the most recent decennial census, of 50 or fewer persons per square mile.

"(e) REPORT.—Not later than September 30, 2025, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the implementation of the requirements under this section."

AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS

Pub. L. 106–181, title VII, §728, Apr. 5, 2000, 114 Stat. 168, provided that: "The Administrator [of the Federal Aviation Administration] shall not terminate human weather observers for Automated Surface Observation System stations until—

"(1) the Administrator determines that the system provides consistent reporting of changing meteorological conditions and notifies Congress in writing of that determination; and

"(2) 60 days have passed since the report was transmitted to Congress."

§44721. Aeronautical charts and related products and services

(a) PUBLICATION.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

(2) NAVIGATION ROUTES.—In carrying out paragraph (1), the Administrator shall update and arrange for the publication of clearly defined routes for navigating through a complex terminal airspace area and to and from an airport located in such an area, if the Administrator decides that publication of the routes would promote safety in air navigation. The routes shall be developed in

consultation with pilots and other users of affected airports and shall be for the optional use of pilots operating under visual flight rules.

(b) INDEMNIFICATION.—The Government shall make an agreement to indemnify any person that publishes a map or chart for use in aeronautics from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

(1) prescribed by the Administrator;

(2) depicted accurately on the map or chart; and

(3) not obviously defective or deficient.

(c) AUTHORITY OF OFFICE OF AERONAUTICAL CHARTING AND CARTOGRAPHY .—Effective October 1, 2000, the Administrator is vested with and shall exercise the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography to provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, under the following authorities:

(1) Sections 1 through 9 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a–883h).

(2) Section 6082 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (33 U.S.C. 883j).

(d) AUTHORITY.—In order that full public benefit may be derived from the dissemination of data resulting from activities under this section and of related data from other sources, the Administrator may—

(1) develop, process, disseminate and publish digital and analog data, information, compilations, and reports;

(2) compile, print, and disseminate aeronautical charts and related products and services of the United States and its territories and possessions;

(3) compile, print, and disseminate aeronautical charts and related products and services covering international airspace as are required primarily by United States civil aviation; and

(4) compile, print, and disseminate nonaeronautical navigational, transportation or public-safety-related products and services when in the best interests of the Government.

(e) CONTRACTS, COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—

(1) CONTRACTS.—The Administrator is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the Office of Aeronautical Charting and Cartography when the Administrator deems such procedure to be in the public interest and will not compromise public safety.

(2) COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—The Administrator is authorized to enter into cooperative agreements, grants, reimbursable agreements, memoranda of understanding and other agreements, with a State, subdivision of a State, Federal agency, public or private organization, or individual, to carry out the purposes of this section.

(f) SPECIAL SERVICES AND PRODUCTS.—

(1) IN GENERAL.—The Administrator is authorized, at the request of a State, subdivision of a State, Federal agency, public or private organization, or individual, to conduct special services, including making special studies, or developing special publications or products on matters relating to navigation, transportation, or public safety.

(2) FEES.—The Administrator shall assess a fee for any special service provided under paragraph (1). A fee shall be not more than the actual or estimated full cost of the service. A fee

may be reduced or waived for research organizations, educational organizations, or non-profit organizations, when the Administrator determines that reduction or waiver of the fee is in the best interest of the Government by furthering public safety.

(g) SALE AND DISSEMINATION OF AERONAUTICAL PRODUCTS.—

(1) IN GENERAL.—Aeronautical products created or maintained under the authority of this section shall be sold at prices established annually by the Administrator consistent with the following:

(A) MAXIMUM PRICE.—Subject to subparagraph (B), the price of an aeronautical product sold to the public shall be not more than necessary to recover all costs attributable to: (i) data base management and processing; (ii) compilation; (iii) printing or other types of reproduction; and (iv) dissemination of the product.

(B) ADJUSTMENT OF PRICE.—The Administrator shall adjust the price of an aeronautical product and service sold to the public as necessary to avoid any adverse impact on aviation safety attributable to the price specified under this paragraph.

(C) COSTS ATTRIBUTABLE TO ACQUISITION OF AERONAUTICAL DATA.—A price established under this paragraph may not include costs attributable to the acquisition of aeronautical data.

(D) CONTINUATION OF PRICES.—The price of any product created under subsection (d) may correspond to the price of a comparable product produced by a department of the United States Government as that price was in effect on September 30, 2000, and may remain in effect until modified by regulation under section 9701 of title 31, United States Code.

(2) PUBLICATION OF PRICES.—The Administrator shall publish annually the prices at which aeronautical products are sold to the public.

(3) DISTRIBUTION.—The Administrator may distribute aeronautical products and provide aeronautical services—

(A) without charge to each foreign government or international organization with which the Administrator or a Federal department or agency has an agreement for exchange of these products or services without cost;

(B) at prices the Administrator establishes, to the departments and officers of the United States requiring them for official use; and

(C) at reduced or no charge where, in the judgment of the Administrator, furnishing the aeronautical product or service to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to the activities under this section.

(4) FEES.—The fees provided for in this subsection are for the purpose of reimbursing the Government for the costs of creating, printing and disseminating aeronautical products and services under this section. The collection of fees authorized by this section does not alter or expand any duty or liability of the Government under existing law for the performance of functions for which fees are collected, nor does the collection of fees constitute an express or implied undertaking by the Government to perform any activity in a certain manner.

(5) CREDITING AMOUNTS RECEIVED.—Notwithstanding any other provision of law, amounts received for the sale of products created and services performed under this section shall be fully credited to the account of the Federal Aviation Administration that funded the provision of the products or services and shall remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202; Pub. L. 106–181, title VI, §603(a), Apr. 5, 2000, 114 Stat. 150; Pub. L. 106–424, §17(a), Nov. 1, 2000, 114 Stat. 1888; Pub. L. 118–63, title XI, §1101(o), May 16, 2024, 138 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

44721(a)(1)	49 App.:1348(b) (1st sentence cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, §307(b) (1st sentence cl. (3)), 72 Stat. 750.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44721(a)(2)	49 App.:1348(b) (3d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 749, §307(b) (3d, last sentences); added Oct. 31, 1992, Pub. L. 102–581, §125, 106 Stat. 4885.
44721(b)	49 App.:1519.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1118; added Dec. 19, 1985, Pub. L. 99–190, §328(a), 99 Stat. 1289.

In subsection (a)(1), the word "Administrator" in section 307(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g). The words "within the limits of available appropriations made by the Congress" are omitted as surplus. The words "departments, agencies, and instrumentalities of the United States Government" are substituted for "existing agencies of the Government" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), the words "Notwithstanding the provisions of section 1341 of title 31 or any other provision of law" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1 through 9 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, referred to in subsec. (c)(1), are classified to sections 883a to 883i of Title 33, Navigation and Navigable Waters. Section 883g of Title 33 was repealed by Pub. L. 88–611, §4(a)(2), Oct. 2, 1964, 78 Stat. 991.

AMENDMENTS

2024—Subsec. (c)(1). Pub. L. 118–63 struck out comma after "August 6, 1947".

2000—Pub. L. 106–181 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) PUBLICATION.—(1) The Administrator of the Federal Aviation Administration may arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

"(2) In carrying out paragraph (1) of this subsection, the Administrator shall update and arrange for the publication of clearly defined routes for navigating through a complex terminal airspace area and to and from an airport located in such an area, if the Administrator decides that publication of the routes would promote safety in air navigation. The routes shall be developed in consultation with pilots and other users of affected airports and shall be for the optional use of pilots operating under visual flight rules.

"(b) INDEMNIFICATION.—The Government shall make an agreement to indemnify any person that publishes a map or chart for use in aeronautics from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

"(1) prescribed by the Administrator;

"(2) depicted accurately on the map or chart; and

"(3) not obviously defective or deficient."

Subsec. (c)(3), (4). Pub. L. 106–424, §17(a)(1), struck out pars. (3) and (4) which read as follows:

"(3) Section 1307 of title 44, United States Code.

"(4) The provision of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 under the heading 'National Oceanic and Atmospheric Administration' relating to aeronautical charts (44 U.S.C. 1307 note)."

Subsec. (g)(1)(D). Pub. L. 106–424, §17(a)(2), added subpar. (D).
Subsec. (g)(5). Pub. L. 106–424, §17(a)(3), added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106–424, §17(b), Nov. 1, 2000, 114 Stat. 1889, provided that: "The amendments made by subsection (a) [amending this section] take effect on October 1, 2000."

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

SAVINGS PROVISION

Pub. L. 106–181, title VI, §604, Apr. 5, 2000, 114 Stat. 152, provided that:

"(a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, privileges, and financial assistance that—

"(1) have been issued, made, granted, or allowed to become effective by the President of the United States, the Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this title [amending this section, sections 883b and 883e of Title 33, Navigation and Navigable Waters, and section 1307 of Title 44, Public Printing and Documents, and enacting provisions set out as notes under this section]; and

"(2) are in effect on the date of transfer,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the Administrator of the Federal Aviation Administration, a court of competent jurisdiction, or by operation of law.

"(b) CONTINUED EFFECTIVENESS OF PENDING ACTIONS.—

"(1) IN GENERAL.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of transfer before the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer of such Department or Administration, with respect to functions transferred by this title, but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued in accord with transition guidelines promulgated by the Administrator of the Federal Aviation Administration under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator of the Federal Aviation Administration, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

"(2) TRANSITION GUIDELINES.—The Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, and the Administrator of the Federal Aviation Administration are authorized to issue transition guidelines providing for the orderly transfer of proceedings and otherwise to accomplish the orderly transfer of functions, personnel and property under this title.

"(c) CONTINUED EFFECTIVENESS OF JUDICIAL ACTIONS.—No cause of action by or against the Department of Commerce or the National Oceanic and Atmospheric Administration with respect to functions transferred by this title, or by or against any officer thereof in the official's capacity, shall abate by reason of the enactment of this title. Causes of action and actions with respect to a function or office transferred by this title, or other proceedings may be asserted by or against the United States or an official of the Federal Aviation Administration, as may be appropriate, and, in an action pending when this title takes effect, the court may at any time, on its own motion or that of any party, enter an order that will give effect to the provisions of this subsection.

"(d) SUBSTITUTION OR ADDITION OF PARTIES TO JUDICIAL ACTIONS.—If, on the date of transfer, the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer of the Department or Administration in an official capacity, is a party to an action, and under this title any function relating to the action of the Department, Administration, or officer is transferred to the Federal Aviation Administration, then such action shall be continued with the Administrator of the Federal Aviation Administration substituted or added as a party.

"(e) CONTINUED JURISDICTION OVER ACTIONS TRANSFERRED.—Orders and actions of the Administrator of the Federal Aviation Administration in the exercise of functions transferred by this title shall

be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or the National Oceanic and Atmospheric Administration, or any office or officer of such Department or Administration, in the exercise of such functions immediately preceding their transfer.

"(f) LIABILITIES AND OBLIGATIONS.—The Administrator of the Federal Aviation Administration shall assume all liabilities and obligations (tangible and incorporeal, present and executory) associated with the functions transferred under this title on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, financial assistance, and litigation relating to such obligations, regardless whether judgment has been entered, damages awarded, or appeal taken."

TRANSFER OF FUNCTIONS

Pub. L. 106–181, title VI, §601, Apr. 5, 2000, 114 Stat. 149, provided that: "Effective October 1, 2000, there are transferred to the Federal Aviation Administration and vested in the Administrator the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography and are set forth in section 44721 of title 49, United States Code."

TRANSFER OF OFFICE, PERSONNEL, AND FUNDS

Pub. L. 106–181, title VI, §602, Apr. 5, 2000, 114 Stat. 149, provided that:

"(a) TRANSFER OF OFFICE.—Effective October 1, 2000, the Office of Aeronautical Charting and Cartography of the National Oceanic and Atmospheric Administration, Department of Commerce, is transferred to the Federal Aviation Administration.

"(b) OTHER TRANSFERS.—Effective October 1, 2000, the personnel employed in connection with, and the assets, liabilities, contracts, property, equipment, facilities, records, and unexpended balance of appropriations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the function and offices, or portions of offices, transferred by this title [amending this section, sections 883b and 883e of Title 33, Navigation and Navigable Waters, and section 1307 of Title 44, Public Printing and Documents, and enacting provisions set out as notes under this section], including all Senior Executive Service positions, subject to section 1531 of title 31, United States Code, are transferred to the Administrator of the Federal Aviation Administration for appropriate allocation. Personnel employed in connection with functions transferred by this title transfer under any applicable law and regulation relating to transfer of functions. Unexpended funds transferred under this section shall be used only for the purposes for which the funds were originally authorized and appropriated, except that funds may be used for expenses associated with the transfer authorized by this title."

PROCUREMENT OF PRIVATE ENTERPRISE MAPPING, CHARTING, AND GEOGRAPHIC INFORMATION SYSTEMS

Pub. L. 106–181, title VI, §607, Apr. 5, 2000, 114 Stat. 154, provided that: "The Administrator [of the Federal Aviation Administration] shall consider procuring mapping, charting, and geographic information systems necessary to carry out the duties of the Administrator under title 49, United States Code, from private enterprises, if the Administrator determines that such procurement furthers the mission of the Federal Aviation Administration and is cost effective."

§44722. Aircraft operations in winter conditions

The Administrator of the Federal Aviation Administration shall prescribe regulations requiring procedures to improve safety of aircraft operations during winter conditions. In deciding on the procedures to be required, the Administrator shall consider at least aircraft and air traffic control modifications, the availability of different types of deicing fluids (considering their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44722	49:1421 (note).	Oct. 31, 1992, Pub. L. 102–581, §124, 106 Stat. 4885.

The words "Before November 1, 1992" are omitted as obsolete. The words "prescribe regulations requiring" are substituted for "require, by regulation", and the words "other factors the Administrator considers appropriate" are substituted for "among other things", for consistency in the revised title.

§44723. Annual report

Not later than January 1 of each year, the Secretary of Transportation shall submit to Congress a comprehensive report on the safety enforcement activities of the Federal Aviation Administration during the fiscal year ending the prior September 30th. The report shall include—

(1) a comparison of end-of-year staffing levels by operations, maintenance, and avionics inspector categories to staffing goals and a statement on how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance, and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs by field location and, for any field location completing less than 80 percent of its planned number of inspections, an explanation of why annual work program plans were not met;

(6) a statement of the adequacy of Administration internal management controls available to ensure that field managers comply with Administration policies and procedures, including those on inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of efforts made by the Administration to update inspector guidance documents and regulations to include technological, management, and structural changes taking place in the aviation industry, including a listing of the backlog of all proposed regulatory amendments;

(8) a list of the specific operational measures of effectiveness used to evaluate—

(A) the progress in meeting program objectives;

(B) the quality of program delivery; and

(C) the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the 2 prior fiscal years, including the total initial and final penalties imposed, the total number of dollars collected, the range of dollar amounts collected, the average case processing time, and the range of case processing time;

(10) a schedule showing the number of enforcement actions taken (except civil penalties) during the 2 prior fiscal years, including the total number of violations cited, and the number of cited violation cases closed by certificate suspensions, certificate revocations, warnings, and no action taken; and

(11) schedules showing the safety record of the aviation industry during the fiscal year for air carriers and general aviation, including—

(A) the number of inspections performed when deficiencies were identified compared with inspections when no deficiencies were found;

(B) the frequency of safety deficiencies for each air carrier; and

(C) an analysis based on data of the general status of air carrier and general aviation compliance with aviation regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44723	49:308 (note).	Dec. 22, 1987, Pub. L. 100–202, §317(a), 101 Stat. 1329–380. Sept. 30, 1988, Pub. L. 100–457, §317(a), 102 Stat. 2148.

In clauses (4) and (7), the word "regulations" is substituted for "Federal regulations" for consistency in the revised title.

In clause (5), the words "by field location" are substituted for "disaggregated to the field locations" for clarity.

In clause (8), before subclause (A), the words " 'best proxies' standing between the ultimate goal of accident prevention and ongoing program activities" are omitted as surplus.

In clause (9), the words "penalties imposed" are substituted for "assessments" for consistency in the revised title and with other titles of the United States Code.

In clause (11)(C), the words "aviation regulations" are substituted for "Federal Aviation Regulations" for consistency in the revised title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 22nd item on page 132 and the 10th item on page 135 of House Document No. 103–7.

§44724. Manipulation of flight controls

(a) PROHIBITION.—No pilot in command of an aircraft may allow an individual who does not hold—

(1) a valid private pilots certificate issued by the Administrator of the Federal Aviation Administration under part 61 of title 14, Code of Federal Regulations; and

(2) the appropriate medical certificate issued by the Administrator under part 67 of such title,

to manipulate the controls of an aircraft if the pilot knows or should have known that the individual is attempting to set a record or engage in an aeronautical competition or aeronautical feat, as defined by the Administrator.

(b) REVOCATION OF AIRMEN CERTIFICATES.—The Administrator shall issue an order revoking a certificate issued to an airman under section 44703 of this title if the Administrator finds that while acting as a pilot in command of an aircraft, the airman has permitted another individual to manipulate the controls of the aircraft in violation of subsection (a).

(c) PILOT IN COMMAND DEFINED.—In this section, the term "pilot in command" has the meaning given such term by section 1.1 of title 14, Code of Federal Regulations.

(Added Pub. L. 104–264, title VI, §602(a)(1), Oct. 9, 1996, 110 Stat. 3263.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§44725. Life-limited aircraft parts

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require the safe disposition of life-limited parts removed from an aircraft. The rulemaking proceeding shall ensure that the disposition deter installation on an aircraft of a life-limited part that has reached or exceeded its life limits.

(b) SAFE DISPOSITION.—For the purposes of this section, safe disposition includes any of the following methods:

(1) The part may be segregated under circumstances that preclude its installation on an aircraft.

(2) The part may be permanently marked to indicate its used life status.

(3) The part may be destroyed in any manner calculated to prevent reinstallation in an aircraft.

(4) The part may be marked, if practicable, to include the recordation of hours, cycles, or other airworthiness information. If the parts are marked with cycles or hours of usage, that information must be updated every time the part is removed from service or when the part is retired from service.

(5) Any other method approved by the Administrator.

(c) DEADLINES.—In conducting the rulemaking proceeding under subsection (a), the Administrator shall—

(1) not later than 180 days after the date of the enactment of this section, issue a notice of proposed rulemaking; and

(2) not later than 180 days after the close of the comment period on the proposed rule, issue a final rule.

(d) PRIOR-REMOVED LIFE-LIMITED PARTS.—No rule issued under subsection (a) shall require the marking of parts removed from aircraft before the effective date of the rules issued under subsection (a), nor shall any such rule forbid the installation of an otherwise airworthy life-limited part.

(Added Pub. L. 106–181, title V, §504(a), Apr. 5, 2000, 114 Stat. 134.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§44726. Denial and revocation of certificate for counterfeit parts violations

(a) DENIAL OF CERTIFICATE.—

(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2), the Administrator of the Federal Aviation Administration may not issue a certificate under

this chapter to any person—

(A) convicted in a court of law of a violation of a law of the United States relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material;

(B) whose certificate is revoked under subsection (b); or

(C) subject to a controlling or ownership interest of an individual described in subparagraph (A) or (B).

(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

(b) REVOCATION OF CERTIFICATE.—

(1) IN GENERAL.—Except as provided in subsections (f) and (g), the Administrator shall issue an order revoking a certificate issued under this chapter if the Administrator finds that the holder of the certificate or an individual who has a controlling or ownership interest in the holder—

(A) was convicted in a court of law of a violation of a law of the United States relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material; or

(B) knowingly, and with the intent to defraud, carried out or facilitated an activity punishable under a law described in paragraph (1)(A).

(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1), the Administrator may not review whether a person violated a law described in paragraph (1)(A).

(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

(1) advise the holder of the certificate of the reason for the revocation; and

(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to the appeal, "person" shall be substituted for "individual" each place it appears.

(e) ACQUITTAL OR REVERSAL.—

(1) IN GENERAL.—The Administrator may not revoke, and the National Transportation Safety Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) if the holder of the certificate or the individual referred to in subsection (b)(1) is acquitted of all charges directly related to the violation.

(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

(A) the former holder otherwise satisfies the requirements of this chapter for the certificate; and

(B)(i) the former holder or the individual referred to in subsection (b)(1), is acquitted of all charges related to the violation on which the revocation was based; or

(ii) the conviction of the former holder or such individual of the violation on which the revocation was based is reversed.

(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) if—

(1) a law enforcement official of the United States Government requests a waiver; and

(2) the waiver will facilitate law enforcement efforts.

(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is

other than an individual and the Administrator finds that—

(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section or knowingly, and with intent to defraud, carried out or facilitated an activity punishable under such a law; and

(2) the holder satisfies the requirements for the certificate without regard to that individual,

then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A decision by the Administrator under this subsection is not reviewable by the Board.

(Added Pub. L. 106–181, title V, §505(a)(1), Apr. 5, 2000, 114 Stat. 134; amended Pub. L. 108–176, title V, §501, Dec. 12, 2003, 117 Stat. 2556.)

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–176 struck out "or" at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C) and substituted "described in subparagraph (A) or (B)" for "convicted of such a violation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§44727. Runway safety areas

(a) AIRPORTS IN ALASKA.—An airport owner or operator in the State of Alaska shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of runways at airports in States other than Alaska to determine which airports are affected by standards of the Federal Aviation Administration applicable to runway safety areas and to assess how operations at those airports would be affected if the owner or operator of the airport is required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet such standards.

(2) REPORT.—Not later than 9 months after the date of enactment of this section, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of the study.

(Added Pub. L. 108–176, title V, §502(a), Dec. 12, 2003, 117 Stat. 2557.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§44728. Flight attendant certification

(a) CERTIFICATE REQUIRED.—

(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

(2) SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

(3) TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

(b) ISSUANCE OF CERTIFICATE.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of title 14, Code of Federal Regulations, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

(1) be numbered and recorded by the Administrator;

(2) contain the name, address, and description of the individual to whom the certificate is issued;

(3) be similar in size and appearance to certificates issued to airmen;

(4) contain the airplane group for which the certificate is issued; and

(5) be issued not later than 120 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

(e) APPROVAL OF TRAINING PROGRAMS.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

(f) MINIMUM LANGUAGE SKILLS.—

(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier, unless that person has demonstrated to an individual qualified to determine proficiency the ability to read, speak, and write English well enough to—

(A) read material written in English and comprehend the information;

(B) speak and understand English sufficiently to provide direction to, and understand and answer questions from, English-speaking individuals;

(C) write incident reports and statements and log entries and statements; and

(D) carry out written and oral instructions regarding the proper performance of their duties.

(2) FOREIGN FLIGHTS.—The requirements of paragraph (1) do not apply to a flight attendant serving solely between points outside the United States.

(g) FLIGHT ATTENDANT DEFINED.—In this section, the term "flight attendant" means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.

(Added Pub. L. 108–176, title VIII, §814(a), Dec. 12, 2003, 117 Stat. 2590; amended Pub. L. 112–95, title III, §304(a), Feb. 14, 2012, 126 Stat. 58; Pub. L. 115–254, div. B, title V, §539(i), Oct. 5, 2018, 132 Stat. 3371; Pub. L. 118–63, title XI, §1101(p), May 16, 2024, 138 Stat. 1414.)

EDITORIAL NOTES

REFERENCES IN TEXT

For effective date of this section, referred to in subsecs. (a)(2) and (d)(5), see Effective Date note below.

The date of enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 substituted "Regulations," for "Regulation,".

2018—Subsec. (c). Pub. L. 115–254, §539(i)(1), substituted "title 14" for "chapter 14".

Subsec. (d)(3). Pub. L. 115–254, §539(i)(2), substituted "be" for "is".

2012—Subsecs. (f), (g). Pub. L. 112–95 added subsec. (f) and redesignated former subsec. (f) as (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 108–176, title VIII, §814(c), Dec. 12, 2003, 117 Stat. 2592, provided that: "The amendments made by subsections (a) and (b) [enacting this section and amending the analysis to this chapter] shall take effect on the 365th day following the date of enactment of this Act [Dec. 12, 2003]."

FACILITATION

Pub. L. 112–95, title III, §304(b), Feb. 14, 2012, 126 Stat. 58, provided that: "The Administrator of the Federal Aviation Administration shall work with air carriers to facilitate compliance with the requirements of section 44728(f) of title 49, United States Code (as amended by this section)."

§44729. Age standards for pilots

(a) IN GENERAL.—Subject to the limitation in subsection (c), a pilot may serve in multicrew covered operations described in subsection (b)(1) until attaining 65 years of age. Air carriers that employ pilots who serve in covered operations described in subsection (b)(2) may elect to implement an age restriction to prohibit employed pilots from serving in such covered operations after attaining 70 years of age by delivering written notice to the Administrator of the Federal Aviation Administration. Such election—

(1) shall take effect 1 year after the date of delivery of written notice of the election; and

(2) may not be terminated after the date on which such election takes effect by the air carrier.

(b) COVERED OPERATIONS DEFINED.—In this section, the term "covered operations" means—

(1) operations under part 121 of title 14, Code of Federal Regulations; or

(2) operations by a person that—

(A) holds an air carrier certificate issued pursuant to part 119 of title 14, Code of Federal Regulations, to conduct operations under part 135 of such title;

(B) holds management specifications under subpart K of title 91 of title 14, Code of Federal Regulations; and

(C) performed an aggregate total of at least 75,000 turbojet operations in calendar year 2019 or any subsequent year.

(c) LIMITATION FOR INTERNATIONAL FLIGHTS.—

(1) APPLICABILITY OF ICAO STANDARD.—A pilot who has attained 60 years of age may serve as pilot-in-command in covered operations between the United States and another country only if there is another pilot in the flight deck crew who has not yet attained 60 years of age.

(2) SUNSET OF LIMITATION.—Paragraph (1) shall cease to be effective on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.

(d) SUNSET OF AGE 60 RETIREMENT RULE.—On and after the date of enactment of this section, section 121.383(c) of title 14, Code of Federal Regulations, shall cease to be effective.

(e) APPLICABILITY.—

(1) NONRETROACTIVITY.—No person who has attained 60 years of age before the date of enactment of this section may serve as a pilot for an air carrier engaged in covered operations unless—

(A) such person is in the employment of that air carrier in such operations on such date of enactment as a required flight deck crew member; or

(B) such person is newly hired by an air carrier as a pilot on or after such date of enactment without credit for prior seniority or prior longevity for benefits or other terms related to length of service prior to the date of rehire under any labor agreement or employment policies of the air carrier.

(2) PROTECTION FOR COMPLIANCE.—An action taken in conformance with this section, taken in conformance with a regulation issued to carry out this section, or taken prior to the date of enactment of this section in conformance with section 121.383(c) of title 14, Code of Federal Regulations (as in effect before such date of enactment), may not serve as a basis for liability or relief in a proceeding, brought under any employment law or regulation, before any court or agency of the United States or of any State or locality.

(f) AMENDMENTS TO LABOR AGREEMENTS AND BENEFIT PLANS.—Any amendment to a labor agreement or benefit plan of an air carrier that is required to conform with the requirements of this section or a regulation issued to carry out this section, and is applicable to pilots represented for collective bargaining, shall be made by agreement of the air carrier and the designated bargaining representative of the pilots of the air carrier.

(g) MEDICAL STANDARDS AND RECORDS.—

(1) MEDICAL EXAMINATIONS AND STANDARDS.—Except as provided by paragraph (2), a person serving as a pilot for an air carrier engaged in covered operations shall not be subject to different medical standards, or different, greater, or more frequent medical examinations, on

account of age unless the Secretary determines (based on data received or studies published after the date of enactment of this section) that different medical standards, or different, greater, or more frequent medical examinations, are needed to ensure an adequate level of safety in flight.

(2) DURATION OF FIRST-CLASS MEDICAL CERTIFICATE.—No person who has attained 60 years of age may serve as a pilot of an air carrier engaged in covered operations unless the person has a first-class medical certificate. Such a certificate shall expire on the last day of the 6-month period following the date of examination shown on the certificate.

(h) SAFETY.—

(1) TRAINING.—Each air carrier engaged in covered operations shall continue to use pilot training and qualification programs approved by the Federal Aviation Administration, with specific emphasis on initial and recurrent training and qualification of pilots who have attained 60 years of age, to ensure continued acceptable levels of pilot skill and judgment.

(2) GAO REPORT.—Not later than 24 months after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effect, if any, on aviation safety of the modification to pilot age standards made by subsection (a).

(Added Pub. L. 110–135, §2(a), Dec. 13, 2007, 121 Stat. 1450; amended Pub. L. 112–95, title III, §305, Feb. 14, 2012, 126 Stat. 58; Pub. L. 117–328, div. Q, §107(a), (b), Dec. 29, 2022, 136 Stat. 5257, 5258.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section and such date of enactment, referred to in subsecs. (d), (e), (g)(1) and (h)(2), is the date of enactment of Pub. L. 110–135, which was approved Dec. 13, 2007.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–328, §107(a), substituted "covered operations described in subsection (b)(1) until attaining 65 years of age. Air carriers that employ pilots who serve in covered operations described in subsection (b)(2) may elect to implement an age restriction to prohibit employed pilots from serving in such covered operations after attaining 70 years of age by delivering written notice to the Administrator of the Federal Aviation Administration. Such election—" and pars. (1) and (2) for "covered operations until attaining 65 years of age."

Subsec. (b). Pub. L. 117–328, §107(b), substituted "means—" and pars. (1) and (2) for "means operations under part 121 of title 14, Code of Federal Regulations."

2012—Subsec. (h)(2), (3). Pub. L. 112–95 redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "Not later than 6 months after the date of enactment of this section, and every 6 months thereafter, an air carrier engaged in covered operations shall evaluate the performance of each pilot of the air carrier who has attained 60 years of age through a line check of such pilot. Notwithstanding the preceding sentence, an air carrier shall not be required to conduct for a 6-month period a line check under this paragraph of a pilot serving as second-in-command if the pilot has undergone a regularly scheduled simulator evaluation during that period."

STATUTORY NOTES AND RELATED SUBSIDIARIES

PROTECTION FOR COMPLIANCE

Pub. L. 117–328, div. Q, §107(c), Dec. 29, 2022, 136 Stat. 5258, provided that: "An action or election taken in conformance with the amendments made by this section [amending this section], or taken in conformance with a regulation issued to carry out the amendments made by this section, may not serve as a basis for liability or relief in a proceeding brought under any employment law or regulation before any court or agency of the United States or of any State or locality."

§44730. Helicopter air ambulance operations

(a) COMPLIANCE REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a part 135 certificate holder providing air ambulance services shall comply, whenever medical personnel are onboard the aircraft, with regulations pertaining to weather minimums and flight and duty time under part 135.

(2) EXCEPTION.—If a certificate holder described in paragraph (1) is operating, or carrying out training, under instrument flight rules, the weather reporting requirement at the destination shall not apply if authorized by the Administrator of the Federal Aviation Administration.

(b) FINAL RULE.—Not later than June 1, 2012, the Administrator shall issue a final rule, with respect to the notice of proposed rulemaking published in the Federal Register on October 12, 2010 (75 Fed. Reg. 62640), to improve the safety of flight crewmembers, medical personnel, and passengers onboard helicopters providing air ambulance services under part 135.

(c) MATTERS TO BE ADDRESSED.—In conducting the rulemaking proceeding under subsection (b), the Administrator shall consider, or address through other means, the following:

(1) Flight request and dispatch procedures, including performance-based flight dispatch procedures.

(2) Pilot training standards, including establishment of training standards in—

(A) preventing controlled flight into terrain; and

(B) recovery from inadvertent flight into instrument meteorological conditions.

(3) Safety-enhancing technology and equipment, including—

(A) helicopter terrain awareness and warning systems;

(B) radar altimeters; and

(C) devices that perform the function of flight data recorders and cockpit voice recorders, to the extent feasible.

(4) Such other matters as the Administrator considers appropriate.

(d) MINIMUM REQUIREMENTS.—In issuing a final rule under subsection (b), the Administrator, at a minimum, shall consider, or address through other means, the following:

(1) FLIGHT RISK EVALUATION PROGRAM.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services—

(A) establishes a flight risk evaluation program, based on FAA Notice 8000.301 issued by the Administration on August 1, 2005, including any updates thereto;

(B) as part of the flight risk evaluation program, develops a checklist for use by pilots in determining whether a flight request should be accepted; and

(C) requires the pilots of the certificate holder to use the checklist.

(2) OPERATIONAL CONTROL CENTER.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services using 10 or more helicopters has an operational control center that meets such requirements as the Administrator may prescribe.

(e) SUBSEQUENT ACTIONS.—

(1) IN GENERAL.—Upon completion of the rulemaking required under subsection (b), the Administrator shall address through a follow-on rulemaking, or through such other means that the Administrator considers appropriate, the following:

(A) Pilot training standards, including—

(i) mandatory training requirements, including a minimum time for completing the training requirements;

(ii) training subject areas, such as communications procedures and appropriate technology use; and

(iii) establishment of training standards in—

(I) crew resource management;
(II) flight risk evaluation;
(III) operational control of the pilot in command; and
(IV) use of flight simulation training devices and line-oriented flight training.

(B) Use of safety equipment that should be worn or used by flight crewmembers and medical personnel on a flight, including the possible use of shoulder harnesses, helmets, seatbelts, and fire resistant clothing to enhance crash survivability.

(2) LIMITATION ON CONSTRUCTION.—Nothing in this subsection shall be construed to require the Administrator to propose or finalize any rule that would derogate or supersede the rule required to be finalized under subsection (b).

(f) DEFINITIONS.—In this section, the following definitions apply:
(1) PART 135.—The term "part 135" means part 135 of title 14, Code of Federal Regulations.
(2) PART 135 CERTIFICATE HOLDER.—The term "part 135 certificate holder" means a person holding an operating certificate issued under part 119 of title 14, Code of Federal Regulations, that is authorized to conduct civil helicopter air ambulance operations under part 135.

(Added Pub. L. 112–95, title III, §306(a), Feb. 14, 2012, 126 Stat. 58; amended Pub. L. 118–63, title III, §301(a), May 16, 2024, 138 Stat. 1066.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(1). Pub. L. 118–63, §301(a)(1), struck out "not later than 180 days after the date of enactment of this section," after "paragraph (2),".
Subsec. (c). Pub. L. 118–63, §301(a)(2), substituted "consider, or address through other means, the following" for "address the following" in introductory provisions.
Subsec. (d). Pub. L. 118–63, §301(a)(3), substituted "consider, or address through other means, the following" for "provide for the following" in introductory provisions.
Subsec. (e). Pub. L. 118–63, §301(a)(4)(A), substituted "Subsequent Actions" for "Subsequent Rulemaking" in heading.
Subsec. (e)(1). Pub. L. 118–63, §301(a)(4)(B), substituted "shall address through a follow-on rulemaking, or through such other means that the Administrator considers appropriate, the following:" for "shall conduct a follow-on rulemaking to address the following:" in introductory provisions.
Subsec. (e)(2), (3). Pub. L. 118–63, §301(a)(4)(C), (D), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "Not later than 180 days after the date of issuance of a final rule under subsection (b), the Administrator shall initiate the rulemaking under this subsection."

§44731. Collection of data on helicopter air ambulance operations

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require a part 135 certificate holder providing helicopter air ambulance services to submit to the Administrator, annually, a report containing, at a minimum, the following data:
(1) The number of helicopters that the certificate holder uses to provide helicopter air ambulance services and the base locations of the helicopters.
(2) The number of hours flown by the helicopters operated by the certificate holder.
(3) The number of patients transported and the number of patient transport requests for a helicopter providing air ambulance services that were accepted or declined by the certificate holder and the type of each such flight request (such as scene response, interfacility transport, or organ transport).
(4) The number of accidents, if any, involving helicopters operated by the certificate holder while providing air ambulance services and a description of the accidents.

(5) The number of hours flown under instrument flight rules by helicopters operated by the certificate holder.

(6) The number of hours flown at night by helicopters operated by the certificate holder.

(7) The number of incidents, if any, in which a helicopter was not directly dispatched and arrived to transport patients but was not utilized for patient transport.

(b) REPORTING PERIOD.—Data contained in a report submitted by a part 135 certificate holder under subsection (a) shall relate to such reporting period as the Administrator determines appropriate.

(c) DATABASE.—Not later than 180 days after the date of enactment of this section, the Administrator shall develop a method to collect and store the data collected under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information provided in response to this section.

(d) IMPLEMENTATION.—In carrying out this section, the Administrator, in collaboration with part 135 certificate holders providing helicopter air ambulance services, shall—

(1) propose and develop a method to collect and store the data submitted under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information submitted;

(2) make publicly available, in part or in whole, on a website of the Federal Aviation Administration, the database developed pursuant to subsection (c); and

(3) analyze the data submitted under subsection (a) periodically and use such data to inform efforts to improve the safety of helicopter air ambulance operations.

(e) DEFINITIONS.—In this section, the terms "part 135" and "part 135 certificate holder" have the meanings given such terms in section 44730.

(Added Pub. L. 112–95, title III, §306(a), Feb. 14, 2012, 126 Stat. 60; amended Pub. L. 115–254, div. B, title III, §314(d), Oct. 5, 2018, 132 Stat. 3266; Pub. L. 118–63, title III, §301(c), May 16, 2024, 138 Stat. 1066.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

AMENDMENTS

2024—Subsec. (d). Pub. L. 118–63, §301(c)(1), (3), redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: "The Administrator shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of the data collected under subsection (a). The report shall include the number of accidents experienced by helicopter air ambulance operations, the number of fatal accidents experienced by helicopter air ambulance operations, and the rate, per 100,000 flight hours, of accidents and fatal accidents experienced by operators providing helicopter air ambulance services."

Subsec. (e). Pub. L. 118–63, §301(c)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(2), (3). Pub. L. 118–63, §301(c)(2), added pars. (2) and (3) and struck out former par. (2) which read as follows: "ensure that the database under subsection (c) and the report under subsection (d) include data and analysis that will best inform efforts to improve the safety of helicopter air ambulance operations."

Subsec. (f). Pub. L. 118–63, §301(c)(3), redesignated subsec. (f) as (e).

2018—Subsec. (a). Pub. L. 115–254, §314(d)(1)(A), substituted "annually" for "not later than 1 year after the date of enactment of this section, and annually thereafter" in introductory provisions.

Subsec. (a)(2). Pub. L. 115–254, §314(d)(1)(B), substituted "hours flown by the helicopters operated by the certificate holder" for "flights and hours flown, by registration number, during which helicopters operated by the certificate holder were providing helicopter air ambulance services".

Subsec. (a)(3). Pub. L. 115–254, §314(d)(1)(C), substituted "of patients transported and the number of

patient transport" for "of flight", inserted "or" after "interfacility transport,", and struck out ", or ferry or repositioning flight" after "organ transport".

Subsec. (a)(5). Pub. L. 115–254, §314(d)(1)(D), struck out "flights and" after "The number of" and "while providing air ambulance services" before period at end.

Subsec. (a)(6). Pub. L. 115–254, §314(d)(1)(E), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The time of day of each flight flown by helicopters operated by the certificate holder while providing air ambulance services."

Subsec. (d). Pub. L. 115–254, §314(d)(2), substituted "The Administrator shall submit annually" for "Not later than 2 years after the date of enactment of this section, and annually thereafter, the Administrator shall submit" and inserted at end "The report shall include the number of accidents experienced by helicopter air ambulance operations, the number of fatal accidents experienced by helicopter air ambulance operations, and the rate, per 100,000 flight hours, of accidents and fatal accidents experienced by operators providing helicopter air ambulance services."

Subsecs. (e), (f). Pub. L. 115–254, §314(d)(3), (4), added subsec. (e) and redesignated former subsec. (e) as (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

HELICOPTER AIR AMBULANCE OPERATIONS DATA AND REPORTS

Pub. L. 115–254, div. B, title III, §314(a)–(c), Oct. 5, 2018, 132 Stat. 3265, 3266, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration], in collaboration with helicopter air ambulance industry stakeholders, shall assess the availability of information to the general public related to the location of heliports and helipads used by helicopters providing air ambulance services, including helipads and helipads outside of those listed as part of any existing databases of Airport Master Record (5010) forms.

"(b) REQUIREMENTS.—Based on the assessment under subsection (a), the Administrator shall—

"(1) update, as necessary, any existing guidance on what information is included in the current databases of Airport Master Record (5010) forms to include information related to heliports and helipads used by helicopters providing air ambulance services; or

"(2) develop, as appropriate and in collaboration with helicopter air ambulance industry stakeholders, a new database of heliports and helipads used by helicopters providing air ambulance services.

"(c) REPORTS.—

"(1) ASSESSMENT REPORT.—Not later than 30 days after the date the assessment under subsection (a) is complete, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the assessment, including any recommendations on how to make information related to the location of heliports and helipads used by helicopters providing air ambulance services available to the general public.

"(2) IMPLEMENTATION REPORT.—Not later than 30 days after completing action under paragraph (1) or paragraph (2) of subsection (b), the Administrator shall submit to the appropriate committees of Congress a report on such action."

§44732. Prohibition on personal use of electronic devices on flight deck

(a) IN GENERAL.—It is unlawful for a flight crewmember of an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, to use a personal wireless communications device or laptop computer while at the flight crewmember's duty station on the flight deck of such an aircraft while the aircraft is being operated.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the use of a personal wireless communications device or laptop computer for a purpose directly related to operation of the aircraft, or for emergency, safety-related, or employment-related communications, in accordance with procedures established by the air carrier and the Administrator of the Federal Aviation Administration.

(c) ENFORCEMENT.—In addition to the penalties provided under section 46301 applicable to any violation of this section, the Administrator of the Federal Aviation Administration may enforce compliance with this section under section 44709 by amending, modifying, suspending, or revoking

a certificate under this chapter.

(d) PERSONAL WIRELESS COMMUNICATIONS DEVICE DEFINED.—In this section, the term "personal wireless communications device" means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted.

(Added Pub. L. 112–95, title III, §307(a), Feb. 14, 2012, 126 Stat. 61.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 112–95, title III, §307(d), Feb. 14, 2012, 126 Stat. 62, provided that: "Not later than 90 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall initiate a rulemaking procedure for regulations to carry out section 44732 of title 49, United States Code (as added by this section), and shall issue a final rule thereunder not later than 2 years after the date of enactment of this Act."

§44733. Oversight of repair stations located outside the United States

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall establish and implement a safety assessment system for all part 145 repair stations based on the type, scope, and complexity of work being performed. The system shall—

(1) ensure that repair stations located outside the United States are subject to appropriate inspections based on identified risks and consistent with existing United States requirements;

(2) consider inspection results and findings submitted by foreign civil aviation authorities operating under a maintenance safety or maintenance implementation agreement with the United States; and

(3) require all maintenance safety or maintenance implementation agreements to provide an opportunity for the Administration to conduct independent inspections of part 145 repair stations when safety concerns warrant such inspections.

(b) NOTICE TO CONGRESS OF NEGOTIATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than 30 days after initiating formal negotiations with foreign aviation authorities or other appropriate foreign government agencies on a new maintenance safety or maintenance implementation agreement.

(c) ANNUAL REPORT.—The Administrator shall publish an annual report on the Administration's oversight of part 145 repair stations and implementation of the safety assessment system required under subsection (a). The report shall—

(1) describe in detail any improvements in the Administration's ability to identify and track where part 121 air carrier repair work is performed;

(2) include a staffing model to determine the best placement of inspectors and the number of inspectors needed;

(3) describe the training provided to inspectors; and

(4) include an assessment of the quality of monitoring and surveillance by the Administration of work performed by its inspectors and the inspectors of foreign authorities operating under a maintenance safety or maintenance implementation agreement.

(d) ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of State and the Secretary of Transportation, acting jointly, shall request the governments of foreign countries that are members of the International Civil

Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety-sensitive maintenance functions on commercial air carrier aircraft.

(2) APPLICATION TO PART 121 AIRCRAFT WORK.—Not later than 1 year after the date of enactment of this section, the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety-sensitive maintenance functions on part 121 air carrier aircraft are subject to an alcohol and controlled substances testing program determined acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located.

(e) ANNUAL INSPECTIONS.—The Administrator shall ensure that part 145 repair stations located outside the United States are inspected annually, without prior notice to such repair stations, by Federal Aviation Administration safety inspectors, without regard to where the station is located, in a manner consistent with United States obligations under international agreements and the applicable laws of the country in which the repair station is located. The Administrator may carry out announced or unannounced inspections in addition to the annual unannounced inspection required under this subsection based on identified risks and in a manner consistent with United States obligations under international agreements and the applicable laws of the country in which the part 145 repair station is located.

(f) RISK-BASED OVERSIGHT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of the FAA Extension, Safety, and Security Act of 2016, the Administrator shall take measures to ensure that the safety assessment system established under subsection (a)—

(A) places particular consideration on inspections of part 145 repair stations located outside the United States that conduct scheduled heavy maintenance work on part 121 air carrier aircraft; and

(B) accounts for the frequency and seriousness of any corrective actions that part 121 air carriers must implement to aircraft following such work at such repair stations.

(2) INTERNATIONAL AGREEMENTS.—The Administrator shall take the measures required under paragraph (1)—

(A) in accordance with United States obligations under applicable international agreements; and

(B) in a manner consistent with the applicable laws of the country in which a repair station is located.

(3) ACCESS TO DATA.—The Administrator may access and review such information or data in the possession of a part 121 air carrier as the Administrator may require in carrying out paragraph (1)(B).

(g) DATA ANALYSIS.—

(1) IN GENERAL.—Each fiscal year in which a part 121 air carrier has had heavy maintenance work performed on an aircraft owned or operated by such carrier, such carrier shall provide to the Administrator, not later than the end of the following fiscal year, a report containing the information described in paragraph (2).

(2) INFORMATION REQUIRED.—A report under paragraph (1) shall contain the following:

(A) The location where any heavy maintenance work on aircraft was performed outside the United States.

(B) A description of the work performed at each such location.

(C) The date of completion of the work performed at each such location.

(D) A list of all failures, malfunctions, or defects affecting the safe operation of such aircraft identified by the air carrier not later than 30 days after the date on which an aircraft is returned to service, organized by reference to aircraft registration number, that—

(i) requires corrective action after the aircraft is approved for return to service; and
(ii) results from such work performed on such aircraft.

(E) The certificate number of the person approving such aircraft or on-wing aircraft engine for return to service following completion of the work performed at each such location.

(3) ANALYSIS.—The Administrator shall—
(A) analyze information provided under this subsection and sections 121.703, 121.705, 121.707, and 145.221 of title 14, Code of Federal Regulations, or any successor provisions of such title, to detect safety issues associated with heavy maintenance work on aircraft performed outside the United States; and
(B) require appropriate actions by an air carrier or repair station in response to any safety issue identified by the analysis conducted under subparagraph (A).

(4) CONFIDENTIALITY.—Information provided under this subsection shall be subject to the same protections given to voluntarily provided safety or security related information under section 40123.

(h) APPLICATIONS AND PROHIBITION.—
(1) IN GENERAL.—The Administrator may not approve any new application under part 145 of title 14, Code of Federal Regulations, from a person located or headquartered in a country that the Administration, through the International Aviation Safety Assessment program, has classified as Category 2.
(2) EXCEPTION.—Paragraph (1) shall not apply to an application for the renewal of a certificate issued under part 145 of title 14, Code of Federal Regulations.
(3) MAINTENANCE IMPLEMENTATION PROCEDURES AGREEMENT.—The Administrator may elect not to enter into a new maintenance implementation procedures agreement with a country classified as Category 2, for as long as the country remains classified as Category 2.
(4) PROHIBITION ON CONTINUED HEAVY MAINTENANCE WORK.—No part 121 air carrier may enter into a new contract for heavy maintenance work with a person located or headquartered in a country that the Administrator, through the International Aviation Safety Assessment program, has classified as Category 2, for as long as such country remains classified as Category 2.

(i) MINIMUM QUALIFICATIONS FOR MECHANICS AND OTHERS WORKING ON U.S. REGISTERED AIRCRAFT.—
(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall require that, at each covered repair station—
(A) all supervisory personnel of such station are appropriately certificated as a mechanic or repairman under part 65 of title 14, Code of Federal Regulations, or under an equivalent certification or licensing regime, as determined by the Administrator; and
(B) all personnel of such station authorized to approve an article for return to service are appropriately certificated as a mechanic or repairman under part 65 of such title, or under an equivalent certification or licensing regime, as determined by the Administrator.

(2) AVAILABLE FOR CONSULTATION.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall require any individual who is responsible for approving an article for return to service or who is directly in charge of heavy maintenance work performed on aircraft operated by a part 121 air carrier be available for consultation while work is being performed at a covered repair station.

(j) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED REPAIR STATION.—The term "covered repair station" means a facility that—
(A) is located outside the United States;
(B) is a part 145 repair station; and
(C) performs heavy maintenance work on aircraft operated by a part 121 air carrier.

(2) HEAVY MAINTENANCE WORK.—The term "heavy maintenance work" means a C-check, a D-check, or equivalent maintenance operation with respect to the airframe of a transport-category aircraft (including on-wing aircraft engines).

(3) PART 121 AIR CARRIER.—The term "part 121 air carrier" means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

(4) PART 145 REPAIR STATION.—The term "part 145 repair station" means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.

(Added Pub. L. 112–95, title III, §308(a), Feb. 14, 2012, 126 Stat. 62; amended Pub. L. 114–190, title II, §2112(a), July 15, 2016, 130 Stat. 627; Pub. L. 118–63, title III, §302(a)(1), (2), May 16, 2024, 138 Stat. 1067, 1069.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

The date of enactment of the FAA Extension, Safety, and Security Act of 2016, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 114–190, which was approved July 15, 2016.

The date of enactment of this subsection, referred to in subsec. (i), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Pub. L. 118–63, §302(a)(1)(A), substituted "Oversight" for "Inspection" in section catchline.

Subsec. (a). Pub. L. 118–63, §302(a)(1)(B), substituted "The Administrator" for "Not later than 1 year after the date of enactment of this section, the Administrator" in introductory provisions.

Subsec. (a)(3). Pub. L. 118–63, §302(a)(2)(B), substituted "part 145 repair stations" for "covered part 145 repair stations".

Subsec. (e). Pub. L. 118–63, §302(a)(1)(C), inserted ", without prior notice to such repair stations," after "annually" and "and the applicable laws of the country in which the repair station is located" after "international agreements" and substituted "The Administrator may carry out announced or unannounced inspections in addition to the annual unannounced inspection required under this subsection based on identified risks and in a manner consistent with United States obligations under international agreements and the applicable laws of the country in which the part 145 repair station is located." for "The Administrator may carry out inspections in addition to the annual inspection required under this subsection based on identified risks."

Subsecs. (g) to (i). Pub. L. 118–63, §302(a)(1)(E), added subsecs. (g) to (i). Former subsec. (g) redesignated (j).

Subsec. (j). Pub. L. 118–63, §302(a)(1)(D), redesignated subsec. (g) as (j).

Subsec. (j)(1). Pub. L. 118–63, §302(a)(2)(A)(iii), added par. (1). Former par. (1) redesignated (2).

Pub. L. 118–63, §302(a)(2)(A)(i), substituted "aircraft (including on-wing aircraft engines)" for "aircraft".

Subsec. (j)(2) to (4). Pub. L. 118–63, §302(a)(2)(A)(ii), redesignated pars. (1) to (3) as (2) to (4), respectively.

2016—Subsec. (f). Pub. L. 114–190, §2112(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 114–190, §2112(a)(3), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Pub. L. 114–190, §2112(a)(1), redesignated subsec. (f) as (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

RULEMAKING ON SECURITY THREAT ASSESSMENT

Pub. L. 118–63, title III, §302(b)(2), (3), May 16, 2024, 138 Stat. 1069, provided that:

"(2) RULEMAKING ON ASSESSMENT REQUIREMENT.—With respect to any employee not covered under the requirements of section 1554.101 of title 49, Code of Federal Regulations, the Administrator [of the Federal Aviation Administration] shall initiate a rulemaking (or request that the head of another Federal agency initiate a rulemaking) that requires a covered repair station to confirm that any such employee has successfully completed an assessment commensurate with a security threat assessment described in subpart C of part 1540 of such title.

"(3) DEFINITION OF COVERED REPAIR STATION.—For purposes of this subsection, the term 'covered repair station' means a facility that—

"(A) is located outside the United States;

"(B) is certificated under part 145 of title 14, Code of Federal Regulations; and

"(C) performs heavy maintenance work on aircraft (including on-wing aircraft engines), operated under part 121 of title 14, Code of Federal Regulations."

ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Pub. L. 118–63, title III, §302(b)(1), May 16, 2024, 138 Stat. 1069, provided that: "Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a final rule carrying out the requirements of section 2112(b) of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 44733 note)."

Pub. L. 114–190, title II, §2112(b), July 15, 2016, 130 Stat. 628, provided that: "The Administrator of the Federal Aviation Administration shall ensure that—

"(1) not later than 90 days after the date of enactment of this Act [July 15, 2016], a notice of proposed rulemaking required pursuant to section 44733(d)(2) is published in the Federal Register; and

"(2) not later than 1 year after the date on which the notice of proposed rulemaking is published in the Federal Register, the rulemaking is finalized."

BACKGROUND INVESTIGATIONS

Pub. L. 114–190, title II, §2112(c), July 15, 2016, 130 Stat. 628, provided that: "Not later than 180 days after the date of enactment of this Act [July 15, 2016], the Administrator shall ensure that each employee of a repair station certificated under part 145 of title 14, Code of Federal Regulations, who performs a safety-sensitive function on an air carrier aircraft has undergone a pre-employment background investigation sufficient to determine whether the individual presents a threat to aviation safety, in a manner that is—

"(1) determined acceptable by the Administrator;

"(2) consistent with the applicable laws of the country in which the repair station is located; and

"(3) consistent with the United States obligations under international agreements."

§44734. Training of flight attendants

(a) TRAINING REQUIRED.—In addition to other training required under this chapter, each air carrier shall provide to flight attendants employed or contracted by such air carrier initial and annual training regarding—

(1) serving alcohol to passengers;

(2) recognizing intoxicated passengers;

(3) dealing with disruptive passengers; and

(4) recognizing and responding to potential human trafficking victims.

(b) SITUATIONAL TRAINING.—In carrying out the training required under subsection (a), each air carrier shall provide to flight attendants situational training on the proper method for dealing with intoxicated passengers who act in a belligerent manner.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) AIR CARRIER.—The term "air carrier" means a person, including a commercial enterprise, that has been issued an air carrier operating certificate under section 44705.

(2) FLIGHT ATTENDANT.—The term "flight attendant" has the meaning given that term in section 44728(g).

(Added Pub. L. 112–95, title III, §309(a), Feb. 14, 2012, 126 Stat. 64; amended Pub. L. 114–190, title II, §2113, July 15, 2016, 130 Stat. 628.)

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (a)(4). Pub. L. 114–190 added par. (4).

§44735. Limitation on disclosure of safety information

(a) IN GENERAL.—Except as provided by subsection (c), a report, data, or other information described in subsection (b) shall not be disclosed to the public by the Administrator of the Federal Aviation Administration pursuant to section 552(b)(3)(B) of title 5—

(1) if the report, data, or other information is submitted to the Federal Aviation Administration voluntarily and is not required to be submitted to the Administrator under any other provision of law;

(2) if the report, data, or other information is submitted to the Federal Aviation Administration pursuant to section 102(e) of the Aircraft Certification, Safety, and Accountability Act; or

(3) if the report, data, or other information is submitted for any purpose relating to the development and implementation of a safety management system, including a system required by regulation.

(b) APPLICABILITY.—The limitation established by subsection (a) shall apply to the following:

(1) Reports, data, or other information developed under the Aviation Safety Action Program.

(2) Reports, data, or other information produced or collected under the Flight Operational Quality Assurance Program.

(3) Reports, data, or other information developed under the Line Operations Safety Audit Program.

(4) Reports, data, or other information produced or collected for purposes of developing and implementing a safety management system acceptable to the Administrator.

(5) Reports, analyses, and directed studies, based in whole or in part on reports, data, or other information described in paragraphs (1) through (4), including those prepared under the Aviation Safety Information Analysis and Sharing Program (or any successor program).

(c) EXCEPTION FOR DE-IDENTIFIED INFORMATION.—

(1) IN GENERAL.—The limitation established by subsection (a) shall not apply to a report, data, or other information if the information contained in the report, data, or other information has been de-identified.

(2) DE-IDENTIFIED DEFINED.—In this subsection, the term "de-identified" means the process by which all information that is likely to establish the identity of the specific persons or entities submitting reports, data, or other information is removed from the reports, data, or other information.

(d) OTHER AGENCIES.—

(1) IN GENERAL.—The limitation established under subsection (a) shall apply to the head of any other Federal agency who receives reports, data, or other information described in such subsection from the Administrator.

(2) RULE OF CONSTRUCTION.—This section shall not be construed to limit the accident or incident investigation authority of the National Transportation Safety Board under chapter 11, including the requirement to not disclose voluntarily provided safety-related information under section 1114.

(Added Pub. L. 112–95, title III, §310(a), Feb. 14, 2012, 126 Stat. 64; amended Pub. L. 116–260, div. V, title I, §102(g), Dec. 27, 2020, 134 Stat. 2311; Pub. L. 118–63, title III, §305, May 16, 2024, 138 Stat. 1071.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 102(e) of the Aircraft Certification, Safety, and Accountability Act, referred to in subsec. (a)(2), is section 102(e) of title I of Pub. L. 116–260, div. V, Dec. 27, 2020, 134 Stat. 2310, which is set out in a note under section 44701 of this title.

AMENDMENTS

2024—Subsec. (a)(3). Pub. L. 118–63, §305(1), added par. (3).
Subsec. (d). Pub. L. 118–63, §305(2), added subsec. (d).
2020—Subsec. (a). Pub. L. 116–260 inserted "—" after "title 5", designated remaining existing provisions as par. (1), and added par. (2).

§44736. Organization designation authorizations

(a) DELEGATIONS OF FUNCTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (3), when overseeing an ODA holder, the Administrator of the FAA shall—

(A) require, based on an application submitted by the ODA holder and approved by the Administrator (or the Administrator's designee), a procedures manual that addresses all procedures and limitations regarding the functions to be performed by the ODA holder; and

(B) conduct regular oversight activities by inspecting the ODA holder's delegated functions and taking action based on validated inspection findings.

(2) DUTIES OF ODA HOLDERS.—An ODA holder shall—

(A) perform each specified function delegated to the ODA holder in accordance with the approved procedures manual for the delegation;

(B) make the procedures manual available to each member of the appropriate ODA unit; and

(C) cooperate fully with oversight activities conducted by the Administrator in connection with the delegation.

(3) EXISTING ODA HOLDERS.—With regard to an ODA holder operating under a procedures manual approved by the Administrator before the date of enactment of the FAA Reauthorization Act of 2018, the Administrator shall conduct regular oversight activities by inspecting the ODA holder's delegated functions and taking action based on validated inspection findings.

(b) ODA OFFICE.—

(1) ESTABLISHMENT.—The Administrator of the FAA shall identify, within the FAA Office of Aviation Safety, a centralized policy office to be known as the Organization Designation Authorization Office or the ODA Office.

(2) PURPOSE.—The purpose of the ODA Office shall be to provide oversight and ensure the consistency of the FAA's audit functions under the ODA program across the FAA.

(3) FUNCTIONS.—The ODA Office shall—

(A)(i) require, as appropriate, an ODA holder to establish a corrective action plan to regain authority for any retained limitations;

(ii) require, as appropriate, an ODA holder to notify the ODA Office when all corrective actions have been accomplished; and

(iii) when appropriate, make a reassessment to determine if subsequent performance in carrying out any retained limitation warrants continued retention and, if such reassessment determines performance meets objectives, lift such limitation immediately;

(B) develop a more consistent approach to audit priorities, procedures, and training under the ODA program;

(C) review, in a timely fashion, a random sample of limitations on delegated authorities under

the ODA program to determine if the limitations are appropriate;

(D) ensure national consistency in the interpretation and application of the requirements of the ODA program, including any limitations, and in the performance of the ODA program;

(E) at the request of an ODA holder, review and, when appropriate, approve new limitations to ODA functions;

(F) ensure the ODA holders procedures manual contains procedures and policies based on best practices established by the Administrator; and

(G) convene a forum not less than every 2 years between ODA holders, unit members, and other organizational representatives and relevant experts, in order to—

(i) share best practices;

(ii) instill professionalism, ethics, and personal responsibilities in unit members; and

(iii) foster open and transparent communication between Administration safety specialists, ODA holders, and unit members.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) FAA.—The term "FAA" means the Federal Aviation Administration.

(2) ODA HOLDER.—The term "ODA holder" means an entity authorized to perform functions pursuant to a delegation made by the Administrator of the FAA under section 44702(d).

(3) ODA UNIT.—The term "ODA unit" means a group of 2 or more individuals who perform, under the supervision of an ODA holder, authorized functions under an ODA.

(4) ORGANIZATION.—The term "organization" means a firm, partnership, corporation, company, association, joint-stock association, or governmental entity.

(5) ORGANIZATION DESIGNATION AUTHORIZATION; ODA.—The term "Organization Designation Authorization" or "ODA" means an authorization by the FAA under section 44702(d) for an organization composed of 1 or more ODA units to perform approved functions on behalf of the FAA.

(d) AUDITS.—

(1) IN GENERAL.—The Administrator shall perform a periodic audit of each ODA unit and its procedures.

(2) DURATION.—An audit required under paragraph (1) shall be performed with respect to an ODA holder once every 7 years (or more frequently as determined appropriate by the Administrator).

(3) RECORDS.—The ODA holder shall maintain, for a period to be determined by the Administrator, a record of—

(A) each audit conducted under this subsection; and

(B) any corrective actions resulting from each such audit.

(e) FEDERAL AVIATION SAFETY ADVISORS.—

(1) IN GENERAL.—In the case of an ODA holder, the Administrator shall assign FAA aviation safety personnel with appropriate expertise to be advisors to the ODA unit members that are authorized to make findings of compliance on behalf of the Administrator. The advisors shall—

(A) communicate with assigned unit members on an ongoing basis to ensure that the assigned unit members are knowledgeable of relevant FAA policies and acceptable methods of compliance; and

(B) monitor the performance of the assigned unit members to ensure consistency with such policies.

(2) APPLICABILITY.—Paragraph (1) shall only apply to an ODA holder that is—

(A) a manufacturer that holds both a type and a production certificate for—

(i) transport category airplanes with a maximum takeoff gross weight greater than 150,000 pounds; or

(ii) airplanes produced and delivered to operators operating under part 121 of title 14, Code of Federal Regulations, for air carrier service under such part 121; or

(B) a manufacturer of engines for an airplane described in subparagraph (A).

(f) COMMUNICATION WITH THE FAA.—Neither the Administrator nor an ODA holder may prohibit—

(1) an ODA unit member from communicating with, or seeking the advice of, the Administrator or FAA staff; or

(2) the Administrator or FAA staff from communicating with an ODA unit member.

(g) ETHICS TRAINING REQUIREMENT FOR ODA HOLDERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator of the Federal Aviation Administration shall review and ensure each ODA holder authorized by the Administrator under section 44702(d) has in effect a recurrent training program for all ODA unit members that covers—

(A) unit member professional obligations and responsibilities;

(B) the ODA holder's code of ethics as required to be established under section 102(f) of the Aircraft Certification, Safety, and Accountability Act (49 U.S.C. 44701 note);

(C) procedures for reporting safety concerns, as described in the respective approved procedures manual for the delegation;

(D) the prohibition against and reporting procedures for interference from a supervisor or other ODA member described in section 44742; and

(E) any additional information the Administrator considers relevant to maintaining ethical and professional standards across all ODA holders and unit members.

(2) FAA REVIEW.—

(A) REVIEW OF TRAINING PROGRAM.—The Organization Designation Authorization Office of the Administration established under subsection (b) shall review each ODA holders' recurrent training program to ensure such program includes—

(i) all elements described in paragraph (1); and

(ii) training to instill professionalism and clear understanding among ODA unit members about the purpose of and procedures associated with safety management systems, including the provisions of the third edition of the Safety Management Manual issued by the International Civil Aviation Organization (Doc 9859) (or any successor edition).

(B) CHANGES TO PROGRAM.—Such Office may require changes to the training program considered necessary to maintain ethical and professional standards across all ODA holders and unit members.

(3) TRAINING.—As part of the recurrent training program required under paragraph (1), not later than 60 business days after being designated as an ODA unit member, and annually thereafter, each ODA unit member shall complete the ethics training required by the ODA holder of the respective ODA unit member in order to exercise the functions delegated under the ODA.

(4) ACCOUNTABILITY.—The Administrator shall establish such processes or requirements as are necessary to ensure compliance with paragraph (3).

(Added Pub. L. 115–254, div. B, title II, §212(a), Oct. 5, 2018, 132 Stat. 3247; amended Pub. L. 116–260, div. V, title I, §§107(b)(1), (c), 125(b), Dec. 27, 2020, 134 Stat. 2324, 2325, 2347; Pub. L. 118–63, title III, §§303, 304(a), May 16, 2024, 138 Stat. 1069, 1070.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2018 and the date of enactment of this section, referred to in subsecs. (a)(3) and (b)(1), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

The date of enactment of this subsection, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 102(f) of the Aircraft Certification, Safety, and Accountability Act, referred to in subsec. (g)(1)(B), is section 102(f) of title I of div. V of Pub. L. 116–260, which is set out in a note under section 44701 of this title.

AMENDMENTS

2024—Subsec. (b)(1). Pub. L. 118–63, §303(1), substituted "The" for "Not later than 120 days after the date of enactment of this section, the".

Subsec. (b)(3)(G). Pub. L. 118–63, §303(2), added subpar. (G).

Subsec. (g). Pub. L. 118–63, §304(a), added subsec. (g).

2020—Subsec. (a)(1). Pub. L. 116–260, §107(c)(1)(A), redesignated subpar. (C) as (B) and struck out former subpars. (B) and (D) which read as follows:

"(B) delegate fully to the ODA holder each of the functions to be performed as specified in the procedures manual, unless the Administrator determines, after the date of the delegation and as a result of an inspection or other investigation, that the public interest and safety of air commerce requires a limitation with respect to 1 or more of the functions;

"(D) for each function that is limited under subparagraph (B), work with the ODA holder to develop the ODA holder's capability to execute that function safely and effectively and return to full authority status."

Subsec. (a)(3). Pub. L. 116–260, §107(c)(1)(B), substituted "shall conduct regular oversight activities by inspecting the ODA holder's delegated functions and taking action based on validated inspection findings." for "shall—" and subpars. (A) to (D) which read as follows:

"(A) at the request of the ODA holder and in an expeditious manner, approve revisions to the ODA holder's procedures manual;

"(B) delegate fully to the ODA holder each of the functions to be performed as specified in the procedures manual, unless the Administrator determines, after the date of the delegation and as a result of an inspection or other investigation, that the public interest and safety of air commerce requires a limitation with respect to one or more of the functions;

"(C) conduct regular oversight activities by inspecting the ODA holder's delegated functions and taking action based on validated inspection findings; and

"(D) for each function that is limited under subparagraph (B), work with the ODA holder to develop the ODA holder's capability to execute that function safely and effectively and return to full authority status."

Subsec. (b)(3)(A). Pub. L. 116–260, §107(c)(2)(A), redesignated cls. (ii) to (iv) as (i) to (iii), respectively, in cls. (i) and (ii), inserted ", as appropriate," after "require", in cl. (iii), inserted "when appropriate," before "make a reassessment", and struck out former cl. (i) which read as follows: "at the request of an ODA holder, eliminate all limitations specified in a procedures manual in place on the day before the date of enactment of the FAA Reauthorization Act of 2018 that are low and medium risk as determined by a risk analysis using criteria established by the ODA Office and disclosed to the ODA holder, except where an ODA holder's performance warrants the retention of a specific limitation due to documented concerns about inadequate current performance in carrying out that authorized function;".

Subsec. (b)(3)(B) to (E). Pub. L. 116–260, §107(c)(2)(B), (D), redesignated subpars. (C) to (F) as (B) to (E), respectively, and struck out former subpar. (B) which read as follows: "improve FAA and ODA holder performance and ensure full utilization of the authorities delegated under the ODA program;".

Subsec. (b)(3)(F). Pub. L. 116–260, §125(b), added subpar. (F). Former subpar. (F) redesignated (E).

Pub. L. 116–260, §107(c)(2)(C), (D), inserted ", when appropriate," before "approve" and then redesignated subpar. (F) as (E).

Subsecs. (d), (e). Pub. L. 116–260, §107(b)(1), added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

ODA UNIT MEMBER ANNUAL ETHICS TRAINING DEADLINE

Pub. L. 118–63, title III, §304(b), May 16, 2024, 138 Stat. 1071, provided that: "An ODA unit member authorized to perform delegated functions under an ODA prior to the date of completion of an ethics training

required under section 44736(g) of title 49, United States Code, shall complete such training not later than 60 days after the training program is approved by the Administrator [of the Federal Aviation Administration] pursuant to such section."

EXPERT REVIEW OF ORGANIZATION DESIGNATION AUTHORIZATIONS FOR TRANSPORT AIRPLANES

Pub. L. 116–260, div. V, title I, §103, Dec. 27, 2020, 134 Stat. 2311, provided that:

"(a) EXPERT REVIEW.—

"(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this title [Dec. 27, 2020], the Administrator shall convene an expert panel (in this section referred to as the 'review panel') to review and make findings and recommendations on the matters listed in paragraph (2).

"(2) CONTENTS OF REVIEW.—With respect to each holder of an organization designation authorization for the design and production of transport airplanes, the review panel shall review the following:

"(A) The extent to which the holder's safety management processes promote or foster a safety culture consistent with the principles of the International Civil Aviation Organization Safety Management Manual, Fourth Edition (International Civil Aviation Organization Doc. No. 9859) or any similar successor document.

"(B) The effectiveness of measures instituted by the holder to instill, among employees and contractors of such holder that support organization designation authorization functions, a commitment to safety above all other priorities.

"(C) The holder's capability, based on the holder's organizational structures, requirements applicable to officers and employees of such holder, and safety culture, of making reasonable and appropriate decisions regarding functions delegated to the holder pursuant to the organization designation authorization.

"(D) Any other matter determined by the Administrator for which inclusion in the review would be consistent with the public interest in aviation safety.

"(3) COMPOSITION OF REVIEW PANEL.—The review panel shall consist of—

"(A) 2 representatives of the National Aeronautics and Space Administration;

"(B) 2 employees of the Administration's Aircraft Certification Service with experience conducting oversight of persons not involved in the design or production of transport airplanes;

"(C) 1 employee of the Administration's Aircraft Certification Service with experience conducting oversight of persons involved in the design or production of transport airplanes;

"(D) 2 employees of the Administration's Flight Standards Service with experience in oversight of safety management systems;

"(E) 1 appropriately qualified representative, designated by the applicable represented organization, of each of—

"(i) a labor union representing airline pilots involved in both passenger and all-cargo operations;

"(ii) a labor union, not selected under clause (i), representing airline pilots with expertise in the matters described in paragraph (2);

"(iii) a labor union representing employees engaged in the assembly of transport airplanes;

"(iv) the certified bargaining representative under section 7111 of title 5, United States Code, for field engineers engaged in the audit or oversight of an organization designation authorization within the Aircraft Certification Service of the Administration;

"(v) the certified bargaining representative for safety inspectors of the Administration; and

"(vi) a labor union representing employees engaged in the design of transport airplanes;

"(F) 2 independent experts who have not served as a political appointee in the Administration and—

"(i) who hold either a baccalaureate or postgraduate degree in the field of aerospace engineering or a related discipline; and

"(ii) who have a minimum of 20 years of relevant applied experience;

"(G) 4 air carrier employees whose job responsibilities include administration of a safety management system;

"(H) 4 individuals representing 4 different holders of organization designation authorizations, with preference given to individuals representing holders of organization designation authorizations for the design or production of aircraft other than transport airplanes or for the design or production of aircraft engines, propellers, or appliances; and

"(I) 1 individual holding a law degree and who has expertise in the legal duties of a holder of an organization designation authorization and the interaction with the FAA, except that such individual may not, within the 10-year period preceding the individual's appointment, have been employed by, or provided legal services to, the holder of an organization designation authorization referenced in paragraph (2).

"(4) RECOMMENDATIONS.—The review panel shall make recommendations to the Administrator regarding suggested actions to address any deficiencies found after review of the matters listed in paragraph (2).

"(5) REPORT.—

"(A) SUBMISSION.—Not later than 270 days after the date of the first meeting of the review panel, the review panel shall transmit to the Administrator and the congressional committees of jurisdiction a report containing the findings and recommendations of the review panel regarding the matters listed in paragraph (2), except that such report shall include—

"(i) only such findings endorsed by 10 or more individual members of the review panel; and

"(ii) only such recommendations described in paragraph (4) endorsed by 18 or more of the individual members of the review panel.

"(B) DISSENTING VIEWS.—In submitting the report required under this paragraph, the review panel shall append to such report the dissenting views of any individual member or group of members of the review panel regarding the findings or recommendations of the review panel.

"(C) PUBLICATION.—Not later than 5 days after receiving the report under subparagraph (A), the Administrator shall publish such report, including any dissenting views appended to the report, on the website of the Administration.

"(D) TERMINATION.—The review panel shall terminate upon submission of the report under subparagraph (A).

"(6) ADMINISTRATIVE PROVISIONS.—

"(A) ACCESS TO INFORMATION.—The review panel shall have authority to perform the following actions if a majority of the total number of review panel members consider each action necessary and appropriate:

"(i) Entering onto the premises of a holder of an organization designation authorization referenced in paragraph (2) for access to and inspection of records or other purposes.

"(ii) Notwithstanding any other provision of law, accessing and inspecting unredacted records directly necessary for the completion of the panel's work under this section that are in the possession of such holder of an organization designation authorization or the Administration.

"(iii) Interviewing employees of such holder of an organization designation authorization or the Administration as necessary for the panel to complete its work.

"(B) DISCLOSURE OF FINANCIAL INTERESTS.—Each individual serving on the review panel shall disclose to the Administrator any financial interest held by such individual, or a spouse or dependent of such individual, in a business enterprise engaged in the design or production of transport airplanes, aircraft engines designed for transport airplanes, or major systems, components, or parts thereof.

"(C) PROTECTION OF PROPRIETARY INFORMATION; TRADE SECRETS.—

"(i) MARKING.—The custodian of a record accessed under subparagraph (A) may mark such record as proprietary or containing a trade secret. A marking under this subparagraph shall not be dispositive with respect to whether such record contains any information subject to legal protections from public disclosure.

"(ii) NONDISCLOSURE FOR NON-FEDERAL GOVERNMENT PARTICIPANTS.—

"(I) NON-FEDERAL GOVERNMENT PARTICIPANTS.—Prior to participating on the review panel, each individual serving on the review panel representing a non-Federal entity, including a labor union, shall execute an agreement with the Administrator in which the individual shall be prohibited from disclosing at any time, except as required by law, to any person, foreign or domestic, any non-public information made accessible to the panel under subparagraph (A).

"(II) FEDERAL EMPLOYEE PARTICIPANTS.—Federal employees serving on the review panel as representatives of the Federal Government and who are required to protect proprietary information and trade secrets under section 1905 of title 18, United States Code, shall not be required to execute agreements under this subparagraph.

"(iii) PROTECTION OF VOLUNTARILY SUBMITTED SAFETY INFORMATION .—Information subject to protection from disclosure by the Administration in accordance with sections 40123 and 44735 of title 49, United States Code, is deemed voluntarily submitted to the

Administration under such sections when shared with the review panel and retains its protection from disclosure (including protection under section 552(b)(3) of title 5, United States Code). The custodian of a record subject to such protection may mark such record as subject to statutory protections. A marking under this subparagraph shall not be dispositive with respect to whether such record contains any information subject to legal protections from public disclosure. Members of the review panel will protect voluntarily submitted safety information and other otherwise exempt information to the extent permitted under applicable law.

"(iv) PROTECTION OF PROPRIETARY INFORMATION AND TRADE SECRETS .—Members of the review panel will protect proprietary information, trade secrets, and other otherwise exempt information to the extent permitted under applicable law.

"(v) RESOLVING CLASSIFICATION OF INFORMATION.—If the review panel and a holder of an organization designation authorization subject to review under this section disagree as to the proper classification of information described in this subparagraph, then an employee of the Administration who is not a political appointee shall determine the proper classification of such information and whether such information will be withheld, in part or in full, from release to the public.

"(D) APPLICABLE LAW.—Public Law 92–463 [Federal Advisory Committee Act, see 5 U.S.C. 1001 et seq.] shall not apply to the panel established under this subsection.

"(E) FINANCIAL INTEREST DEFINED.—In this paragraph, the term 'financial interest'—

"(i) excludes securities held in an index fund; and

"(ii) includes—

"(I) any current or contingent ownership, equity, or security interest;

"(II) an indebtedness or compensated employment relationship; or

"(III) any right to purchase or acquire any such interest, including a stock option or commodity future.

"(b) FAA AUTHORITY.—

"(1) IN GENERAL.—After reviewing the findings of the review panel submitted under subsection (a)(5), the Administrator may limit, suspend, or terminate an organization designation authorization subject to review under this section.

"(2) REINSTATEMENT.—The Administrator may condition reinstatement of a limited, suspended, or terminated organization designation authorization on the holder's implementation of any corrective actions determined necessary by the Administrator.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Administrator's authority to take any action with respect to an organization designation authorization, including limitation, suspension, or termination of such authorization.

"(c) ORGANIZATION DESIGNATION AUTHORIZATION PROCESS IMPROVEMENTS.—Not later than 1 year after receipt of the recommendations submitted under subsection (a)(5), the Administrator shall report to the congressional committees of jurisdiction on—

"(1) whether the Administrator has concluded that such holder is able to safely and reliably perform all delegated functions in accordance with all applicable provisions of chapter 447 of title 49, United States Code, title 14, Code of Federal Regulations, and other orders or requirements of the Administrator, and, if not, the Administrator shall outline—

"(A) the risk mitigations or other corrective actions, including the implementation timelines of such mitigations or actions, the Administrator has established for or required of such holder as prerequisites for a conclusion by the Administrator under this paragraph; or

"(B) the status of any ongoing investigatory actions;

"(2) the status of implementation of each of the recommendations of the review panel, if any, with which the Administrator concurs;

"(3) the status of procedures under which the Administrator will conduct focused oversight of such holder's processes for performing delegated functions with respect to the design of new and derivative transport airplanes and the production of such airplanes; and

"(4) the Administrator's efforts, to the maximum extent practicable and subject to appropriations, to increase the number of engineers, inspectors, and other qualified technical experts, as necessary to fulfill the requirements of this section, in—

"(A) each office of the Administration responsible for dedicated oversight of such holder; and

"(B) the System Oversight Division, or any successor division, of the Aircraft Certification Service.

"(d) NON-CONCURRENCE WITH RECOMMENDATIONS.—Not later than 6 months after receipt of the recommendations submitted under subsection (a)(5), with respect to each recommendation of the review panel

with which the Administrator does not concur, if any, the Administrator shall publish on the website of the Administration and submit to the congressional committees of jurisdiction a detailed explanation as to why, including if the Administrator believes implementation of such recommendation would not improve aviation safety."

[For definitions of terms used in section 103 of div. V of Pub. L. 116–260, set out above, see section 137 of div. V of Pub. L. 116–260, set out as a note under section 40101 of this title.]

ODA REVIEW

Pub. L. 115–254, div. B, title II, §213, Oct. 5, 2018, 132 Stat. 3249, as amended by Pub. L. 116–260, div. V, title I, §125(a), Dec. 27, 2020, 134 Stat. 2346, provided that:

"(a) ESTABLISHMENT OF EXPERT REVIEW PANEL.—

"(1) EXPERT PANEL.—Not later than 120 days after the dateof enactment of this Act [Oct. 5, 2018], the Administrator shall convene a multidisciplinary expert review panel (in this section referredto as the 'Panel').

"(2) COMPOSITION OF PANEL.—

"(A) APPOINTMENT OF MEMBERS.—The Panel shall be composed of not more than 20 members appointed by the Administrator.

"(B) QUALIFICATIONS.—The members appointed to the Panel shall—

"(i) each have a minimum of 5 years of experience in processes and procedures under the ODA program; and

"(ii) represent, at a minimum, ODA holders, aviation manufacturers, safety experts, and FAA labor organizations, including labor representatives of FAA aviation safety inspectors and aviation safety engineers.

"(b) SURVEY.—The Panel shall conduct a survey of ODA holders and ODA program applicants to document and assess FAA certification and oversight activities, including use of the ODA program and the timeliness and efficiency of the certification process. In carrying out this subsection, the Panel shall consult with appropriate survey experts to best design and conduct the survey.

"(c) BEST PRACTICES REVIEW.—In addition to conducting the survey required under subsection (b), the Panel shall conduct a review of a sampling of ODA holders to identify and develop best practices. At a minimum, the best practices shall address preventing and deterring instances of undue pressure on or by an ODA unit member, within an ODA, or by an ODA holder, or failures to maintain independence between the FAA and an ODA holder or an ODA unit member. In carrying out such review, the Panel shall—

"(1) examine other government regulated industries to gather lessons learned, procedures, or processes that address undue pressure of employees, perceived regulatory coziness, or other failures to maintain independence;

"(2) identify ways to improve communications between an ODA Administrator, ODA unit members, and FAA engineers and inspectors, consistent with section 44736(g) of title 49, United States Code, in order to enable direct communication of technical concerns that arise during a certification project without fear of reprisal to the ODA Administrator or ODA unit member; and

"(3) examine FAA designee programs, including the assignment of FAA advisors to designees, to determine which components of the program may improve the FAA's oversight of ODA units, ODA unit members, and the ODA program.

"(d)ASSESSMENT AND RECOMMENDATIONS.—The Panel shall assess and make recommendations concerning—

"(1) the FAA's processes and procedures under the ODA program and whether the processes and procedures function as intended;

"(2) the best practices of and lessons learned by ODA holders and FAA personnel who provide oversight of ODA holders;

"(3) training activities related to the ODA program for FAApersonnel and ODA holders;

"(4) the impact, if any, that oversight of the ODA programhas on FAA resources and the FAA's ability to process applicationsfor certifications outside of the ODA program;

"(5) the results of the survey conducted under subsection(b); and

"(6) the results of the review conducted under subsection (c).

"(e) REPORT.—Not later than 180 days after the date the Panel is convened under subsection (a), the Panel shall submit to the Administrator, the Advisory Committee, and the appropriate committees of Congress a report on the findings and recommendations of the Panel.

"(f) DEFINITIONS.—The definitions contained in section 44736 of title 49, United States Code, as added by this Act, apply to this section.

"(g) APPLICABLE LAW.—Public Law 92–463 [Federal Advisory Committee Act, see 5 U.S.C. 1001 et seq.] shall not apply to the Panel.

"(h) BEST PRACTICES ADOPTION.—

"(1) IN GENERAL.—Not later than 180 days after the date on which the Administrator receives the report required under subsection (e), the Administrator shall establish best practices that are generally applicable to all ODA holders and require such practices to be incorporated, as appropriate, into each ODA holder's approved procedures manual.

"(2) NOTICE AND COMMENT PERIOD.—The Administrator shall publish the established best practices for public notice and comment for not fewer than 60 days prior to requiring the practices, as appropriate, be incorporated into each ODA holder's approved procedures manual.

"(i) SUNSET.—The Panel shall terminate on the earlier of—

"(1) the date of submission of the report under subsection (e); or

"(2) the date that is 2 years after the date on which the Panel is first convened under subsection (a)."

§44737. Helicopter fuel system safety

(a) PROHIBITION.—

(1) IN GENERAL.—A person may not operate a covered helicopter in United States airspace unless the design of the helicopter is certified by the Administrator of the Federal Aviation Administration to—

(A) comply with the requirements applicable to the category of the helicopter under paragraphs (1), (2), (3), (5), and (6) of section 27.952(a), section 27.952(c), section 27.952(f), section 27.952(g), section 27.963(g) (but allowing for a minimum puncture force of 250 pounds if successfully drop tested in-structure), and section 27.975(b) or paragraphs (1), (2), (3), (5), and (6) of section 29.952(a), section 29.952(c), section 29.952(f), section 29.952(g), section 29.963(b) (but allowing for a minimum puncture force of 250 pounds if successfully drop tested in-structure), and 29.975(a)(7) of title 14, Code of Federal Regulations, as in effect on the date of enactment of this section; or

(B) employ other means acceptable to the Administrator to provide an equivalent level of fuel system crash resistance.

(2) COVERED HELICOPTER DEFINED.—In this subsection, the term "covered helicopter" means a helicopter not otherwise required to comply with section 27.952, section 27.963, and section 27.975, or section 29.952, section 29.963, and section 29.975 of title 14, Code of Federal Regulations as in effect on the date of enactment of this section for which manufacture was completed, as determined by the Administrator, on or after the date that is 18 months after the date of enactment of this section.

(b) ADMINISTRATIVE PROVISIONS.—The Administrator shall—

(1) expedite the certification and validation of United States and foreign type designs and retrofit kits that improve fuel system crashworthiness; and

(2) not later than 180 days after the date of enactment of this section, and periodically thereafter, issue a bulletin to—

(A) inform helicopter owners and operators of available modifications to improve fuel system crashworthiness; and

(B) urge that such modifications be installed as soon as practicable.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the operation of a helicopter by the Department of Defense.

(d) EXCEPTION.—A helicopter issued an experimental certificate under section 21.191 of title 14, Code of Federal Regulations (or any successor regulations), or operating under a Special Flight Permit issued under section 21.197 of title 14, Code of Federal Regulations (or any successor regulations), is excepted from the requirements of this section.

(Added Pub. L. 115–254, div. B, title III, §317(a), Oct. 5, 2018, 132 Stat. 3268; amended Pub. L.

118–63, title VIII, §825, May 16, 2024, 138 Stat. 1332.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

CODIFICATION

Another section 44737 was renumbered section 44740 of this title.

AMENDMENTS

2024—Pub. L. 118–63, §825(1), substituted "helicopter" for "rotorcraft" wherever appearing in text.
Subsec. (a)(2). Pub. L. 118–63, §825(2), substituted "helicopter" for "rotorcraft" in heading.
Subsec. (d). Pub. L. 118–63, §825(3), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CRASH-RESISTANT FUEL SYSTEMS IN ROTORCRAFT

Pub. L. 118–63, title III, §320, May 16, 2024, 138 Stat. 1082, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall task the Aviation Rulemaking Advisory Committee to—

"(1) review the data analysis conducted and the recommendations developed by the Aviation Rulemaking Advisory Committee Rotorcraft Occupant Protection Working Group of the Administration;

"(2) update the 2018 report of such working group on rotorcraft occupant protection by—

"(A) reviewing National Transportation Safety Board data from 2016 through 2023 on post-crash fires in helicopter accidents; and

"(B) determining whether and to what extent crash-resistant fuel systems could have prevented fatalities in the accidents covered by the data reviewed under subparagraph (A); and

"(3) develop recommendations for either the Administrator or the helicopter industry to encourage helicopter owners and operators to expedite the installation of crash-resistant fuel systems in the aircraft of such owners and operators regardless of original certification and manufacture date.

"(b) SCHEDULE.—

"(1) DEADLINE.—Not later than 18 months after the Administrator tasks the Aviation Rulemaking Advisory Committee under subsection (a), the Committee shall submit the recommendations developed under subsection (a)(2) to the Administrator.

"(2) IMPLEMENTATION.—If applicable, and not later than 180 days after receiving the recommendations under paragraph (1), the Administrator shall—

"(A) begin implementing, as appropriate, any safety recommendations the Administrator receives from the Aviation Rulemaking Advisory Committee, and brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on any recommendations the Administrator does not implement; and

"(B) partner with the United States Helicopter Safety Team, as appropriate, to facilitate implementation of any recommendations for the helicopter industry pursuant to subsection (a)(2)."

§44738. Training on human trafficking for certain staff

In addition to other training requirements, each air carrier shall provide training to ticket counter agents, gate agents, and other air carrier workers whose jobs require regular interaction with passengers on recognizing and responding to potential human trafficking victims.

(Added Pub. L. 115–254, div. B, title IV, §408(a), Oct. 5, 2018, 132 Stat. 3330.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

AIRPORT HUMAN TRAFFICKING PREVENTION GRANTS

Pub. L. 118–63, title VII, §774A, May 16, 2024, 138 Stat. 1299, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall establish a grant program to provide grants to airports described in subsection (b)(1) to address human trafficking awareness, education, and prevention efforts, including by—

"(1) coordinating human trafficking prevention efforts across multimodal transportation operations within a community; and

"(2) accomplishing the best practices and recommendations provided by the Department of Transportation Advisory Committee on Human Trafficking.

"(b) DISTRIBUTION.—

"(1) IN GENERAL.—The Secretary shall distribute amounts made available for grants under this section to—

"(A) the 75 airports in the United States with the highest number of passenger enplanements annually, based on the most recent data available; and

"(B) as the Secretary determines to be appropriate, an airport not described in subparagraph (A) that serves an area with a high prevalence of human trafficking, on application of the airport.

"(2) PRIORITY; CONSIDERATIONS.—In distributing amounts made available for grants under this section, the Secretary shall—

"(A) give priority in grant amounts to airports referred to in paragraph (1) that serve regions with a higher prevalence of human trafficking; and

"(B) take into consideration the effect the amounts would have on surrounding areas.

"(3) CONSULTATION.—In distributing amounts made available for grants under this section, the Secretary shall consult with the Department of Transportation Advisory Committee on Human Trafficking in determining the amounts to be distributed to each grant recipient to ensure the best use of the funds.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2025 through 2028."

§44739. Pets on airplanes

(a) PROHIBITION.—It shall be unlawful for any person to place a live animal in an overhead storage compartment of an aircraft operated under part 121 of title 14, Code of Federal Regulations.

(b) CIVIL PENALTY.—The Administrator may impose a civil penalty under section 46301 for each violation of this section.

(Added Pub. L. 115–254, div. B, title IV, §417(a), Oct. 5, 2018, 132 Stat. 3334.)

§44740. Special rule for certain aircraft operations

(a) IN GENERAL.—The operator of an aircraft with a special airworthiness certification in the experimental category may—

(1) operate the aircraft for the purpose of conducting a space support vehicle flight (as that term is defined in section 50902 of title 51); and

(2) conduct such flight under such certificate carrying persons or property for compensation or hire—

(A) notwithstanding any rule or term of a certificate issued by the Administrator of the Federal Aviation Administration that would prohibit flight for compensation or hire; or

(B) without obtaining a certificate issued by the Administrator to conduct air carrier or commercial operations.

(b) LIMITED APPLICABILITY.—Subsection (a) shall apply only to a space support vehicle flight that satisfies each of the following:

(1) The aircraft conducting the space support vehicle flight—

(A) takes flight and lands at a single site that is operated by an entity licensed for operation under chapter 509 of title 51;

(B) is owned or operated by a launch or reentry vehicle operator licensed under chapter 509

of title 51, or on behalf of a launch or reentry vehicle operator licensed under chapter 509 of title 51;

(C) is a launch vehicle, a reentry vehicle, or a component of a launch or reentry vehicle licensed for operations pursuant to chapter 509 of title 51; and

(D) is used only to simulate space flight conditions in support of—

(i) training for potential space flight participants, government astronauts, or crew (as those terms are defined in chapter 509 of title 51);

(ii) the testing of hardware to be used in space flight; or

(iii) research and development tasks, which require the unique capabilities of the aircraft conducting the flight.

(c) RULES OF CONSTRUCTION.—

(1) SPACE SUPPORT VEHICLES.—Section 44711(a)(1) shall not apply to a person conducting a space support vehicle flight under this section only to the extent that a term of the experimental certificate under which the person is operating the space support vehicle prohibits the carriage of persons or property for compensation or hire.

(2) AUTHORITY OF ADMINISTRATOR.—Nothing in this section shall be construed to limit the authority of the Administrator of the Federal Aviation Administration to exempt a person from a regulatory prohibition on the carriage of persons or property for compensation or hire subject to terms and conditions other than those described in this section.

(Added Pub. L. 115–254, div. B, title V, §581(b)(1), Oct. 5, 2018, 132 Stat. 3398, §44737; renumbered §44740 and amended Pub. L. 116–260, div. V, title I, §107(d)(1), (3), Dec. 27, 2020, 134 Stat. 2326.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260, §107(d)(3)(A), struck out period after "operations" in section catchline.

Pub. L. 116–260, §107(d)(1), renumbered section 44737 of this title as this section.

Subsec. (a)(1). Pub. L. 116–260, §107(d)(3)(B), substituted "section" for "chapter".

Subsec. (b)(1). Pub. L. 116–260, §107(d)(3)(C), struck out "(1)" the second time appearing before "The" in introductory provisions.

Subsec. (c)(2). Pub. L. 116–260, §107(d)(3)(D), inserted period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

MODERNIZATION OF SPECIAL AIRWORTHINESS CERTIFICATION RULEMAKING DEADLINE

Pub. L. 118–63, title VIII, §824, May 16, 2024, 138 Stat. 1332, provided that: "Not later than 24 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a final rule for the rulemaking activity titled 'Modernization of Special Airworthiness Certification', published in Fall 2022 in the long-term actions of the Unified Agenda of Federal Regulatory and Deregulatory Actions (RIN 2120–AL50)."

FLIGHT INSTRUCTION OR TESTING

Pub. L. 118–63, title VIII, §832, May 16, 2024, 138 Stat. 1339, provided that:

"(a) AUTHORIZED ADDITIONAL PILOTS.—An individual acting as an authorized additional pilot during Phase I flight testing of aircraft holding an experimental airworthiness certificate, in accordance with section 21.191 of title 14, Code of Federal Regulations, and meeting the requirements set forth in FAA [Federal Aviation Administration] regulations and policy in effect as of the date of enactment of this Act [May 16, 2024], shall not be deemed to be operating an aircraft carrying persons or property for compensation or hire.

"(b) USE OF AIRCRAFT.—An individual who uses, causes to use, or authorizes to use aircraft for flights conducted under subsection (a) shall not be deemed to be operating an aircraft carrying persons or property for compensation or hire.

"(c) REVISION OF RULES.—The Administrator [of the Federal Aviation Administration] shall, as necessary, issue, revise, or repeal the rules, regulations, guidance, or procedures of the FAA to conform to the requirements of this section."

RULE OF CONSTRUCTION RELATING TO ROLE OF NASA

Pub. L. 115–254, div. B, title V, §581(b)(3), Oct. 5, 2018, 132 Stat. 3399, provided that: "Nothing in this subsection [enacting this section] shall be construed as limiting the ability of [the] National Aeronautics and Space Administration (NASA) to place conditions on or otherwise qualify the operations of NASA contractors providing NASA services."

§44741. Approval of organization designation authorization unit members

(a) IN GENERAL.—Beginning January 1, 2022, each individual who is selected on or after such date to become an ODA unit member by an ODA holder engaged in the design of an aircraft, aircraft engine, propeller, or appliance and performs an authorized function pursuant to a delegation by the Administrator of the Federal Aviation Administration under section 44702(d)—

(1) shall be—

(A) an employee, a contractor, or a consultant of the ODA holder; or

(B) the employee of a supplier of the ODA holder; and

(2) may not become a member of such unit unless approved by the Administrator pursuant to this section.

(b) PROCESS AND TIMELINE.—

(1) IN GENERAL.—The Administrator shall maintain an efficient process for the review and approval of an individual to become an ODA unit member under this section.

(2) PROCESS.—An ODA holder described in subsection (a) may submit to the Administrator an application for an individual to be approved to become an ODA unit member under this section. The application shall be submitted in such form and manner as the Administrator determines appropriate. The Administrator shall require an ODA holder to submit with such an application information sufficient to demonstrate an individual's qualifications under subsection (c).

(3) TIMELINE.—The Administrator shall approve or reject an individual that is selected by an ODA holder to become an ODA unit member under this section not later than 30 days after the receipt of an application by an ODA holder.

(4) DOCUMENTATION OF APPROVAL.—Upon approval of an individual to become an ODA unit member under this section, the Administrator shall provide such individual a letter confirming that such individual has been approved by the Administrator under this section to be an ODA unit member.

(5) REAPPLICATION.—An ODA holder may submit an application under this subsection for an individual to become an ODA unit member under this section regardless of whether an application for such individual was previously rejected by the Administrator.

(c) QUALIFICATIONS.—

(1) IN GENERAL.—The Administrator shall issue minimum qualifications for an individual to become an ODA unit member under this section. In issuing such qualifications, the Administrator shall consider existing qualifications for Administration employees with similar duties and whether such individual—

(A) is technically proficient and qualified to perform the authorized functions sought;

(B) has no recent record of serious enforcement action, as determined by the Administrator, taken by the Administrator with respect to any certificate, approval, or authorization held by such individual;

(C) is of good moral character (as such qualification is applied to an applicant for an airline transport pilot certificate issued under section 44703);

(D) possesses the knowledge of applicable design or production requirements in this chapter and in title 14, Code of Federal Regulations, necessary for performance of the authorized functions sought;

(E) possesses a high degree of knowledge of applicable design or production principles, system safety principles, or safety risk management processes appropriate for the authorized functions sought; and

(F) meets such testing, examination, training, or other qualification standards as the Administrator determines are necessary to ensure the individual is competent and capable of performing the authorized functions sought.

(2) PREVIOUSLY REJECTED APPLICATION.—In reviewing an application for an individual to become an ODA unit member under this section, if an application for such individual was previously rejected, the Administrator shall ensure that the reasons for the prior rejection have been resolved or mitigated to the Administrator's satisfaction before making a determination on the individual's reapplication.

(d) RESCISSION OF APPROVAL.—The Administrator may rescind an approval of an individual as an ODA unit member granted pursuant to this section at any time and for any reason the Administrator considers appropriate. The Administrator shall develop procedures to provide for notice and opportunity to appeal rescission decisions made by the Administrator. Such decisions by the Administrator are not subject to judicial review.

(e) CONDITIONAL SELECTIONS.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Administrator may authorize an ODA holder to conditionally designate an individual to perform the functions of an ODA unit member for a period of not more than 30 days (beginning on the date an application for such individual is submitted under subsection (b)(2)).

(2) REQUIRED DETERMINATION.—The Administrator may not make an authorization under paragraph (1) unless—

(A) the ODA holder has instituted, to the Administrator's satisfaction, systems and processes to ensure the integrity and reliability of determinations by conditionally-designated ODA unit members; and

(B) the ODA holder has instituted a safety management system in accordance with regulations issued by the Administrator under section 102 of the Aircraft Certification, Safety, and Accountability Act.

(3) FINAL DETERMINATION.—The Administrator shall approve or reject the application for an individual designated under paragraph (1) in accordance with the timeline and procedures described in subsection (b).

(4) REJECTION AND REVIEW.—If the Administrator rejects the application submitted under subsection (b)(2) for an individual conditionally designated under paragraph (1), the Administrator shall review and approve or disapprove any decision pursuant to any authorized function performed by such individual during the period such individual served as a conditional designee.

(5) PROHIBITIONS.—Notwithstanding the requirements of paragraph (2), the Administrator may prohibit an ODA holder from making conditional designations of individuals as ODA unit members under this subsection at any time for any reason the Administrator considers appropriate. The Administrator may prohibit any conditionally designated individual from performing an authorized function at any time for any reason the Administrator considers appropriate.

(f) RECORDS AND BRIEFINGS.—

(1) IN GENERAL.—Beginning on the date described in subsection (a), an ODA holder shall maintain, for a period to be determined by the Administrator and with proper protections to ensure the security of sensitive and personal information—

(A) any data, applications, records, or manuals required by the ODA holder's approved

procedures manual, as determined by the Administrator;

(B) the names, responsibilities, qualifications, and example signature of each member of the ODA unit who performs an authorized function pursuant to a delegation by the Administrator under section 44702(d);

(C) training records for ODA unit members and ODA administrators; and

(D) any other data, applications, records, or manuals determined appropriate by the Administrator.

(2) CONGRESSIONAL BRIEFING.—The Administrator shall provide biannual briefings each fiscal year through September 30, 2028 to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation and effects of this section, including—

(A) the Administration's performance in completing reviews of individuals and approving or denying such individuals within the timeline required under subsection (b)(3);

(B) for any individual rejected by the Administrator under subsection (b) during the preceding 6-month period, the reasoning or basis for such rejection; and

(C) any resource, staffing, or other challenges within the Administration associated with implementation of this section.

(g) SPECIAL REVIEW OF QUALIFICATIONS.—

(1) IN GENERAL.—Not later than 30 days after the issuance of minimum qualifications under subsection (c), the Administrator shall initiate a review of the qualifications of each individual who on the date on which such minimum qualifications are issued is an ODA unit member of a holder of a type certificate for a transport airplane to ensure such individual meets the minimum qualifications issued by the Administrator under subsection (c).

(2) UNQUALIFIED INDIVIDUAL.—For any individual who is determined by the Administrator not to meet such minimum qualifications pursuant to the review conducted under paragraph (1), the Administrator—

(A) shall determine whether the lack of qualification may be remedied and, if so, provide such individual with an action plan or schedule for such individual to meet such qualifications; or

(B) may, if the Administrator determines the lack of qualification may not be remedied, take appropriate action, including prohibiting such individual from performing an authorized function.

(3) DEADLINE.—The Administrator shall complete the review required under paragraph (1) not later than 18 months after the date on which such review was initiated.

(4) SAVINGS CLAUSE.—An individual approved to become an ODA unit member of a holder of a type certificate for a transport airplane under subsection (a) shall not be subject to the review under this subsection.

(h) PROHIBITION.—The Administrator may not authorize an organization or ODA holder to approve an individual selected by an ODA holder to become an ODA unit member under this section.

(i) DEFINITIONS.—

(1) GENERAL APPLICABILITY.—The definitions contained in section 44736(c) shall apply to this section.

(2) TRANSPORT AIRPLANE.—The term "transport airplane" means a transport category airplane designed for operation by an air carrier or foreign air carrier type-certificated with a passenger seating capacity of 30 or more or an all-cargo or combi derivative of such an airplane.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2021 through 2028.

(Added Pub. L. 116–260, div. V, title I, §107(a), Dec. 27, 2020, 134 Stat. 2320; amended Pub. L. 118–63, title III, §306(a), May 16, 2024, 138 Stat. 1071.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 102 of the Aircraft Certification, Safety, and Accountability Act, referred to in subsec. (e)(2)(B), is section 102 of title I of Pub. L. 116–260, div. V, Dec. 27, 2020, 134 Stat. 2309. Section 102(a)–(f) of Pub. L. 116–260 is set out as a note under section 44701 of this title, and section 102(g) of Pub. L. 116–260 amended section 44735 of this title.

AMENDMENTS

2024—Subsec. (f)(2). Pub. L. 118–63, §306(a)(1)(A), substituted "The Administrator shall provide biannual briefings each fiscal year through September 30, 2028" for "Not later than 90 days after the date of enactment of this section, and every 90 days thereafter through September 30, 2023, the Administrator shall provide a briefing" in introductory provisions.

Subsec. (f)(2)(B). Pub. L. 118–63, §306(a)(1)(B), substituted "6-month period" for "90-day period".

Subsec. (j). Pub. L. 118–63, §306(a)(2), substituted "2028" for "2023".

§44742. Interference with the duties of organization designation authorization unit members

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall continuously seek to eliminate or minimize interference by an ODA holder that affects the performance of authorized functions by ODA unit members.

(b) PROHIBITION.—

(1) IN GENERAL.—It shall be unlawful for any individual who is a supervisory employee of an ODA holder that manufactures a transport category airplane to commit an act of interference with an ODA unit member's performance of authorized functions.

(2) CIVIL PENALTY.—

(A) INDIVIDUALS.—An individual shall be subject to a civil penalty under section 46301(a)(1) for each violation under paragraph (1).

(B) SAVINGS CLAUSE.—Nothing in this paragraph shall be construed as limiting or constricting any other authority of the Administrator to pursue an enforcement action against an individual or organization for violation of applicable Federal laws or regulations of the Administration.

(c) REPORTING.—

(1) REPORTS TO ODA HOLDER.—An ODA unit member of an ODA holder that manufactures a transport category airplane shall promptly report any instances of interference to the office of the ODA holder that is designated to receive such reports.

(2) REPORTS TO THE FAA.—

(A) IN GENERAL.—The ODA holder office described in paragraph (1) shall investigate reports and submit to the office of the Administration designated by the Administrator to accept and review such reports any instances of interference reported under paragraph (1).

(B) CONTENTS.—The Administrator shall prescribe parameters for the submission of reports to the Administration under this paragraph, including the manner, time, and form of submission. Such report shall include the results of any investigation conducted by the ODA holder in response to a report of interference, a description of any action taken by the ODA holder as a result of the report of interference, and any other information or potentially mitigating factors the ODA holder or the Administrator deems appropriate.

(d) DEFINITIONS.—

(1) GENERAL APPLICABILITY.—The definitions contained in section 44736(c) shall apply

to this section.

(2) INTERFERENCE.—In this section, the term "interference" means—

(A) blatant or egregious statements or behavior, such as harassment, beratement, or threats, that a reasonable person would conclude was intended to improperly influence or prejudice an ODA unit member's performance of his or her duties; or

(B) the presence of non-ODA unit duties or activities that conflict with the performance of authorized functions by ODA unit members.

(Added Pub. L. 116–260, div. V, title I, §107(a), Dec. 27, 2020, 134 Stat. 2323.)

§44743. Pilot training requirements

(a) IN GENERAL.—

(1) ADMINISTRATOR'S DETERMINATION.—In establishing any pilot training requirements with respect to a new transport airplane, the Administrator of the Federal Aviation Administration shall independently review any proposal by the manufacturer of such airplane with respect to the scope, format, or minimum level of training required for operation of such airplane.

(2) ASSURANCES AND MARKETING REPRESENTATIONS.—Before the Administrator has established applicable training requirements, an applicant for a new or amended type certificate for an airplane described in paragraph (1) may not, with respect to the scope, format, or magnitude of pilot training for such airplane—

(A) make any assurance or other contractual commitment, whether verbal or in writing, to a potential purchaser of such airplane unless a clear and conspicuous disclaimer (as defined by the Administrator) is included regarding the status of training required for operation of such airplane; or

(B) provide financial incentives (including rebates) to a potential purchaser of such airplane regarding the scope, format, or magnitude of pilot training for such airplane.

(b) PILOT RESPONSE TIME.—Beginning on the day after the date on which regulations are issued under section 119(c)(6) of the Aircraft Certification, Safety, and Accountability Act, the Administrator may not issue a new or amended type certificate for an airplane described in subsection (a) unless the applicant for such certificate has demonstrated to the Administrator that the applicant has accounted for realistic assumptions regarding the time for pilot responses to non-normal conditions in designing the systems and instrumentation of such airplane. Such assumptions shall—

(1) be based on test data, analysis, or other technical validation methods; and

(2) account for generally accepted scientific consensus among experts in human factors regarding realistic pilot response time.

(c) DEFINITION.—In this section, the term "transport airplane" means a transport category airplane designed for operation by an air carrier or foreign air carrier type-certificated with a passenger seating capacity of 30 or more or an all-cargo or combi derivative of such an airplane.

(Added Pub. L. 116–260, div. V, title I, §119(a), Dec. 27, 2020, 134 Stat. 2338.)

REFERENCES IN TEXT

Section 119(c) of the Aircraft Certification, Safety, and Accountability Act, referred to in subsec. (b), is section 119(c) of title I of Pub. L. 116–260, div. V, Dec. 27, 2020, 134 Stat. 2339, which is set out as a note under section 44704 of this title.

§44744. Flight crew alerting

(a) IN GENERAL.—Beginning on December 27, 2022, the Administrator may not issue a type certificate for a transport category airplane unless such airplane incorporates a flight crew alerting

system that, at a minimum—

(1) displays and differentiates among warnings, cautions, and advisories; and

(2) includes functions to assist the flight crew in prioritizing corrective actions and responding to systems failures.

(b) LIMITATION.—The prohibition in subsection (a) shall not apply to any application for an original or amended type certificate that was submitted to the Administrator prior to December 27, 2020.

(c) SAFETY ENHANCEMENTS.—

(1) RESTRICTION ON AIRWORTHINESS CERTIFICATE ISSUANCE.—Beginning on the date that is 1 year after the date on which the Administrator issues a type certificate for the Boeing 737-10, the Administrator may not issue an original airworthiness certificate for any Boeing 737 MAX aircraft unless the Administrator finds that the type design for the aircraft includes safety enhancements that have been approved by the Administrator.

(2) RESTRICTION ON OPERATION.—Beginning on the date that is 3 years after the date on which the Administrator issues a type certificate for the Boeing 737-10, no person may operate a Boeing 737 MAX aircraft unless—

(A) the type design for the aircraft includes safety enhancements approved by the Administrator; and

(B) the aircraft was—

(i) produced in conformance with such type design; or

(ii) altered in accordance with such type design.

(d) DEFINITIONS.—In this section:

(1) BOEING 737 MAX AIRCRAFT.—The term "Boeing 737 MAX aircraft" means any—

(A) Model 737 series aircraft designated as a 737-7, 737-8, 737-8200, 737-9, or 737-10; or

(B) other variant of a model described in subparagraph (A).

(2) SAFETY ENHANCEMENT.—The term "safety enhancement" means any design change to the flight crew alerting system approved by the Administrator for the Boeing 737-10, including—

(A) a—

(i) synthetic enhanced angle-of-attack system; and

(ii) means to shut off stall warning and overspeed alerts; or

(B) any design changes equivalent to subparagraph (A) determined appropriate by the Administrator.

(Added Pub. L. 117–328, div. O, title V, §501(a), Dec. 29, 2022, 136 Stat. 5230.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

COSTS OF SAFETY ENHANCEMENTS

Pub. L. 117–328, div. O, title V, §501(c), Dec. 29, 2022, 136 Stat. 5231, provided that: "Any costs associated with the safety enhancements required by section 44744 of title 49, United States Code, as added by subsection (a), shall be borne by the holder of the type certificate."

CONGRESSIONAL BRIEFINGS

Pub. L. 117–328, div. O, title V, §501(d), Dec. 29, 2022, 136 Stat. 5231, provided that: "Not later than March 1, 2023, and on a quarterly basis thereafter, the Administrator shall brief Congress on the status of—

"(1) the issuance of a type certificate for the Boeing 737-7 and 737-10, including any design enhancements, pilot procedures, or training requirements resulting from system safety assessments; and

"(2) the implementation of safety enhancements for Boeing 737 MAX aircraft, as required by section 44744 of title 49, United States Code, as added by subsection (a)."

§44745. Don Young Alaska Aviation Safety Initiative

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall redesignate the FAA Alaska Aviation Safety Initiative of the Administration as the Don Young Alaska Aviation Safety Initiative (in this section referred to as the "Initiative"), under which the Administrator shall carry out the provisions of this section and take such other actions as the Administrator determines appropriate to improve aviation safety in Alaska and covered locations.

(b) OBJECTIVE.—The objective of the Initiative shall be to work cooperatively with aviation stakeholders and other stakeholders towards the goal of—

(1) reducing the rate of fatal aircraft accidents in Alaska and covered locations by 90 percent from 2019 to 2033; and

(2) by January 1, 2033, eliminating fatal accidents of aircraft operated by an air carrier that operates under part 135 of title 14, Code of Federal Regulations.

(c) LEADERSHIP.—

(1) IN GENERAL.—The Administrator shall designate the Regional Administrator for the Alaskan Region of the Administration to serve as the Director of the Initiative.

(2) COVERED LOCATIONS.—The Administrator shall select a designee within the Aviation Safety Organization to implement relevant requirements of this section in covered locations.

(3) REPORTING CHAIN.—In all matters relating to the Initiative, the Director of the Initiative shall report directly to the Administrator.

(4) COORDINATION.—The Director of the Initiative shall coordinate with the heads of other offices and lines of business of the Administration, including the other regional administrators, to carry out the Initiative.

(d) AUTOMATED WEATHER SYSTEMS.—

(1) REQUIREMENT.—The Administrator shall ensure, to the greatest extent practicable, that a covered automated weather system is installed and operated at each covered airport not later than December 31, 2030.

(2) WAIVER.—In complying with the requirement under paragraph (1), the Administrator may waive any positive benefit-cost ratio requirement for the installation and operation of a covered automated weather system.

(3) PRIORITIZATION.—In developing the installation timeline of a covered automated weather system at a covered airport pursuant to this subsection, the Administrator shall—

(A) coordinate and consult with the governments with jurisdiction over Alaska and covered locations, covered airports, air carriers operating in Alaska or covered locations, private pilots based in Alaska or a covered location, and such other members of the aviation community in Alaska or covered locations; and

(B) prioritize early installation at covered airports that would enable the greatest number of instrument flight rule operations by air carriers operating under part 121 or 135 of title 14, Code of Federal Regulations.

(4) RELIABILITY.—

(A) IN GENERAL.—Pertaining to both Federal and non-Federal systems in Alaska, the Administrator shall be responsible for ensuring—

(i) the reliability of covered automated weather systems; and

(ii) the availability of weather information from such systems.

(B) SPECIFICATIONS.—The Administrator shall establish data availability and equipment reliability specifications for covered automated weather systems.

(C) SYSTEM RELIABILITY AND RESTORATION PLAN.—Not later than 2 years after the date of enactment of this section, the Administrator shall establish an automated weather

system reliability and restoration plan for Alaska. Such plan shall document the Administrator's strategy for ensuring covered automated weather system reliability, including the availability of weather information from such system, and for restoring service in as little time as possible.

(D) TELECOMMUNICATIONS OR OTHER FAILURES.—If a covered automated weather system in Alaska is unable to broadly disseminate weather information due to a telecommunications failure or a failure other than an equipment failure, the Administrator shall take such actions as may be necessary to restore the full functionality and connectivity of the covered automated weather system. The Administrator shall take actions under this subparagraph with the same urgency as the Administrator would take an action to repair a covered automated weather system equipment failure or data fidelity issue.

(E) RELIABILITY DATA.—In tabulating data relating to the operational status of covered automated weather systems (including individually or collectively), the Administrator may not consider a covered automated weather system that is functioning nominally but is unable to broadly disseminate weather information telecommunications failure or a failure other than an equipment failure as functioning reliably.

(5) INVENTORY.—

(A) MAINTENANCE IMPROVEMENTS.—

(i) IN GENERAL.—Not later than 18 months after the date of enactment of the FAA Reauthorization Act of 2024, the Administrator shall identify and implement reasonable alternative actions to improve maintenance of FAA-owned weather observing systems that experience frequent service outages, including associated surface communication outages, at covered airports.

(ii) SPARE PARTS AVAILABILITY.—The actions identified by the Administrator in clause (i) shall improve spare parts availability, including consideration of storage of more spare parts in the region in which the systems are located.

(B) NOTICE OF OUTAGES.—Not later than 18 months after the date of enactment of the FAA Reauthorization Act of 2024, the Administrator shall update FAA Order 7930.2 Notices to Air Missions, or any successive order, to incorporate weather system outages for automated weather observing systems and automated surface observing systems associated with Service A Outages at covered airports.

(6) VISUAL WEATHER OBSERVATION SYSTEM.—

(A) DEPLOYMENT.—Not later than 3 years after the date of enactment of the FAA Reauthorization Act of 2024, the Administrator shall take such actions as may be necessary to—

(i) deploy visual weather observation systems;

(ii) ensure that such systems are capable of meeting the definition of a covered automated weather system in Alaska; and

(iii) develop standard operation specifications for visual weather operation systems.

(B) MODIFICATION OF SPECIFICATIONS.—Upon the request of an aircraft operator, the Administrator shall issue or modify the standard operation specifications for visual weather observation systems developed under subparagraph (A) to allow such systems to be used to satisfy the requirements for supplemental noncertified local weather observations under section 322 of the FAA Reauthorization Act of 2018 (Public Law 115–254).

(e) WEATHER CAMERAS.—

(1) IN GENERAL.—The Director shall continuously assess the state of the weather camera systems in Alaska and covered locations to ensure the operational sufficiency and reliability of such systems.

(2) APPLICATIONS.—The Director shall—

(A) accept applications from persons to install weather cameras; and

(B) consult with the governments with jurisdiction over Alaska and covered locations, covered airports, air carriers operating in Alaska or covered locations, private pilots based in Alaska or covered locations, and such other members of the aviation community in Alaska and covered locations as the Administrator determines appropriate to solicit additional locations at which to install and operate weather cameras.

(3) PRESUMPTION.—Unless the Director has clear and compelling evidence to the contrary, the Director shall presume that the installation of a weather camera at a covered airport in Alaska, or that is recommended by a government with jurisdiction over a covered location, is cost beneficial and will improve aviation safety.

(f) COOPERATION WITH OTHER AGENCIES.—In carrying out this section, the Administrator shall cooperate with the heads of other Federal or State agencies with responsibilities affecting aviation safety in Alaska and covered locations, including the collection and dissemination of weather data.

(g) SURVEILLANCE AND COMMUNICATION.—

(1) IN GENERAL.—The Director shall take such actions as may be necessary to—

(A) encourage and incentivize the equipage of aircraft that operate under part 135 of title 14, Code of Federal Regulations, with automatic dependent surveillance and broadcast out equipment; and

(B) improve aviation surveillance and communications in Alaska and covered locations.

(2) REQUIREMENT.—Not later than December 31, 2030, the Administrator shall ensure that automatic dependent surveillance and broadcast coverage is available at 5,000 feet above ground level throughout each covered location and Alaska.

(3) WAIVER.—The Administrator shall waive any positive benefit-cost ratio requirement for—

(A) the installation and operation of equipment and facilities necessary to implement the requirement under paragraph (2); and

(B) the provision of additional ground-based transmitters for automatic dependent surveillance-broadcasts to provide a minimum operational network in Alaska along major flight routes.

(4) SERVICE AREAS.—The Director shall continuously identify additional automatic dependent surveillance–broadcast service areas in which the deployment of automatic dependent surveillance–broadcast receivers and equipment would improve aviation safety.

(h) OTHER PROJECTS.—The Director shall continue to build upon other initiatives recommended in the reports of the FAA Alaska Aviation Safety Initiative of the Administration published before the date of enactment of this section.

(i) ANNUAL REPORT.—

(1) IN GENERAL.—Beginning on the date that is 1 year after the date of enactment of the FAA Reauthorization Act of 2024, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the Initiative, including an itemized description of how the Administration budget meets the goals of the Initiative.

(2) STAKEHOLDER COMMENTS.—The Director shall append stakeholder comments, organized by topic, to each report submitted under paragraph (1) in the same manner as appendix 3 of the report titled "FAA Alaska Aviation Safety Initiative FY21 Final Report", dated September 30, 2021.

(j) FUNDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for each of fiscal years 2025 through 2028—

(A) the Administrator may, upon application from the government with jurisdiction over a covered airport and in coordination with the State or territory in which a covered airport is located, use amounts apportioned under subsection (d)(2)(B) or subsection (e) of section 47114 to carry out the Initiative; or

(B) the sponsor of a covered airport that receives an apportionment under subsection (d)(2)(A) or subsection (e) of section 47114 may use such apportionment for any purpose contained in this section.

(2) SUPPLEMENTAL FUNDING.—Out of amounts made available under section 106(k) and section 48101, not more than a total of $25,000,000 for each of fiscal years 2025 through 2028 is authorized to be expended to carry out the Initiative.

(k) DEFINITIONS.—In this section:

(1) COVERED AIRPORT.—The term "covered airport" means an airport in Alaska or a covered location that is included in the national plan of integrated airport systems required under section 47103 and that has a status other than unclassified in such plan.

(2) COVERED AUTOMATED WEATHER SYSTEM.—The term "covered automated weather system" means an automated or visual weather reporting facility that enables a pilot to begin an instrument procedure approach to an airport under section 91.1039 or 135.225 of title 14, Code of Federal Regulations.

(3) COVERED LOCATION.—The term "covered location" means Hawaii, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.

(l) CONFORMITY.—The Administrator shall conduct all activities required under this section in conformity with section 44720.

(Added Pub. L. 118–63, title III, §342(a), May 16, 2024, 138 Stat. 1095.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section and the date of enactment of the FAA Reauthorization Act of 2024, referred to in subsecs. (d)(4)(C), (5)(A)(i), (B), (6)(A), (h), and (i)(1), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 322 of the FAA Reauthorization of 2018, referred to in subsec. (d)(6)(B), is section 322 of Pub. L. 115–254, which is set out as a note under section 44720 of this title.

§44746. Flight data recovery from overwater operations

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall complete a rulemaking proceeding to require that, not later than 5 years after the date of enactment of this section, all applicable aircraft are—

(1) fitted with a means, in the event of an accident, to recover mandatory flight data parameters in a manner that does not require the underwater retrieval of the cockpit voice recorder or flight data recorder;

(2) equipped with a tamper-resistant method to broadcast sufficient information to a ground station to establish the location where an applicable aircraft terminates flight as the result of such an event; and

(3) equipped with an airframe low-frequency underwater locating device that functions for at least 90 days and that can be detected by appropriate equipment.

(b) APPLICABLE AIRCRAFT DEFINED.—In this section, the term "applicable aircraft" means an aircraft manufactured on or after January 1, 2028, that is—

(1) operated under part 121 of title 14, Code of Federal Regulations;

(2) required by regulation to have a cockpit voice recorder and a flight data recorder; and

(3) used in extended overwater operations.

(Added Pub. L. 118–63, title III, §352(a), May 16, 2024, 138 Stat. 1112.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

§44747. Aviation safety oversight measures carried out by foreign countries

(a) ASSESSMENT.—

(1) IN GENERAL.—On a regular basis, the Administrator, in consultation with the Secretary of Transportation and the Secretary of State, shall assess aviation safety oversight measures carried out by any foreign country—

(A) from which a foreign air carrier is conducting foreign air transportation to and from the United States;

(B) from which a foreign air carrier seeks to conduct foreign air transportation to and from the United States;

(C) whose air carriers carry or seek to carry the code of a United States air carrier; or

(D) as determined appropriate by the Administrator.

(2) CONSULTATION AND CRITERIA.—In conducting an assessment described in paragraph (1), the Administrator shall—

(A) consult with the appropriate authorities of the government of the foreign country;

(B) determine the efficacy with which such foreign country carries out and complies with its aviation safety oversight responsibilities consistent with—

(i) the Convention on International Civil Aviation (in this section referred to as the "Chicago Convention");

(ii) international aviation safety standards; and

(iii) recommended practices set forth by the International Civil Aviation Organization;

(C) use a standard approach and methodology that will result in an analysis of the aviation safety oversight activities of such foreign country that are carried out to meet the minimum standards contained in Annexes 1, 6, and 8 to the Chicago Convention in effect on the date of the assessment, or any such successor documents; and

(D) identify instances of noncompliance pertaining to the aviation safety oversight activities of such foreign country consistent with the Chicago Convention, international aviation safety standards, and recommended practices set forth by the International Civil Aviation Organization.

(3) FINDINGS OF NONCOMPLIANCE.—In any case in which the assessment described in subsection (a)(1) finds an instance of non-compliance, the Administrator shall—

(A) notify the foreign country that is the subject of such finding;

(B) not later than 90 days after transmission of such notification, request and initiate final discussions with the foreign country to recommend actions by which the foreign country can mitigate the noncompliance; and

(C) after the discussions described in subparagraph (B) have concluded, determine whether or

not the noncompliance finding has been corrected;

(b) UNCORRECTED NON-COMPLIANCE.—If the Administrator finds that such foreign country has not corrected the non-compliance by the close of such final discussions—

(1) the Administrator shall notify the Secretary of Transportation and the Secretary of State that the condition of noncompliance remains;

(2) the Administrator, after consulting with informing the Secretary of Transportation and the Secretary of State, shall notify the foreign country of such finding; and

(3) notwithstanding section 40105(b), the Administrator, after consulting with the appropriate civil aviation authority of such foreign country and notifying the Secretary of Transportation and the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of a foreign air carrier that—

(A) provides or seeks to provide foreign air transportation to and from the United States; or

(B) carries or seeks to carry the code of an air carrier.

(c) AUTHORITY.—Notwithstanding subsections (a) and (b), the Administrator retains the ability to take immediate safety oversight actions if the Administrator, in consultation with the Secretary of Transportation and the Secretary of State, as needed, determines that a condition exists that threatens the safety of passengers, aircraft, or crew traveling to or from such foreign country. In this event that the Administrator makes a determination under this subsection, the Administrator shall immediately notify the Secretary of State of such determination so that the Secretary of State may issue a travel advisory with respect to such foreign country.

(d) PUBLIC NOTIFICATION.—

(1) IN GENERAL.—In any case in which the Administrator provides notification to a foreign country under subsection (b)(2), the Administrator shall—

(A) recommend the actions necessary to bring such foreign country into compliance with the international standards contained in the Chicago Convention;

(B) publish the identity of such foreign country on the website of the Federal Aviation Administration, in the Federal Register, and through other mediums appropriate to provide notice to the public; and

(C) brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the identity of such foreign country and a summary of any critical safety information resulting from an assessment described in subsection (a)(1).

(2) COMPLIANCE.—If the Administrator finds that a foreign country subsequently corrects all outstanding noncompliances, the Administrator, after consulting with the appropriate civil aviation authority of such foreign country and notifying the Secretary of Transportation and the Secretary of State, shall take actions as necessary to ensure the updated compliance status is reflected, including in the mediums invoked in paragraph (1)(B).

(e) ACCURACY OF THE IASA LIST.—A foreign country that does not have foreign air carrier activity, as described in subsection (a)(1), for an extended period of time, as determined by the Administrator, shall be removed for inactivity from the public listings described in subsection (d)(1)(B), after informing the Secretary of Transportation and the Secretary of State.

(f) CONSISTENCY.—

(1) IN GENERAL.—The Administration shall use data, tools, and methods that ensure transparency and repeatability of assessments conducted under this section.

(2) TRAINING.—The Administrator shall ensure that Administration personnel are properly and adequately trained to carry out the assessments set forth in this section, including with respect to the standards, methodology, and material used to make determinations under this section.

(Added Pub. L. 118–63, title III, §369(a), May 16, 2024, 138 Stat. 1137.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Convention on International Civil Aviation, referred to in subsec. (a)(2)(B)(i), was done at Chicago on Dec. 7, 1944, and entered into force for the United States on Apr. 4, 1947.

§44748. Aircraft dispatching

(a) AIRCRAFT DISPATCHING CERTIFICATE.—No person may serve as an aircraft dispatcher for an air carrier unless such person holds the appropriate aircraft dispatcher certificate issued by the Administrator of the Federal Aviation Administration.

(b) PROOF OF CERTIFICATION.—Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or other appropriate Federal agency, a person who holds such a certificate, and is performing dispatching, shall present the certificate for inspection.

(c) DISPATCH CENTERS AND FLIGHT FOLLOWING CENTERS.—

(1) ESTABLISHMENT.—Each air carrier shall establish and maintain sufficient dispatch centers and flight following centers necessary to maintain operational control of each flight of the air carrier at all times.

(2) REQUIREMENTS.—An air carrier shall ensure that each dispatch center and flight following center of the air carrier—

(A) has a sufficient number of aircraft dispatchers on duty at the dispatch center or flight following center to ensure proper operational control of each flight of the air carrier at all times;

(B) has the necessary equipment, in good repair, to maintain proper operational control of each flight of the air carrier at all times; and

(C) includes the presence of physical security and cybersecurity protections to prevent unauthorized access to the dispatch center or flight following center or to the operations of either such center.

(d) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an air carrier may not dispatch aircraft from any location other than the dispatch center or flight following center of the air carrier.

(2) EMERGENCY AUTHORITY.—In the event of an emergency or other event that renders a dispatch center or a flight following center inoperable, an air carrier may dispatch aircraft from a location other than the dispatch center or flight following center of the air carrier for a period of time not to exceed 14 consecutive days per location without approval of the Administrator.

(Added Pub. L. 118–63, title IV, §420(b)(1), May 16, 2024, 138 Stat. 1164.)

CHAPTER 448—UNMANNED AIRCRAFT SYSTEMS

Sec.

44801. Definitions.
44802. Integration of civil unmanned aircraft systems into national airspace system.
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EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title IX, §§902(b), 925(b)(2), 926(b), 930(b), 935(b), title X, §§1006(b), 1007(b), May 16, 2024, 138 Stat. 1341, 1360, 1361, 1367, 1372, 1389, added items 44803, 44804, 44806, and 44811 to 44814 and struck out former items 44803 "Unmanned aircraft system test ranges", 44804 "Small unmanned aircraft in the Arctic", and 44806 "Public unmanned aircraft systems".

2018—Pub. L. 115–254, div. B, title III, §§343(b), 344(b), 345(c), 346(b)(1), 347(b)(1), 348(b), 349(b)(1), 383(b)(1), Oct. 5, 2018, 132 Stat. 3290, 3291, 3293, 3295–3297, 3300, 3322, added items 44803 to 44810.

§44801. Definitions

In this chapter, the following definitions apply:

(1) ACTIVELY TETHERED UNMANNED AIRCRAFT SYSTEM.—The term "actively tethered unmanned aircraft system" means an unmanned aircraft system in which the unmanned aircraft component—

(A) weighs 55 pounds or less, including payload but not including the tether;

(B) is physically attached to a ground station with a taut, appropriately load-rated tether that provides continuous power to the unmanned aircraft and is unlikely to be separated from the unmanned aircraft;

(C) is controlled and retrieved by such ground station through physical manipulation of the tether;

(D) is able to maintain safe flight control in the event of a power or flight control failure during flight; and

(E) is programmed to initiate a controlled landing in the event of a tether separation.

(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(3) ARCTIC.—The term "Arctic" means the United States zone of the Chukchi Sea, Beaufort Sea, and Bering Sea north of the Aleutian chain.

(4) CERTIFICATE OF WAIVER; CERTIFICATE OF AUTHORIZATION.—The terms "certificate of waiver" and "certificate of authorization" mean a Federal Aviation Administration grant of approval for a specific flight operation.

(5) COUNTER-UAS SYSTEM.—The term "counter-UAS system" means a system or device capable of lawfully and safely disabling, disrupting, or seizing control of an unmanned aircraft or unmanned aircraft system.

(6) PERMANENT AREAS.—The term "permanent areas" means areas on land or water that provide for launch, recovery, and operation of small unmanned aircraft.

(7) PUBLIC UNMANNED AIRCRAFT SYSTEM.—The term "public unmanned aircraft system" means an unmanned aircraft system that meets the qualifications and conditions required for operation of a public aircraft.

(8) SENSE AND AVOID CAPABILITY.—The term "sense and avoid capability" means the capability of an unmanned aircraft to remain a safe distance from and to avoid collisions with other airborne aircraft, structures on the ground, and other objects.

(9) SMALL UNMANNED AIRCRAFT.—The term "small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds, including the weight of anything attached to or carried by the aircraft.

(10) TEST RANGE.—The term "test range" means a defined geographic area where research and development are conducted as authorized by the Administrator of the Federal Aviation

Administration, and includes the test ranges designated by the Administrator under section 44803.

(11) UNMANNED AIRCRAFT.—The term "unmanned aircraft" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(12) UNMANNED AIRCRAFT SYSTEM.—The term "unmanned aircraft system" means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system.

(13) UTM.—The term "UTM" means an unmanned aircraft system traffic management system or service."

(Added Pub. L. 115–254, div. B, title III, §341(a), Oct. 5, 2018, 132 Stat. 3284; amended Pub. L. 118–63, title IX, §§925(b)(1), 926(c), May 16, 2024, 138 Stat. 1360, 1361.)

EDITORIAL NOTES

AMENDMENTS

2024—Par. (1)(A). Pub. L. 118–63, §926(c)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "weighs 4.4 pounds or less, including payload but not including the tether;".

Par. (1)(D), (E). Pub. L. 118–63, §926(c)(2)–(4), added subpars. (D) and (E).

Par. (10). Pub. L. 118–63, §925(b)(1), substituted "the test ranges designated by the Administrator under section 44803" for "any of the 6 test ranges established by the Administrator under section 332(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note), as in effect on the day before the date of enactment of the FAA Reauthorization Act of 2018, and any public entity authorized by the Federal Aviation Administration as an unmanned aircraft system flight test center before January 1, 2009".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ENVIRONMENTAL REVIEW AND NOISE CERTIFICATION

Pub. L. 118–63, title IX, §909, May 16, 2024, 138 Stat. 1344, provided that:

"(a) NATIONAL ENVIRONMENTAL POLICY ACT GUIDANCE.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall publish unmanned aircraft system-specific environmental review guidance and implementation procedures and, thereafter, revise such guidance and procedures as appropriate to carry out the requirements of this section.

"(b) PRIORITIZATION.—The guidance and procedures established by the Administrator under subsection (a) shall include processes that allow for the prioritization of project applications and activities that—

"(1) offset or limit the impacts of non-zero emission activities;

"(2) offset or limit the release of environmental pollutants to soil or water; or

"(3) demonstrate other factors that benefit human safety or the environment, as determined by the Administrator.

"(c) PROGRAMMATIC LEVEL APPROACH TO NEPA REVIEW.—Not later than 180 days after the date of enactment of this Act, the Administrator shall examine and integrate programmatic-level approaches to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by which the Administrator can—

"(1) leverage an environmental review for unmanned aircraft operations within a defined geographic region, including within and over commercial sites, industrial sites, or other sites closed or restricted to the public; and

"(2) leverage an environmental assessment or environmental impact statement for nationwide programmatic approaches for large scale distributed unmanned aircraft operations.

"(d) DEVELOPING 1 OR MORE CATEGORICAL EXCLUSIONS.—

"(1) IN GENERAL.—The Administrator shall engage in periodic consultations with the Council on Environmental Quality to identify actions that are appropriate for a new categorical exclusion and shall incorporate such actions in FAA [Federal Aviation Administration] Order 1050.1F (or successor order) as considered appropriate by the Administrator to more easily allow for safe commercial operations of unmanned aircraft.

"(2) PRIOR OPERATIONS.—The Administrator shall review existing categorical exclusions for applicability to unmanned aircraft operations in accordance with the National Environmental Policy Act of

1969 (42 U.S.C. 4321 et seq.) and subchapter A of chapter V of title 40, Code of Federal Regulations.

"(e) BRIEFING.—Not later than 90 days after the date of enactment of this Act [May 16, 2024], the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the plan of the Administrator to implement subsection (a).

"(f) NONAPPLICATION OF NOISE CERTIFICATION REQUIREMENTS PENDING STANDARDS DEVELOPMENT.—

"(1) IN GENERAL.—Notwithstanding the requirements of section 44715 of title 49, United States Code, the Administrator shall—

"(A) waive the determination of compliance with part 36 of title 14, Code of Federal Regulations, for an applicant seeking unmanned aircraft type and airworthiness certifications; and

"(B) not deny, withhold, or delay such certifications due to the absence of a noise certification basis under such part, if the Administrator has developed appropriate noise measurement procedures for unmanned aircraft and the Administrator has received from the applicant the noise measurement results based on such procedures.

"(2) DURATION.—The nonapplication of the noise certification requirements under paragraph (1) shall continue until the Administrator finalizes the noise certification requirements for unmanned aircraft in part 36 of title 14, Code of Federal Regulations, or another part of title 14 of such Code, as required under paragraph (3).

"(3) ASSOCIATED UAS CERTIFICATION STANDARDS.—

"(A) DEVELOPMENT OF CRITERIA.—Not later than 18 months after the date of enactment of this Act, the Administrator shall develop and establish substantive criteria and standard metrics to determine whether to approve an unmanned aircraft pursuant to part 36 of title 14, Code of Federal Regulations.

"(B) SUBSTANTIVE CRITERIA AND STANDARD METRICS.—In establishing the substantive criteria and standard metrics under subparagraph (A), the Administrator shall include criteria and metrics related to the noise impacts of an unmanned aircraft.

"(C) PUBLICATION.—The Administrator shall publish in the Federal Register and post on the website of the FAA the criteria and metrics established under subparagraph (A).

"(g) CONCURRENT REVIEWS.—If the Administrator determines that the design, construction, maintenance and operational sustainability, airworthiness approval, or operational approval of an unmanned aircraft require environmental assessments, including under the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Administrator shall, to the maximum extent practicable, conduct such reviews and analyses concurrently.

"(h) THIRD-PARTY SUPPORT.—In implementing subsection (a), the Administrator shall allow for the engagement of approved specialized third parties, as appropriate, to support an applicant's preparation of, or the Administration's preparation and review of, documentation relating to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to ensure streamlined timelines for complex reviews.

"(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting, restricting, or otherwise limiting the authority of the Administrator from implementing or complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any related requirements to ensure the protection of the environment and aviation safety."

[For definition of "unmanned aircraft" as used in section 909 of Pub. L. 118–63, set out above, see this section, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

UNMANNED AND AUTONOMOUS FLIGHT ADVISORY COMMITTEE

Pub. L. 118–63, title IX, §916, May 16, 2024, 138 Stat. 1351, provided that:

"(a) IN GENERAL.—Not later than 1 year after the termination of the Advanced Aviation Advisory Committee pursuant to section 915 [138 Stat. 1351], the Administrator [of the Federal Aviation Administration] shall establish an Unmanned and Autonomous Flight Advisory Committee (in this section referred to as the 'Advisory Committee').

"(b) DUTIES.—The Advisory Committee shall provide the Administrator advice on policy- and technical-level issues related to unmanned and autonomous aviation operations and activities, including, at a minimum, the following:

"(1) The safe integration of unmanned aircraft systems and autonomous flight operations into the national airspace system, including feedback on—

"(A) the certification and operational standards of highly automated aircraft, unmanned aircraft, and associated elements of such aircraft;

"(B) coordination of procedures for operations in controlled and uncontrolled airspace; and

"(C) communication protocols.

"(2) The use cases of unmanned aircraft systems, including evaluating and assessing the potential benefits of using unmanned aircraft systems.

"(3) The development of processes and methodologies to address safety concerns related to the operation of unmanned aircraft systems, including risk assessments and mitigation strategies.

"(4) Unmanned aircraft system training, education, and workforce development programs, including evaluating aeronautical knowledge gaps in the unmanned aircraft system workforce, assessing the workforce needs of unmanned aircraft system operations, and establishing a strong pipeline to ensure a robust unmanned aircraft system workforce.

"(5) The analysis of unmanned aircraft system data and trends.

"(6) Unmanned aircraft system infrastructure, including the use of existing aviation infrastructure and the development of necessary infrastructure.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Committee shall be composed of not more than 12 members.

"(2) REPRESENTATIVES.—The Advisory Committee shall include at least 1 representative of each of the following:

"(A) Commercial operators of unmanned aircraft systems.

"(B) Unmanned aircraft system manufacturers.

"(C) Counter-UAS manufacturers.

"(D) FAA [Federal Aviation Administration]-approved unmanned aircraft system service suppliers.

"(E) Unmanned aircraft system test ranges under section 44803 of title 49, United States Code.

"(F) An unmanned aircraft system physical infrastructure network provider.

"(G) Community advocates.

"(H) Certified labor organizations representing commercial airline pilots, air traffic control specialists employed by the Administration, certified aircraft maintenance technicians, certified aircraft dispatchers, or aviation safety inspectors.

"(I) Academia or a relevant research organization.

"(3) OBSERVERS.—The Administrator may invite appropriate representatives of other Federal agencies to observe or provide input on the work of the Advisory Committee, but shall not allow such representatives to participate in any decision-making of the Advisory Committee.

"(d) REPORTING.—

"(1) IN GENERAL.—The Advisory Committee shall submit to the Administrator an annual report of the activities, findings, and recommendations of the Committee.

"(2) CONGRESSIONAL REPORTING.—The Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] the reports required under paragraph (1).

"(e) PROHIBITION.—The Administrator may not task the Advisory Committee established under this section with a review or the development of recommendations relating to operations conducted under part 121 of title 14, Code of Federal Regulations."

[For definitions of terms used in section 916 of Pub. L. 118–63, set out above, see this section, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

ACCEPTABLE LEVELS OF RISK AND RISK ASSESSMENT METHODOLOGY

Pub. L. 118–63, title IX, §931, May 16, 2024, 138 Stat. 1367, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall develop a risk assessment methodology that allows for the determination of acceptable levels of risk for unmanned aircraft system operations, including operations beyond visual line of sight, conducted—

"(1) under waivers issued to part 107 of title 14, Code of Federal Regulations;

"(2) pursuant to section 44807 of title 49, United States Code; or

"(3) pursuant to other applicable regulations, as appropriate.

"(b) RISK ASSESSMENT METHODOLOGY CONSIDERATIONS.—In establishing the risk assessment methodology under this section, the Administrator shall ensure alignment with the considerations included in

the order issued by the FAA [Federal Aviation Administration] titled 'UAS Safety Risk Management Policy' (FAA Order 8040.6A), and any subsequent amendments to such order, as the Administrator considers appropriate.

"(c) PUBLICATION.—The Administrator shall make the risk assessment methodology established under this section available to the public on an appropriate website of the Administration and update such methodology as necessary."

[For definition of "unmanned aircraft system" as used in section 931 of Pub. L. 118–63, set out above, see this section, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

SPECIAL AUTHORITY FOR TRANSPORT OF HAZARDOUS MATERIALS BY COMMERCIAL PACKAGE DELIVERY UNMANNED AIRCRAFT SYSTEMS

Pub. L. 118–63, title IX, §933, May 16, 2024, 138 Stat. 1368, provided that:

"(a) IN GENERAL.—Notwithstanding any other Federal requirement or restriction related to the transportation of hazardous materials on aircraft, the Secretary [of Transportation] shall, beginning not later than 180 days after enactment of this section [May 16, 2024], use a risk-based approach to establish the operational requirements, standards, or special permits necessary to approve or authorize an air carrier to transport hazardous materials by unmanned aircraft systems providing common carriage under part 135 of title 14, Code of Federal Regulations, or under successor authorities, as applicable, based on the weight, amount, and type of hazardous material being transported and the characteristics of the operations subject to such requirements, standards, or special purposes.

"(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall consider, at a minimum—

"(1) the safety of the public and users of the national airspace system;

"(2) efficiencies of allowing the safe transportation of hazardous materials by unmanned aircraft systems and whether such transportation complies with the hazardous materials regulations under subchapter C of chapter I of title 49, Code of Federal Regulations, including any changes to such regulations issued pursuant to this section;

"(3) the risk profile of the transportation of hazardous materials by unmanned aircraft systems, taking into consideration the risk associated with differing weights, quantities, and packing group classifications of hazardous materials;

"(4) mitigations to the risk of the hazardous materials being transported, based on the weight, amount, and type of materials being transported and the characteristics of the operation, including operational and aircraft-based mitigations; and

"(5) the altitude at which unmanned aircraft operations are conducted.

"(c) SAFETY RISK ASSESSMENTS.—The Secretary may require unmanned aircraft systems operators to submit a safety risk assessment acceptable to the Administrator [of the Federal Aviation Administration], as part of the operator certification process, in order for such operators to perform the carriage of hazardous materials as authorized under this section.

"(d) CONFORMITY OF HAZARDOUS MATERIALS REGULATIONS.—The Secretary shall make such changes as are necessary to conform the hazardous materials regulations under parts 173 and 175 of title 49, Code of Federal Regulations, to this section. Such changes shall be made concurrently with the activities described in subsection (a).

"(e) STAKEHOLDER INPUT ON CHANGES TO THE HAZARDOUS MATERIALS REGULATIONS.—

"(1) IMPLEMENTATION.—Not later than 180 days of the date of enactment of this Act [May 16, 2024], the Secretary shall hold a public meeting to obtain input on changes necessary to implement this section.

"(2) PERIODIC UPDATES.—The Secretary shall—

"(A) periodically review, as necessary, amounts of hazardous materials allowed to be carried by unmanned aircraft systems pursuant to this section; and

"(B) determine whether such amounts should be revised, based on operational and safety data, without negatively impacting overall aviation safety.

"(f) SAVINGS CLAUSE.—Nothing in this section shall be construed to—

"(1) limit the authority of the Secretary, the Administrator, or the Administrator of the Pipeline and Hazardous Materials Safety Administration from implementing requirements to ensure the safe carriage of hazardous materials by aircraft; and

"(2) confer upon the Administrator the authorities of the Administrator of the Pipeline and Hazardous Materials Safety Administration under part 175 of title 49, Code of Federal Regulations, and chapter 51 of

title 49, United States Code.

"(g) DEFINITION OF HAZARDOUS MATERIALS.—In this section, the term 'hazardous materials' has the meaning given such term in section 5102 of title 49, United States Code."

[For definitions of "unmanned aircraft system" and "unmanned aircraft" as used in section 933 of Pub. L. 118–63, set out above, see this section, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

OPERATIONS OVER HIGH SEAS

Pub. L. 118–63, title IX, §934, May 16, 2024, 138 Stat. 1369, provided that:

"(a) IN GENERAL.—To the extent permitted by treaty obligations of the United States, including the Convention on International Civil Aviation (in this section referred to as 'ICAO'), the Administrator [of the Federal Aviation Administration] shall work with other civil aviation authorities to establish and implement operational approval processes to permit unmanned aircraft systems to operate over the high seas within flight information regions for which the United States is responsible for operational control.

"(b) CONSULTATION.—In establishing and implementing the operational approval process under subsection (a), the Administrator shall consult with appropriate stakeholders, including industry stakeholders.

"(c) ICAO ACTIVITIES.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Administrator shall engage ICAO through the submission of a working paper, panel proposal, or other appropriate mechanism to clarify the permissibility of unmanned aircraft systems to operate over the high seas.

"(d) REVIEW.—Not later than 6 months after the date of enactment of this Act, the Administrator shall review whether, and to what extent, ICAO member states are approving the operation of unmanned aircraft systems over the high seas and brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] regarding the findings of such review."

[For definition of "unmanned aircraft system" as used in section 934 of Pub. L. 118–63, set out above, see this section, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

COVERED DRONE PROHIBITION

Pub. L. 118–63, title IX, §936, May 16, 2024, 138 Stat. 1372, provided that:

"(a) PROHIBITIONS.—The Secretary [of Transportation] is prohibited from—

"(1) entering into, extending, or renewing a contract or awarding a grant—

"(A) for the operation, procurement, or contracting action with respect to a covered unmanned aircraft system; or

"(B) to an entity that operates (as determined by the Administrator [of the Federal Aviation Administration]) a covered unmanned aircraft system in the performance of such contract;

"(2) issuing a grant to a covered foreign entity for any project related to covered unmanned aircraft systems; and

"(3) operating a covered unmanned aircraft system.

"(b) EXEMPTIONS.—The Secretary is exempt from any prohibitions under subsection (a) if the grant, operation, procurement, or contracting action is for the purposes of testing, researching, evaluating, analyzing, or training related to—

"(1) unmanned aircraft detection systems and counter-UAS systems, including activities conducted—

"(A) under the Alliance for System Safety of UAS through Research Excellence Center of Excellence of the FAA [Federal Aviation Administration]; or

"(B) by the unmanned aircraft system test ranges designated under section 44803 of title 49, United States Code;

"(2) the safe, secure, or efficient operation of the national airspace system or maintenance of public safety;

"(3) the safe integration of advanced aviation technologies into the national airspace system, including activities carried out under the Alliance for System Safety of UAS through Research Excellence Center of Excellence of the FAA;

"(4) in coordination with other relevant Federal agencies, determining security threats of covered unmanned aircraft systems; and

"(5) intelligence, electronic warfare, and information warfare operations.

"(c) WAIVERS.—The Secretary may waive any restrictions under subsection (a) on a case-by-case basis by notifying the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] in writing,

not later than 15 days after waiving such restrictions, that the procurement or other activity is in the public interest.

"(d) REPLACEMENT OF CERTAIN UNMANNED AIRCRAFT SYSTEMS.—

"(1) IN GENERAL.—The Secretary shall take such actions as are necessary to replace any covered unmanned aircraft system that is owned or operated by the Department of Transportation as of the date of enactment of this Act [May 16, 2024] with an unmanned aircraft system manufactured in the United States or an allied country (as such term is defined in section 2350f(d)(1) of title 10, United States Code) if the capabilities of such covered unmanned aircraft system are consequential to the work of the Department or the mission of the Department.

"(2) FUNDING.—There is authorized to be appropriated to the Secretary $5,000,000 to carry out this subsection.

"(e) EFFECTIVE DATES.—

"(1) OPERATIONS.—The prohibitions under paragraphs (1) and (3) of subsection (a) shall be in effect on the date of enactment of this Act.

"(2) GRANTS.—The prohibitions under paragraphs (1) and (2) of subsection (a) shall—

"(A) not apply to grants awarded before the date of enactment of this Act; and

"(B) apply to grants awarded after the date of enactment of this Act.

"(f) APPLICATION OF PROHIBITIONS.—The prohibitions under subsection (a) are applicable to all offices and programs of the Department of Transportation, including—

"(1) aviation research grant programs;

"(2) aviation workforce development programs established under section 625 of the FAA Reauthorization Act of 2018 [Pub. L. 115–254] (49 U.S.C. 40101 note);

"(3) FAA Air Transportation Centers of Excellence;

"(4) programs established under sections 631 and 632 of the FAA Reauthorization Act of 2018 (49 U.S.C. 40101 note); and

"(5) the airport improvement program under subchapter I of chapter 471 of title 49, United States Code.

"(g) RULE OF CONSTRUCTION.—Nothing in this section shall prevent a State, local, Tribal, or territorial governmental agency from procuring or operating a covered unmanned aircraft system purchased with non-Federal funding.

"(h) DEFINITIONS.—In this section:

"(1) COVERED FOREIGN COUNTRY.—The term 'covered foreign country' means any of the following:

"(A) The People's Republic of China.

"(B) The Russian Federation.

"(C) The Islamic Republic of Iran.

"(D) The Democratic People's Republic of Korea.

"(E) The Bolivarian Republic of Venezuela.

"(F) The Republic of Cuba.

"(G) Any other country the Secretary determines necessary.

"(2) COVERED FOREIGN ENTITY.—The term 'covered foreign entity' means—

"(A) an entity included on the list developed and maintained by the Federal Acquisition Security Council and published in the System for Award Management;

"(B) an entity included on the Consolidated Screening List or Entity List as designated by the Secretary of Commerce;

"(C) an entity that is domiciled in, or under the influence or control of, a covered foreign country; or

"(D) an entity that is a subsidiary or affiliate of an entity described under subparagraphs (A) through (C).

"(3) COVERED UNMANNED AIRCRAFT SYSTEM.—The term 'covered unmanned aircraft system' means—

"(A) a small unmanned aircraft, an unmanned aircraft, and unmanned aircraft system, or the associated elements of such aircraft and aircraft systems related to the collection and transmission of sensitive information (consisting of communication links and the components that control the unmanned aircraft) that enable the operator to operate the aircraft in the National Airspace System which is manufactured or assembled by a covered foreign entity; and

"(B) an unmanned aircraft detection system or counter-UAS system that is manufactured or assembled by a covered foreign entity."

[For definitions of terms used in section 936 of Pub. L. 118–63, set out above, see this section, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

UNMANNED AIRCRAFT SYSTEMS PRIVACY POLICY

Pub. L. 115–254, div. B, title III, §357, Oct. 5, 2018, 132 Stat. 3305, provided that: "It is the policy of the United States that the operation of any unmanned aircraft or unmanned aircraft system shall be carried out in a manner that respects and protects personal privacy consistent with the United States Constitution and Federal, State, and local law."

STRATEGY FOR RESPONDING TO PUBLIC SAFETY THREATS AND ENFORCEMENT UTILITY OF UNMANNED AIRCRAFT SYSTEMS

Pub. L. 115–254, div. B, title III, §366, Oct. 5, 2018, 132 Stat. 3310, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall develop a comprehensive strategy to provide outreach to State and local governments and provide guidance for local law enforcement agencies and first responders with respect to—

"(1) how to identify and respond to public safety threats posed by unmanned aircraft systems; and

"(2) how to identify and take advantage of opportunities to use unmanned aircraft systems to enhance the effectiveness of local law enforcement agencies and first responders.

"(b) RESOURCES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a publicly available Internet website that contains resources for State and local law enforcement agencies and first responders seeking—

"(1) to respond to public safety threats posed by unmanned aircraft systems; and

"(2) to identify and take advantage of opportunities to use unmanned aircraft systems to enhance the effectiveness of local law enforcement agencies and public safety response efforts.

"(c) UNMANNED AIRCRAFT SYSTEM DEFINED.—In this section, the term 'unmanned aircraft system' has the meaning given that term in section 44801 of title 49, United States Code, as added by this Act."

FEDERAL TRADE COMMISSION AUTHORITY

Pub. L. 115–254, div. B, title III, §375, Oct. 5, 2018, 132 Stat. 3314, provided that:

"(a) IN GENERAL.—A violation of a privacy policy by a person that uses an unmanned aircraft system for compensation or hire, or in the furtherance of a business enterprise, in the national airspace system shall be an unfair and deceptive practice in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)).

"(b) DEFINITIONS.—In this section, the terms 'unmanned aircraft' and 'unmanned aircraft system' have the meanings given those terms in section 44801 of title 49, United States Code."

COMMERCIAL AND GOVERNMENTAL OPERATORS

Pub. L. 115–254, div. B, title III, §379, Oct. 5, 2018, 132 Stat. 3318, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall, to the extent practicable and consistent with applicable law, make available in a single location on the website of the Department of Transportation:

"(1) Any certificate of waiver or authorization issued by the Administration to Federal, State, tribal or local governments for the operation of unmanned aircraft systems within 30 days of issuance of such certificate of waiver or authorization.

"(2) A spreadsheet of UAS registrations, including the city, state [probably should be "State"], and zip code of each registered drone owner, on its website that is updated once per quarter each calendar year.

"(3) Summary descriptions and general purposes of public unmanned aircraft operations, including the locations where such unmanned aircraft may generally operate.

"(4) Summary descriptions of common civil unmanned aircraft operations.

"(5) The expiration date of any authorization of public or civil unmanned aircraft operations.

"(6) Links to websites of State agencies that enforce any applicable privacy laws.

"(7) For any unmanned aircraft system, except with respect to any operation protected by the First Amendment to the Constitution of the United States, that will collect personally identifiable information about individuals, including the use of facial recognition—

"(A) the circumstance under which the system will be used;

"(B) the specific kinds of personally identifiable information that the system will collect about individuals; and

"(C) how the information referred to in subparagraph (B), and the conclusions drawn from such

information, will be used, disclosed, and otherwise handled, including—

"(i) how the collection or retention of such information that is unrelated to the specific use will be minimized;

"(ii) under what circumstances such information might be sold, leased, or otherwise provided to third parties;

"(iii) the period during which such information will be retained;

"(iv) when and how such information, including information no longer relevant to the specified use, will be destroyed; and

"(v) steps that will be used to protect against the unauthorized disclosure of any information or data, such as the use of encryption methods and other security features.

"(8) With respect to public unmanned aircraft systems—

"(A) the locations where the unmanned aircraft system will operate;

"(B) the time during which the unmanned aircraft system will operate;

"(C) the general purpose of the flight; and

"(D) the technical capabilities that the unmanned aircraft system possesses.

"(b) EXCEPTIONS.—The Administrator shall not disclose information pursuant to subsection (a) if the Administrator determines that the release of such information—

"(1) is not applicable;

"(2) is not practicable, including when the information is not available to the Administrator;

"(3) is not in compliance with applicable law;

"(4) would compromise national defense, homeland security or law enforcement activity;

"(5) would be withheld pursuant to an exception of the [sic] section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'); or

"(6) is otherwise contrary to the public interest.

"(c) SUNSET.—This section will cease to be effective on the date that is the earlier of—

"(1) the date of publication of a Notice of Proposed Rulemaking or guidance regarding remote identification standards under section 2202 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190; 130 Stat. 615 [629]) [49 U.S.C. 44802 note]; or

"(2) September 30, 2023."

§44802. Integration of civil unmanned aircraft systems into national airspace system

(a) REQUIRED PLANNING FOR INTEGRATION.—

(1) COMPREHENSIVE PLAN.—Not later than November 10, 2012,[1] the Secretary of Transportation, in consultation with representatives of the aviation industry, Federal agencies that employ unmanned aircraft systems technology in the national airspace system, and the unmanned aircraft systems industry, shall develop a comprehensive plan to safely accelerate the integration of civil unmanned aircraft systems into the national airspace system.

(2) CONTENTS OF PLAN.—The plan required under paragraph (1) shall contain, at a minimum, recommendations or projections on—

(A) the rulemaking to be conducted under subsection (b), with specific recommendations on how the rulemaking will—

(i) define the acceptable standards for operation and certification of civil unmanned aircraft systems;

(ii) ensure that any civil unmanned aircraft system includes a sense-and-avoid capability; and

(iii) establish standards and requirements for the operator and pilot of a civil unmanned aircraft system, including standards and requirements for registration and licensing;

(B) the best methods to enhance the technologies and subsystems necessary to achieve the safe and routine operation of civil unmanned aircraft systems in the national airspace system;

(C) a phased-in approach to the integration of civil unmanned aircraft systems into the national airspace system;

(D) a timeline for the phased-in approach described under subparagraph (C);

(E) creation of a safe airspace designation for cooperative manned and unmanned flight operations in the national airspace system;

(F) establishment of a process to develop certification, flight standards, and air traffic requirements for civil unmanned aircraft systems at test ranges where such systems are subject to testing;

(G) the best methods to ensure the safe operation of civil unmanned aircraft systems and public unmanned aircraft systems simultaneously in the national airspace system; and

(H) incorporation of the plan into the annual NextGen Implementation Plan document (or any successor document) of the Federal Aviation Administration.

(3) DEADLINE.—The plan required under paragraph (1) shall provide for the safe integration of civil unmanned aircraft systems into the national airspace system as soon as practicable, but not later than September 30, 2015.[1]

(4) REPORT TO CONGRESS.—Not later than February 14, 2013,[1] the Secretary shall submit to Congress a copy of the plan required under paragraph (1).

(5) ROADMAP.—Not later than February 14, 2013,[1] the Secretary shall approve and make available in print and on the Administration's internet website a 5-year roadmap for the introduction of civil unmanned aircraft systems into the national airspace system, as coordinated by the Unmanned Aircraft Program Office of the Administration. The Secretary shall update, in coordination with the Administrator of the National Aeronautics and Space Administration (NASA) and relevant stakeholders, including those in industry and academia, the roadmap annually. The roadmap shall include, at a minimum—

(A) cost estimates, planned schedules, and performance benchmarks, including specific tasks, milestones, and timelines, for unmanned aircraft systems integration into the national airspace system, including an identification of—

(i) the role of the unmanned aircraft systems test ranges established under subsection (c) and the Unmanned Aircraft Systems Center of Excellence;

(ii) performance objectives for unmanned aircraft systems that operate in the national airspace system; and

(iii) research and development priorities for tools that could assist air traffic controllers as unmanned aircraft systems are integrated into the national airspace system, as appropriate;

(B) a description of how the Administration plans to use research and development, including research and development conducted through NASA's Unmanned Aircraft Systems Traffic Management initiatives, to accommodate, integrate, and provide for the evolution of unmanned aircraft systems in the national airspace system;

(C) an assessment of critical performance abilities necessary to integrate unmanned aircraft systems into the national airspace system, and how these performance abilities can be demonstrated; and

(D) an update on the advancement of technologies needed to integrate unmanned aircraft systems into the national airspace system, including decisionmaking by adaptive systems, such as sense-and-avoid capabilities and cyber physical systems security.

(b) RULEMAKING.—Not later than 18 months after the date on which the plan required under subsection (a)(1) is submitted to Congress under subsection (a)(4), the Secretary shall publish in the Federal Register—

(1) a final rule on small unmanned aircraft systems that will allow for civil operation of such systems in the national airspace system, to the extent the systems do not meet the requirements for expedited operational authorization under section 44807;

(2) a notice of proposed rulemaking to implement the recommendations of the plan required under subsection (a)(1), with the final rule to be published not later than 16 months after the date of publication of the notice; and

(3) an update to the Administration's most recent policy statement on unmanned aircraft

systems, contained in Docket No. FAA–2006–25714.

(Added Pub. L. 115–254, div. B, title III, §341(a), Oct. 5, 2018, 132 Stat. 3285.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 332(a) and (b) of Pub. L. 112–95, which was set out in a note under section 40101 of this title, prior to repeal by Pub. L. 115–254, div. B, title III, §341(b)(2), Oct. 5, 2018, 132 Stat. 3287. The dates in subsec. (a)(1) and (3) to (5) reflect those enacted by Pub. L. 112–95, which all precede the date of the enactment of this section by Pub. L. 115–254. The remainder of the note comprised of subtitle B of title III of Pub. L. 112–95 was transferred and is set out below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PART 107 WAIVER IMPROVEMENTS

Pub. L. 118–63, title IX, §908, May 16, 2024, 138 Stat. 1343, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall adopt a performance- and risk-based approach in reviewing requests for certificates of waiver under section 107.200 of title 14, Code of Federal Regulations.

"(b) STANDARDIZATION OF WAIVER APPLICATION.—

"(1) IN GENERAL.—In carrying out subsection (a), the Administrator shall improve the process to submit requests for certificates of waiver described in subsection (a).

"(2) FORMAT.—In carrying out paragraph (1), the Administrator may not require the use of open-ended descriptive prompts that are required to be filled out by an applicant, except to provide applicants the ability to provide the FAA [Federal Aviation Administration] with information for an unusual or irregular operation.

"(3) DATA.—

"(A) IN GENERAL.—In carrying out paragraph (1), the Administrator shall leverage data gathered from previous requests for certificates of waivers.

"(B) CONSIDERATIONS.—In carrying out subparagraph (A), the Administrator shall safely use—

"(i) big data analytics; and

"(ii) machine learning.

"(c) CONSIDERATION OF PROPERTY ACCESS.—

"(1) IN GENERAL.—In determining whether to issue a certificate of waiver under section 107.200 of title 14, Code of Federal Regulations, the Administrator shall—

"(A) consider whether the waiver applicant has control over access to all real property on the ground within the area of operation; and

"(B) recognize and account for the safety enhancements of such controlled access.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to influence the extent to which the Administrator considers a lack of control over access to all real property on the ground within an area of operation as affecting the safety of an operation intended to be conducted under such certificate of waiver.

"(d) PUBLIC AVAILABILITY OF WAIVERS.—

"(1) IN GENERAL.—The Administrator shall publish all certificates of waiver issued under section 107.200 of title 14, Code of Federal Regulations, on the website of the FAA, including, with respect to each issued certificate of waiver—

"(A) the terms, conditions, and limitations; and

"(B) the class of airspace and any restrictions related to operating near airports or heliports.

"(2) PUBLICATION.—In carrying out paragraph (1), the Administrator shall ensure that published information is made available in a manner that prevents inappropriate disclosure of proprietary information.

"(e) PRECEDENTIAL USE OF PREVIOUSLY APPROVED WAIVERS.—

"(1) WAIVER APPROVAL PRECEDENT.—If the Administrator determines, using criteria for a particular waiver, that an application for a certificate of waiver issued under section 107.200 of title 14,

Code of Federal Regulations, is substantially similar (or is comprised of elements that are substantially similar) to an application for a certificate of waiver that the Administrator has previously approved, the Administrator may streamline, as appropriate, the approval of applications for such a particular waiver.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to preclude an applicant for a certificate of waiver from applying to modify a condition or remove a limitation of such certificate.

"(f) MODIFICATION OF WAIVERS.—

"(1) IN GENERAL.—The Administrator shall establish an expedited review process for a request to modify or renew certificates of waiver previously issued under section 107.200 of title 14, Code of Federal Regulations, as appropriate.

"(2) USE OF REVIEW PROCESS.—The review process established under paragraph (1) shall be used to modify or renew certificates of waiver that cover operations that are substantially similar in all material facts to operations covered under a previously issued certificate of waiver."

[For definition of "certificate of waiver" as used in section 908 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

DRONE INFRASTRUCTURE INSPECTION GRANT PROGRAM

Pub. L. 118–63, title IX, §912, May 16, 2024, 138 Stat. 1348, provided that:

"(a) AUTHORITY.—Not later than 270 days after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall establish an unmanned aircraft system infrastructure inspection grant program to provide grants to governmental entities to facilitate the use of small unmanned aircraft systems to support more efficient inspection, operation, construction, maintenance, and repair of an element of critical infrastructure to improve worker safety related to projects.

"(b) USE OF GRANT AMOUNTS.—A governmental entity may use a grant provided under this section to—

"(1) purchase or lease small unmanned aircraft systems;

"(2) support the operational capabilities of small unmanned aircraft systems used by the governmental entity;

"(3) contract for services performed using a small unmanned aircraft system in circumstances in which the governmental entity does not have the resources or expertise to safely carry out or assist in carrying out the activities described under subsection (a); and

"(4) support the program management capability of the governmental entity to use or contract the use of a small unmanned aircraft system, as described in paragraph (3).

"(c) APPLICATION.—To be eligible to receive a grant under this section, a governmental entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require, including an assurance that the governmental entity or any contractor of the governmental entity, will comply with relevant Federal regulations.

"(d) SELECTION OF APPLICANTS.—In selecting an application for a grant under this section, the Secretary shall prioritize applications that propose to—

"(1) carry out a project in a variety of communities, including urban, suburban, rural, Tribal, or any other type of community; and

"(2) address a safety risk in the inspection, operation, construction, maintenance, or repair of an element of critical infrastructure.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to interfere with an agreement between a governmental entity and a labor union, including the requirements of section 5333(b) of title 49, United States Code.

"(f) REPORT TO CONGRESS.—Not later than 2 years after the first grant is provided under this section, the Secretary shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report that evaluates the program carried out under this section that includes—

"(1) a description of the number of grants provided under this section;

"(2) the amount of each grant provided under this section;

"(3) the activities carried out with a grant provided under this section; and

"(4) the effectiveness of such activities in meeting the objectives described in subsection (a).

"(g) FUNDING.—

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a

project carried out using a grant provided under this section shall not exceed 50 percent of the total project cost.

"(B) WAIVER.—The Secretary may increase the Federal share under subparagraph (A) to up to 75 percent for a project carried out using a grant provided under this section by a governmental entity if such entity—

"(i) submits a written application to the Secretary requesting an increase in the Federal share; and

"(ii) demonstrates that the additional assistance is necessary to facilitate the acceptance and full use of a grant under this section, such as alleviating economic hardship, meeting additional workforce needs, or any other uses that the Secretary determines to be appropriate.

"(2) AUTHORIZATION OF APPROPRIATIONS.—Out of amounts authorized to be appropriated under section 106(k) of title 49, United States Code, the following amounts are authorized to carry out this section:

"(A) $12,000,000 for fiscal year 2025.

"(B) $12,000,000 for fiscal year 2026.

"(C) $12,000,000 for fiscal year 2027.

"(D) $12,000,000 for fiscal year 2028.

"(h) DEFINITIONS.—In this section:

"(1) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' has the meaning given such term in subsection (e) of the Critical Infrastructures Protection Act of 2001 (42 U.S.C. 5195c(e)).

"(2) ELEMENT OF CRITICAL INFRASTRUCTURE.—The term 'element of critical infrastructure' means a critical infrastructure facility or asset, including public bridges, tunnels, roads, highways, dams, electric grid, water infrastructure, communication systems, pipelines, or other related facilities or assets, as determined by the Secretary.

"(3) GOVERNMENTAL ENTITY.—The term 'governmental entity' means—

"(A) a State, the District of Columbia, the Commonwealth of Puerto Rico, a territory of the United States, or a political subdivision thereof;

"(B) a unit of local government;

"(C) a Tribal government;

"(D) a metropolitan planning organization; or

"(E) a consortia of more than 1 of the entities described in subparagraphs (A) through (D).

"(4) PROJECT.—The term 'project' means a project for the inspection, operation, construction, maintenance, or repair of an element of critical infrastructure, including mitigating environmental hazards to such infrastructure."

[For definitions of terms used in section 912 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

UAS INTEGRATION STRATEGY

Pub. L. 118–63, title IX, §921, May 16, 2024, 138 Stat. 1354, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Administration] shall implement the recommendations made by—

"(1) the Comptroller General [of the United States] to the Secretary [of Transportation] contained in the report of the Government Accountability Office titled 'Drones: FAA Should Improve Its Approach to Integrating Drones into the National Airspace System', issued in January 2023 (GAO–23–105189); and

"(2) the inspector general of the Department of Transportation to the Administrator contained in the audit report of the inspector general titled 'FAA Made Progress Through Its UAS Integration Pilot Program, but FAA and Industry Challenges Remain To Achieve Full UAS Integration', issued in April 2022 (Project ID: AV2022027).

"(b) BRIEFING.—Not later than 12 months after the date of enactment of this Act [May 16, 2024], and annually thereafter through 2028, the Administrator shall provide a briefing to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] that—

"(1) provides a status update on the—

"(A) implementation of the recommendations described in subsection (a);

"(B) implementation of statutory provisions related to unmanned aircraft system integration under subtitle B [§§341–384] of title III of division B of the FAA Reauthorization Act of 2018 (Public Law 115–254) [see Tables for classification]; and

"(C) actions taken by the Administrator to implement recommendations related to safe integration of unmanned aircraft systems into the national airspace system included in aviation rulemaking committee reports published after the date of enactment of the FAA Reauthorization Act of 2018 (Public Law 115–254) [Oct. 5, 2018];

"(2) provides a description of steps taken to achieve the safe integration of such systems into the national airspace system, including milestones and performance metrics to track results;

"(3) provides the costs of executing the integration described in paragraph (2), including any estimates of future Federal resources or investments required to complete such integration; and

"(4) identifies any regulatory or policy changes required to execute the integration described in paragraph (2)."

[For definition of "unmanned aircraft system" as used in section 921 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

THIRD-PARTY SERVICE APPROVALS

Pub. L. 118–63, title IX, §932, May 16, 2024, 138 Stat. 1367, provided that:

"(a) APPROVAL PROCESS.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish procedures, which may include a rulemaking, to approve third-party service suppliers, including third-party service suppliers of unmanned aircraft system traffic management, to support the safe integration and commercial operation of unmanned aircraft systems.

"(b) ACCEPTANCE OF STANDARDS.—In establishing the approval process required under subsection (a), the Administrator shall ensure that, to the maximum extent practicable, industry consensus standards, such as ASTM International Standard F3548–21, titled 'UAS Traffic Management (UTM) UAS Service Supplier (USS) Interoperability', are included as an acceptable means of compliance for third-party services.

"(c) APPROVALS.—In establishing the approval process required under subsection (a), the Administrator shall—

"(1) define and implement criteria and conditions for the approval and oversight of third-party service suppliers that—

"(A) could have a direct or indirect impact on air traffic services in the national airspace system; and

"(B) require FAA [Federal Aviation Administration] oversight; and

"(2) establish procedures by which unmanned aircraft systems can use the capabilities and services of third-party service suppliers to support operations.

"(d) HARMONIZATION.—In carrying out this section, the Administrator shall seek to harmonize, to the extent practicable and advisable, any requirements and guidance for the development, use, and operation of third-party capabilities and services, including UTM, with similar requirements and guidance of other civil aviation authorities.

"(e) COORDINATION.—In carrying out this section, the Administrator shall consider any relevant information provided by the Administrator of the National Aeronautics and Space Administration regarding research and development efforts the National Aeronautics and Space Administration may have conducted related to the use of UTM providers.

"(f) THIRD-PARTY SERVICE SUPPLIER DEFINED.—In this section, the term 'third-party service supplier' means an entity other than the FAA that provides a distributed service that affects the safety or efficiency of the national airspace system, including UAS service suppliers, supplemental data service providers, and infrastructure providers, such as providers of ground-based surveillance, command-and-control, and information exchange to another party.

"(g) RULES OF CONSTRUCTION.—

"(1) BEYOND VISUAL LINE OF SIGHT OPERATIONS.—Nothing in this section shall be construed to prevent or prohibit beyond visual line of sight operations of unmanned aircraft systems, or other types of operations, through the use of technologies other than third-party capabilities and services.

"(2) AIRSPACE.—Nothing in this section shall be construed to alter the authorities provided under section 40103 of title 49, United States Code."

[For definitions of "unmanned aircraft system" and "UTM" as used in section 932 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

DRONE ADVISORY COMMITTEE FOR THE 21ST CENTURY

Pub. L. 116–280, Dec. 31, 2020, 134 Stat. 3379, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Drone Advisory Committee for the 21st Century Act'.

"SEC. 2. SENSE OF CONGRESS.

"It is the Sense of Congress that:

"(1) Due to the ever-increasing use of Unmanned Aircraft Systems in the agriculture, forestry, and rangeland sectors, as well as the inherently different uses in less populated parts of the nation, membership of the Drone Advisory Committee established by the Federal Aviation Administration should, to the extent practicable, include direct representatives from county and tribal government, agriculture, forestry, and rangeland interests.

"(2) Full transparency in the work of the Drone Advisory Committee is vital to ensuring the public can effectively participate and contribute to the development of sound Federal policies. The Administrator of the Federal Aviation Administration should, to the maximum extent practicable, ensure the work of the Drone Advisory Committee is shared with and easily accessible to the public and shall ensure transparency and openness in the manner in which the affairs of the Committee are conducted.

"SEC. 3. DRONE ADVISORY COMMITTEE MEMBERSHIP.

"(1) IN GENERAL.—The Federal Aviation Administration shall take appropriate steps to encourage direct representation of county and tribal governments as well as agriculture, forestry, rangeland sectors, and other rural interests on the Drone Advisory Committee.

"(2) PUBLIC PARTICIPATION.—To the maximum extent practicable, the Administrator shall include public participation in the process of nominating individuals for membership on the Committee."

UPDATE OF FAA COMPREHENSIVE PLAN

Pub. L. 115–254, div. B, title III, §342, Oct. 5, 2018, 132 Stat. 3287, provided that:

"(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall update the comprehensive plan described in section 44802 of title 49, United States Code, to develop a concept of operations for the integration of unmanned aircraft into the national airspace system.

"(b) CONSIDERATIONS.—In carrying out the update under subsection (a), the Secretary shall consider, at a minimum—

"(1) the potential use of UTM and other technologies to ensure the safe and lawful operation of unmanned aircraft in the national airspace system;

"(2) the appropriate roles, responsibilities, and authorities of government agencies and the private sector in identifying and reporting unlawful or harmful operations and operators of unmanned aircraft;

"(3) the use of models, threat assessments, probabilities, and other methods to distinguish between lawful and unlawful operations of unmanned aircraft; and

"(4) appropriate systems, training, intergovernmental processes, protocols, and procedures to mitigate risks and hazards posed by unlawful or harmful operations of unmanned aircraft systems.

"(c) CONSULTATION.—The Secretary shall carry out the update under subsection (a) in consultation with representatives of the aviation industry, Federal agencies that employ unmanned aircraft systems technology in the national airspace system, and the unmanned aircraft systems industry.

"(d) PROGRAM ALIGNMENT REPORT.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives], a report that describes a strategy to—

"(1) avoid duplication;

"(2) leverage capabilities learned across programs;

"(3) support the safe integration of UAS into the national airspace; and

"(4) systematically and timely implement or execute—

"(A) commercially-operated Low Altitude Authorization and Notification Capability;

"(B) the Unmanned Aircraft System Integration Pilot Program; and

"(C) the Unmanned Traffic Management Pilot Program."

UNMANNED AIRCRAFT SYSTEMS INTEGRATION PILOT PROGRAM

Pub. L. 115–254, div. B, title III, §351, Oct. 5, 2018, 132 Stat. 3301, provided that:

"(a) AUTHORITY.—The Secretary of Transportation may establish a pilot program to enable enhanced drone operations as required in the October 25, 2017 Presidential Memorandum entitled 'Unmanned Aircraft Systems Integration Pilot Program' and described in 82 Federal Register 50301 [set out below].

"(b) APPLICATIONS.—The Secretary shall accept applications from State, local, and Tribal governments, in partnership with unmanned aircraft system operators and other private-sector stakeholders, to test and evaluate the integration of civil and public UAS operations into the low-altitude national airspace system.

"(c) OBJECTIVES.—The purpose of the pilot program is to accelerate existing UAS integration plans by working to solve technical, regulatory, and policy challenges, while enabling advanced UAS operations in select areas subject to ongoing safety oversight and cooperation between the Federal Government and applicable State, local, or Tribal jurisdictions, in order to—

"(1) accelerate the safe integration of UAS into the NAS by testing and validating new concepts of beyond visual line of sight operations in a controlled environment, focusing on detect and avoid technologies, command and control links, navigation, weather, and human factors;

"(2) address ongoing concerns regarding the potential security and safety risks associated with UAS operating in close proximity to human beings and critical infrastructure by ensuring that operators communicate more effectively with Federal, State, local, and Tribal law enforcement to enable law enforcement to determine if a UAS operation poses such a risk;

"(3) promote innovation in and development of the United States unmanned aviation industry, especially in sectors such as agriculture, emergency management, inspection, and transportation safety, in which there are significant public benefits to be gained from the deployment of UAS; and

"(4) identify the most effective models of balancing local and national interests in UAS integration.

"(d) APPLICATION SUBMISSION.—The Secretary shall establish application requirements and require applicants to include the following information:

"(1) Identification of the airspace to be used, including shape files and altitudes.

"(2) Description of the types of planned operations.

"(3) Identification of stakeholder partners to test and evaluate planned operations.

"(4) Identification of available infrastructure to support planned operations.

"(5) Description of experience with UAS operations and regulations.

"(6) Description of existing UAS operator and any other stakeholder partnerships and experience.

"(7) Description of plans to address safety, security, competition, privacy concerns, and community outreach.

"(e) MONITORING AND ENFORCEMENT OF LIMITATIONS.—

"(1) IN GENERAL.—Monitoring and enforcement of any limitations enacted pursuant to this pilot project shall be the responsibility of the jurisdiction.

"(2) SAVINGS PROVISION.—Nothing in paragraph (1) may be construed to prevent the Secretary from enforcing Federal law.

"(3) EXAMPLES OF LIMITATIONS.—Limitations under this section may include—

"(A) prohibiting flight during specified morning and evening rush hours or only permitting flight during specified hours such as daylight hours, sufficient to ensure reasonable airspace access;

"(B) establishing designated take-off and landing zones, limiting operations over moving locations or fixed site public road[s] and parks, sidewalks or private property based on zoning density, or other land use considerations;

"(C) requiring notice to public safety or zoning or land use authorities before operating; and

"(D) prohibiting operations in connection with community or sporting events that do not remain in one place (for example, parades and running events).

"(f) SELECTION CRITERIA.—In making determinations, the Secretary shall evaluate whether applications meet or exceed the following criteria:

"(1) Overall economic, geographic, and climatic diversity of the selected jurisdictions.

"(2) Overall diversity of the proposed models of government involvement.

"(3) Overall diversity of the UAS operations to be conducted.

"(4) The location of critical infrastructure.

"(5) The involvement of commercial entities in the proposal and their ability to advance objectives that may serve the public interest as a result of further integration of UAS into the NAS.

"(6) The involvement of affected communities in, and their support for, participating in the pilot program.

"(7) The commitment of the governments and UAS operators involved in the proposal to comply with requirements related to national defense, homeland security, and public safety and to address competition, privacy, and civil liberties concerns.

"(8) The commitment of the governments and UAS operators involved in the proposal to achieve the following policy objectives:

"(A) Promoting innovation and economic development.

"(B) Enhancing transportation safety.

"(C) Enhancing workplace safety.

"(D) Improving emergency response and search and rescue functions.

"(E) Using radio spectrum efficiently and competitively.

"(g) IMPLEMENTATION.—The Secretary shall use the data collected and experience gained over the course of this pilot program to—

"(1) identify and resolve technical challenges to UAS integration;

"(2) address airspace use to safely and efficiently integrate all aircraft;

"(3) inform operational standards and procedures to improve safety (for example, detect and avoid capabilities, navigation and altitude performance, and command and control link);

"(4) inform FAA standards that reduce the need for waivers (for example, for operations over human beings, night operations, and beyond visual line of sight); and

"(5) address competing interests regarding UAS operational expansion, safety, security, roles and responsibilities of non-Federal Government entities, and privacy issues.

"(h) NOTIFICATION.—Prior to initiating any additional rounds of agreements with State, local, or Tribal governments as part of the pilot program established under subsection (a), the Secretary shall notify the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations in the Senate.

"(i) SUNSET.—The pilot program established under subsection (a) shall terminate 3 years after the date on which the memorandum referenced in subsection (a) is signed by the President [Oct. 25, 2017].

"(j) SAVINGS CLAUSE.—Nothing in this section shall affect any proposals, selections, imposition of conditions, operations, or other decisions made—

"(1) under the pilot program developed by the Secretary of Transportation pursuant to the Presidential memorandum titled 'Unmanned Aircraft Systems Integration Pilot Program', as published in the Federal Register on October 30, 2017 (82 Fed. Reg. 50301); and

"(2) prior to the date of enactment of this Act [Oct. 5, 2018].

"(k) DEFINITIONS.—In this section:

"(1) The term 'Lead Applicant' means an eligible State, local or Tribal government that has submitted a timely application.

"(2) The term 'NAS' means the low-altitude national airspace system.

"(3) The term 'UAS' means unmanned aircraft system."

PART 107 TRANSPARENCY AND TECHNOLOGY IMPROVEMENTS

Pub. L. 115–254, div. B, title III, §352, Oct. 5, 2018, 132 Stat. 3304, provided that:

"(a) TRANSPARENCY.—Not later than 30 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall publish on the FAA [Federal Aviation Administration] website a representative sample of the safety justifications, offered by applicants for small unmanned aircraft system waivers and airspace authorizations, that have been approved by the Administration for each regulation waived or class of airspace authorized, except that any published justification shall not reveal proprietary or commercially sensitive information.

"(b) TECHNOLOGY IMPROVEMENTS.—Not later than 90 days after the date of enactment of this Act, the Administrator shall revise the online waiver and certificates of authorization processes—

"(1) to provide real time confirmation that an application filed online has been received by the Administration; and

"(2) to provide an applicant with an opportunity to review the status of the applicant's application."

EMERGENCY EXEMPTION PROCESS

Pub. L. 115–254, div. B, title III, §353, Oct. 5, 2018, 132 Stat. 3304, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the use of unmanned aircraft systems by civil and public operators—

"(1) is an increasingly important tool in response to a catastrophe, disaster, or other emergency;

"(2) helps facilitate emergency response operations, such as firefighting and search and rescue; and

"(3) helps facilitate post-catastrophic response operations, such as utility and infrastructure restoration efforts and the safe and prompt processing, adjustment, and payment of insurance claims.

"(b) UPDATES.—The Administrator [of the Federal Aviation Administration] shall, as necessary, update and improve the Special Government Interest process described in chapter 7 of Federal Aviation

Administration Order JO 7200.23A to ensure that civil and public operators, including local law enforcement agencies and first responders, continue to use unmanned aircraft system operations quickly and efficiently in response to a catastrophe, disaster, or other emergency.

"(c) BEST PRACTICES.—The Administrator shall develop best practices for the use of unmanned aircraft systems by States and localities to respond to a catastrophe, disaster, or other emergency response and recovery operation."

TREATMENT OF UNMANNED AIRCRAFT OPERATING UNDERGROUND

Pub. L. 115–254, div. B, title III, §354, Oct. 5, 2018, 132 Stat. 3305, provided that: "An unmanned aircraft system that is operated underground for mining purposes shall not be subject to regulation or enforcement by the FAA [Federal Aviation Administration] under title 49, United States Code."

PROHIBITION REGARDING WEAPONS

Pub. L. 115–254, div. B, title III, §363, Oct. 5, 2018, 132 Stat. 3308, provided that:

"(a) IN GENERAL.—Unless authorized by the Administrator [of the Federal Aviation Administration], a person may not operate an unmanned aircraft or unmanned aircraft system that is equipped or armed with a dangerous weapon.

"(b) DANGEROUS WEAPON DEFINED.—In this section, the term 'dangerous weapon' has the meaning given that term in section 930(g)(2) of title 18, United States Code.

"(c) PENALTY.—A person who violates this section is liable to the United States Government for a civil penalty of not more than $25,000 for each violation."

PLAN FOR FULL OPERATIONAL CAPABILITY OF UNMANNED AIRCRAFT SYSTEMS TRAFFIC MANAGEMENT

Pub. L. 115–254, div. B, title III, §376, Oct. 5, 2018, 132 Stat. 3314, provided that:

"(a) IN GENERAL.—In conjunction with completing the requirements of section 2208 of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 40101 note [now 49 U.S.C. 44802 note]), subject to subsection (b) of this section, the Administrator [of the Federal Aviation Administration], in coordination with the Administrator of the National Aeronautics and Space Administration, and in consultation with unmanned aircraft systems industry stakeholders, shall develop a plan to allow for the implementation of unmanned aircraft systems traffic management (UTM) services that expand operations beyond visual line of sight, have full operational capability, and ensure the safety and security of all aircraft.

"(b) COMPLETION OF UTM SYSTEM PILOT PROGRAM.—The Administrator shall ensure that the UTM system pilot program, as established in section 2208 of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 40101 note [now 49 U.S.C. 44802 note]), is conducted to meet the following objectives of a comprehensive UTM system by the conclusion of the pilot program:

"(1) In cooperation with the National Aeronautics and Space Administration and manned and unmanned aircraft industry stakeholders, allow testing of unmanned aircraft operations, of increasing volumes and density, in airspace above test ranges, as such term is defined in section 44801 of title 49, United States Code, as well as other sites determined by the Administrator to be suitable for UTM testing, including those locations selected under the pilot program required in the October 25, 2017, Presidential Memorandum entitled, 'Unmanned Aircraft Systems Integration Pilot Program' and described in 82 Federal Register 50301 [set out below].

"(2) Permit the testing of various remote identification and tracking technologies evaluated by the Unmanned Aircraft Systems Identification and Tracking Aviation Rulemaking Committee.

"(3) Where the particular operational environment permits, permit blanket waiver authority to allow any unmanned aircraft approved by a UTM system pilot program selectee to be operated under conditions currently requiring a case-by-case waiver under part 107, title 14, Code of Federal Regulations, provided that any blanket waiver addresses risks to airborne objects as well as persons and property on the ground.

"(c) IMPLEMENTATION PLAN CONTENTS.—The plan required by subsection (a) shall—

"(1) include the development of safety standards to permit, authorize, or allow the use of UTM services, which may include the demonstration and validation of such services at the test ranges, as defined in section 44801 of title 49, United States Code, or other sites as authorized by the Administrator;

"(2) outline the roles and responsibilities of industry and government in establishing UTM services that allow applicants to conduct commercial and noncommercial operations, recognizing the primary private sector role in the development and implementation of the Low Altitude Authorization and Notification Capability and future expanded UTM services;

"(3) include an assessment of various components required for necessary risk reduction and mitigation in relation to the use of UTM services, including—

"(A) remote identification of both cooperative and non-cooperative unmanned aircraft systems in the national airspace system;

"(B) deconfliction of cooperative unmanned aircraft systems in the national airspace system by such services;

"(C) the manner in which the Federal Aviation Administration will conduct oversight of UTM systems, including interfaces between UTM service providers and air traffic control;

"(D) the need for additional technologies to detect cooperative and non-cooperative aircraft;

"(E) collaboration and coordination with air traffic control, or management services and technologies to ensure the safety oversight of manned and unmanned aircraft, including—

"(i) the Federal Aviation Administration responsibilities to collect and disseminate relevant data to UTM service providers; and

"(ii) data exchange protocols to share UAS operator intent, operational approvals, operational restraints, and other data necessary to ensure safety or security of the National Airspace System;

"(F) the potential for UTM services to manage unmanned aircraft systems carrying either cargo, payload, or passengers, weighing more than 55 pounds, and operating at altitudes higher than 400 feet above ground level; and

"(G) cybersecurity protections, data integrity, and national and homeland security benefits; and

"(4) establish a process for—

"(A) accepting applications for operation of UTM services in the national airspace system;

"(B) setting the standards for independent private sector validation and verification that the standards for UTM services established pursuant to paragraph (1) enabling operations beyond visual line of sight, have been met by applicants; and

"(C) notifying the applicant, not later than 120 days after the Administrator receives a complete application, with a written approval, disapproval, or request to modify the application.

"(d) SAFETY STANDARDS.—In developing the safety standards in subsection (c)(1), the Administrator—

"(1) shall require that UTM services help ensure the safety of unmanned aircraft and other aircraft operations that occur primarily or exclusively in airspace 400 feet above ground level and below, including operations conducted under a waiver issued pursuant to subpart D of part 107 of title 14, Code of Federal Regulations;

"(2) shall consider, as appropriate—

"(A) protection of persons and property on the ground;

"(B) remote identification and tracking of aircraft;

"(C) collision avoidance with respect to obstacles and non-cooperative aircraft;

"(D) deconfliction of cooperative aircraft and integration of other relevant airspace considerations;

"(E) right of way rules, inclusive of UAS operations;

"(F) safe and reliable coordination between air traffic control and other systems operated in the national airspace system;

"(G) detection of non-cooperative aircraft;

"(H) geographic and local factors including but not limited to terrain, buildings and structures;

"(I) aircraft equipage; and

"(J) qualifications, if any, necessary to operate UTM services; and

"(3) may establish temporary flight restrictions or other means available such as a certificate of waiver or authorization (COA) for demonstration and validation of UTM services.

"(e) REVOCATION.—The Administrator may revoke the permission, authorization, or approval for the operation of UTM services if the Administrator determines that the services or its operator are no longer in compliance with applicable safety standards.

"(f) LOW-RISK AREAS.—The Administrator shall establish expedited procedures for approval of UTM services operated in—

"(1) airspace away from congested areas; or

"(2) other airspace above areas in which operations of unmanned aircraft pose low risk, as determined by the Administrator.

"(g) CONSULTATION.—In carrying out this section, the Administrator shall consult with other Federal agencies, as appropriate.

"(h) SENSE OF CONGRESS.—It is the sense of Congress that, in developing the safety standards for UTM services, the Federal Aviation Administration shall consider ongoing research and development efforts

on UTM services conducted by—

"(1) the National Aeronautics and Space Administration in partnership with industry stakeholders;

"(2) the UTM System pilot program required by section 2208 of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 40101 note [now 49 U.S.C. 44802 note]); and

"(3) the participants in the pilot program required in the October 25, 2017, Presidential Memorandum entitled, 'Unmanned Aircraft Systems Integration Pilot Program' and described in 82 Federal Register 50301.

"(i) DEADLINE.—Not later than 1 year after the date of conclusion of the UTM pilot program established in section 2208 of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 40101 note [now 49 U.S.C. 44802 note]), the Administrator shall—

"(1) complete the plan required by subsection (a);

"(2) submit the plan to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate; and

"(B) the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(3) publish the plan on a publicly accessible Internet website of the Federal Aviation Administration."

EARLY IMPLEMENTATION OF CERTAIN UTM SERVICES

Pub. L. 115–254, div. B, title III, §377, Oct. 5, 2018, 132 Stat. 3317, provided that:

"(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall, upon request of a UTM service provider, determine if certain UTM services may operate safely in the national airspace system before completion of the implementation plan required by section 376 [set out above].

"(b) ASSESSMENT OF UTM SERVICES.—In making the determination under subsection (a), the Administrator shall assess, at a minimum, whether the proposed UTM services, as a result of their operational capabilities, reliability, intended use, areas of operation, and the characteristics of the aircraft involved, will maintain the safety and efficiency of the national airspace system and address any identified risks to manned or unmanned aircraft and persons and property on the ground.

"(c) REQUIREMENTS FOR SAFE OPERATION.—If the Administrator determines that certain UTM services may operate safely in the national airspace system, the Administrator shall establish requirements for their safe operation in the national airspace system.

"(d) EXPEDITED PROCEDURES.—The Administrator shall provide expedited procedures for making the assessment and determinations under this section where the UTM services will be provided primarily or exclusively in airspace above areas in which the operation of unmanned aircraft poses low risk, including but not limited to croplands and areas other than congested areas.

"(e) CONSULTATION.—In carrying out this section, the Administrator shall consult with other Federal agencies, as appropriate.

"(f) PREEXISTING UTM SERVICES APPROVALS.—Nothing in this Act [see Tables for classification] shall affect or delay approvals, waivers, or exemptions granted by the Administrator for UTM services already in existence or approved by the Administrator prior to the date of enactment of this Act [Oct. 5, 2018], including approvals under the Low Altitude Authorization and Notification Capability."

TRANSITION LANGUAGE

Pub. L. 115–254, div. B, title III, §380, Oct. 5, 2018, 132 Stat. 3319, provided that:

"(a) REGULATIONS.—Notwithstanding the repeals under sections 341, 348 [probably should be "346"], 347, and 383 of this Act [repealing the provisions listed in subsec. (b)(1) to (4) below], all orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under any law described under subsection (b) of this section before the effective date of this Act [probably means Oct. 5, 2018, the date of enactment of Pub. L. 115–254] shall continue in effect until modified or revoked by the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, as applicable, by a court of competent jurisdiction, or by operation of law other than this Act [see Tables for classification].

"(b) LAWS DESCRIBED.—The laws described under this subsection are as follows:

"(1) Section 332 of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] (49 U.S.C. 40101 note).

"(2) Section 333 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note).

"(3) Section 334 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note).

"(4) Section 2206 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190; 130 Stat. 615).

"(c) EFFECT ON PENDING PROCEEDINGS.—This Act shall not affect administrative or judicial proceedings pending on the effective date of this Act."

UNMANNED AIRCRAFT SYSTEMS RESEARCH AND DEVELOPMENT ROADMAP

Pub. L. 115–254, div. B, title VII, §721, Oct. 5, 2018, 132 Stat. 3411, provided that: "The Secretary [of Transportation] shall submit the unmanned aircraft systems roadmap to Congress on an annual basis as required under section 48802(a) [probably should be "44802(a)"] of title 49, United States Code, as added by this Act."

COLLABORATION BETWEEN FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF DEFENSE ON UNMANNED AIRCRAFT SYSTEMS

Pub. L. 115–91, div. A, title X, §1092, Dec. 12, 2017, 131 Stat. 1610, provided that:

"(a) COLLABORATION.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration and the Secretary of Defense may collaborate on sense-and-avoid capabilities for unmanned aircraft systems.

"(2) ELEMENTS.—The collaboration described in paragraph (1) may include, as appropriate, the following:

"(A) Sharing information on safely integrating unmanned aircraft systems and manned aircraft in the national airspace system.

"(B) The development of civil standards, policies, and procedures for the Federal Aviation Administration for integrating unmanned aircraft systems in the national airspace system by leveraging the historical and current testing, training, and operational experiences of the Department of Defense, particularly the Air Force, of unmanned flight operations[.]

"(C) Informing stakeholders about—

"(i) the development of airborne and ground-based sense-and-avoid capabilities for unmanned aircraft systems; and

"(ii) research and development on unmanned aircraft systems, especially with respect to matters involving human factors, information assurance, and security.

"(b) PARTICIPATION BY FAA IN DOD ACTIVITIES.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may participate, and provide assistance to the Secretary of Defense for activities during the test and evaluation efforts of the Department of Defense, including the Air Force, relating to airborne and ground-based sense-and-avoid capabilities for unmanned aircraft systems.

"(2) PARTICIPATION THROUGH TEST SITES.—Participation under paragraph (1) may include provision of assistance through Department of Defense unmanned aircraft systems test sites or a Federal Aviation Administration test range.

"(c) DEFINITIONS.—In this section, the terms 'unmanned aircraft system' and 'test range' have the meaning given such terms in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note [now 49 U.S.C. 44802 note]).

"(d) RESTORATION OF RULES FOR REGISTRATION AND MARKING OF UNMANNED AIRCRAFT.—The rules adopted by the Administrator of the Federal Aviation Administration in the matter of registration and marking requirements for small unmanned aircraft (FAA-2015-7396; published on December 16, 2015) that were vacated by the United States Court of Appeals for the District of Columbia Circuit in Taylor v. Huerta (No. 15-1495; decided on May 19, 2017) shall be restored to effect on the date of enactment of this Act [Dec. 12, 2017]."

UAS SAFETY

Pub. L. 114–190, title II, subtitle B, July 15, 2016, 130 Stat. 628, as amended by Pub. L. 115–254, div. B, title III, §§346(b)(3), 369, 383(b)(2), Oct. 5, 2018, 132 Stat. 3295, 3311, 3322; Pub. L. 118–63, title IX, §929(a), May 16, 2024, 138 Stat. 1365, provided that:

"SEC. 2201. DEFINITIONS.

"(a) DEFINITIONS APPLIED.—In this subtitle, the terms 'unmanned aircraft', 'unmanned aircraft system', and 'small unmanned aircraft' have the meanings given those terms in section 331 of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] (49 U.S.C. 40101 note [now 49 U.S.C. 44802 note]), as amended by this Act.

"(b) FAA MODERNIZATION AND REFORM ACT.—[Amended section 331 of Pub. L. 112–95, set out in a note below.]

"SEC. 2202. IDENTIFICATION STANDARDS.

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration, in consultation with the Secretary of Transportation, the President of RTCA, Inc., and the Director of the National Institute of Standards and Technology, shall convene industry stakeholders to facilitate the development of consensus standards for remotely identifying operators and owners of unmanned aircraft systems and associated unmanned aircraft.

"(b) CONSIDERATIONS.—As part of any standards developed under subsection (a), the Administrator shall ensure the consideration of—

"(1) requirements for remote identification of unmanned aircraft systems;

"(2) appropriate requirements for different classifications of unmanned aircraft systems operations, including public and civil; and

"(3) the feasibility of the development and operation of a publicly accessible online database of unmanned aircraft and the operators thereof, and any criteria for exclusion from the database.

"(c) DEADLINE.—Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on any standards developed under subsection (a).

"(d) GUIDANCE.—Not later than 1 year after the date on which the Administrator submits the report under subsection (c), the Administrator shall issue regulations or guidance, as appropriate, based on any standards developed under subsection (a).

"SEC. 2203. SAFETY STATEMENTS.

"(a) REQUIRED INFORMATION.—Beginning on the date that is 1 year after the date of publication of the guidance under subsection (b)(1), a manufacturer of a small unmanned aircraft shall make available to the owner at the time of delivery of the small unmanned aircraft the safety statement described in subsection (b)(2).

"(b) SAFETY STATEMENT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration shall issue guidance for implementing this section.

"(2) REQUIREMENTS.—A safety statement required under subsection (a) shall include—

"(A) information about, and sources of, laws and regulations applicable to small unmanned aircraft;

"(B) recommendations for using small unmanned aircraft in a manner that promotes the safety of persons and property;

"(C) the date that the safety statement was created or last modified; and

"(D) language approved by the Administrator regarding the following:

"(i) A person may operate the small unmanned aircraft as a model aircraft (as defined in [former] section 336 of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] ([former] 49 U.S.C. 40101 note)) or otherwise in accordance with Federal Aviation Administration authorization or regulation, including requirements for the completion of any applicable airman test.

"(ii) The definition of a model aircraft under [former] section 336 of the FAA Modernization and Reform Act of 2012 ([former] 49 U.S.C. 40101 note).

"(iii) The requirements regarding the operation of a model aircraft under [former] section 336 of the FAA Modernization and Reform Act of 2012 ([former] 49 U.S.C. 40101 note).

"(iv) The Administrator may pursue enforcement action against a person operating model aircraft who endangers the safety of the national airspace system.

"(c) CIVIL PENALTY.—A person who violates subsection (a) shall be liable for each violation to the United States Government for a civil penalty described in section 46301(a) of title 49, United States Code.

"SEC. 2204. FACILITATING INTERAGENCY COOPERATION FOR UNMANNED AIRCRAFT AUTHORIZATION IN SUPPORT OF FIREFIGHTING OPERATIONS AND UTILITY RESTORATION.

"(a) FIREFIGHTING OPERATIONS.—The Administrator of the Federal Aviation Administration shall enter into agreements with the Secretary of the Interior and the Secretary of Agriculture, as necessary, to continue the expeditious authorization of safe unmanned aircraft system operations in support of firefighting operations consistent with the requirements of section 44806 of title 49, United States Code.

"(b) UTILITY RESTORATION.—The Administrator shall enter into agreements with the Secretary of Energy and with such other agencies or parties, including the Federal Emergency Management Agency, as are necessary to facilitate the expeditious authorization of safe unmanned aircraft system operations in support of service restoration efforts of utilities.

"(c) DEFINITION OF UTILITY.—In this section, the term 'utility' shall at a minimum include the definition in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)).

"SEC. 2205. INTERFERENCE WITH WILDFIRE SUPPRESSION, LAW ENFORCEMENT, OR EMERGENCY RESPONSE EFFORT BY OPERATION OF UNMANNED AIRCRAFT.

"(a) IN GENERAL.—[Enacted section 46320 of this title.]

"(b) FAA TO IMPOSE CIVIL PENALTY.—[Amended section 46301 of this title.]

"(c) CLERICAL AMENDMENT.—[Amended analysis of chapter 463 of this title.]

"[SEC. 2206. REPEALED. PUB. L. 115–254, DIV. B, TITLE III, §383(B)(2), OCT. 5, 2018, 132 STAT. 3322.]

"SEC. 2207. EMERGENCY EXEMPTION PROCESS.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration shall publish guidance for applications for, and procedures for the processing of, on an emergency basis, exemptions or certificates of authorization or waiver for the use of unmanned aircraft systems by civil or public operators in response to a catastrophe, disaster, or other emergency to facilitate emergency response operations, such as firefighting, search and rescue, and utility and infrastructure restoration efforts. In processing such applications, the Administrator shall give priority to applications for public unmanned aircraft systems engaged in emergency response activities.

"(b) REQUIREMENTS.—In providing guidance under subsection (a), the Administrator shall—

"(1) make explicit any safety requirements that must be met for the consideration of applications that include requests for beyond visual line of sight or nighttime operations, or the suspension of otherwise applicable operating restrictions, consistent with public interest and safety; and

"(2) explicitly state the procedures for coordinating with an incident commander, if any, to ensure operations granted under procedures developed under subsection (a) do not interfere with other emergency response efforts.

"(c) REVIEW.—In processing applications on an emergency basis for exemptions or certificates of authorization or waiver for unmanned aircraft systems operations in response to a catastrophe, disaster, or other emergency, the Administrator shall act on such applications as expeditiously as practicable and without requiring public notice and comment.

"SEC. 2208. UNMANNED AIRCRAFT SYSTEMS TRAFFIC MANAGEMENT.

"(a) RESEARCH PLAN FOR UTM DEVELOPMENT AND DEPLOYMENT.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration (in this section referred to as the 'Administrator'), in coordination with the Administrator of the National Aeronautics and Space Administration, shall continue development of a research plan for unmanned aircraft systems traffic management (in this section referred to as 'UTM') development and deployment.

"(2) REQUIREMENTS.—In developing the research plan, the Administrator shall—

"(A) identify research outcomes sought; and

"(B) ensure the plan is consistent with existing regulatory and operational frameworks, and considers potential future regulatory and operational frameworks, for unmanned aircraft systems in the national airspace system.

"(3) ASSESSMENT.—The research plan shall include an assessment of the interoperability of a UTM system with existing and potential future air traffic management systems and processes.

"(4) DEADLINES.—The Administrator shall—

"(A) initiate development of the research plan not later than 60 days after the date of enactment of this Act [July 15, 2016]; and

"(B) not later than 180 days after the date of enactment of this Act—

"(i) complete the research plan;

"(ii) submit the research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(iii) publish the research plan on the Internet Web site of the Federal Aviation Administration.

"(b) PILOT PROGRAM.—

"(1) IN GENERAL.—Not later than 90 days after the date of submission of the research plan under subsection (a)(4)(B), the Administrator, in coordination with the Administrator of the National Aeronautics and Space Administration, the Drone Advisory Committee, the research advisory committee established by section 44508(a) of title 49, United States Code, and representatives of the unmanned aircraft industry, shall establish a UTM system pilot program.

"(2) SUNSET.—Not later than 2 years after the date of establishment of the pilot program, the Administrator shall conclude the pilot program.

"(c) UPDATES.—Not later than 180 days after the date of establishment of the pilot program, and every 180 days thereafter until the date of conclusion of the pilot program, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives an update on the status and progress of the pilot program.

"SEC. 2209. APPLICATIONS FOR DESIGNATION.

"(a) APPLICATIONS FOR DESIGNATION.—Not later than 180 days after the date of enactment of this Act [July 15, 2016], the Secretary of Transportation shall establish a process to allow applicants to petition the Administrator of the Federal Aviation Administration to prohibit or restrict, including temporarily, the operation of an unmanned aircraft in close proximity to a fixed site facility.

"(b) REVIEW PROCESS.—

"(1) APPLICATION PROCEDURES.—

"(A) IN GENERAL.—The Administrator shall establish the procedures for the application for designation under subsection (a).

"(B) REQUIREMENTS.—The procedures shall allow operators or proprietors of fixed site facilities to apply for designation individually or collectively.

"(C) CONSIDERATIONS.—Only the following may be considered fixed site facilities:

"(i) Critical infrastructure, such as energy production, transmission, distribution facilities and equipment, and railroad facilities.

"(ii) Oil refineries and chemical facilities.

"(iii) Amusement parks.

"(iv) State prisons.

"(2) DETERMINATION.—

"(A) IN GENERAL.—The Secretary shall provide for a determination under the review process established under subsection (a) not later than 90 days after the date of application, unless the applicant is provided with written notice describing the reason for the delay.

"(B) AFFIRMATIVE DESIGNATIONS.—An affirmative designation shall outline—

"(i) the boundaries for unmanned aircraft operation near the fixed site facility; and

"(ii) such other limitations that the Administrator determines may be appropriate.

"(C) CONSIDERATIONS.—In making a determination whether to grant or deny an application for a designation, the Administrator may consider—

"(i) aviation safety;

"(ii) protection of persons and property on the ground;

"(iii) national security; or

"(iv) homeland security.

"(D) OPPORTUNITY FOR RESUBMISSION.—If an application is denied, and the applicant can reasonably address the reason for the denial, the Administrator may allow the applicant to reapply for designation.

"(c) PUBLIC INFORMATION.—Designations under subsection (a) shall be published by the Federal Aviation Administration on a publicly accessible website.

"(d) SAVINGS CLAUSE.—Nothing in this section may be construed as prohibiting the Administrator from authorizing operation of an aircraft, including an unmanned aircraft system, over, under, or within a specified distance from that fixed site facility designated under subsection (b).

"(e) DEADLINES.—

"(1) Not later than March 31, 2019, the Administrator shall publish a notice of proposed rulemaking to carry out the requirements of this section.

"(2) Not later than 12 months after publishing the notice of proposed rulemaking under paragraph (1), the Administrator shall issue a final rule.

"(f) DEADLINES.—

"(1) Not later than 90 days after the date of enactment of the FAA Reauthorization Act of 2024 [May 16, 2024], the Administrator shall publish a notice of proposed rulemaking to carry out the requirements of this section.

"(2) Not later than 16 months after publishing the notice of proposed rulemaking under paragraph (1), the Administrator shall issue a final rule based on the notice of proposed rulemaking published under paragraph (1).

"(g) DEFINITION OF STATE PRISON.—In this section, the term 'State prison' means an institution under

State jurisdiction, including a State Department of Corrections, the primary use of which is for the confinement of individuals convicted of a felony.

"SEC. 2210. OPERATIONS ASSOCIATED WITH CRITICAL INFRASTRUCTURE.

"(a) IN GENERAL.—Any application process established under [former] section 333 of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] ([former] 49 U.S.C. 40101 note) shall allow for a person to apply to the Administrator of the Federal Aviation Administration to operate an unmanned aircraft system, for purposes of conducting an activity described in subsection (b)—

"(1) beyond the visual line of sight of the individual operating the unmanned aircraft system; and

"(2) during the day or at night.

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are—

"(1) activities for which manned aircraft may be used to comply with Federal, State, or local laws, including—

"(A) activities to ensure compliance with Federal or State regulatory, permit, or other requirements, including to conduct surveys associated with applications for permits for new pipeline or pipeline systems construction or maintenance or rehabilitation of existing pipelines or pipeline systems; and

"(B) activities relating to ensuring compliance with—

"(i) parts 192 and 195 of title 49, Code of Federal Regulations; and

"(ii) the requirements of any Federal, State, or local governmental or regulatory body, or industry best practice, pertaining to the construction, ownership, operation, maintenance, repair, or replacement of covered facilities;

"(2) activities to inspect, repair, construct, maintain, or protect covered facilities, including for the purpose of responding to a pipeline, pipeline system, or electric energy infrastructure incident; and

"(3) activities in response to or in preparation for a natural disaster, manmade disaster, severe weather event, or other incident beyond the control of the applicant that may cause material damage to a covered facility.

"(c) DEFINITIONS.—In this section, the following definitions apply:

"(1) COVERED FACILITY.—The term 'covered facility' means—

"(A) a pipeline or pipeline system;

"(B) an electric energy generation, transmission, or distribution facility (including a renewable electric energy facility);

"(C) an oil or gas production, refining, or processing facility; or

"(D) any other critical infrastructure facility.

"(2) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' has the meaning given that term in section 2339D of title 18, United States Code.

"(d) DEADLINES.—

"(1) CERTIFICATION TO CONGRESS.—Not later than 90 days after the date of enactment of this Act [July 15, 2016], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a certification that a process has been established to facilitate applications for unmanned aircraft systems operations described in this section.

"(2) FAILURE TO MEET CERTIFICATION DEADLINE.—If the Administrator cannot provide a certification under paragraph (1), the Administrator, not later than 180 days after the deadline specified in paragraph (1), shall update the process under [former] section 333 of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] ([former] 49 U.S.C. 40101 note) to facilitate applications for unmanned aircraft systems operations described in this section.

"(e) EXEMPTIONS.—In addition to the operations described in this section, the Administrator may authorize, exempt, or otherwise allow other unmanned aircraft systems operations under [former] section 333 of the FAA Modernization and Reform Act of 2012 ([former] 49 U.S.C. 40101 note) that are conducted beyond the visual line of sight of the individual operating the unmanned aircraft system or during the day or at night.

"SEC. 2211. UNMANNED AIRCRAFT SYSTEMS RESEARCH AND DEVELOPMENT ROADMAP.

[Amended section 332 of Pub. L. 112–95, formerly set out in a note below.]

"SEC. 2212. UNMANNED AIRCRAFT SYSTEMS-MANNED AIRCRAFT COLLISION RESEARCH.

"(a) RESEARCH.—The Administrator of the Federal Aviation Administration (in this section referred to as the 'Administrator'), in continuation of ongoing work, shall coordinate with the Administrator of the National

Aeronautics and Space Administration to develop a program to conduct comprehensive testing or modeling of unmanned aircraft systems colliding with various sized aircraft in various operational settings, as considered appropriate by the Administrator, including—

"(1) collisions between unmanned aircraft systems of various sizes, traveling at various speeds, and jet aircraft of various sizes, traveling at various speeds;

"(2) collisions between unmanned aircraft systems of various sizes, traveling at various speeds, and propeller-driven aircraft of various sizes, traveling at various speeds;

"(3) collisions between unmanned aircraft systems of various sizes, traveling at various speeds, and rotorcraft of various sizes, traveling at various speeds; and

"(4) collisions between unmanned aircraft systems and various parts of the aforementioned aircraft, including—

"(A) windshields;

"(B) noses;

"(C) engines;

"(D) radomes;

"(E) propellers; and

"(F) wings.

"(b) REPORT.—Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Administrator shall transmit to the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing the costs and results of research under this section.

"SEC. 2213. PROBABILISTIC METRICS RESEARCH AND DEVELOPMENT STUDY.

"(a) STUDY.—Not later than 30 days after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Academies to study the potential use of probabilistic assessments of risks by the Administration to streamline the integration of unmanned aircraft systems into the national airspace system, including any research and development necessary.

"(b) COMPLETION DATE.—Not later than 1 year after the date of enactment of this Act, the Administrator shall provide the results of the study to the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate."

UNMANNED AIRCRAFT JOINT TRAINING AND USAGE PLAN

Pub. L. 113–66, div. A, title X, §1075(a), Dec. 26, 2013, 127 Stat. 870, provided that:

"(1) METHODS.—The Secretary of Defense, the Secretary of Homeland Security, and the Administrator of the Federal Aviation Administration shall jointly develop and implement plans and procedures to review the potential of joint testing and evaluation of unmanned aircraft equipment and systems with other appropriate departments and agencies of the Federal Government that may serve the dual purpose of providing capabilities to the Department of Defense to meet the future requirements of combatant commanders and domestically to strengthen international border security.

"(2) REPORT.—Not later than 270 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense, the Secretary of Homeland Security, and the Administrator of the Federal Aviation Administration shall jointly submit to Congress a report on the status of the development of the plans and procedures required under paragraph (1), including a cost-benefit analysis of the shared expenses between the Department of Defense and other appropriate departments and agencies of the Federal Government to support such plans."

INTERAGENCY COLLABORATION

Pub. L. 112–239, div. A, title X, §1052(b), (c), Jan. 2, 2013, 126 Stat. 1935, 1936, provided that:

"(b) INTERAGENCY COLLABORATION.—

"(1) IN GENERAL.—The Secretary of Defense shall collaborate with the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration to conduct research and seek solutions to challenges associated with the safe integration of unmanned aircraft systems into the National Airspace System in accordance with subtitle B of title III of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 126 Stat. 72) [49 U.S.C. 44802 note].

"(2) ACTIVITIES IN SUPPORT OF PLAN ON ACCESS TO NATIONAL AIRSPACE FOR UNMANNED AIRCRAFT SYSTEMS.—Collaboration under paragraph (1) may include research and development of scientific and technical issues, equipment, and technology in support of the plan to safely

accelerate the integration of unmanned aircraft systems as required by subtitle B of title III of the FAA Modernization and Reform Act of 2012.

"(3) NONDUPLICATIVE EFFORTS.—If the Secretary of Defense determines it is in the interest of the Department of Defense, the Secretary may use existing aerospace-related laboratories, personnel, equipment, research radars, and ground facilities of the Department of Defense to avoid duplication of efforts in carrying out collaboration under paragraph (1).

"(4) REPORTS.—

"(A) REQUIREMENT.—The Secretary of Defense, on behalf of the UAS Executive Committee, shall annually submit to the congressional defense committees, the Committee on Transportation and Infrastructure, and the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on the progress of research activity of the Department of Defense, including—

"(i) progress in accomplishing the goals of the unmanned aircraft systems research, development, and demonstration as related to the Department of Defense Final Report to Congress on Access to National Airspace for Unmanned Aircraft Systems of October 2010, and any ongoing and collaborative research and development programs with the Federal Aviation Administration and the National Aeronautics and Space Administration;

"(ii) estimates of long-term funding needs and details of funds expended and allocated in the budget requests of the President that support integration into the National Airspace; and

"(iii) progress in sharing with the Federal Aviation Administration safety operational and performance data as it relates to unmanned aircraft system operation and the impact on the National Airspace System.

"(B) TERMINATION.—The requirement to submit a report under subparagraph (A) shall terminate on the date that is 5 years after the date of the enactment of this Act [Jan. 2, 2013].

"(c) UAS EXECUTIVE COMMITTEE DEFINED.—In this section, the term 'UAS Executive Committee' means the National Aeronautics and Space and [sic] Administration and the Department of Defense–Federal Aviation Administration executive committee described in section 1036(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 [Pub. L. 110–417; 122 Stat. 4597] and established by the Secretary of Defense and the Administrator of the Federal Aviation Administration."

UNMANNED AIRCRAFT SYSTEMS

Pub. L. 112–95, title III, subtitle B, Feb. 14, 2012, 126 Stat. 72, as amended by Pub. L. 114–190, title I, §1102(i), title II, §§2201(b), 2211, July 15, 2016, 130 Stat. 618, 628, 636; Pub. L. 115–254, div. B, title III, §§341(b)(2), 346(b)(2), 347(b)(2), 349(b)(2), Oct. 5, 2018, 132 Stat. 3287, 3295, 3296, 3300, provided that:

"SEC. 331. DEFINITIONS.

"In this subtitle, the following definitions apply:

"(1) ARCTIC.—The term 'Arctic' means the United States zone of the Chukchi Sea, Beaufort Sea, and Bering Sea north of the Aleutian chain.

"(2) CERTIFICATE OF WAIVER; CERTIFICATE OF AUTHORIZATION.—The terms 'certificate of waiver' and 'certificate of authorization' mean a Federal Aviation Administration grant of approval for a specific flight operation.

"(3) PERMANENT AREAS.—The term 'permanent areas' means areas on land or water that provide for launch, recovery, and operation of small unmanned aircraft.

"(4) PUBLIC UNMANNED AIRCRAFT SYSTEM.—The term 'public unmanned aircraft system' means an unmanned aircraft system that meets the qualifications and conditions required for operation of a public aircraft (as defined in section 40102 of title 49, United States Code).

"(5) SENSE AND AVOID CAPABILITY.—The term 'sense and avoid capability' means the capability of an unmanned aircraft to remain a safe distance from and to avoid collisions with other airborne aircraft.

"(6) SMALL UNMANNED AIRCRAFT.—The term 'small unmanned aircraft' means an unmanned aircraft weighing less than 55 pounds, including everything that is on board or otherwise attached to the aircraft.

"(7) TEST RANGE.—

"(A) IN GENERAL.—The term 'test range' means a defined geographic area where research and development are conducted as authorized by the Administrator of the Federal Aviation Administration.

"(B) INCLUSIONS.—The term 'test range' includes any of the 6 test ranges established by the Administrator of the Federal Aviation Administration under section 332(c), as in effect on the day before the date of enactment of this subparagraph [July 15, 2016], and any public entity authorized by the

Federal Aviation Administration as an unmanned aircraft system flight test center before January 1, 2009.

"(8) UNMANNED AIRCRAFT.—The term 'unmanned aircraft' means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

"(9) UNMANNED AIRCRAFT SYSTEM.—The term 'unmanned aircraft system' means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system.

"[SEC. 332. REPEALED. PUB. L. 115–254, DIV. B, TITLE III, §341(B)(2), OCT. 5, 2018, 132 STAT. 3287.]

"[SEC. 333. REPEALED. PUB. L. 115–254, DIV. B, TITLE III, §347(B)(2), OCT. 5, 2018, 132 STAT. 3296.]

"[SEC. 334. REPEALED. PUB. L. 115–254, DIV. B, TITLE III, §346(B)(2), OCT. 5, 2018, 132 STAT. 3295.]

"SEC. 335. SAFETY STUDIES.

"The Administrator of the Federal Aviation Administration shall carry out all safety studies necessary to support the integration of unmanned aircraft systems into the national airspace system.

"[SEC. 336. REPEALED. PUB. L. 115–254, DIV. B, TITLE III, §349(B)(2), OCT. 5, 2018, 132 STAT. 3300.]"

UNMANNED AERIAL SYSTEMS AND NATIONAL AIRSPACE

Pub. L. 112–81, div. A, title X, §1097, Dec. 31, 2011, 125 Stat. 1608, provided that:

"(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Administrator of the Federal Aviation Administration shall establish a program to integrate unmanned aircraft systems into the national airspace system at six test ranges.

"(b) PROGRAM REQUIREMENTS.—In establishing the program under subsection (a), the Administrator shall—

"(1) safely designate nonexclusionary airspace for integrated manned and unmanned flight operations in the national airspace system;

"(2) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;

"(3) coordinate with and leverage the resources of the Department of Defense and the National Aeronautics and Space Administration;

"(4) address both civil and public unmanned aircraft systems;

"(5) ensure that the program is coordinated with the Next Generation Air Transportation System; and

"(6) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.

"(c) LOCATIONS.—In determining the location of a test range for the program under subsection (a), the Administrator shall—

"(1) take into consideration geographic and climatic diversity;

"(2) take into consideration the location of ground infrastructure and research needs; and

"(3) consult with the Department of Defense and the National Aeronautics and Space Administration.

"(d) TEST RANGE OPERATION.—A project at a test range shall be operational not later than 180 days after the date on which the project is established.

"(e) REPORT.—Not later than 90 days after the date of completing each of the pilot projects, the Administrator shall submit to the appropriate congressional committees a report setting forth the Administrator's findings and conclusions concerning the projects that includes a description and assessment of the progress being made in establishing special use airspace to fill the immediate need of the Department of Defense to develop detection techniques for small unmanned aircraft systems and to validate sensor integration and operation of unmanned aircraft systems.

"(f) DURATION.—The program under subsection (a) shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 31, 2011].

"(g) DEFINITION.—In this section:

"(1) The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Transportation and Infrastructure, and the Committee on Science, Space, and Technology of the House of Representatives; and

"(B) the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) The term 'test range' means a defined geographic area where research and development are conducted."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 14307. UNLEASHING AMERICAN DRONE DOMINANCE

Ex. Ord. No. 14307, June 6, 2025, 90 F.R. 24727, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. Unmanned aircraft systems (UAS), otherwise known as drones, enhance United States productivity, create high-skilled jobs, and are reshaping the future of aviation. Drones are already transforming industries from logistics and infrastructure inspection to precision agriculture, emergency response, and public safety. Emerging technologies such as electric Vertical Takeoff and Landing (eVTOL) aircraft promise to modernize methods for cargo delivery, passenger transport, and other advanced air mobility capabilities.

The United States must accelerate the safe commercialization of drone technologies and fully integrate UAS into the National Airspace System. The time has come to accelerate testing and to enable routine drone operations, scale up domestic production, and expand the export of trusted, American-manufactured drone technologies to global markets. Building a strong and secure domestic drone sector is vital to reducing reliance on foreign sources, strengthening critical supply chains, and ensuring that the benefits of this technology are delivered to the American people.

SEC. 2. *Definitions*. For the purposes of this order:

(a) The term "agency" has the meaning given to the term in 44 U.S.C. 3502(1).

(b) The terms "unmanned aircraft system" and "drone" have the meaning given to the term "unmanned aircraft system" in 49 U.S.C. 44801(12).

SEC. 3. *Policy*. It is the policy of the United States to ensure continued American leadership in the development, commercialization, and export of UAS by:

(a) accelerating the safe integration of UAS into the National Airspace System through timely, risk-based rulemaking that enables routine advanced operations;

(b) advancing the domestic commercialization of UAS technologies at scale, including their safe and secure manufacturing, production, and integration, by supporting industry-led innovation, reducing regulatory uncertainty, and streamlining approvals and certification processes, including for consumer goods delivery and environmental reviews; and

(c) strengthening the domestic drone industrial base and promoting the export of trusted, American-manufactured UAS through updated economic policies and regulation, coordinated trade, financing, and foreign engagement tools.

SEC. 4. *Expanding Commercial Unmanned Aircraft Systems Operations*. (a) Within 30 days of the date of this order [June 6, 2025], the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (FAA), shall issue a proposed rule enabling routine Beyond Visual Line of Sight (BVLOS) operations for UAS for commercial and public safety purposes. A final rule shall be published within 240 days of the date of this order, as appropriate.

(b) Within 30 days of the date of this order, the Secretary of Transportation, acting through the Administrator of the FAA, shall establish clear metrics for assessing the performance and safety of BVLOS operations, and within 180 days of the date of this order, shall identify and describe additional regulatory barriers and challenges to BVLOS implementation, with recommendations to the President through the Director of the Office of Science and Technology Policy (OSTP) for addressing such issues expeditiously and informing future rulemaking or legislative actions.

(c) Within 120 days of the date of this order, the Secretary of Transportation, acting through the Administrator of the FAA, shall initiate the deployment of artificial intelligence (AI) tools to assist in and expedite the review of UAS waiver applications under 14 CFR part 107. These AI tools shall:

(i) support performance- and risk-based evaluation of proposed operations;

(ii) identify materially similar precedents and recommend consistent mitigation measures;

(iii) assist the FAA in identifying categories of operations with sufficient safety data or recurring approval patterns that may warrant further rulemaking to eliminate the need for individualized waivers; and

(iv) be used in accordance with guidance on Federal use of AI as detailed in Office of Management and Budget Memorandum M-25-21.

(d) The Secretary of Transportation, acting through the Administrator of the FAA, shall immediately explore options to ensure that UAS flights beginning and ending in United States airspace, or United States-owned facilities in the high seas, can operate without being subject to the onerous requirements applicable to manned aircraft engaging in international navigation as referenced in the Convention on International Civil Aviation.

SEC. 5. *Furthering Unmanned Aircraft Systems Integration into the National Airspace System*. (a) Within 240 days of the date of this order, the Secretary of Transportation, acting through the Administrator of the FAA, shall publish an updated roadmap for the integration of civil UAS into the National Airspace System.

(b) The Secretary of Transportation, acting through the Administrator of the FAA, shall ensure all FAA UAS Test Ranges are fully utilized to support the development, testing, and scaling of American drone technologies, with a focus on BVLOS operations, increasingly autonomous operations, advanced air mobility, and other advanced operations. The Secretary shall prioritize the generation of safety and performance data at UAS Test Ranges to inform FAA rulemaking, identify regulatory gaps and operational challenges, and support the integration of emerging UAS capabilities into the National Airspace System.

SEC. 6. *Establishment of an Electric Vertical Takeoff and Landing Pilot Program*. (a) The Secretary of Transportation, acting through the Administrator of the FAA, and in coordination with the Director of OSTP, shall establish the eVTOL Integration Pilot Program (eIPP) as an extension of the BEYOND program to accelerate the deployment of safe and lawful eVTOL operations in the United States.

(i) Within 90 days of the date of this order, the Secretary of Transportation, acting through the Administrator of the FAA, shall issue a public request for proposals to State, local, tribal, and territorial governments. Proposals must be submitted within 90 days of the request and include a private sector partner with demonstrated experience in eVTOL aircraft development, manufacturing, and operations.

(ii) Within 180 days of the request, the Secretary of Transportation, acting through the Administrator of the FAA, shall select at least five pilot projects that plan to begin eVTOL operations within 90 days after the date on which any agreement for a pilot project is established. Selection criteria shall include, at a minimum, the use of eVTOL aircraft and technologies developed or offered by a United States-based entity; overall representation of economic and geographic operations and proposed models of public-private partnership; and overall representation of the operations to be conducted, including advanced air mobility, medical response, cargo transport, and rural access.

(iii) The Secretary of Transportation, acting through the Administrator of the FAA, shall execute agreements with selected applicants, outlining project goals, regulatory needs, timelines, information sharing and data exchange mechanisms, and responsibilities. The Secretary of Transportation shall use all available authorities to the fullest extent to support safe and timely operations under the eIPP.

(iv) Within 180 days after the selection of pilot program participants, the Secretary of Transportation shall submit an initial implementation report to the President through the Director of OSTP, summarizing early-stage planning, interagency coordination, and any immediate regulatory or legislative challenges identified. The Secretary of Transportation shall submit an annual report thereafter and, upon program completion, shall submit a final report to the President, through the Director of OSTP, that includes, at a minimum, an evaluation of program goals and outcomes; recommendations for the permanent integration of eVTOL operations into the national airspace; and any proposed future initiatives to maintain United States leadership in eVTOL flight.

(v) The eIPP shall conclude 3 years after the date the first pilot project becomes operational, unless the Secretary of Transportation determines that an extension is warranted in the national interest.

(vi) Before and after the conclusion of the eIPP, the Secretary of Transportation shall use the information and experience yielded by the eIPP to inform the development of regulations, initiatives, and plans to enable safe eVTOL operations, and shall, as appropriate, share information with the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the heads of other relevant agencies.

(vii) The Secretary of Transportation, in consultation with the Director of OSTP, may expand this pilot program to other advanced aviation aircraft as warranted.

SEC. 7. *Strengthening the American Drone Industrial Base*. (a) All agencies shall prioritize the integration of UAS manufactured in the United States over those made abroad to the maximum extent permitted by law.

(b) In order to protect the integrity of America's drone supply chain and ensure our technology remains secure from undue foreign influence and exploitation, within 30 days of the date of this order, the Federal Acquisition Security Council shall publish a Covered Foreign Entity List, as defined in section 1822(1) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) [41 U.S.C. 3901 prec note], identifying companies that pose supply chain risks.

(c) To ensure that vital components remain under American control and free from national security risks, within 90 days of the date of this order, the Secretary of Commerce shall take actions, including proposing rulemaking and conducting investigations, to secure the United States drone supply chain against foreign control or exploitation.

SEC. 8. *Promoting the Export of American-Made Civil Unmanned Aircraft Systems*. (a) The Secretary of Commerce, in coordination with the Secretary of State, the Secretary of Defense, and the Secretary of Energy, shall review and, as appropriate and consistent with applicable law, amend export control regulations within

90 days of the date of this order to enable the expedited export of United States-manufactured civil UAS to foreign partners, provided such end-users and recipient countries are not identified as foreign adversaries and the export does not pose a risk of diversion to programs of concern, or are otherwise restricted under applicable statutes or regulations.

(b) The Secretary of Commerce shall designate the export of United States-manufactured civil UAS as a priority area within the Department of Commerce's export promotion efforts and shall coordinate interagency initiatives to expand market access, reduce foreign trade barriers, and promote international interoperability.

(c) The Secretary of Defense, the President of the Export-Import Bank of the United States, the Chief Executive Officer of the United States International Development Finance Corporation, and the Director of the Trade and Development Agency shall, to the maximum extent permitted by law, prioritize and support the export of United States-manufactured civil UAS and related systems through the use of, as appropriate:

(i) direct loans and loan guarantees;

(ii) equity investments and co-financing;

(iii) political risk insurance and credit guarantees;

(iv) technical assistance, feasibility studies, and grant mechanisms;

(v) market access facilitation; and

(vi) any other incentive mechanisms authorized by law.

SEC. 9. *Delivering Drones to Our Warfighters*. (a) The Department of Defense must be able to procure, integrate, and train using low-cost, high-performing drones manufactured in the United States. The Secretary of Defense shall:

(i) ensure all platforms on the Defense Innovation Unit's (DIU) Blue UAS List can, as soon as possible and to the fullest extent practicable, operate on all military installations or ranges without requiring an exception to policy;

(ii) within 90 days of the date of this order, expand DIU's Blue UAS List to include all drones and critical drone components compliant with section 848 of the National Defense Authorization Act for Fiscal Year 2020 ("FY 2020 NDAA") (Public Law 116–92) [10 U.S.C 4871 note] to the fullest extent practicable;

(iii) update the Blue UAS List on a monthly basis;

(iv) ensure the procurement of drones compliant with section 848 of the FY 2020 NDAA and made by United States companies is prioritized over the procurement of drones made by all other companies to the maximum extent practicable and that exemptions and waivers to section 848 of the FY 2020 NDAA are used only when absolutely necessary to accomplish the mission; and

(v) ensure that compliance with section 848 of the FY 2020 NDAA does not inhibit the rapid adoption of drone technology required to exceed the capabilities of our foreign adversaries.

(b) Within 90 days of the date of this order, the Secretary of Defense shall coordinate with the Secretary of Transportation, acting through the Administrator of the FAA to streamline the approval processes to expand access to airspace for conducting UAS training. Within 90 days of the date of this order, the Secretary of Defense shall, in consultation with the Secretary of Commerce, acting through the Assistant Secretary of Commerce for Communications and Information, and the Federal Communications Commission, submit a report to the President through the Assistant to the President for National Security Affairs (APNSA) describing any unnecessary barriers to accessing electromagnetic spectrum for conducting UAS training.

(c) Within 90 days of the date of this order, the Secretary of Defense shall task the Secretary of each military department to identify programs that would be more cost efficient or lethal if replaced by UAS and shall submit a report to the President through the APNSA.

SEC. 10. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of Transportation.

DONALD J. TRUMP.

PROMOTING ECONOMIC COMPETITIVENESS WHILE SAFEGUARDING PRIVACY, CIVIL RIGHTS, AND CIVIL LIBERTIES IN DOMESTIC USE OF UNMANNED AIRCRAFT SYSTEMS

Memorandum of President of the United States, Feb. 15, 2015, 80 F.R. 9355, provided:

Memorandum for the Heads of Executive Departments and Agencies

Unmanned Aircraft Systems (UAS) technology continues to improve rapidly, and increasingly UAS are able to perform a variety of missions with greater operational flexibility and at a lower cost than comparable manned aircraft. A wide spectrum of domestic users—including industry, private citizens, and Federal, State, local, tribal, and territorial governments—are using or expect to use these systems, which may play a transformative role in fields as diverse as urban infrastructure management, farming, public safety, coastal security, military training, search and rescue, and disaster response.

The Congress recognized the potential wide-ranging benefits of UAS operations within the United States in the FAA Modernization and Reform Act of 2012 (Public Law 112–95), which requires a plan to safely integrate civil UAS into the National Airspace System (NAS) by September 30, 2015. As compared to manned aircraft, UAS may provide lower-cost operation and augment existing capabilities while reducing risks to human life. Estimates suggest the positive economic impact to U.S. industry of the integration of UAS into the NAS could be substantial and likely will grow for the foreseeable future.

As UAS are integrated into the NAS, the Federal Government will take steps to ensure that the integration takes into account not only our economic competitiveness and public safety, but also the privacy, civil rights, and civil liberties concerns these systems may raise.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish transparent principles that govern the Federal Government's use of UAS in the NAS, and to promote the responsible use of this technology in the private and commercial sectors, it is hereby ordered as follows:

SECTION 1. *UAS Policies and Procedures for Federal Government Use*. The Federal Government currently operates UAS in the United States for several purposes, including to manage Federal lands, monitor wildfires, conduct scientific research, monitor our borders, support law enforcement, and effectively train our military. As with information collected by the Federal Government using any technology, where UAS is the platform for collection, information must be collected, used, retained, and disseminated consistent with the Constitution, Federal law, and other applicable regulations and policies. Agencies must, for example, comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the "Privacy Act"), which, among other things, restricts the collection and dissemination of individuals' information that is maintained in systems of records, including personally identifiable information (PII), and permits individuals to seek access to and amendment of records.

(a) *Privacy Protections*. Particularly in light of the diverse potential uses of UAS in the NAS, expected advancements in UAS technologies, and the anticipated increase in UAS use in the future, the Federal Government shall take steps to ensure that privacy protections and policies relative to UAS continue to keep pace with these developments. Accordingly, agencies shall, prior to deployment of new UAS technology and at least every 3 years, examine their existing UAS policies and procedures relating to the collection, use, retention, and dissemination of information obtained by UAS, to ensure that privacy, civil rights, and civil liberties are protected. Agencies shall update their policies and procedures, or issue new policies and procedures, as necessary. In addition to requiring compliance with the Privacy Act in applicable circumstances, agencies that collect information through UAS in the NAS shall ensure that their policies and procedures with respect to such information incorporate the following requirements:

(i) *Collection and Use*. Agencies shall only collect information using UAS, or use UAS-collected information, to the extent that such collection or use is consistent with and relevant to an authorized purpose.

(ii) *Retention*. Information collected using UAS that may contain PII shall not be retained for more than 180 days unless retention of the information is determined to be necessary to an authorized mission of the retaining agency, is maintained in a system of records covered by the Privacy Act, or is required to be retained for a longer period by any other applicable law or regulation.

(iii) *Dissemination*. UAS-collected information that is not maintained in a system of records covered by the Privacy Act shall not be disseminated outside of the agency unless dissemination is required by law, or fulfills an authorized purpose and complies with agency requirements.

(b) *Civil Rights and Civil Liberties Protections*. To protect civil rights and civil liberties, agencies shall:

(i) ensure that policies are in place to prohibit the collection, use, retention, or dissemination of data in any manner that would violate the First Amendment or in any manner that would discriminate against persons based upon their ethnicity, race, gender, national origin, religion, sexual orientation, or gender identity, in violation of law;

(ii) ensure that UAS activities are performed in a manner consistent with the Constitution and applicable laws, Executive Orders, and other Presidential directives; and

(iii) ensure that adequate procedures are in place to receive, investigate, and address, as appropriate, privacy, civil rights, and civil liberties complaints.

(c) *Accountability*. To provide for effective oversight, agencies shall:

(i) ensure that oversight procedures for agencies' UAS use, including audits or assessments, comply with existing agency policies and regulations;

(ii) verify the existence of rules of conduct and training for Federal Government personnel and contractors who work on UAS programs, and procedures for reporting suspected cases of misuse or abuse of UAS technologies;

(iii) establish policies and procedures, or confirm that policies and procedures are in place, that provide meaningful oversight of individuals who have access to sensitive information (including any PII) collected using UAS;

(iv) ensure that any data-sharing agreements or policies, data use policies, and record management policies applicable to UAS conform to applicable laws, regulations, and policies;

(v) establish policies and procedures, or confirm that policies and procedures are in place, to authorize the use of UAS in response to a request for UAS assistance in support of Federal, State, local, tribal, or territorial government operations; and

(vi) require that State, local, tribal, and territorial government recipients of Federal grant funding for the purchase or use of UAS for their own operations have in place policies and procedures to safeguard individuals' privacy, civil rights, and civil liberties prior to expending such funds.

(d) *Transparency*. To promote transparency about their UAS activities within the NAS, agencies that use UAS shall, while not revealing information that could reasonably be expected to compromise law enforcement or national security:

(i) provide notice to the public regarding where the agency's UAS are authorized to operate in the NAS;

(ii) keep the public informed about the agency's UAS program as well as changes that would significantly affect privacy, civil rights, or civil liberties; and

(iii) make available to the public, on an annual basis, a general summary of the agency's UAS operations during the previous fiscal year, to include a brief description of types or categories of missions flown, and the number of times the agency provided assistance to other agencies, or to State, local, tribal, or territorial governments.

(e) *Reports*. Within 180 days of the date of this memorandum, agencies shall provide the President with a status report on the implementation of this section. Within 1 year of the date of this memorandum, agencies shall publish information on how to access their publicly available policies and procedures implementing this section.

SEC. 2. *Multi-stakeholder Engagement Process*. In addition to the Federal uses of UAS described in section 1 of this memorandum, the combination of greater operational flexibility, lower capital requirements, and lower operating costs could allow UAS to be a transformative technology in the commercial and private sectors for fields as diverse as urban infrastructure management, farming, and disaster response. Although these opportunities will enhance American economic competitiveness, our Nation must be mindful of the potential implications for privacy, civil rights, and civil liberties. The Federal Government is committed to promoting the responsible use of this technology in a way that does not diminish rights and freedoms.

(a) There is hereby established a multi-stakeholder engagement process to develop and communicate best practices for privacy, accountability, and transparency issues regarding commercial and private UAS use in the NAS. The process will include stakeholders from the private sector.

(b) Within 90 days of the date of this memorandum, the Department of Commerce, through the National Telecommunications and Information Administration, and in consultation with other interested agencies, will initiate this multi-stakeholder engagement process to develop a framework regarding privacy, accountability, and transparency for commercial and private UAS use. For this process, commercial and private use includes the use of UAS for commercial purposes as civil aircraft, even if the use would qualify a UAS as a public aircraft under 49 U.S.C. 40102(a)(41) and 40125. The process shall not focus on law enforcement or other noncommercial governmental use.

SEC. 3. *Definitions*. As used in this memorandum:

(a) "Agencies" means executive departments and agencies of the Federal Government that conduct UAS operations in the NAS.

(b) "Federal Government use" means operations in which agencies operate UAS in the NAS. Federal Government use includes agency UAS operations on behalf of another agency or on behalf of a State, local, tribal, or territorial government, or when a nongovernmental entity operates UAS on behalf of an agency.

(c) "National Airspace System" means the common network of U.S. airspace; air navigation facilities, equipment, and services; airports or landing areas; aeronautical charts, information, and services; related rules, regulations, and procedures; technical information; and manpower and material. Included in this definition are system components shared jointly by the Departments of Defense, Transportation, and Homeland Security.

(d) "Unmanned Aircraft System" means an unmanned aircraft (an aircraft that is operated without direct human intervention from within or on the aircraft) and associated elements (including communication links and components that control the unmanned aircraft) that are required for the pilot or system operator in command to operate safely and efficiently in the NAS.

(e) "Personally identifiable information" refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, as set forth in Office of Management and Budget Memorandum M–07–16 (May 22, 2007) and Office of Management and Budget Memorandum M–10–23 (June 25, 2010).

SEC. 4. *General Provisions*. (a) This memorandum complements and is not intended to supersede existing laws and policies for UAS operations in the NAS, including the National Strategy for Aviation Security and its supporting plans, the FAA Modernization and Reform Act of 2012, the Federal Aviation Administration's (FAA's) Integration of Civil UAS in the NAS Roadmap, and the FAA's UAS Comprehensive Plan.

(b) This memorandum shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(c) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(d) Independent agencies are strongly encouraged to comply with this memorandum.

(e) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(f) The Secretary of Commerce is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

UNMANNED AIRCRAFT SYSTEMS INTEGRATION PILOT PROGRAM

Memorandum of President of the United States, Oct. 25, 2017, 82 F.R. 50301, provided:

Memorandum for the Secretary of Transportation

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. It shall be the policy of the United States to promote the safe operation of unmanned aircraft systems (UAS) and enable the development of UAS technologies for use in agriculture, commerce, emergency management, human transportation, and other sectors. Compared to manned aircraft, UAS provide novel, low-cost capabilities for both public and private applications. UAS present opportunities to enhance the safety of the American public, increase the efficiency and productivity of American industry, and create tens of thousands of new American jobs.

The private sector has rapidly advanced UAS capabilities to address the needs of recreational, commercial, and public users. To promote continued technological innovation and to ensure the global leadership of the United States in this emerging industry, the regulatory framework for UAS operations must be sufficiently flexible to keep pace with the advancement of UAS technology, while balancing the vital Federal roles in protecting privacy and civil liberties; mitigating risks to national security and homeland security; and protecting the safety of the American public, critical infrastructure, and the Nation's airspace. Well-coordinated integration of UAS into the national airspace system (NAS) alongside manned aircraft will increase the safety of the NAS and enable the authorization of more complex UAS operations.

The Federal Aviation Administration (FAA) has taken steps to integrate UAS into the NAS at specific test sites and has issued operational requirements for small UAS operations in the NAS. Further integration will require continued private-sector cooperation and the involvement of State, local, and tribal governments in Federal efforts to develop and enforce regulations on UAS operations in their jurisdictions. Input from State, local, tribal, and private-sector stakeholders will be necessary to craft an optimal strategy for the national management of UAS operations. A coordinated effort between the private sector and among these governments will provide certainty and stability to UAS owners and operators, maximize the benefits of UAS technologies for the public, and mitigate risks to public safety and security.

SEC. 2. *UAS Integration Pilot Program*. (a) Within 90 days of the date of this memorandum, the Secretary of Transportation (Secretary), in consultation with the Administrator of the FAA (Administrator), shall establish a UAS Integration Pilot Program (Program) to test the further integration of UAS into the NAS in a select number of State, local, and tribal jurisdictions.

(b) The objectives of the Program shall be to:

(i) test and evaluate various models of State, local, and tribal government involvement in the development and enforcement of Federal regulations for UAS operations;

(ii) encourage UAS owners and operators to develop and safely test new and innovative UAS concepts of operations; and

(iii) inform the development of future Federal guidelines and regulatory decisions on UAS operations nationwide.

SEC. 3. *Implementation*. (a) To implement the Program, the Secretary or the Administrator, as appropriate, shall:

(i) solicit proposals from State, local, and tribal governments to test within their jurisdictions the integration of civil and public UAS operations into the NAS below 200 feet above ground level, or up to 400 feet above ground level if the Secretary determines that such an adjustment would be appropriate;

(ii) select proposals by State, local, and tribal governments for participation in the Program according to the criteria listed in subsection (b) of this section;

(iii) enter into agreements with the selected governments to establish the terms of their involvement in UAS operations within their jurisdictions, including their support for Federal enforcement responsibilities; describe the proposed UAS operations to be conducted; and identify the entities that will conduct such operations, including, if applicable, the governments themselves; and

(iv) as necessary, use existing authorities to grant exceptions, exemptions, authorizations, and waivers from FAA regulations to the entities identified in the agreements described in subsection (iii) of this section [sic], including through the issuance of waivers under 14 CFR Part 107 and Certificates of Waiver or Authorization under [former] section 333 of the FAA Modernization and Reform Act of 2012 (FMRA) (Public Law 112–95) [see note above].

(b) In selecting proposals for participation in the Program under subsection (a) of this section, the Secretary shall consider:

(i) overall economic, geographic, and climatic diversity of the selected jurisdictions;

(ii) overall diversity of the proposed models of government involvement;

(iii) overall diversity of the UAS operations to be conducted;

(iv) the location of critical infrastructure;

(v) the involvement of commercial entities in the proposal, and their ability to advance objectives that may serve the public interest as a result of further integration of UAS into the NAS;

(vi) the involvement of affected communities in, and their support for, participating in the Program;

(vii) the commitment of the governments and UAS operators involved in the proposal to comply with requirements related to national defense, homeland security, and public safety, and to address competition, privacy, and civil liberties concerns; and

(viii) the commitment of the governments and UAS operators involved in the proposal to achieve the following policy objectives:

(A) promoting innovation and economic development;

(B) enhancing transportation safety;

(C) enhancing workplace safety;

(D) improving emergency response and search and rescue functions; and

(E) using radio spectrum efficiently and competitively.

(c) Within 180 days of the establishment of the Program, the Secretary shall enter into agreements with State, local, or tribal governments to participate in the Program, with the goal of entering into at least 5 such agreements by that time.

(d) In carrying out subsection (c) of this section, the Secretary shall select State, local, or tribal governments that plan to begin integration of UAS into the NAS in their jurisdictions within 90 days after the date on which the agreement is established.

(e) The Secretary shall consider new proposals for participation in the Program up to 1 year before the Program is scheduled to terminate.

(f) The Secretary shall apply best practices from existing FAA test sites, waivers granted under 14 CFR part 107, exemptions granted under [former] section 333 of the FMRA, the FAA Focus Area Pathfinder Program, and any other relevant programs in order to expedite the consideration of exceptions, exemptions, authorizations, and waivers from FAA regulations to be granted under the Program, as described in subsection (a)(iv) of this section.

(g) The Secretary shall address any non-compliance with the terms of exceptions, exemptions, authorizations, waivers granted, or agreements made with UAS users or participating jurisdictions in a timely and appropriate manner, including by revoking or modifying the relevant terms.

SEC. 4. *Coordination*. (a) The Administrator, in coordination with the Administrator of the National

Aeronautics and Space Administration, shall apply relevant information collected during the Program and preliminary findings to inform the development of the UAS Traffic Management System under section 2208 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190) [set out in a note above].

(b) The Secretary, in coordination with the Secretaries of Defense and Homeland Security and the Attorney General, shall take necessary and appropriate steps to:

(i) mitigate risks to public safety and homeland and national security when selecting proposals and implementing the Program; and

(ii) monitor compliance with relevant laws and regulations to ensure that Program activities do not interfere with national defense, homeland security, or law enforcement operations and missions.

(c) The heads of executive departments and agencies with relevant law enforcement responsibilities (Federal law enforcement agencies), including the Attorney General and the Secretary of Homeland Security, shall develop and implement best practices to enforce the laws and regulations governing UAS operations conducted under the Program.

(d) In carrying out the responsibilities set forth in subsection (c) of this section, the heads of Federal law enforcement agencies shall coordinate with the Secretaries of Defense and Transportation, as well as with the relevant State, local, or tribal law enforcement agencies.

(e) In implementing the Program, the Secretary shall coordinate with the Secretaries of Defense and Homeland Security and the Attorney General to test counter-UAS capabilities, as well as platform and system-wide cybersecurity, to the extent appropriate and consistent with law.

SEC. 5. *Evaluation and Termination of UAS Integration Pilot Program*. (a) The Program shall terminate 3 years from the date of this memorandum, unless extended by the Secretary.

(b) Before and after the termination of the Program, the Secretary shall use the information and experience yielded by the Program to inform the development of regulations, initiatives, and plans to enable safer and more complex UAS operations, and shall, as appropriate, share information with the Secretaries of Defense and Homeland Security, the Attorney General, and the heads of other executive departments and agencies.

(c) After the date of this memorandum and until the Program is terminated, the Secretary, in consultation with the Secretaries of Defense and Homeland Security and the Attorney General, shall submit an annual report to the President setting forth the Secretary's interim findings and conclusions concerning the Program. Not later than 90 days after the Program is terminated, the Secretary shall submit a final report to the President setting forth the Secretary's findings and conclusions concerning the Program.

SEC. 6. *Definitions*. As used in this memorandum, the next stated terms, in singular and plural, are defined as follows:

(a) The term "unmanned aircraft system" has the meaning given that term in section 331 of the FMRA [Pub. L. 112–95, set out in a note above].

(b) The term "public unmanned aircraft system" has the meaning given that term in section 331 of the FMRA.

(c) The term "civil unmanned aircraft system" means an unmanned aircraft system that meets the qualifications and conditions required for operation of a civil aircraft, as defined in 49 U.S.C. 40102.

SEC. 7. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof;

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals; or

(iii) the conduct of public aircraft operations, as defined in 49 U.S.C. 40102(a)(41) and 40125, by executive departments and agencies, consistent with applicable Federal law.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

[1] *See Prior Provisions note below.*

§44803. Unmanned aircraft system test ranges

(a) TEST RANGES.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall carry out and update, as appropriate, a program for the use of unmanned aircraft system (in this section referred to as UAS) test ranges to—

(A) enable a broad variety of development, testing, and evaluation activities related to UAS and associated technologies; and

(B) the extent consistent with aviation safety and efficiency, support the safe integration of unmanned aircraft systems into the national airspace system.

(2) DESIGNATIONS.—

(A) EXISTING TEST RANGES.—Test ranges designated under this section shall include the 7 test ranges established under the following:

(i) Section 332(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note), as in effect on the day before the date of enactment of the FAA Reauthorization Act of 2018 (Public Law 115–254).

(ii) Any other test ranges designated pursuant to the amendment made by section 2201(b) of the FAA Extension, Safety, and Security Act of 2016 (49 U.S.C. 40101 note) after the date of enactment of such Act.

(B) NEW TEST RANGES.—If the Administrator finds that it is in the best interest of enabling safe UAS integration into the national airspace system, the Administrator may select and designate as a test range under this section up to 2 additional test ranges in accordance with the requirements of this section through a competitive selection process.

(C) LIMITATION.—Not more than 9 test ranges designated under this section shall be part of the program established under this section at any given time.

(3) ELIGIBILITY.—Test ranges selected by the Administrator pursuant to (2)(B) shall—

(A) be an instrumentality of a State, local, Tribal, or territorial government or other public entity;

(B) be approved by the chief executive officer of the State, local, territorial, or Tribal government for the principal place of business of the applicant, prior to seeking designation by the Administrator;

(C) undertake and ensure testing and evaluation of innovative concepts, technologies, and operations that will offer new safety benefits, including developing and retaining an advanced aviation industrial base within the United States; and

(D) meet any other requirements established by the Administrator.

(b) AIRSPACE REQUIREMENTS.—

(1) IN GENERAL.—In carrying out the program under subsection (a), the Administrator may establish, upon the request of a test range sponsor designated by the Administrator under subsection (a), a restricted area, special use airspace, or other similar type of airspace pursuant to part 73 of title 14, Code of Federal Regulations, for purposes of—

(A) accommodating hazardous development, testing, and evaluation activities to inform the safe integration of unmanned aircraft systems into the national airspace system; or

(B) other activities authorized by the Administrator pursuant to subsection (f).

(2) NEPA REVIEW.—The Administrator may require that each test range sponsor designated by the Administrator under subsection (a) provide a draft environmental review consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), subject to the supervision of and adoption by the Administrator, with respect to any request for the establishment of a restricted area, special use airspace, or other similar type of airspace under this subsection.

(3) INACTIVE RESTRICTED AREA OR SPECIAL USE AIRSPACE.—

(A) IN GENERAL.—In the event a restricted area, special use airspace, or other similar type

of airspace established under paragraph (1) is not needed to meet the needs of the using agency (as described in subparagraph (B)), any related airspace restrictions, limitations, or designations shall be inactive.

(B) USING AGENCY.—For purposes of this subsection, a test range sponsor designated by the Administrator under subsection (a) shall be considered the using agency with respect to a restricted area established by the Administrator under this subsection.

(4) APPROVAL AUTHORITY.—The Administrator shall have the authority to approve access by a participating or nonparticipating operator to a test range or restricted area, special use airspace, or other similar type of airspace established by the Administrator under this subsection.

(c) PROGRAM REQUIREMENTS.—In carrying out the program under subsection (a), the Administrator—

(1) may develop operational standards and air traffic requirements for flight operations at test ranges;

(2) shall coordinate with, and leverage the resources of, the Administrator of the National Aeronautics and Space Administration and other relevant Federal agencies, as determined appropriate by the Administrator;

(3) shall address both civil and public aircraft operations;

(4) shall provide for verification of the safety of flight systems and related navigation procedures as such systems and procedures relate to the continued development of regulations and standards for integration of unmanned aircraft systems into the national airspace system;

(5) shall engage test range sponsors, as necessary and with available resources, in projects for development, testing, and evaluation of flight systems, including activities conducted pursuant to section 1042 of the FAA Reauthorization Act of 2024, to facilitate the development of regulations and the validation of standards by the Administrator for the safe integration of unmanned aircraft systems into the national airspace system, which may include activities related to—

(A) developing and enforcing geographic and altitude limitations;

(B) providing for alerts regarding any hazards or limitations on flight, including prohibition on flight, as necessary;

(C) developing or validating sense and avoid capabilities;

(D) developing or validating technology to support communications, navigation, and surveillance;

(E) testing or validating operational concepts and technologies related to beyond visual line of sight operations, autonomous operations, nighttime operations, operations over people, operations involving multiple unmanned aircraft systems by a single pilot or operator, and unmanned aircraft systems traffic management capabilities or services;

(F) improving privacy protections through the use of advances in unmanned aircraft systems;

(G) conducting counter-UAS testing capabilities, with the approval of the Administrator; and

(H) other relevant topics for which development, testing or evaluation are needed;

(6) shall develop data sharing and collection requirements for test ranges to support the unmanned aircraft systems integration efforts of the Administration and coordinate periodically with all test range sponsors to ensure the test range sponsors know—

(A) what data should be collected;

(B) how data can be de-identified to flow more readily to the Administration;

(C) what procedures should be followed; and

(D) what development, testing, and evaluation would advance efforts to safely integrate unmanned aircraft systems into the national airspace system;

(7) shall allow test range sponsors to receive Federal funding, including in-kind contributions, other than from the Federal Aviation Administration, in furtherance of research, development, testing, and evaluation objectives; and

(8) shall use modeling and simulation tools to assist in the testing, evaluation, verification, and validation of unmanned aircraft systems.

(d) EXEMPTION.—Except as provided in subsection (f), the requirements of section 44711, including any related implementing regulations, shall not apply to persons approved by the test range sponsor for operation at a test range designated by the Administrator under this section.

(e) RESPONSIBILITIES OF TEST RANGE SPONSORS.—The sponsor of each test range designated by the Administrator under subsection (a) shall—

(1) provide access to all interested private and public entities seeking to carry out research, development, testing and evaluation activities at the test range designated pursuant to this section, to the greatest extent practicable, consistent with safety and any operating procedures established by the test range sponsor, including access by small business concerns (as such term is defined in section 3 of the Small Business Act (15 U.S.C. 632));

(2) ensure all activities remain within the geographical boundaries and altitude limitations established for any restricted area, special use airspace, or other similar type of airspace covering the test range;

(3) ensure no activity is conducted at the designated test range in a careless or reckless manner;

(4) establish safe operating procedures for all operators approved for activities at the test range, including provisions for maintaining operational control and ensuring protection of persons and property on the ground, subject to approval by the Administrator;

(5) exercise direct oversight of all operations conducted at the test range;

(6) consult with the Administrator on the nature of planned activities at the test range and whether temporary segregation of the airspace is required to contain such activities consistent with aviation safety;

(7) protect proprietary technology, sensitive data, or sensitive research of any civil or private entity when using the test range;

(8) maintain detailed records of all ongoing and completed activities conducted at the test range and all operators conducting such activities, for inspection by, and reporting to, the Administrator, as required by agreement between the Administrator and the test range sponsor;

(9) make all original records available for inspection upon request by the Administrator; and

(10) provide recommendations, on a quarterly basis until the program terminates, to the Administrator to further enable public and private development, testing, and evaluation activities at the test ranges to contribute to the safe integration of unmanned aircraft systems into the national airspace system.

(f) TESTING.—

(1) IN GENERAL.—The Administrator may authorize a sponsor of a test range designated under subsection (a) to host research, development, testing, and evaluation activities, including activities conducted pursuant to section 1042 of the FAA Reauthorization Act of 2024, as appropriate, other than activities directly related to the integration of unmanned aircraft systems into the national airspace system, so long as the activity is necessary to inform the development of regulations, standards, or policy for integrating new types of flight systems into the national airspace system.

(2) WAIVER.— In carrying out this section, the Administrator may waive the requirements of section 44711 (including any related implementing regulations) to the extent the Administrator determines such waiver is consistent with aviation safety.

(g) COLLABORATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—The Administrator may use the transaction authority under section 106(l)(6), including in coordination with the Center of Excellence for Unmanned Aircraft Systems, to enter into collaborative research and development agreements or to direct research, development, testing, and evaluation related to unmanned aircraft systems, including activities conducted pursuant to section 1042 of the FAA Reauthorization Act of 2024, as appropriate, at any test range designated under subsection (a).

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTABLISHMENT.—Out of amounts authorized to be appropriated under section 106(k), $6,000,000 for each of fiscal years 2025 through 2028, shall be available to the Administrator for the purposes of—

(A) providing matching funds to commercial entities that contract with a UAS test range to demonstrate or validate technologies that the FAA considers essential to the safe integration of UAS into the national airspace system; and

(B) supporting or performing such demonstration and validation activities described in subparagraph (A) at a test range designated under the section.

(2) DISBURSEMENT.—Funding provided under this subsection shall be divided evenly among all UAS test ranges designated under this section, for the purpose of providing matching funds to commercial entities described in paragraph (1) and available until expended.

(i) TERMINATION.—The program under this section shall terminate on September 30, 2028.

(Added Pub. L. 118–63, title IX, §925(a), May 16, 2024, 138 Stat. 1356.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 332(c) of the FAA Modernization and Reform Act of 2012, referred to in subsec. (a)(2)(A)(i), is section 332(c) of Pub. L. 112–95, which is set out as a note under section 40101 of this title.

The date of enactment of the FAA Reauthorization Act of 2018, referred to in subsec. (a)(2)(A)(i), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

Section 2201(b) of the FAA Extension, Safety, and Security Act of 2016, referred to in subsec. (a)(2)(A)(ii), is section 2201(b) of Pub. L. 114–190, which is set out as a note under section 40101 of this title.

The date of enactment of such Act, referred to in subsec. (a)(2)(A)(ii), is the date of enactment of Pub. L. 114–190, which was approved July 15, 2016.

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Section 1042 of the FAA Reauthorization Act of 2024, referred to in subsecs. (c)(5), (f)(1), and (g), is section 1042 of subtitle B of title X of Pub. L. 118–63, 138 Stat. 1407, which is set out in a note under section 40101 of this title.

PRIOR PROVISIONS

A prior section 44803, added Pub. L. 115–254, div. B, title III, §343(a), Oct. 5, 2018, 132 Stat. 3288; amended Pub. L. 118–15, div. B, title II, §2202(b), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(b), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(b), Mar. 8, 2024, 138 Stat. 21, related to unmanned aircraft test ranges, prior to repeal by Pub. L. 118–63, title IX, §925(a), May 16, 2024, 138 Stat. 1355.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXPANDING USE OF INNOVATIVE TECHNOLOGIES IN THE GULF OF MEXICO

Pub. L. 118–63, title IX, §937, May 16, 2024, 138 Stat. 1374, provided that:

"(a) IN GENERAL.—The Administrator [of the Federal Aviation Admninistration] shall prioritize the authorization of an eligible UAS test range sponsor partnering with an eligible airport authority to achieve the goals specified in subsection (b).

"(b) GOALS.—The goals of a partnership authorized pursuant to subsection (a) shall be to test the operations of innovative technologies in both commercial and non-commercial applications, consistent with existing law, to—

"(1) identify challenges associated with aviation operations over large bodies of water;

"(2) provide transportation of cargo and passengers to offshore energy infrastructure;

"(3) assess the impacts of operations in saltwater environments;

"(4) identify the challenges of integrating such technologies in complex airspace, including with commercial rotorcraft; and

"(5) identify the differences between coordinating with Federal air traffic control towers and towers operated under the FAA [Federal Aviation Administration] Contract Tower Program.

"(c) BRIEFING TO CONGRESS.—The Administrator shall provide an annual briefing to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the status of the partnership authorized under this section, including detailing any barriers to the commercialization of innovative technologies in the Gulf of Mexico.

"(d) DEFINITIONS.—In this section:

"(1) ELIGIBLE AIRPORT AUTHORITY.—The term 'eligible airport authority' means an AIP-eligible airport authority that is—

"(A) located in a state bordering the Gulf of Mexico which does not already contain a UAS Test Range;

"(B) has an air traffic control tower operated under the FAA Contract Tower Program;

"(C) is located within 60 miles of a port; and

"(D) does not have any scheduled passenger airline service as of the date of the enactment of this Act [May 16, 2024].

"(2) INNOVATIVE TECHNOLOGIES.—The term 'innovative technologies' means unmanned aircraft systems and powered-lift aircraft.

"(3) UAS.—The term 'UAS' means an unmanned aircraft system."

[For definition of "unmanned aircraft system" as used in section 937 of Pub. L. 118–63, set out above, see section 44801 of this title, as made applicable by section 901 of Pub. L. 118–63, which is set out as a note under section 44502 of this title.]

§44804. Unmanned aircraft in the Arctic

(a) IN GENERAL.—The Secretary of Transportation shall develop a plan and initiate a process to work with relevant Federal agencies and national and international communities to designate permanent areas in the Arctic where unmanned aircraft may operate 24 hours per day for research and commercial purposes.

(b) PLAN CONTENTS.—The plan under subsection (a) shall include the development of processes to facilitate the safe operation of unmanned aircraft beyond the visual line of sight.

(c) REQUIREMENTS.—Each permanent area designated under subsection (a) shall enable over-water flights from the surface to at least 2,000 feet in altitude, with ingress and egress routes from selected coastal launch sites.

(d) AGREEMENTS.—To implement the plan under subsection (a), the Secretary may enter into an agreement with relevant national and international communities.

(e) AIRCRAFT APPROVAL.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 1 year after the entry into force of an agreement necessary to effectuate the purposes of this section, the Secretary shall work with relevant national and international communities to establish and implement a process for approving the use of a unmanned aircraft in the designated permanent areas in the Arctic without regard to whether the unmanned aircraft is used as a public aircraft, a civil aircraft, or a model aircraft.

(2) EXISTING PROCESS.—The Secretary may implement an existing process to meet the requirements under paragraph (1).

(Added Pub. L. 115–254, div. B, title III, §344(a), Oct. 5, 2018, 132 Stat. 3290; amended Pub. L. 118–63, title IX, §902(a), May 16, 2024, 138 Stat. 1341.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 332(d) of Pub. L. 112–95, which was set out in a note under section 40101 of this title, prior to repeal by Pub. L. 115–254, div. B, title III, §341(b)(2), Oct. 5, 2018, 132 Stat. 3287. The remainder of the note comprised of subtitle B of title III of Pub. L. 112–95 was transferred and is set out under section 44802 of this title.

AMENDMENTS

2024—Pub. L. 118–63, §902(a)(1), substituted "Unmanned" for "Small unmanned" in section catchline. Catchline was editorially conformed to the style used in this title.

Subsecs. (a), (b), (e)(1). Pub. L. 118–63, §902(a)(2), struck out "small" before "unmanned aircraft" wherever appearing.

§44805. Small unmanned aircraft safety standards

(a) FAA PROCESS FOR ACCEPTANCE AND AUTHORIZATION.—The Administrator of the Federal Aviation Administration shall establish a process for—

(1) accepting risk-based consensus safety standards related to the design, production, and modification of small unmanned aircraft systems;

(2) authorizing the operation of a small unmanned aircraft system make and model designed, produced, or modified in accordance with the consensus safety standards accepted under paragraph (1);

(3) authorizing a manufacturer to self-certify a small unmanned aircraft system make or model that complies with consensus safety standards accepted under paragraph (1); and

(4) certifying a manufacturer of small unmanned aircraft systems, or an employee of such manufacturer, that has demonstrated compliance with the consensus safety standards accepted under paragraph (1) and met any other qualifying criteria, as determined by the Administrator, to alternatively satisfy the requirements of paragraph (1).

(b) CONSIDERATIONS.—Before accepting consensus safety standards under subsection (a), the Administrator of the Federal Aviation Administration shall consider the following:

(1) Technologies or standards related to geographic limitations, altitude limitations, and sense and avoid capabilities.

(2) Using performance-based requirements.

(3) Assessing varying levels of risk posed by different small unmanned aircraft systems and their operation and tailoring performance-based requirements to appropriately mitigate risk.

(4) Predetermined action to maintain safety in the event that a communications link between a small unmanned aircraft and its operator is lost or compromised.

(5) Detectability and identifiability to pilots, the Federal Aviation Administration, and air traffic controllers, as appropriate.

(6) Means to prevent tampering with or modification of any system, limitation, or other safety mechanism or standard under this section or any other provision of law, including a means to identify any tampering or modification that has been made.

(7) Consensus identification standards under section 2202 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190; 130 Stat. 615).

(8) To the extent not considered previously by the consensus body that crafted consensus safety standards, cost-benefit and risk analyses of consensus safety standards that may be accepted pursuant to subsection (a) for newly designed small unmanned aircraft systems.

(9) Applicability of consensus safety standards to small unmanned aircraft systems that are not manufactured commercially.

(10) Any technology or standard related to small unmanned aircraft systems that promotes aviation safety.

(11) Any category of unmanned aircraft systems that should be exempt from the consensus safety standards based on risk factors.

(c) NONAPPLICABILITY OF OTHER LAWS.—The process for authorizing the operation of

small unmanned aircraft systems under subsection (a) may allow for operation of any applicable small unmanned aircraft systems within the national airspace system without requiring—

(1) airworthiness certification requirements under section 44704 of this title; or

(2) type certification under part 21 of title 14, Code of Federal Regulations.

(d) REVOCATION.—The Administrator may suspend or revoke the authorizations in subsection (a) if the Administrator determines that the manufacturer or the small unmanned aircraft system is no longer in compliance with the standards accepted by the Administrator under subsection (a)(1) or with the manufacturer's statement of compliance under subsection (f).

(e) REQUIREMENTS.—With regard to an authorization under the processes in subsection (a), the Administrator may require a manufacturer of small unmanned aircraft systems to provide the Federal Aviation Administration with the following:

(1) The aircraft system's operating instructions.

(2) The aircraft system's recommended maintenance and inspection procedures.

(3) The manufacturer's statement of compliance described in subsection (f).

(4) Upon request, a sample aircraft to be inspected by the Federal Aviation Administration to ensure compliance with the consensus safety standards accepted by the Administrator under subsection (a).

(f) MANUFACTURER'S STATEMENT OF COMPLIANCE FOR SMALL UAS.—A manufacturer's statement of compliance shall—

(1) identify the aircraft make, model, range of serial numbers, and any applicable consensus safety standards used and accepted by the Administrator;

(2) state that the aircraft make and model meets the provisions of the consensus safety standards identified in paragraph (1);

(3) state that the aircraft make and model conforms to the manufacturer's design data and is manufactured in a way that ensures consistency across units in the production process in order to meet the applicable consensus safety standards accepted by the Administrator;

(4) state that the manufacturer will make available to the Administrator, operators, or customers—

(A) the aircraft's operating instructions, which conform to the consensus safety standards identified in paragraph (1); and

(B) the aircraft's recommended maintenance and inspection procedures, which conform to the consensus safety standards identified in paragraph (1);

(5) state that the manufacturer will monitor safety-of-flight issues and take action to ensure it meets the consensus safety standards identified in paragraph (1) and report these issues and subsequent actions to the Administrator;

(6) state that at the request of the Administrator, the manufacturer will provide reasonable access for the Administrator to its facilities for the purposes of overseeing compliance with this section; and

(7) state that the manufacturer, in accordance with the consensus safety standards accepted by the Federal Aviation Administration, has—

(A) ground and flight tested random samples of the aircraft;

(B) found the sample aircraft performance acceptable; and

(C) determined that the make and model of aircraft is suitable for safe operation.

(g) PROHIBITIONS.—

(1) FALSE STATEMENTS OF COMPLIANCE.—It shall be unlawful for any person to knowingly submit a statement of compliance described in subsection (f) that is fraudulent or intentionally false.

(2) INTRODUCTION INTO INTERSTATE COMMERCE.—Unless the Administrator determines operation of an unmanned aircraft system may be conducted without an airworthiness

certificate or permission, authorization, or approval under subsection (a), it shall be unlawful for any person to knowingly introduce or deliver for introduction into interstate commerce any small unmanned aircraft system that is manufactured after the date that the Administrator accepts consensus safety standards under this section unless—

(A) the make and model has been authorized for operation under subsection (a); or

(B) the aircraft has alternatively received design and production approval issued by the Federal Aviation Administration.

(h) EXCLUSIONS.—The Administrator may exempt from the requirements of this section small unmanned aircraft systems that are not capable of navigating beyond the visual line of sight of the operator through advanced flight systems and technology, if the Administrator determines that such an exemption does not pose a risk to the safety of the national airspace system.

(Added Pub. L. 115–254, div. B, title III, §345(a), Oct. 5, 2018, 132 Stat. 3291; amended Pub. L. 118–63, title IX, §903, May 16, 2024, 138 Stat. 1341.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2202 of the FAA Extension, Safety, and Security Act of 2016, referred to in subsec. (b)(7), is section 2202 of Pub. L. 114–190, which is set out in a note under section 44802 of this title.

AMENDMENTS

2024—Pub. L. 118–63, §903(1), substituted "Small unmanned" for "Small Unmanned" in section catchline. Catchline was editorially conformed to the style used in this title.

Subsec. (a)(2). Pub. L. 118–63, §903(2), substituted "operation of a small" for "operation of small".

Subsecs. (c) to (e). Pub. L. 118–63, §903(6), redesignated subsecs. (e) to (g) as (c) to (e), respectively.

Subsec. (f). Pub. L. 118–63, §903(6), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Pub. L. 118–63, §903(3), substituted "subsection (f)" for "subsection (h)".

Subsec. (g). Pub. L. 118–63, §903(6), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (e).

Subsec. (g)(3). Pub. L. 118–63, §903(4), substituted "subsection (f)" for "subsection (h)".

Subsec. (h). Pub. L. 118–63, §903(6), redesignated subsec. (j) as (h). Former subsec. (h) redesignated (f).

Subsec. (i). Pub. L. 118–63, §903(6), redesignated subsec. (i) as (g).

Subsec. (i)(1). Pub. L. 118–63, §903(5), substituted "subsection (f)" for "subsection (h)".

Subsec. (j). Pub. L. 118–63, §903(6), redesignated subsec. (j) as (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

UNMANNED AIRCRAFT SYSTEMS RESEARCH FACILITY

Pub. L. 115–254, div. B, title III, §345(b), Oct. 5, 2018, 132 Stat. 3293, provided that: "The Center of Excellence for Unmanned Aircraft Systems shall establish an unmanned aircraft systems research facility to study appropriate safety standards for unmanned aircraft systems and to validate such standards, as directed by the Administrator of the Federal Aviation Administration, consistent with section 44805 of title 49, United States Code, as added by this section."

§44806. Public unmanned aircraft systems and public safety use of tethered unmanned aircraft systems

(a) GUIDANCE.—The Secretary of Transportation shall issue guidance regarding the operation of a public unmanned aircraft system—

(1) to streamline and expedite the process for the issuance of a certificate of authorization or a certificate of waiver;

(2) to facilitate the capability of public agencies to develop and use test ranges, subject to operating restrictions required by the Federal Aviation Administration, to test and operate public unmanned aircraft systems; and

(3) to provide guidance on a public agency's responsibilities when operating an unmanned aircraft without a civil airworthiness certificate issued by the Administration.

(b) AGREEMENTS WITH GOVERNMENT AGENCIES.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with each appropriate public agency to simplify the process for issuing a certificate of waiver or a certificate of authorization with respect to an application for authorization to operate a public unmanned aircraft system in the national airspace system.

(2) CONTENTS.—An agreement under paragraph (1) shall—

(A) with respect to an application described in paragraph (1)—

(i) provide for an expedited review of the application;

(ii) require a decision by the Administrator on approval or disapproval not later than 60 business days after the date of submission of the application; and

(iii) allow for an expedited appeal if the application is disapproved;

(B) allow for a one-time approval of similar operations carried out during a fixed period of time; and

(C) allow a government public safety agency to operate an unmanned aircraft weighing 4.4 pounds or less if that unmanned aircraft is operated—

(i) within or beyond the visual line of sight of the operator;

(ii) less than 400 feet above the ground;

(iii) during daylight conditions;

(iv) within Class G airspace; and

(v) outside of 5 statute miles from any airport, heliport, seaplane base, spaceport, or other location with aviation activities.

(c) PUBLIC SAFETY USE OF ACTIVELY TETHERED UNMANNED AIRCRAFT SYSTEMS.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall permit, and may issue guidance regarding, the use of actively tethered unmanned aircraft systems by a public safety organization for such systems that are—

(A) operated—

(i) at or below an altitude of 150 feet above ground level within class B, C, D, E, or G airspace, but not at a greater altitude than the ceiling depicted on the UAS Facility Maps published by the Federal Aviation Administration, where applicable;

(ii) within zero-grid airspaces as depicted on such UAS Facility Maps, only if operated in life-saving or emergency situations and with prior notification to the Administration in a manner determined by the Administrator; or

(iii) above 150 feet above ground level within class B, C, D, E, or G airspace only with prior authorization from the Administrator;

(B) not flown directly over non-participating persons;

(C) operated within visual line of sight of the operator; and

(D) operated in a manner that does not interfere with and gives way to any other aircraft.

(2) REQUIREMENTS.—Public actively tethered unmanned aircraft systems may be operated—

(A) without any requirement to obtain a certificate of authorization, certificate of waiver, or other approval by the Federal Aviation Administration;

(B) without requiring airman certification under section 44703 of this title or any rule or regulation relating to airman certification; and

(C) without requiring airworthiness certification under section 44704 of this title or any rule or regulation relating to aircraft certification.

(3) SAFETY STANDARDS.—Actively tethered unmanned aircraft systems operated within the scope of the guidance issued pursuant to paragraph (1) shall be exempt from the requirements of section 44805 of this title.

(4) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preclude the Administrator of the Federal Aviation Administration from issuing new regulations for public actively tethered unmanned aircraft systems in order to ensure the safety of the national airspace system.

(d) FEDERAL AGENCY COORDINATION TO ENHANCE THE PUBLIC HEALTH AND SAFETY CAPABILITIES OF PUBLIC UNMANNED AIRCRAFT SYSTEMS.—The Administrator shall assist Federal civilian Government agencies that operate unmanned aircraft systems within civil-controlled airspace, in operationally deploying and integrating sense and avoid capabilities, as necessary to operate unmanned aircraft systems safely within the national airspace system.

(e) DEFINITION.—In this section, the term "public safety organization" means an entity that primarily engages in activities related to the safety and well-being of the general public, including law enforcement, fire departments, emergency medical services, and other organizations that protect and serve the public in matters of safety and security.

(Added Pub. L. 115–254, div. B, title III, §346(a), Oct. 5, 2018, 132 Stat. 3294; amended Pub. L. 118–63, title IX, §926(a), May 16, 2024, 138 Stat. 1360.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section were contained in section 334(a) and (c) of Pub. L. 112–95, which was set out in a note under section 40101 of this title, prior to repeal by Pub. L. 115–254, div. B, title III, §346(b)(2), Oct. 5, 2018, 132 Stat. 3295. The remainder of the note comprised of subtitle B of title III of Pub. L. 112–95 was transferred and is set out under section 44802 of this title.

AMENDMENTS

2024—Pub. L. 118–63, §926(a)(1), inserted "and public safety use of tethered unmanned aircraft systems" after "systems" in section catchline.

Subsec. (c). Pub. L. 118–63, §926(a)(2)(A), inserted "Safety Use of" after "Public" in heading. Text quoted in directory language of amendment was editorially conformed to the style of the heading.

Subsec. (c)(1). Pub. L. 118–63, §926(a)(2)(B)(i), in introductory provisions, substituted "The" for "Not later than 180 days after the date of enactment of this Act, the", "permit" for "permit the use of", struck out "public" before "actively tethered", and inserted "by a public safety organization for such systems" after "unmanned aircraft systems".

Subsec. (c)(1)(A). Pub. L. 118–63, §926(a)(2)(B)(ii), added subpar. (A) and struck out former subpar. (A) which read as follows: "operated at an altitude of less than 150 feet above ground level;".

Subsec. (c)(1)(B) to (E). Pub. L. 118–63, §926(a)(2)(B)(iii), (iv), redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out former subpar. (B) which read as follows: "operated—

"(i) within class G airspace; or

"(ii) at or below the ceiling depicted on the Federal Aviation Administration's published UAS facility maps for class B, C, D, or E surface area airspace;".

Subsec. (c)(3). Pub. L. 118–63, §926(a)(2)(C), substituted "Actively" for "Public actively".

Subsec. (e). Pub. L. 118–63, §926(a)(3), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

PUBLIC UAS ACCESS TO SPECIAL USE AIRSPACE

Pub. L. 115–254, div. B, title III, §368, Oct. 5, 2018, 132 Stat. 3310, provided that: "Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation shall issue guidance for the expedited and timely access to special use airspace for public unmanned aircraft systems in order to assist

Federal, State, local, or tribal law enforcement organizations in conducting law enforcement, emergency response, or for other activities."

§44807. Special authority for certain unmanned aircraft systems

(a) IN GENERAL.—Notwithstanding any other requirement of this chapter or chapter 447, the Administrator of the Federal Aviation Administration shall use a risk-based approach to determine how unmanned aircraft systems may operate safely in the national airspace system notwithstanding completion of the comprehensive plan and rulemaking required by section 44802 or the guidance required by section 44806.

(b) ASSESSMENT OF UNMANNED AIRCRAFT SYSTEMS.—In making the determination under subsection (a), the Administrator shall determine, at a minimum—

(1) how such unmanned aircraft systems, if any, as a result of their size, weight, speed, operational capability, proximity to airports and populated areas, operation over people, and operation within or beyond the visual line of sight, or operation during the day or night, do not create a hazard to users of the national airspace system or the public; and

(2) whether a certificate under section 44703 or section 44704 of this title, or a certificate of waiver or certificate of authorization, is required for the operation of unmanned aircraft systems identified under paragraph (1) of this subsection.

(c) REQUIREMENTS FOR SAFE OPERATION.—

(1) IN GENERAL.—In carrying out this section, the Administrator shall establish requirements, or a process to accept proposed requirements, for the safe and efficient operation of unmanned aircraft systems in the national airspace system, including operations related to testing and evaluation of proprietary systems.

(2) EXPEDITED EXEMPTIONS AND APPROVALS.—The Administrator shall, taking into account the statutory mandate to ensure safe and efficient use of the national airspace system, issue approvals—

(A) to enable low-risk beyond visual line of sight operations, including, at a minimum, package delivery operations, extended visual line of sight operations, or shielded operations within 100 feet of the ground or a structure; or

(B) that are aligned with Administration exemptions or approvals that enable beyond visual line of sight operations with the use of acoustics, ground based radar, automatic dependent surveillance–broadcast, and other technological solutions.

(3) TREATMENT OF MITIGATION MEASURES.—To the extent that an operation under this section will be conducted exclusively within the airspace of a Mode C Veil, such operation shall be treated as satisfying the requirements of section 91.113(b) of title 14, Code of Federal Regulations, if the operation employs—

(A) automatic dependent surveillance–broadcast in-based detect and avoid capabilities;

(B) air traffic control communication and coordination;

(C) aeronautical information management systems acceptable to the Administrator, such as notices to air missions, to notify other airspace users of such operations; or

(D) any other risk mitigations as set by the Administrator.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) provide an unmanned aircraft operating pursuant to this section the right of way over a manned aircraft; or

(B) limit the authority of the Administrator to impose requirements, conditions, or limitations on operations conducted under this section in order to address safety concerns.

(d) SUNSET.—The authority under this section for the Secretary to determine if certain unmanned aircraft systems may operate safely in the national airspace system terminates effective

September 30, 2033.

(e) AUTHORITY.—The Administrator may exercise the authorities described in this section, including waiving applicable parts of title 14, Code of Federal Regulations, without initiating a rulemaking or imposing the requirements of part 11 of title 14, Code of Federal Regulations, to the extent consistent with aviation safety.

(Added Pub. L. 115–254, div. B, title III, §347(a), Oct. 5, 2018, 132 Stat. 3296; amended Pub. L. 118–15, div. B, title II, §2202(c), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(c), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(c), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title IX, §927(a), (b), May 16, 2024, 138 Stat. 1362.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 333 of Pub. L. 112–95, which was set out in a note under section 40101 of this title, prior to repeal by Pub. L. 115–254, div. B, title III, §347(b)(2), Oct. 5, 2018, 132 Stat. 3296. The remainder of the note comprised of subtitle B of title III of Pub. L. 112–95 was transferred and is set out under section 44802 of this title.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §927(b)(1), inserted "or chapter 447" after "Notwithstanding any other requirement of this chapter" and substituted "the Administrator of the Federal Aviation Administration" for "the Secretary of Transportation" and "how" for "if certain".

Subsec. (b). Pub. L. 118–63, §927(b)(2)(A), substituted "Administrator" for "Secretary" in introductory provisions.

Subsec. (b)(1). Pub. L. 118–63, §927(b)(2)(B), substituted "how such" for "which types of".

Subsec. (c). Pub. L. 118–63, §927(b)(3), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "If the Secretary determines under this section that certain unmanned aircraft systems may operate safely in the national airspace system, the Secretary shall establish requirements for the safe operation of such aircraft systems in the national airspace system, including operation related to research, development, and testing of proprietary systems."

Subsec. (d). Pub. L. 118–63, §927(a), substituted "September 30, 2033" for "May 10, 2024".

Pub. L. 118–41 substituted "May 10, 2024" for "March 8, 2024".

Subsec. (e). Pub. L. 118–63, §927(b)(4), added subsec. (e).

2023—Subsec. (d). Pub. L. 118–34 substituted "March 8, 2024" for "December 31, 2023".

Pub. L. 118–15 substituted "December 31, 2023" for "September 30, 2023".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CLARIFICATION OF STATUS OF PREVIOUSLY ISSUED RULEMAKINGS AND EXEMPTIONS

Pub. L. 118–63, title IX, §927(c), May 16, 2024, 138 Stat. 1363, provided that:

"(1) RULEMAKINGS.—Any rule issued pursuant to section 44807 of title 49, United States Code, shall continue to be in effect following the expiration of such authority.

"(2) EXEMPTIONS.—Any exemption granted under the authority described in section 44807 of title 49, United States Code, and in effect as of the expiration of such authority, shall continue to be in effect until the date that is 3 years after the date of termination described in such exemption, provided the Administrator [of the Federal Aviation Administration] does not determine there is a safety risk.

"(3) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to interfere with the Administrator's—

"(A) authority to rescind or amend an exemption for reasons such as unsafe conditions or operator oversight; or

"(B) ability to grant an exemption based on a determination made pursuant to section 44807 of title 49, United States Code, prior to the date described in subsection (d) of such section."

§44808. Carriage of property by small unmanned aircraft systems for

compensation or hire

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the FAA Reauthorization Act of 2018, the Administrator of the Federal Aviation Administration shall update existing regulations to authorize the carriage of property by operators of small unmanned aircraft systems for compensation or hire within the United States.

(b) CONTENTS.—Any rulemaking conducted under subsection (a) shall provide for the following:

(1) Use performance-based requirements.

(2) Consider varying levels of risk to other aircraft and to persons and property on the ground posed by different unmanned aircraft systems and their operation and tailor performance-based requirements to appropriately mitigate risk.

(3) Consider the unique characteristics of highly automated, small unmanned aircraft systems.

(4) Include requirements for the safe operation of small unmanned aircraft systems that, at a minimum, address—

(A) airworthiness of small unmanned aircraft systems;

(B) qualifications for operators and the type and nature of the operations;

(C) operating specifications governing the type and nature of the unmanned aircraft system air carrier operations; and

(D) the views of State, local, and tribal officials related to potential impacts of the carriage of property by operators of small unmanned aircraft systems for compensation or hire within the communities to be served.

(5) SMALL UAS.—The Secretary may amend part 298 of title 14, Code of Federal Regulations, to update existing regulations to establish economic authority for the carriage of property by small unmanned aircraft systems for compensation or hire. Such authority shall only require—

(A) registration with the Department of Transportation;

(B) authorization from the Federal Aviation Administration to conduct operations; and

(C) compliance with chapters 401, 411, and 417.

(6) AVAILABILITY OF CURRENT CERTIFICATION PROCESSES.—Pending completion of the rulemaking required in subsection (a) of this section, a person may seek an air carrier operating certificate and certificate of public convenience and necessity, or an exemption from such certificate, using existing processes.

(Added Pub. L. 115–254, div. B, title III, §348(a), Oct. 5, 2018, 132 Stat. 3297.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2018, referred to in subsec. (a), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

§44809. Exception for limited recreational operations of unmanned aircraft

(a) IN GENERAL.—Except as provided in subsection (e), and notwithstanding chapter 447 of title 49, United States Code, a person may operate a small unmanned aircraft without specific certification or operating authority from the Federal Aviation Administration if the operation adheres to all of the following limitations:

(1) The aircraft is flown strictly for recreational purposes.

(2) The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the Federal Aviation Administration.

(3) The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.

(4) The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.

(5) In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the Administrator or designee before operating and complies with all airspace restrictions and prohibitions.

(6) Except for circumstances when the Administrator establishes alternative altitude ceilings or as otherwise authorized in section (c), in Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace and flight restrictions and prohibitions established under this subtitle, such as special use airspace designations and temporary flight restrictions.

(7) The operator has passed an aeronautical knowledge and safety test described in subsection (g) and maintains proof of test passage to be made available to the Administrator or law enforcement upon request.

(8) The aircraft is registered and marked in accordance with chapter 441 of this title and proof of registration is made available to the Administrator or a designee of the Administrator or law enforcement upon request.

(b) OTHER OPERATIONS.—Unmanned aircraft operations that do not conform to the limitations in subsection (a) must comply with all statutes and regulations generally applicable to unmanned aircraft and unmanned aircraft systems.

(c) OPERATIONS AT FIXED SITES.—

(1) IN GENERAL.—The Administrator shall establish a process to approve, and publicly disseminate the location of, fixed sites at which a person may carry out recreational unmanned aircraft system operations.

(2) OPERATING PROCEDURES.—

(A) CONTROLLED AIRSPACE.—Persons operating unmanned aircraft under paragraph (1) from a fixed site within Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, or a community-based organization sponsoring operations within such airspace, shall make the location of the fixed site known to the Administrator and shall establish a mutually agreed upon operating procedure with the air traffic control facility.

(B) ALTITUDE.—The Administrator, in coordination with community-based organizations sponsoring operations at fixed sites, shall develop a process to approve requests for recreational unmanned aircraft systems operations at fixed sites that exceed the maximum altitude contained in a UAS Facility Map published by the Federal Aviation Administration.

(C) UNCONTROLLED AIRSPACE.—Subject to compliance with all airspace and flight restrictions and prohibitions established under this subtitle, including special use airspace designations and temporary flight restrictions, persons operating unmanned aircraft systems from a fixed site designated under the process described in paragraph (1) may operate within Class G airspace—

(i) up to 400 feet above ground level, without prior authorization from the Administrator; and

(ii) above 400 feet above ground level, with prior authorization from the Administrator.

(3) UNMANNED AIRCRAFT WEIGHING 55 POUNDS OR GREATER.—A person may operate an unmanned aircraft weighing 55 pounds or greater, including the weight of anything attached to or carried by the aircraft, if—

(A) the unmanned aircraft complies with standards and limitations developed by a community-based organization and approved by the Administrator; and

(B) the aircraft is operated from a fixed site as described in paragraph (1).

(4) FAA-RECOGNIZED IDENTIFICATION AREAS.—In implementing subpart C of part 89 of title 14, Code of Federal Regulations, the Administrator shall prioritize the review and adjudication of requests to establish FAA Recognized Identification Areas at fixed sites established under this section.

(d) SAVINGS CLAUSE.—Nothing in this subsection shall be construed as expanding the authority of the Administrator to require a person operating an unmanned aircraft under this section to seek permissive authority of the Administrator, beyond that required in this section, prior to operation in the national airspace system.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Administrator to pursue an enforcement action against a person operating any unmanned aircraft who endangers the safety of the national airspace system.

(f) EXCEPTIONS.—Nothing in this section prohibits the Administrator from promulgating rules generally applicable to unmanned aircraft, including those unmanned aircraft eligible for the exception set forth in this section, relating to—

(1) the operational parameters for unmanned aircraft in subsection (a);

(2) the registration and marking of unmanned aircraft;

(3) the standards for remotely identifying owners and operators of unmanned aircraft systems and associated unmanned aircraft; and

(4) other standards consistent with maintaining the safety and security of the national airspace system.

(g) AERONAUTICAL KNOWLEDGE AND SAFETY TEST.—

(1) IN GENERAL.—The Administrator, in consultation with manufacturers of unmanned aircraft systems, community-based organizations, and other industry stakeholders, shall develop, maintain, and update, as necessary, an aeronautical knowledge and safety test. Such test shall be administered electronically by the Administrator or a person designated by the Administrator.

(2) REQUIREMENTS.—The Administrator shall ensure the aeronautical knowledge and safety test is designed to adequately demonstrate an operator's—

(A) understanding of aeronautical safety knowledge; and

(B) knowledge of Federal Aviation Administration regulations and requirements pertaining to the operation of an unmanned aircraft system in the national airspace system.

(h) COMMUNITY-BASED ORGANIZATION DEFINED.—In this section, the term "community-based organization" means a membership-based association entity that—

(1) is recognized by the Administrator of the Federal Aviation Administration;

(2) is described in section 501(c)(3) of the Internal Revenue Code of 1986;

(3) is exempt from tax under section 501(a) of the Internal Revenue Code of 1986;

(4) the mission of which is demonstrably the furtherance of model aviation;

(5) provides a comprehensive set of safety guidelines for all aspects of model aviation addressing the assembly and operation of model aircraft and that emphasize safe aeromodelling operations within the national airspace system and the protection and safety of individuals and property on the ground, and may provide a comprehensive set of safety rules and programming for the operation of unmanned aircraft that have the advanced flight capabilities enabling active, sustained, and controlled navigation of the aircraft beyond visual line of sight of the operator;

(6) provides programming and support for any local charter organizations, affiliates, or clubs; and

(7) provides assistance and support in the development and operation of locally designated model aircraft flying sites.

(i) RECOGNITION OF COMMUNITY-BASED ORGANIZATIONS.—In collaboration with aeromodelling stakeholders, the Administrator shall publish an advisory circular within 180 days of

the date of enactment of this section that identifies the criteria and process required for recognition of community-based organizations.

(Added Pub. L. 115–254, div. B, title III, §349(a), Oct. 5, 2018, 132 Stat. 3298; amended Pub. L. 118–63, title IX, §928(a), May 16, 2024, 138 Stat. 1363.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (h)(2), (3), is classified to section 501 of Title 26, Internal Revenue Code.

The date of enactment of this section, referred to in subsec. (i), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (e) of this section were contained in section 336(a) and (b) of Pub. L. 112–95, which was set out in a note under section 40101 of this title, prior to repeal by Pub. L. 115–254, div. B, title III, §349(b)(2), Oct. 5, 2018, 132 Stat. 3300. The remainder of the note comprised of subtitle B of title III of Pub. L. 112–95 was transferred and is set out under section 44802 of this title.

AMENDMENTS

2024—Subsec. (a)(6). Pub. L. 118–63, §928(a)(1), added par. (6) and struck out former par. (6) which read as follows: "In Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions."

Subsec. (c). Pub. L. 118–63, §928(a)(2), added subsec. (c) and struck out former subsec. (c) which related to operations at fixed sites.

Subsec. (d). Pub. L. 118–63, §928(a)(3), struck out "subsection (a) of" before "this section, prior to" in par. (3) and substituted subsec. (d) designation and heading for "(d) UPDATES", pars. (1) and (2), and "(3) SAVINGS CLAUSE". Prior to amendment, pars. (1) and (2) related to process to periodically update operational parameters and related considerations.

Subsec. (f)(1). Pub. L. 118–63, §928(a)(4), struck out "updates to" before "the operational parameters".

Subsec. (g)(1). Pub. L. 118–63, §928(a)(5), added par. (1) and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: "Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with manufacturers of unmanned aircraft systems, other industry stakeholders, and community-based organizations, shall develop an aeronautical knowledge and safety test, which can then be administered electronically by the Administrator, a community-based organization, or a person designated by the Administrator."

Subsec. (h). Pub. L. 118–63, §928(a)(6), added par. (1) and redesignated former pars. (1) to (6) as (2) to (7), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

USE OF UNMANNED AIRCRAFT SYSTEMS FOR EDUCATIONAL PURPOSES

Pub. L. 115–254, div. B, title III, §350, Oct. 5, 2018, 132 Stat. 3300, as amended by Pub. L. 116–283, div. H, title C, §10002, Jan. 1, 2021, 134 Stat. 4863; Pub. L. 118–63, title IX, §928(b), May 16, 2024, 138 Stat. 1365, provided that:

"(a) EDUCATIONAL AND RESEARCH PURPOSES.—For the purposes of section 44809 of title 49, United States Code, as added by this Act, a 'recreational purpose' as distinguished in subsection (a)(1) of such section shall include an unmanned aircraft system—

"(1) operated by an institution of higher education for educational or research purposes;

"(2) operated by an elementary school, a secondary school, or an institution of higher education for educational or research purposes;

"(3) flown as part of an established Junior Reserve Officers' Training Corps (JROTC) program for education or research purposes; or

"(4) flown as part of an educational program that is chartered by a recognized community-based organization (as defined in subsection (h) of such section).

"(b) UPDATES.—In updating an operational parameter under subsection (d)(1) of such section for unmanned aircraft systems operated by an institution of higher education for educational or research purposes,

the Administrator shall consider—

"(1) use of small unmanned aircraft systems and operations at an accredited institution of higher education, for educational or research purposes, as a component of the institution's curricula or research;

"(2) the development of streamlined, risk-based operational approval for unmanned aircraft systems operated by institutions of higher education; and

"(3) the airspace and aircraft operators that may be affected by such operations at the institution of higher education.

"(c) DEADLINE FOR ESTABLISHMENT OF PROCEDURES AND STANDARDS.—Not later than 270 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration may establish regulations, procedures, and standards, as necessary, to facilitate the safe operation of unmanned aircraft systems operated by institutions of higher education for educational or research purposes.

"(d) DEFINITIONS.—In this section:

"(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given to that term by section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(2) EDUCATIONAL OR RESEARCH PURPOSES.—The term 'education or research purposes', with respect to the operation of an unmanned aircraft system by an institution of higher education, an elementary school, or a secondary school includes—

"(A) instruction of students at the institution;

"(B) academic or research related uses of unmanned aircraft systems that have been approved by the institution, including Federal research;

"(C) activities undertaken by the institution as part of research projects, including research projects sponsored by the Federal Government; and

"(D) other academic activities approved by the institution.

"(3) ELEMENTARY SCHOOL.—The term 'elementary school' has the meaning given to that term by section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(19)).

"(4) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given to that term by section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(45)).

"(e) STATUTORY CONSTRUCTION.—

"(1) ENFORCEMENT.—Nothing in this section shall be construed to limit the authority of the Administrator to pursue an enforcement action against a person operating any unmanned aircraft who endangers the safety of the national airspace system.

"(2) REGULATIONS AND STANDARDS.—Nothing in this section prohibits the Administrator from promulgating any rules or standards consistent with maintaining the safety and security of the national airspace system."

§44810. Airport safety and airspace hazard mitigation and enforcement

(a) COORDINATION.—The Administrator of the Federal Aviation Administration shall work with the Secretary of Defense, the Secretary of Homeland Security, and the heads of other relevant Federal departments and agencies for the purpose of ensuring that technologies or systems that are developed, tested, or deployed by Federal departments and agencies to detect and mitigate potential risks posed by errant or hostile unmanned aircraft system operations do not adversely impact or interfere with safe airport operations, navigation, air traffic services, or the safe and efficient operation of the national airspace system.

(b) PLAN.—

(1) IN GENERAL.—The Administrator shall develop a plan for the certification, permitting, authorizing, or allowing of the deployment of technologies or systems for the detection and mitigation of unmanned aircraft systems.

(2) CONTENTS.—The plan shall provide for the development of policies, procedures, or protocols that will allow appropriate officials of the Federal Aviation Administration to utilize such technologies or systems to take steps to detect and mitigate potential airspace safety risks posed by unmanned aircraft system operations.

(3) AVIATION RULEMAKING COMMITTEE.—The Administrator shall charter an aviation rulemaking committee to make recommendations for such a plan and any standards that the Administrator determines may need to be developed with respect to such technologies or systems.

The Federal Advisory Committee Act (5 U.S.C. App.) [1] shall not apply to an aviation rulemaking committee chartered under this paragraph.

(4) NON-DELEGATION.—The plan shall not delegate any authority granted to the Administrator under this section to other Federal, State, local, territorial, or tribal agencies, or an airport sponsor, as defined in section 47102 of title 49, United States Code.

(c) AIRSPACE HAZARD MITIGATION PROGRAM.—In order to test and evaluate technologies or systems that detect and mitigate potential aviation safety risks posed by unmanned aircraft, the Administrator shall deploy such technologies or systems at 5 airports, including 1 airport that ranks in the top 10 of the FAA's most recent Passenger Boarding Data, and any other location the Administrator determines appropriate.

(d) AUTHORITY.—Under the testing and evaluation in subsection (c), the Administrator shall use unmanned aircraft detection and mitigation systems to detect and mitigate the unauthorized operation of an unmanned aircraft that poses a risk to aviation safety.

(e) AIP FUNDING ELIGIBILITY.—Upon the certification, permitting, authorizing, or allowing of such technologies and systems that have been successfully tested under this section, an airport sponsor may apply for a grant under subchapter I of chapter 471 to purchase an unmanned aircraft detection and mitigation system. For purposes of this subsection, purchasing an unmanned aircraft detection and mitigation system shall be considered airport development (as defined in section 47102).

(f) BRIEFING.—The Administrator shall annually brief the appropriate committees of Congress, including the Committee on Judiciary [2] of the House of Representatives and the Committee on the Judiciary of the Senate, on the implementation of this section.

(g) APPLICABILITY OF OTHER LAWS.—Section 46502 of this title, section 32 of title 18, United States Code (commonly known as the Aircraft Sabotage Act), section 1031 of title 18, United States Code (commonly known as the Computer Fraud and Abuse Act of 1986),[1] sections 2510–2522 of title 18, United States Code (commonly known as the Wiretap Act), and sections 3121–3127 of title 18, United States Code (commonly known as the Pen/Trap Statute), shall not apply to activities authorized by the Administrator pursuant to subsection [3] (c) and (d).

(h) SUNSET.—This section ceases to be effective September 30, 2028.

(i) NON-DELEGATION.—The Administrator shall not delegate any authority granted to the Administrator under this section to other Federal, State, local, territorial, or tribal agencies, or an airport sponsor, as defined in section 47102 of title 49, United States Code. The Administrator may partner with other Federal agencies under this section, subject to any restrictions contained in such agencies' authority to operate counter unmanned aircraft systems.

(Added Pub. L. 115–254, div. B, title III, §383(a), Oct. 5, 2018, 132 Stat. 3321; amended Pub. L. 118–15, div. B, title II, §2202(d), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(d), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(d), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title IX, §904, May 16, 2024, 138 Stat. 1341.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

The Aircraft Sabotage Act, referred to in subsec. (g), is part B (§§2011–2015) of chapter XX of title II of Pub. L. 98–473, Oct. 12, 1984, 98 Stat. 2187. Section 2013(b) of the Act generally amended section 32 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 31 of Title 18 and Tables.

The Computer Fraud and Abuse Act of 1986, referred to in subsec. (g), is Pub. L. 99–474, §1, Oct. 16,

1986, 100 Stat. 1213, which amended section 1030 of Title 18, Crimes and Criminal Procedure. Section 1031 of Title 18 was enacted by Pub. L. 100–700, known as the Major Fraud Act of 1988.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63, §904(1), inserted ", and any other location the Administrator determines appropriate" after "Data".

Subsec. (h). Pub. L. 118–63, §904(2), substituted "September 30, 2028" for "May 10, 2024".

Pub. L. 118–41 substituted "May 10, 2024" for "March 8, 2024".

2023—Subsec. (h). Pub. L. 118–34 substituted "March 8, 2024" for "December 31, 2023".

Pub. L. 118–15 substituted "December 31, 2023" for "September 30, 2023".

STATUTORY NOTES AND RELATED SUBSIDIARIES

COOPERATION RELATED TO CERTAIN COUNTER-UAS TECHNOLOGY

Pub. L. 115–254, div. B, title III, §365, Oct. 5, 2018, 132 Stat. 3310, provided that: "In matters relating to the use of systems in the national airspace system intended to mitigate threats posed by errant or hostile unmanned aircraft system operations, the Secretary of Transportation shall consult with the Secretary of Defense to streamline deployment of such systems by drawing upon the expertise and experience of the Department of Defense in acquiring and operating such systems consistent with the safe and efficient operation of the national airspace system."

ENFORCEMENT

Pub. L. 115–254, div. B, title III, §372, Oct. 5, 2018, 132 Stat. 3312, as amended by Pub. L. 118–15, div. B, title II, §2202(q), Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §102(q), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(q), Mar. 8, 2024, 138 Stat. 22, provided that:

"(a) UAS SAFETY ENFORCEMENT.—The Administrator of the Federal Aviation Administration shall establish a pilot program to utilize available remote detection or identification technologies for safety oversight, including enforcement actions against operators of unmanned aircraft systems that are not in compliance with applicable Federal aviation laws, including regulations.

"(b) REPORTING.—As part of the pilot program, the Administrator shall establish and publicize a mechanism for the public and Federal, State, and local law enforcement to report suspected operation of unmanned aircraft in violation of applicable Federal laws and regulations.

"(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the FAA Reauthorization Act of 2018 [Oct. 5, 2018], and annually thereafter through the duration of the pilot program established in subsection (a), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the following:

"(1) The number of unauthorized unmanned aircraft operations detected in restricted airspace, including in and around airports, together with a description of such operations.

"(2) The number of enforcement cases brought by the Federal Aviation Administration or other Federal agencies for unauthorized operation of unmanned aircraft detected through the program, together with a description of such cases.

"(3) Recommendations for safety and operational standards for unmanned aircraft detection and mitigation systems.

"(4) Recommendations for any legislative or regulatory changes related to mitigation or detection or identification of unmanned aircraft systems.

"(d) SUNSET.—The pilot program established in subsection (a) shall terminate on May 10, 2024.

"(e) CIVIL PENALTIES.—[Amended section 46301 of this title.]

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Administrator to pursue an enforcement action for a violation of this subtitle or any other applicable provision of aviation safety law or regulation using remote detection or identification or other technology following the sunset of the pilot program."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 14305. RESTORING AMERICAN AIRSPACE SOVEREIGNTY

Ex. Ord. No. 14305, June 6, 2025, 90 F.R. 24719, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. Unmanned aircraft systems (UAS), otherwise known as drones, offer the potential to enhance public safety as well as cement America's leadership in global innovation. But criminals, terrorists, and hostile foreign actors have intensified their weaponization of these technologies, creating new and serious threats to our homeland. Drug cartels use UAS to smuggle fentanyl across our borders, deliver contraband into prisons, surveil law enforcement, and otherwise endanger the public. Mass gatherings are vulnerable to disruptions and threats by unauthorized UAS flights. Critical infrastructure, including military bases, is subject to frequent—and often unidentified—UAS incursions. Immediate action is needed to ensure American sovereignty over its skies and that its airspace remains safe and secure.

SEC. 2. *Definitions*. For the purposes of this order:

(a) the term "unmanned aircraft systems" or "UAS" has the meaning given in 49 U.S.C. 44801;

(b) the term "critical infrastructure" has the meaning given in 42 U.S.C. 5195c(e) [section 1016(e) of Pub. L. 107–56], and includes systems and assets in all of the designated critical infrastructure sectors identified in National Security Memorandum 22 of April 30, 2024 (Critical Infrastructure Security and Resilience) (NSM-22) and

(c) the term Sector Risk Management Agency or "SRMA" has the same meaning given in 6 U.S.C. 650 [section 2200 of Pub. L. 107–296] and as further described in NSM-22.

SEC. 3. *Policy*. It is the policy of the United States to ensure control over our national airspace and to protect the public, critical infrastructure, mass gathering events, and military and sensitive government installations and operations from threats posed by the careless or unlawful use of UAS.

SEC. 4. *Task Force to Restore American Airspace Sovereignty*. To assist in ensuring control over our national airspace, there is hereby established the Federal Task Force to Restore American Airspace Sovereignty (Task Force). The Task Force shall be chaired by the Assistant to the President for National Security Affairs (APNSA) or a designee, and include principals, or their designees, from appropriate executive departments and agencies as identified by the APNSA. The Task Force shall review relevant operational, technical, and regulatory frameworks and develop and propose solutions to UAS threats, as appropriate and consistent with applicable law, and shall make recommendations on the implementation of all actions identified in this order.

SEC. 5. *Airspace Regulations to Protect the Public*. The Administrator of the Federal Aviation Administration (FAA) shall:

(a) with respect to the rulemaking required by section 2209(f) of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190, 49 U.S.C. 44802 note], as amended:

(i) promptly submit a notice of proposed rulemaking (NPRM) to the Office of Management and Budget (OMB) and the Task Force establishing the statutorily required process for restricting drone flights over fixed site facilities, and interpreting, to the extent appropriate, critical infrastructure consistent with the definition of that term in this order; and

(ii) promulgate a final rule as soon as practicable after publication of the NPRM;

(b) make national security and homeland security assessments under section 2209 in coordination with Sector Risk Management Agencies (SRMAs), the Secretary of Defense, the Secretary of Homeland Security, or the Attorney General, as appropriate, and whenever military installations or operations are implicated, with the Secretary of Defense; and

(c) within 180 days of the date of this order [June 6, 2025], make freely available online Notices to Airmen (NOTAMs) and Temporary Flight Restrictions (TFRs) in an open format easily accepted for drone geofencing and Aircraft Navigation and Guidance system purposes. This online availability should supplement, but not replace, existing NOTAMs and TFR promulgation methods.

SEC. 6. *Enhancing Airspace Sovereignty*. (a) the Attorney General, in coordination with the Administrator of the FAA, shall take appropriate steps to ensure full enforcement of applicable civil and criminal laws when drone operators endanger the public, violate established airspace restrictions, or operate a drone in furtherance of an element of another crime;

(b) on a recurring basis, the Attorney General shall submit to the President, through the APNSA, legislative proposals that would revise criminal penalties for violations of restricted airspace; and

(c) within 30 days of the date of this order, and to the extent allowed by law, the Attorney General and the Secretary of Homeland Security shall ensure that their respective departments' grant programs permit otherwise eligible State, local, tribal, and territorial (SLTT) agencies to receive grants to purchase UAS or equipment or services for the detection, tracking, or identification of drones and drone signals, consistent with the legal authorities of those SLTTs.

SEC. 7. *Detection, Tracking, and Identification of Drones and Drone Signals*. (a) To the extent permitted

by law and consistent with the Fourth Amendment, executive departments and agencies shall use all available existing authorities to employ equipment to detect, track, and identify drones and drone signals.

(b) Within 30 days of the date of this order, the Attorney General, the Secretary of Transportation, the Secretary of Homeland Security, and the Chairman of the Federal Communications Commission shall revise the August 2020 "Advisory on the Application of Federal Laws to the Acquisition and Use of Technology to Detect and Mitigate Unmanned Aircraft Systems" to reflect relevant developments in Federal law and regulations addressing drones.

(c) Within 60 days of the date of this order, the Administrator of the FAA shall provide, to the extent permitted by law, including the Privacy Act of 1974 (5 U.S.C. 552a), automated real-time access to personal identifying information associated with UAS remote identification signals to appropriate executive departments and agencies and SLTT agencies for the purposes of enforcing applicable Federal or State law, with appropriate national security and privacy safeguards.

(d) Within 60 days of the date of this order, the Secretary of Homeland Security and the Administrator of the FAA, in coordination with the heads of other SRMAs as appropriate, shall publish guidance to aid private critical infrastructure owners or operators in employing technologies to detect, track, and identify drones and drone signals.

SEC. 8. *Enhancing General Protections*. Within 90 days of the date of this order, the Secretary of Homeland Security and the Attorney General, in coordination with the Secretary of Defense and the Secretary of Transportation, shall submit a recommendation to the President, through the APNSA, using risk-based assessment as defined in 6 U.S.C. 124n(k)(8) [now section 210G (l)(8) of Pub. L. 107–296, 6 U.S.C. 124n(l)(8)], on whether the northern and southern land borders; large airports; Federal facilities; critical infrastructure; and military installations, facilities, and assets should be designated as covered facilities or assets under 6 U.S.C. 124n and 10 U.S.C. 130i and whether any changes to law would be necessary relating to such designation.

SEC. 9. *Building Counter-UAS Capacity*. (a) Within 30 days of the date of this order, the Attorney General and the Secretary of Homeland Security shall explore integrating counter-UAS operational responses as part of Joint Terrorism Task Forces for the purpose of protecting mass gathering events.

(b) The Attorney General, in coordination with the Secretary of Defense; the Secretary of Transportation, acting through the Administrator of the FAA; the Secretary of Homeland Security; the Director of OMB; and the Chairman of the Federal Communications Commission, shall promptly take all appropriate steps to implement the recommendations of the March 2022 Feasibility Report to Congress with regard to the creation of the National Training Center for Counter-Unmanned Aircraft Systems (Center), and, upon establishment of the Center, focus initial training provided by the Center on development of Federal and SLTT capabilities to secure major upcoming national and international sporting events held in the United States, such as the FIFA World Cup 2026 and the 2028 Summer Olympics.

SEC. 10. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of Transportation.

DONALD J. TRUMP.

[1] See References in Text note below.

[2] So in original. Probably should be preceded by "the".

[3] So in original. Probably should be "subsections".

§44811. Beyond visual line of sight operations for unmanned aircraft systems

(a) PROPOSED RULE.—Not later than 4 months after the date of enactment of the FAA

Reauthorization Act of 2024, the Administrator shall issue a notice of proposed rulemaking establishing a performance-based regulatory pathway for unmanned aircraft systems (in this section referred to as "UAS") to operate beyond visual line of sight (in this section referred to as "BVLOS").

(b) REQUIREMENTS.—The proposed rule required under subsection (a) shall, at a minimum, establish the following:

(1) Acceptable levels of risk for BVLOS UAS operations, including the levels developed pursuant to section 931 of the FAA Reauthorization Act of 2024.

(2) Standards for remote pilots or UAS operators for BVLOS operations, taking into account varying levels of automated control and management of UAS flights.

(3) An approval or acceptance process for UAS and associated elements (as defined by the Administrator), which may leverage the creation of a special airworthiness certificate or a manufacturer's declaration of compliance to a Federal Aviation Administration accepted means of compliance. Such process—

(A) shall not require, but may allow for, the use of type or production certification;

(B) shall consider the airworthiness of any UAS that—

(i) is within a maximum gross weight or kinetic energy, as determined by the Administrator; and

(ii) operates within a maximum speed limit as determined by the Administrator;

(C) may require such systems to operate in the national airspace system at altitude limits determined by the Administrator; and

(D) may require such systems to operate at standoff distances from the radius of a structure or the structure's immediate uppermost limit, as determined by the Administrator.

(4) Operating rules for UAS that have been approved or accepted as described in paragraph (3).

(5) Protocols, if appropriate, for networked information exchange, such as network-based remote identification, in support of BVLOS operations.

(6) The safety of manned aircraft operating in the national airspace system and consider the maneuverability and technology limitations of certain aircraft, including hot air balloons.

(c) FINAL RULE.—Not later than 16 months after publishing the proposed rule under subsection (a), the Administrator shall issue a final rule based on such proposed rule.

(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to require the agency to rescope any rulemaking efforts related to UAS BVLOS operations that are ongoing as of the date of enactment of the FAA Reauthorization Act of 2024.

(Added Pub. L. 118–63, title IX, §930(a), May 16, 2024, 138 Stat. 1366.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsecs. (a) and (d), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 931 of the FAA Reauthorization Act of 2024, referred to in subsec. (b)(1), is section 931 of Pub. L. 118–63, which is set out as a note under section 44801 of this title.

§44812. Temporary flight restrictions for unmanned aircraft

(a) IN GENERAL.—

(1) TEMPORARY FLIGHT RESTRICTIONS.—The Administrator of the Federal Aviation Administration shall, upon the request by an eligible entity, temporarily restrict unmanned aircraft operations over eligible large public gatherings.

(2) DENIAL.—Notwithstanding paragraph (1), the Administrator may deny a request for a temporary flight restriction sought under paragraph (1) if—

(A) the temporary flight restriction would be inconsistent with aviation safety or security, would create a hazard to people or property on the ground, or would unnecessarily interfere with the efficient use of the airspace;

(B) the entity seeking the temporary flight restriction does not comply with the requirements in subsection (b);

(C) the eligibility requirements in subsections (c) and (d) have not been met;

(D) a flight restriction exists to the airspace overlying the same location as the temporary flight restriction sought under this section; or

(E) the Administrator determines appropriate for any other reason.

(b) REQUIREMENTS.—

(1) ADVANCE NOTICE.—Eligible entities may only request a temporary flight restriction under subsection (a) not less than 30 calendar days prior to the eligible large public gathering.

(2) REQUIRED INFORMATION.—Eligible entities seeking a temporary flight restriction under this section shall provide the Administrator with all relevant information, including the following:

(A) Geographic boundaries of the stadium or other venue hosting the eligible large public gathering, as applicable.

(B) The dates and anticipated starting and ending times for the large public gathering.

(C) Points of contact for the requesting eligible entity and the on-scene incident command responsible for securing the large public gathering.

(D) Any other information the Administrator considers necessary to establish the restriction.

(c) ELIGIBLE LARGE PUBLIC GATHERINGS.—

(1) IN GENERAL.—To be eligible for a temporary flight restriction under this section, large public gatherings hosted in a stadium or other venue shall—

(A) be hosted in a stadium or other venue that—

(i) has previously hosted events qualifying for the application of special security instructions in accordance with section 521 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (Public Law 108–199); [1] and

(ii) is not enclosed;

(B) have an estimated attendance of at least 30,000 people; and

(C) be advertised in the public domain.

(2) ADDITIONAL GATHERINGS.—To be eligible for a temporary flight restriction under this section, large public gatherings hosted in a venue other than a stadium or other venue described in paragraph (1)(A) shall—

(A) have an estimated attendance of at least 100,000 people;

(B) be primarily outdoors;

(C) have a defined and static geographical boundary; and

(D) be advertised in the public domain.

(d) ELIGIBLE ENTITIES.—An entity eligible to request a temporary flight restriction under subsection (a) shall be a credentialed law enforcement organization of the Federal Government or a State, local, Tribal, or territorial government.

(e) TIMELINESS.—The Administrator shall make every practicable effort to assess eligibility and establish temporary flight restrictions under subsection (a) in a timely fashion.

(f) PUBLIC INFORMATION.—Any temporary flight restriction designated under this section shall be published by the Administrator in a publicly accessible manner at least 2 days prior to the start of the eligible large public gathering.

(g) PROHIBITION ON OPERATIONS.—No person may operate an unmanned aircraft within a temporary flight restriction established under this section unless—

(1) the Administrator authorizes the operation for operational or safety purposes;
(2) the operation is being conducted for safety, security, or compliance oversight purposes and is authorized by the Administrator; or
(3) the aircraft operation is conducted with the approval of the eligible entity.

(h) SAVINGS CLAUSE.—Nothing in this section may be construed as prohibiting the Administrator from authorizing the operation of an aircraft, including an unmanned aircraft system, over, under, or within a specified distance from an eligible large public gathering for which a temporary flight restriction has been established under this section or cancelling a temporary flight restriction established under this section.
(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent the Administrator from using existing processes or procedures to meet the intent of this section.

(Added Pub. L. 118–63, title IX, §935(a), May 16, 2024, 138 Stat. 1370.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 521 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (Public Law 108–199), referred to in subsec. (c)(1)(A)(i), probably means section 521 of title V of div. F of Pub. L. 108–199, which is set out as a note under section 40103 of this title. The Act is comprised of div. F of Pub. L. 108–199.

[1] See References in Text note below.

§44813. Center of Excellence for Unmanned Aircraft Systems

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall continue operation of the Center of Excellence for Unmanned Aircraft Systems (referred to in this section as the "Center").
(b) RESPONSIBILITIES.—The Center shall carry out the following responsibilities:
(1) Conduct applied research and training on the safe and efficient integration of unmanned aircraft systems and advanced air mobility into the national airspace system.
(2) Promote and facilitate collaboration among academia, the Federal Aviation Administration, Federal agency partners, and industry stakeholders (including manufacturers, operators, service providers, standards development organizations, carriers, and suppliers), with respect to the safe and efficient integration of unmanned aircraft systems and advanced air mobility into the national airspace system.
(3) Establish goals set to advance technology, improve engineering practices, and facilitate continuing education with respect to the safe and efficient integration of unmanned aircraft systems and advanced air mobility into the national airspace system.

(c) PROGRAM PARTICIPATION.—The Administrator shall ensure the participation in the Center of institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) and research institutions that provide accredited bachelor's degree programs in aeronautical sciences that provide pathways to commercial pilot certifications and that include a focus on pilot training for women aviators.
(d) LEVERAGING OF CERTAIN CAPACITY AND CAPABILITIES.—The Administrator shall, in carrying out research necessary to validate consensus safety standards accepted pursuant to section 44805, to the maximum extent practicable, leverage the research and testing capacity and capabilities of—
(1) the Center;
(2) the test ranges designated under section 44803;

(3) existing Federal and non-Federal test ranges and testbeds;
(4) the National Aeronautics and Space Administration; and
(5) the William J. Hughes Technical Center for Advanced Aerospace.

(Added Pub. L. 118–63, title X, §1006(a), May 16, 2024, 138 Stat. 1388.)

§44814. ASSUREd Safe credentialing authority

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a credentialing authority for the program of record of the Federal Aviation Administration (referred to in this section as "ASSUREd Safe") under the Center of Excellence for Unmanned Aircraft Systems.

(b) PURPOSES.—ASSUREd Safe shall offer services throughout the United States, and to allies and partners of the United States, including—

(1) online and in-person standards, education, and testing for the use of unmanned aircraft systems by first responders for emergency and disaster management operations;

(2) uniform communications standards, operational standards, and reporting standards for civilian, military, and international allies and partners; and

(3) any other relevant standards development related to operation of unmanned aircraft systems, as determined appropriate by the Administrator.

(c) COORDINATION.—The Administrator shall ensure that the Center of Excellence for Unmanned Aircraft Systems coordinates with the National Institute of Standards and Technology and the Federal Emergency Management Agency on establishment of ASSUREd Safe, and on any services offered by ASSUREd Safe.

(Added Pub. L. 118–63, title X, §1007(a), May 16, 2024, 138 Stat. 1389.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

CHAPTER 449—SECURITY

SUBCHAPTER I—REQUIREMENTS

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EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, div. K, title I, §§1937(b)(2), 1943(b), 1955(a)(2), 1988(b), 1991(j)(2), 1992, Oct. 5, 2018, 132 Stat. 3579, 3584, 3596, 3623, 3646, added items 44929, 44931, 44932, 44942, 44943, 44947, and 44948 and substituted "PreCheck Program" for "Security screening pilot program" in item 44919 and "Deputization" for "Deputation" in item 44922.

2014—Pub. L. 113–238, §2(b), Dec. 18, 2014, 128 Stat. 2846, which directed amendment of analysis for subchapter II of chapter 449 of title 49 by adding item 44946 at the end, was executed by adding item 44946 to analysis for this chapter to reflect the probable intent of Congress.

Pub. L. 113–221, §2(b), Dec. 16, 2014, 128 Stat. 2094, which directed amendment of analysis for title 49 by adding item 44928 after item 44927, was executed by adding item 44928 to analysis for this chapter, to reflect the probable intent of Congress.

2013—Pub. L. 113–27, §2(b), Aug. 9, 2013, 127 Stat. 504, which directed amendment of analysis for subchapter I of chapter 449 by adding item 44927 after item 44926, was executed by adding item 44927 to analysis for this chapter to reflect the probable intent of Congress.

Pub. L. 112–271, §2(b), Jan. 14, 2013, 126 Stat. 2447, substituted "Disposition of unclaimed money and clothing" for "Disposition of unclaimed money" in item 44945.

2007—Pub. L. 110–53, title XVI, §1606(b), Aug. 3, 2007, 121 Stat. 483, added item 44926.

2004—Pub. L. 108–458, title IV, §4013(b), Dec. 17, 2004, 118 Stat. 3720, added item 44925.

Pub. L. 108–334, title V, §515(c), Oct. 18, 2004, 118 Stat. 1318, added item 44945.

2003—Pub. L. 108–176, title VI, §§605(b)(3), 611(b)(2), Dec. 12, 2003, 117 Stat. 2568, 2572, added items 44923 and 44924.

Pub. L. 108–7, div. I, title III, §351(c), Feb. 20, 2003, 117 Stat. 420, added item 44922.

2002—Pub. L. 107–296, title XIV, §1402(b)(1), Nov. 25, 2002, 116 Stat. 2305, added item 44921.

2001—Pub. L. 107–71, title I, §§101(f)(6), 105(b), 107(b), 108(b), 113(b), 125(b), 131(b), Nov. 19, 2001, 115 Stat. 603, 607, 611, 613, 622, 632, 635, added items 44917 to 44920, 44939, 44941, and 44944 and struck out items 44931 "Director of Intelligence and Security" and 44932 "Assistant Administrator for Civil Aviation Security".

Pub. L. 107–71, title I, §118(b), Nov. 19, 2001, 115 Stat. 627, which directed addition of item 44940 to the analysis for chapter 449 without specifying the Code title to be amended, was executed by adding item 44940 to this analysis to reflect the probable intent of Congress.

1996—Pub. L. 104–264, title III, §312(b), Oct. 9, 1996, 110 Stat. 3254, added item 44916.

[1] Section catchline amended by Pub. L. 115–254 without corresponding amendment of chapter analysis.

SUBCHAPTER I—REQUIREMENTS

§44901. Screening passengers and property

(a) IN GENERAL.—The Administrator of the Transportation Security Administration shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. In the case of flights and flight segments originating in the United States, the screening shall take place before boarding and shall be carried out by a Federal Government employee (as defined in section 2105 of title 5), except as otherwise provided in section 44920 and except for identifying passengers and baggage for screening under the CAPPS and known shipper programs and conducting positive bag-match programs.

(b) SUPERVISION OF SCREENING.—All screening of passengers and property at airports in the United States where screening is required under this section shall be supervised by uniformed Federal personnel of the Transportation Security Administration who shall have the power to order the dismissal of any individual performing such screening.

(c) CHECKED BAGGAGE.—A system must be in operation to screen all checked baggage at all airports in the United States as soon as practicable.

(d) EXPLOSIVES DETECTION SYSTEMS.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall take all necessary action to ensure that—

(A) explosives detection systems are deployed as soon as possible to ensure that all United States airports described in section 44903(c) have sufficient explosives detection systems to screen all checked baggage, and that as soon as such systems are in place at an airport, all checked baggage at the airport is screened by those systems; and

(B) all systems deployed under subparagraph (A) are fully utilized; and

(C) if explosives detection equipment at an airport is unavailable, all checked baggage is screened by an alternative means.

(2) PRECLEARANCE AIRPORTS.—

(A) IN GENERAL.—For a flight or flight segment originating at an airport outside the United States and traveling to the United States with respect to which checked baggage has been screened in accordance with an aviation security preclearance agreement between the United States and the country in which such airport is located, the Administrator of the

Transportation Security Administration may, in coordination with U.S. Customs and Border Protection, determine whether such baggage must be re-screened in the United States by an explosives detection system before such baggage continues on any additional flight or flight segment.

(B) AVIATION SECURITY PRECLEARANCE AGREEMENT DEFINED.—In this paragraph, the term "aviation security preclearance agreement" means an agreement that delineates and implements security standards and protocols that are determined by the Administrator of the Transportation Security Administration, in coordination with U.S. Customs and Border Protection, to be comparable to those of the United States and therefore sufficiently effective to enable passengers to deplane into sterile areas of airports in the United States.

(C) RESCREENING REQUIREMENT.—If the Administrator of the Transportation Security Administration determines that the government of a foreign country has not maintained security standards and protocols comparable to those of the United States at airports at which preclearance operations have been established in accordance with this paragraph, the Administrator shall ensure that Transportation Security Administration personnel rescreen passengers arriving from such airports and their property in the United States before such passengers are permitted into sterile areas of airports in the United States.

(D) REPORT.—The Administrator of the Transportation Security Administration shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report on the re-screening of baggage under this paragraph. Each such report shall include the following for the year covered by the report:

(i) A list of airports outside the United States from which a flight or flight segment traveled to the United States for which the Administrator determined, in accordance with the authority under subparagraph (A), that checked baggage was not required to be re-screened in the United States by an explosives detection system before such baggage continued on an additional flight or flight segment.

(ii) The amount of Federal savings generated from the exercise of such authority.

(e) MANDATORY SCREENING WHERE EDS NOT YET AVAILABLE.—As soon as practicable and until the requirements of subsection (b)(1)(A) are met, the Administrator of the Transportation Security Administration shall require alternative means for screening any piece of checked baggage that is not screened by an explosives detection system. Such alternative means may include 1 or more of the following:

(1) A bag-match program that ensures that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft.

(2) Manual search.

(3) Search by canine explosives detection units in combination with other means.

(4) Other means or technology approved by the Administrator.

(f) CARGO DEADLINE.—A system must be in operation to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in all-cargo aircraft in air transportation and intrastate air transportation as soon as practicable.

(g) AIR CARGO ON PASSENGER AIRCRAFT.—

(1) IN GENERAL.—The Secretary of Homeland Security shall establish a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.

(2) MINIMUM STANDARDS.—The system referred to in paragraph (1) shall require, at a minimum, that equipment, technology, procedures, personnel, or other methods approved by the

Administrator of the Transportation Security Administration, are used to screen cargo carried on passenger aircraft described in paragraph (1) to provide a level of security commensurate with the level of security for the screening of passenger checked baggage.

(3) REGULATIONS.—The Secretary of Homeland Security shall issue a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.

(4) SCREENING DEFINED.—In this subsection the term "screening" means a physical examination or non-intrusive methods of assessing whether cargo poses a threat to transportation security. Methods of screening include x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by the Transportation Security Administration, or a physical search together with manifest verification. The Administrator may approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection. Such additional cargo screening methods shall not include solely performing a review of information about the contents of cargo or verifying the identity of a shipper of the cargo that is not performed in conjunction with other security methods authorized under this subsection, including whether a known shipper is registered in the known shipper database. Such additional cargo screening methods may include a program to certify the security methods used by shippers pursuant to paragraphs (1) and (2) and alternative screening methods pursuant to exemptions referred to in subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(h) DEPLOYMENT OF ARMED PERSONNEL.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall order the deployment of law enforcement personnel authorized to carry firearms at each airport security screening location to ensure passenger safety and national security.

(2) MINIMUM REQUIREMENTS.—Except at airports required to enter into agreements under subsection (c), the Administrator of the Transportation Security Administration shall order the deployment of at least 1 law enforcement officer at each airport security screening location. At the 100 largest airports in the United States, in terms of annual passenger enplanements for the most recent calendar year for which data are available, the Administrator shall order the deployment of additional law enforcement personnel at airport security screening locations if the Administrator determines that the additional deployment is necessary to ensure passenger safety and national security.

(i) EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.—The Administrator of the Transportation Security Administration—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Administrator decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

(j) BLAST-RESISTANT CARGO CONTAINERS.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall—

(A) evaluate the results of the blast-resistant cargo container pilot program that was initiated before August 3, 2007; and

(B) prepare and distribute through the Aviation Security Advisory Committee to the appropriate Committees [1] of Congress and air carriers a report on that evaluation which may contain nonclassified and classified sections.

(2) ACQUISITION, MAINTENANCE, AND REPLACEMENT.—Upon completion and

consistent with the results of the evaluation that paragraph (1)(A) requires, the Administrator shall—

(A) develop and implement a program, as the Administrator determines appropriate, to acquire, maintain, and replace blast-resistant cargo containers;

(B) pay for the program; and

(C) make available blast-resistant cargo containers to air carriers pursuant to paragraph (3).

(3) DISTRIBUTION TO AIR CARRIERS.—The Administrator shall make available, beginning not later than July 1, 2008, blast-resistant cargo containers to air carriers for use on a risk managed basis as determined by the Administrator.

(k) GENERAL AVIATION AIRPORT SECURITY PROGRAM.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall—

(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47134(m)); [2] and

(B) implement a program to perform such assessments on a risk-managed basis at general aviation airports.

(2) GRANT PROGRAM.—The Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to operators of general aviation airports (as defined in section 47134(m)) [2] for projects to upgrade security at such airports. If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

(3) APPLICATION TO GENERAL AVIATION AIRCRAFT.—The Administrator shall develop a risk-based system under which—

(A) general aviation aircraft, as identified by the Administrator, in coordination with the Administrator of the Federal Aviation Administration, are required to submit passenger information and advance notification requirements for United States Customs and Border Protection before entering United States airspace; and

(B) such information is checked against appropriate databases.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Transportation Security Administration such sums as may be necessary to carry out paragraphs (2) and (3).

(l) LIMITATIONS ON USE OF ADVANCED IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ADVANCED IMAGING TECHNOLOGY.—The term "advanced imaging technology"—

(i) means a device used in the screening of passengers that creates a visual image of an individual showing the surface of the skin and revealing other objects on the body; and

(ii) may include devices using backscatter x-rays or millimeter waves and devices referred to as "whole-body imaging technology" or "body scanning machines".

(B) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(i) the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Homeland Security of the House of Representatives.

(C) AUTOMATIC TARGET RECOGNITION SOFTWARE.—The term "automatic target recognition software" means software installed on an advanced imaging technology that

produces a generic image of the individual being screened that is the same as the images produced for all other screened individuals.

(2) USE OF ADVANCED IMAGING TECHNOLOGY.—The Administrator of the Transportation Security Administration shall ensure that any advanced imaging technology used for the screening of passengers under this section—

(A) is equipped with and employs automatic target recognition software; and

(B) complies with such other requirements as the Administrator determines necessary to address privacy considerations.

(3) EXTENSION.—

(A) IN GENERAL.—The Administrator of the Transportation Security Administration may extend the deadline specified in paragraph (2), if the Administrator determines that—

(i) an advanced imaging technology equipped with automatic target recognition software is not substantially as effective at screening passengers as an advanced imaging technology without such software; or

(ii) additional testing of such software is necessary.

(B) DURATION OF EXTENSIONS.—The Administrator of the Transportation Security Administration may issue one or more extensions under subparagraph (A). The duration of each extension may not exceed one year.

(4) REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the date on which the Administrator of the Transportation Security Administration issues any extension under paragraph (3), the Administrator shall submit to the appropriate congressional committees a report on the implementation of this subsection.

(B) ELEMENTS.—A report submitted under subparagraph (A) shall include the following:

(i) A description of all matters the Administrator of the Transportation Security Administration considers relevant to the implementation of the requirements of this subsection.

(ii) The status of compliance by the Transportation Security Administration with such requirements.

(iii) If the Administration is not in full compliance with such requirements—

(I) the reasons for the noncompliance; and

(II) a timeline depicting when the Administrator of the Transportation Security Administration expects the Administration to achieve full compliance.

(C) SECURITY CLASSIFICATION.—To the greatest extent practicable, a report prepared under subparagraph (A) shall be submitted in an unclassified format. If necessary, the report may include a classified annex.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1204; Pub. L. 107–71, title I, §§101(f)(7), 110(b), Nov. 19, 2001, 115 Stat. 603, 614; Pub. L. 107–296, title IV, §425, Nov. 25, 2002, 116 Stat. 2185; Pub. L. 110–53, title XVI, §§1602(a), 1609, 1617, Aug. 3, 2007, 121 Stat. 477, 484, 488; Pub. L. 112–95, title VIII, §826, Feb. 14, 2012, 126 Stat. 132; Pub. L. 112–218, §2, Dec. 20, 2012, 126 Stat. 1593; Pub. L. 114–125, title VIII, §815, Feb. 24, 2016, 130 Stat. 220; Pub. L. 115–254, div. K, title I, §§1937(b)(3), 1991(d)(1), Oct. 5, 2018, 132 Stat. 3579, 3627.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44901(a)	49 App.:1356(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat.

		731, §315(a) (1st, 2d sentences, 3d sentence 19th–last words); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, §551(b)(1), 99 Stat. 225.
44901(b)	49 App.:1356(a) (2d sentence).	
44901(c)(1)	49 App.:1356(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §315(c); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415; Nov. 16, 1990, Pub. L. 101–604, §102(a), 104 Stat. 3068.
44901(c)(2)	49 App.:1356(a) (3d sentence 19th–last words).	

In subsection (a), the words "or continue in effect reasonable", "intended", and "the aircraft for such transportation" are omitted as surplus.

In subsection (b), the words "Notwithstanding subsection (a) of this section" are added for clarity. The words "One year after August 5, 1974, or after the effective date of such regulations, whichever is later" are omitted as executed. The words "alter or", "a continuation of", "the extent deemed necessary to", and "acts of" are omitted as surplus.

In subsection (c)(1), the words "in whole or in part" and "those" are omitted as surplus. The word "providing" is substituted for "engaging in" for consistency in the revised title. The words "interstate, overseas, or foreign" are omitted because of the definition of "air transportation" in section 40102(a) of the revised title. The words "of public convenience and necessity", "by the Civil Aeronautics Board", "foreign air carrier", and "by the Board" are omitted as surplus.

In subsection (c)(2), the words "or amendments thereto" and "or amendments" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (g)(4), is section 1602(b) of Pub. L. 110–53, title XVI, Aug. 3, 2007, 121 Stat. 479, which is not classified to the Code.

Section 47134(m), referred to in subsec. (k)(1)(A), (2), is section 47134(m) of this title, which was repealed by Pub. L. 115–254, div. B, title I, §160(a)(6), Oct. 5, 2018, 132 Stat. 3221.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(1)(A), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" and struck out ", United States Code" after "title 5".

Pub. L. 115–254, §1937(b)(3), struck out "44919 or" before "44920".

Subsec. (c). Pub. L. 115–254, §1991(d)(1)(B), struck out "but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act" before period at end.

Subsec. (d)(1). Pub. L. 115–254, §1991(d)(1)(C)(i)(I), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 115–254, §1991(d)(1)(C)(i)(II), struck out "no later than December 31, 2002" after "to screen all checked baggage".

Subsec. (d)(2). Pub. L. 115–254, §1991(d)(1)(C)(ii), (iii), redesignated par. (4) as (2) and struck out former par. (2) which related to determination by the Under Secretary of Transportation for Security that the Transportation Security Administration would not be able to deploy required explosives detection systems at certain airports by Dec. 31, 2002.

Subsec. (d)(2)(A). Pub. L. 115–254, §1991(d)(1)(C)(iv)(I), substituted "Administrator of the Transportation Security Administration" for "Assistant Secretary (Transportation Security Administration)".

Subsec. (d)(2)(B). Pub. L. 115–254, §1991(d)(1)(C)(iv)(II), substituted "Administrator of the Transportation Security Administration" for "Assistant Secretary".

Subsec. (d)(2)(D). Pub. L. 115–254, §1991(d)(1)(C)(iv)(III), in introductory provisions, substituted

"Administrator of the Transportation Security Administration" for "Assistant Secretary" and, in cl. (i), substituted "Administrator" for "Assistant Secretary".

Subsec. (d)(3), (4). Pub. L. 115–254, §1991(d)(1)(C)(ii), (iii), struck out par. (3) and redesignated par. (4) as (2). Prior to amendment, text of par. (3) read as follows: "Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport."

Subsec. (e). Pub. L. 115–254, §1991(d)(1)(D)(i), in introductory provisions, struck out "but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act" after "practicable" and substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (e)(4). Pub. L. 115–254, §1991(d)(1)(D)(ii), substituted "Administrator" for "Under Secretary".

Subsec. (f). Pub. L. 115–254, §1991(d)(1)(E), struck out "after the date of enactment of the Aviation and Transportation Security Act" before period at end.

Subsec. (g)(1). Pub. L. 115–254, §1991(d)(1)(F)(i), substituted "The" for "Not later than 3 years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the".

Subsec. (g)(2). Pub. L. 115–254, §1991(d)(1)(F)(ii), substituted "baggage." for "baggage as follows:

"(A) 50 percent of such cargo is so screened not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

"(B) 100 percent of such cargo is so screened not later than 3 years after such date of enactment."

Subsec. (g)(3). Pub. L. 115–254, §1991(d)(1)(F)(iii), amended par. (3) generally. Prior to amendment, par. (3) related to the issuance by the Secretary of Homeland Security of an interim final rule and a final rule implementing subsec. (g).

Subsec. (g)(4), (5). Pub. L. 115–254, §1991(d)(1)(F)(iv), (v), redesignated par. (5) as (4) and struck out former par. (4). Prior to amendment, text of par. (4) read as follows: "Not later than 1 year after the date of establishment of the system under paragraph (1), the Secretary shall submit to the Committees referred to in paragraph (3)(B)(ii) a report that describes the system."

Subsec. (h)(1). Pub. L. 115–254, §1991(d)(1)(G)(i), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (h)(2). Pub. L. 115–254, §1991(d)(1)(G)(ii), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" in first sentence, and "Administrator" for "Under Secretary" in two places in second sentence.

Subsec. (i). Pub. L. 115–254, §1991(d)(1)(H)(i), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" in introductory provisions.

Subsec. (i)(2). Pub. L. 115–254, §1991(d)(1)(H)(ii), substituted "Administrator" for "Under Secretary".

Subsec. (j)(1). Pub. L. 115–254, §1991(d)(1)(I)(i), substituted "The" for "Before January 1, 2008, the" in introductory provisions.

Subsec. (j)(1)(A). Pub. L. 115–254, §1991(d)(1)(I)(ii), substituted "August 3, 2007" for "the date of enactment of this subsection".

Subsec. (k)(1). Pub. L. 115–254, §1991(d)(1)(J)(i), substituted "The" for "Not later than one year after the date of enactment of this subsection, the" in introductory provisions.

Subsec. (k)(2). Pub. L. 115–254, §1991(d)(1)(J)(ii), substituted "The" for "Not later than 6 months after the date of enactment of this subsection, the".

Subsec. (k)(3). Pub. L. 115–254, §1991(d)(1)(J)(iii), substituted "The" for "Not later than 180 days after the date of enactment of this subsection, the" in introductory provisions.

Subsec. (l)(2). Pub. L. 115–254, §1991(d)(1)(K)(i)(I), substituted "The Administrator of the Transportation Security Administration" for "Beginning June 1, 2012, the Assistant Secretary of Homeland Security (Transportation Security Administration)" in introductory provisions.

Subsec. (l)(2)(B). Pub. L. 115–254, §1991(d)(1)(K)(i)(II), substituted "Administrator" for "Assistant Secretary".

Subsec. (l)(3)(A). Pub. L. 115–254, §1991(d)(1)(K)(ii)(I), substituted "Administrator of the Transportation Security Administration may extend" for "Assistant Secretary may extend" and "Administrator determines" for "Assistant Secretary determines" in introductory provisions.

Subsec. (l)(3)(B). Pub. L. 115–254, §1991(d)(1)(K)(ii)(II), substituted "Administrator of the Transportation Security Administration" for "Assistant Secretary".

Subsec. (l)(4)(A). Pub. L. 115–254, §1991(d)(1)(K)(iii)(I), struck out "60 days after the deadline specified in paragraph (2), and not later than" after "Not later than" and substituted "Administrator of the Transportation

Security Administration issues" for "Assistant Secretary issues" and "Administrator shall" for "Assistant Secretary shall".

Subsec. (l)(4)(B)(i), (iii)(II). Pub. L. 115–254, §1991(d)(1)(K)(iii)(II), substituted "Administrator of the Transportation Security Administration" for "Assistant Secretary".

2016—Subsec. (d)(4)(C), (D). Pub. L. 114–125 added subpar. (C) and redesignated former subpar. (C) as (D).

2012—Subsec. (d). Pub. L. 112–218, §2(b), which directed substitution of "explosives" for "explosive" wherever appearing in this section, was executed in subsec. (d) by making such substitution wherever appearing in text as well as by substituting "Explosives" for "Explosive" in heading, to reflect the probable intent of Congress.

Subsec. (d)(4). Pub. L. 112–218, §2(a), added par. (4).

Subsec. (e). Pub. L. 112–218, §2(b), substituted "explosives" for "explosive" in introductory provisions and in par. (3).

Subsec. (l). Pub. L. 112–95 added subsec. (l).

2007—Subsecs. (g) to (i). Pub. L. 110–53, §1602(a), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (j). Pub. L. 110–53, §1609, added subsec. (j).

Subsec. (k). Pub. L. 110–53, §1617, added subsec. (k).

2002—Subsec. (d)(2), (3). Pub. L. 107–296 added pars. (2) and (3).

2001—Subsec. (a). Pub. L. 107–71, §110(b)(2), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier."

Subsec. (b). Pub. L. 107–71, §110(b)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "Notwithstanding subsection (a) of this section, the Administrator may amend a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation."

Subsec. (c). Pub. L. 107–71, §110(b)(2), added subsec. (c). Former subsec. (c) redesignated (h).

Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory provisions and par. (2).

Subsecs. (d) to (g). Pub. L. 107–71, §110(b)(2), added subsecs. (d) to (g).

Subsec. (h). Pub. L. 107–71, §110(b)(1), redesignated subsec. (c) as (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

SAVINGS PROVISION

Pub. L. 107–71, title I, §141, Nov. 19, 2001, 115 Stat. 643, provided that:

"(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act [see Tables for classification], those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Security Administration by this Act shall be transferred to the Transportation Security Administration for use in connection with the functions transferred. Unexpended balances of appropriations, allocations, and other funds made available to the Federal Aviation Administration to carry out such functions shall also be transferred to the Transportation Security Administration for use in connection with the functions transferred.

"(b) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

"(1) that have been issued, made, granted, or allowed to become effective by the Federal Aviation Administration, any officer or employee thereof, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

"(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Under Secretary

of Transportation for Security [now Administrator of the Transportation Security Administration], any other authorized official, a court of competent jurisdiction, or operation of law.

"(c) PROCEEDINGS.—

"(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Federal Aviation Administration at the time this Act takes effect [Nov. 19, 2001], insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

"(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

"(3) ORDERLY TRANSFER.—The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings from the Federal Aviation Administration.

"(d) SUITS.—

"(1) IN GENERAL.—This Act shall not affect suits commenced before the date of the enactment of this Act [Nov. 19, 2001], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

"(2) SUITS BY OR AGAINST FAA.—Any suit by or against the Federal Aviation Administration begun before the date of the enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Security Administration (to the extent the suit involves functions transferred to the Transportation Security Administration under this Act) substituted for the Federal Aviation Administration.

"(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Transportation Security Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

"(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Federal Aviation Administration shall abate by reason of the enactment of this Act. No cause of action by or against the Federal Aviation Administration, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

"(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Transportation Security Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act.

"(g) ACT DEFINED.—In this section, the term 'Act' includes the amendments made by this Act."

TRANSITION PROVISIONS

Pub. L. 107–71, title I, §101(g), Nov. 19, 2001, 115 Stat. 603, provided that:

"(1) SCHEDULE FOR ASSUMPTION OF CIVIL AVIATION SECURITY FUNCTIONS.—Not later than 3 months after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] shall assume civil aviation security functions and responsibilities under chapter 449 of title 49, United States Code, as amended by this Act, in accordance with a schedule to be developed by the Secretary of Transportation, in consultation with air carriers, foreign air carriers, and the Administrator of the Federal Aviation Administration. The Under Secretary shall publish an appropriate notice of the transfer of such security functions and responsibilities before assuming the functions and responsibilities.

"(2) ASSUMPTION OF CONTRACTS.—As of the date specified in paragraph (1), the Under Secretary may assume the rights and responsibilities of an air carrier or foreign air carrier contract for provision of passenger screening services at airports in the United States described in section 44903(c), subject to payment of adequate compensation to parties to the contract, if any.

"(3) ASSIGNMENT OF CONTRACTS.—

"(A) IN GENERAL.—Upon request of the Under Secretary, an air carrier or foreign air carrier

carrying out a screening or security function under chapter 449 of title 49, United States Code, may enter into an agreement with the Under Secretary to transfer any contract the carrier has entered into with respect to carrying out the function, before the Under Secretary assumes responsibility for the function.

"(B) SCHEDULE.—The Under Secretary may enter into an agreement under subparagraph (A) as soon as possible, but not later than 90 days after the date of enactment of this Act [Nov. 19, 2001]. The Under Secretary may enter into such an agreement for one 180-day period and may extend such agreement for one 90-day period if the Under Secretary determines it necessary.

"(4) TRANSFER OF OWNERSHIP.—In recognition of the assumption of the financial costs of security screening of passengers and property at airports, and as soon as practical after the date of enactment of this Act [Nov. 19, 2001], air carriers may enter into agreements with the Under Secretary to transfer the ownership, at no cost to the United States Government, of any personal property, equipment, supplies, or other material associated with such screening, regardless of the source of funds used to acquire the property, that the Secretary determines to be useful for the performance of security screening of passengers and property at airports.

"(5) PERFORMANCE OF UNDER SECRETARY'S FUNCTIONS DURING INTERIM PERIOD.—Until the Under Secretary takes office, the functions of the Under Secretary that relate to aviation security may be carried out by the Secretary or the Secretary's designee."

TSA REACHING ACROSS NATIONALITIES, SOCIETIES, AND LANGUAGES TO ADVANCE TRAVELER EDUCATION

Pub. L. 117–263, div. G, title LXXI, §7131, Dec. 23, 2022, 136 Stat. 3644, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Administrator of the Transportation Security Administration (TSA) shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to ensure that TSA material disseminated in major airports can be better understood by more people accessing such airports.

"(b) CONTENTS.—The plan required under subsection (a) shall include the following:

"(1) An identification of the most common languages other than English that are the primary languages of individuals that travel through or work in each major airport.

"(2) A plan to improve—

"(A) TSA materials to communicate information in languages identified pursuant to paragraph (1); and

"(B) the communication of TSA material to individuals with vision or hearing impairments or other possible barriers to understanding such material.

"(c) CONSIDERATIONS.—In developing the plan required under subsection (a), the Administrator of the TSA, acting through the Office of Civil Rights and Liberties, Ombudsman, and Traveler Engagement of the TSA, shall take into consideration data regarding the following:

"(1) International enplanements.

"(2) Local populations surrounding major airports.

"(3) Languages spoken by members of Indian Tribes within each service area population in which a major airport is located.

"(d) IMPLEMENTATION.—Not later than 180 days after the submission of the plan required under subsection (a), the Administrator of the TSA, in consultation with the owner or operator of each major airport, shall implement such plan.

"(e) GAO REVIEW.—Not later than one year after the implementation pursuant to subsection (d) of the plan required under subsection (a), the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a review of such implementation.

"(f) DEFINITIONS.—In this section:

"(1) AIRPORT.—The term 'airport' has the meaning given such term in section 40102 of title 49, United States Code.

"(2) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given the term 'Indian tribe' in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130), individually identified (including parenthetically) in the list published most recently as of the date of the enactment of this Act [Dec. 23, 2022] pursuant to section 104 of that Act (25 U.S.C. 5131).

"(3) MAJOR AIRPORTS.—The term 'major airports' means Category X and Category I airports.

"(4) NON-TRAVELING INDIVIDUAL.—The term 'non-traveling individual' has the meaning given such term in section 1560.3 of title 49, Code of Federal Regulations.

"(5) TSA MATERIAL.—The term 'TSA material' means signs, videos, audio messages, websites, press releases, social media postings, and other communications published and disseminated by the Administrator of the TSA in Category X and Category I airports for use by both traveling and non-traveling individuals."

ONE-STOP PILOT PROGRAM

Pub. L. 117–263, div. G, title LXXI, §7132, Dec. 23, 2022, 136 Stat. 3645, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Transportation Security Administration.

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Homeland Security and Committee on Foreign Affairs of the House of Representatives; and

"(B) the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations of the Senate.

"(3) TSA.—The term 'TSA' means the Transportation Security Administration of the Department of Homeland Security.

"(b) IMPLEMENTATION.—Notwithstanding [section] 44901(a) of title 49, United States Code, the Administrator, in coordination with the Commissioner of U.S. Customs and Border Protection and the Secretary of State, may implement a pilot program at not more than six foreign last point of departure airports to permit passengers and their accessible property arriving on direct flights or flight segments originating at such participating foreign airports to continue on additional flights or flight segments originating in the United States without additional security re-screening if—

"(1) the initial screening was conducted in accordance with an aviation security screening agreement described in subsection (e);

"(2) passengers arriving from participating foreign airports are unable to access their checked baggage until the arrival at their final destination; and

"(3) upon arrival in the United States, passengers arriving from participating foreign airports do not come into contact with other arriving international passengers, those passengers' property, or other persons who have not been screened or subjected to other appropriate security controls required for entry into the airport's sterile area.

"(c) REQUIREMENTS FOR PILOT PROGRAM.—In carrying out this section, the Administrator shall ensure that there is no reduction in the level of security or specific TSA aviation security standards or requirements for screening passengers and their property prior to boarding an international flight bound for the United States, including specific aviation security standards and requirements regarding the following:

"(1) High risk passengers and their property.

"(2) Weapons, explosives, and incendiaries.

"(3) Screening passengers and property transferring at a foreign last point of departure airport from another airport and bound for the United States, and addressing any commingling of such passengers and property with passengers and property screened under the pilot program described in subsection (b).

"(4) Insider risk at foreign last point of departure airports.

"(d) RE-SCREENING OF CHECKED BAGGAGE.—Subject to subsection (f), the Administrator may determine whether checked baggage arriving from participating foreign airports referenced in subsection (b) that screen using an explosives detection system must be re-screened in the United States by an explosives detection system before such baggage continues on any additional flight or flight segment.

"(e) AVIATION SECURITY SCREENING AGREEMENT.—

"(1) IN GENERAL.—An aviation security screening agreement described in this subsection is a treaty, executive agreement, or non-binding instrument entered into with a foreign country that delineates and implements security standards and protocols utilized at a foreign last point of departure airport that are determined by the Administrator—

"(A) to be comparable to those of the United States; and

"(B) sufficiently effective to enable passengers and their accessible property to deplane into sterile areas of airports in the United States without the need for re-screening.

"(2) NON-DELEGATION.—The authority to approve an aviation security screening agreement may not be delegated below the level of the Secretary of State, the Secretary of Homeland Security, or the Administrator.

"(f) RE-SCREENING REQUIREMENT.—

"(1) IN GENERAL.—If the Administrator determines that a foreign country participating in the aviation security screening agreement has not maintained and implemented security standards and protocols comparable to those of the United States at foreign last point of departure airports at which a pilot program has been established in accordance with this section, the Administrator shall ensure that passengers and their property arriving from such airports are re-screened in the United States, including by using explosives detection systems in accordance with section 44901(d)(1) of title 49, United States Code, and implementing regulations and directives, before such passengers and their property are permitted into sterile areas of airports in the United States.

"(2) CONSULTATION.—If the Administrator has reasonable grounds to believe the other party to an aviation security screening agreement has not complied with such agreement, the Administrator shall request immediate consultation with such party.

"(3) SUSPENSION OR TERMINATION OF AGREEMENT.—If a satisfactory resolution between TSA and a foreign country is not reached within 45 days after a consultation request under paragraph (2) or in the case of the foreign country's continued or egregious failure to maintain the security standards and protocols described in paragraph (1), the President, or with the concurrence of the Secretary of State, the Secretary of Homeland Security or the Administrator, as appropriate, shall suspend or terminate the aviation security screening agreement with such country, as determined appropriate by the President, the Secretary of Homeland Security, or the Administrator. The Administrator shall notify the appropriate congressional committees of such consultation and suspension or termination, as the case may be, not later than seven days after such consultation and suspension or termination.

"(g) BRIEFINGS TO CONGRESS.—Not later than 45 days before an aviation security screening agreement described in subsection (e) enters into force, the Administrator, in coordination with the Secretary of State, shall submit to the appropriate congressional committees the following:

"(1) An aviation security threat assessment for the country in which such foreign last point of departure airport is located.

"(2) Information regarding any corresponding mitigation efforts to address any security issues identified in such threat assessment, including any plans for joint covert testing.

"(3) Information on potential security vulnerabilities associated with commencing a pilot program at such foreign last point of departure airport pursuant to subsection (b) and mitigation plans to address such potential security vulnerabilities.

"(4) An assessment of the impacts such pilot program will have on aviation security.

"(5) An assessment of the screening performed at such foreign last point of departure airport, including the feasibility of TSA personnel monitoring screening, security protocols, and standards.

"(6) Information regarding identifying the entity or entities responsible for screening passengers and property at such foreign last point of departure airport.

"(7) The name of the entity or local authority and any contractor or subcontractor.

"(8) Information regarding the screening requirements relating to such aviation security screening agreement.

"(9) Details regarding information sharing mechanisms between the TSA and such foreign last point of departure airport, screening authority, or entity responsible for screening provided for under such aviation security screening agreement.

"(10) A copy of the aviation security screening agreement, which shall identify the foreign last point of departure airport or airports at which a pilot program under this section is to be established.

"(h) CERTIFICATIONS RELATING TO THE PILOT PROGRAM FOR ONE-STOP SECURITY.—For each aviation security screening agreement described in subsection (e), the Administrator, in coordination with the Secretary of State, shall submit to the appropriate congressional committees the following:

"(1)(A) A certification that such agreement satisfies all of the requirements specified in subsection (c); or

"(B) in the event that one or more of such requirements are not so satisfied, a description of the unsatisfied requirement and information on what actions the Administrator will take to ensure that such remaining requirements are satisfied before such agreement enters into force.

"(2) A certification that TSA and U.S. Customs and Border Protection have ensured that any necessary physical modifications or appropriate mitigations exist in the domestic one-stop security pilot program airport prior to receiving international passengers from a last point of departure airport under the aviation security screening agreement.

"(3) A certification that a foreign last point of departure airport covered by an aviation security screening agreement has an operation to screen all checked bags as required by law, regulation, or international agreement, including the full utilization of explosives detection systems to the extent

applicable.

"(4) A certification that the Administrator consulted with stakeholders, including air carriers, aviation nonprofit labor organizations, airport operators, relevant interagency partners, and other stakeholders that the Administrator determines appropriate.

"(i) REPORT TO CONGRESS.—Not later than five years after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Homeland Security, in coordination with the Administrator, shall submit to the appropriate congressional committees a report regarding the implementation of the pilot program authorized under this section, including information relating to the following:

"(1) The impact of such program on homeland security and international aviation security, including any benefits and challenges of such program.

"(2) The impact of such program on passengers, airports, and air carriers, including any benefits and challenges of such program.

"(3) The impact and feasibility of continuing such program or expanding it into a more permanent program, including any benefits and challenges of such continuation or expansion.

"(j) RULE OF CONSTRUCTION.—Nothing in this section may be construed as limiting the authority of U.S. Customs and Border Protection to inspect persons and baggage arriving in the United States in accordance with applicable law.

"(k) SUNSET.—The pilot program authorized under this section shall terminate on the date that is six years after the date of the enactment of this Act."

PLAN TO REDUCE THE SPREAD OF CORONAVIRUS AT PASSENGER SCREENING CHECKPOINTS

Pub. L. 117–81, div. F, title LXIV, §6415, Dec. 27, 2021, 135 Stat. 2413, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Administrator, in coordination with the Chief Medical Officer of the Department of Homeland Security, and in consultation with the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention, shall issue and commence implementing a plan to enhance, as appropriate, security operations at airports during the COVID–19 national emergency in order to reduce risk of the spread of the coronavirus at passenger screening checkpoints and among the TSA workforce.

"(b) CONTENTS.—The plan required under subsection (a) shall include the following:

"(1) An identification of best practices developed and screening technologies deployed in response to the coronavirus among foreign governments, airports, and air carriers conducting aviation security screening operations, as well as among Federal agencies conducting similar security screening operations outside of airports, including in locations where the spread of the coronavirus has been successfully contained, that could be further integrated into the United States aviation security system.

"(2) Specific operational changes to aviation security screening operations informed by the identification of best practices and screening technologies under paragraph (1) that could be implemented without degrading aviation security and a corresponding timeline and costs for implementing such changes.

"(c) CONSIDERATIONS.—In carrying out the identification of best practices under subsection (b), the Administrator shall take into consideration the following:

"(1) Aviation security screening procedures and practices in place at security screening locations, including procedures and practices implemented in response to the coronavirus.

"(2) Volume and average wait times at each such security screening location.

"(3) Public health measures already in place at each such security screening location.

"(4) The feasibility and effectiveness of implementing similar procedures and practices in locations where such are not already in place.

"(5) The feasibility and potential benefits to security, public health, and travel facilitation of continuing any procedures and practices implemented in response to the COVID–19 national emergency beyond the end of such emergency.

"(d) CONSULTATION.—In developing the plan required under subsection (a), the Administrator may consult with public and private stakeholders and the TSA workforce, including through the labor organization certified as the exclusive representative of full- and part-time nonsupervisory TSA personnel carrying out screening functions under section 44901 of title 49, United States Code.

"(e) SUBMISSION.—Upon issuance of the plan required under subsection (a), the Administrator shall submit the plan to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(f) ISSUANCE AND IMPLEMENTATION.—The Administrator shall not be required to issue or implement, as the case may be, the plan required under subsection (a) upon the termination of the COVID–19

national emergency except to the extent the Administrator determines such issuance or implementation, as the case may be, to be feasible and beneficial to security screening operations.

"(g) GAO REVIEW.—Not later than one year after the issuance of the plan required under subsection (a) (if such plan is issued in accordance with subsection (f)), the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a review, if appropriate, of such plan and any efforts to implement such plan.

"(h) DEFINITIONS.—In this section:

"(1) The term 'Administrator' means the Administrator of the Transportation Security Administration.

"(2) The term 'coronavirus' has the meaning given such term in section 506 of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116–123) [134 Stat. 155].

"(3) The term 'COVID–19 national emergency' means the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) on March 13, 2020, with respect to the coronavirus.

"(4) The term 'public and private stakeholders' has the meaning given such term in section 114(t)(1)(C) of title 49, United States Code.

"(5) The term 'TSA' means the Transportation Security Administration."

SCREENING OUTSIDE PRIMARY PASSENGER TERMINAL SCREENING AREA PILOT PROGRAM

Pub. L. 116–6, div. A, title II, §225, Feb. 15, 2019, 133 Stat. 25, as amended by Pub. L. 116–260, div. F, title II, §223, Dec. 27, 2020, 134 Stat. 1459; Pub. L. 117–328, div. F, title II, §222, Dec. 29, 2022, 136 Stat. 4737; Pub. L. 119–75, div. I, §5005, Feb. 3, 2026, 140 Stat. 630, provided that:

"(a) Subject to the provisions of this section, the Administrator of the Transportation Security Administration (hereafter in this section referred to as 'the Administrator') may conduct a pilot program to provide screening services outside of an existing primary passenger terminal screening area where screening services are currently provided or would be eligible to be provided under the Transportation Security Administration's annually appropriated passenger screening program as a primary passenger terminal screening area.

"(b) Any request for screening services under subsection (a) shall be initiated only at the request of a public or private entity regulated by the Transportation Security Administration; shall be made in writing to the Administrator; and may only be submitted to the Transportation Security Administration after consultation with the relevant local airport authority.

"(c) The Administrator may provide the requested screening services under subsection (a) if the Administrator provides a certification to the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate that implementation of subsection (a) does not reduce the security or efficiency of screening services already provided in primary passenger terminals at any impacted airports.

"(d) No screening services may be provided under subsection (a) unless the requesting entity agrees in writing to the scope of the screening services to be provided, and agrees to compensate the Transportation Security Administration for all reasonable personnel and non-personnel costs, including overtime, of providing the screening services.

"(e) The authority available under this section is effective for fiscal years 2019 through 2026 and may be utilized at not more than eight locations for transportation security purposes.

"(f) Notwithstanding any other provision of law, an airport authority, air carrier, or other requesting entity shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

"(1) an airport authority's or other entity's decision to request that the Transportation Security Administration provide passenger screening services outside of a primary passenger terminal screening area; or

"(2) any act of negligence, gross negligence, or intentional wrongdoing by employees of the Transportation Security Administration providing passenger and property security screening services at a pilot program screening location.

"(g) Notwithstanding any other provision of law, any compensation received by the Transportation Security Administration under subsection (d) shall be credited to the account used to finance the provision of reimbursable security screening services under subsection (a).

"(h) The Administrator shall submit to the Committee on Homeland Security and the Committee on

Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate—

"(1) an implementation plan for the pilot programs under subsection (a), including the application process, that is due by 90 days after the date of enactment of this Act [Feb. 15, 2019];

"(2) an evaluation plan for the pilot programs; and

"(3) annual performance reports, by not later than 60 days after the end of each fiscal year in which the pilot programs are in operation, including—

"(A) the amount of reimbursement received by the Transportation Security Administration from each entity in the pilot program for the preceding fiscal year, delineated by personnel and non-personnel costs;

"(B) an analysis of the results of the pilot programs corresponding to the evaluation plan required under paragraph (2);

"(C) any Transportation Security Administration staffing changes created at the primary passenger screening checkpoints and baggage screening as a result of the pilot program; and

"(D) any other unintended consequences created by the pilot program.

"(i) Except as otherwise provided in this section, nothing in this section may be construed as affecting in any manner the responsibilities, duties, or authorities of the Transportation Security Administration.

"(j) For the purposes of this section, the term 'airport' means a commercial service airport as defined by section 47107(7) [probably should be 47102(7)] of title 49[,] United States Code.

"(k) For the purposes of this section, the term 'screening services' means the screening of passengers, flight crews, and their carry-on baggage and personal articles, and may include checked baggage screening if that type of screening is performed at an offsite location that is not part of a passenger terminal of a commercial airport.

"(l) For the purpose of this section, the term 'primary passenger terminal screening area' means the security checkpoints relied upon by airports as the principal points of entry to a sterile area of an airport."

RECIPROCAL RECOGNITION OF SECURITY STANDARDS

Pub. L. 115–254, div. K, title I, §1914, Oct. 5, 2018, 132 Stat. 3555, provided that:

"(a) IN GENERAL.—The Administrator [of the Transportation Security Administration], in coordination with appropriate international aviation security authorities, shall develop a validation process for the reciprocal recognition of security equipment technology approvals among international security partners or recognized certification authorities for deployment.

"(b) REQUIREMENT.—The validation process shall ensure that the certification by each participating international security partner or recognized certification authority complies with detection, qualification, and information security, including cybersecurity, standards of the TSA [Transportation Security Administration], the Department of Homeland Security, and the National Institute of Standards and Technology."

REAL-TIME SECURITY CHECKPOINT WAIT TIMES

Pub. L. 115–254, div. K, title I, §1922, Oct. 5, 2018, 132 Stat. 3561, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall make available to the public information on wait times at each airport security checkpoint at which security screening operations are conducted or overseen by the TSA [Transportation Security Administration].

"(b) REQUIREMENTS.—The information described in subsection (a) shall be provided in real time via technology and published—

"(1) online; and

"(2) in physical locations at applicable airport terminals.

"(c) CONSIDERATIONS.—The Administrator shall only make the information described in subsection (a) available to the public if it can do so in a manner that does not increase public area security risks.

"(d) DEFINITION OF WAIT TIME.—In this section, the term 'wait time' means the period beginning when a passenger enters a queue for a screening checkpoint and ending when that passenger exits the checkpoint."

SCREENING TECHNOLOGY REVIEW AND PERFORMANCE OBJECTIVES

Pub. L. 115–254, div. K, title I, §1924, Oct. 5, 2018, 132 Stat. 3562, provided that:

"(a) REVIEW OF TECHNOLOGY ACQUISITIONS PROCESS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration], in coordination with relevant officials of the Department [of Homeland Security], shall conduct a review of existing advanced transportation security

screening technology testing and evaluation, acquisitions, and procurement practices within TSA [Transportation Security Administration].

"(2) CONTENTS.—Such review shall include—

"(A) identifying process delays and obstructions within the Department and the Administration regarding how such technology is identified, tested and evaluated, acquired, and deployed;

"(B) assessing whether the TSA can better leverage existing resources or processes of the Department for the purposes of technology testing and evaluation;

"(C) assessing whether the TSA can further encourage innovation and competition among technology stakeholders, including through increased participation of and funding for small business concerns (as such term is described under section 3 of the Small Business Act (15 U.S.C. 632));

"(D) identifying best practices of other Department components or United States Government entities; and

"(E) a plan to address any problems or challenges identified by such review.

"(b) BRIEFING.—The Administrator shall provide to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a briefing on the findings of the review required under this section and a plan to address any problems or challenges identified by such review.

"(c) ACQUISITIONS AND PROCUREMENT ENHANCEMENT.—Incorporating the results of the review in subsection (a), the Administrator shall—

"(1) engage in outreach, coordination, and collaboration with transportation stakeholders to identify and foster innovation of new advanced transportation security screening technologies;

"(2) streamline the overall technology development, testing, evaluation, acquisitions, procurement, and deployment processes of the Administration; and

"(3) ensure the effectiveness and efficiency of such processes.

"(d) ASSESSMENT.—The Secretary [of Homeland Security], in consultation with the Chief Privacy Officer of the Department, shall submit to the appropriate committees of Congress a compliance assessment of the TSA acquisition process relating to the health and safety risks associated with implementation of screening technologies.

"(e) PERFORMANCE OBJECTIVES.—The Administrator shall establish performance objectives for the testing and verification of security technology, including testing and verification conducted by appropriate third parties under section 1911 [49 U.S.C. 114 note], to ensure that progress is made, at a minimum, toward—

"(1) reducing time for each phase of testing while maintaining security (including testing for detection testing, operational testing, testing and verification framework, and field testing);

"(2) eliminating testing and verification delays; and

"(3) increasing accountability.

"(f) TRACKING.—

"(1) IN GENERAL.—In carrying out subsection (e), the Administrator shall establish and continually track performance metrics for each type of security technology submitted for testing and verification, including testing and verification conducted by appropriate third parties under section 1911.

"(2) MEASURING PROGRESS TOWARD GOALS.—The Administrator shall use the metrics established and tracked under paragraph (1) to generate data on an ongoing basis and to measure progress toward the achievement of the performance objectives established under subsection (e).

"(3) REPORT REQUIRED.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress a report assessing the extent to which the performance objectives established under subsection (e), as measured by the performance metrics established and tracked under paragraph (1) of this subsection, have been met.

"(B) ELEMENTS.—The report required by subparagraph (A) shall include—

"(i) a list of the performance metrics established under paragraph (1), including the length of time for each phase of testing and verification for each type of security technology; and

"(ii) a comparison of the progress achieved for testing and verification of security technology conducted by the TSA and the testing and verification of security technology conducted by third parties.

"(C) PROPRIETARY INFORMATION.—The report required by subparagraph (A) shall—

"(i) not include identifying information regarding an individual or entity or equipment; and

"(ii) protect proprietary information.

"(g) INFORMATION TECHNOLOGY SECURITY.—Not later than 90 days after the date of enactment of

this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress a plan to conduct recurring reviews of the operational, technical, and management security controls for Administration information technology systems at airports."

COMPUTED TOMOGRAPHY PILOT PROGRAMS

Pub. L. 115–254, div. K, title I, §1925, Oct. 5, 2018, 132 Stat. 3563, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall carry out a pilot program to test the use of screening equipment using computed tomography technology to screen baggage at passenger screening checkpoints at airports.

"(b) FEASIBILITY STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator, in coordination with the Under Secretary for Science and Technology of the Department [of Homeland Security], shall submit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a feasibility study regarding expanding the use of computed tomography technology for the screening of air cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation, interstate air transportation, or interstate air commerce.

"(2) CONSIDERATIONS.—In conducting the feasibility study under paragraph (1), the Administrator shall consider the following:

"(A) Opportunities to leverage computed tomography systems used for screening passengers and baggage.

"(B) Costs and benefits of using computed tomography technology for screening air cargo.

"(C) An analysis of emerging computed tomography systems that may have potential to enhance the screening of air cargo, including systems that may address aperture challenges associated with screening certain categories of air cargo.

"(D) An analysis of emerging screening technologies, in addition to computed tomography, that may be used to enhance the screening of air cargo.

"(c) PILOT PROGRAM.—Not later than 120 days after the date the feasibility study is submitted under subsection (b), the Administrator shall initiate a 2-year pilot program to achieve enhanced air cargo security screening outcomes through the use of new or emerging screening technologies, such as computed tomography technology, as identified through such study.

"(d) UPDATES.—Not later than 60 days after the date the pilot program under subsection (c) is initiated, and biannually thereafter for 2 years, the Administrator shall brief the appropriate committees of Congress on the progress of implementation of such pilot program.

"(e) DEFINITIONS.—In this section:

"(1) AIR CARRIER.—The term 'air carrier' has the meaning given the term in section 40102 of title 49, United States Code.

"(2) AIR TRANSPORTATION.—The term 'air transportation' has the meaning given the term in section 40102 of title 49, United States Code.

"(3) FOREIGN AIR CARRIER.—The term 'foreign air carrier' has the meaning given the term in section 40102 of title 49, United States Code.

"(4) INTERSTATE AIR COMMERCE.—The term 'interstate air commerce' has the meaning given the term in section 40102 of title 49, United States Code.

"(5) INTERSTATE AIR TRANSPORTATION.—The term 'interstate air transportation' has the meaning given the term in section 40102 of title 49, United States Code."

SCREENING PERFORMANCE ASSESSMENTS

Pub. L. 115–254, div. K, title I, §1947, Oct. 5, 2018, 132 Stat. 3587, provided that: "Subject to part 1520 of title 49, Code of Federal Regulations, the Administrator [of the Transportation Security Administration] shall quarterly make available to the airport director of an airport—

"(1) an assessment of the screening performance of that airport compared to the mean average performance of all airports in the equivalent airport category for screening performance data; and

"(2) a briefing on the results of performance data reports, including—

"(A) a scorecard of objective metrics developed by the Office of Security Operations to measure screening performance, such as results of annual proficiency reviews and covert testing, at the appropriate level of classification; and

"(B) other performance data, including—

"(i) passenger throughput;

"(ii) wait times; and

"(iii) employee attrition, absenteeism, injury rates, and any other human capital measures collected by the TSA [Transportation Security Administration]."

IMPROVEMENTS FOR SCREENING OF PASSENGERS WITH DISABILITIES

Pub. L. 115–254, div. K, title I, §1950, Oct. 5, 2018, 132 Stat. 3589, provided that:

"(a) REVISED TRAINING.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration], in consultation with nationally-recognized veterans and disability organizations, shall revise the training requirements for Transportation Security Officers related to the screening of passengers with disabilities, including passengers with disabilities who participate in the PreCheck program.

"(2) TRAINING SPECIFICATIONS.—In revising the training requirements under paragraph (1), the Administrator shall address the proper screening, and any particular sensitivities related to the screening, of a passenger with a disability—

"(A) traveling with a medical device, including an indwelling medical device;

"(B) traveling with a prosthetic;

"(C) traveling with a wheelchair, walker, scooter, or other mobility device;

"(D) traveling with a service animal; or

"(E) with sensitivities to touch, pressure, sound, or hypersensitivity to stimuli in the environment.

"(3) TRAINING FREQUENCY.—The Administrator shall implement the revised training under paragraph (1) during initial and recurrent training of all Transportation Security Officers.

"(b) BEST PRACTICES.—The individual at the TSA [Transportation Security Administration] responsible for civil rights, liberties, and traveler engagement shall—

"(1) record each complaint from a passenger with a disability regarding the screening practice of the TSA;

"(2) identify the most frequent concerns raised, or accommodations requested, in the complaints;

"(3) determine the best practices for addressing the concerns and requests identified in paragraph (2); and

"(4) recommend appropriate training based on such best practices.

"(c) SIGNAGE.—At each category X airport, the TSA shall place signage at each security checkpoint that—

"(1) specifies how to contact the appropriate TSA employee at the airport designated to address complaints of screening mistreatment based on disability; and

"(2) describes how to receive assistance from that individual or other qualified personnel at the security screening checkpoint.

"(d) REPORTS TO CONGRESS.—Not later than September 30 of the first full fiscal year after the date of enactment of this Act [Oct. 5, 2018], and each fiscal year thereafter, the Administrator shall submit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a report on the checkpoint experiences of passengers with disabilities, including the following:

"(1) The number and most frequent types of disability-related complaints received.

"(2) The best practices recommended under subsection (b) to address the top areas of concern.

"(3) The estimated wait times for assist requests for passengers with disabilities, including disabled passengers who participate in the PreCheck program."

AIR CARGO ADVANCE SCREENING PROGRAM

Pub. L. 115–254, div. K, title I, §1951, Oct. 5, 2018, 132 Stat. 3590, provided that:

"(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection and the Administrator [of the Transportation Security Administration], consistent with the requirements of the Trade Act of 2002 (Public Law 107–210)[,] shall—

"(1) establish an air cargo advance screening program (referred to in this section as the 'ACAS Program') for the collection of advance electronic information from air carriers and other persons within the supply chain regarding cargo being transported to the United States by air;

"(2) under such program, require that such information be transmitted by such air carriers and other persons at the earliest point practicable prior to loading of such cargo onto an aircraft destined to or transiting through the United States;

"(3) establish appropriate communications systems with freight forwarders, shippers, and air carriers;

"(4) establish a system that will allow freight forwarders, shippers, and air carriers to provide shipment level data for air cargo, departing from any location that is inbound to the United States; and

"(5) identify opportunities in which the information furnished in compliance with the ACAS Program could be used by the Administrator.

"(b) INSPECTION OF HIGH-RISK CARGO.—Under the ACAS Program, the Commissioner of U.S. Customs and Border Protection and the Administrator shall ensure that all cargo that has been identified as high-risk is inspected—

"(1) prior to the loading of such cargo onto aircraft at the last point of departure; or

"(2) at an earlier point in the supply chain, before departing for the United States.

"(c) CONSULTATION.—In carrying out the ACAS Program, the Commissioner of U.S. Customs and Border Protection and the Administrator shall consult with relevant stakeholders, as appropriate, to ensure that an operationally feasible and practical approach to—

"(1) the collection of advance information with respect to cargo on aircraft departing for the United States is applied; and

"(2) the inspection of high-risk cargo recognizes the significant differences among air cargo business models and modes of transportation.

"(d) ANALYSIS.—The Commissioner of U.S. Customs and Border Protection and the Administrator may analyze the information described in subsection (a) in the Department of Homeland Security's automated targeting system and integrate such information with other intelligence to enhance the accuracy of the risk assessment process under the ACAS Program.

"(e) NO DUPLICATION.—The Commissioner of U.S. Customs and Border Protection and the Administrator shall carry out this section in a manner that, after the ACAS Program is fully in effect, ensures, to the greatest extent practicable, that the ACAS Program does not duplicate other Department [of Homeland Security] programs or requirements relating to the submission of air cargo data or the inspection of high-risk cargo.

"(f) CONSIDERATION OF INDUSTRY.—In carrying out the ACAS Program, the Commissioner of U.S. Customs and Border Protection and the Administrator shall—

"(1) consider the content and timeliness of the available data may vary among entities in the air cargo industry and among countries;

"(2) explore procedures to accommodate the variations described in paragraph (1) while maximizing the contribution of such data to the risk assessment process under the ACAS Program;

"(3) test the business processes, technologies, and operational procedures required to provide advance information with respect to cargo on aircraft departing for the United States and carry out related inspection of high-risk cargo, while ensuring delays and other negative impacts on vital supply chains are minimized; and

"(4) consider the cost, benefit, and feasibility before establishing any set time period for submission of certain elements of the data for air cargo under this section in line with the regulatory guidelines specified in Executive Order 13563 [5 U.S.C. 601 note] or any successor Executive order or regulation.

"(g) GUIDANCE.—The Commissioner of U.S. Customs and Border Protection and the Administrator shall provide guidance for participants in the ACAS Program regarding the requirements for participation, including requirements for transmitting shipment level data.

"(h) USE OF DATA.—The Commissioner of U.S. Customs and Border Protection and the Administrator shall use the data provided under the ACAS Program for targeting shipments for screening and aviation security purposes only.

"(i) FINAL RULE.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Commissioner of U.S. Customs and Border Protection, in coordination with the Administrator, shall issue a final regulation to implement the ACAS Program to include the electronic transmission to U.S. Customs and Border Protection of data elements for targeting cargo, including appropriate security elements of shipment level data.

"(j) REPORT.—Not later than 180 days after the date of the commencement of the ACAS Program, the Commissioner of U.S. Customs and Border Protection and the Administrator shall submit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a report detailing the operational implementation of providing advance information under the ACAS Program and the value of such information in targeting cargo."

RAISING INTERNATIONAL STANDARDS

Pub. L. 115–254, div. K, title I, §1955(c), Oct. 5, 2018, 132 Stat. 3596, provided that: "Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall collaborate with other aviation authorities and the United States Ambassador or the Charge d'Affaires to the United States Mission to the International Civil Aviation Organization, as applicable, to advance a global standard for each international airport to document and track the removal and disposal of any security screening equipment to ensure the screening equipment does not come into the possession of terrorists or otherwise pose a risk to security."

INTERNATIONAL SECURITY STANDARDS

Pub. L. 115–254, div. K, title I, §1956, Oct. 5, 2018, 132 Stat. 3596, provided that:

"(a) GLOBAL AVIATION SECURITY REVIEW.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration], in coordination with the Commissioner of the U.S. Customs and Border Protection, the Director of the Office of International Engagement of the Department of Homeland Security, and the Secretary of State, shall conduct a global aviation security review to improve aviation security standards, including standards intended to mitigate cybersecurity threats, across the global aviation system.

"(2) BEST PRACTICES.—The global aviation security review shall establish best practices regarding the following:

"(A) Collaborating with foreign partners to improve global aviation security capabilities and standards.

"(B) Identifying foreign partners that—

"(i) have not successfully implemented security protocols from the International Civil Aviation Organization or the Department of Homeland Security; and

"(ii) have not taken steps to implement such security protocols;[.]

"(C) Improving the development, outreach, and implementation process for security directives or emergency amendments issued to domestic and foreign air carriers.

"(D) Assessing the cybersecurity risk of security screening equipment.

"(b) NOTIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the United States Ambassador to the International Civil Aviation Organization, shall notify the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate, and the Committee on Homeland Security and the Committee on Foreign Affairs of the House of Representatives of the progress of the review under subsection (a) and any proposed international improvements to aviation security.

"(c) ICAO.—Subject to subsection (a), the Administrator and Ambassador shall take such action at the International Civil Aviation Organization as the Administrator and Ambassador consider necessary to advance aviation security improvement proposals, including if practicable, introducing a resolution to raise minimum standards for aviation security.

"(d) BRIEFINGS TO CONGRESS.—Beginning not later than 180 days after the date of enactment of this Act, and periodically thereafter, the Administrator, in consultation with the Ambassador with respect to subsection (c), shall brief the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate, and the Committee on Homeland Security and the Committee on Foreign Affairs of the House of Representatives on the implementation of subsections (a) and (b)."

CARRIAGE OF WEAPONS, EXPLOSIVES, AND INCENDIARIES BY INDIVIDUALS

Pub. L. 115–254, div. K, title I, §1962, Oct. 5, 2018, 132 Stat. 3601, provided that:

"(a) INTERPRETIVE RULE.—Subject to subsections (b) and (c), the Administrator [of the Transportation Security Administration] shall periodically review and amend, as necessary, the interpretive rule (68 Fed. Reg. 7444) that provides guidance to the public on the types of property considered to be weapons, explosives, and incendiaries prohibited under section 1540.111 of title 49, Code of Federal Regulations.

"(b) CONSIDERATIONS.—Before determining whether to amend the interpretive rule to include or remove an item from the prohibited list, the Administrator shall—

"(1) research and evaluate—

"(A) the impact, if any, the amendment would have on security risks;

"(B) the impact, if any, the amendment would have on screening operations, including effectiveness and efficiency; and

"(C) whether the amendment is consistent with international standards and guidance, including of the International Civil Aviation Organization; and

"(2) consult with appropriate aviation security stakeholders, including ASAC [Aviation Security

Advisory Committee].

"(c) EXCEPTIONS.—Except for plastic or round bladed butter knives, the Administrator may not amend the interpretive rule described in subsection (a) to authorize any knife to be permitted in an airport sterile area or in the cabin of an aircraft.

"(d) NOTIFICATION.—The Administrator shall—

"(1) publish in the Federal Register any amendment to the interpretive rule described in subsection (a); and

"(2) notify the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] of the amendment not later than 3 days before publication under paragraph (1)."

CONSIDERATION OF PRIVACY AND CIVIL LIBERTIES

Pub. L. 115–141, div. F, title V, §521, Mar. 23, 2018, 132 Stat. 628, provided that: "Hereafter, in developing any process to screen aviation passengers and crews for transportation or national security purposes, the Secretary of Homeland Security shall ensure that all such processes take into consideration such passengers' and crews' privacy and civil liberties consistent with applicable laws, regulations, and guidance."

BOTTLES AND BREASTFEEDING EQUIPMENT SCREENING

Pub. L. 114–293, Dec. 16, 2016, 130 Stat. 1503, as amended by Pub. L. 119–41, §2, Nov. 25, 2025, 139 Stat. 663, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Bottles and Breastfeeding Equipment Screening Act'.

"SEC. 2. TSA SECURITY SCREENING GUIDELINES FOR BABY FORMULA, BREAST MILK, PURIFIED DEIONIZED WATER FOR INFANTS, AND JUICE ON AIRPLANES; TRAINING ON SPECIAL PROCEDURES.

"Not later than 90 days after the date of the enactment of this Act [Dec. 16, 2016], the Administrator of the Transportation Security Administration shall—

"(1) notify air carriers and security screening personnel of the Transportation Security Administration and personnel of private security companies providing security screening pursuant to section 44920 of title 49, United States Code, of such Administration's guidelines regarding permitting baby formula, breast milk, purified deionized water for infants, and juice on airplanes under the Administration's guidelines known as the 3–1–1 Liquids Rule Exemption; and

"(2) in training procedures for security screening personnel of the Administration and private security companies providing security screening pursuant to section 44920 of title 49, United States Code, include training on special screening procedures.

"SEC. 3. HYGIENIC HANDLING OF BREAST MILK AND BABY FORMULA DURING AVIATION SECURITY SCREENING.

"Not later than 90 days after the date of the enactment of this section [Nov. 25, 2025] and every five years thereafter, if appropriate, the Administrator of the Transportation Security Administration shall issue or update, as the case may be, guidance to minimize the risk for contamination of any breast milk, baby formula, purified deionized water for infants, and juice (as well as ice packs, freezer packs, frozen gel packs and other accessories required to cool breast milk, baby formula, and juice) that is subject to re-screening or otherwise subject to additional screening. Such guidance shall—

"(1) be developed in consultation with nationally recognized maternal health organizations;

"(2) ensure adherence to hygienic standards, as established by the Administrator, in consultation with nationally recognized maternal health organizations;

"(3) ensure that, when any such re-screening or additional screening requires additional testing, such testing so adheres to such standards, to so minimize such risk; and

"(4) apply to security screening personnel of the Administration and personnel of private security companies providing security screening pursuant to section 44920 of title 49, United States Code.

"SEC. 4. INSPECTOR GENERAL AUDIT.

"Not later than one year after the date of the enactment of this section [Nov. 25, 2025], the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an audit of compliance with the requirements of sections 2 and 3. Such audit shall also

include information relating to the effect of various types of screening technologies, including bottled liquid scanners, on the screening of breast milk, baby formula, purified deionized water for infants, and juice (as well as ice packs, freezer packs, frozen gel packs and other accessories required to cool breast milk, baby formula, and juice) that is subject to re-screening or otherwise subject to additional screening, and the rate at which such items are denied entry into the sterile area (as such term is defined in section 1540.5 of title 49, Code of Federal Regulations)."

AVIATION SECURITY

Pub. L. 114–190, title III, §§3001–3506, July 15, 2016, 130 Stat. 649–664, as amended by Pub. L. 115–254, div. K, title I, §§1937(b)(1), 1955(b), Oct. 5, 2018, 132 Stat. 3579, 3596, provided that:

"SEC. 3001. SHORT TITLE.

"This title [amending section 44946 of this title and sections 607, 609, and 1112 of Title 6, Domestic Security, and enacting this note] may be cited as the 'Aviation Security Act of 2016'.

"SEC. 3002. DEFINITIONS.

"In this title:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Transportation Security Administration.

"(2) DEPARTMENT.—The term 'Department' means the Department of Homeland Security.

"(3) PRECHECK PROGRAM.—The term 'PreCheck Program' means the trusted traveler program implemented by the Transportation Security Administration under section 109(a)(3) of the Aviation and Transportation Security Act (Public Law 107–71; 49 U.S.C. 114 note).

"(4) TSA.—The term 'TSA' means the Transportation Security Administration.

"[SUBTITLE A—TSA PRECHECK EXPANSION]

"[SECS. 3101, 3102. REPEALED. PUB. L. 115–254, DIV. K, TITLE I, §1937(B)(1), OCT. 5, 2018, 132 STAT. 3579.]

"SUBTITLE B—SECURING AVIATION FROM FOREIGN ENTRY POINTS AND GUARDING AIRPORTS THROUGH ENHANCED SECURITY

"SEC. 3201. LAST POINT OF DEPARTURE AIRPORT SECURITY ASSESSMENT.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [July 15, 2016], the Administrator shall conduct a comprehensive security risk assessment of all last point of departure airports with nonstop flights to the United States.

"(b) CONTENTS.—The security risk assessment required under subsection (a) shall include consideration of the following:

"(1) The level of coordination and cooperation between the TSA and the foreign government of the country in which the last point of departure airport with nonstop flights to the United States is located.

"(2) The intelligence and threat mitigation capabilities of the country in which such airport is located.

"(3) The number of known or suspected terrorists annually transiting through such airport.

"(4) The degree to which the foreign government of the country in which such airport is located mandates, encourages, or prohibits the collection, analysis, and sharing of passenger name records.

"(5) The passenger security screening practices, capabilities, and capacity of such airport.

"(6) The security vetting undergone by aviation workers at such airport.

"(7) The access controls utilized by such airport to limit to authorized personnel access to secure and sterile areas of such airports.

"SEC. 3202. SECURITY COORDINATION ENHANCEMENT PLAN.

"(a) IN GENERAL.—Not later than 240 days after the date of enactment of this Act [July 15, 2016], the Administrator shall submit to Congress and the Government Accountability Office a plan—

"(1) to enhance and bolster security collaboration, coordination, and information sharing relating to securing international-inbound aviation between the United States and domestic and foreign partners, including U.S. Customs and Border Protection, foreign government entities, passenger air carriers, cargo air carriers, and United States Government entities, in order to enhance security capabilities at foreign airports, including airports that may not have nonstop flights to the United States but are nonetheless determined by the Administrator to be high risk; and

"(2) that includes an assessment of the ability of the TSA to enter into a mutual agreement with a foreign government entity that permits TSA representatives to conduct without prior notice inspections of

foreign airports.

"(b) GAO REVIEW.—Not later than 180 days after the submission of the plan required under subsection (a), the Comptroller General of the United States shall review the efforts, capabilities, and effectiveness of the TSA to enhance security capabilities at foreign airports and determine if the implementation of such efforts and capabilities effectively secures international-inbound aviation.

"SEC. 3203. WORKFORCE ASSESSMENT.

"Not later than 270 days after the date of enactment of this Act [July 15, 2016], the Administrator shall submit to Congress a comprehensive workforce assessment of all TSA personnel within the Office of Global Strategies of the TSA or whose primary professional duties contribute to the TSA's global efforts to secure transportation security, including a review of whether such personnel are assigned in a risk-based, intelligence-driven manner.

"[SEC. 3204. REPEALED. PUB. L. 115–254, DIV. K, TITLE I, §1955(B), OCT. 5, 2018, 132 STAT. 3596.]

"SEC. 3205. NATIONAL CARGO SECURITY PROGRAM.

"(a) IN GENERAL.—The Administrator may evaluate foreign countries' air cargo security programs to determine whether such programs provide a level of security commensurate with the level of security required by United States air cargo security programs.

"(b) APPROVAL AND RECOGNITION.—

"(1) IN GENERAL.—If the Administrator determines that a foreign country's air cargo security program evaluated under subsection (a) provides a level of security commensurate with the level of security required by United States air cargo security programs, the Administrator shall approve and officially recognize such foreign country's air cargo security program.

"(2) EFFECT OF APPROVAL AND RECOGNITION.—If the Administrator approves and officially recognizes pursuant to paragraph (1) a foreign country's air cargo security program, an aircraft transporting cargo that is departing such foreign country shall not be required to adhere to United States air cargo security programs that would otherwise be applicable.

"(c) REVOCATION AND SUSPENSION.—

"(1) IN GENERAL.—If the Administrator determines at any time that a foreign country's air cargo security program approved and officially recognized under subsection (b) no longer provides a level of security commensurate with the level of security required by United States air cargo security programs, the Administrator may revoke or temporarily suspend such approval and official recognition until such time as the Administrator determines that such foreign country's cargo security programs provide a level of security commensurate with the level of security required by such United States air cargo security programs.

"(2) NOTIFICATION.—If the Administrator revokes or suspends pursuant to paragraph (1) a foreign country's air cargo security program, the Administrator shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after such revocation or suspension.

"(d) APPLICATION.—This section shall apply irrespective of whether cargo is transported on an aircraft of an air carrier, a foreign air carrier, a cargo carrier, or a foreign cargo carrier.

"SEC. 3206. INTERNATIONAL TRAINING AND CAPACITY DEVELOPMENT.

"(a) IN GENERAL.—The Administrator shall establish an international training and capacity development program to train the appropriate authorities of foreign governments in air transportation security.

"(b) CONTENTS OF TRAINING.—If the Administrator determines that a foreign government would benefit from training and capacity development assistance pursuant to subsection (a), the Administrator may provide to the appropriate authorities of such foreign government technical assistance and training programs to strengthen aviation security in managerial, operational, and technical areas, including—

"(1) active shooter scenarios;

"(2) incident response;

"(3) use of canines;

"(4) mitigation of insider threats;

"(5) perimeter security;

"(6) operation and maintenance of security screening technology; and

"(7) recurrent related training and exercises.

"SUBTITLE C—CHECKPOINT OPTIMIZATION AND EFFICIENCY

"SEC. 3301. SENSE OF CONGRESS.

"It is the sense of Congress that airport checkpoint wait times should not take priority over the security of

the aviation system of the United States.

"SEC. 3302. ENHANCED STAFFING ALLOCATION MODEL.

"(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [July 15, 2016], the Administrator shall complete an assessment of the TSA's staffing allocation model to determine the necessary staffing positions at all airports in the United States at which the TSA operates passenger checkpoints.

"(b) APPROPRIATE STAFFING.—The staffing allocation model described in subsection (a) shall be based on necessary staffing levels to maintain minimal passenger wait times and maximum security effectiveness.

"(c) ADDITIONAL RESOURCES.—In assessing necessary staffing for minimal passenger wait times and maximum security effectiveness referred to in subsection (b), the Administrator shall include the use of canine explosives detection teams and technology to assist screeners conducting security checks.

"(d) TRANSPARENCY.—The Administrator shall share with aviation security stakeholders the staffing allocation model described in subsection (a), as appropriate.

"(e) EXCHANGE OF INFORMATION.—The Administrator shall require each Federal Security Director to engage on a regular basis with the appropriate aviation security stakeholders to exchange information regarding airport operations, including security operations.

"(f) GAO REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall review the staffing allocation model described in subsection (a) and report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of such review.

"SEC. 3303. EFFECTIVE UTILIZATION OF STAFFING RESOURCES.

"(a) IN GENERAL.—To the greatest extent practicable, the Administrator shall direct that Transportation Security Officers with appropriate certifications and training are assigned to passenger and baggage security screening functions and that other TSA personnel who may not have certification and training to screen passengers or baggage are utilized for tasks not directly related to security screening, including restocking bins and providing instructions and support to passengers in security lines.

"(b) ASSESSMENT AND REASSIGNMENT.—The Administrator shall conduct an assessment of headquarters personnel and reassign appropriate personnel to assist with airport security screening activities on a permanent or temporary basis, as appropriate.

"SEC. 3304. TSA STAFFING AND RESOURCE ALLOCATION.

"(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [July 15, 2016], the Administrator shall take the following actions:

"(1) Utilize the TSA's Behavior Detection Officers for passenger and baggage security screening, including the verification of traveler documents, particularly at designated PreCheck Program lanes to ensure that such lanes are operational for use and maximum efficiency.

"(2) Make every practicable effort to grant additional flexibility and authority to Federal Security Directors in matters related to checkpoint and checked baggage staffing allocation and employee overtime in furtherance of maintaining minimal passenger wait times and maximum security effectiveness.

"(3) Disseminate to aviation security stakeholders and appropriate TSA personnel a list of checkpoint optimization best practices.

"(4) Request the Aviation Security Advisory Committee (established pursuant to section 44946 of title 49, United States Code) provide recommendations on best practices for checkpoint security operations optimization.

"(b) STAFFING ADVISORY COORDINATION.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall—

"(1) direct each Federal Security Director to coordinate local representatives of aviation security stakeholders to establish a staffing advisory working group at each airport at which the TSA oversees or performs passenger security screening to provide recommendations to the Administrator on Transportation Security Officer staffing numbers, for each such airport; and

"(2) certify to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that such staffing advisory working groups have been established.

"(c) REPORTING.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall—

"(1) report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate regarding how the TSA's Passenger

Screening Canine assets may be deployed and utilized for maximum efficiency to mitigate risk and optimize checkpoint operations; and

"(2) report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of the TSA's Credential Authentication Technology Assessment program and how deployment of such program might optimize checkpoint operations.

"SEC. 3305. AVIATION SECURITY STAKEHOLDERS DEFINED.

"For purposes of this subtitle, the term 'aviation security stakeholders' shall mean, at a minimum, air carriers, airport operators, and labor organizations representing Transportation Security Officers or, where applicable, contract screeners.

"SEC. 3306. RULE OF CONSTRUCTION.

"Nothing in this subtitle may be construed as authorizing or directing the Administrator to prioritize reducing wait times over security effectiveness.

"SUBTITLE D—AVIATION SECURITY ENHANCEMENT AND OVERSIGHT

"SEC. 3401. DEFINITIONS.

"In this subtitle:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Homeland Security of the House of Representatives;

"(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(C) the Committee on Commerce, Science, and Transportation of the Senate.

"(2) ASAC.—The term 'ASAC' means the Aviation Security Advisory Committee established under section 44946 of title 49, United States Code.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(4) SIDA.—The term 'SIDA' means the Secure Identification Display Area as such term is defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section.

"SEC. 3402. THREAT ASSESSMENT.

"(a) INSIDER THREATS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [July 15, 2016], the Administrator shall conduct or update an assessment to determine the level of risk posed to the domestic air transportation system by individuals with unescorted access to a secure area of an airport (as such term is defined in section 44903(j)(2)(H)) in light of recent international terrorist activity.

"(2) CONSIDERATIONS.—In conducting or updating the assessment under paragraph (1), the Administrator shall consider—

"(A) domestic intelligence;

"(B) international intelligence;

"(C) the vulnerabilities associated with unescorted access authority granted to domestic airport operators and air carriers, and their workers;

"(D) the vulnerabilities associated with unescorted access authority granted to foreign airport operators and air carriers, and their workers;

"(E) the processes and practices designed to mitigate the vulnerabilities associated with unescorted access privileges granted to airport operators and air carriers, and their workers;

"(F) the recent security breaches at domestic and foreign airports; and

"(G) the recent security improvements at domestic airports, including the implementation of recommendations made by relevant advisory committees, including the ASAC.

"(b) REPORTS.—The Administrator shall submit to the appropriate congressional committees—

"(1) a report on the results of the assessment under subsection (a), including any recommendations for improving aviation security;

"(2) a report on the implementation status of any recommendations made by the ASAC; and

"(3) regular updates about the insider threat environment as new information becomes available or as needed.

"SEC. 3403. OVERSIGHT.

"(a) ENHANCED REQUIREMENTS.—

"(1) IN GENERAL.—Subject to public notice and comment, and in consultation with airport operators, the Administrator shall update the rules on access controls issued by the Secretary under chapter

449 of title 49, United States Code.

"(2) CONSIDERATIONS.—As part of the update under paragraph (1), the Administrator shall consider—

"(A) increased fines and advanced oversight for airport operators that report missing more than five percent of credentials for unescorted access to any SIDA of an airport;

"(B) best practices for Category X airport operators that report missing more than three percent of credentials for unescorted access to any SIDA of an airport;

"(C) additional audits and status checks for airport operators that report missing more than three percent of credentials for unescorted access to any SIDA of an airport;

"(D) review and analysis of the prior five years of audits for airport operators that report missing more than three percent of credentials for unescorted access to any SIDA of an airport;

"(E) increased fines and direct enforcement requirements for both airport workers and their employers that fail to report within 24 hours an employment termination or a missing credential for unescorted access to any SIDA of an airport; and

"(F) a method for termination by the employer of any airport worker who fails to report in a timely manner missing credentials for unescorted access to any SIDA of an airport.

"(b) TEMPORARY CREDENTIALS.—The Administrator may encourage the issuance by airports and aircraft operators of free, one-time, 24-hour temporary credentials for workers who have reported, in a timely manner, their credentials missing, but not permanently lost, stolen, or destroyed, until replacement of credentials under section 1542.211 of title 49 Code of Federal Regulations is necessary.

"(c) NOTIFICATION AND REPORT TO CONGRESS.—The Administrator shall—

"(1) notify the appropriate congressional committees each time an airport operator reports that more than three percent of credentials for unescorted access to any SIDA at a Category X airport are missing, or more than five percent of credentials to access any SIDA at any other airport are missing; and

"(2) submit to the appropriate congressional committees an annual report on the number of violations and fines related to unescorted access to the SIDA of an airport collected in the preceding fiscal year.

"SEC. 3404. CREDENTIALS.

"(a) LAWFUL STATUS.—Not later than 90 days after the date of the enactment of this Act [July 15, 2016], the Administrator shall issue to airport operators guidance regarding placement of an expiration date on each airport credential issued to a non-United States citizen that is not longer than the period of time during which such non-United States citizen is lawfully authorized to work in the United States.

"(b) REVIEW OF PROCEDURES.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall—

"(A) issue guidance for transportation security inspectors to annually review the procedures of airport operators and air carriers for applicants seeking unescorted access to any SIDA of an airport; and

"(B) make available to airport operators and air carriers information on identifying suspicious or fraudulent identification materials.

"(2) INCLUSIONS.—The guidance issued pursuant to paragraph (1) shall require a comprehensive review of background checks and employment authorization documents issued by United States Citizenship and Immigration Services during the course of a review of procedures under such paragraph.

"SEC. 3405. VETTING.

"(a) ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [July 15, 2016], and subject to public notice and comment, the Administrator shall revise the regulations issued under section 44936 of title 49, United States Code, in accordance with this section and current knowledge of insider threats and intelligence under section 3502, to enhance the eligibility requirements and disqualifying criminal offenses for individuals seeking or having unescorted access to any SIDA of an airport.

"(2) DISQUALIFYING CRIMINAL OFFENSES.—In revising the regulations under paragraph (1), the Administrator shall consider adding to the list of disqualifying criminal offenses and criteria the offenses and criteria listed in section 122.183(a)(4) of title 19, Code of Federal Regulations and section 1572.103 of title 49, Code of Federal Regulations.

"(3) WAIVER PROCESS FOR DENIED CREDENTIALS.—Notwithstanding section 44936(b) of title 49, United States Code, in revising the regulations under paragraph (1) of this subsection, the Administrator shall—

"(A) ensure there exists or is developed a waiver process for approving the issuance of credentials for unescorted access to any SIDA of an airport for an individual found to be otherwise ineligible for

such credentials; and

"(B) consider, as appropriate and practicable—

"(i) the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism risk or a risk to aviation security warranting denial of the credential; and

"(ii) the elements of the appeals and waiver process established under section 70105(c) of title 46, United States Code.

"(4) LOOK BACK.—In revising the regulations under paragraph (1), the Administrator shall propose that an individual be disqualified if the individual was convicted, or found not guilty by reason of insanity, of a disqualifying criminal offense within 15 years before the date of an individual's application, or if the individual was incarcerated for such crime and released from incarceration within five years before the date of the individual's application.

"(5) CERTIFICATIONS.—The Administrator shall require an airport or aircraft operator, as applicable, to certify for each individual who receives unescorted access to any SIDA of an airport that—

"(A) a specific need exists for providing the individual with unescorted access authority; and

"(B) the individual has certified to the airport or aircraft operator that the individual understands the requirements for possessing a SIDA badge.

"(6) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall submit to the appropriate congressional committees a report on the status of the revision to the regulations issued under section 44936 of title 49, United States Code, in accordance with this section.

"(7) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect existing aviation worker vetting fees imposed by the TSA.

"(b) RECURRENT VETTING.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator and the Director of the Federal Bureau of Investigation shall fully implement the Rap Back service for recurrent vetting of eligible TSA-regulated populations of individuals with unescorted access to any SIDA of an airport.

"(2) REQUIREMENTS.—As part of the requirement in paragraph (1), the Administrator shall ensure that—

"(A) any status notifications the TSA receives through the Rap Back service about criminal offenses be limited to only disqualifying criminal offenses in accordance with the regulations promulgated by the TSA under section 44903 of title 49, United States Code, or other Federal law; and

"(B) any information received by the Administration through the Rap Back service is provided directly and immediately to the relevant airport and aircraft operators.

"(3) REPORT TO CONGRESS.—Not later than 30 days after implementation of the Rap Back service described in paragraph (1), the Administrator shall submit to the appropriate congressional committees a report on the such implementation.

"(c) ACCESS TO TERRORISM-RELATED DATA.—Not later than 30 days after the date of the enactment of this Act, the Administrator and the Director of National Intelligence shall coordinate to ensure that the Administrator is authorized to receive automated, real-time access to additional Terrorist Identities Datamart Environment (TIDE) data and any other terrorism-related category codes to improve the effectiveness of the TSA's credential vetting program for individuals who are seeking or have unescorted access to any SIDA of an airport.

"(d) ACCESS TO E–VERIFY AND SAVE PROGRAMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall authorize each airport operator to have direct access to the E–Verify program and the Systematic Alien Verification for Entitlements (SAVE) automated system to determine the eligibility of individuals seeking unescorted access to any SIDA of an airport.

"SEC. 3406. METRICS.

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [July 15, 2016], the Administrator shall develop and implement performance metrics to measure the effectiveness of security for the SIDAs of airports.

"(b) CONSIDERATIONS.—In developing the performance metrics under subsection (a), the Administrator may consider—

"(1) adherence to access point procedures;

"(2) proper use of credentials;

"(3) differences in access point requirements between airport workers performing functions on the

airside of an airport and airport workers performing functions in other areas of an airport;

"(4) differences in access point characteristics and requirements at airports; and

"(5) any additional factors the Administrator considers necessary to measure performance.

"SEC. 3407. INSPECTIONS AND ASSESSMENTS.

"(a) MODEL AND BEST PRACTICES.—Not later than 180 days after the date of the enactment of this Act [July 15, 2016], the Administrator, in consultation with the ASAC, shall develop a model and best practices for unescorted access security that—

"(1) use intelligence, scientific algorithms, and risk-based factors;

"(2) ensure integrity, accountability, and control;

"(3) subject airport workers to random physical security inspections conducted by TSA representatives in accordance with this section;

"(4) appropriately manage the number of SIDA access points to improve supervision of and reduce unauthorized access to SIDAs; and

"(5) include validation of identification materials, such as with biometrics.

"(b) INSPECTIONS.—Consistent with a risk-based security approach, the Administrator shall expand the use of transportation security officers and inspectors to conduct enhanced, random and unpredictable, data-driven, and operationally dynamic physical inspections of airport workers in each SIDA of an airport and at each SIDA access point to—

"(1) verify the credentials of such airport workers;

"(2) determine whether such airport workers possess prohibited items, except for those items that may be necessary for the performance of such airport workers' duties, as appropriate, in any SIDA of an airport; and

"(3) verify whether such airport workers are following appropriate procedures to access any SIDA of an airport.

"(c) SCREENING REVIEW.—

"(1) IN GENERAL.—The Administrator shall conduct a review of airports that have implemented additional airport worker screening or perimeter security to improve airport security, including—

"(A) comprehensive airport worker screening at access points to secure areas;

"(B) comprehensive perimeter screening, including vehicles;

"(C) enhanced fencing or perimeter sensors; and

"(D) any additional airport worker screening or perimeter security measures the Administrator identifies.

"(2) BEST PRACTICES.—After completing the review under paragraph (1), the Administrator shall—

"(A) identify best practices for additional access control and airport worker security at airports; and

"(B) disseminate to airport operators the best practices identified under subparagraph (A).

"(3) PILOT PROGRAM.—The Administrator may conduct a pilot program at one or more airports to test and validate best practices for comprehensive airport worker screening or perimeter security under paragraph (2).

"SEC. 3408. COVERT TESTING.

"(a) IN GENERAL.—The Administrator shall increase the use of red-team, covert testing of access controls to any secure areas of an airport.

"(b) ADDITIONAL COVERT TESTING.—The Inspector General of the Department of Homeland Security shall conduct red-team, covert testing of airport access controls to the SIDAs of airports.

"(c) REPORTS TO CONGRESS.—

"(1) ADMINISTRATOR REPORT.—Not later than 90 days after the date of the enactment of this Act [July 15, 2016], the Administrator shall submit to the appropriate congressional committees a report on the progress to expand the use of inspections and of red-team, covert testing under subsection (a).

"(2) INSPECTOR GENERAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the appropriate congressional committees a report on the effectiveness of airport access controls to the SIDAs of airports based on red-team, covert testing under subsection (b).

"SEC. 3409. SECURITY DIRECTIVES.

"(a) REVIEW.—Not later than 180 days after the date of the enactment of this Act [July 15, 2016] and annually thereafter, the Administrator, in consultation with the appropriate regulated entities, shall conduct a

comprehensive review of every current security directive addressed to any regulated entity to—

"(1) determine whether each such security directive continues to be relevant;

"(2) determine whether such security directives should be streamlined or consolidated to most efficiently maximize risk reduction; and

"(3) update, consolidate, or revoke any security directive as necessary.

"(b) NOTICE.—For each security directive that the Administrator issues, the Administrator shall submit to the appropriate congressional committees notice of—

"(1) the extent to which each such security directive responds to a specific threat, security threat assessment, or emergency situation against civil aviation; and

"(2) when it is anticipated that each such security directive will expire.

"SEC. 3410. IMPLEMENTATION REPORT.

"Not later than one year after the date of the enactment of this Act [July 15, 2016], the Comptroller General of the United States shall—

"(1) assess the progress made by the TSA and the effect on aviation security of implementing the requirements under sections 3402 through 3409 of this subtitle; and

"(2) report to the appropriate congressional committees on the results of the assessment under paragraph (1), including any recommendations.

"SEC. 3411. MISCELLANEOUS AMENDMENTS.

"(a) ASAC TERMS OF OFFICE.—[Amended section 44946 of this title.]

"(b) FEEDBACK.—[Amended section 44946 of this title.]

"SUBTITLE E—CHECKPOINTS OF THE FUTURE

"SEC. 3501. CHECKPOINTS OF THE FUTURE.

"(a) IN GENERAL.—The Administrator, in accordance with chapter 449 of title 49, United States Code, shall request the Aviation Security Advisory Committee (established pursuant to section 44946 of such title) to develop recommendations for more efficient and effective passenger screening processes.

"(b) CONSIDERATIONS.—In making recommendations to improve existing passenger screening processes, the Aviation Security Advisory Committee shall consider—

"(1) the configuration of a checkpoint;

"(2) technology innovation;

"(3) ways to address any vulnerabilities identified in audits of checkpoint operations;

"(4) ways to prevent security breaches at airports at which Federal security screening is provided;

"(5) best practices in aviation security;

"(6) recommendations from airports and aircraft operators, and any relevant advisory committees; and

"(7) 'curb to curb' processes and procedures.

"(c) REPORT.—Not later than one year after the date of enactment of this Act [July 15, 2016], the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the Aviation Security Advisory Committee review under this section, including any recommendations for improving passenger screening processes.

"SEC. 3502. PILOT PROGRAM FOR INCREASED EFFICIENCY AND SECURITY AT CATEGORY X AIRPORTS.

"(a) IN GENERAL.—The Administrator shall establish a pilot program at at least three and not more than six airports to reconfigure and install security systems that increase efficiency and reduce vulnerabilities in airport terminals, particularly at airports that have large open areas at which screening is conducted.

"(b) SELECTION OF AIRPORTS.—In selecting airports for the pilot program established under subsection (a), the Administrator shall—

"(1) select airports from among airports classified by the TSA as Category X airports and that are able to begin the reconfiguration and installation of security systems expeditiously; and

"(2) give priority to an airport that—

"(A) submits a proposal that seeks Federal funding for reconfiguration of such airport's security systems;

"(B) has the space needed to reduce vulnerabilities and reconfigure existing security systems; and

"(C) is able to enter into a cost-sharing arrangement with the TSA under which such airport will provided [sic] funding towards the cost of such pilot program.

"SEC. 3503. PILOT PROGRAM FOR THE DEVELOPMENT AND TESTING OF PROTOTYPES FOR

AIRPORT SECURITY SYSTEMS.

"(a) IN GENERAL.—The Administrator shall establish a pilot program at three airports to develop and test prototypes of screening security systems and security checkpoint configurations that are intended to expedite the movement of passengers by deploying a range of technologies, including passive and active systems, new types of security baggage and personal screening systems, and new systems to review and address passenger and baggage anomalies.

"(b) SELECTION OF AIRPORTS.—In selecting airports for the pilot program established under subsection (a), the Administrator shall—

"(1) select airports from among airports classified by the TSA as Category X airports that are able to begin the reconfiguration and installation of security systems expeditiously;

"(2) consider detection capabilities; and

"(3) give priority to an airport that—

"(A) submits a proposal that seeks Federal funding to test prototypes for new airport security systems;

"(B) has the space needed to reduce vulnerabilities and reconfigure existing security systems; and

"(C) is able to enter into a cost-sharing arrangement with the TSA under which such airport will provided [sic] funding towards the cost of such pilot program.

"SEC. 3504. REPORT REQUIRED.

"Not later than 90 days after the date of the enactment of this Act [July 15, 2016], the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate and a report on the pilot programs established under sections 3502 and 3503 of this subtitle.

"SEC. 3505. FUNDING.

"The Administrator shall carry out the pilot programs established under sections 3502 and 3503 of this subtitle using amounts—

"(1) appropriated to the TSA before the date of the enactment of this Act [July 15, 2016] and available for obligation as of such date of enactment; and

"(2) amounts obtained as reimbursements from airports under such pilot programs.

"SEC. 3506. ACCEPTANCE AND PROVISION OF RESOURCES BY THE TRANSPORTATION SECURITY ADMINISTRATION.

"The Administrator, in carrying out the functions of the pilot programs established under sections 3502 and 3503 of this subtitle, may accept services, supplies, equipment, personnel, or facilities, without reimbursement, from any other public or private entity."

PROTECTION OF PASSENGER PLANES FROM EXPLOSIVES

Pub. L. 110–53, title XVI, §1610, Aug. 3, 2007, 121 Stat. 484, provided that:

"(a) TECHNOLOGY RESEARCH AND PILOT PROJECTS.—

"(1) RESEARCH AND DEVELOPMENT.—The Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall expedite research and development programs for technologies that can disrupt or prevent an explosive device from being introduced onto a passenger plane or from damaging a passenger plane while in flight or on the ground. The research shall be used in support of implementation of section 44901 of title 49, United States Code.

"(2) PILOT PROJECTS.—The Secretary, in conjunction with the Secretary of Transportation, shall establish a grant program to fund pilot projects—

"(A) to deploy technologies described in paragraph (1); and

"(B) to test technologies to expedite the recovery, development, and analysis of information from aircraft accidents to determine the cause of the accident, including deployable flight deck and voice recorders and remote location recording devices.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2008 such sums as may be necessary to carry out this section. Such sums shall remain available until expended."

STANDARDS FOR INCREASING THE USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 109–295, title V, §518, Oct. 4, 2006, 120 Stat. 1380, provided that: "The Secretary of Homeland Security, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 109–90, title V, §524, Oct. 18, 2005, 119 Stat. 2086.

USE OF EXISTING EQUIPMENT TO SCREEN PASSENGER CARGO; REPORTS

Pub. L. 109–90, title V, §525, Oct. 18, 2005, 119 Stat. 2086, as amended by Pub. L. 114–113, div. F, title V, §510(c), Dec. 18, 2015, 129 Stat. 2514, provided that: "The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: *Provided*, That beginning with November 2005, TSA shall provide a monthly report to the Committees on Appropriations of the Senate and the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month."

IN-LINE CHECKED BAGGAGE SCREENING

Pub. L. 108–458, title IV, §4019(a), (b), Dec. 17, 2004, 118 Stat. 3721, provided that:

"(a) IN-LINE BAGGAGE SCREENING EQUIPMENT.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to expedite the installation and use of in-line baggage screening equipment at airports at which screening is required by section 44901 of title 49, United States Code.

"(b) SCHEDULE.—Not later than 180 days after the date of enactment of this Act [Dec. 17, 2004], the Assistant Secretary shall submit to the appropriate congressional committees a schedule to expedite the installation and use of in-line baggage screening equipment at such airports, with an estimate of the impact that such equipment, facility modification, and baggage conveyor placement will have on staffing needs and levels related to aviation security."

CHECKED BAGGAGE SCREENING AREA MONITORING

Pub. L. 108–458, title IV, §4020, Dec. 17, 2004, 118 Stat. 3722, provided that:

"(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide, subject to the availability of funds, assistance to airports at which screening is required by section 44901 of title 49, United States Code, and that have checked baggage screening areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section. Such sums shall remain available until expended."

PILOT PROGRAM TO EVALUATE USE OF BLAST RESISTANT CARGO AND BAGGAGE CONTAINERS

Pub. L. 108–458, title IV, §4051, Dec. 17, 2004, 118 Stat. 3728, directed the Assistant Secretary of Homeland Security (Transportation Security Administration), beginning not later than 180 days after Dec. 17, 2004, to carry out a pilot program to evaluate the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device, and directed the Assistant Secretary to provide incentives to air carriers to volunteer to participate in such program.

AIR CARGO SECURITY

Pub. L. 108–458, title IV, §4052, Dec. 17, 2004, 118 Stat. 3728, provided that:

"(a) AIR CARGO SCREENING TECHNOLOGY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop technology to better identify, track, and screen air cargo.

"(b) IMPROVED AIR CARGO AND AIRPORT SECURITY.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

"(1) $200,000,000 for fiscal year 2005;

"(2) $200,000,000 for fiscal year 2006; and

"(3) $200,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

"(c) RESEARCH, DEVELOPMENT, AND DEPLOYMENT.—To carry out subsection (a), there is authorized to be appropriated to the Secretary, in addition to any amounts otherwise authorized by law, for research and development related to enhanced air cargo security technology as well as for deployment and

installation of enhanced air cargo security technology—

"(1) $100,000,000 for fiscal year 2005;

"(2) $100,000,000 for fiscal year 2006; and

"(3) $100,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

"(d) ADVANCED CARGO SECURITY GRANTS.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program to issue competitive grants to encourage the development of advanced air cargo security technology, including use of innovative financing or other means of funding such activities. The Secretary may make available funding for this purpose from amounts appropriated pursuant to subsection (c).

"(2) ELIGIBILITY CRITERIA, ETC.—The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and rapidly as possible."

IDENTIFICATION STANDARDS

Pub. L. 108–458, title VII, §7220, Dec. 17, 2004, 118 Stat. 3835, provided that:

"(a) PROPOSED STANDARDS.—

"(1) IN GENERAL.—The Secretary of Homeland Security—

"(A) shall propose minimum standards for identification documents required of domestic commercial airline passengers for boarding an aircraft; and

"(B) may, from time to time, propose minimum standards amending or replacing standards previously proposed and transmitted to Congress and approved under this section.

"(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act [Dec. 17, 2004], the Secretary shall submit the standards under paragraph (1)(A) to the Senate and the House of Representatives on the same day while each House is in session.

"(3) EFFECTIVE DATE.—Any proposed standards submitted to Congress under this subsection shall take effect when an approval resolution is passed by the House and the Senate under the procedures described in subsection (b) and becomes law.

"(b) CONGRESSIONAL APPROVAL PROCEDURES.—

"(1) RULEMAKING POWER.—This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of such approval resolutions; and it supersedes other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) APPROVAL RESOLUTION.—For the purpose of this subsection, the term 'approval resolution' means a joint resolution of Congress, the matter after the resolving clause of which is as follows: 'That the Congress approves the proposed standards issued under section 7220 of the 9/11 Commission Implementation Act of 2004, transmitted by the President to the Congress on _____', the blank space being filled in with the appropriate date.

"(3) INTRODUCTION.—Not later than the first day of session following the day on which proposed standards are transmitted to the House of Representatives and the Senate under subsection (a), an approval resolution—

"(A) shall be introduced (by request) in the House by the Majority Leader of the House of Representatives, for himself or herself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House; and

"(B) shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate.

"(4) PROHIBITIONS.—

"(A) AMENDMENTS.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate.

"(B) MOTIONS TO SUSPEND.—No motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a

request to suspend the application of this paragraph by unanimous consent.

"(5) REFERRAL.—

"(A) IN GENERAL.—An approval resolution shall be referred to the committees of the House of Representatives and of the Senate with jurisdiction. Each committee shall make its recommendations to the House of Representatives or the Senate, as the case may be, within 45 days after its introduction. Except as provided in subparagraph (B), if a committee to which an approval resolution has been referred has not reported it at the close of the 45th day after its introduction, such committee shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar.

"(B) FINAL PASSAGE.—A vote on final passage of the resolution shall be taken in each House on or before the close of the 15th day after the resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

"(C) COMPUTATION OF DAYS.—For purposes of this paragraph, in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

"(6) COORDINATION WITH ACTION OF OTHER HOUSE.—If prior to the passage by one House of an approval resolution of that House, that House receives the same approval resolution from the other House, then the procedure in that House shall be the same as if no approval resolution has been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

"(7) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

"(A) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, not shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) DEBATE.—Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

"(C) MOTION TO POSTPONE.—Motions to postpone made in the House of Representatives with respect to the consideration of an approval resolution and motions to proceed to the consideration of other business shall be decided without debate.

"(D) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

"(E) RULES OF THE HOUSE OF REPRESENTATIVES.—Except to the extent specifically provided in subparagraphs (A) through (D), consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

"(8) FLOOR CONSIDERATION IN THE SENATE.—

"(A) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) DEBATE ON RESOLUTION.—Debate in the Senate on an approval resolution, and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

"(C) DEBATE ON MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, which shall be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) LIMIT ON DEBATE.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.

"(c) DEFAULT STANDARDS.—

"(1) IN GENERAL.—If the standards proposed under subsection (a)(1)(A) are not approved pursuant to the procedures described in subsection (b), then not later than 1 year after rejection by a vote of either

House of Congress, domestic commercial airline passengers seeking to board an aircraft shall present, for identification purposes—

"(A) a valid, unexpired passport;

"(B) domestically issued documents that the Secretary of Homeland Security designates as reliable for identification purposes;

"(C) any document issued by the Attorney General or the Secretary of Homeland Security under the authority of 1 of the immigration laws (as defined under section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))[)]; or

"(D) a document issued by the country of nationality of any alien not required to possess a passport for admission to the United States that the Secretary designates as reliable for identifications purposes

"(2) EXCEPTION.—The documentary requirements described in paragraph (1)—

"(A) shall not apply to individuals below the age of 17, or such other age as determined by the Secretary of Homeland Security;

"(B) may be waived by the Secretary of Homeland Security in the case of an unforeseen medical emergency.

"(d) RECOMMENDATION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2004], the Secretary of Homeland Security shall recommend to Congress—

"(1) categories of Federal facilities that the Secretary determines to be at risk for terrorist attack and requiring minimum identification standards for access to such facilities; and

"(2) appropriate minimum identification standards to gain access to those facilities."

DEADLINE FOR DEPLOYMENT OF FEDERAL SCREENERS

Pub. L. 107–71, title I, §110(c), Nov. 19, 2001, 115 Stat. 616, provided that, not later than 1 year after Nov. 19, 2001, the Administrator of the Transportation Security Administration would deploy at all airports in the United States where screening is required under this section a sufficient number of Federal screeners, Federal Security Managers, Federal security personnel, and Federal law enforcement officers to conduct the screening of all passengers and property under this section and also not later than 1 year after Nov. 19, 2001, certify to Congress that this requirement was met.

REPORTS

Pub. L. 107–71, title I, §110(d), Nov. 19, 2001, 115 Stat. 616, provided that:

"(1) DEPLOYMENT.—Within 6 months after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] shall report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives on the deployment of the systems required by section 44901(c) of title 49, United States Code. The Under Secretary shall include in the report—

"(A) an installation schedule;

"(B) the dates of installation of each system; and

"(C) the date on which each system installed is operational.

"(2) SCREENING OF SMALL AIRCRAFT.—Within 1 year after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives on the screening requirements applicable to passengers boarding, and property being carried aboard, aircraft with 60 seats or less used in scheduled passenger service with recommendations for any necessary changes in those requirements."

INSTALLATION OF ADVANCED SECURITY EQUIPMENT; AGREEMENTS

Pub. L. 104–264, title III, §305(b), Oct. 9, 1996, 110 Stat. 3252, provided that: "The Administrator is authorized to use noncompetitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities."

PASSENGER PROFILING

Pub. L. 104–264, title III, §307, Oct. 9, 1996, 110 Stat. 3253, which related to developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs, was repealed by Pub. L. 118–63, title II, §218(g), May 16, 2024, 138 Stat. 1056.

AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES

Pub. L. 104–264, title III, §308, Oct. 9, 1996, 110 Stat. 3253, which provided that funds from project grants made under subchapter I of chapter 471 of this title and passenger facility fees collected under section 40117 of this title could be used for the improvement of facilities and the purchase and deployment of equipment to enhance and ensure safe air travel, was repealed by Pub. L. 108–176, title I, §143, Dec. 12, 2003, 117 Stat. 2503.

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 101–45, title I, June 30, 1989, 103 Stat. 110, provided in part that: "Not later than thirty days after the date of the enactment of this Act [June 30, 1989], the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act".

RESEARCH AND DEVELOPMENT OF IMPROVED AIRPORT SECURITY SYSTEMS

Pub. L. 100–649, §2(d), Nov. 10, 1988, 102 Stat. 3817, required the Administrator of the Federal Aviation Administration to conduct such research and development as necessary to improve airport security metal detectors and airport security x-ray systems in detecting firearms that were subject to the prohibitions of section 922(p) of Title 18, Crimes and Criminal Procedure.

DEFINITIONS OF TERMS IN TITLE IV OF PUB. L. 108–458

Pub. L. 108–458, title IV, §4081, Dec. 17, 2004, 118 Stat. 3731, provided that: "In this title [enacting section 44925 of this title, amending sections 114, 44903, 44904, 44909, 44917, 44923, 46301 to 46303, and 48301 of this title and sections 70102 and 70103 of Title 46, Shipping, and enacting provisions set out as notes under this section, sections 114, 44703, 44913, 44917, 44923, 44925, and 44935 of this title, section 2751 of Title 22, Foreign Relations and Intercourse, and section 70101 of Title 46] (other than in sections 4001 and 4026 [amending sections 114 and 44904 of this title and enacting provisions set out as a note under section 2751 of Title 22]), the following definitions apply:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) AVIATION DEFINITIONS.—The terms 'air carrier', 'air transportation', 'aircraft', 'airport', 'cargo', 'foreign air carrier', and 'intrastate air transportation' have the meanings given such terms in section 40102 of title 49, United States Code.

"(3) SECURE AREA OF AN AIRPORT.—The term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulations)."

DEFINITIONS OF TERMS IN PUB. L. 107–71

For definitions of terms used in sections 101(g) and 110(c), (d), of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.

[1] So in original. Probably should be "committees".

[2] See References in Text note below.

§44902. Refusal to transport passengers and property

(a) MANDATORY REFUSAL.—The Administrator of the Transportation Security Administration shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive

substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) PERMISSIVE REFUSAL.—Subject to regulations of the Administrator of the Transportation Security Administration, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) AGREEING TO CONSENT TO SEARCH.—An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1204; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(2), Oct. 5, 2018, 132 Stat. 3630.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44902(a)	49 App.:1511(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1111; added Sept. 5, 1961, Pub. L. 87–197, §4, 75 Stat. 467; restated Aug. 5, 1974, Pub. L. 93–366, §204, 88 Stat. 418.
44902(b)	49 App.:1511(a) (last sentence).	
44902(c)	49 App.:1511(b).	

In this section, the word "passenger" is substituted for "person" for consistency in the revised title.

In subsection (a)(1), the words "of his person" are omitted as surplus.

In subsection (a)(2), the words "or inspection" are omitted as surplus.

In subsection (b), the words "reasonable" and "also" are omitted as surplus. The word "rules" is omitted as being synonymous with "regulations". The words "the carrier decides is" are substituted for "when, in the opinion of the carrier, such transportation would" to eliminate unnecessary words. The words "of flight" are omitted as surplus.

In subsection (c), the words "for compensation or hire" are omitted because of the definitions of "air transportation" and "intrastate air transportation" in section 40102(a) of the revised title. The word "inspect" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(2)(A), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" in introductory provisions.

Subsec. (b). Pub. L. 115–254, §1991(d)(2)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

2001—Subsec. (a). Pub. L. 107–71 substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration" in introductory provisions.

Subsec. (b). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

§44903. Air transportation security

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Transportation Security Administration.

(2) LAW ENFORCEMENT PERSONNEL.—The term "law enforcement personnel" means individuals—

(A) authorized to carry and use firearms;

(B) vested with the degree of the police power of arrest the Administrator considers necessary to carry out this section; and

(C) identifiable by appropriate indicia of authority.

(b) PROTECTION AGAINST VIOLENCE AND PIRACY.—The Administrator shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c) SECURITY PROGRAMS.—(1) The Administrator shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Administrator decides, after being notified by an operator in the form the Administrator prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Administrator may authorize the operator to use, on a reimbursable basis, personnel employed by the Administrator, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Administrator shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Administrator may approve a security program of an airport operator, or an amendment in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14, Code of Federal Regulations) having access to a secured area of the airport, if the program or amendment incorporates—

(i) the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Administrator on the airport operator under the access control system requirements of section 107.14 of title 14, Code of Federal Regulations, or under other requirements of part 107 of title 14; and

(ii) the methods the airport operator will use to monitor and audit the tenant's compliance with the security requirements and provides that the tenant will be required to pay monetary penalties to

the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Administrator approves a program or amendment described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(C) MAXIMUM USE OF CHEMICAL AND BIOLOGICAL WEAPON DETECTION EQUIPMENT.—The Secretary of Transportation may require airports to maximize the use of technology and equipment that is designed to detect or neutralize potential chemical or biological weapons.

(3) PILOT PROGRAMS.—The Administrator shall establish pilot programs in no fewer than 20 airports to test and evaluate new and emerging technology for providing access control and other security protections for closed or secure areas of the airports. Such technology may include biometric or other technology that ensures only authorized access to secure areas.

(d) AUTHORIZING INDIVIDUALS TO CARRY FIREARMS AND MAKE ARRESTS.—With the approval of the Attorney General and the Secretary of State, the Administrator may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER SAFETY.—The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered Federal advisory committees for purposes of chapter 10 of title 5.

(g) IMPROVEMENT OF SECURED-AREA ACCESS CONTROL.—

(1) ENFORCEMENT.—

(A) ADMINISTRATOR TO PUBLISH SANCTIONS.—The Administrator shall publish in the Federal Register a list of sanctions for use as guidelines in the discipline of employees for infractions of airport access control requirements. The guidelines shall incorporate a progressive disciplinary approach that relates proposed sanctions to the severity or recurring nature of the infraction and shall include measures such as remedial training, suspension from security-related duties, suspension from all duties without pay, and termination of employment.

(B) USE OF SANCTIONS.—Each airport operator, air carrier, and security screening company shall include the list of sanctions published by the Administrator in its security program. The security program shall include a process for taking prompt disciplinary action against an employee who commits an infraction of airport access control requirements.

(2) IMPROVEMENTS.—The Administrator shall—

(A) work with airport operators and air carriers to implement and strengthen existing controls to eliminate airport access control weaknesses;

(B) require airport operators and air carriers to develop and implement comprehensive and recurring training programs that teach employees their roles in airport security, the importance

of their participation, how their performance will be evaluated, and what action will be taken if they fail to perform;

(C) require airport operators and air carriers to develop and implement programs that foster and reward compliance with airport access control requirements and discourage and penalize noncompliance in accordance with guidelines issued by the Administrator to measure employee compliance;

(D) on an ongoing basis, assess and test for compliance with access control requirements, report annually findings of the assessments, and assess the effectiveness of penalties in ensuring compliance with security procedures and take any other appropriate enforcement actions when noncompliance is found;

(E) improve and better administer the Administrator's security database to ensure its efficiency, reliability, and usefulness for identification of systemic problems and allocation of resources;

(F) improve the execution of the Administrator's quality control program; and

(G) work with airport operators to strengthen access control points in secured areas (including air traffic control operations areas, maintenance areas, crew lounges, baggage handling areas, concessions, and catering delivery areas) to ensure the security of passengers and aircraft and consider the deployment of biometric or similar technologies that identify individuals based on unique personal characteristics.

(h) IMPROVED AIRPORT PERIMETER ACCESS SECURITY.—

(1) IN GENERAL.—The Administrator, in consultation with the airport operator and law enforcement authorities, may order the deployment of such personnel at any secure area of the airport as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier aircraft operations at the airport, or to meet national security concerns.

(2) SECURITY OF AIRCRAFT AND GROUND ACCESS TO SECURE AREAS.—In determining where to deploy such personnel, the Administrator shall consider the physical security needs of air traffic control facilities, parked aircraft, aircraft servicing equipment, aircraft supplies (including fuel), automobile parking facilities within airport perimeters or adjacent to secured facilities, and access and transition areas at airports served by other means of ground or water transportation.

(3) DEPLOYMENT OF FEDERAL LAW ENFORCEMENT PERSONNEL.—The Secretary of Homeland Security may enter into a memorandum of understanding or other agreement with the Attorney General or the head of any other appropriate Federal law enforcement agency to deploy Federal law enforcement personnel at an airport in order to meet aviation safety and security concerns.

(4) AIRPORT PERIMETER SCREENING.—The Administrator—

(A) shall require screening or inspection of all individuals, goods, property, vehicles, and other equipment before entry into a secured area of an airport in the United States described in section 44903(c); [1]

(B) shall prescribe specific requirements for such screening and inspection that will assure at least the same level of protection as will result from screening of passengers and their baggage;

(C) shall establish procedures to ensure the safety and integrity of—

(i) all persons providing services with respect to aircraft providing passenger air transportation or intrastate air transportation and facilities of such persons at an airport in the United States described in subsection (c);

(ii) all supplies, including catering and passenger amenities, placed aboard such aircraft, including the sealing of supplies to ensure easy visual detection of tampering; and

(iii) all persons providing such supplies and facilities of such persons;

(D) shall require vendors having direct access to the airfield and aircraft to develop security programs; and

(E) shall issue guidance for the use of biometric or other technology that positively verifies the identity of each employee and law enforcement officer who enters a secure area of an airport.

(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS .—In issuing guidance under paragraph (4)(E), the Administrator in consultation with representatives of the aviation industry, the biometric identifier industry, and the National Institute of Standards and Technology, shall establish, at a minimum—

(A) comprehensive technical and operational system requirements and performance standards for the use of biometric identifier technology in airport access control systems (including airport perimeter access control systems) to ensure that the biometric identifier systems are effective, reliable, and secure;

(B) a list of products and vendors that meet the requirements and standards set forth in subparagraph (A);

(C) procedures for implementing biometric identifier systems—

(i) to ensure that individuals do not use an assumed identity to enroll in a biometric identifier system; and

(ii) to resolve failures to enroll, false matches, and false non-matches; and

(D) best practices for incorporating biometric identifier technology into airport access control systems in the most effective manner, including a process to best utilize existing airport access control systems, facilities, and equipment and existing data networks connecting airports.

(6) USE OF BIOMETRIC TECHNOLOGY FOR ARMED LAW ENFORCEMENT TRAVEL.—

(A) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General, shall—

(i) implement this paragraph by publication in the Federal Register; and

(ii) establish a national registered armed law enforcement program, that shall be federally managed, for law enforcement officers needing to be armed when traveling by commercial aircraft.

(B) PROGRAM REQUIREMENTS.—The program shall—

(i) establish a credential or a system that incorporates biometric technology and other applicable technologies;

(ii) establish a system for law enforcement officers who need to be armed when traveling by commercial aircraft on a regular basis and for those who need to be armed during temporary travel assignments;

(iii) comply with other uniform credentialing initiatives, including the Homeland Security Presidential Directive 12;

(iv) apply to all Federal, State, local, tribal, and territorial government law enforcement agencies; and

(v) establish a process by which the travel credential or system may be used to verify the identity, using biometric technology, of a Federal, State, local, tribal, or territorial law enforcement officer seeking to carry a weapon on board a commercial aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer.

(C) PROCEDURES.—In establishing the program, the Secretary of Homeland Security shall develop procedures—

(i) to ensure that a law enforcement officer of a Federal, State, local, tribal, or territorial government flying armed has a specific reason for flying armed and the reason is within the scope of the duties of such officer;

(ii) to preserve the anonymity of the armed law enforcement officer;

(iii) to resolve failures to enroll, false matches, and false nonmatches relating to the use of the law enforcement travel credential or system;

(iv) to determine the method of issuance of the biometric credential to law enforcement officers needing to be armed when traveling by commercial aircraft;

(v) to invalidate any law enforcement travel credential or system that is lost, stolen, or no longer authorized for use;

(vi) to coordinate the program with the Federal Air Marshal Service, including the force multiplier program of the Service; and

(vii) to implement a phased approach to launching the program, addressing the immediate needs of the relevant Federal agent population before expanding to other law enforcement populations.

(7) DEFINITIONS.—In this subsection, the following definitions apply:

(A) BIOMETRIC IDENTIFIER INFORMATION.—The term "biometric identifier information" means the distinct physical or behavioral characteristics of an individual that are used for unique identification, or verification of the identity, of an individual.

(B) BIOMETRIC IDENTIFIER.—The term "biometric identifier" means a technology that enables the automated identification, or verification of the identity, of an individual based on biometric information.

(C) FAILURE TO ENROLL.—The term "failure to enroll" means the inability of an individual to enroll in a biometric identifier system due to an insufficiently distinctive biometric sample, the lack of a body part necessary to provide the biometric sample, a system design that makes it difficult to provide consistent biometric identifier information, or other factors.

(D) FALSE MATCH.—The term "false match" means the incorrect matching of one individual's biometric identifier information to another individual's biometric identifier information by a biometric identifier system.

(E) FALSE NON-MATCH.—The term "false non-match" means the rejection of a valid identity by a biometric identifier system.

(F) SECURE AREA OF AN AIRPORT.—The term "secure area of an airport" means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

(i) AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.—

(1) IN GENERAL.—If the Administrator, after receiving the recommendations of the National Institute of Justice, determines, with the approval of the Attorney General and the Secretary of State, that it is appropriate and necessary and would effectively serve the public interest in avoiding air piracy, the Administrator may authorize members of the flight deck crew on any aircraft providing air transportation or intrastate air transportation to carry a less-than-lethal weapon while the aircraft is engaged in providing such transportation.

(2) USAGE.—If the Administrator grants authority under paragraph (1) for flight deck crew members to carry a less-than-lethal weapon while engaged in providing air transportation or intrastate air transportation, the Administrator shall—

(A) prescribe rules requiring that any such crew member be trained in the proper use of the weapon; and

(B) prescribe guidelines setting forth the circumstances under which such weapons may be used.

(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If the Administrator receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Administrator shall respond to that request within 90 days.

(j) SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.—

(1) IN GENERAL.—The Administrator shall periodically recommend to airport operators commercially available measures or procedures to prevent access to secure airport areas by unauthorized persons.

(2) SECURE FLIGHT PROGRAM.—

(A) IN GENERAL.—The Administrator shall ensure that the Secure Flight program, or any successor program—

(i) is used to evaluate all passengers before they board an aircraft; and

(ii) includes procedures to ensure that individuals selected by the program and their carry-on and checked baggage are adequately screened.

(B) MODIFICATIONS.—The Administrator may modify any requirement under the Secure Flight program for flights that originate and terminate within the same State, if the Administrator determines that—

(i) the State has extraordinary air transportation needs or concerns due to its isolation and dependence on air transportation; and

(ii) the routine characteristics of passengers, given the nature of the market, regularly triggers primary selectee status.

(C) ADVANCED AIRLINE PASSENGER PRESCREENING.—

(i) COMMENCEMENT OF TESTING.—The Administrator shall commence testing of an advanced passenger prescreening system that will allow the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Administrator, to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government.

(ii) ASSUMPTION OF FUNCTION.—The Administrator, or the designee of the Administrator, shall begin to assume the performance of the passenger prescreening function of comparing passenger information to the automatic selectee and no fly lists and utilize all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government in performing that function.

(iii) REQUIREMENTS.—In assuming performance of the function under clause (ii), the Administrator shall—

(I) establish a procedure to enable airline passengers, who are delayed or prohibited from boarding a flight because the advanced passenger prescreening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(II) ensure that Federal Government databases that will be used to establish the identity of a passenger under the system will not produce a large number of false positives;

(III) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(IV) establish sufficient operational safeguards to reduce the opportunities for abuse;

(V) implement substantial security measures to protect the system from unauthorized access;

(VI) adopt policies establishing effective oversight of the use and operation of the system; and

(VII) ensure that there are no specific privacy concerns with the technological architecture of the system.

(iv) PASSENGER INFORMATION.—After the completion of the testing of the advanced passenger prescreening system, the Administrator, by order or interim final rule—

(I) shall require air carriers to supply to the Administrator the passenger information

needed to begin implementing the advanced passenger prescreening system; and

(II) shall require entities that provide systems and services to air carriers in the operation of air carrier reservations systems to provide to air carriers passenger information in possession of such entities, but only to the extent necessary to comply with subclause (I).

(v) INCLUSION OF DETAINEES ON NO FLY LIST.—The Administrator, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee held at the Naval Station, Guantanamo Bay, Cuba, unless the President certifies in writing to Congress that the detainee poses no threat to the United States, its citizens, or its allies. For purposes of this clause, the term "detainee" means an individual in the custody or under the physical control of the United States as a result of armed conflict.

(D) SCREENING OF EMPLOYEES AGAINST WATCHLIST.—The Administrator, in coordination with the Secretary of Transportation and the Administrator of the Federal Aviation Administration, shall ensure that individuals are screened against all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government before—

(i) being certificated by the Federal Aviation Administration;

(ii) being granted unescorted access to the secure area of an airport; or

(iii) being granted unescorted access to the air operations area (as defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section) of an airport.

(E) AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING.—

(i) IN GENERAL.—The Administrator Administrator [2] shall establish a process by which operators of aircraft to be used in charter air transportation with a maximum takeoff weight greater than 12,500 pounds and lessors of aircraft with a maximum takeoff weight greater than 12,500 pounds may—

(I) request the Department of Homeland Security to use the advanced passenger prescreening system to compare information about any individual seeking to charter an aircraft with a maximum takeoff weight greater than 12,500 pounds, any passenger proposed to be transported aboard such aircraft, and any individual seeking to lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government; and

(II) refuse to charter or lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to or transport aboard such aircraft any persons identified on such watch list.

(ii) REQUIREMENTS.—The requirements of subparagraph (C)(iii) shall apply to this subparagraph.

(iii) NO FLY AND AUTOMATIC SELECTEE LISTS.—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall design and review, as necessary, guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the no fly and automatic selectee lists.

(F) APPLICABILITY.—Section 607 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44903 note; 117 Stat. 2568) shall not apply to the advanced passenger prescreening system established under subparagraph (C).

(G) APPEAL PROCEDURES.—

(i) IN GENERAL.—The Administrator shall establish a timely and fair process for individuals identified as a threat under one or more of subparagraphs (C), (D), and (E) to appeal to the Transportation Security Administration the determination and correct any

erroneous information.

(ii) RECORDS.—The process shall include the establishment of a method by which the Administrator will be able to maintain a record of air passengers and other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Transportation Security Administration record shall contain information determined by the Administrator to authenticate the identity of such a passenger or individual.

(H) DEFINITION.—In this paragraph, the term "secure area of an airport" means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

(k) LIMITATION ON LIABILITY FOR ACTS TO THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.—An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts of the individual in attempting to thwart an act of criminal violence or piracy on an aircraft if that individual reasonably believed that such an act of criminal violence or piracy was occurring or was about to occur.

(l) AIR CHARTER PROGRAM.—

(1) IN GENERAL.—The Administrator shall implement an aviation security program for charter air carriers (as defined in section 40102(a)) with a maximum certificated takeoff weight of more than 12,500 pounds.

(2) EXEMPTION FOR ARMED FORCES CHARTERS.—

(A) IN GENERAL.—Paragraph (1) and the other requirements of this chapter do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

(B) SECURITY PROCEDURES.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c).

(C) ARMED FORCES DEFINED.—In this paragraph, the term "armed forces" has the meaning given that term by section 101(a)(4) of title 10.

(m) SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Administrator, in consultation with the Department of Defense, shall develop and implement a plan to provide expedited security screening services for a member of the armed forces, and, to the extent possible, any accompanying family member, if the member of the armed forces, while in uniform, presents documentation indicating official orders for air transportation departing from a primary airport (as defined in section 47102).

(2) PROTOCOLS.—In developing the plan, the Administrator shall consider—

(A) leveraging existing security screening models used to reduce passenger wait times;

(B) establishing standard guidelines for the screening of military uniform items, including combat boots; and

(C) incorporating any new screening protocols into an existing trusted passenger program, as established pursuant to section 109(a)(3) of the Aviation and Transportation Security Act (49 U.S.C. 114 note), or into the development of any new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of individuals traveling in air transportation.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall affect the authority of the Administrator to require additional screening of a member of the armed forces if intelligence or law enforcement information indicates that additional screening is necessary.

(4) REPORT TO CONGRESS.—The Administrator shall submit to the appropriate committees

of Congress a report on the implementation of the plan.

(n) PASSENGER EXIT POINTS FROM STERILE AREA.—

(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the Transportation Security Administration is responsible for monitoring passenger exit points from the sterile area of airports at which the Transportation Security Administration provided such monitoring as of December 1, 2013.

(2) STERILE AREA DEFINED.—In this section, the term "sterile area" has the meaning given that term in section 1540.5 of title 49, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1205; Pub. L. 106–181, title VII, §717, Apr. 5, 2000, 114 Stat. 163; Pub. L. 106–528, §§4, 6, Nov. 22, 2000, 114 Stat. 2520, 2521; Pub. L. 107–71, title I, §§101(f)(7)–(9), 106(a), (c), (d), 120, 126(b), 136, 144, Nov. 19, 2001, 115 Stat. 603, 608–610, 629, 632, 636, 644; Pub. L. 107–296, title XIV, §§1405, 1406, Nov. 25, 2002, 116 Stat. 2307; Pub. L. 108–176, title VI, §606(a), Dec. 12, 2003, 117 Stat. 2568; Pub. L. 108–458, title IV, §§4011(a), 4012(a)(1), Dec. 17, 2004, 118 Stat. 3712, 3714; Pub. L. 110–53, title XVI, §1615(a), Aug. 3, 2007, 121 Stat. 486; Pub. L. 111–83, title V, §553, Oct. 28, 2009, 123 Stat. 2179; Pub. L. 112–86, §2(a), Jan. 3, 2012, 125 Stat. 1874; Pub. L. 113–67, div. A, title VI, §603, Dec. 26, 2013, 127 Stat. 1188; Pub. L. 115–254, div. K, title I, §1991(d)(3), Oct. 5, 2018, 132 Stat. 3630; Pub. L. 117–286, §4(a)(316), Dec. 27, 2022, 136 Stat. 4340.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44903(a)	49 App.:1357(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(a), (b), (e)(2), (3), (f); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415, 417.
44903(b)	49 App.:1357(a).	
44903(c)(1)	49 App.:1357(b).	
44903(c)(2)	49 App.:1357(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(g); added Aug. 15, 1990, Pub. L. 101–370, §2, 104 Stat. 451.
44903(d)	49 App.:1356b.	Aug. 8, 1985, Pub. L. 99–83, §553(b), 99 Stat. 226.
44903(e)	49 App.:1357(e)(2), (3).	

In this section, the word "passengers" is substituted for "persons" for consistency in the revised title.

In subsection (a)(2), the words "the degree of" are substituted for "such" for clarity.

In subsection (b), before clause (1), the word "rules" is omitted as being synonymous with "regulations". The words "such reasonable . . . requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary" are omitted as surplus. The word "air" after "intrastate" is added for clarity and consistency. The words "and amending" are omitted as surplus. In clause (1), the words "the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities" are substituted for "such other Federal, State, and local agencies" for consistency in the revised title and with other titles of the United States Code. The words "as he may deem appropriate" are omitted as surplus. In clause (2)(A), the words "in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy" are omitted as surplus. In clause (3), before subclause (A), the words "inspection" and "in air transportation and intrastate air transportation" are omitted as surplus. In subclause (B), the words "that they will receive" and "any air transportation security program established under" are omitted as surplus. In clause (4), the words "contribute to . . . the purposes of" are omitted as surplus.

In subsection (c)(1), the words "traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy" and "whose services are made available by their employers" are omitted

as surplus. The words "department, agency, or instrumentality of the Government" are substituted for "Federal department or agency" for consistency in the revised title and with other titles of the Code. The word "When" is substituted for "In any case in which" to eliminate unnecessary words. The words "receipt of", "by order", "the services of", "directly", and "at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary" are omitted as surplus. The words "When deciding whether additional personnel are needed" are substituted for "In making the determination referred to in the preceding sentence" for clarity.

In subsection (c)(2)(A), before clause (i), the words "under this section" are omitted as surplus. The words "or an amendment in an existing program" are substituted for "and may approve an amendment to a security program of an airport operator approved by the Administrator under subsection (b)" to eliminate unnecessary words. In clause (ii), the word "monetary" is substituted for "financial" for consistency.

In subsection (e), the words "Notwithstanding any other provisions of law", "the commission of", "considered", and "the moment when" before "such door" are omitted as surplus. The words "to allow passengers to leave" are substituted for "disembarkation", and the words "the aircraft" are added, for clarity. The words "departments, agencies, and instrumentalities of the Government" are substituted for "Federal departments and agencies" for consistency in the revised title and with other titles of the Code. The words "as may be . . . the purposes of" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 607 of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (j)(2)(F), is section 607 of Pub. L. 108–176, which is set out as a note below.

AMENDMENTS

2022—Subsec. (f). Pub. L. 117–286 substituted "chapter 10 of title 5." for "the Federal Advisory Committee Act (5 U.S.C. App.)."

2018—Pub. L. 115–254, §1991(d)(3)(I), substituted "Administrator" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(3)(A), substituted "Definitions" for "Definition" in heading and "In this section:" for "In this section, 'law enforcement personnel' means individuals—" in introductory provisions, added par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C) of par. (2), inserted before subpar. (A) "(2) LAW ENFORCEMENT PERSONNEL.—The term 'law enforcement personnel' means individuals—", and in subpar. (B) substituted "Administrator" for "Under Secretary of Transportation for Security".

Subsec. (d). Pub. L. 115–254, §1991(d)(3)(B), substituted "Administrator" for "Secretary of Transportation" in introductory provisions.

Subsec. (g)(2)(E), (F). Pub. L. 115–254, §1991(d)(3)(C), substituted "Administrator's" for "Under Secretary's".

Subsec. (h)(3). Pub. L. 115–254, §1991(d)(3)(D)(i), substituted "Secretary of Homeland Security" for "Secretary".

Subsec. (h)(4)(A). Pub. L. 115–254, §1991(d)(3)(D)(ii)(I), struck out ", as soon as practicable after the date of enactment of this subsection," after "shall require".

Subsec. (h)(4)(C)(i). Pub. L. 115–254, §1991(d)(3)(D)(ii)(II), substituted "subsection (c)" for "section 44903(c)".

Subsec. (h)(4)(E). Pub. L. 115–254, §1991(d)(3)(D)(ii)(III), struck out ", not later than March 31, 2005," after "shall issue".

Subsec. (h)(5). Pub. L. 115–254, §1991(d)(3)(D)(iii), substituted "Administrator" for "Assistant Secretary of Homeland Security (Transportation Security Administration)" in introductory provisions.

Subsec. (h)(6)(A). Pub. L. 115–254, §1991(d)(3)(D)(iv)(I), substituted "The" for "Not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the" in introductory provisions.

Subsec. (h)(6)(A)(i). Pub. L. 115–254, §1991(d)(3)(D)(iv)(II), substituted "paragraph" for "section".

Subsec. (h)(6)(C). Pub. L. 115–254, §1991(d)(3)(D)(v), substituted "Secretary of Homeland Security" for "Secretary" in introductory provisions.

Subsec. (i)(3). Pub. L. 115–254, §1991(d)(3)(E), struck out ", after the date of enactment of this paragraph," after "If".

Subsec. (j)(1). Pub. L. 115–254, §1991(d)(3)(F)(i), amended par. (1) generally. Prior to amendment, par. (1)

required the Under Secretary of Transportation for Security to recommend to airport operators, within 6 months after Nov. 19, 2001, commercially available measures or procedures to prevent access to secure airport areas by unauthorized persons.

Subsec. (j)(2). Pub. L. 115–254, §1991(d)(3)(F)(ii)(VII), substituted "Administrator" for "Assistant Secretary" wherever appearing.

Pub. L. 115–254, §1991(d)(3)(F)(ii)(I), substituted "Secure flight program" for "Computer-assisted passenger prescreening system" in heading.

Subsec. (j)(2)(A). Pub. L. 115–254, §1991(d)(3)(F)(ii)(II), substituted "Administrator" for "Secretary of Transportation", "Secure Flight program" for "Computer-Assisted Passenger Prescreening System", and, in two places, "program" for "system".

Subsec. (j)(2)(B). Pub. L. 115–254, §1991(d)(3)(F)(ii)(III), in introductory provisions, substituted "Administrator" for "Secretary of Transportation", "Secure Flight program" for "Computer-Assisted Passenger Prescreening System", and "Administrator" for "Secretary".

Subsec. (j)(2)(C)(i). Pub. L. 115–254, §1991(d)(3)(F)(ii)(IV)(aa), substituted "The Administrator" for "Not later than January 1, 2005, the Assistant Secretary of Homeland Security (Transportation Security Administration), or the designee of the Assistant Secretary,".

Subsec. (j)(2)(C)(ii). Pub. L. 115–254, §1991(d)(3)(F)(ii)(IV)(bb), substituted "The" for "Not later than 180 days after completion of testing under clause (i), the".

Subsec. (j)(2)(C)(iv). Pub. L. 115–254, §1991(d)(3)(F)(ii)(IV)(cc), substituted "After" for "Not later than 180 days after" in introductory provisions.

Subsec. (j)(2)(D). Pub. L. 115–254, §1991(d)(3)(F)(ii)(V), substituted "Administrator" for "Assistant Secretary of Homeland Security (Transportation Security Administration)" in introductory provisions.

Subsec. (j)(2)(E)(i). Pub. L. 115–254, §1991(d)(3)(F)(ii)(VI), substituted "The Administrator" for "Not later than 90 days after the date on which the Assistant Secretary assumes the performance of the advanced passenger prescreening function under subparagraph (C)(ii), the" in introductory provisions.

Subsec. (l)(1). Pub. L. 115–254, §1991(d)(3)(G), substituted "Administrator" for "Under Secretary for Border and Transportation Security of the Department of Homeland Security".

Subsec. (m). Pub. L. 115–254, §1991(d)(3)(H)(ii), substituted "Administrator" for "Assistant Secretary" wherever appearing.

Subsec. (m)(1). Pub. L. 115–254, §1991(d)(3)(H)(i), substituted "Administrator" for "Assistant Secretary of Homeland Security (Transportation Security Administration)".

2013—Subsec. (n). Pub. L. 113–67 added subsec. (n).

2012—Subsec. (m). Pub. L. 112–86 added subsec. (m).

2009—Subsec. (j)(2)(C)(v). Pub. L. 111–83 added cl. (v).

2007—Subsec. (h)(6). Pub. L. 110–53 amended par. (6) generally. Prior to amendment, par. (6) related to establishment of a uniform law enforcement officer travel credential incorporating biometric identifier technology not later than 120 days after Dec. 17, 2004.

2004—Subsec. (h)(4)(E). Pub. L. 108–458, §4011(a)(1), substituted "shall issue, not later than March 31, 2005, guidance for" for "may provide for".

Subsec. (h)(5) to (7). Pub. L. 108–458, §4011(a)(2), added pars. (5) to (7).

Subsec. (j)(2)(C) to (H). Pub. L. 108–458, §4012(a)(1), added subpars. (C) to (H).

2003—Subsec. (l). Pub. L. 108–176 added subsec. (l).

2002—Subsec. (h). Pub. L. 107–296, §1406(3), redesignated subsec. (h), relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as (k).

Pub. L. 107–296, §1406(2), redesignated subsec. (h), relating to authority to arm flight deck crews with less-than-lethal weapons, as (i).

Subsec. (i). Pub. L. 107–296, §1406(2), redesignated subsec. (h), relating to authority to arm flight deck crews with less-than-lethal weapons, as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 107–296, §1405(b)(1), substituted "If the Under Secretary" for "If the Secretary" and "the Under Secretary may" for "the Secretary may".

Subsec. (i)(2). Pub. L. 107–296, §1405(b)(2), substituted "Under Secretary" for "Secretary" in two places in introductory provisions.

Subsec. (i)(3). Pub. L. 107–296, §1405(a), added par. (3).

Subsec. (j). Pub. L. 107–296, §1406(1), redesignated subsec. (i) as (j).

Subsec. (k). Pub. L. 107–296, §1406(3), redesignated subsec. (h), relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as (k).

2001—Subsec. (a)(2). Pub. L. 107–71, §101(f)(7), (9), substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration".

Subsec. (b). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in two places in introductory provisions.

Subsec. (c)(1), (2)(A), (B). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" wherever appearing.

Subsec. (c)(2)(C). Pub. L. 107–71, §120, amended heading and text of subpar. (C) generally, substituting provisions relating to maximum use of chemical and biological weapon detection equipment for provisions relating to a manual process at explosive detection locations for randomly selecting additional checked bags for screening.

Subsec. (c)(3). Pub. L. 107–71, §106(d), added par. (3).

Subsecs. (e), (f), (g)(1)(A), (B). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" wherever appearing.

Subsec. (g)(2). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 107–71, §106(c)(1), substituted "weaknesses;" for "weaknesses by January 31, 2001;".

Subsec. (g)(2)(D). Pub. L. 107–71, §106(c)(2), added subpar. (D) and struck out former subpar. (D) which read as follows: "assess and test for compliance with access control requirements, report findings, and assess penalties or take other appropriate enforcement actions when noncompliance is found;".

Subsec. (g)(2)(C). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (g)(2)(E). Pub. L. 107–71, §101(f)(8), substituted "Under Secretary's" for "Administrator's".

Subsec. (g)(2)(F). Pub. L. 107–71, §§101(f)(8), 106(c)(3), substituted "Under Secretary's" for "Administrator's" and "program;" for "program by January 31, 2001;".

Subsec. (g)(2)(G). Pub. L. 107–71, §106(c)(4), added subpar. (G) and struck out former subpar. (G) which read as follows: "require airport operators and air carriers to strengthen access control points in secured areas (including air traffic control operations areas) to ensure the security of passengers and aircraft by January 31, 2001."

Subsec. (h). Pub. L. 107–71, §144, which directed that subsec. (h) relating to limitation on liability for acts to thwart criminal violence or aircraft piracy be added at end of section 44903, without specifying the Code title to be amended, was executed by making the addition at the end of this section, to reflect the probable intent of Congress.

Pub. L. 107–71, §126(b), added subsec. (h) relating to authority to arm flight deck crews with less-than-lethal weapons.

Pub. L. 107–71, §106(a), added subsec. (h) relating to improved airport perimeter access security.

Subsec. (i). Pub. L. 107–71, §136, added subsec. (i).

2000—Subsec. (c)(2)(C). Pub. L. 106–528, §6, added subpar. (C).

Subsec. (f). Pub. L. 106–181 added subsec. (f).

Subsec. (g). Pub. L. 106–528, §4, added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–86, §2(b), Jan. 3, 2012, 125 Stat. 1875, provided that: "Not later than 180 days after the date of enactment of this Act [Jan. 3, 2012], the Assistant Secretary shall implement the plan required by this Act [amending this section and enacting provisions set out as a note under section 40101 of this title]."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3

of Pub. L. 106–181, set out as a note under section 106 of this title.

FORMAL POLICY ON SEXUAL ASSAULT AND HARASSMENT ON AIR CARRIERS

Pub. L. 118–63, title IV, §435, May 16, 2024, 138 Stat. 1174, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 16, 2024], passenger air carriers operating under part 121 of title 14, Code of Federal Regulations, shall issue, in consultation with labor unions representing personnel, a formal policy with respect to sexual assault or harassment incidents.

"(b) CONTENTS.—Each policy required under subsection (a) shall include—

"(1) a statement indicating that no sexual assault or harassment incident is acceptable under any circumstance;

"(2) procedures that facilitate the reporting of a sexual assault or harassment incident, including—

"(A) appropriate public outreach activities; and

"(B) confidential phone and internet-based opportunities for reporting;

"(3) procedures that personnel should follow upon the reporting of a sexual assault or harassment incident, including actions to protect affected individuals from continued sexual assault or harassment and to notify law enforcement, including the Federal Bureau of Investigation, when appropriate;

"(4) procedures that may limit or prohibit, to the extent practicable, future travel with the air carrier by any passenger who commits a sexual assault or harassment incident; and

"(5) training that is required for all appropriate personnel with respect to each such policy, including specific training for personnel who may receive reports of sexual assault or harassment incidents.

"(c) PASSENGER INFORMATION.—An air carrier described in subsection (a) shall display, on the website of the air carrier and through the use of appropriate signage, a written statement that informs passengers and personnel of the procedure for reporting a sexual assault or harassment incident.

"(d) STANDARD OF CARE.—Compliance with the requirements of this section, and any policy issued thereunder, shall not determine whether the air carrier described in subsection (a) has acted with any requisite standard of care.

"(e) RULES OF CONSTRUCTION.—

"(1) EFFECT ON AUTHORITIES.—Nothing in this section shall be construed as granting the Secretary [of Transportation] any additional authorities beyond ensuring that a passenger air carrier operating under part 121 of title 14, Code of Federal Regulations issues a formal policy and displays required information in compliance with this section.

"(2) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to alter existing authorities of the Equal Employment Opportunity Commission, the Department of Labor, or the Department of Justice to enforce applicable employment and sexual assault and sexual harassment laws.

"(f) DEFINITIONS.—In this section:

"(1) PERSONNEL.—The term 'personnel' means an employee or contractor of passenger air carrier operating under part 121 of title 14, Code of Federal Regulations.

"(2) SEXUAL ASSAULT.—The term 'sexual assault' means the occurrence of an act that constitutes any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

"(3) SEXUAL ASSAULT OR HARASSMENT INCIDENT.—The term 'sexual assault or harassment incident' means the occurrence, or reasonably suspected occurrence, of an act that—

"(A) constitutes sexual assault or sexual harassment; and

"(B) is committed—

"(i) by a passenger or personnel against another passenger or personnel; and

"(ii) within an aircraft or in an area in which passengers are entering or exiting an aircraft."

SECONDARY COCKPIT BARRIERS

Pub. L. 118–63, title III, §350, May 16, 2024, 138 Stat. 1110, provided that:

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall convene an aviation rulemaking committee to review and develop findings and recommendations to require installation of a secondary cockpit barrier on commercial passenger aircraft operated under the provisions of part 121 of title 14, Code of Federal Regulations, that are not captured under another regulation or proposed regulation.

"(b) MEMBERSHIP.—The Administrator shall appoint a chair and members of the rulemaking committee convened under subsection (a), which shall be comprised of at least 1 representative from the constituencies of—

"(1) mainline air carriers;

"(2) regional air carriers;
"(3) aircraft manufacturers;
"(4) passenger aircraft pilots represented by a labor group;
"(5) flight attendants represented by a labor group;
"(6) airline passengers; and
"(7) other stakeholders the Administrator determines appropriate.

"(c) CONSIDERATIONS.—The aviation rulemaking committee convened under subsection (a) shall consider—

"(1) minimum dimension requirements for secondary barriers on all aircraft types operated under part 121 of title 14, Code of Federal Regulations;
"(2) secondary barrier performance standards manufacturers and air carriers must meet for such aircraft types;
"(3) the availability of certified secondary barriers suitable for use on such aircraft types;
"(4) the development, certification, testing, manufacturing, installation, and training for secondary barriers for such aircraft types;
"(5) flight duration and stage length;
"(6) the location of lavatories on such aircraft as related to operational complexities;
"(7) operational complexities;
"(8) any risks to safely evacuate passengers of such aircraft; and
"(9) other considerations the Administrator determines appropriate.

"(d) REPORT TO CONGRESS.—Not later than 12 months after the convening of the aviation rulemaking committee described in subsection (a), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report based on the findings and recommendations of the aviation rulemaking committee convened under subsection (a), including—

"(1) if applicable, any dissenting positions on the findings and the rationale for each position; and
"(2) any disagreements with the recommendations, including the rationale for each disagreement and the reasons for the disagreement.

"(e) INSTALLATION OF SECONDARY COCKPIT BARRIERS OF EXISTING AIRCRAFT.—Not later than 36 months after the date of the submission of the report under subsection (d), the Administrator shall, taking into consideration the final reported findings and recommendations of the aviation rulemaking committee, issue a final rule requiring installation of a secondary cockpit barrier on each commercial passenger aircraft operated under the provisions of part 121 of title 14, Code of Federal Regulations."

Pub. L. 115–254, div. B, title III, §336, Oct. 5, 2018, 132 Stat. 3281, provided that:

"(a) SHORT TITLE.—This section may be cited as the 'Saracini Aviation Safety Act of 2018'.

"(b) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall issue an order requiring installation of a secondary cockpit barrier on each new aircraft that is manufactured for delivery to a passenger air carrier in the United States operating under the provisions of part 121 of title 14, Code of Federal Regulations."

SEXUAL MISCONDUCT ONBOARD AIRCRAFT

Pub. L. 115–254, div. B, title III, §§339A, 339B, Oct. 5, 2018, 132 Stat. 3282, 3283, provided that:

"SEC. 339A. NATIONAL IN-FLIGHT SEXUAL MISCONDUCT TASK FORCE.

"(a) ESTABLISHMENT OF TASK FORCE.—The Secretary of Transportation shall establish a task force, to be known as the 'National In-Flight Sexual Misconduct Task Force' (referred to in this section as 'Task Force') to—

"(1) review current practices, protocols and requirements of air carriers in responding to allegations of sexual misconduct by passengers onboard aircraft, including training, reporting and data collection; and
"(2) provide recommendations on training, reporting and data collection regarding allegations of sexual misconduct occurring on passenger airline flights that are informed by the review of information described in paragraph (1) and subsection (c)(5) on passengers who have experienced sexual misconduct onboard aircraft.

"(b) MEMBERSHIP.—The Task Force shall be composed of, at a minimum, representatives from—

"(1) [the] Department of Transportation;
"(2) [the] Department of Justice, including the Federal Bureau of Investigation, Office of Victims for Crimes [sic], and the Office on Violence Against Women;
"(3) National organizations that specialize in providing services to sexual assault victims;
"(4) labor organizations that represent flight attendants;

"(5) labor organizations that represent pilots;

"(6) airports;

"(7) air carriers;

"(8) State and local law enforcement agencies; and

"(9) such other Federal agencies and stakeholder organizations as the Secretary of Transportation considers appropriate.

"(c) PURPOSE OF TASK FORCE.—The purpose of the Task Force shall be to—

"(1) issue recommendations for addressing allegations of sexual misconduct by passengers onboard aircraft, including airline employee and contractor training;

"(2) issue recommendations on effective ways for passengers involved in incidents of alleged sexual misconduct to report such allegation of sexual misconduct;

"(3) issue recommendations on how to most effectively provide data on instances of alleged sexual misconduct onboard aircraft and to whom the data collected should be reported in a manner that protects the privacy and confidentiality of individuals involved in incidents of alleged sexual misconduct and precludes the release of data that publically identifies an individual air carrier to enable better understanding of the frequency and severity of such misconduct;

"(4) issue recommendations for flight attendants, pilots, and other appropriate airline personnel on law enforcement notification in incidents of alleged sexual misconduct;

"(5) review and utilize first-hand accounts from passengers who have experienced sexual misconduct onboard aircraft; and

"(6) other matters deemed necessary by the Task Force.

"(d) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Task Force shall submit a report with its recommendations and findings developed pursuant to subsection (c) to the Secretary of Transportation.

"(e) PLAN.—Not later than 180 days after receiving the report required under subsection (d)[,] the Secretary of Transportation, in coordination with relevant federal agencies, shall submit to [the] appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a plan to address the recommendations in the report required under subsection (d). The Secretary of Transportation shall make changes to guidance, policies and regulations, as necessary, within 1 year of submitting the plan required in this subsection.

"(f) REGULATIONS.—Not later than 1 year after submitting the plan required in this subsection [probably means "subsection (e)"], the Secretary of Transportation may issue regulations as deemed necessary to require each air carrier and other covered entity to develop a policy concerning sexual misconduct in accordance with the recommendations and findings of the Task Force under subsection (c).

"(g) SUNSET.—The Task Force established pursuant to subsection (a) shall terminate upon the submission of the report pursuant to subsection (d).

"SEC. 339B. REPORTING PROCESS FOR SEXUAL MISCONDUCT ONBOARD AIRCRAFT.

"(a) IN GENERAL.—Not later than two years after the date of the enactment of this Act [Oct. 5, 2018], the Attorney General, in coordination with relevant Federal agencies, shall establish a streamlined process, based on the plan required under section 339A(e) of this Act, for individuals involved in incidents of alleged sexual misconduct onboard aircraft to report such allegations of sexual misconduct to law enforcement in a manner that protects the privacy and confidentiality of individuals involved in such allegations.

"(b) AVAILABILITY OF REPORTING PROCESS.—The process for reporting established under subsection (a) shall be made available to the public on the primary Internet websites of—

"(1) the Office for Victims of Crime and the Office on Violence Against Women of the Department of Justice;

"(2) the Federal Bureau of Investigation; and

"(3) the Department of Transportation."

EMPLOYEE ASSAULT PREVENTION AND RESPONSE PLANS

Pub. L. 115–254, div. B, title V, §551, Oct. 5, 2018, 132 Stat. 3378, as amended by Pub. L. 118–63, title IV, §434(b), May 16, 2024, 138 Stat. 1174, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], each air carrier operating under part 121 of title 14, Code of Federal Regulations (in this section referred to as a 'part 121 air carrier'), shall submit to the Administrator [of the Federal Aviation Administration] for review and acceptance an Employee Assault Prevention and Response Plan related to the customer service agents of the air carrier and that is developed in consultation with the labor union representing such agents.

"(b) CONTENTS OF PLAN.—An Employee Assault Prevention and Response Plan submitted under

subsection (a) shall include the following:

"(1) Reporting protocols for air carrier customer service agents who have been the victim of a verbal or physical assault.

"(2) Protocols for the immediate notification of law enforcement after an incident of verbal or physical assault committed against an air carrier customer service agent.

"(3) Protocols for informing Federal law enforcement with respect to violations of section 46503 of title 49, United States Code.

"(4) Protocols for ensuring that a passenger involved in a violent incident with a customer service agent of an air carrier is not allowed to move through airport security or board an aircraft until appropriate law enforcement has had an opportunity to assess the incident and take appropriate action.

"(5) Protocols for air carriers to inform passengers of Federal laws protecting Federal, airport, and air carrier employees who have security duties within an airport.

"(c) EMPLOYEE TRAINING.—A part 121 air carrier shall conduct initial and recurrent training for all employees, including management, of the air carrier with respect to the plan required under subsection (a), which shall include training on de-escalating hostile situations, written protocols on dealing with hostile situations, and the reporting of relevant incidents.

"(d) STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall—

"(1) complete a study of crimes of violence (as defined in section 16 of title 18, United States Code) committed against airline customer service representatives while they are performing their duties and on airport property; and

"(2) submit the findings of the study, including any recommendations, to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives].

"(e) GAP ANALYSIS.—The study required under subsection (d) shall include a gap analysis to determine if State and local laws and resources are adequate to deter or otherwise address the crimes of violence described in subsection (a) and recommendations on how to address any identified gaps.

"(f) BRIEFING TO CONGRESS.—Not later than 90 days after the date of enactment of this subsection [May 16, 2024], the Administrator of the Federal Aviation Administration shall provide to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a briefing on the Employee Assault Prevention and Response Plan submitted by each air carrier pursuant to this section."

TRANSPORTATION SECURITY LABORATORY

Pub. L. 115–254, div. K, title I, §1915, Oct. 5, 2018, 132 Stat. 3555, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Secretary [of Homeland Security], in consultation with the Administrator [of the Transporation Security Administration] and the Undersecretary for Science and Technology—

"(1) shall conduct a review to determine whether the TSA [Transportation Security Administration] is the most appropriate component within the Department [of Homeland Security] to administer the Transportation Security Laboratory; and

"(2) may direct the TSA to administer the Transportation Security Laboratory if the review under paragraph (1) identifies the TSA as the most appropriate component.

"(b) PERIODIC REVIEWS.—The Secretary shall periodically review the screening technology test and evaluation process conducted at the Transportation Security Laboratory to improve the coordination, collaboration, and communication between the Transportation Security Laboratory and the TSA to identify factors contributing to acquisition inefficiencies, develop strategies to reduce acquisition inefficiencies, facilitate more expeditious initiation and completion of testing, and identify how laboratory practices can better support acquisition decisions.

"(c) REPORTS.—The Secretary shall report the findings of each review under this section to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives]."

PILOT PROGRAM FOR AUTOMATED EXIT LANE TECHNOLOGY

Pub. L. 115–254, div. K, title I, §1920, Oct. 5, 2018, 132 Stat. 3560, provided that:

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall establish a pilot program to implement and evaluate the use of automated exit lane technology at small hub airports and nonhub airports (as those

terms are defined in section 40102 of title 49, United States Code).

"(b) PARTNERSHIP.—The Administrator shall carry out the pilot program in partnership with the applicable airport directors.

"(c) COST SHARE.—The Federal share of the cost of the pilot program under this section shall not exceed 85 percent of the total cost of the program.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the pilot program under this section $15,000,000 for each of fiscal years 2019 through 2021.

"(e) GAO REPORT.—Not later than 2 years after the date the pilot program is implemented, the Comptroller General of the United States shall submit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a report on the pilot program, including—

"(1) the extent of airport participation in the pilot program and how the program was implemented;

"(2) the results of the pilot program and any reported benefits, including the impact on security and any cost-related efficiencies realized by TSA [Transportation Security Administration] or at the participating airports; and

"(3) the feasibility of expanding the pilot program to additional airports, including to medium and large hub airports."

SECURING AIRPORT WORKER ACCESS POINTS

Pub. L. 115–254, div. K, title I, §1934, Oct. 5, 2018, 132 Stat. 3572, provided that:

"(a) COOPERATIVE EFFORTS TO ENHANCE AIRPORT SECURITY AWARENESS.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall consult with air carriers, foreign air carriers, airport operators, and labor unions representing credentialed employees to enhance security awareness of credentialed airport populations regarding insider threats to aviation security and best practices related to airport access controls.

"(b) CREDENTIALING STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with air carriers, foreign air carriers, airport operators, and labor unions representing credentialed employees, shall assess credentialing standards, policies, and practices, including implementation of relevant credentialing updates required under the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190; 130 Stat. 615) [see Tables for classification], to ensure that insider threats to aviation security are adequately addressed.

"(c) SIDA APPLICATIONS.—

"(1) SOCIAL SECURITY NUMBERS REQUIRED.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator shall revise the application submitted by an individual applying for a credential granting access to the Secure Identification Area of an airport to require the social security number of such individual in order to strengthen security vetting effectiveness.

"(B) FAILURE TO PROVIDE NUMBER.—An applicant who does not provide such applicant's social security number may be denied such a credential.

"(2) SCREENING NOTICE.—The Administrator shall issue requirements for an airport operator to include in each application for access to a Security Identification Display Area notification to the applicant that an employee holding a credential granting access to a Security Identification Display Area may be screened at any time while gaining access to, working in, or leaving a Security Identification Display Area.

"(d) SECURED AND STERILE AREAS OF AIRPORTS.—The Administrator shall consult with airport operators and airline operators to identify advanced technologies, including biometric identification technologies, that could be used for securing employee access to the secured areas and sterile areas of airports.

"(e) RAP BACK VETTING .—Not later than 180 days after the date of enactment of this Act, the Administrator shall identify and submit to the appropriate committees of Congress the number of credentialed aviation worker populations at airports that are continuously vetted through the Federal Bureau of Investigation's Rap Back Service, consistent with section 3405(b)(2) of the FAA Extension, Safety, and Security Act of 2016 (49 U.S.C. 44901 note).

"(f) INSIDER THREAT EDUCATION AND MITIGATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall identify means of enhancing the TSA's ability to leverage the resources of the Department and the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) to educate Administration personnel on insider threats to aviation security and how the TSA can better mitigate such insider threats.

"(g) EMPLOYEE INSPECTIONS.—Consistent with the FAA Extension, Safety, and Security Act of 2016

(Public Law 114–190; 130 Stat. 615), the Administrator shall ensure that TSA-led, random employee physical inspection efforts of aviation workers are targeted, strategic, and focused on providing the greatest level of security effectiveness.

"(h) COVERT TESTING.—

"(1) IN GENERAL.—Consistent with the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190; 130 Stat. 615), the Administrator shall continue to conduct covert testing of TSA-led employee inspection operations at airports and measure existing levels of security effectiveness.

"(2) REQUIREMENTS.—The Administrator shall provide—

"(A) the results of such testing to—

"(i) the airport operator for the airport that is the subject of any such testing; and

"(ii) as appropriate, to air carriers and foreign air carriers that operate at the airport that is the subject of such testing; and

"(B) recommendations and technical assistance for air carriers, foreign air carriers, and airport operators to conduct their own employee inspections, as needed.

"(3) ANNUAL REPORTING.—The Administrator shall for each of fiscal years 2019 through 2021, submit to the appropriate committees of Congress a report on the frequency, methodology, strategy, and effectiveness of employee inspection operations at airports.

"(i) CENTRALIZED DATABASE.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator, in consultation with ASAC, shall—

"(A) subject to paragraph (2), establish a national, centralized database of the names of each individual who—

"(i) has had an airport-issued badge revoked for failure to comply with aviation security requirements; or

"(ii) has had an aircraft operator-issued badge revoked for failure to comply with aviation security requirements;

"(B) determine the appropriate reporting mechanisms for air carriers, foreign air carriers, and airport operators—

"(i) to submit to the Administration data regarding an individual described in subparagraph (A); and

"(ii) to access the database; and

"(C) establish a process to allow an individual whose name is mistakenly entered into the database to correct the record and have the individual's name expunged from the database.

"(2) LIMITATION.—The database shall not include the name of any individual whose badge has been revoked as a result of a termination or cessation of employment unrelated to—

"(A) a violation of a security requirement; or

"(B) a determination that the individual poses a threat to aviation security."

[For definitions of terms used in section 1934 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

LAW ENFORCEMENT OFFICER REIMBURSEMENT PROGRAM

Pub. L. 115–254, div. K, title I, §1935, Oct. 5, 2018, 132 Stat. 3574, provided that:

"(a) IN GENERAL.—In accordance with section 44903(c)(1) of title 49, United States Code, the Administrator [of the Transportation Security Administration] shall increase the number of awards, and the total funding amount of each award, under the Law Enforcement Officer Reimbursement Program—

"(1) to increase the presence of law enforcement officers in the public areas of airports, including baggage claim, ticket counters, and nearby roads;

"(2) to increase the presence of law enforcement officers at screening checkpoints;

"(3) to reduce the response times of law enforcement officers during security incidents; and

"(4) to provide visible deterrents to potential terrorists.

"(b) COOPERATION BY ADMINISTRATOR.—In carrying out subsection (a), the Administrator shall use the authority provided to the Administrator under section 114(m) of title 49, United States Code, that is the same authority as is provided to the Administrator of the Federal Aviation Administration under section 106(m) of that title.

"(c) ADMINISTRATIVE BURDENS.—The Administrator shall review the regulations and compliance policies related to the Law Enforcement Officer Reimbursement Program and, if necessary, revise such regulations and policies to reduce any administrative burdens on applicants or recipients of such awards.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 44901(h) of title 49, United States Code, $55,000,000 for each of fiscal years 2019 through 2021."

AIRPORT PERIMETER AND ACCESS CONTROL SECURITY

Pub. L. 115–254, div. K, title I, §1936, Oct. 5, 2018, 132 Stat. 3575, provided that:

"(a) RISK ASSESSMENTS OF AIRPORT SECURITY.—

"(1) IN GENERAL.—The Administrator [of the Transportation Security Administration] shall—

"(A) not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], update the Transportation Sector Security Risk Assessment (referred to in this section as the 'TSSRA'); and

"(B) not later than 90 days after the date the TSSRA is updated under subparagraph (A)—

"(i) update with the most currently available intelligence information the Comprehensive Risk Assessment of Perimeter and Access Control Security (referred to in this section as the 'Risk Assessment of Airport Security');

"(ii) establish a regular schedule for periodic updates to the Risk Assessment of Airport Security; and

"(iii) conduct a system-wide assessment of airport access control points and airport perimeter security.

"(2) CONTENTS.—The security risk assessments required under paragraph (1)(B) shall—

"(A) include updates reflected in the TSSRA and Joint Vulnerability Assessment findings;

"(B) reflect changes to the risk environment relating to airport access control points and airport perimeters;

"(C) use security event data for specific analysis of system-wide trends related to airport access control points and airport perimeter security to better inform risk management decisions; and

"(D) consider the unique geography of and current best practices used by airports to mitigate potential vulnerabilities.

"(3) REPORT.—The Administrator shall report the results of the TSSRA and Risk Assessment of Airport Security under paragraph (1) to—

"(A) the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives];

"(B) relevant Federal departments and agencies; and

"(C) airport operators.

"(b) AIRPORT SECURITY STRATEGY DEVELOPMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall update the 2012 National Strategy for Airport Perimeter and Access Control Security (referred to in this section as the 'National Strategy').

"(2) CONTENTS.—The update to the National Strategy shall include—

"(A) information from the Risk Assessment of Airport Security; and

"(B) information on—

"(i) airport security-related activities;

"(ii) the status of TSA [Transportation Security Administration] efforts to address the objectives of the National Strategy;

"(iii) finalized outcome-based performance measures and performance levels for—

"(I) each activity described in clause (i); and

"(II) each objective described in clause (ii); and

"(iv) input from airport operators.

"(3) UPDATES.—Not later than 90 days after the date the update to the National Strategy is complete, the Administrator shall establish a regular schedule for determining if and when additional updates to the strategy under paragraph (1) are necessary."

TRAVELER REDRESS IMPROVEMENT

Pub. L. 115–254, div. K, title I, §1949, Oct. 5, 2018, 132 Stat. 3588, provided that:

"(a) REDRESS PROCESS.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration], using existing resources, systems, and processes, shall ensure the availability of the Department of Homeland Security Traveler Redress Inquiry Program (referred to in this section as 'DHS TRIP') redress process to adjudicate an inquiry for an individual who—

"(A) is a citizen of the United States or alien lawfully admitted for permanent residence;

"(B) has filed the inquiry with DHS TRIP after receiving enhanced screening at an airport passenger security checkpoint more than 3 times in any 60-day period; and

"(C) believes the individual has been wrongly identified as being a threat to aviation security.

"(2) BRIEFING.—Not later than 180 days after the date of enactment of this Act, the Administrator shall brief the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] on the implementation of the redress process required under paragraph (1).

"(b) PRIVACY IMPACT REVIEW AND UPDATE.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall review and update the Privacy Impact Assessment for the Secure Flight programs to ensure the assessment accurately reflects the operation of such programs.

"(2) PUBLIC DISSEMINATION; FORM.—The Administrator shall—

"(A) publish the Secure Flight Privacy Impact Assessment review and update required under paragraph (1) on a publicly-accessible internet webpage of the TSA [Transportation Security Administration]; and

"(B) submit the Secure Flight Privacy Impact Assessment review and update to the appropriate committees of Congress.

"(c) RULE REVIEW AND NOTIFICATION PROCESS.—

"(1) RULE REVIEW.—Not later than 60 days after the date of enactment of this Act, and every 120 days thereafter, the Assistant Administrator of the Office of Intelligence and Analysis of the TSA, in coordination with the entities specified in paragraph (3), shall identify and review the screening rules established by the Office of Intelligence and Analysis of [the] TSA.

"(2) NOTIFICATION PROCESS.—Not later than 2 days after the date that any change to a rule identified under paragraph (1) is made, the Assistant Administrator of the Office of Intelligence and Analysis of the TSA shall notify the entities specified in paragraph (3) of the change.

"(3) ENTITIES SPECIFIED.—The entities specified in this paragraph are as follows:

"(A) The Office of Civil Rights and Liberties, Ombudsman, and Traveler Engagement of the TSA.

"(B) The Office of Civil Rights and Liberties of the Department [of Homeland Security].

"(C) The Office of Chief Counsel of the TSA.

"(D) The Office of General Counsel of the Department.

"(E) The Privacy Office of the Administration.

"(F) The Privacy Office of the Department.

"(G) The Federal Air Marshal Service.

"(H) The Traveler Redress Inquiry Program of the Department.

"(d) FEDERAL AIR MARSHAL SERVICE COORDINATION.—

"(1) IN GENERAL.—The Administrator shall ensure that the rules identified in subsection (c) are taken into account for Federal Air Marshal mission scheduling.

"(2) REPORT.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress a report on whether, and if so how, the rules identified in subsection (c) are incorporated in the risk analysis conducted during the Federal Air Marshal mission scheduling process.

"(e) GAO REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall—

"(1) study the rules identified under subsection (c)(1), including—

"(A) whether the rules are effective in mitigating potential threats to aviation security; and

"(B) whether, and if so how, the TSA coordinates with the Department regarding any proposed change to a rule; and

"(2) submit to the appropriate committees of Congress a report on the findings under paragraph (1), including any recommendations."

GENERAL AVIATION AIRPORTS

Pub. L. 115–254, div. K, title I, §1952, Oct. 5, 2018, 132 Stat. 3592, provided that:

"(a) SHORT TITLE.—This section may be cited as the 'Securing General Aviation and Charter Air Carrier Service Act'.

"(b) ADVANCED PASSENGER PRESCREENING SYSTEM.—Not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress a report on the status of the deployment of the advanced passenger prescreening system, and access

thereto for certain aircraft charter operators, as required by section 44903(j)(2)(E) of title 49, United States Code, including—

"(1) the reasons for the delay in deploying the system; and

"(2) a detailed schedule of actions necessary for the deployment of the system.

"(c) SCREENING SERVICES OTHER THAN IN PRIMARY PASSENGER TERMINALS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Administrator may provide screening services to a charter air carrier in an area other than the primary passenger terminal of an applicable airport.

"(2) REQUESTS.—A request for screening services under paragraph (1) shall be made at such time, in such form, and in such manner as the Administrator may require, except that the request shall be made to the Federal Security Director for the applicable airport at which the screening services are requested.

"(3) AVAILABILITY.—A Federal Security Director may provide requested screening services under this section if the Federal Security Director determines such screening services are available.

"(4) AGREEMENTS.—

"(A) LIMITATION.—No screening services may be provided under this section unless a charter air carrier agrees in writing to compensate the TSA for all reasonable costs, including overtime, of providing the screening services.

"(B) PAYMENTS.—Notwithstanding section 3302 of title 31, United States Code, payment received under subparagraph (A) shall be credited to the account that was used to cover the cost of providing the screening services. Amounts so credited shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that account.

"(5) DEFINITIONS.—In this subsection:

"(A) APPLICABLE AIRPORT.—The term 'applicable airport' means an airport that—

"(i) is not a commercial service airport; and

"(ii) is receiving screening services for scheduled passenger aircraft.

"(B) CHARTER AIR CARRIER.—The term 'charter air carrier' has the meaning given the term in section 40102 of title 49, United States Code.

"(C) SCREENING SERVICES.—The term 'screening services' means the screening of passengers and property similar to the screening of passengers and property described in section 44901 of title 49, United States Code.

"(d) REPORT.—Not later than 120 days after the date of enactment of this Act, the Administrator, in consultation with the ASAC, shall, consistent with the requirements of paragraphs (6) and (7) of section 44946(b) of title 49, United States Code, submit to the appropriate Committees of Congress an implementation plan, including an implementation schedule, for any of the following recommendations that were adopted by the ASAC and with which the Administrator has concurred before the date of the enactment of this Act:

"(1) The recommendation regarding general aviation access to Ronald Reagan Washington National Airport, as adopted on February 17, 2015.

"(2) The recommendation regarding the vetting of persons seeking flight training in the United States, as adopted on July 28, 2016.

"(3) Any other such recommendations relevant to the security of general aviation adopted before the date of the enactment of this Act.

"(e) DESIGNATED STAFFING.—The Administrator may designate 1 or more full-time employees of the TSA to liaise with, and respond to issues raised by, general aviation stakeholders.

"(f) SECURITY ENHANCEMENTS.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the ASAC, shall submit to the appropriate committees of Congress a report on the feasibility of requiring a security threat assessment before an individual could obtain training from a private flight school to operate an aircraft having a maximum certificated takeoff weight of more than 12,500 pounds."

[For definitions of terms used in section 1952 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

FLIGHT DECK SAFETY AND SECURITY

Pub. L. 115–254, div. K, title I, §1961, Oct. 5, 2018, 132 Stat. 3600, provided that:

"(a) THREAT ASSESSMENT.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration], in consultation with the

Administrator of the Federal Aviation Administration, shall complete a detailed threat assessment to identify any safety or security risks associated with unauthorized access to the flight decks on commercial aircraft and any appropriate measures that should be taken based on the risks.

"(b) RTCA REPORT.—The Administrator, in coordination with the Administrator of the Federal Aviation Administration, shall disseminate RTCA Document (DO–329) Aircraft Secondary Barriers and Alternative Flight Deck Security Procedure to aviation stakeholders, including air carriers and flight crew, to convey effective methods and best practices to protect the flight deck."

AVIATION CYBERSECURITY

Pub. L. 115–254, div. B, title V, §509, Oct. 5, 2018, 132 Stat. 3355, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall initiate a review of the comprehensive and strategic framework of principles and policies (referred to in this section as the 'framework') developed pursuant to section 2111 of the FAA Extension, Safety, and Security Act of 2016 [Pub. L. 114–190] (49 U.S.C. 44903 note) [set out below].

"(b) CONTENTS.—In undertaking the review under subsection (a), the Administrator shall—

"(1) assess the degree to which the framework identifies and addresses known cybersecurity risks associated with the aviation system;

"(2) review existing short- and long-term objectives for addressing cybersecurity risks to the national airspace system; and

"(3) assess the [Federal Aviation] Administration's level of engagement and coordination with aviation stakeholders and other appropriate agencies, organizations, or groups with which the Administration consults to carry out the framework.

"(c) UPDATES.—Upon completion of the review under subsection (a), the Administrator shall modify the framework, as appropriate, to address any deficiencies identified by the review.

"(d) REPORT TO CONGRESS.—Not later than 180 days after initiating the review required by subsection (a), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the review, including a description of any modifications made to the framework."

Pub. L. 114–190, title II, §2111, July 15, 2016, 130 Stat. 625, provided that:

"(a) COMPREHENSIVE AND STRATEGIC AVIATION FRAMEWORK.—

"(1) IN GENERAL.—Not later than 240 days after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration shall facilitate and support the development of a comprehensive and strategic framework of principles and policies to reduce cybersecurity risks to the national airspace system, civil aviation, and agency information systems using a total systems approach that takes into consideration the interactions and interdependence of different components of aircraft systems and the national airspace system.

"(2) SCOPE.—In carrying out paragraph (1), the Administrator shall—

"(A) identify and address the cybersecurity risks associated with—

"(i) the modernization of the national airspace system;

"(ii) the automation of aircraft, equipment, and technology; and

"(iii) aircraft systems, including by—

"(I) directing the Aircraft Systems Information Security Protection Working Group—

"(aa) to assess cybersecurity risks to aircraft systems;

"(bb) to review the extent to which existing rulemaking, policy, and guidance to promote safety also promote aircraft systems information security protection; and

"(cc) to provide appropriate recommendations to the Administrator if separate or additional rulemaking, policy, or guidance is needed to address cybersecurity risks to aircraft systems; and

"(II) identifying and addressing—

"(aa) cybersecurity risks associated with in-flight entertainment systems; and

"(bb) whether in-flight entertainment systems can and should be isolated and separate, such as through an air gap, under existing rulemaking, policy, and guidance;

"(B) clarify cybersecurity roles and responsibilities of offices and employees of the Federal Aviation Administration, as the roles and responsibilities relate to cybersecurity at the Federal Aviation Administration;

"(C) identify and implement objectives and actions to reduce cybersecurity risks to air traffic control information systems, including actions to improve implementation of information security

standards, such as those of the National Institute of Standards and Technology;

"(D) support voluntary efforts by industry, RTCA, Inc., and other standards-setting organizations to develop and identify consensus standards and best practices relating to guidance on aviation systems information security protection, consistent, to the extent appropriate, with the cybersecurity risk management activities described in section 2(e) of the National Institute of Standards and Technology Act (15 U.S.C. 272(e));

"(E) establish guidelines for the voluntary exchange of information between and among aviation stakeholders pertaining to aviation-related cybersecurity incidents, threats, and vulnerabilities;

"(F) identify short- and long-term objectives and actions that can be taken in response to cybersecurity risks to the national airspace system; and

"(G) identify research and development activities to inform actions in response to cybersecurity risks.

"(3) IMPLEMENTATION REQUIREMENTS.—In carrying out the activities under this subsection, the Administrator shall—

"(A) coordinate with aviation stakeholders, including, at a minimum, representatives of industry, airlines, manufacturers, airports, RTCA, Inc., and unions;

"(B) consult with the heads of relevant agencies and with international regulatory authorities;

"(C) if determined appropriate, convene an expert panel or working group to identify and address cybersecurity risks; and

"(D) evaluate, on a periodic basis, the effectiveness of the principles established under this subsection.

"(b) UPDATE ON CYBERSECURITY IMPLEMENTATION PROGRESS.—Not later than 90 days after the date of enactment of this Act [July 15, 2016], the Administrator shall provide to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] an update on progress made toward the implementation of this section.

"(c) CYBERSECURITY THREAT MODEL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Director of the National Institute of Standards and Technology, shall implement the open recommendation issued in 2015 by the Government Accountability Office to assess and research the potential cost and timetable of developing and maintaining an agencywide threat model, which shall be updated regularly, to strengthen the cybersecurity of agency systems across the Federal Aviation Administration. The Administrator shall brief the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status, results, and composition of the threat model.

"(d) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY INFORMATION SECURITY STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, after consultation with the Director of the National Institute of Standards and Technology, shall transmit to the Committee on Science, Space, and Technology and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

"(1) a cybersecurity standards plan to improve implementation of the National Institute of Standards and Technology's latest revisions to information security guidance for Federal Aviation Administration information and Federal Aviation Administration information systems within set timeframes; and

"(2) an explanation of why any such revisions are not incorporated in the plan or are not incorporated within set timeframes.

"(e) CYBERSECURITY RESEARCH AND DEVELOPMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with other agencies as appropriate, shall establish a cybersecurity research and development plan for the national airspace system, including—

"(1) any proposal for research and development cooperation with international partners;

"(2) an evaluation and determination of research and development needs to determine any cybersecurity risks of cabin communications and cabin information technology systems on board in the passenger domain; and

"(3) objectives, proposed tasks, milestones, and a 5-year budgetary profile."

AIRPORT SECURITY

Pub. L. 114–50, Sept. 24, 2015, 129 Stat. 490, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Gerardo Hernandez Airport Security Act of 2015'.

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary of Homeland Security (Transportation Security) of the Department of Homeland Security.

"(2) ADMINISTRATION.—The term 'Administration' means the Transportation Security Administration.

"SEC. 3. SECURITY INCIDENT RESPONSE AT AIRPORTS.

"(a) IN GENERAL.—The Assistant Secretary shall, in consultation with other Federal agencies as appropriate, conduct outreach to all airports in the United States at which the Administration performs, or oversees the implementation and performance of, security measures, and provide technical assistance as necessary, to verify such airports have in place individualized working plans for responding to security incidents inside the perimeter of the airport, including active shooters, acts of terrorism, and incidents that target passenger-screening checkpoints.

"(b) TYPES OF PLANS.—Such plans may include, but may not be limited to, the following:

"(1) A strategy for evacuating and providing care to persons inside the perimeter of the airport, with consideration given to the needs of persons with disabilities.

"(2) A plan for establishing a unified command, including identification of staging areas for non-airport-specific law enforcement and fire response.

"(3) A schedule for regular testing of communications equipment used to receive emergency calls.

"(4) An evaluation of how emergency calls placed by persons inside the perimeter of the airport will reach airport police in an expeditious manner.

"(5) A practiced method and plan to communicate with travelers and all other persons inside the perimeter of the airport.

"(6) To the extent practicable, a projected maximum timeframe for law enforcement response to active shooters, acts of terrorism, and incidents that target passenger security-screening checkpoints.

"(7) A schedule of joint exercises and training to be conducted by the airport, the Administration, other stakeholders such as airport and airline tenants, and any relevant law enforcement, airport police, fire, and medical personnel.

"(8) A schedule for producing after-action joint exercise reports to identify and determine how to improve security incident response capabilities.

"(9) A strategy, where feasible, for providing airport law enforcement with access to airport security video surveillance systems at category X airports where those systems were purchased and installed using Administration funds.

"(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act [Sept. 24, 2015], the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings from its outreach to airports under subsection (a), including an analysis of the level of preparedness such airports have to respond to security incidents, including active shooters, acts of terrorism, and incidents that target passenger-screening checkpoints.

"SEC. 4. DISSEMINATING INFORMATION ON BEST PRACTICES.

"The Assistant Secretary shall—

"(1) identify best practices that exist across airports for security incident planning, management, and training; and

"(2) establish a mechanism through which to share such best practices with other airport operators nationwide.

"SEC. 5. CERTIFICATION.

"Not later than 90 days after the date of enactment of this Act [Sept. 24, 2015], and annually thereafter, the Assistant Secretary shall certify in writing to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that all screening personnel have participated in practical training exercises for active shooter scenarios.

"SEC. 6. REIMBURSABLE AGREEMENTS.

"Not later than 90 days after the enactment of this Act [Sept. 24, 2015], the Assistant Secretary shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an analysis of how the Administration can use cost

savings achieved through efficiencies to increase over the next 5 fiscal years the funding available for checkpoint screening law enforcement support reimbursable agreements.

"SEC. 7. SECURITY INCIDENT RESPONSE FOR SURFACE TRANSPORTATION SYSTEMS.

"(a) IN GENERAL.—The Assistant Secretary shall, in consultation with the Secretary of Transportation, and other relevant agencies, conduct outreach to all passenger transportation agencies and providers with high-risk facilities, as identified by the Assistant Secretary, to verify such agencies and providers have in place plans to respond to active shooters, acts of terrorism, or other security-related incidents that target passengers.

"(b) TYPES OF PLANS.—As applicable, such plans may include, but may not be limited to, the following:

"(1) A strategy for evacuating and providing care to individuals, with consideration given to the needs of persons with disabilities.

"(2) A plan for establishing a unified command.

"(3) A plan for frontline employees to receive active shooter training.

"(4) A schedule for regular testing of communications equipment used to receive emergency calls.

"(5) An evaluation of how emergency calls placed by individuals using the transportation system will reach police in an expeditious manner.

"(6) A practiced method and plan to communicate with individuals using the transportation system.

"(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act [Sept. 24, 2015], the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings from its outreach to the agencies and providers under subsection (a), including an analysis of the level of preparedness such transportation systems have to respond to security incidents.

"(d) DISSEMINATION OF BEST PRACTICES.—The Assistant Secretary shall identify best practices for security incident planning, management, and training and establish a mechanism through which to share such practices with passenger transportation agencies nationwide.

"SEC. 8. NO ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

"No additional funds are authorized to be appropriated to carry out this Act, and this Act shall be carried out using amounts otherwise available for such purpose.

"SEC. 9. INTEROPERABILITY REVIEW.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Sept. 24, 2015], the Assistant Secretary shall, in consultation with the Assistant Secretary of the Office of Cybersecurity and Communications, conduct a review of the interoperable communications capabilities of the law enforcement, fire, and medical personnel responsible for responding to a security incident, including active shooter events, acts of terrorism, and incidents that target passenger-screening checkpoints, at all airports in the United States at which the Administration performs, or oversees the implementation and performance of, security measures.

"(b) REPORT.—Not later than 30 days after the completion of the review, the Assistant Secretary shall report the findings of the review to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate."

CABIN FLIGHT CREW PARTICIPATION IN KNOWN CREWMEMBER PILOT PROGRAM

Pub. L. 113–6, div. D, title II, Mar. 26, 2013, 127 Stat. 349, provided in part: "That the Administrator of the Transportation Security Administration shall, within 270 days of the date of enactment of this Act [Mar. 26, 2013], establish procedures allowing members of cabin flight crews of air carriers to participate in the Known Crewmember pilot program, unless the Administrator determines that meeting the requirement within this timeline is not practicable and informs the Committees on Appropriations of the Senate and House of Representatives of the basis for that determination and the new timeline for implementing the requirement".

STRATEGIC PLAN TO TEST AND IMPLEMENT ADVANCED PASSENGER PRESCREENING SYSTEM

Pub. L. 110–53, title XVI, §1605, Aug. 3, 2007, 121 Stat. 481, provided that:

"(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [Aug. 3, 2007], the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a plan that—

"(1) describes the system to be utilized by the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Administrator, to the automatic selectee and no-fly lists, utilizing appropriate records in the consolidated and integrated terrorist watchlist

maintained by the Federal Government;

"(2) provides a projected timeline for each phase of testing and implementation of the system;

"(3) explains how the system will be integrated with the prescreening system for passengers on international flights; and

"(4) describes how the system complies with section 552a of title 5, United States Code.

"(b) GAO ASSESSMENT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives that—

"(1) describes the progress made by the Transportation Security Administration in implementing the secure flight passenger pre-screening program;

"(2) describes the effectiveness of the current appeals process for passengers wrongly assigned to the no-fly and terrorist watch lists;

"(3) describes the Transportation Security Administration's plan to protect private passenger information and progress made in integrating the system with the pre-screening program for international flights operated by United States Customs and Border Protection;

"(4) provides a realistic determination of when the system will be completed; and

"(5) includes any other relevant observations or recommendations the Comptroller General deems appropriate."

PILOT PROJECT TO TEST DIFFERENT TECHNOLOGIES AT AIRPORT EXIT LANES

Pub. L. 110–53, title XVI, §1613, Aug. 3, 2007, 121 Stat. 485, provided that:

"(a) IN GENERAL.—The Administrator of the Transportation Security Administration shall conduct a pilot program at not more than 2 airports to identify technologies to improve security at airport exit lanes.

"(b) PROGRAM COMPONENTS.—In conducting the pilot program under this section, the Administrator shall—

"(1) utilize different technologies that protect the integrity of the airport exit lanes from unauthorized entry;

"(2) work with airport officials to deploy such technologies in multiple configurations at a selected airport or airports at which some of the exits are not colocated with a screening checkpoint; and

"(3) ensure the level of security is at or above the level of existing security at the airport or airports where the pilot program is conducted.

"(c) REPORTS.—

"(1) INITIAL BRIEFING.—Not later than 180 days after the date of enactment of this Act [Aug. 3, 2007], the Administrator shall conduct a briefing to the congressional committees set forth in paragraph (3) that describes—

"(A) the airport or airports selected to participate in the pilot program;

"(B) the technologies to be tested;

"(C) the potential savings from implementing the technologies at selected airport exits;

"(D) the types of configurations expected to be deployed at such airports; and

"(E) the expected financial contribution from each airport.

"(2) FINAL REPORT.—Not later than 18 months after the technologies are deployed at the airports participating in the pilot program, the Administrator shall submit a final report to the congressional committees set forth in paragraph (3) that describes—

"(A) the changes in security procedures and technologies deployed;

"(B) the estimated cost savings at the airport or airports that participated in the pilot program; and

"(C) the efficacy and staffing benefits of the pilot program and its applicability to other airports in the United States.

"(3) CONGRESSIONAL COMMITTEES.—The reports required under this subsection shall be submitted to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Committee on Appropriations of the Senate;

"(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(D) the Committee on Homeland Security of the House of Representatives; and

"(E) the Committee on Appropriations of the House of Representatives.

"(d) USE OF EXISTING FUNDS.—This section shall be executed using existing funds."

SECURITY CREDENTIALS FOR AIRLINE CREWS

Pub. L. 110–53, title XVI, §1614, Aug. 3, 2007, 121 Stat. 486, provided that:

"(a) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 3, 2007], the

Administrator of the Transportation Security Administration, after consultation with airline, airport, and flight crew representatives, shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Administration's efforts to institute a sterile area access system or method that will enhance security by properly identifying authorized airline flight deck and cabin crew members at screening checkpoints and granting them expedited access through screening checkpoints. The Administrator shall include in the report recommendations on the feasibility of implementing the system for the domestic aviation industry beginning 1 year after the date on which the report is submitted.

"(b) BEGINNING IMPLEMENTATION.—The Administrator shall begin implementation of the system or method referred to in subsection (a) not later than 1 year after the date on which the Administrator submits the report under subsection (a)."

CAPPS2

Pub. L. 108–176, title VI, §607, Dec. 12, 2003, 117 Stat. 2568, provided that:

"(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall not implement, on other than a test basis, the computer assisted passenger prescreening system (commonly known as and in this section referred to as 'CAPPS2') until the Under Secretary provides to Congress a certification that—

"(1) a procedure is established enabling airline passengers, who are delayed or prohibited from boarding a flight because CAPPS2 determined that they might pose a security threat, to appeal such determination and correct information contained in CAPPS2;

"(2) the error rate of the Government and private data bases that will be used to both establish identity and assign a risk level to a passenger under CAPPS2 will not produce a large number of false positives that will result in a significant number of passengers being mistaken as a security threat;

"(3) the Under Secretary has demonstrated the efficacy and accuracy of all search tools in CAPPS2 and has demonstrated that CAPPS2 can make an accurate predictive assessment of those passengers who would constitute a security threat;

"(4) the Secretary of Homeland Security has established an internal oversight board to oversee and monitor the manner in which CAPPS2 is being implemented;

"(5) the Under Secretary has built in sufficient operational safeguards to reduce the opportunities for abuse;

"(6) substantial security measures are in place to protect CAPPS2 from unauthorized access by hackers or other intruders;

"(7) the Under Secretary has adopted policies establishing effective oversight of the use and operation of the system; and

"(8) there are no specific privacy concerns with the technological architecture of the system.

"(b) GAO REPORT.—Not later than 90 days after the date on which certification is provided under subsection (a), the Comptroller General shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate that assesses the impact of CAPPS2 on the issues listed in subsection (a) and on privacy and civil liberties. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effect of CAPPS2 on privacy, discrimination, and other civil liberties."

REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES

Pub. L. 108–176, title VIII, §821, Dec. 12, 2003, 117 Stat. 2594, provided that: "The Secretary of Homeland Security, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for—

"(1) the screening of catering supplies; and

"(2) checking documents at security checkpoints."

IMPROVED FLIGHT DECK INTEGRITY MEASURES

Pub. L. 107–71, title I, §104, Nov. 19, 2001, 115 Stat. 605, provided that:

"(a) IN GENERAL.—As soon as possible after the date of enactment of this Act [Nov. 19, 2001], the Administrator of the Federal Aviation Administration shall—

"(1) issue an order (without regard to the provisions of chapter 5 of title 5, United States Code)—

"(A) prohibiting access to the flight deck of aircraft engaged in passenger air transportation or

intrastate air transportation that are required to have a door between the passenger and pilot compartments under title 14, Code of Federal Regulations, except to authorized persons;

"(B) requiring the strengthening of the flight deck door and locks on any such aircraft operating in air transportation or intrastate air transportation that has a rigid door in a bulkhead between the flight deck and the passenger area to ensure that the door cannot be forced open from the passenger compartment;

"(C) requiring that such flight deck doors remain locked while any such aircraft is in flight except when necessary to permit access and egress by authorized persons; and

"(D) prohibiting the possession of a key to any such flight deck door by any member of the flight crew who is not assigned to the flight deck; and

"(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the aircraft.

"(b) IMPLEMENTATION OF OTHER METHODS.—As soon as possible after such date of enactment [Nov. 19, 2001], the Administrator of the Federal Aviation Administration may develop and implement methods—

"(1) to use video monitors or other devices to alert pilots in the flight deck to activity in the cabin, except that the use of such monitors or devices shall be subject to nondisclosure requirements applicable to cockpit video recordings under section 1114(c) [of title 49];

"(2) to ensure continuous operation of an aircraft transponder in the event of an emergency; and

"(3) to revise the procedures by which cabin crews of aircraft can notify flight deck crews of security breaches and other emergencies, including providing for the installation of switches or other devices or methods in an aircraft cabin to enable flight crews to discreetly notify the pilots in the case of a security breach occurring in the cabin.

"(c) COMMUTER AIRCRAFT.—The Administrator shall investigate means of securing the flight deck of scheduled passenger aircraft operating in air transportation or intrastate air transportation that do not have a rigid fixed door with a lock between the passenger compartment and the flight deck and issue such an order as the Administrator deems appropriate to ensure the inaccessibility, to the greatest extent feasible, of the flight deck while the aircraft is so operating, taking into consideration such aircraft operating in regions where there is minimal threat to aviation security or national security."

SMALL AND MEDIUM AIRPORTS

Pub. L. 107–71, title I, §106(b), Nov. 19, 2001, 115 Stat. 609, provided that:

"(1) TECHNICAL SUPPORT AND FINANCIAL ASSISTANCE.—The Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] shall develop a plan to—

"(A) provide technical support to airports, each of which had less than 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available, to enhance security operations; and

"(B) provide financial assistance to those airports to defray the costs of enhancing security.

"(2) REMOVAL OF CERTAIN RESTRICTIONS.—

"(A) CERTIFICATION BY OPERATOR.—If the operator of an airport described in paragraph (1), after consultation with the appropriate State and local law enforcement authorities, determines that safeguards are in place to sufficiently protect public safety, and so certifies in writing to the Under Secretary, then any security rule, order, or other directive restricting the parking of passenger vehicles shall not apply at that airport after the applicable time period specified in subparagraph (B), unless the Under Secretary, taking into account individual airport circumstances, notifies the airport operator that the safeguards in place do not adequately respond to specific security risks and that the restriction must be continued in order to ensure public safety.

"(B) COUNTERMAND PERIOD.—The time period within which the Secretary may notify an airport operator, after receiving a certification under subparagraph (A), that a restriction must be continued in order to ensure public safety at the airport is—

"(i) 15 days for a nonhub airport (as defined in section 41714(h) of title 49, United States Code);

"(ii) 30 days for a small hub airport (as defined in such section);

"(iii) 60 days for a medium hub airport (as defined in such section); and

"(iv) 120 days for an airport that had at least 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available."

AIRPORT SECURITY AWARENESS PROGRAMS

Pub. L. 107–71, title I, §106(e), Nov. 19, 2001, 115 Stat. 610, provided that: "The Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] shall require

scheduled passenger air carriers, and airports in the United States described in section 44903(c) [of title 49] to develop security awareness programs for airport employees, ground crews, gate, ticket, and curbside agents of the air carriers, and other individuals employed at such airports."

AIRLINE COMPUTER RESERVATION SYSTEMS

Pub. L. 107–71, title I, §117, Nov. 19, 2001, 115 Stat. 624, provided that: "In order to ensure that all airline computer reservation systems maintained by United States air carriers are secure from unauthorized access by persons seeking information on reservations, passenger manifests, or other nonpublic information, the Secretary of Transportation shall require all such air carriers to utilize to the maximum extent practicable the best technology available to secure their computer reservation system against such unauthorized access."

AUTHORIZATION OF FUNDS FOR REIMBURSEMENT OF AIRPORTS FOR SECURITY MANDATES

Pub. L. 107–71, title I, §121, Nov. 19, 2001, 115 Stat. 630, provided that:

"(a) AIRPORT SECURITY.—There is authorized to be appropriated to the Secretary of Transportation for fiscal years 2002 and 2003 a total of $1,500,000,000 to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred by such operators to comply with new, additional, or revised security requirements imposed on such operators by the Federal Aviation Administration or Transportation Security Administration on or after September 11, 2001. Such sums shall remain available until expended.

"(b) DOCUMENTATION OF COSTS; AUDIT.—The Secretary may not reimburse an airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers under this section for any cost for which the airport operator, on-airport parking lot, or vendor of on-airfield direct services does not demonstrate to the satisfaction of the Secretary, using sworn financial statements or other appropriate data, that—

"(1) the cost is eligible for reimbursement under subsection (a); and

"(2) the cost was incurred by the airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers.

The Inspector General of the Department of Transportation and the Comptroller General of the United States may audit such statements and may request any other information necessary to conduct such an audit.

"(c) CLAIM PROCEDURE.—Within 30 days after the date of enactment of this Act [Nov. 19, 2001], the Secretary, after consultation with airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, shall publish in the Federal Register the procedures for filing claims for reimbursement under this section of eligible costs incurred by airport operators."

FLIGHT DECK SECURITY

Pub. L. 107–71, title I, §128, Nov. 19, 2001, 115 Stat. 633, which authorized the pilot of a passenger aircraft to carry a firearm into the cockpit if approved by the Under Secretary of Transportation for Security and the air carrier, if the firearm is approved by the Under Secretary, and if the pilot has received proper training, was repealed by Pub. L. 107–296, title XIV, §1402(b)(2), Nov. 25, 2002, 116 Stat. 2305.

CHARTER AIR CARRIERS

Pub. L. 107–71, title I, §132(a), Nov. 19, 2001, 115 Stat. 635, which provided that within 90 days after Nov. 19, 2001, the Under Secretary of Transportation for Security was to implement an aviation security program for charter air carriers with a maximum certificated takeoff weight of 12,500 pounds or more, was repealed by Pub. L. 108–176, title VI, §606(b), Dec. 12, 2003, 117 Stat. 2568.

PHYSICAL SECURITY FOR ATC FACILITIES

Pub. L. 106–528, §5, Nov. 22, 2000, 114 Stat. 2521, provided that:

"(a) IN GENERAL.—In order to ensure physical security at Federal Aviation Administration staffed facilities that house air traffic control systems, the Administrator of the Federal Aviation Administration shall act immediately to—

"(1) correct physical security weaknesses at air traffic control facilities so the facilities can be granted physical security accreditation not later than April 30, 2004; and

"(2) ensure that follow-up inspections are conducted, deficiencies are promptly corrected, and accreditation is kept current for all air traffic control facilities.

"(b) REPORTS.—Not later than April 30, 2001, and annually thereafter through April 30, 2004, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and

the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress being made in improving the physical security of air traffic control facilities, including the percentage of such facilities that have been granted physical security accreditation."

DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS

Pub. L. 106–181, title V, §512, Apr. 5, 2000, 114 Stat. 142, provided that:

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) AIRCRAFT.—The term 'aircraft' has the meaning given that term in section 40102 of title 49, United States Code.

"(2) AIR TRANSPORTATION.—The term 'air transportation' has the meaning given that term in such section.

"(3) PROGRAM.—The term 'program' means the program established under subsection (b)(1)(A).

"(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZE LOCAL LAW ENFORCEMENT OFFICERS.—

"(1) IN GENERAL.—The Attorney General may—

"(A) establish a program under which the Attorney General may deputize State and local law enforcement officers having jurisdiction over airports and airport authorities as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers in air transportation; and

"(B) encourage the participation of law enforcement officers of State and local governments in the program.

"(2) CONSULTATION.—In establishing the program, the Attorney General shall consult with appropriate officials of—

"(A) the United States Government (including the Administrator [of the Federal Aviation Administration] or a designated representative of the Administrator); and

"(B) State and local governments in any geographic area in which the program may operate.

"(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

"(A) IN GENERAL.—Under the program, to qualify to serve as a Deputy United States Marshal under the program, a State or local law enforcement officer shall—

"(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

"(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

"(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The United States Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the United States Government established to provide training to law enforcement officers of the United States Government.

"(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

"(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46318, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

"(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

"(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program shall not—

"(A) be considered to be an employee of the United States Government; or

"(B) receive compensation from the United States Government by reason of service as a Deputy United States Marshal under the program.

"(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

"(1) grant a State or local law enforcement officer that is deputized under the program the power to enforce any Federal law that is not described in subsection (c); or

"(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the officer's capacity under any other applicable State or Federal law.

"(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

"(f) NOTIFICATION OF CONGRESS.—Not later than 90 days after the date of the enactment of this Act [Apr. 5, 2000], the Attorney General shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on whether or not the Attorney General intends to establish the program authorized by this section."

DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT

Pub. L. 104–264, title III, §309, Oct. 9, 1996, 110 Stat. 3253, which related to an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport, was repealed by Pub. L. 118–63, title II, §218(g), May 16, 2024, 138 Stat. 1056.

DEFINITIONS OF TERMS IN PUB. L. 107–71

For definitions of terms used in sections 104, 106(b), (e), 117, 121, 128, and 132(a) of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.

[1] *So in original. Probably should be "subsection (c)".*

[2] *So in original.*

§44904. Domestic air transportation system security

(a) ASSESSING THREATS.—The Administrator of the Transportation Security Administration and the Director of the Federal Bureau of Investigation jointly shall assess current and potential threats to the domestic air transportation system. The assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against that system and the ways in which those individuals might carry out those acts. The Administrator of the Transportation Security Administration and the Director jointly shall decide on and carry out the most effective method for continuous analysis and monitoring of security threats to that system.

(b) ASSESSING SECURITY.—In coordination with the Director, the Administrator of the Transportation Security Administration shall carry out periodic threat and vulnerability assessments on security at each airport that is part of the domestic air transportation system. Each assessment shall include consideration of—

(1) the adequacy of security procedures related to the handling and transportation of checked baggage and cargo;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, and cargo;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the Transportation Security Administration, the United States Customs Service, the Immigration and Naturalization Service, and air carriers, and of other law enforcement personnel.

(c) MODAL SECURITY PLAN FOR AVIATION.—In addition to the requirements set forth in subparagraphs (B) through (F) of section 114(s)(3), the modal security plan for aviation prepared under section 114(s) shall—

(1) establish a damage mitigation and recovery plan for the aviation system in the event of a terrorist attack; and

(2) include a threat matrix document that outlines each threat to the United States civil aviation system and the corresponding layers of security in place to address such threat.

(d) OPERATIONAL CRITERIA.—The Administrator of the Transportation Security Administration shall issue operational criteria to protect airport infrastructure and operations against

the threats identified in the plans prepared under section 114(s)(1) and shall approve best practices guidelines for airport assets.

(e) IMPROVING SECURITY.—The Administrator of the Transportation Security Administration shall take necessary actions to improve domestic air transportation security by correcting any deficiencies in that security discovered in the assessments, analyses, and monitoring carried out under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1207; Pub. L. 107–71, title I, §101(f)(1), (7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 108–458, title IV, §4001(b), Dec. 17, 2004, 118 Stat. 3712; Pub. L. 115–254, div. K, title I, §1991(d)(4), Oct. 5, 2018, 132 Stat. 3632.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44904(a)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §106(a), (b), 104 Stat. 3075.
44904(b)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §106(c), 104 Stat. 3075.
44904(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §106(e), 104 Stat. 3075.

In subsection (a), the words "domestic air transportation system" are substituted for "domestic aviation system" for consistency in this section.

In subsection (b), before clause (1), the word "Director" is substituted for "Federal Bureau of Investigation" because of 28:532. In clauses (1) and (3), the word "mail" is omitted as being included in "cargo".

In subsection (c), the word "correcting" is substituted for "remedying" for clarity.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(4)(D), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(4)(A), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" in first sentence.

Subsec. (c). Pub. L. 115–254, §1991(d)(4)(B), substituted "section 114(s)(3)" for "section 114(t)(3)" and "section 114(s)" for "section 114(t)" in introductory provisions.

Subsec. (d). Pub. L. 115–254, §1991(d)(4)(C), substituted "The Administrator of the Transportation Security Administration" for "Not later than 90 days after the date of the submission of the National Strategy for Transportation Security under section 114(t)(4)(A), the Assistant Secretary of Homeland Security (Transportation Security Administration)" and "section 114(s)(1)" for "section 114(t)(1)".

2004—Subsecs. (c) to (e). Pub. L. 108–458 added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

2001—Subsec. (a). Pub. L. 107–71, §101(f)(7), (9), substituted "Under Secretary" for "Administrator" in two places and "of Transportation for Security" for "of the Federal Aviation Administration".

Subsec. (b). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory provisions.

Subsec. (b)(5). Pub. L. 107–71, §101(f)(1), substituted "the Transportation Security Administration" for "the Administration".

Subsec. (c). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the

Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

REGULAR JOINT THREAT ASSESSMENTS

Pub. L. 104–264, title III, §310, Oct. 9, 1996, 110 Stat. 3253, which related to joint threat and vulnerability assessments on security at each airport determined to be high risk, was repealed by Pub. L. 118–63, title II, §218(g), May 16, 2024, 138 Stat. 1056.

§44905. Information about threats to civil aviation

(a) PROVIDING INFORMATION.—Under guidelines the Administrator of the Transportation Security Administration prescribes, an air carrier, airport operator, ticket agent, or individual employed by an air carrier, airport operator, or ticket agent, receiving information (except a communication directed by the United States Government) about a threat to civil aviation shall provide the information promptly to the Administrator.

(b) FLIGHT CANCELLATION.—If a decision is made that a particular threat cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew of a particular flight or series of flights, the Administrator of the Transportation Security Administration shall cancel the flight or series of flights.

(c) GUIDELINES ON PUBLIC NOTICE.—(1) The President shall develop guidelines for ensuring that public notice is provided in appropriate cases about threats to civil aviation. The guidelines shall identify officials responsible for—

(A) deciding, on a case-by-case basis, if public notice of a threat is in the best interest of the United States and the traveling public;

(B) ensuring that public notice is provided in a timely and effective way, including the use of a toll-free telephone number; and

(C) canceling the departure of a flight or series of flights under subsection (b) of this section.

(2) The guidelines shall provide for consideration of—

(A) the specificity of the threat;

(B) the credibility of intelligence information related to the threat;

(C) the ability to counter the threat effectively;

(D) the protection of intelligence information sources and methods;

(E) cancellation, by an air carrier or the Administrator of the Transportation Security Administration, of a flight or series of flights instead of public notice;

(F) the ability of passengers and crew to take steps to reduce the risk to their safety after receiving public notice of a threat; and

(G) other factors the Administrator of the Transportation Security Administration considers appropriate.

(d) GUIDELINES ON NOTICE TO CREWS.—The Administrator of the Transportation Security Administration shall develop guidelines for ensuring that notice in appropriate cases of threats to the security of an air carrier flight is provided to the flight crew and cabin crew of that flight.

(e) LIMITATION ON NOTICE TO SELECTIVE TRAVELERS.—Notice of a threat to civil aviation may be provided to selective potential travelers only if the threat applies only to those

travelers.

(f) RESTRICTING ACCESS TO INFORMATION.—In cooperation with the departments, agencies, and instrumentalities of the Government that collect, receive, and analyze intelligence information related to aviation security, the Administrator of the Transportation Security Administration shall develop procedures to minimize the number of individuals who have access to information about threats. However, a restriction on access to that information may be imposed only if the restriction does not diminish the ability of the Government to carry out its duties and powers related to aviation security effectively, including providing notice to the public and flight and cabin crews under this section.

(g) DISTRIBUTION OF GUIDELINES.—The guidelines developed under this section shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1207; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(5), Oct. 5, 2018, 132 Stat. 3632.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44905(a)	49 App.:1358d(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §321; added Nov. 16, 1990, Pub. L. 101–604, §109(a), 104 Stat. 3078.
44905(b)	49 App.:1358d(b).	
44905(c)(1)	49 App.:1358d(c)(1), (d).	
44905(c)(2)	49 App.:1358d(e).	
44905(d)	49 App.:1358d(c)(2).	
44905(e)	49 App.:1358d(f).	
44905(f)	49 App.:1358d(h).	
44905(g)	49 App.:1358d(g).	

In subsection (a), the words "employed by an air carrier, airport operator, or ticket agent" are substituted for "employed by such an entity" for clarity. The words "or a designee of the Secretary" are omitted as unnecessary.

In subsections (c)(1), before clause (A), and (d), the words "Not later than 180 days after November 16, 1990" are omitted as obsolete.

In subsection (c)(1)(B), the words "when considered appropriate" are omitted as unnecessary because of the restatement.

In subsection (e), the words "selective potential travelers" are substituted for "only selective potential travelers" to eliminate an unnecessary word.

In subsection (f), the words "departments, agencies, and instrumentalities of the Government" are substituted for "agencies" for clarity and consistency in the revised title and with other titles of the United States Code. The words "However, a restriction on access to that information may be imposed only if the restriction does not diminish" are substituted for "Any restriction adopted pursuant to this subsection shall not diminish" for clarity.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(5)(A), substituted "Administrator of the Transportation Security Administration" for "Secretary of Transportation" and "Administrator." for "Secretary."

Subsec. (b). Pub. L. 115–254, §1991(d)(5)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

Subsecs. (c)(2)(E), (G), (d), (f). Pub. L. 115–254, §1991(d)(5)(C), substituted "Administrator of the

Transportation Security Administration" for "Under Secretary".

2001—Subsec. (b). Pub. L. 107–71, §101(f)(7), (9), substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration".

Subsecs. (c)(2)(E), (G), (d), (f). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

§44906. Foreign air carrier security programs

The Administrator of the Transportation Security Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1208; Pub. L. 104–132, title III, §322, Apr. 24, 1996, 110 Stat. 1254; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(6), Oct. 5, 2018, 132 Stat. 3632.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44906(a)(1)	49 App.:1357(k) (1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(k)(1)–(3); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3074.
	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §105(c), 104 Stat. 3075.

The text of 49 App.:1357(k)(3) and the words "Not later than 180 days after the date of enactment of this Act" in section 105(c) of the Aviation Security Improvement Act of 1990 (Public Law 101–604, 104 Stat. 3075) are omitted as obsolete.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254 substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" and, wherever appearing, "Administrator" for "Under Secretary".

2001—Pub. L. 107–71 substituted "Under Secretary" for "Administrator" wherever appearing and "of Transportation for Security" for "of the Federal Aviation Administration".

1996—Pub. L. 104–132 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator may approve a security program of a foreign air carrier under section 129.25 only if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection similar to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall require a foreign air carrier to use procedures equivalent to those required of air carriers serving the same airport if the

Administrator decides that the procedures are necessary to provide a level of protection similar to that provided passengers of the air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section."

§44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures, including the screening and vetting of airport workers; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) SUSPENSIONS.—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) CONDITION OF CARRIER AUTHORITY.—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1209; Pub. L. 115–254, div. K, title I, §1954, Oct. 5, 2018, 132 Stat. 3595.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44907(a)(1)	49 App.:1515(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(a), (b), (d)–(h); added

		Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222.
44907(a)(2)	49 App.:1515(a)(2), (3).	
44907(a)(3)	49 App.:1515(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(c); added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222; Nov. 16, 1990, Pub. L. 101–604, §102(c)(2), 104 Stat. 3069.
44907(b)	49 App.:1515(b).	
44907(c)	49 App.:1515(d).	
44907(d)(1)	49 App.:1515(e)(2).	
44907(d)(2)	49 App.:1515(e)(1).	
44907(d)(3)	49 App.:1515(e)(3).	
44907(d)(4)	49 App.:1515(f).	
44907(e)	49 App.:1515(g).	
44907(f)	49 App.:1515(h).	

In subsections (a)(2)(A) and (d)(2)(A)(i) and (3), the words "government of a foreign country" are substituted for "foreign government" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(B), the word "foreign" is added for clarity and consistency in this section.

In subsection (b)(2), the word "foreign" is added for consistency in the revised title and with other titles of the Code.

In subsection (c), the words "government of a foreign country" are substituted for "foreign government" for consistency in the revised title and with other titles of the Code.

In subsection (d)(1), before clause (A), the words "Subject to paragraph (1)" are omitted as surplus. In clause (C), the words "foreign country" are substituted for "foreign government" for clarity and consistency in the revised title and with other titles of the Code. The word "prescribe" is substituted for "impose" for consistency in the revised title and with other titles of the Code. The word "provide" is substituted for "engage in" for consistency in the revised title. In clause (D), the words "directly or indirectly" are omitted as surplus.

In subsection (d)(2)(A)(i), the words "identified" and "of such airport" are omitted as surplus.

In subsection (d)(2)(B), the words "issue a travel advisory required under section 44908(a) of this title" are substituted for "comply with the requirement of section 1515(a) [sic] of this Appendix that a travel advisory be issued" to eliminate unnecessary words.

In subsection (d)(4), the words "An action required . . . is no longer required" are substituted for "The sanctions required to be imposed with respect to an airport . . . may be lifted" to eliminate unnecessary words.

In subsection (e), before clause (1), the word "provide" is substituted for "engage in" for consistency in the revised title.

In subsection (f), the words "issued under authority vested in" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a)(2)(B). Pub. L. 115–254 inserted ", including the screening and vetting of airport workers" after "security measures".

STATUTORY NOTES AND RELATED SUBSIDIARIES

LAST POINT OF DEPARTURE AIRPORTS; SECURITY DIRECTIVES

Pub. L. 115–254, div. K, title I, §1953, Oct. 5, 2018, 132 Stat. 3594, provided that:

"(a) NOTICE AND CONSULTATION.—

"(1) IN GENERAL.—The Administrator [of the Transportation Security Administration] shall, to the maximum extent practicable, consult and notify the following stakeholders prior to making changes to security standards via security directives and emergency amendments for last points of departure:

"(A) Trade association representatives, for affected air carriers and airports, who hold the appropriate security clearances.

"(B) The head of each relevant Federal department or agency, including the Administrator of the Federal Aviation Administration.

"(2) TRANSMITTAL TO CONGRESS.—Not later than 3 days after the date that the Administrator issues a security directive or emergency amendment for a last point of departure, the Administrator shall transmit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a description of the extent to which the Administrator consulted and notified the stakeholders under paragraph (1).

"(b) GAO REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Comptroller General of the United States shall review the effectiveness of the TSA [Transportation Security Administration] process to update, consolidate, or revoke security directives, emergency amendments, and other policies related to international aviation security at last point of departure airports and submit to the appropriate committees of Congress and the Administrator a report on the findings and recommendations.

"(2) CONTENTS.—In conducting the review under paragraph (1), the Comptroller General shall—

"(A) review current security directives, emergency amendments, and any other policies related to international aviation security at last point of departure airports;

"(B) review the extent of intra-agency and interagency coordination, stakeholder outreach, coordination, and feedback; and

"(C) review TSA's process and criteria for, and implementation of, updating or revoking the policies described in subparagraph (A).

"(c) RESCREENING.—Subject to section 44901(d)(4)(c) [sic] of title 49, United States Code, upon discovery of specific threat intelligence, the Administrator shall immediately direct TSA personnel to rescreen passengers and baggage arriving from an airport outside the United States and identify enhanced measures that should be implemented at that airport.

"(d) NOTIFICATION TO CONGRESS.—Not later than 1 day after the date that the Administrator determines that a foreign air carrier is in violation of part 1546 of title 49, Code of Federal Regulations, or any other applicable security requirement, the Administrator shall notify the appropriate committees of Congress.

"(e) DECISIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any decision of the Administrator under subsection (a)(1) relating to consultation or notification shall not be subject to judicial review."

§44908. Travel advisory and suspension of foreign assistance

(a) TRAVEL ADVISORIES.—On being notified by the Administrator of the Transportation Security Administration that the Administrator of the Transportation Security Administration has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the security of passengers, aircraft, or crew traveling to or from a foreign airport that the Administrator of the Transportation Security Administration has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport; and

(2) shall publicize the advisory widely.

(b) SUSPENDING ASSISTANCE.—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) ACTIONS NO LONGER REQUIRED.—An action required under this section is no longer required only if the Administrator of the Transportation Security Administration has made a decision

as provided under section 44907(d)(4) of this title. The Administrator shall notify Congress when the action is no longer required to be taken.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1211; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2224(a), Oct. 21, 1998, 112 Stat. 2681–819; Pub. L. 115–254, div. K, title I, §1991(d)(7), Oct. 5, 2018, 132 Stat. 3632.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44908(a)	49 App.:1515a(a).	Aug. 8, 1985, Pub. L. 99–83, §552, 99 Stat. 226.
44908(b)	49 App.:1515a(b).	
44908(c)	49 App.:1515a(c), (d).	

In subsection (a)(3), the words "take the necessary steps to" are omitted as surplus.
In subsection (b), the words "all" and "the requirements of" are omitted as surplus.
Subsection (c) is substituted for 49 App.:1515a(c) and (d) to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (b), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(7)(A), (B), in introductory provisions, substituted "Administrator of the Transportation Security Administration" for "Secretary of Transportation" wherever appearing and struck out "safety or" before "security of passengers".

Subsec. (c). Pub. L. 115–254, §1991(d)(7)(A), (C), substituted "Administrator of the Transportation Security Administration" for "Secretary of Transportation" and "The Administrator" for "The Secretary".

1998—Subsec. (a). Pub. L. 105–277 inserted "and" at end of par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: "shall publish the advisory in the Federal Register; and".

§44909. Passenger manifests

(a) AIR CARRIER REQUIREMENTS.—(1) The Secretary of Transportation shall require each air carrier to provide a passenger manifest for a flight to an appropriate representative of the Secretary of State—

(A) not later than one hour after that carrier is notified of an aviation disaster outside the United States involving that flight; or

(B) if it is not technologically feasible or reasonable to comply with clause (A) of this paragraph, then as expeditiously as possible, but not later than 3 hours after the carrier is so notified.

(2) The passenger manifest should include the following information:

(A) the full name of each passenger.

(B) the passport number of each passenger, if required for travel.

(C) the name and telephone number of a contact for each passenger.

(3) In carrying out this subsection, the Secretary of Transportation shall consider the necessity and feasibility of requiring air carriers to collect passenger manifest information as a condition for passengers boarding a flight of the carrier.

(b) FOREIGN AIR CARRIER REQUIREMENTS.—The Secretary of Transportation shall consider imposing a requirement on foreign air carriers comparable to that imposed on air carriers under subsection (a)(1) and (2) of this section.

(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO THE UNITED STATES.—

(1) IN GENERAL.—Each air carrier and foreign air carrier operating a passenger flight in foreign air transportation to the United States shall provide to the Commissioner of U.S. Customs and Border Protection by electronic transmission a passenger and crew manifest containing the information specified in paragraph (2). Carriers may use the advanced passenger information system established under section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) to provide the information required by the preceding sentence.

(2) INFORMATION.—A passenger and crew manifest for a flight required under paragraph (1) shall contain the following information:

(A) The full name of each passenger and crew member.

(B) The date of birth and citizenship of each passenger and crew member.

(C) The sex of each passenger and crew member.

(D) The passport number and country of issuance of each passenger and crew member if required for travel.

(E) The United States visa number or resident alien card number of each passenger and crew member, as applicable.

(F) Such other information as the Administrator of the Transportation Security Administration, in consultation with the Commissioner of U.S. Customs and Border Protection, determines is reasonably necessary to ensure aviation safety.

(3) PASSENGER NAME RECORDS.—The carriers shall make passenger name record information available to the Customs Service upon request.

(4) TRANSMISSION OF MANIFEST.—Subject to paragraphs (5) and (6), a passenger and crew manifest required for a flight under paragraph (1) shall be transmitted to the Customs Service in advance of the aircraft landing in the United States in such manner, time, and form as the Customs Service prescribes.

(5) TRANSMISSION OF MANIFESTS TO OTHER FEDERAL AGENCIES.—Upon request, information provided to the Administrator of the Transportation Security Administration or the Customs Service under this subsection may be shared with other Federal agencies for the purpose of protecting national security.

(6) PRESCREENING INTERNATIONAL PASSENGERS.—

(A) IN GENERAL.—The Secretary of Homeland Security, or the designee of the Secretary, shall issue a notice of proposed rulemaking that will allow the Department of Homeland Security to compare passenger information for any international flight to or from the United States against the consolidated and integrated terrorist watchlist maintained by the Federal Government before departure of the flight.

(B) APPEAL PROCEDURES.—

(i) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals identified as a threat under subparagraph (A) to appeal to the Department of Homeland Security the determination and correct any erroneous information.

(ii) RECORDS.—The process shall include the establishment of a method by which the Secretary of Homeland Security will be able to maintain a record of air passengers and other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Department of Homeland Security record shall contain information determined by the Secretary of Homeland Security to authenticate the identity of such a passenger or individual.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1211; Pub. L. 106–181, title VII, §718, Apr. 5, 2000,

114 Stat. 163; Pub. L. 107–71, title I, §115, Nov. 19, 2001, 115 Stat. 623; Pub. L. 108–458, title IV, §4012(a)(2), Dec. 17, 2004, 118 Stat. 3717; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210; Pub. L. 115–254, div. K, title I, §1991(d)(8), Oct. 5, 2018, 132 Stat. 3633.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44909(a)(1)	49 App.:1380(a).	Aug. 23, 1958, Pub. L. 85–726, §410, 72 Stat. 769; Oct. 15, 1962, Pub. L. 87–820, §8, 76 Stat. 936; restated Nov. 16, 1990, Pub. L. 101–604, §203(a), 104 Stat. 3082.
44909(a)(2)	49 App.:1380(b).	
44909(a)(3)	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, §203(b), 104 Stat. 3082.
44909(b)	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, §203(c), 104 Stat. 3083.

In subsection (a)(1), before clause (A), the words "each air carrier" are substituted "all United States air carriers" because of the definition of "air carrier" in section 40102(a) of the revised title. The words "an appropriate representative of the Secretary of State" are substituted for "appropriate representatives of the United States Department of State" because of 22:2651 and for consistency in the revised title and with other titles of the United States Code. In clause (B), the words "to comply with clause (A) of this paragraph" are substituted for "to fulfill the requirement of this subsection" for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), before clause (B), the words "For purposes of this section" are omitted as unnecessary.

In subsection (a)(3), the words "In carrying out this subsection" are substituted for "In implementing the requirement pursuant to the amendment made by subsection (a) of this section" for clarity and to eliminate unnecessary words.

In subsection (b), the word "imposing" is added for clarity. The words "imposed on air carriers under subsection (a)(1) and (2) of this section" are substituted for "imposed pursuant to the amendment made by subsection (a)" for clarity and because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–254, §1991(d)(8)(A), substituted "The" for "Not later than March 16, 1991, the" in introductory provisions.

Subsec. (c)(1). Pub. L. 115–254, §1991(d)(8)(B)(i), substituted "Each" for "Not later than 60 days after the date of enactment of the Aviation and Transportation Security Act, each".

Subsec. (c)(2)(F), (5). Pub. L. 115–254, §1991(d)(8)(B)(ii), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (c)(6)(A). Pub. L. 115–254, §1991(d)(8)(B)(iii)(I), substituted "The" for "Not later than 60 days after date of enactment of this paragraph, the".

Subsec. (c)(6)(B)(ii). Pub. L. 115–254, §1991(d)(8)(B)(iii)(II), substituted "the Secretary of Homeland Security will" for "the Secretary will" and "the Secretary of Homeland Security to" for "the Secretary to".

2004—Subsec. (c)(4). Pub. L. 108–458, §4012(a)(2)(A), substituted "paragraphs (5) and (6)," for "paragraph (5),".

Subsec. (c)(6). Pub. L. 108–458, §4012(a)(2)(B), added par. (6).

2001—Subsec. (c). Pub. L. 107–71 which directed the addition of subsec. (c) to section 44909, without specifying the Code title to be amended, was executed by making the addition to this section, to reflect the probable intent of Congress.

2000—Subsec. (a)(2). Pub. L. 106–181 substituted "should" for "shall" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in subsec. (c)(1) and (2)(F) on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

§44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44910	49 App.:1515 (note).	Aug. 8, 1985, Pub. L. 99–83, §556, 99 Stat. 227.

§44911. Intelligence

(a) DEFINITION.—In this section, "intelligence community" means the intelligence and intelligence-related activities of the following units of the United States Government:

(1) the Department of State.
(2) the Department of Defense.
(3) the Department of the Treasury.
(4) the Department of Energy.
(5) the Departments of the Army, Navy, and Air Force.
(6) the Central Intelligence Agency.
(7) the National Security Agency.
(8) the Defense Intelligence Agency.
(9) the Federal Bureau of Investigation.
(10) the Drug Enforcement Administration.

(b) POLICIES AND PROCEDURES ON REPORT AVAILABILITY.—The head of each unit in the intelligence community shall prescribe policies and procedures to ensure that intelligence reports about terrorism are made available, as appropriate, to the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Transportation Security Administration.

(c) UNIT FOR STRATEGIC PLANNING ON TERRORISM.—The heads of the units in the intelligence community shall place greater emphasis on strategic intelligence efforts by establishing a unit for strategic planning on terrorism.

(d) DESIGNATION OF INTELLIGENCE OFFICER.—At the request of the Secretary of Homeland Security, the Director of Central Intelligence shall designate at least one intelligence officer of the Central Intelligence Agency to serve in a senior position in the Office of the Secretary.

(e) WRITTEN WORKING AGREEMENTS.—The heads of units in the intelligence community, the Secretary of Homeland Security, and the Administrator of the Transportation Security Administration shall review and, as appropriate, revise written working agreements between the intelligence community and the Administrator of the Transportation Security Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1212; Pub. L. 107–71, title I, §§101(f)(7), (9), 102(b), (c), Nov. 19, 2001, 115 Stat. 603, 605; Pub. L. 115–254, div. K, title I, §1991(d)(9), Oct. 5, 2018, 132 Stat. 3633.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44911(a)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(e), 104 Stat. 3080.
44911(b)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(a), 104 Stat. 3080.
44911(c)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(b), 104 Stat. 3080.
44911(d)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(c), 104 Stat. 3080.
44911(e)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(d), 104 Stat. 3080.

In this section, the word "units" is substituted for "agencies" for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (e), the words "Not later than 180 days after the date of enactment of this Act" in section 111(a) and (d) of the Aviation Security Improvement Act of 1990 (Public Law 101–640, 104 Stat. 3080) are omitted as obsolete.

In subsection (b), the words "the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration" are substituted for "other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration" for clarity and consistency in the revised title and with other titles of the Code.

In subsections (c) and (e), the words "heads of units in the intelligence community" are substituted for "intelligence community" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (e), the words "memorandums of understanding" are omitted as being included in "written working agreements".

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b). Pub. L. 115–254, §1991(d)(9)(A), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

Subsec. (d). Pub. L. 115–254, §1991(d)(9)(B), substituted "request of the Secretary of Homeland Security" for "request of the Secretary".

Subsec. (e). Pub. L. 115–254, §1991(d)(9)(C), substituted "Secretary of Homeland Security, and the Administrator of the Transportation Security Administration" for "Secretary, and the Under Secretary" and "intelligence community and the Administrator of the Transportation Security Administration" for "intelligence community and the Under Secretary".

2001—Subsec. (b). Pub. L. 107–71, §102(b), struck out "international" before "terrorism".

Pub. L. 107–71, §101(f)(7), (9), substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration".

Subsec. (c). Pub. L. 107–71, §102(c), substituted "place" for "consider placing".

Subsec. (e). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

§44912. Research and development

(a) PROGRAM REQUIREMENT.—(1) The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation. The program shall provide for developing and having in place new equipment and procedures necessary to meet the technological challenges presented by terrorism. The program shall include research on, and development of, technological improvements and ways to enhance human performance.

(2) In designing and carrying out the program established under this subsection, the Administrator shall—

(A) consult and coordinate activities with other departments, agencies, and instrumentalities of the United States Government doing similar research;

(B) identify departments, agencies, and instrumentalities that would benefit from that research; and

(C) seek cost-sharing agreements with those departments, agencies, and instrumentalities.

(3) In carrying out the program established under this subsection, the Administrator shall review and consider the annual reports the Secretary of Transportation submits to Congress on transportation security and intelligence.

(4)(A) In carrying out the program established under this subsection, the Administrator shall designate an individual to be responsible for engineering, research, and development with respect to security technology under the program.

(B) The individual designated under subparagraph (A) shall use appropriate systems engineering and risk management models in making decisions regarding the allocation of funds for engineering, research, and development with respect to security technology under the program.

(C) The individual designated under subparagraph (A) shall, on an annual basis, submit to the Administrator a report on activities under this paragraph during the preceding year. Each report shall include, for the year covered by such report, information on—

(i) progress made in engineering, research, and development with respect to security technology;

(ii) the allocation of funds for engineering, research, and development with respect to security technology; and

(iii) engineering, research, and development with respect to any technologies drawn from other agencies, including the rationale for engineering, research, and development with respect to such technologies.

(5) The Administrator may—

(A) make grants to institutions of higher learning and other appropriate research facilities with

demonstrated ability to carry out research described in paragraph (1) of this subsection, and fix the amounts and terms of the grants; and

(B) make cooperative agreements with governmental authorities the Administrator decides are appropriate.

(b) REVIEW OF THREATS.—(1) The Administrator shall periodically review threats to civil aviation, with particular focus on—

(A) a comprehensive systems analysis (employing vulnerability analysis, threat attribute definition, and technology roadmaps) of the civil aviation system, including—

(i) the destruction, commandeering, or diversion of civil aircraft or the use of civil aircraft as a weapon; and

(ii) the disruption of civil aviation service, including by cyber attack;

(B) explosive material that presents the most significant threat to civil aircraft;

(C) the minimum amounts, configurations, and types of explosive material that can cause, or would reasonably be expected to cause, catastrophic damage to aircraft in air transportation;

(D) the amounts, configurations, and types of explosive material that can be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(E) the potential release of chemical, biological, or similar weapons or devices either within an aircraft or within an airport;

(F) the feasibility of using various ways to minimize damage caused by explosive material that cannot be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(G) the ability to screen passengers, carry-on baggage, checked baggage, and cargo; and

(H) the technologies that might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the way in which those technologies can be countered effectively.

(2) The Administrator shall use the results of the review under this subsection to develop the focus and priorities of the program established under subsection (a) of this section.

(c) SCIENTIFIC ADVISORY PANEL.—(1) The Administrator shall establish a scientific advisory panel to review, comment on, advise the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft, commercial aviation facilities, commercial aviation personnel and passengers, and other components of the commercial aviation system by the next generation of terrorist weapons.

(2)(A) The advisory panel shall consist of individuals who have scientific and technical expertise in—

(i) the development and testing of effective explosive detection systems;

(ii) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective explosive detection technology must be capable of detecting;

(iii) technologies involved in minimizing airframe damage to aircraft from explosives; and

(iv) other scientific and technical areas the Administrator considers appropriate.

(B) In appointing individuals to the advisory panel, the Administrator should consider individuals from academia and the national laboratories, as appropriate.

(3) The Administrator shall organize the advisory panel into teams capable of undertaking the review of policies and technologies upon request.

(4) Biennially, the Administrator shall review the composition of the advisory panel in order to ensure that the expertise of the individuals on the panel is suited to the current and anticipated duties of the panel.

(d) SECURITY AND RESEARCH AND DEVELOPMENT ACTIVITIES.—

(1) IN GENERAL.—The Administrator shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure,

facility, or device to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security.

(2) DISCLOSURE.—

(A) IN GENERAL.—Notwithstanding section 552 of title 5, the Administrator shall prescribe regulations prohibiting disclosure of information obtained or developed in ensuring security under this title if the Secretary of Homeland Security decides disclosing the information would—

(i) be an unwarranted invasion of personal privacy;

(ii) reveal a trade secret or privileged or confidential commercial or financial information; or

(iii) be detrimental to transportation safety.

(B) INFORMATION TO CONGRESS.—Subparagraph (A) does not authorize information to be withheld from a committee of Congress authorized to have the information.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to authorize the designation of information as sensitive security information (as defined in section 15.5 of title 49, Code of Federal Regulations)—

(i) to conceal a violation of law, inefficiency, or administrative error;

(ii) to prevent embarrassment to a person, organization, or agency;

(iii) to restrain competition; or

(iv) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(D) PRIVACY ACT.—Section 552a of title 5 shall not apply to disclosures that the Administrator of the Transportation Security Administration may make from the systems of records of the Transportation Security Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.

(3) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, the Administrator may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

(e) DEFINITION OF ADMINISTRATOR.—In this section, the term "Administrator" means the Administrator of the Transportation Security Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1212; Pub. L. 107–71, title I, §§101(f)(7), (9), 112, Nov. 19, 2001, 115 Stat. 603, 620; Pub. L. 115–254, div. K, title I, §1991(d)(10), Oct. 5, 2018, 132 Stat. 3633.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44912(a)	49 App.:1357(d)(3)(A), (D), (4)–(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(d)(3)–(8); added Nov. 16, 1990, Pub. L. 101–604, §107, 104 Stat. 3076.
44912(b)	49 App.:1357(d)(3)(B), (C).	
44912(c)	49 App.:1357(d)(8).	

In subsection (a)(1), the words "It shall be the purpose of the program established under paragraph (3)" and "established under paragraph (3)" are omitted as unnecessary.

In subsection (a)(2)(A), the word "activities" is added for clarity. The words "departments, agencies, and

instrumentalities of the United States Government" are substituted for "Federal agencies" for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words "The Administrator may . . . make grants" are substituted for "Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants" to eliminate unnecessary words. In clause (A), the words "institutions of higher learning" are substituted for "colleges, universities", and the word "institutions" is substituted for "institutions and facilities", for clarity and consistency in the revised title and with other titles of the Code. In clause (B), the words "governmental authorities" are substituted for "governmental entities" for consistency in the revised title and with other titles of the Code.

In subsection (b)(1), before clause (A), the words "Not later than 180 days after November 16, 1990" are omitted as obsolete. Clause (B) is substituted for 49 App.:1357(d)(3)(B)(ii) and (iii) for clarity and to eliminate unnecessary words.

In subsection (b)(1)(E), the word "mail" is omitted as being included in "cargo".

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(10)(C), substituted "Administrator" for "Under Secretary" wherever appearing in subsecs. (a) to (c).

Subsec. (a)(1). Pub. L. 115–254, §1991(d)(10)(A)(i), substituted "Administrator" for "Under Secretary of Transportation for Security" and struck out ", not later than November 16, 1993," after "in place".

Subsec. (a)(4)(C). Pub. L. 115–254, §1991(d)(10)(A)(ii), substituted "Administrator" for "Research, Engineering and Development Advisory Committee" in introductory provisions.

Subsec. (c)(1). Pub. L. 115–254, §1991(d)(10)(B)(i), struck out ", as a subcommittee of the Research, Engineering, and Development Advisory Committee," after "panel".

Subsec. (c)(4). Pub. L. 115–254, §1991(d)(10)(B)(ii), substituted "Biennially," for "Not later than 90 days after the date of the enactment of the Aviation and Transportation Security Act, and every two years thereafter,".

Subsecs. (d), (e). Pub. L. 115–254, §1991(d)(10)(D), added subsecs. (d) and (e).

2001—Subsec. (a)(1). Pub. L. 107–71, §101(f)(7), (9), substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration".

Subsec. (a)(2), (3). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (a)(4). Pub. L. 107–71, §112(b)(1)(B), added par. (4). Former par. (4) redesignated (5).

Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in two places.

Subsec. (a)(5). Pub. L. 107–71, §112(b)(1)(A), redesignated par. (4) as (5).

Subsec. (b)(1). Pub. L. 107–71, §§101(f)(7), 112(a)(1), in introductory provisions, substituted "Under Secretary" for "Administrator" and "periodically review" for "complete an intensive review of".

Subsec. (b)(1)(A). Pub. L. 107–71, §112(b)(2)(B), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (b)(1)(B). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (A) as (B). Former subpar. (B) redesignated (C).

Pub. L. 107–71, §112(a)(2), substituted "aircraft in air transportation;" for "commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;".

Subsec. (b)(1)(C). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 107–71, §112(a)(3), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (b)(1)(E) to (G). Pub. L. 107–71, §112(b)(2)(A), redesignated subpars. (D) to (F) as (E) to (G), respectively. Former subpar. (G) redesignated (H).

Pub. L. 107–71, §112(a)(3), redesignated subpars. (D) to (F) as (E) to (G), respectively.

Subsec. (b)(1)(H). Pub. L. 107–71, §112(b)(2)(A), redesignated subpar. (G) as (H).

Subsec. (b)(2). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (c). Pub. L. 107–71, §112(b)(3), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: "The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to review, comment on, advise on the progress of, and recommend modifications in, the program established under subsection (a) of

this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

"(1) the development and testing of effective explosive detection systems;

"(2) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective technology must be capable of detecting;

"(3) technologies involved in minimizing airframe damage to aircraft from explosives; and

"(4) other scientific and technical areas the Administrator considers appropriate."

STATUTORY NOTES AND RELATED SUBSIDIARIES

INNOVATION TASK FORCE

Pub. L. 115–254, div. K, title I, §1916, Oct. 5, 2018, 132 Stat. 3556, provided that:

"(a) IN GENERAL.—The Administrator shall establish an innovation task force—

"(1) to cultivate innovations in transportation security;

"(2) to develop and recommend how to prioritize and streamline requirements for new approaches to transportation security;

"(3) to accelerate the development and introduction of new innovative transportation security technologies and improvements to transportation security operations; and

"(4) to provide industry with access to the airport environment during the technology development and assessment process to demonstrate the technology and to collect data to understand and refine technical operations and human factor issues.

"(b) ACTIVITIES.—The task force shall—

"(1) conduct activities to identify and develop an innovative technology, emerging security capability, or process designed to enhance transportation security, including—

"(A) by conducting a field demonstration of such a technology, capability, or process in the airport environment;

"(B) by gathering performance data from such a demonstration to inform the acquisition process; and

"(C) by enabling a small business with an innovative technology or emerging security capability, but less than adequate resources, to participate in such a demonstration;

"(2) conduct at least quarterly collaboration meetings with industry, including air carriers, airport operators, and other transportation security stakeholders to highlight and discuss best practices on innovative security operations and technology evaluation and deployment; and

"(3) submit to the appropriate committees of Congress an annual report on the effectiveness of key performance data from task force-sponsored projects and checkpoint enhancements.

"(c) COMPOSITION.—

"(1) APPOINTMENT.—The Administrator, in consultation with the Chairperson of ASAC shall appoint the members of the task force.

"(2) CHAIRPERSON.—The task force shall be chaired by the Administrator's designee.

"(3) REPRESENTATION.—The task force shall be comprised of representatives of—

"(A) the relevant offices of the TSA;

"(B) if considered appropriate by the Administrator, the Science and Technology Directorate of the Department of Homeland Security;

"(C) any other component of the Department of Homeland Security that the Administrator considers appropriate; and

"(D) such industry representatives as the Administrator considers appropriate.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the acquisition or deployment of an innovative technology, emerging security capability, or process identified, developed, or recommended under this section.

"(e) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the task force established under this section."

[For definitions of terms used in section 1916 of Pub. L. 115–254, set out above, see section 1902 of Pub. L. 115–254, set out as a Definitions of Terms in Title I of Div. K of Pub. L. 115–254 note under section 101 of this title.]

RESEARCH AND DEVELOPMENT OF AVIATION SECURITY TECHNOLOGY

Pub. L. 107–71, title I, §137, Nov. 19, 2001, 115 Stat. 637, as amended by Pub. L. 110–53, title XVI,

§1608, Aug. 3, 2007, 121 Stat. 484, provided that:

"(a) FUNDING.—To augment the programs authorized in section 44912(a)(1) of title 49, United States Code, there is authorized to be appropriated an additional $50,000,000 for each of fiscal years 2006 through 2011 and such sums as are necessary for each fiscal year thereafter to the Transportation Security Administration, for research, development, testing, and evaluation of the following technologies which may enhance transportation security in the future. Grants to industry, academia, and Government entities to carry out the provisions of this section shall be available for fiscal years 2006 through 2011 for—

"(1) the acceleration of research, development, testing, and evaluation of explosives detection technology for checked baggage, specifically, technology that is—

"(A) more cost-effective for deployment for explosives detection in checked baggage at small- to medium-sized airports, and is currently under development as part of the Argus research program at the Transportation Security Administration;

"(B) faster, to facilitate screening of all checked baggage at larger airports; or

"(C) more accurate, to reduce the number of false positives requiring additional security measures;

"(2) acceleration of research, development, testing, and evaluation of new screening technology for carry-on items to provide more effective means of detecting and identifying weapons, explosives, and components of weapons of mass destruction, including advanced x-ray technology;

"(3) acceleration of research, development, testing, and evaluation of threat screening technology for other categories of items being loaded onto aircraft, including cargo, catering, and duty-free items;

"(4) acceleration of research, development, testing, and evaluation of threats carried on persons boarding aircraft or entering secure areas, including detection of weapons, explosives, and components of weapons of mass destruction;

"(5) acceleration of research, development, testing and evaluation of integrated systems of airport security enhancement, including quantitative methods of assessing security factors at airports selected for testing such systems;

"(6) expansion of the existing program of research, development, testing, and evaluation of improved methods of education, training, and testing of key airport security personnel; and

"(7) acceleration of research, development, testing, and evaluation of aircraft hardening materials, and techniques to reduce the vulnerability of aircraft to terrorist attack.

"(b) GRANTS.—Grants awarded under this subtitle [probably should be "this section"] shall identify potential outcomes of the research, and propose a method for quantitatively assessing effective increases in security upon completion of the research program. At the conclusion of each grant, the grant recipient shall submit a final report to the Transportation Security Administration that shall include sufficient information to permit the Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] to prepare a cost-benefit analysis of potential improvements to airport security based upon deployment of the proposed technology. The Under Secretary shall begin awarding grants under this subtitle within 90 days of the date of enactment of this Act [Nov. 19, 2001].

"(c) BUDGET SUBMISSION.—A budget submission and detailed strategy for deploying the identified security upgrades recommended upon completion of the grants awarded under subsection (b), shall be submitted to Congress as part of the Department of Transportation's annual budget submission.

"(d) DEFENSE RESEARCH.—There is authorized to be appropriated $20,000,000 to the Transportation Security Administration to issue research grants in conjunction with the Defense Advanced Research Projects Agency. Grants may be awarded under this section for—

"(1) research and development of longer-term improvements to airport security, including advanced weapons detection;

"(2) secure networking and sharing of threat information between Federal agencies, law enforcement entities, and other appropriate parties;

"(3) advances in biometrics for identification and threat assessment; or

"(4) other technologies for preventing acts of terrorism in aviation."

[For definitions of terms used in section 137 of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than expiration of 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an

officer of the Federal Government, such panel is renewed by appropriate action prior to expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

§44913. Explosive detection

(a) DEPLOYMENT AND PURCHASE OF EQUIPMENT.—(1) A deployment or purchase of explosive detection equipment under section 108.7(b)(8) or 108.20 of title 14, Code of Federal Regulations, or similar regulation is required only if the Administrator of the Transportation Security Administration (referred to in this section as "the Administrator") certifies that the equipment alone, or as part of an integrated system, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall base the certification on the results of tests conducted under protocols developed in consultation with expert scientists outside of the Transportation Security Administration. Those tests shall be completed not later than April 16, 1992.

(2) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Administrator may permit the requirements of this paragraph to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.

(3) This subsection does not prohibit the Administrator from purchasing or deploying explosive detection equipment described in paragraph (1) of this subsection.

(b) GRANTS.—The Administrator may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1214; Pub. L. 104–264, title III, §305(a), Oct. 9, 1996, 110 Stat. 3252; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 107–71, title I, §101(f)(2), (7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(11), Oct. 5, 2018, 132 Stat. 3635.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44913(a)(1)	49 App.:1358c(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §320; added Nov. 16, 1990, Pub. L. 101–604, §108, 104 Stat. 3077.
44913(a)(2)	49 App.:1358c(c).	
44913(a)(3)	49 App.:1358c(d).	
44913(b)	49 App.:2225.	Sept. 3, 1982, Pub. L. 97–248, §529, 96 Stat. 699; Dec. 30, 1987, Pub. L. 100–223, §114, 101 Stat. 1505.

In subsection (a), the words "after November 16, 1990" are omitted as executed. The words "The Administrator shall base the certification on" are substituted for "based on" because of the restatement.

In subsection (b), the words "but not be limited to" are omitted as unnecessary.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(11)(A)(iv), substituted "Administrator" for "Under Secretary" wherever appearing.

Subsec. (a)(1). Pub. L. 115–254, §1991(d)(11)(A)(i), substituted "Administrator of the Transportation Security Administration (referred to in this section as 'the Administrator')" for "Under Secretary of Transportation for Security".

Subsec. (a)(2) to (4). Pub. L. 115–254, §1991(d)(11)(A)(ii), (iii), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "Before completion of the tests described in paragraph (1) of this subsection, but not later than April 16, 1992, the Under Secretary may require deployment of explosive detection equipment described in paragraph (1) if the Under Secretary decides that deployment will enhance aviation security significantly. In making that decision, the Under Secretary shall consider factors such as the ability of the equipment alone, or as part of an integrated system, to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Under Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of a deployment decision made under this paragraph."

Subsec. (b). Pub. L. 115–254, §1991(d)(11)(B), substituted "Administrator" for "Secretary of Transportation".

2001—Subsec. (a)(1). Pub. L. 107–71, §101(f)(9), substituted "of Transportation for Security" for "of the Federal Aviation Administration".

Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in two places.

Pub. L. 107–71, §101(f)(2), substituted "of the Transportation Security Administration" for "of the Administration" in second sentence.

Subsec. (a)(2) to (4). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" wherever appearing.

1996—Subsec. (a)(2). Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (a)(3), (4). Pub. L. 104–264 added par. (3) and redesignated former par. (3) as (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

IMPROVED EXPLOSIVE DETECTION SYSTEMS

Pub. L. 108–458, title IV, §4024, Dec. 17, 2004, 118 Stat. 3724, provided that:

"(a) PLAN AND GUIDELINES.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop a plan and guidelines for implementing improved explosive detection system equipment.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of improved explosive detection systems for aviation security under section 44913 of title 49, United States Code."

WEAPONS AND EXPLOSIVE DETECTION STUDY

Pub. L. 104–264, title III, §303, Oct. 9, 1996, 110 Stat. 3250, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

"(b) PANEL OF EXPERTS.—

"(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section referred to as the 'panel').

"(2) EXPERTISE.—Each member of the panel shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

"(c) STUDY.—The panel, in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies, and appropriate members of the private sector, shall—

"(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

"(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas;

"(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

"(4) on the basis of the assessments and determinations made under paragraphs (1), (2), and (3), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

"(d) COOPERATION.—The National Science and Technology Council shall take such actions as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

"(1) expertise; and

"(2) to the extent allowable by law, resources and facilities.

"(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of Congress.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1997 through 2001 such sums as may be necessary to carry out this section."

§44914. Airport construction guidelines

In consultation with the Department of Transportation, air carriers, airport authorities, and others the Administrator of the Transportation Security Administration considers appropriate, the Administrator shall develop guidelines for airport design and construction to allow for maximum security enhancement. In developing the guidelines, the Administrator shall consider the results of the assessment carried out under section 44904(a) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1214; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(12), Oct. 5, 2018, 132 Stat. 3635.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44914	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §106(f), 104 Stat. 3075.
	49 App.:1432(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(d); added Nov. 16, 1990, Pub. L. 101–604, §110(a), 104 Stat. 3080.

The words "In developing the guidelines" are substituted for "In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act" in section 106(f) of the Aviation Security Improvement Act of 1990 (Public Law 101–604, 104 Stat. 3075) to

eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254 substituted "with the Department of Transportation, air carriers, airport authorities, and others the Administrator of the Transportation Security Administration" for "with air carriers, airport authorities, and others the Under Secretary of Transportation for Security" and, in two places, "Administrator" for "Under Secretary".

2001—Pub. L. 107–71 substituted "Under Secretary" for "Administrator" wherever appearing and "of Transportation for Security" for "of the Federal Aviation Administration".

§44915. Exemptions

The Administrator of the Transportation Security Administration may exempt from sections 44901, 44903(a)–(c) and (e), 44906, 44935, and 44936 of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1215; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(13), Oct. 5, 2018, 132 Stat. 3635.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44915	49 App.:1358.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §317; added July 12, 1976, Pub. L. 94–353, §17(a), 90 Stat. 882.

In clause (1), the word "issued" is substituted for "granted" for consistency in this part. The words "by the Civil Aeronautics Board" are omitted as surplus.

Clause (3) is substituted for 49 App.:1358 (words after 3d comma) for consistency in the revised title.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254 substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" in introductory provisions.

2001—Pub. L. 107–71 substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration" in introductory provisions.

§44916. Assessments and evaluations

(a) PERIODIC ASSESSMENTS.—The Administrator of the Transportation Security Administration shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate,

interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Transportation Security Administration shall perform periodic audits of such assessments.

(b) INVESTIGATIONS.—The Administrator of the Transportation Security Administration shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.

(Added Pub. L. 104–264, title III, §312(a), Oct. 9, 1996, 110 Stat. 3253; amended Pub. L. 107–71, title I, §101(f)(3), (7), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(14), Oct. 5, 2018, 132 Stat. 3635.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(14)(A), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

Subsec. (b). Pub. L. 115–254, §1991(d)(14)(B), substituted "Administrator of the Transportation Security Administration shall" for "Under Secretary shall" and "Administrator may" for "Under Secretary may".

2001—Subsec. (a). Pub. L. 107–71, §101(f)(3), substituted "Under Secretary of Transportation for Security" for "Administrator" in first sentence and "Transportation Security Administration" for "Administration" in second sentence.

Subsec. (b). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§44917. Deployment of Federal air marshals

(a) IN GENERAL.—The Administrator of the Transportation Security Administration under the authority provided by section 44903(d)—

(1) may provide for deployment of Federal air marshals on every passenger flight of air carriers in air transportation or intrastate air transportation;

(2) shall provide for deployment of Federal air marshals on every such flight determined by the Administrator to present high security risks;

(3) shall provide for appropriate training, supervision, and equipment of Federal air marshals;

(4) shall require air carriers providing flights described in paragraph (1) to provide seating for a Federal air marshal on any such flight without regard to the availability of seats on the flight and at no cost to the United States Government or the marshal;

(5) may require air carriers to provide, on a space-available basis, to an off-duty Federal air marshal a seat on a flight to the airport nearest the marshal's home at no cost to the marshal or the United States Government if the marshal is traveling to that airport after completing his or her security duties;

(6) may enter into agreements with Federal, State, and local agencies under which appropriately-trained law enforcement personnel from such agencies, when traveling on a flight of an air carrier, will carry a firearm and be prepared to assist Federal air marshals;

(7) shall establish procedures to ensure that Federal air marshals are made aware of any armed or unarmed law enforcement personnel on board an aircraft;

(8) may appoint—

(A) an individual who is a retired law enforcement officer;
(B) an individual who is a retired member of the Armed Forces; and
(C) an individual who has been furloughed from an air carrier crew position in the 1-year period beginning on September 11, 2001,

as a Federal air marshal, regardless of age, if the individual otherwise meets the background and fitness qualifications required for Federal air marshals;

(9) shall require the Federal Air Marshal Service to utilize a risk-based strategy when allocating resources between international and domestic flight coverage, including when initially setting its annual target numbers of average daily international and domestic flights to cover;

(10) shall require the Federal Air Marshal Service to utilize a risk-based strategy to support domestic allocation decisions;

(11) shall require the Federal Air Marshal Service to utilize a risk-based strategy to support international allocation decisions; and

(12) shall ensure that the seating arrangements of Federal air marshals on aircraft are determined in a manner that is risk-based and most capable of responding to current threats to aviation security.

(b) INTERIM MEASURES.—Until the Under Secretary [1] completes implementation of subsection (a), the Under Secretary [1] may use, after consultation with and concurrence of the heads of other Federal agencies and departments, personnel from those agencies and departments, on a nonreimbursable basis, to provide air marshal service.

(c) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against all appropriate records in the consolidated and integrated terrorist watchlists maintained by the Federal Government.

(3) FEES.—The Administrator of the Transportation Security Administration shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Administrator of the Transportation Security Administration for purposes for which amounts in such account are available.

(Added Pub. L. 107–71, title I, §105(a), Nov. 19, 2001, 115 Stat. 606; amended Pub. L. 108–458, title IV, §4018, Dec. 17, 2004, 118 Stat. 3721; Pub. L. 115–254, div. K, title I, §§1959(c)(5), (d)(1), 1991(d)(15), Oct. 5, 2018, 132 Stat. 3599, 3635.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(15)(A)(i), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" in introductory provisions.

Subsec. (a)(2). Pub. L. 115–254, §1991(d)(15)(A)(ii), substituted "by the Administrator" for "by the Secretary".

Subsec. (a)(9) to (12). Pub. L. 115–254, §1959(d)(1), added pars. (9) to (12).

Subsec. (b). Pub. L. 115–254, §1959(c)(5), redesignated subsec. (c) as (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "In making the determination under subsection (a)(2), nonstop, long distance flights, such as those targeted on September 11, 2001, should be a priority."

Subsec. (c). Pub. L. 115–254, §1959(c)(5)(B), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 115–254, §1991(d)(15)(B)(i), which directed amendment of subsec. (d)(1) by substituting "Administrator of the Transportation Security Administration" for "Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security", was executed to subsec. (c)(1) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (c) by Pub. L. 115–254, §1959(c)(5)(B). See above.

Subsec. (c)(3). Pub. L. 115–254, §1991(d)(15)(B)(ii), which directed amendment of subsec. (d)(3) by substituting "Administrator of the Transportation Security Administration" for "Assistant Secretary" in two places, was executed to subsec. (c)(3) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (c) by Pub. L. 115–254, §1959(c)(5)(B). See above.

Subsec. (d). Pub. L. 115–254, §1959(c)(5)(B), redesignated subsec. (d) as (c).

2004—Subsec. (d). Pub. L. 108–458 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FEDERAL AIR MARSHAL SERVICE UPDATES

Pub. L. 115–254, div. K, title I, §1959(a)–(c)(4), Oct. 5, 2018, 132 Stat. 3598, 3599, provided that:

"(a) STANDARDIZATION.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall develop a standard written agreement that shall be the basis of all negotiations and agreements that begin after the date of enactment of this Act between the United States and foreign governments or partners regarding the presence of Federal air marshals on flights to and from the United States, including deployment, technical assistance, and information sharing.

"(2) WRITTEN AGREEMENTS.—Except as provided in paragraph (3), not later than 180 days after the date of enactment of this Act, all agreements between the United States and foreign governments or partners regarding the presence of Federal air marshals on flights to and from the United States shall be in writing and signed by the Administrator or other authorized United States Government representative.

"(3) EXCEPTION.—The Administrator may schedule Federal air marshal service on flights operating to a foreign country with which no written agreement is in effect if the Administrator determines that—

"(A) such mission is necessary for aviation security; and

"(B) the requirements of paragraph (4)(B) are met.

"(4) NOTIFICATION TO CONGRESS.—

"(A) WRITTEN AGREEMENTS.—Not later than 30 days after the date that the Administrator enters into a written agreement under this section, the Administrator shall transmit to the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] a copy of the agreement.

"(B) NO WRITTEN AGREEMENTS.—The Administrator shall submit to the appropriate committees of Congress—

"(i) not later than 30 days after the date of enactment of this Act, a list of each foreign government or partner that does not have a written agreement under this section, including an explanation for why no written agreement exists and a justification for the determination that such a mission is necessary for aviation security; and

"(ii) not later than 30 days after the date that the Administrator makes a determination to schedule Federal air marshal service on flights operating to a foreign country with which no written agreement is in effect under paragraph (3), the name of the applicable foreign government or partner, an explanation for why no written agreement exists, and a justification for the determination that such mission is necessary for aviation security.

"(b) MISSION SCHEDULING AUTOMATION.—The Administrator shall endeavor to acquire automated capabilities or technologies for scheduling Federal air marshal service missions based on current risk modeling.

"(c) IMPROVING FEDERAL AIR MARSHAL SERVICE DEPLOYMENTS.—

"(1) AFTER-ACTION REPORTS.—The Administrator shall strengthen internal controls to ensure that all after-action reports on Federal air marshal service special mission coverage provided to stakeholders include documentation of supervisory review and approval, and mandatory narratives.

"(2) STUDY.—The Administrator shall contract with an independent entity to conduct a validation and verification study of the risk analysis and risk-based determinations guiding Federal air marshal service deployment, including the use of risk-based strategies under subsection (d) [amending this section (see

subsec. (a)(9) to (12) of this section) and enacting provisions set out as a note below].

"(3) COST-BENEFIT ANALYSIS.—The Administrator shall conduct a cost-benefit analysis regarding mitigation of aviation security threats through Federal air marshal service deployment.

"(4) PERFORMANCE MEASURES.—The Administrator shall improve existing performance measures to better determine the effectiveness of in-flight operations in addressing the highest risks to aviation transportation based on current intelligence."

IMPLEMENTATION DEADLINE

Pub. L. 115–254, div. K, title I, §1959(d)(3), Oct. 5, 2018, 132 Stat. 3600, provided that: "Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall begin implementing the requirements under paragraphs (9) through (12) of section 44917(a), United States Code, as added by this Act."

FEDERAL AIR MARSHALS

Pub. L. 108–458, title IV, §4016, Dec. 17, 2004, 118 Stat. 3720, as amended by Pub. L. 115–254, div. K, title I, §1993, Oct. 5, 2018, 132 Stat. 3646, provided that:

"(a) FEDERAL AIR MARSHAL ANONYMITY.—The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue operational initiatives to protect the anonymity of Federal air marshals.

"(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal air marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal-year period beginning with fiscal year 2005. Such sums shall remain available until expended.

"(c) FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.—

"(1) AVAILABILITY OF INFORMATION.—The Administrator of the Transportation Security Administration and the Director of Federal Air Marshal Service of the Department of Homeland Security, shall make available, as practicable, appropriate information on in-flight counterterrorism and weapons handling procedures and tactics training to Federal law enforcement officers who fly while in possession of a firearm.

"(2) IDENTIFICATION OF FRAUDULENT DOCUMENTS.—The Administrator of the Transportation Security Administration and the Director of Federal Air Marshal Service of the Department of Homeland Security shall ensure that Transportation Security Administration screeners and Federal air marshals receive training in identifying fraudulent identification documents, including fraudulent or expired visas and passports. Such training shall also be made available to other Federal law enforcement agencies and local law enforcement agencies located in a State that borders Canada or Mexico."

[1] *So in original. Probably should be "Administrator".*

§44918. Crew training

(a) BASIC SECURITY TRAINING.—

(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions and unruly passenger behavior.

(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

(A) Recognize suspicious behavior and activities and determine the seriousness of any occurrence of such behavior and activities.

(B) Crew communication and coordination.

(C) The proper commands to give passengers and attackers.

(D) Appropriate responses to defend oneself.

(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Administrator of the Transportation Security Administration).

(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(G) Situational training exercises regarding various threat conditions.

(H) De-escalation training based on recommendations issued by the Air Carrier Training Aviation Rulemaking Committee.

(I) Methods to subdue and restrain an active attacker.

(J) The proper conduct of a cabin search, including explosive device recognition.

(K) Any other subject matter considered appropriate by the Administrator of the Transportation Security Administration.

(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Administrator of the Transportation Security Administration.

(4) MINIMUM STANDARDS.—Not later than 180 days after the date of enactment of the FAA Reauthorization Act of 2024, the Administrator of the Transportation Security Administration, in consultation with the Federal Air Marshal Service and the Aviation Security Advisory Committee, shall establish minimum standards for—

(A) the training provided under this subsection and any for recurrent training; and

(B) the individuals or entities providing such training.

(5) EXISTING PROGRAMS.—Notwithstanding paragraphs (3) and (4), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that was approved by the Administrator or the Administrator of the Transportation Security Administration before December 12, 2003, may continue in effect until disapproved or ordered modified by the Administrator of the Transportation Security Administration.

(6) MONITORING.—The Administrator of the Transportation Security Administration, in consultation with the Administrator and the Federal Air Marshal Service, shall monitor air carrier training programs under this subsection and shall periodically review an air carrier's training program to ensure that the program is adequately preparing crew members for potential threat conditions based on changes in the potential or actual threat conditions. In determining when an air carrier's training program should be reviewed under this paragraph, the Administrator of the Transportation Security Administration shall consider complaints from crew members. The Administrator of the Transportation Security Administration shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge, including self-defense training expertise and experience.

(7) UPDATES.—The Administrator of the Transportation Security Administration, in consultation with the Administrator, shall order air carriers to modify training programs under this subsection to reflect new or different security threats.

(b) ADVANCED SELF-DEFENSE TRAINING.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.

(2) PROGRAM ELEMENTS.—The training program under this subsection shall include both classroom and effective hands-on training in the following elements of self-defense:

(A) Deterring a passenger who might present a threat.

(B) Advanced control, striking, and restraint techniques.

(C) Training to defend oneself against edged or contact weapons.

(D) Methods to subdue and restrain an attacker.

(E) Use of available items aboard the aircraft for self-defense.

(F) Appropriate and effective responses to defend oneself, including the use of force against an attacker.

(G) Any other element of training that the Administrator of the Transportation Security Administration considers appropriate.

(3) PARTICIPATION NOT REQUIRED.—A crew member shall not be required to participate

in the training program under this subsection.

(4) COMPENSATION.—Except as provided in paragraph (8), neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.

(5) FEES.—A crew member shall not be required to pay a fee for the training program under this subsection.

(6) CONSULTATION.—In developing the training program under this subsection, the Administrator of the Transportation Security Administration shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of self-defense training in the Federal Air Marshal Service, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

(7) DESIGNATION OF TSA OFFICIAL.—The Administrator of the Transportation Security Administration shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

(8) AIR CARRIER ACCOMMODATION.—An air carrier with a crew member participating in the training program under this subsection shall provide a process through which each such crew member may obtain reasonable accommodations.

(c) LIMITATION.—Actions by crew members under this section shall be subject to the provisions of section 44903(k).

(Added Pub. L. 107–71, title I, §107(a), Nov. 19, 2001, 115 Stat. 610; amended Pub. L. 107–296, title XIV, §1403(a), Nov. 25, 2002, 116 Stat. 2305; Pub. L. 108–176, title VI, §603, Dec. 12, 2003, 117 Stat. 2563; Pub. L. 115–254, div. K, title I, §1991(d)(16), Oct. 5, 2018, 132 Stat. 3635; Pub. L. 118–63, title IV, §427, May 16, 2024, 138 Stat. 1169.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (a)(4), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Subsec. (a)(1). Pub. L. 118–63, §427(1)(A), inserted "and unruly passenger behavior" before period at end.

Subsec. (a)(2)(A). Pub. L. 118–63, §427(1)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: "Recognizing suspicious activities and determining the seriousness of any occurrence."

Subsec. (a)(2)(H). Pub. L. 118–63, §427(1)(B)(ii), added subpar. (H) and struck out former subpar. (H) which read as follows: "Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers."

Subsec. (a)(2)(I) to (K). Pub. L. 118–63, §427(1)(B)(iii), (iv), added subpar. (I) and redesignated former subpars. (I) and (J) as (J) and (K), respectively.

Subsec. (a)(4). Pub. L. 118–63, §427(1)(C), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "The Administrator of the Transportation Security Administration may establish minimum standards for the training provided under this subsection and for recurrent training."

Subsec. (a)(6). Pub. L. 118–63, §427(1)(D), inserted "and the Federal Air Marshal Service" after "consultation with the Administrator", substituted "and shall periodically" for "and periodically shall", and inserted "based on changes in the potential or actual threat conditions" before period at end of first sentence and ", including self-defense training expertise and experience" before period at end of third sentence.

Subsec. (b)(4). Pub. L. 118–63, §427(2)(A), substituted "Except as provided in paragraph (8), neither" for "Neither".

Subsec. (b)(8). Pub. L. 118–63, §427(2)(B), added par. (8).

2018—Pub. L. 115–254, §1991(d)(16)(C), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a)(2)(E). Pub. L. 115–254, §1991(d)(16)(A)(i), substituted "Administrator of the Transportation Security Administration" for "Under Secretary for Border and Transportation Security of the Department of Homeland Security".

Subsec. (a)(4). Pub. L. 115–254, §1991(d)(16)(A)(ii), substituted "The" for "Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the".

Subsec. (a)(5). Pub. L. 115–254, §1991(d)(16)(A)(iii), substituted "December 12, 2003," for "the date of enactment of the Vision 100—Century of Aviation Reauthorization Act".

Subsec. (b)(1). Pub. L. 115–254, §1991(d)(16)(B)(i), substituted "The" for "Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the".

Subsec. (b)(6). Pub. L. 115–254, §1991(d)(16)(B)(ii), substituted "Federal Air Marshal Service" for "Federal Air Marshals Service".

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (e) relating to development of detailed guidance for a scheduled passenger air carrier flight and cabin crew training program to prepare crew members for potential threat conditions.

2002—Subsec. (e). Pub. L. 107–296 designated existing provisions as par. (1), inserted heading, substituted "The Under Secretary" for "The Administrator", added pars. (2) and (3), and realigned margins.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

CREW MEMBER SELF-DEFENSE TRAINING

Pub. L. 115–254, div. K, title I, §1960, Oct. 5, 2018, 132 Stat. 3600, provided that: "The Administrator [of the Transportation Security Administration], in consultation with the Administrator of the Federal Aviation Administration, shall continue to carry out and encourage increased participation by air carrier employees in the voluntary self-defense training program under section 44918(b) of title 49, United States Code."

§44919. PreCheck Program

(a) IN GENERAL.—The Administrator of the Transportation Security Administration shall continue to administer the PreCheck Program in accordance with section 109(a)(3) of the Aviation and Transportation Security Act (49 U.S.C. 114 note).

(b) EXPANSION.—Not later than 180 days after the date of enactment of the TSA Modernization Act, the Administrator shall enter into an agreement, using other transaction authority under section 114(m) of this title, with at least 2 private sector entities to increase the methods and capabilities available for the public to enroll in the PreCheck Program.

(c) MINIMUM CAPABILITY REQUIREMENTS.—At least 1 agreement under subsection (b) shall include the following capabilities:

(1) Start-to-finish secure online or mobile enrollment capability.

(2) Vetting of an applicant by means other than biometrics, such as a risk assessment, if—

(A) such means—

(i) are evaluated and certified by the Secretary of Homeland Security;

(ii) meet the definition of a qualified anti-terrorism technology under section 865 of the Homeland Security Act of 2002 (6 U.S.C. 444); and

(iii) are determined by the Administrator to provide a risk assessment that is as effective as

a fingerprint-based criminal history records check conducted through the Federal Bureau of Investigation with respect to identifying individuals who are not qualified to participate in the PreCheck Program due to disqualifying criminal history; and

(B) with regard to private sector risk assessments, the Secretary has certified that reasonable procedures are in place with regard to the accuracy, relevancy, and proper utilization of information employed in such risk assessments.

(d) ADDITIONAL CAPABILITY REQUIREMENTS.—At least 1 agreement under subsection (b) shall include the following capabilities:

(1) Start-to-finish secure online or mobile enrollment capability.

(2) Vetting of an applicant by means of biometrics if the collection—

(A) is comparable with the appropriate and applicable standards developed by the National Institute of Standards and Technology;

(B) protects privacy and data security, including that any personally identifiable information is collected, retained, used, and shared in a manner consistent with section 552a of title 5, United States Code (commonly known as "Privacy Act of 1974"), and with agency regulations;

(C) is evaluated and certified by the Secretary of Homeland Security; and

(D) is determined by the Administrator to provide a risk assessment that is as effective as a fingerprint-based criminal history records check conducted through the Federal Bureau of Investigation with respect to identifying individuals who are not qualified to participate in the PreCheck Program due to disqualifying criminal history.

(e) TARGET ENROLLMENT.—Subject to subsections (b), (c), and (d), the Administrator shall take actions to expand the total number of individuals enrolled in the PreCheck Program as follows:

(1) 7,000,000 passengers before October 1, 2019.

(2) 10,000,000 passengers before October 1, 2020.

(3) 15,000,000 passengers before October 1, 2021.

(f) MARKETING OF PRECHECK PROGRAM.—Not later than 90 days after the date of enactment of the TSA Modernization Act, the Administrator shall—

(1) enter into at least 2 agreements, using other transaction authority under section 114(m) of this title, to market the PreCheck Program; and

(2) implement a long-term strategy for partnering with the private sector to encourage enrollment in such program.

(g) IDENTITY VERIFICATION ENHANCEMENT.—The Administrator shall—

(1) coordinate with the heads of appropriate components of the Department to leverage Department-held data and technologies to verify the identity and citizenship of individuals enrolling in the PreCheck Program;

(2) partner with the private sector to use biometrics and authentication standards, such as relevant standards developed by the National Institute of Standards and Technology, to facilitate enrollment in the program; and

(3) consider leveraging the existing resources and abilities of airports to collect fingerprints for use in background checks to expedite identity verification.

(h) PRECHECK PROGRAM LANES OPERATION.—The Administrator shall—

(1) ensure that PreCheck Program screening lanes are open and available during peak and high-volume travel times at appropriate airports to individuals enrolled in the PreCheck Program; and

(2) make every practicable effort to provide expedited screening at standard screening lanes during times when PreCheck Program screening lanes are closed to individuals enrolled in the program in order to maintain operational efficiency.

(i) ELIGIBILITY OF MEMBERS OF THE ARMED FORCES FOR EXPEDITED SECURITY SCREENING.—

(1) IN GENERAL.—Subject to paragraph (3), an individual specified in paragraph (2) is eligible for expedited security screening under the PreCheck Program.

(2) INDIVIDUALS SPECIFIED.—An individual specified in this subsection is any of the following:

(A) A member of the Armed Forces, including a member of a reserve component or the National Guard.

(B) A cadet or midshipman of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the United States Coast Guard Academy.

(C) A family member of an individual specified in subparagraph (A) or (B) who is younger than 12 years old and accompanying the individual.

(3) IMPLEMENTATION.—The eligibility of an individual specified in paragraph (2) for expedited security screening under the PreCheck Program is subject to such policies and procedures as the Administrator may prescribe to carry out this subsection, in consultation with the Secretary of Defense and, with respect to the United States Coast Guard, the Commandant of the United States Coast Guard.

(j) VETTING FOR PRECHECK PROGRAM PARTICIPANTS.—The Administrator shall initiate an assessment to identify any security vulnerabilities in the vetting process for the PreCheck Program, including determining whether subjecting PreCheck Program participants to recurrent fingerprint-based criminal history records checks, in addition to recurrent checks against the terrorist watchlist, could be done in a cost-effective manner to strengthen the security of the PreCheck Program.

(k) ASSURANCE OF SEPARATE PROGRAM.—In carrying out this section, the Administrator shall ensure that the additional private sector application capabilities under subsections (b), (c), and (d) are undertaken in addition to any other related TSA program, initiative, or procurement, including the Universal Enrollment Services program.

(l) Expenditure of Funds.—Any Federal funds expended by the Administrator to expand PreCheck Program enrollment shall be expended in a manner that includes the requirements of this section.

(Added Pub. L. 107–71, title I, §108(a), Nov. 19, 2001, 115 Stat. 611; amended Pub. L. 115–254, div. K, title I, §1937(a), Oct. 5, 2018, 132 Stat. 3576.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 109 of the Aviation and Transportation Security Act, referred to in subsec. (a), is section 109 of Pub. L. 107–71, which is set out as a note under section 114 of this title.

The date of enactment of the TSA Modernization Act, referred to in subsecs. (b) and (f), is the date of enactment of title I of div. K of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Pub. L. 115–254 amended section generally. Prior to amendment, section related to establishment of pilot program under which the screening of passengers and property was to be conducted by a qualified private screening company.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ENROLLMENT REDRESS WITH RESPECT TO DEPARTMENT OF HOMELAND SECURITY TRUSTED TRAVELER PROGRAMS

Pub. L. 117–81, div. F, title LXIV, §6417, Dec. 27, 2021, 135 Stat. 2415, provided that: "Notwithstanding any other provision of law, the Secretary of Homeland Security shall, with respect to an individual whose

enrollment in a trusted traveler program was revoked in error extend by an amount of time equal to the period of revocation the period of active enrollment in such a program upon reenrollment in such a program by such an individual."

PRECHECK EXPEDITED SCREENING

Pub. L. 115–254, div. K, title I, §1938, Oct. 5, 2018, 132 Stat. 3579, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall ensure that only a traveler who is a member of a trusted traveler program specified in subsection (b) is permitted to use a TSA PreCheck security screening lane at a passenger screening checkpoint.

"(b) TRUSTED TRAVELER PROGRAMS SPECIFIED.—A trusted traveler program specified in this subsection is any of the following:

"(1) The PreCheck Program under section 44919 of title 49, United States Code.

"(2) Any other program implemented by the TSA under section 109(a)(3) of the Aviation and Transportation Security Act [Pub. L. 107–71] (49 U.S.C. 114 note).

"(3) Any other United States Government program that issues a unique identifier, such as a known traveler number, that the TSA accepts as validating that the individual holding such identifier is a member of a known low-risk population.

"(c) EXEMPTIONS.—Nothing in this section shall affect—

"(1) the authority of the Administrator, under section 44927 of title 49, United States Code, to carry out expedited screening for members of the Armed Forces with disabilities or severe injuries or veterans with disabilities or severe injuries; or

"(2) the Honor Flight program under section 44928 of that title.

"(d) LOW-RISK TRAVELERS.—Any traveler who is determined by the Administrator to be low risk based on the traveler's age and who is not a member of a trusted traveler program specified in subsection (b) shall be permitted to utilize TSA PreCheck security screening lanes at Transportation Security Administration checkpoints when traveling on the same reservation as a member of such a program.

"(e) RISK MODIFIED SCREENING.—

"(1) PILOT PROGRAM.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018] and subject to paragraph (2), the Administrator shall commence a pilot program regarding a risk modified screening protocol for lanes other than designated TSA PreCheck security screening lanes at passenger screening checkpoints, in airports of varying categories, to further segment passengers based on risk.

"(2) ELIGIBILITY.—Only a low-risk passenger shall be eligible to participate in the risk modified screening pilot program under paragraph (1).

"(3) DEFINITION OF LOW-RISK PASSENGER.—In this subsection, the term 'low-risk passenger' means a passenger who—

"(A) meets a risk-based, intelligence-driven criteria prescribed by the Administrator; or

"(B) undergoes a canine enhanced screening upon arrival at the passenger screening checkpoint.

"(4) TERMINATION.—The pilot program shall terminate on the date that is 120 days after the date it commences under paragraph (1).

"(5) BRIEFING.—Not later than 30 days after the termination date under paragraph (4), the Administrator shall brief the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] on the findings of the pilot program, including—

"(A) information relating to the security effectiveness and passenger facilitation effectiveness of the risk modified screening protocol;

"(B) a determination regarding whether the risk modified screening protocol was effective; and

"(C) if the Administrator determined that the protocol was effective, a plan for the deployment of the protocol at as many TSA passenger screening checkpoints as practicable.

"(6) IMPLEMENTATION.—In determining whether deployment of the protocol at a TSA passenger screening checkpoint at an airport is practicable, the Administrator shall consider—

"(A) the level of risk at the airport;

"(B) the available space at the airport;

"(C) passenger throughput levels at the airport;

"(D) the checkpoint configuration at the airport; and

"(E) adequate resources to appropriately serve passengers in TSA PreCheck security screening lanes at the passenger screening checkpoint.

"(f) WORKING GROUP.—

"(1) IN GENERAL.—In carrying out subsection (e), the Administrator shall establish a working group to advise the Administrator on the development of plans for the deployment of the protocol at TSA passenger screening checkpoints, other than designated TSA PreCheck security screening lanes, in the most effective and efficient manner practicable.

"(2) MEMBERS.—The working group shall be comprised of representatives of Category X, I, II, III, and IV airports and air carriers (as the term is defined in section 40102 of title 49, United States Code).

"(3) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the working group established under this subsection.

"(g) BRIEFINGS.—

"(1) IN GENERAL.—The Administrator shall brief, on a biannual basis, the appropriate committees of Congress on the implementation of subsections [sic] (a) until the Administrator certifies that only travelers who are members of trusted traveler programs specified in subsection (b) are permitted to use TSA PreCheck security screening lanes at passenger screening checkpoints.

"(2) CERTIFICATION.—Upon a determination by the Administrator that only travelers who are members of a trusted traveler program specified in subsection (b) are permitted to use TSA PreCheck security screening lanes at checkpoints in accordance with subsection (a), the Administrator shall submit to the appropriate committees of Congress a written certification relating to such determination.

"(h) INSPECTOR GENERAL ASSESSMENTS.—The Inspector General of the Department [of Homeland Security] shall assess and transmit to the appropriate committees of Congress the Administrator's implementation under subsection (a).

"(i) EXPANSION OF TSA PRECHECK PROGRAM ENROLLMENT.—

"(1) LONG-TERM STRATEGY.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall develop and begin the implementation [of] a long-term strategy to increase enrollment in the TSA PreCheck Program.

"(2) CONSIDERATIONS.—In developing the strategy under paragraph (1), the Administrator shall consider the following:

"(A) Partnering with air carriers (as the term is defined in section 40102 of title 49, United States Code) to incorporate PreCheck Program promotion opportunities in the reservation process described in section 1560.101 of title 49, Code of Federal Regulations;[.]

"(B) Including in the PreCheck Program of [sic] an individual who—

"(i) holds a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance, unless the individual has had the individual's clearance revoked or did not pass a periodic reinvestigation; or

"(ii) is a current, full-time Federal law enforcement officer.

"(C) Providing PreCheck Program enrollment flexibility by offering secure mobile enrollment platforms that facilitate in-person identity verification and application data collection, such as through biometrics.

"(D) Reducing travel time to PreCheck Program enrollment centers for applicants, including—

"(i) by adjusting the locations and schedules of existing PreCheck Program enrollment centers to accommodate demand;

"(ii) by seeking to colocate such enrollment centers with existing facilities that support the issuance of—

"(I) United States passports; and

"(II) Security Identification Display Area credentials (as the term is defined in section 1540.5 of title 49, Code of Federal Regulations) located in public, non-secure areas of airports if no systems of an airport operator are used in support of enrollment activities for such credentials; and

"(iii) by increasing the availability of PreCheck Program enrollment platforms, such as kiosks, tablets, or staffed laptop stations.

"(E) The feasibility of providing financial assistance or other incentives for PreCheck Program enrollment for—

"(i) children who are at least 12 years or older, but less than 18 years old;

"(ii) families consisting of 5 or more immediate family members;

"(iii) private sector entities, including small businesses, to establish PreCheck Program enrollment centers in their respective facilities; and

"(iv) private sector entities, including small business concerns (as the term is described in section 3 of the Small Business Act (15 U.S.C. 632)), to reimburse an employee for the cost of the PreCheck Program application."

§44920. Screening partnership program

(a) IN GENERAL.—An airport operator may submit to the Administrator of the Transportation Security Administration an application to carry out the screening of passengers and property at the airport under section 44901 by personnel of a qualified private screening company pursuant to a contract entered into with the Transportation Security Administration.

(b) APPROVAL OF APPLICATIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of receipt of an application submitted by an airport operator under subsection (a), the Administrator shall approve or deny the application.

(2) STANDARDS.—The Administrator shall approve an application submitted by an airport operator under subsection (a) if the Administrator determines that the approval would not compromise security or detrimentally affect the cost-efficiency or the effectiveness of the screening of passengers or property at the airport.

(3) REPORTS ON DENIALS OF APPLICATIONS.—

(A) IN GENERAL.—If the Administrator denies an application submitted by an airport operator under subsection (a), the Administrator shall provide to the airport operator, not later than 60 days following the date of the denial, a written report that sets forth—

(i) the findings that served as the basis for the denial;

(ii) the results of any cost or security analysis conducted in considering the application; and

(iii) recommendations on how the airport operator can address the reasons for the denial.

(B) SUBMISSION TO CONGRESS.—The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a copy of any report provided to an airport operator under subparagraph (A).

(c) QUALIFIED PRIVATE SCREENING COMPANY.—A private screening company is qualified to provide screening services at an airport under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(d) SELECTION OF CONTRACTS AND STANDARDS FOR PRIVATE SCREENING COMPANIES.—

(1) IN GENERAL.—The Administrator shall, upon approval of the application, provide the airport operator with a list of qualified private screening companies.

(2) CONTRACTS.—The Administrator shall, to the extent practicable, enter into a contract with a private screening company from the list provided under paragraph (1) for the provision of screening at the airport not later than 120 days after the date of approval of an application submitted by the airport operator under subsection (a) if—

(A) the level of screening services and protection provided at the airport under the contract will be equal to or greater than the level that would be provided at the airport by Federal Government personnel under this chapter;

(B) the private screening company is owned and controlled by a citizen of the United States, to the extent that the Administrator determines that there are private screening companies owned and controlled by such citizens; and

(C) the selected qualified private screening company offered contract price is equal to or less than the cost to the Federal Government to provide screening services at the airport.

(3) WAIVERS.—The Administrator may waive the requirement of paragraph (2)(B) for any

company that is a United States subsidiary with a parent company that has implemented a foreign ownership, control, or influence mitigation plan that has been approved by the Defense Security Service of the Department of Defense prior to the submission of the application. The Administrator has complete discretion to reject any application from a private screening company to provide screening services at an airport that requires a waiver under this paragraph.

(e) SUPERVISION OF SCREENING PERSONNEL.—The Administrator shall—

(1) provide Federal Government supervisors to oversee all screening at each airport at which screening services are provided under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter; and

(2) undertake covert testing and remedial training support for employees of private screening companies providing screening at airports.

(f) TERMINATION OR SUSPENSION OF CONTRACTS.—The Administrator may suspend or terminate, as appropriate, any contract entered into with a private screening company to provide screening services at an airport under this section if the Administrator finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

(g) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or such airport operator's decision not to submit an application; and

(2) any act of negligence, gross negligence, or intentional wrongdoing by—

(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

(B) employees of the Federal Government providing passenger and property security screening services at the airport.

(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.

(h) EVALUATION OF SCREENING COMPANY PROPOSALS FOR AWARD.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, including title 48 of the Code of Federal Regulations and the Federal Advisory Committee Act (5 U.S.C. App.),[1] an airport operator that has applied and been approved to have security screening services carried out by a qualified private screening company under contract with the Administrator may nominate to the head of the contracting activity an individual to participate in the evaluation of proposals for the award of such contract.

(2) PARTICIPATION ON A PROPOSAL EVALUATION COMMITTEE.—Any participation on a proposal evaluation committee under paragraph (1) shall be conducted in accordance with chapter 21 of title 41.

(i) [2] INNOVATIVE SCREENING APPROACHES AND TECHNOLOGIES.—The Administrator shall encourage an airport operator to whom screening services are provided under this section to recommend to the Administrator innovative screening approaches and technologies. Upon receipt of any such recommendations, the Administrator shall review and, if appropriate, test, conduct a pilot project, and, if appropriate, deploy such approaches and technologies.

(i) [2] DEFINITION OF ADMINISTRATOR.—In this section, the term "Administrator" means the Administrator of the Transportation Security Administration.

(Added Pub. L. 107–71, title I, §108(a), Nov. 19, 2001, 115 Stat. 612; amended Pub. L. 109–90, title V, §547, Oct. 18, 2005, 119 Stat. 2089; Pub. L. 112–95, title VIII, §830(a)–(c), Feb. 14, 2012, 126 Stat. 135; Pub. L. 115–254, div. K, title I, §§1946(a), 1991(d)(17), Oct. 5, 2018, 132 Stat. 3585, 3636.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Support Anti-Terrorism by Fostering Effective Technologies Act of 2002, referred to in subsec. (g)(3), is subtitle G (§§861–865) of title VIII of Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2238, also known as the SAFETY Act, which is classified generally to part G (§441 et seq.) of subchapter VIII of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (h)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

AMENDMENTS

2018—Pub. L. 115–254, §1946(a)(1), substituted "Screening partnership program" for "Security screening opt-out program" in section catchline.

Subsec. (a). Pub. L. 115–254, §1946(a)(2), amended subsec. (a) generally. Prior to amendment, text read as follows: "On or after the last day of the 2-year period beginning on the date on which the Under Secretary transmits to Congress the certification required by section 110(c) of the Aviation and Transportation Security Act, an operator of an airport may submit to the Under Secretary an application to have the screening of passengers and property at the airport under section 44901 to be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary."

Subsec. (b)(1). Pub. L. 115–254, §1946(a)(3)(A), amended par. (1) generally. Prior to amendment, text read as follows: "Not later than 120 days after the date of receipt of an application submitted by an airport operator under subsection (a), the Under Secretary shall approve or deny the application."

Subsec. (b)(2), (3). Pub. L. 115–254, §1946(a)(3)(B), substituted "Administrator" for "Under Secretary" wherever appearing.

Subsec. (d). Pub. L. 115–254, §1946(a)(4)(A), substituted "Selection of Contracts and Standards" for "Standards" in heading.

Subsec. (d)(1). Pub. L. 115–254, §1946(a)(4)(C)(i), substituted "The Administrator shall, upon approval of the application, provide the airport operator with a list of qualified private screening companies." for "The Under Secretary may enter into a contract with a private screening company to provide screening at an airport under this section only if the Under Secretary determines and certifies to Congress that—". Former subpars. (A) and (B) of par. (1) redesignated subpars. (A) and (B), respectively, of par. (2).

Subsec. (d)(2). Pub. L. 115–254, §1946(a)(4)(C)(ii), inserted par. (2) designation, heading, and introductory provisions before former subpars. (A) and (B) of par. (1), thereby making them part of par. (2). Former par. (2) redesignated (3).

Subsec. (d)(2)(B). Pub. L. 115–254, §1946(a)(4)(D)(ii)(I), substituted "Administrator" for "Under Secretary".

Subsec. (d)(2)(C). Pub. L. 115–254, §1946(a)(4)(D)(i), (ii)(II), (iii), added subpar. (C).

Subsec. (d)(3). Pub. L. 115–254, §1946(a)(4)(E), substituted "Administrator" for "Under Secretary" in two places and "paragraph (2)(B)" for "paragraph (1)(B)".

Pub. L. 115–254, §1946(a)(4)(B), redesignated par. (2) as (3).

Subsec. (e). Pub. L. 115–254, §1946(a)(5)(B)–(E), substituted "The Administrator shall—" for "The Under Secretary shall", inserted par. (1) designation before "provide Federal Government", realigned margins, and added par. (2).

Pub. L. 115–254, §1946(a)(5)(A), substituted "Screening" for "Screened" in heading.

Subsec. (f). Pub. L. 115–254, §1946(a)(6), inserted "or Suspension" after "Termination" in heading, and, in text, substituted "Administrator" for "Under Secretary" in two places and "suspend or terminate, as

appropriate," for "terminate".

Subsec. (g)(1). Pub. L. 115–254, §1991(d)(17)(A), substituted "subsection (a)" for "subsection (a) or section 44919".

Subsec. (h). Pub. L. 115–254, §1946(a)(7), added subsec. (h) and struck out former subsec. (h). Prior to amendment, text read as follows: "As part of any submission of an application for a private screening company to provide screening services at an airport, the airport operator shall provide to the Under Secretary a recommendation as to which company would best serve the security screening and passenger needs of the airport, along with a statement explaining the basis of the operator's recommendation."

Subsec. (i). Pub. L. 115–254, §1991(d)(17)(B), added subsec. (i) defining "Administrator".

Pub. L. 115–254, §1946(a)(7), added subsec. (i) relating to innovative screening approaches and technologies.

2012—Subsec. (b). Pub. L. 112–95, §830(a), amended subsec. (b) generally. Prior to amendment, text read as follows: "The Under Secretary may approve any application submitted under subsection (a)."

Subsec. (d). Pub. L. 112–95, §830(b), designated existing provisions as par. (1), inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and added par. (2).

Subsec. (h). Pub. L. 112–95, §830(c), added subsec. (h).

2005—Subsec. (g). Pub. L. 109–90 added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATIONS SUBMITTED BEFORE THE DATE OF ENACTMENT OF PUB. L. 115–254

Pub. L. 115–254, div. K, title I, §1946(c), Oct. 5, 2018, 132 Stat. 3587, provided that: "Not later than 30 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall approve or deny, in accordance with section 44920(b) of title 49, United States Code, as amended by this Act, each application submitted before the date of enactment of this Act, by an airport operator under subsection (a) of that section, that is awaiting such a determination."

EXECUTIVE DOCUMENTS

CHANGE OF NAME

Defense Security Service of the Department of Defense changed to Defense Counterintelligence and Security Agency effective June 20, 2019, pursuant to Ex. Ord. No. 13467, set out as a note under section 3161 of Title 50, War and National Defense.

[1] *See References in Text note below.*

[2] *So in original. Two subsecs. (i) have been enacted.*

§44921. Federal flight deck officer program

(a) ESTABLISHMENT.—The Administrator shall establish a program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as "Federal flight deck officers".

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The Administrator shall establish procedural requirements to carry out the program under this section.

(2) COMMENCEMENT OF PROGRAM.—The Administrator shall train and deputize pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

(A) The type of firearm to be used by a Federal flight deck officer.

(B) The type of ammunition to be used by a Federal flight deck officer.

(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

(M) Any other issues that the Administrator considers necessary.

(N) The Administrator's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

(4) PREFERENCE.—In selecting pilots to participate in the program, the Administrator shall give preference to pilots who are former military or law enforcement personnel.

(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 [1] of this title, information developed under paragraph (3)(E) shall not be disclosed.

(6) NOTICE TO CONGRESS.—The Administrator shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

(7) MINIMIZATION OF RISK.—If the Administrator determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Administrator shall take such actions as may be necessary to minimize that risk.

(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

(1) IN GENERAL.—The Administrator shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

(2) TRAINING.—

(A) IN GENERAL.—The Administrator shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Administrator shall take into account the differing roles and

responsibilities of Federal flight deck officers and Federal air marshals.

(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

(C) TRAINING IN USE OF FIREARMS.—

(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Administrator. Such level shall be comparable to the level of proficiency required of Federal air marshals.

(ii) CONDUCT OF TRAINING.—

(I) IN GENERAL.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Administrator or by a firearms training facility.

(II) ACCESS TO TRAINING FACILITIES.—The Administrator shall designate additional firearms training facilities located in various regions of the United States for Federal flight deck officers for recurrent and requalifying training relative to the number of such facilities available on the day before such [2] date of enactment.

(iii) REQUALIFICATION.—

(I) IN GENERAL.—The Administrator shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Administrator.

(II) USE OF FACILITIES FOR REQUALIFICATION.—The Administrator shall allow a Federal flight deck officer to requalify to carry a firearm under the program through training at a Transportation Security Administration-approved firearms training facility utilizing a Transportation Security Administration-approved contractor and a curriculum developed and approved by the Transportation Security Administration.

(iv) PERIODIC REVIEW.—The Administrator shall periodically review requalification training intervals and assess whether it is appropriate and sufficient to adjust the time between each requalification training to facilitate continued participation in the program under this section while still maintaining effectiveness of the training, and update the training requirements as appropriate.

(D) TRAINING REVIEW.—Not later than 2 years after the date of enactment of the TSA Modernization Act, and biennially thereafter, the Administrator shall review training facilities and training requirements for initial and recurrent training for Federal flight deck officers and evaluate how training requirements, including the length of training, could be streamlined while maintaining the effectiveness of the training, and update the training requirements as appropriate.

(d) DEPUTIZATION.—

(1) IN GENERAL.—The Administrator may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Administrator a request to be such an officer and whom the Administrator determines is qualified to be such an officer.

(2) QUALIFICATION.—

(A) IN GENERAL.—A pilot is qualified to be a Federal flight deck officer under this section if—

(i) the pilot is employed by an air carrier;

(ii) the Administrator determines (in the Administrator's discretion) that the pilot meets the standards established by the Administrator for being such an officer; and

(iii) the Administrator determines that the pilot has completed the training required by the Administrator.

(B) CONSISTENCY WITH REQUIREMENTS FOR CERTAIN MEDICAL CERTIFICATES.—In establishing standards under subparagraph (A)(ii), the Administrator may not establish medical or physical standards for a pilot to become a Federal flight deck officer that are inconsistent with or more stringent than the requirements of the Federal Aviation Administration for the issuance of the required airman medical certificate under part 67 of title 14, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Administrator may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Administrator determines are qualified to be such officers.

(4) REVOCATION.—The Administrator may (in the Administrator's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Administrator finds that the pilot is no longer qualified to be such an officer.

(5) TRANSFER FROM INACTIVE TO ACTIVE STATUS.—In accordance with any applicable Transportation Security Administration appeals processes, a pilot deputized as a Federal flight deck officer who moves to inactive status may return to active status upon successful completion of a recurrent training program administered within program guidelines.

(e) COMPENSATION.—

(1) IN GENERAL.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

(2) FACILITATION OF TRAINING.—An air carrier shall permit a pilot seeking to be deputized as a Federal flight deck officer or a Federal flight deck officer to take a reasonable amount of leave to participate in initial, recurrent, or requalification training, as applicable, for the program. Leave required under this paragraph may be provided without compensation.

(f) AUTHORITY TO CARRY FIREARMS.—

(1) IN GENERAL.—The Administrator shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Administrator may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

(4) CONSISTENCY WITH FEDERAL AIR MARSHAL PROGRAM.—The Administrator shall harmonize, to the extent practicable and in a manner that does not jeopardize existing Federal air marshal agreements, the policies relating to the carriage of firearms on international flights by Federal flight deck officers with the policies of the Federal air marshal program for carrying firearms on such flights and carrying out the duties of a Federal flight deck officer, notwithstanding Annex 17 of the International Civil Aviation Organization.

(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Administrator shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

(h) LIMITATION ON LIABILITY.—

(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Administrator—

(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Administrator determines that the discharge was attributable to the negligence of the officer; and

(2) if the Administrator determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, may temporarily suspend the program until the shortcoming is corrected.

(j) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier; or

(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

(k) APPLICABILITY.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

(l) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Transportation Security Administration.

(2) AIR TRANSPORTATION.—The term "air transportation" includes all-cargo air transportation.

(3) FIREARMS TRAINING FACILITY.—The term "firearms training facility" means a private or government-owned gun range approved by the Administrator to provide recurrent or requalification training, as applicable, for the program, utilizing a Transportation Security Administration-approved contractor and a curriculum developed and approved by the Transportation Security Administration.

(4) PILOT.—The term "pilot" means an individual who has final authority and responsibility for the operation and safety of the flight or any other flight deck crew member.

(Added Pub. L. 107–296, title XIV, §1402(a), Nov. 25, 2002, 116 Stat. 2300; amended Pub. L. 108–176, title VI, §609(b), Dec. 12, 2003, 117 Stat. 2570; Pub. L. 115–254, div. K, title I, §1963(a)–(h), Oct. 5, 2018, 132 Stat. 3601–3603.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 40119 of this title, referred to in subsec. (b)(5), was repealed by Pub. L. 115–254, div. K, title I, §1991(c)(3), Oct. 5, 2018, 132 Stat. 3627.

The date of enactment of the TSA Modernization Act, referred to in subsec. (c)(2)(D), is the date of enactment of title I of div. K of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Pub. L. 115–254, §1963(h)(7), substituted "Administrator" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1963(h)(1), substituted "Administrator" for "Under Secretary of Transportation for Security".

Subsec. (b)(1). Pub. L. 115–254, §1963(h)(2)(A), substituted "The Administrator" for "Not later than 3 months after the date of enactment of this section, the Under Secretary".

Subsec. (b)(2). Pub. L. 115–254, §1963(h)(2)(B), substituted "The Administrator shall train and deputize" for "Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing".

Subsec. (b)(3)(N). Pub. L. 115–254, §1963(h)(2)(C), substituted "Administrator's" for "Under Secretary's".

Subsec. (c)(2)(C)(ii). Pub. L. 115–254, §1963(a), designated existing provisions as subcl. (I), inserted heading, struck out "approved by the Under Secretary" after "facility", and added subcl. (II).

Subsec. (c)(2)(C)(iii). Pub. L. 115–254, §1963(b)(1), designated existing provisions as subcl. (I), inserted heading, substituted "The Administrator shall" for "The Under Secretary shall" and "the Administrator" for "the Under Secretary", and added subcl. (II).

Subsec. (c)(2)(C)(iv). Pub. L. 115–254, §1963(b)(2), added cl. (iv).

Subsec. (c)(2)(D). Pub. L. 115–254, §1963(c), added subpar. (D).

Subsec. (d)(2). Pub. L. 115–254, §1963(f), designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, of subpar. (A), substituted "Administrator's" for "Under Secretary's" in subpar. (A)(ii), and added subpar. (B).

Subsec. (d)(4). Pub. L. 115–254, §1963(h)(3), substituted "may" for "may," and "Administrator's" for "Under Secretary's".

Subsec. (d)(5). Pub. L. 115–254, §1963(g), added par. (5).

Subsec. (e). Pub. L. 115–254, §1963(d), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (f)(1), (3). Pub. L. 115–254, §1963(e)(1), substituted "Administrator" for "Under Secretary".

Subsec. (f)(4). Pub. L. 115–254, §1963(e)(2), added par. (4).

Subsec. (i)(2). Pub. L. 115–254, §1963(h)(4), substituted "may" for "the Under Secretary may".

Subsec. (k). Pub. L. 115–254, §1963(h)(5), struck out par. (1) designation and heading before "This section" and struck out pars. (2) and (3) which defined "pilot" and defined "air transportation" to include all-cargo air transportation.

Subsec. (l). Pub. L. 115–254, §1963(h)(6), added subsec. (l).

2003—Subsec. (a). Pub. L. 108–176, §609(b)(1), struck out "passenger" before "air transportation" in two places.

Subsec. (k)(2). Pub. L. 108–176, §609(b)(2), substituted "or any other flight deck crew member" for "or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command".

Subsec. (k)(3). Pub. L. 108–176, §609(b)(3), added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as a note under section 101 of Title 6, Domestic Security.

REGULATIONS

Pub. L. 115–254, div. K, title I, §1963(i), Oct. 5, 2018, 132 Stat. 3604, provided that: "Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018]—

"(1) the Secretary of Transportation shall revise section 15.5(b)(11) of title 49, Code of Federal Regulations, to classify information about pilots deputized as Federal flight deck officers under section 44921 of title 49, United States Code, as sensitive security information in a manner consistent with the classification of information about Federal air marshals; and

"(2) the Administrator [of the Transportation Security Administration] shall revise section 1520.5(b)(11) of title 49, Code of Federal Regulations, to classify information about pilots deputized as Federal flight deck officers under section 44921 of title 49, United States Code, as sensitive security information in a manner consistent with the classification of information about Federal air marshals."

Pub. L. 115–254, div. K, title I, §1963(j), Oct. 5, 2018, 132 Stat. 3604, provided that: "Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall prescribe such regulations as may be necessary to carry out this section [amending this section and enacting provisions set out as a note under this section] and the amendments made by this section."

EQUITABLE IMPLEMENTATION OF 2003 AMENDMENTS

Pub. L. 108–176, title VI, §609(c), Dec. 12, 2003, 117 Stat. 2570, provided that: "In carrying out the amendments made by subsection (d) [probably means subsec. (b), which amended this section], the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall ensure that passenger and cargo pilots are treated equitably in receiving access to training as Federal flight deck officers."

TIME FOR IMPLEMENTATION

Pub. L. 108–176, title VI, §609(d), Dec. 12, 2003, 117 Stat. 2570, provided that: "The requirements of subsection (e) [section 609 of Pub. L. 108–176 has no subsec. (e)] shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act [Dec. 12, 2003]."

[1] *See References in Text note below.*

[2] *So in original.*

§44922. Deputization of State and local law enforcement officers

(a) DEPUTIZATION AUTHORITY.—The Administrator of the Transportation Security Administration may deputize a State or local law enforcement officer to carry out Federal airport security duties under this chapter.

(b) FULFILLMENT OF REQUIREMENTS.—A State or local law enforcement officer who is deputized under this section shall be treated as a Federal law enforcement officer for purposes of meeting the requirements of this chapter and other provisions of law to provide Federal law enforcement officers to carry out Federal airport security duties.

(c) AGREEMENTS.—To deputize a State or local law enforcement officer under this section, the Administrator of the Transportation Security Administration shall enter into a voluntary agreement with the appropriate State or local law enforcement agency that employs the State or local law enforcement officer.

(d) REIMBURSEMENT.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall reimburse a State or local law enforcement agency for all reasonable, allowable, and allocable costs incurred by the State or local law enforcement agency with respect to a law enforcement officer deputized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated

such sums as may be necessary to carry out this subsection.

(e) FEDERAL TORT CLAIMS ACT.—A State or local law enforcement officer who is deputized under this section shall be treated as an "employee of the Government" for purposes of sections 1346(b), 2401(b), and chapter 171 of title 28, United States Code, while carrying out Federal airport security duties within the course and scope of the officer's employment, subject to Federal supervision and control, and in accordance with the terms of such deputization.

(f) STATIONING OF OFFICERS.—The Administrator of the Transportation Security Administration may allow law enforcement personnel to be stationed other than at the airport security screening location if that would be preferable for law enforcement purposes and if such personnel would still be able to provide prompt responsiveness to problems occurring at the screening location.

(Added Pub. L. 108–7, div. I, title III, §351(a), Feb. 20, 2003, 117 Stat. 419; amended Pub. L. 115–254, div. K, title I, §1991(d)(18), Oct. 5, 2018, 132 Stat. 3636.)

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(18)(D), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Pub. L. 115–254, §1991(d)(18)(A), substituted "Deputization" for "Deputation" in section catchline.

Subsec. (a). Pub. L. 115–254, §1991(d)(18)(B), in heading, substituted "Deputization" for "Deputation" and, in text, substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

Subsec. (e). Pub. L. 115–254, §1991(d)(18)(C), substituted "deputization" for "deputation".

§44923. Airport security improvement projects

(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Administrator of the Transportation Security Administration shall make grants to airport sponsors—

(1) for projects to replace baggage conveyer systems related to aviation security;

(2) for projects to reconfigure terminal baggage areas as needed to install explosive detection systems;

(3) for projects to enable the Administrator of the Transportation Security Administration to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or in line with the baggage handling system; and

(4) for other airport security capital improvement projects.

(b) APPLICATIONS.—A sponsor seeking a grant under this section shall submit to the Administrator of the Transportation Security Administration an application in such form and containing such information as the Administrator of the Transportation Security Administration prescribes.

(c) APPROVAL.—The Administrator of the Transportation Security Administration, after consultation with the Secretary of Transportation, may approve an application of a sponsor for a grant under this section only if the Administrator of the Transportation Security Administration determines that the project will improve security at an airport or improve the efficiency of the airport without lessening security.

(d) LETTERS OF INTENT.—

(1) ISSUANCE.—The Administrator of the Transportation Security Administration shall issue a letter of intent to a sponsor committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project).

(2) SCHEDULE.—A letter of intent under this subsection shall establish a schedule under which the Administrator of the Transportation Security Administration will reimburse the sponsor for the Government's share of the project's costs, as amounts become available, if the sponsor,

after the Administrator of the Transportation Security Administration issues the letter, carries out the project without receiving amounts under this section.

(3) NOTICE TO ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION.—A sponsor that has been issued a letter of intent under this subsection shall notify the Administrator of the Transportation Security Administration of the sponsor's intent to carry out a project before the project begins.

(4) NOTICE TO CONGRESS.—The Administrator of the Transportation Security Administration shall transmit to the Committees on Appropriations and Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Commerce, Science [1] and Transportation of the Senate a written notification at least 3 days before the issuance of a letter of intent under this section.

(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(6) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(e) FEDERAL SHARE.—The Government's share of the cost of a project under this section shall be 90 percent for a project at a medium or large hub airport and 95 percent for a project at any other airport.

(f) SPONSOR DEFINED.—In this section, the term "sponsor" has the meaning given that term in section 47102.

(g) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements that apply to grants and letters of intent issued under chapter 471 (other than section 47102(3)) shall apply to grants and letters of intent issued under this section.

(h) AVIATION SECURITY CAPITAL FUND.—

(1) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. The first $250,000,000 derived from fees received under section 44940(a)(1) in each of fiscal years 2004 through 2028 shall be available to be deposited in the Fund. The Administrator of the Transportation Security Administration shall impose the fee authorized by section 44940(a)(1) so as to collect at least $250,000,000 in each of such fiscal years for deposit into the Fund. Amounts in the Fund shall be available to the Administrator of the Transportation Security Administration to make grants under this section.

(2) ALLOCATION.—Of the amount made available under paragraph (1) for a fiscal year, not less than $200,000,000 shall be allocated to fulfill letters of intent issued under subsection (d).

(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, up to $50,000,000 shall be used to make discretionary grants, including other transaction agreements for airport security improvement projects, with priority given to small hub airports and nonhub airports.

(i) LEVERAGED FUNDING.—For purposes of this section, a grant under subsection (a) to an airport sponsor to service an obligation issued by or on behalf of that sponsor to fund a project described in subsection (a) shall be considered to be a grant for that project.

(Added Pub. L. 108–176, title VI, §605(a), Dec. 12, 2003, 117 Stat. 2566; amended Pub. L. 108–458, title IV, §4019(e)(1), Dec. 17, 2004, 118 Stat. 3722; Pub. L. 110–53, title XVI, §§1603(a), 1604(a), Aug. 3, 2007, 121 Stat. 480; Pub. L. 115–254, div. K, title I, §1991(d)(19), Oct. 5, 2018, 132 Stat. 3636.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(19)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(19)(A), in introductory provisions, substituted "Administrator of the Transportation Security Administration" for "Under Secretary for Border and Transportation Security of the Department of Homeland Security".

Subsec. (e). Pub. L. 115–254, §1991(d)(19)(C), struck out par. (1) designation and heading before "The Government's share" and struck out par. (2). Prior to amendment, text of par. (2) read as follows: "The Under Secretary shall revise letters of intent issued before the date of enactment of this section to reflect the cost share established in this subsection with respect to grants made after September 30, 2003."

Subsec. (j). Pub. L. 115–254, §1991(d)(19)(D), struck out subsec. (j) which authorized appropriations for fiscal years 2005 to 2011.

2007—Subsec. (a). Pub. L. 110–53, §1604(a)(1), substituted "shall make" for "may make" in introductory provisions.

Subsec. (d)(1). Pub. L. 110–53, §1604(a)(2), substituted "shall issue" for "may issue".

Subsec. (h)(1). Pub. L. 110–53, §1604(a)(3), substituted "2028" for "2007".

Subsec. (h)(2), (3). Pub. L. 110–53, §1604(a)(4), added pars. (2) and (3) and struck out former pars. (2) and (3) which related to allocation of $125,000,000 of amount available per fiscal year for large, medium, and small hub airports, nonhub airports, and on the basis of aviation security risks, and allocation of $125,000,000 of amount available per fiscal year for discretionary grants, with priority given to fulfilling letters of intent issued under subsec. (d).

Subsec. (i). Pub. L. 110–53, §1604(a)(6), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 110–53, §1603(a), substituted "2007, and $450,000,000 for each of fiscal years 2008 through 2011" for "2007."

Subsec. (j). Pub. L. 110–53, §1604(a)(5), redesignated subsec. (i) as (j).

2004—Subsec. (i)(1). Pub. L. 108–458 substituted "$400,000,000 for each of fiscal years 2005, 2006, and 2007" for "$250,000,000 for each of fiscal years 2004 through 2007".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

PRIORITIZATION OF PROJECTS

Pub. L. 110–53, title XVI, §1604(b), Aug. 3, 2007, 121 Stat. 480, required the Administrator of the Transportation Security Administration to establish a prioritization schedule for airport security improvement projects described in this section based on risk and other relevant factors, to be funded under this section, and to provide to Congress, not later than 180 days after Aug. 3, 2007, a copy of the prioritization schedule, a corresponding timeline, and a description of the funding allocation under this section.

PERIOD OF REIMBURSEMENT

Pub. L. 108–458, title IV, §4019(e)(2), Dec. 17, 2004, 118 Stat. 3722, provided that: "Notwithstanding any other provision of law, the Secretary [of Homeland Security] may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, and letters of intent issued under section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 [Pub. L. 108–7, div. I] (49 U.S.C. 47110 note)."

[1] So in original. Probably should be "Science,".

§44924. Repair station security

(a) SECURITY REVIEW AND AUDIT.—To ensure the security of maintenance and repair work conducted on air carrier aircraft and components at foreign repair stations, the Administrator of the

Transportation Security Administration, in consultation with the Administrator of the Federal Aviation Administration, shall complete a security review and audit of foreign repair stations that are certified by the Administrator of the Federal Aviation Administration under part 145 of title 14, Code of Federal Regulations, and that work on air carrier aircraft and components. The review shall be completed not later than 6 months after the date on which the Administrator of the Transportation Security Administration issues regulations under subsection (f).

(b) ADDRESSING SECURITY CONCERNS.—The Administrator of the Transportation Security Administration shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under subsection (a) within 90 days of providing notice to the repair station of the security issues and vulnerabilities so identified and shall notify the Administrator of the Federal Aviation Administration that a deficiency was identified in the security audit.

(c) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

(1) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If, after the 90th day on which a notice is provided to a foreign repair station under subsection (b), the Administrator of the Transportation Security Administration determines that the foreign repair station does not maintain and carry out effective security measures, the Administrator of the Transportation Security Administration shall notify the Administrator of the Federal Aviation Administration of the determination. Upon receipt of the determination, the Administrator of the Federal Aviation Administration shall suspend the certification of the repair station until such time as the Administrator of the Transportation Security Administration determines that the repair station maintains and carries out effective security measures and transmits the determination to the Administrator of the Federal Aviation Administration.

(2) IMMEDIATE SECURITY RISK.—If the Administrator of the Transportation Security Administration determines that a foreign repair station poses an immediate security risk, the Administrator of the Transportation Security Administration shall notify the Administrator of the Federal Aviation Administration of the determination. Upon receipt of the determination, the Administrator of the Federal Aviation Administration shall revoke the certification of the repair station.

(3) PROCEDURES FOR APPEALS.—The Administrator of the Transportation Security Administration, in consultation with the Administrator of the Federal Aviation Administration, shall establish procedures for appealing a revocation of a certificate under this subsection.

(d) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by subsection (a) are not completed on or before the date that is 6 months after the date on which the Administrator of the Transportation Security Administration issues regulations under subsection (f), the Administrator of the Federal Aviation Administration shall be barred from certifying any foreign repair station (other than a station that was previously certified, or is in the process of certification, by the Administration under this part) until such audits are completed for existing stations.

(e) PRIORITY FOR AUDITS.—In conducting the audits described in subsection (a), the Administrator of the Transportation Security Administration and the Administrator of the Federal Aviation Administration shall give priority to foreign repair stations located in countries identified by the Government as posing the most significant security risks.

(f) REGULATIONS.—The Administrator of the Transportation Security Administration, in consultation with the Administrator of the Federal Aviation Administration, shall issue final regulations to ensure the security of foreign and domestic aircraft repair stations.

(g) REPORT TO CONGRESS.—If the Administrator of the Transportation Security Administration does not issue final regulations before the deadline specified in subsection (f), the Administrator of the Transportation Security Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation as to why the deadline was not met and a schedule for issuing the final regulations.

(Added Pub. L. 108–176, title VI, §611(b)(1), Dec. 12, 2003, 117 Stat. 2571; amended Pub. L. 110–53, title XVI, §1616(b), Aug. 3, 2007, 121 Stat. 488; Pub. L. 115–254, div. K, title I,

§1991(d)(20), Oct. 5, 2018, 132 Stat. 3637.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(20)(D), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(20)(A), substituted "Administrator of the Transportation Security Administration," for "Under Secretary for Border and Transportation Security of the Department of Homeland Security," and "Administrator of the Federal Aviation Administration under" for "Administrator under".

Subsec. (b). Pub. L. 115–254, §1991(d)(20)(B), substituted "Administrator of the Federal Aviation Administration" for "Administrator".

Subsec. (c). Pub. L. 115–254, §1991(d)(20)(B), which directed substitution of "Administrator of the Federal Aviation Administration" for "Administrator", was executed by making the substitution wherever appearing, to reflect the probable intent of Congress.

Subsecs. (d), (e). Pub. L. 115–254, §1991(d)(20)(B), substituted "Administrator of the Federal Aviation Administration" for "Administrator".

Subsec. (f). Pub. L. 115–254, §1991(d)(20)(C), substituted "The" for "Not later than 240 days after the date of enactment of this section, the".

Pub. L. 115–254, §1991(d)(20)(B), substituted "Administrator of the Federal Aviation Administration" for "Administrator".

2007—Subsec. (a). Pub. L. 110–53, §1616(b)(1), substituted "6 months" for "18 months".

Subsec. (d). Pub. L. 110–53, §1616(b)(2), inserted "(other than a station that was previously certified, or is in the process of certification, by the Administration under this part)" after "foreign repair station".

Pub. L. 110–53, §1616(b)(1), which directed amendment of subsec. (b) by substituting "6 months" for "18 months", was executed by making the substitution in subsec. (d), to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

SUSPENSION OF CERTIFICATION OF FOREIGN REPAIR STATIONS

Pub. L. 110–53, title XVI, §1616(a), Aug. 3, 2007, 121 Stat. 488, provided that: "If the regulations required by section 44924(f) of title 49, United States Code, are not issued within 1 year after the date of enactment of this Act [Aug. 3, 2007], the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations, after such date unless the station was previously certified, or is in the process of certification by the Administration under that part."

§44925. Deployment and use of detection equipment at airport screening checkpoints

(a) WEAPONS AND EXPLOSIVES.—The Secretary of Homeland Security shall give a high priority to developing, testing, improving, and deploying, at airport screening checkpoints, equipment that detects nonmetallic, chemical, biological, and radiological weapons, and explosives, in all forms, on individuals and in their personal property. The Secretary shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall submit to the appropriate congressional committees a strategic plan to promote the optimal

utilization and deployment of explosive detection equipment at airports to screen individuals and their personal property. Such equipment includes walk-through explosive detection portals, document scanners, shoe scanners, and backscatter x-ray scanners. The plan may be submitted in a classified format.

(2) CONTENT.—The strategic plan shall include, at minimum—

(A) a description of current efforts to detect explosives in all forms on individuals and in their personal property;

(B) a description of the operational applications of explosive detection equipment at airport screening checkpoints;

(C) a deployment schedule and a description of the quantities of equipment needed to implement the plan;

(D) a description of funding needs to implement the plan, including a financing plan that provides for leveraging of non-Federal funding;

(E) a description of the measures taken and anticipated to be taken in carrying out subsection (d); and

(F) a description of any recommended legislative actions.

(c) PORTAL DETECTION SYSTEMS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research, development, and installation of detection systems and other devices for the detection of biological, chemical, radiological, and explosive materials.

(d) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Administrator of the Transportation Security Administration shall provide, by such means as the Administrator of the Transportation Security Administration considers appropriate, explosives detection screening for all passengers identified for additional screening and their personal property that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation.

(Added Pub. L. 108–458, title IV, §4013(a), Dec. 17, 2004, 118 Stat. 3719; amended Pub. L. 110–53, title XVI, §1607(b), Aug. 3, 2007, 121 Stat. 483; Pub. L. 115–254, div. K, title I, §1991(d)(21), Oct. 5, 2018, 132 Stat. 3637.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115–254, §1991(d)(21)(A), substituted "The Administrator of the Transportation Security Administration" for "Not later than 90 days after the date of enactment of this section, the Assistant Secretary of Homeland Security (Transportation Security Administration)".

Subsec. (b)(3). Pub. L. 115–254, §1991(d)(21)(B), struck out par. (3). Text read as follows: "The Secretary shall begin implementation of the strategic plan within one year after the date of enactment of this paragraph."

Subsec. (d). Pub. L. 115–254, §1991(d)(21)(C), substituted "Administrator of the Transportation Security Administration" for "Assistant Secretary" in two places.

2007—Subsec. (b)(3). Pub. L. 110–53 added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

MOVEMENT AND REDEPLOYMENT OF MOBILE EXPLOSIVES DETECTION SYSTEMS

Pub. L. 114–113, div. F, title II, Dec. 18, 2015, 129 Stat. 2499, provided in part: "That notwithstanding any other provision of law, for the current fiscal year and each fiscal year hereafter, mobile explosives detection systems purchased and deployed using funds made available under this heading [Transportation Security Administration, Aviation Security] may be moved and redeployed to meet evolving passenger and baggage screening security priorities at airports".

ISSUANCE OF STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION

EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS

Pub. L. 110–53, title XVI, §1607(a), Aug. 3, 2007, 121 Stat. 483, provided that, not later than 30 days after Aug. 3, 2007, the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, was to issue the strategic plan the Secretary was required by subsec. (b) of this section to have issued within 90 days after Dec. 17, 2004.

ADVANCED AIRPORT CHECKPOINT SCREENING DEVICES

Pub. L. 108–458, title IV, §4014, Dec. 17, 2004, 118 Stat. 3720, directed the Assistant Secretary of Homeland Security (Transportation Security Administration), not later than Mar. 31, 2005, to develop and initiate a pilot program to deploy and test advanced airport checkpoint screening devices and technology as an integrated system at not less than 5 airports in the United States.

§44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, United States Customs and Border Protection, or any other office or component of the Department of Homeland Security.

(b) OFFICE OF APPEALS AND REDRESS.—

(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the Transportation Security Administration, United States Customs and Border Protection, and such other offices and components of the Department as the Secretary determines appropriate.

(2) RECORDS.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

(3) INFORMATION.—To prevent repeated delays of a misidentified passenger or other individual, the Office shall—

(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual;

(B) furnish to the Transportation Security Administration, United States Customs and Border Protection, or any other appropriate office or component of the Department, upon request, such information as may be necessary to allow such office or component to assist air carriers in improving their administration of the advanced passenger prescreening system and reduce the number of false positives; and

(C) require air carriers and foreign air carriers take action to identify passengers determined, under the process established under subsection (a), to have been wrongly identified.

(4) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department shall—

(A) require that Federal employees of the Department handling personally identifiable information of passengers (in this paragraph referred to as "PII") complete mandatory privacy and security training prior to being authorized to handle PII;

(B) ensure that the records maintained under this subsection are secured by encryption, one-way hashing, other data anonymization techniques, or such other equivalent security technical protections as the Secretary determines necessary;

(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve a redress request;

(D) require that the data generated under this subsection shall be shared or transferred via a

secure data network, that has been audited to ensure that the anti-hacking and other security related software functions properly and is updated as necessary;

(E) ensure that any employee of the Department receiving the data contained within the records handles the information in accordance with the section 552a of title 5, United States Code, and the Federal Information Security Management Act of 2002 (Public Law 107–296);

(F) only retain the data for as long as needed to assist the individual traveler in the redress process; and

(G) conduct and publish a privacy impact assessment of the process described within this subsection and transmit the assessment to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and Committee on Homeland Security and Governmental Affairs of the Senate.

(5) INITIATION OF REDRESS PROCESS AT AIRPORTS.—The Office shall establish at each airport at which the Department has a significant presence a process to provide information to air carrier passengers to begin the redress process established pursuant to subsection (a).

(Added Pub. L. 110–53, title XVI, §1606(a), Aug. 3, 2007, 121 Stat. 482; amended Pub. L. 115–254, div. K, title I, §1991(d)(22), Oct. 5, 2018, 132 Stat. 3637.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Information Security Management Act of 2002, referred to in subsec. (b)(4)(E), is title X of Pub. L. 107–296, Nov. 25, 116 Stat. 2259. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6, Domestic Security, and Tables.

AMENDMENTS

2018—Subsec. (b)(3). Pub. L. 115–254 substituted "a misidentified passenger" for "an misidentified passenger" in introductory provisions.

§44927. Expedited screening for severely injured or disabled members of the Armed Forces and severely injured or disabled veterans

(a) PASSENGER SCREENING.—The Administrator of the Transportation Security Administration, in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, and organizations identified by the Secretaries of Defense and Veterans Affairs that advocate on behalf of severely injured or disabled members of the Armed Forces and severely injured or disabled veterans, shall develop and implement a process to support and facilitate the ease of travel and to the extent possible provide expedited passenger screening services for severely injured or disabled members of the Armed Forces and severely injured or disabled veterans through passenger screening. The process shall be designed to offer the individual private screening to the maximum extent practicable.

(b) OPERATIONS CENTER.—As part of the process under subsection (a), the Administrator of the Transportation Security Administration shall maintain an operations center to provide support and facilitate the movement of severely injured or disabled members of the Armed Forces and severely injured or disabled veterans through passenger screening prior to boarding a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation.

(c) PROTOCOLS.—The Administrator of the Transportation Security Administration shall—

(1) establish and publish protocols, in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, and the organizations identified under subsection (a), under which a severely injured or disabled member of the Armed Forces or severely injured or disabled veteran, or the

family member or other representative of such member or veteran, may contact the operations center maintained under subsection (b) and request the expedited passenger screening services described in subsection (a) for that member or veteran; and

(2) upon receipt of a request under paragraph (1), require the operations center to notify the appropriate Federal Security Director of the request for expedited passenger screening services, as described in subsection (a), for that member or veteran.

(d) TRAINING.—The Administrator of the Transportation Security Administration shall integrate training on the protocols established under subsection (c) into the training provided to all employees who will regularly provide the passenger screening services described in subsection (a).

(e) RULE OF CONSTRUCTION.—Nothing in this section shall affect the authority of the Administrator of the Transportation Security Administration to require additional screening of a severely injured or disabled member of the Armed Forces, a severely injured or disabled veteran, or their accompanying family members or nonmedical attendants, if intelligence, law enforcement, or other information indicates that additional screening is necessary.

(f) REPORTS.—Each year, the Administrator of the Transportation Security Administration shall submit to Congress a report on the implementation of this section. Each report shall include each of the following:

(1) Information on the training provided under subsection (d).

(2) Information on the consultations between the Administrator of the Transportation Security Administration and the organizations identified under subsection (a).

(3) The number of people who accessed the operations center during the period covered by the report.

(4) Such other information as the Administrator of the Transportation Security Administration determines is appropriate.

(g) AVAILABILITY OF PRECHECK PROGRAM TO CERTAIN SEVERELY INJURED OR DISABLED VETERANS.—

(1) IN GENERAL.—A veteran described in paragraph (2) is eligible for security screening under the PreCheck Program under section 44919 at no cost to the veteran if the veteran is able to meet the background check and other security requirements for participation in the Program.

(2) VETERANS DESCRIBED.—A veteran described in this paragraph is a veteran who—

(A) is enrolled in the patient enrollment system of the Department of Veterans Affairs established and operated under section 1705 of title 38, United States Code;

(B) has been determined by the Secretary of Veterans Affairs to have a service-connected disability under section 1110 or 1131 of such title, as the case may be, and such disability has been determined by such Secretary to have resulted in—

(i) loss, or loss use [1] of, an extremity;

(ii) paralysis or partial paralysis; or

(iii) permanent blindness; and

(C) as a result of a loss, paralysis or partial paralysis, or blindness described in subparagraph (B), requires the use of a wheelchair, prosthetic limb, or other assistive device to aid with mobility.

(3) LIMITATION.—The Administrator of the Transportation Security Administration shall carry out this subsection subject to the availability of appropriations and may not increase fees for enrollment in the PreCheck Program for such purpose.

(Added Pub. L. 113–27, §2(a), Aug. 9, 2013, 127 Stat. 503; amended Pub. L. 115–254, div. K, title I, §1991(d)(23), Oct. 5, 2018, 132 Stat. 3637; Pub. L. 118–238, §2(a), Jan. 4, 2025, 138 Stat. 2923.)

EDITORIAL NOTES

AMENDMENTS

2025—Subsec. (g). Pub. L. 118–238 added subsec. (g).

2018—Pub. L. 115–254, §1991(d)(23)(A), substituted "Administrator of the Transportation Security Administration" for "Assistant Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(23)(B), substituted "Veterans Affairs that" for "Veteran Affairs that".

Subsec. (f). Pub. L. 115–254, §1991(d)(23)(C), substituted "Reports" for "Report" in heading and "Each year," for "Not later than 1 year after the date of enactment of this section, and annually thereafter," in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

COORDINATION ON IMPLEMENTATION

Pub. L. 118–238, §2(b), Jan. 4, 2025, 138 Stat. 2923, provided that: "The Administrator of the Transportation Security Administration and the Secretary of Veterans Affairs shall jointly—

"(1) implement a process under which a veteran described in paragraph (2) of subsection (g) of section 44927 of title 49, United States Code, as added by subsection (a), can receive the benefits under such subsection by not later than one year after the date of enactment of this Act [Jan. 4, 2025]; and

"(2) provide to the Committee on Homeland Security and the Committee on Veterans' Affairs of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Veterans' Affairs of the Senate a briefing on the status of implementing the process required by paragraph (1) by not later than one year after the date of the enactment of this Act."

OUTREACH FOR DISABLED VETERANS ON AVAILABILITY OF TRANSPORTATION SECURITY ADMINISTRATION PROGRAMS

Pub. L. 118–238, §2(c), Jan. 4, 2025, 138 Stat. 2924, provided that:

"(1) COORDINATION.—The Secretary of Veterans Affairs and the Administrator of the Transportation Security Administration shall implement a process under which such Secretary provides to disabled veterans effective outreach regarding Transportation Security Administration programs designed to improve the screening process for passengers with disabilities.

"(2) FURTHER ENHANCEMENTS TO EASE AIR TRAVEL FOR WOUNDED WARRIORS AND OTHER DISABLED VETERANS.—Notwithstanding subchapter I of chapter 35 of title 44, United States Code (commonly referred to as the 'Paperwork Reduction Act'), or any other provision of law, the Secretary of Veterans Affairs, in coordination with the Administrator of the Transportation Security Administration, shall—

"(A) engage appropriate veterans service organizations and other relevant organizations, as appropriate, to assess the awareness of veterans of relevant Transportation Security Administration programs; and

"(B) examine the need and feasibility of other measures to improve travel security procedures for disabled veterans.

"(3) BRIEFING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Jan. 4, 2025], the Secretary of Veterans Affairs and the Administrator of the Transportation Security Administration shall jointly provide to the Committee on Homeland Security and the Committee on Veterans' Affairs of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Veterans' Affairs of the Senate a briefing on the status of the implementation of paragraphs (1) and (2)."

[1] *So in original. Probably should be "loss of use".*

§44928. Honor Flight program

The Administrator of the Transportation Security Administration shall establish, in collaboration with the Honor Flight Network or other not-for-profit organization that honors veterans, a process for providing expedited and dignified passenger screening services for veterans traveling on an Honor Flight Network private charter, or such other not-for-profit organization that honors veterans, to visit war memorials built and dedicated to honor the service of such veterans.

(Added Pub. L. 113–221, §2(a), Dec. 16, 2014, 128 Stat. 2094.)

§44929. Donation of screening equipment to protect the United States

(a) IN GENERAL.—Subject to subsection (b), the Administrator is authorized to donate security screening equipment to a foreign last point of departure airport operator if such equipment can be reasonably expected to mitigate a specific vulnerability to the security of the United States or United States citizens.

(b) CONDITIONS.—Before donating any security screening equipment to a foreign last point of departure airport operator the Administrator shall—

(1) ensure that the screening equipment has been restored to commercially available settings;

(2) ensure that no TSA-specific security standards or algorithms exist on the screening equipment; and

(3) verify that the appropriate officials have an adequate system—

(A) to properly maintain and operate the screening equipment; and

(B) to document and track any removal or disposal of the screening equipment to ensure the screening equipment does not come into the possession of terrorists or otherwise pose a risk to security.

(c) REPORTS.—Not later than 30 days before any donation of security screening equipment under subsection (a), the Administrator shall provide to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a detailed written explanation of the following:

(1) The specific vulnerability to the United States or United States citizens that will be mitigated by such donation.

(2) An explanation as to why the recipient of such donation is unable or unwilling to purchase security screening equipment to mitigate such vulnerability.

(3) An evacuation plan for sensitive technologies in case of emergency or instability in the country to which such donation is being made.

(4) How the Administrator will ensure the security screening equipment that is being donated is used and maintained over the course of its life by the recipient.

(5) The total dollar value of such donation.

(6) How the appropriate officials will document and track any removal or disposal of the screening equipment by the recipient to ensure the screening equipment does not come into the possession of terrorists or otherwise pose a risk to security.

(Added Pub. L. 115–254, div. K, title I, §1955(a)(1), Oct. 5, 2018, 132 Stat. 3595.)

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

§44931. Authority to exempt

The Secretary of Homeland Security may grant an exemption from a regulation prescribed in carrying out sections 44901, 44903, 44906, 44909(c), and 44935–44937 of this title when the Secretary decides the exemption is in the public interest.

(Added Pub. L. 115–254, div. K, title I, §1991(j)(1), Oct. 5, 2018, 132 Stat. 3645.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 44931, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1215, related to the Director of Intelligence and Security, prior to repeal by Pub. L. 107–71, title I, §101(f)(6), Nov. 19, 2001, 115 Stat. 603.

§44932. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Homeland Security or the Administrator of the Transportation Security Administration may take action the Secretary or the Administrator considers necessary to carry out this chapter and chapters 461, 463, and 465 of this title, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) INDEMNIFICATION.—The Administrator of the Transportation Security Administration may indemnify an officer or employee of the Transportation Security Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

(Added Pub. L. 115–254, div. K, title I, §1991(j)(1), Oct. 5, 2018, 132 Stat. 3645.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 44932, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1215; Pub. L. 107–71, title I, §110(a), Nov. 19, 2001, 115 Stat. 614, related to the Assistant Administrator for Civil Aviation Security, prior to repeal by Pub. L. 107–71, title I, §101(f)(6), Nov. 19, 2001, 115 Stat. 603.

§44933. Federal Security Managers [1]

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Transportation Security Administration shall establish the position of Federal Security Director at each airport in the United States described in section 44903(c). The Administrator of the Transportation Security Administration shall designate individuals as Federal Security Directors for, and station those Federal Security Directors at, those airports.

(b) DUTIES AND POWERS.—The Federal Security Director at each airport shall—

(1) oversee the screening of passengers and property at the airport; and

(2) carry out other duties prescribed by the Administrator of the Transportation Security Administration.

(c) INFORMATION SHARING.—Not later than 1 year after the date of the enactment of the TSA Modernization Act, the Administrator shall—

(1) require each Federal Security Director of an airport to meet at least quarterly with the airport director, airport security coordinator, and law enforcement agencies serving each such airport to discuss incident management protocols, including the resolution of screening anomalies at passenger screening checkpoints; and

(2) require each Federal Security Director at an airport to inform, consult, and coordinate, as appropriate, with the respective airport security coordinator in a timely manner on security matters impacting airport operations and to establish and maintain operational protocols with such airport operators to ensure coordinated responses to security matters.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1216; Pub. L. 107–71, title I, §§101(f)(4), 103, Nov. 19, 2001, 115 Stat. 603, 605; Pub. L. 115–254, div. K, title I, §§1989(a), 1991(d)(24), Oct. 5, 2018, 132 Stat. 3624, 3637.)

HISTORICAL AND REVISION NOTES

Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44933(a)	49 App.:1358b(a)(1), (2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §319(a); added Nov. 16, 1990, Pub. L. 101–604, §104, 104 Stat. 3070.
44933(b)	49 App.:1358b(a)(3).	
44933(c)	49 App.:1358b(a)(5).	

In subsection (a), the words "Not later than 90 days after November 16, 1990" are omitted as obsolete. The words "The Administrator shall designate individuals as Managers for, and station those Managers at, those airports" are substituted for "and shall begin designating persons as such Managers and stationing such Managers at such airports" for clarity and because of the restatement. The words "and designate a current field employee of the Administration as a Manager" are substituted for "assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly" to eliminate unnecessary words. The words "to the office of" are omitted as unnecessary. The words "Not later than 1 year after November 16, 1990" are omitted as obsolete. The words "Secretary of Transportation" are substituted for "Department of Transportation" because of 49:102.

In subsection (b), before clause (1), the words "The Manager at each airport shall" are substituted for "The responsibilities of a Federal Security Manager shall include the following" to eliminate unnecessary words. In clause (2)(A), the words "air carrier" are substituted for "such air carrier" because this is the first time the term is used in the source provisions. In clause (3), the words "United States Government" are substituted for "Federal" for clarity and consistency in the revised title and with other titles of the United States Code. In clause (7), the words "other Managers" are substituted for "Federal Security Managers at other airports, as appropriate" to eliminate unnecessary words.

In subsection (c), the words "duties and powers" are substituted for "responsibilities" for clarity and consistency in the revised title and with other titles of the Code.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the TSA Modernization Act, referred to in subsec. (c), is the date of the enactment of title I of div. K of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(24)(C), substituted "Administrator of the Transportation Security Administration shall designate" for "Under Secretary shall designate".

Pub. L. 115–254, §1991(d)(24)(A), substituted "Administrator of the Transportation Security Administration shall establish" for "Under Secretary of Transportation for Security shall establish", "Federal Security Director" for "Federal Security Manager", and, in two places, "Federal Security Directors" for "Managers".

Subsec. (b). Pub. L. 115–254, §1991(d)(24)(B), substituted "Federal Security Director" for "Manager" in introductory provisions.

Subsec. (b)(2). Pub. L. 115–254, §1991(d)(24)(C), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (c). Pub. L. 115–254, §1989(a), added subsec. (c).

2001—Pub. L. 107–71, §103, amended section generally, substituting provisions relating to designation, establishment, and stationing procedures and duties and powers for provisions which contained a more detailed listing of responsibilities and a prohibition against a Civil Aviation Security Field Officer being assigned security duties and powers at an airport having a Manager.

Subsec. (a). Pub. L. 107–71, §101(f)(4), substituted "Under Secretary" for "Assistant Administrator for Civil Aviation Security".

[1] *So in original. Probably should be "Directors".*

§44934. Foreign Security Liaison Officers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Transportation Security Administration shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator decides an Officer is necessary for air transportation security. In coordination with the Secretary of State, the Administrator shall designate an Officer for each of those airports. In coordination with the Secretary of State, the Administrator shall designate an Officer for each of those airports where extraordinary security measures are in place. The Secretary of State shall give high priority to stationing those Officers.

(b) DUTIES AND POWERS.—An Officer reports directly to the Administrator of the Transportation Security Administration. The Officer at each airport shall—

(1) serve as the liaison of the Administrator to foreign security authorities (including governments of foreign countries and foreign airport authorities) in carrying out United States Government security requirements at that airport; and

(2) to the extent practicable, carry out duties and powers referred to in section 44933(b) of this title.

(c) COORDINATION OF ACTIVITIES.—The activities of each Officer shall be coordinated with the chief of the diplomatic mission of the United States to which the Officer is assigned. Activities of an Officer under this section shall be consistent with the duties and powers of the Secretary of State and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802) and section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1217; Pub. L. 107–71, title I, §101(f)(4), (5), (7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(25), Oct. 5, 2018, 132 Stat. 3638.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44934(a)	49 App.:1358b(b)(1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §319(b); added Nov. 16, 1990, Pub. L. 101–604, §104, 104 Stat. 3071.
44934(b)	49 App.:1358b(b)(3), (4).	
44934(c)	49 App.:1358b(b)(5).	

In subsection (a), the words "Not later than 90 days after November 16, 1990" are omitted as obsolete. The words "shall designate" are substituted for "shall begin assigning" for consistency with the source provisions restated in section 44933 of the revised title and because of the restatement. The words "Not later than 2 years after November 16, 1990" are omitted as obsolete. The word "designate" is substituted for "assign" for consistency with the source provisions restated in section 44933 of the revised title. The words "outside the United States" are omitted as unnecessary.

In subsection (b), before clause (1), the words "to the office of" are omitted as unnecessary. In clause (1), the words "governments of foreign countries and foreign airport authorities" are substituted for "foreign governments and airport authorities" for clarity and consistency in the revised title and with other titles of the United States Code. In clause (2), the words "duties and powers" are substituted for "responsibilities" for consistency in the revised title and with other titles of the Code.

In subsection (c), the words "duties and powers" are substituted for "authorities" for clarity and consistency in the revised title and with other titles of the Code.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(25)(A), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security", "airports. In coordination with the Secretary of State" for "airports. In coordination with the Secretary", "The Secretary of State shall give high priority" for "The Secretary shall give high priority", and, wherever appearing, "Administrator" for "Under Secretary".

Subsec. (b). Pub. L. 115–254, §1991(d)(25)(B)(i), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" in introductory provisions.

Subsec. (b)(1). Pub. L. 115–254, §1991(d)(25)(B)(ii), substituted "Administrator" for "Under Secretary".

Subsec. (c). Pub. L. 115–254, §1991(d)(25)(C), substituted "the Secretary of State and the chief" for "the Secretary and the chief".

2001—Subsec. (a). Pub. L. 107–71, §101(f)(7), (9), substituted "Under Secretary" for "Administrator" wherever appearing and "of Transportation for Security" for "of the Federal Aviation Administration".

Subsec. (b). Pub. L. 107–71, §101(f)(4), substituted "Under Secretary" for "Assistant Administrator for Civil Aviation Security" in introductory provisions.

Subsec. (b)(1). Pub. L. 107–71, §101(f)(5), substituted "Under Secretary" for "Assistant Administrator".

§44935. Employment standards and training

(a) EMPLOYMENT STANDARDS.—The Administrator shall prescribe standards for the employment and continued employment of, and contracting for, air carrier personnel and, as appropriate, airport security personnel. The standards shall include—

(1) minimum training requirements for new employees;

(2) retraining requirements;

(3) minimum staffing levels;

(4) minimum language skills; and

(5) minimum education levels for employees, when appropriate.

(b) REVIEW AND RECOMMENDATIONS.—In coordination with air carriers, airport operators, and other interested persons, the Administrator shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Administrator shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) SECURITY PROGRAM TRAINING, STANDARDS, AND QUALIFICATIONS.—(1) The Administrator—

(A) may train individuals employed to carry out a security program under section 44903(c) of this title; and

(B) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(2) The Administrator may authorize reimbursement for travel, transportation, and subsistence expenses for security training of non-United States Government domestic and foreign individuals whose services will contribute significantly to carrying out civil aviation security programs. To the extent practicable, air travel reimbursed under this paragraph shall be on air carriers.

(d) EDUCATION AND TRAINING STANDARDS FOR SECURITY COORDINATORS, SUPERVISORY PERSONNEL, AND PILOTS.—(1) The Administrator shall prescribe standards for educating and training—

(A) ground security coordinators;

(B) security supervisory personnel; and

(C) airline pilots as in-flight security coordinators.

(2) The standards shall include initial training, retraining, and continuing education requirements and methods. Those requirements and methods shall be used annually to measure the performance of ground security coordinators and security supervisory personnel.

(e) SECURITY SCREENERS.—

(1) TRAINING PROGRAM.—The Administrator shall establish a program for the hiring and training of security screening personnel.

(2) HIRING.—

(A) QUALIFICATIONS.—The Administrator shall establish qualification standards for individuals to be hired by the United States as security screening personnel. Notwithstanding any other provision of law, those standards shall require, at a minimum, an individual—

(i) to have a satisfactory or better score on a Federal security screening personnel selection examination;

(ii) to be a citizen of the United States or a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(iii) to meet, at a minimum, the requirements set forth in subsection (f);

(iv) to meet such other qualifications as the Administrator may establish; and

(v) to have the ability to demonstrate daily a fitness for duty without any impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(B) BACKGROUND CHECKS.—The Administrator shall require that an individual to be hired as a security screener undergo an employment investigation (including a criminal history record check) under section 44936(a)(1).

(C) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Administrator, in consultation with the heads of other appropriate Federal agencies, shall establish procedures, in addition to any background check conducted under section 44936, to ensure that no individual who presents a threat to national security is employed as a security screener.

(3) EXAMINATION; REVIEW OF EXISTING RULES.—The Administrator shall develop a security screening personnel examination for use in determining the qualification of individuals seeking employment as security screening personnel. The Administrator shall also review, and revise as necessary, any standard, rule, or regulation governing the employment of individuals as security screening personnel.

(f) EMPLOYMENT STANDARDS FOR SCREENING PERSONNEL.—

(1) SCREENER REQUIREMENTS.—Notwithstanding any other provision of law, an individual may not be deployed as a security screener unless that individual meets the following requirements:

(A) The individual shall possess a high school diploma, a general equivalency diploma, or experience that the Administrator has determined to be sufficient for the individual to perform the duties of the position.

(B) The individual shall possess basic aptitudes and physical abilities, including color perception, visual and aural acuity, physical coordination, and motor skills, to the following standards:

(i) Screeners operating screening equipment shall be able to distinguish on the screening equipment monitor the appropriate imaging standard specified by the Administrator.

(ii) Screeners operating any screening equipment shall be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(iii) Screeners shall be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment.

(iv) Screeners performing physical searches or other related operations shall be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subject to security processing.

(v) Screeners who perform pat-downs or hand-held metal detector searches of individuals shall have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(C) The individual shall be able to read, speak, and write English well enough to—

(i) carry out written and oral instructions regarding the proper performance of screening duties;

(ii) read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

(iii) provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

(iv) write incident reports and statements and log entries into security records in the English language.

(D) The individual shall have satisfactorily completed all initial, recurrent, and appropriate specialized training required by the security program, except as provided in paragraph (3).

(2) VETERANS PREFERENCE.—The Administrator shall provide a preference for the hiring of an individual as a security screener if the individual is a member or former member of the armed forces and if the individual is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member of the armed forces.

(3) EXCEPTIONS.—An individual who has not completed the training required by this section may be deployed during the on-the-job portion of training to perform functions if that individual—

(A) is closely supervised; and

(B) does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(4) REMEDIAL TRAINING.—No individual employed as a security screener may perform a screening function after that individual has failed an operational test related to that function until that individual has successfully completed the remedial training specified in the security program.

(5) ANNUAL PROFICIENCY REVIEW.—The Administrator shall provide that an annual evaluation of each individual assigned screening duties is conducted and documented. An individual employed as a security screener may not continue to be employed in that capacity unless the evaluation demonstrates that the individual—

(A) continues to meet all qualifications and standards required to perform a screening function;

(B) has a satisfactory record of performance and attention to duty based on the standards and requirements in the security program; and

(C) demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

(6) OPERATIONAL TESTING.—In addition to the annual proficiency review conducted under paragraph (5), the Administrator shall provide for the operational testing of such personnel.

(g) TRAINING.—

(1) USE OF OTHER AGENCIES.—The Administrator may enter into a memorandum of understanding or other arrangement with any other Federal agency or department with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of security screening personnel.

(2) TRAINING PLAN.—The Administrator shall develop a plan for the training of security screening personnel. The plan shall require, at a minimum, that a security screener—

(A) has completed 40 hours of classroom instruction or successfully completed a program that the Administrator determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction;

(B) has completed 60 hours of on-the-job instructions; and

(C) has successfully completed an on-the-job training examination prescribed by the Administrator.

(3) EQUIPMENT-SPECIFIC TRAINING.—An individual employed as a security screener may not use any security screening device or equipment in the scope of that individual's employment unless the individual has been trained on that device or equipment and has successfully completed a test on the use of the device or equipment.

(h) TECHNOLOGICAL TRAINING.—
(1) IN GENERAL.—The Administrator shall require training to ensure that screeners are proficient in using the most up-to-date new technology and to ensure their proficiency in recognizing new threats and weapons.
(2) PERIODIC ASSESSMENTS.—The Administrator shall make periodic assessments to determine if there are dual use items and inform security screening personnel of the existence of such items.
(3) CURRENT LISTS OF DUAL USE ITEMS.—Current lists of dual use items shall be part of the ongoing training for screeners.
(4) DUAL USE DEFINED.—For purposes of this subsection, the term "dual use" item means an item that may seem harmless but that may be used as a weapon.

(i) LIMITATION ON RIGHT TO STRIKE.—An individual that screens passengers or property, or both, at an airport under this section may not participate in a strike, or assert the right to strike, against the person (including a governmental entity) employing such individual to perform such screening.
(j) UNIFORMS.—The Administrator shall require any individual who screens passengers and property pursuant to section 44901 to be attired while on duty in a uniform approved by the Administrator.
(k) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—The Administrator shall work with air carriers and airports to ensure that computer-based training facilities intended for use by security screeners at an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation are conveniently located for that airport and easily accessible.
(l) [1] INITIAL AND RECURRING TRAINING.—
(1) IN GENERAL.—The Administrator shall establish a training program for new security screening personnel located at the Transportation Security Administration Academy.
(2) RECURRING TRAINING.—
(A) IN GENERAL.—Not later than 180 days after the date of enactment of the TSA Modernization Act, the Administrator shall establish recurring training for security screening personnel regarding updates to screening procedures and technologies, including, in response to weaknesses identified in covert tests at airports—
(i) methods to identify the verification of false or fraudulent travel documents; and
(ii) training on emerging threats.

(B) CONTENTS.—The training under subparagraph (A) shall include—
(i) internal controls for monitoring and documenting compliance of transportation security officers with such training requirements; and
(ii) such other matters as identified by the Administrator with regard to such training.

(l) [1] DEFINITION OF ADMINISTRATOR.—In this section, the term "Administrator" means the Administrator of the Transportation Security Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1217; Pub. L. 106–528, §3, Nov. 22, 2000, 114 Stat. 2519; Pub. L. 107–71, title I, §§101(f)(7), (9), 111(a), Nov. 19, 2001, 115 Stat. 603, 616; Pub. L. 107–296, title XVI, §1603, Nov. 25, 2002, 116 Stat. 2313; Pub. L. 115–254, div. K, title I, §§1948(a), 1991(d)(26), Oct. 5, 2018, 132 Stat. 3587, 3638.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44935(a)	49 App.:1357(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(h)–(j); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3073.
44935(b)	49 App.:1357(i).	
44935(c)	49 App.:1357(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(c); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 416; Oct. 31, 1992, Pub. L. 102–581, §202, 106 Stat. 4890.
44935(d)	49 App.:1357(j).	

In subsection (a), before clause (1), the words "Not later than 270 days after November 16, 1990" are omitted as obsolete. The words "contracting for" are substituted for "contracting of" for clarity and consistency in the revised title.

In subsection (c)(1)(A), the words "individuals employed" are substituted for "personnel employed by him . . . and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (c)(1)(B), the words "individuals eligible" are substituted for "personnel whose services are utilized to enforce any such transportation security program, including State, local, and private law enforcement personnel . . . for personnel eligible" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the words "under this section" are omitted as unnecessary. The words "United States" before "air carriers" are omitted because of the definition of "air carrier" in section 40102(a) of the revised title.

In subsection (d)(1), before clause (A), the words "Not later than 180 days after November 16, 1990" are omitted as obsolete.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the TSA Modernization Act, referred to in subsec. (l)(2)(A), is the date of enactment of title I of div. K of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(26)(E), substituted "Administrator" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(26)(A), substituted "Administrator" for "Under Secretary of Transportation for Security" in introductory provisions.

Subsec. (e)(1). Pub. L. 115–254, §1991(d)(26)(B)(i), substituted "Administrator" for "Under Secretary of Transportation for Security".

Subsec. (e)(2)(A). Pub. L. 115–254, §1991(d)(26)(B)(ii)(I), in introductory provisions, substituted "The" for "Within 30 days after the date of enactment of the Aviation and Transportation Security Act, the" and inserted "other" before "provision of law".

Subsec. (e)(2)(A)(ii). Pub. L. 115–254, §1991(d)(26)(B)(ii)(II), which directed substitution of "section 101(a)(22)" for "section 1102(a)(22)", was executed by making the substitution for "section 1101(a)(22)", to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 115–254, §1991(d)(26)(C), inserted "other" before "provision of law" in introductory provisions.

Subsec. (g)(2). Pub. L. 115–254, §1991(d)(26)(D), substituted "The" for "Within 60 days after the date of enactment of the Aviation and Transportation Security Act, the" in introductory provisions.

Subsec. (k). Pub. L. 115–254, §1948(a)(1), which directed the redesignation of subsec. (i) relating to accessibility of computer-based training facilities as (k) by substituting "(k) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—" for "(i) ACCESSIBILITY OF COMPUTER-BASED

TRAINING FACILITIES.—", was executed by making the substitution for "(i) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—" to reflect the probable intent of Congress.

Subsec. (l). Pub. L. 115–254, §1991(d)(26)(F), added subsec. (l) defining "Administrator".

Pub. L. 115–254, §1948(a)(2), added subsec. (l) relating to initial and recurring training.

2002—Subsec. (e)(2)(A)(ii). Pub. L. 107–296 substituted "citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))" for "citizen of the United States".

2001—Subsec. (a). Pub. L. 107–71, §101(f)(7), (9), substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration" in introductory provisions.

Subsec. (b). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in two places.

Subsec. (c). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory provisions of par. (1) and in par. (2).

Subsec. (d)(1). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory provisions.

Subsec. (e). Pub. L. 107–71, §111(a)(2), added subsec. (e) and struck out former subsec. (e) which established training standards for screeners.

Subsec. (f). Pub. L. 107–71, §111(a)(2), added subsec. (f). Former subsec. (f) redesignated (i).

Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsecs. (g), (h). Pub. L. 107–71, §111(a)(2), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 107–71, §111(a)(2), added subsec. (i) relating to limitation on right to strike.

Pub. L. 107–71, §111(a)(1), redesignated subsec. (f) as (i) relating to accessibility of computer-based training facilities.

Subsec. (j). Pub. L. 107–71, §111(a)(2), added subsec. (j).

2000—Subsecs. (e), (f). Pub. L. 106–528 added subsecs. (e) and (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

TRANSITION

Pub. L. 107–71, title I, §111(c), Nov. 19, 2001, 115 Stat. 620, provided that: "The Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] shall complete the full implementation of section 44935 (e), (f), (g), and (h) of title 49, United States Code, as amended by subsection (a), as soon as is practicable. The Under Secretary may make or continue such arrangements for the training of security screeners under that section as the Under Secretary determines necessary pending full implementation of that section as so amended."

IMPROVEMENT OF SCREENER JOB PERFORMANCE

Pub. L. 108–458, title IV, §4015, Dec. 17, 2004, 118 Stat. 3720, provided that:

"(a) REQUIRED ACTION.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to improve the job performance of airport screening personnel.

"(b) HUMAN FACTORS STUDY.—In carrying out this section, the Assistant Secretary shall provide, not later than 180 days after the date of the enactment of this Act [Dec. 17, 2004], to the appropriate congressional committees a report on the results of any human factors study conducted by the Department of Homeland Security to better understand problems in screener performance and to improve screener performance."

[For definitions of "airport" and "appropriate congressional committees" used in section 4015 of Pub. L. 108–458, set out above, see section 4081 of Pub. L. 108–458, set out as a note under section 44901 of this title.]

SCREENER PERSONNEL

Pub. L. 107–71, title I, §111(d), Nov. 19, 2001, 115 Stat. 620, as amended by Pub. L. 112–171, §1(a), Aug.

16, 2012, 126 Stat. 1306; Pub. L. 116–92, div. F, title LXXVI, §7606, Dec. 20, 2019, 133 Stat. 2309, provided that:

"(1) GENERAL AUTHORITY.—Except as provided in paragraph (2), and notwithstanding any other provision of law, the Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed.

"(2) EXCEPTIONS.—

"(A) REEMPLOYMENT.—In carrying out the functions authorized under paragraph (1), the Under Secretary shall be subject to the provisions set forth in chapter 43 of title 38, United States Code.

"(B) LEAVE.—The provisions of subchapter V of chapter 63 of title 5, United States Code, shall apply to any individual appointed under paragraph (1) as if such individual were an employee (within the meaning of subparagraph (A) of section 6381(1) of such title)."

[Pub. L. 112–171, §1(b), Aug. 16, 2012, 126 Stat. 1306, provided that: "The amendments made by subsection (a) [amending section 111(d) of Pub. L. 107–71, set out above] shall take effect on the date that is 270 days after the date of the enactment of this Act [Aug. 16, 2012]."]

CERTIFICATION OF SCREENING COMPANIES

Pub. L. 104–264, title III, §302, Oct. 9, 1996, 110 Stat. 3250, which provided that the Administrator of the Federal Aviation Administration was to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services, was repealed by Pub. L. 118–63, title II, §218(g), May 16, 2024, 138 Stat. 1056.

STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING

Pub. L. 104–264, title V, §503, Oct. 9, 1996, 110 Stat. 3263, provided that the Administrator of the Federal Aviation Administration would appoint a task force consisting of appropriate representatives of the aviation industry to study the development of standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of applicants for employment as a pilot by an air carrier, the standards and criteria for pilot training facilities to be licensed by the Administrator, and to determine if the practice of some air carriers to require employees or prospective employees to pay for necessary training or experience was in the public interest; and provided that, not later than 1 year after Oct. 9, 1996, the Administrator would send Congress a report on the results of the studies.

STUDY OF MINIMUM FLIGHT TIME

Pub. L. 104–264, title V, §504, Oct. 9, 1996, 110 Stat. 3263, required the Administrator of the Federal Aviation Administration to conduct a study to determine the sufficiency of existing minimum flight time requirements for individuals seeking employment as pilots with air carriers and to report to Congress on the study results not later than 1 year after Oct. 9, 1996.

[1] *So in original. Two subsecs. (l) have been enacted.*

§44936. Employment investigations and restrictions

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—(1)(A) The Administrator shall require by regulation that an employment investigation, including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Administrator, shall be conducted of each individual employed in, or applying for, a position as a security screener under section 44935(e) or a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

(i) aircraft of an air carrier or foreign air carrier; or

(ii) a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Administrator) be conducted for—

(i) individuals who are responsible for screening passengers or property under section 44901 of this title;

(ii) supervisors of the individuals described in clause (i);

(iii) individuals who regularly have escorted access to aircraft of an air carrier or foreign air carrier or a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier; and

(iv) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

(C) EXEMPTION.—An employment investigation, including a criminal history record check, shall not be required under this subsection for an individual who is exempted under section 107.31(m)(1) or (2) of title 14, Code of Federal Regulations, as in effect on November 22, 2000. The Administrator shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security.

(2) An air carrier, foreign air carrier, airport operator, or government that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

(3) The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, airport operator, or government may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted (or found not guilty by reason of insanity) of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;

(xi) armed or felony unarmed robbery;

(xii) distribution of, or intent to distribute, a controlled substance;

(xiii) a felony involving a threat;

(xiv) a felony involving—

(I) willful destruction of property;

(II) importation or manufacture of a controlled substance;

(III) burglary;

(IV) theft;

(V) dishonesty, fraud, or misrepresentation;
(VI) possession or distribution of stolen property;
(VII) aggravated assault;
(VIII) bribery; and
(IX) illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year, or any other crime classified as a felony that the Administrator determines indicates a propensity for placing contraband aboard an aircraft in return for money; or

(xv) conspiracy to commit any of the acts referred to in clauses (i) through (xiv).

(2) The Administrator may specify other factors that are sufficient to prohibit the employment of an individual in a position described in subsection (a)(1) of this section.

(3) An air carrier, foreign air carrier, airport operator, or government may employ, or authorize or contract for the services of, an individual in a position described in subsection (a)(1) of this section without carrying out the investigation required under this section, if the Administrator approves a plan to employ the individual that provides alternate security arrangements.

(c) FINGERPRINTING AND RECORD CHECK INFORMATION.—(1) If the Administrator requires an identification and criminal history record check, to be conducted by the Attorney General, as part of an investigation under this section, the Administrator shall designate an individual to obtain fingerprints and submit those fingerprints to the Attorney General. The Attorney General may make the results of a check available to an individual the Administrator designates. Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General. All Federal agencies shall cooperate with the Administrator and the Administrator's designee in the process of collecting and submitting fingerprints.

(2) The Administrator shall prescribe regulations on—
(A) procedures for taking fingerprints; and
(B) requirements for using information received from the Attorney General under paragraph (1) of this subsection—
(i) to limit the dissemination of the information; and
(ii) to ensure that the information is used only to carry out this section.

(3) If an identification and criminal history record check is conducted as part of an investigation of an individual under this section, the individual—
(A) shall receive a copy of any record received from the Attorney General; and
(B) may complete and correct the information contained in the check before a final employment decision is made based on the check.

(d) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to pay expenses incurred in carrying out this section. The employer of the individual being investigated shall pay the costs of a record check of the individual. Money collected under this section shall be credited to the account in the Treasury from which the expenses were incurred and are available to the Administrator and the Attorney General for those expenses.

(e) WHEN INVESTIGATION OR RECORD CHECK NOT REQUIRED.—This section does not require an investigation or record check when the investigation or record check is prohibited by a law of a foreign country.

(f) DEFINITION OF ADMINISTRATOR.—In this section, the term "Administrator" means the Administrator of the Transportation Security Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1218; Pub. L. 104–264, title III, §§304(a), 306, title V, §502(a), Oct. 9, 1996, 110 Stat. 3251, 3252, 3259; Pub. L. 105–102, §2(25), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–142, §1, Dec. 5, 1997, 111 Stat. 2650; Pub. L. 106–181, title V, §508, Apr. 5, 2000, 114 Stat. 140; Pub. L. 106–528, §2(c), (d), Nov. 22, 2000, 114 Stat. 2517, 2518; Pub. L.

107–71, title I, §§101(f)(7), (9), 111(b), 138(a), (b)(1), 140(a)(1), Nov. 19, 2001, 115 Stat. 603, 620, 639–641; Pub. L. 115–254, div. K, title I, §1991(d)(27), Oct. 5, 2018, 132 Stat. 3638.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44936(a)	49 App.:1357(g)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(g); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3071.
	49 App.:1357 (note).	Oct. 28, 1991, Pub. L. 102–143, §346, 105 Stat. 949.
44936(b)	49 App.:1357(g)(3).	
44936(c)	49 App.:1357(g)(2) (less (A) (2d sentence)).	
44936(d)	49 App.:1357(g)(2)(A) (2d sentence), (5).	
44936(e)	49 App.:1357(g)(4).	

In subsection (a), the text of section 346 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 949) is omitted as executed.

In subsection (a)(2), the words "shall ensure" are substituted for "shall take such actions as may be necessary to ensure" to eliminate unnecessary words. The word "conducted" is substituted for "performed" for consistency in the revised title.

In subsection (b)(2), the words "The Administrator may specify" are substituted for "The Administrator may specify . . . the Administrator determines" to eliminate unnecessary words. The words "prohibit the employment of an individual" are substituted for "make an individual ineligible for employment" for clarity.

In subsection (b)(3), the words "may employ" are substituted for "It shall not be a violation of subparagraph (A) for . . . to employ" to eliminate unnecessary words.

In subsection (c)(1), the words "Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General" are substituted for "after consultation with the Attorney General" for clarity.

In subsection (c)(2), before clause (A), the words "For purposes of administering this subsection" are omitted as unnecessary. In clause (A), the word "implement" is omitted as unnecessary because of the restatement. In clause (B), before subclause (ii), the word "establish" is omitted as unnecessary because of the restatement. In subclause (ii), the words "to carry out this section" are substituted for "for the purposes of this section" for clarity.

In subsection (e), the words "a law of a foreign country" are substituted for "applicable laws of a foreign government" for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 105–102

This amends 49:44936(f)(1)(C) to reflect the redesignation of 49:30305(b)(7) as 49:30305(b)(8) by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908).

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(27)(C), substituted "Administrator" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(27)(A)(i), which directed substitution of "Administrator" for "Under Secretary of Transportation for Security" wherever appearing, was executed by making the substitution for "Under Secretary of Transportation for Security" before "shall require" and for "Under Secretary of Transportation for Transportation Security" after "determined practicable by the" in two places, to reflect the probable intent of Congress.

Subsec. (a)(1)(A). Pub. L. 115–254, §1991(d)(27)(A)(ii)(I), substituted ", shall be conducted" for ",, shall be conducted" in introductory provisions.

Subsec. (a)(1)(C), (D). Pub. L. 115–254, §1991(d)(27)(A)(ii)(II), (iii), redesignated subpar. (D) as (C) and struck out former subpar. (C) which related to background checks of current employees.

Subsec. (c)(1). Pub. L. 115–254, §1991(d)(27)(B), substituted "Administrator's" for "Under Secretary's".

Subsec. (f). Pub. L. 115–254, §1991(d)(27)(D), added subsec. (f).

2001—Subsec. (a)(1)(A). Pub. L. 107–71, §138(a)(1), inserted "and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security," after "record check" in introductory provisions.

Pub. L. 107–71, §111(b)(1), inserted "as a security screener under section 44935(e) or a position" after "a position" in introductory provisions.

Pub. L. 107–71, §101(f)(7), (9), in introductory provisions, substituted "Under Secretary" for "Administrator" and "of Transportation for Security" for "of the Federal Aviation Administration".

Subsec. (a)(1)(A)(ii). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (a)(1)(B). Pub. L. 107–71, §138(a)(2), in introductory provisions, substituted "and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security" for "in any case described in subparagraph (C)".

Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory provisions.

Subsec. (a)(1)(B)(i). Pub. L. 107–71, §138(a)(3), substituted "are" for "will be".

Subsec. (a)(1)(B)(ii). Pub. L. 107–71, §138(a)(4), struck out "and" after semicolon.

Subsec. (a)(1)(B)(iii). Pub. L. 107–71, §138(a)(6), added cl. (iii). Former cl. (iii) redesignated (iv).

Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (a)(1)(B)(iv). Pub. L. 107–71, §138(a)(5), redesignated cl. (iii) as (iv).

Subsec. (a)(1)(C). Pub. L. 107–71, §138(a)(7), (8), added subpar. (C) and struck out former subpar (C) which related to criminal history record checks.

Subsec. (a)(1)(D). Pub. L. 107–71, §138(a)(7), (9), (10), redesignated subpar. (F) as (D), substituted "107.31(m)(1) or (2)" for "107.31(m)" and "November 22, 2000. The Under Secretary shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security" for "the date of enactment of this subparagraph" and struck out former subpar. (D) which allowed a supervised employee to remain in position until completion of record check.

Subsec. (a)(1)(E). Pub. L. 107–71, §138(a)(7), struck out subpar. (E) which related to criminal history record checks for screeners and others.

Subsec. (a)(1)(E)(iv). Pub. L. 107–71, §111(b)(2), struck out cl. (iv) which related to effective dates for subpar. (E).

Subsec. (a)(1)(F). Pub. L. 107–71, §138(a)(7), redesignated subpar. (F) as (D).

Subsec. (a)(2). Pub. L. 107–71, §§107(f)(7), 138(a)(11), substituted "carrier, airport operator, or government" for "carrier, or airport operator" and "Under Secretary" for "Administrator".

Subsec. (a)(3). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (b)(1). Pub. L. 107–71, §138(a)(12), substituted "carrier, airport operator, or government" for "carrier, or airport operator" in introductory provisions.

Subsec. (b)(1)(B)(xiv)(IX). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (b)(2). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (b)(3). Pub. L. 107–71, §§101(f)(7), 138(a)(13), substituted "carrier, airport operator, or government" for "carrier, or airport operator" and "Under Secretary" for "Administrator".

Subsec. (c)(1). Pub. L. 107–71, §138(a)(14), inserted at end "All Federal agencies shall cooperate with the Under Secretary and the Under Secretary's designee in the process of collecting and submitting fingerprints."

Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" wherever appearing.

Subsec. (c)(2). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory provisions.

Subsec. (d). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in two places.

Subsecs. (f) to (h). Pub. L. 107–71, §§138(b)(1), 140(a)(1), amended section identically, redesignating subsecs. (f) to (h) as (h) to (j), respectively, of section 44703 of this title.

2000—Subsec. (a)(1)(A). Pub. L. 106–528, §2(c)(1), in introductory provisions, struck out ", as the Administrator decides is necessary to ensure air transportation security," after "shall be conducted".

Subsec. (a)(1)(C)(v). Pub. L. 106–181, §508(a), added cl. (v).

Subsec. (a)(1)(D). Pub. L. 106–528, §2(c)(2), substituted "in the position for which the individual applied" for "as a screener".

Subsec. (a)(1)(E), (F). Pub. L. 106–528, §2(c)(3), added subpars. (E) and (F).

Subsec. (b)(1)(B). Pub. L. 106–528, §2(d)(1), inserted "(or found not guilty by reason of insanity)" after "convicted" in introductory provisions.

Subsec. (b)(1)(B)(xi). Pub. L. 106–528, §2(d)(2), inserted "or felony unarmed" after "armed".

Subsec. (b)(1)(B)(xiii) to (xv). Pub. L. 106–528, §2(d)(3)–(5), added cls. (xiii) and (xiv), redesignated former cl. (xiii) as (xv), and in cl. (xv) substituted "clauses (i) through (xiv)" for "clauses (i)–(xii) of this paragraph".

Subsec. (f)(1)(B). Pub. L. 106–181, §508(b)(1), inserted "(except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces)" after "other person" in introductory provisions.

Subsec. (f)(1)(B)(ii). Pub. L. 106–181, §508(b)(2), substituted "individual's performance as a pilot" for "individual" in introductory provisions.

Subsec. (f)(5). Pub. L. 106–181, §508(b)(3), inserted before period at end of first sentence "; except that, for purposes of paragraph (15), the Administrator may allow an individual designated by the Administrator to accept and maintain written consent on behalf of the Administrator for records requested under paragraph (1)(A)".

Subsec. (f)(13). Pub. L. 106–181, §508(b)(4)(A), substituted "shall" for "may" in introductory provisions.

Subsec. (f)(13)(A)(i). Pub. L. 106–181, §508(b)(4)(B), inserted "and disseminated under paragraph (15)" after "requested under paragraph (1)".

Subsec. (f)(14)(B). Pub. L. 106–181, §508(b)(5), inserted "or from a foreign government or entity that employed the individual" after "exists".

Subsec. (f)(15). Pub. L. 106–181, §508(b)(6), added par. (15).

1997—Subsec. (f)(1). Pub. L. 105–142, §1(1), substituted "Subject to paragraph (14), before allowing an individual to begin service" for "Before hiring an individual" in introductory provisions.

Subsec. (f)(1)(B). Pub. L. 105–142, §1(2), inserted "as a pilot of a civil or public aircraft" before "at any time" in introductory provisions.

Subsec. (f)(1)(C). Pub. L. 105–102 substituted "section 30305(b)(8) of this title" for "section 30305(b)(7)".

Subsec. (f)(4). Pub. L. 105–142, §1(3), inserted "and air carriers" after "Administrator" and substituted "paragraphs (1)(A) and (1)(B)" for "paragraph (1)(A)".

Subsec. (f)(5). Pub. L. 105–142, §1(4), substituted "this subsection" for "this paragraph".

Subsec. (f)(10). Pub. L. 105–142, §1(5), inserted "who is or has been" before "employed" and ", but not later than 30 days after the date" after "reasonable time".

Subsec. (f)(14). Pub. L. 105–142, §1(6), added par. (14).

1996—Subsec. (a)(1). Pub. L. 104–264, §304(a), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) of par. (1) as cls. (i) and (ii) of subpar. (A), respectively, and added subpars. (B) to (D).

Subsec. (a)(3). Pub. L. 104–264, §306, added par. (3).

Subsecs. (f) to (h). Pub. L. 104–264, §502(a), added subsecs. (f) to (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–264, title III, §304(b), Oct. 9, 1996, 110 Stat. 3252, provided that: "The amendment made by subsection (a)(3) [amending this section] shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act [Oct. 9, 1996]; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act."

Amendment by section 502(a) of Pub. L. 104–264 applicable to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following Oct. 9, 1996, see

section 502(d) of Pub. L. 104–264, set out as a note under section 30305 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

CRIMINAL HISTORY RECORD CHECKS

Pub. L. 106–528, §2(a), (b), Nov. 22, 2000, 114 Stat. 2517, provided that:

"(a) EXPANSION OF FAA ELECTRONIC PILOT PROGRAM.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 22, 2000], the Administrator of the Federal Aviation Administration shall develop, in consultation with the Office of Personnel Management and the Federal Bureau of Investigation, the pilot program for individual criminal history record checks (known as the electronic fingerprint transmission pilot project) into an aviation industry-wide program.

"(2) LIMITATION.—The Administrator shall not require any airport, air carrier, or screening company to participate in the program described in subsection (a) if the airport, air carrier, or screening company determines that it would not be cost effective for it to participate in the program and notifies the Administrator of that determination.

"(b) APPLICATION OF EXPANDED PROGRAM.—

"(1) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 22, 2000], the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the status of the Administrator's efforts to utilize the program described in subsection (a).

"(2) NOTIFICATION CONCERNING SUFFICIENCY OF OPERATION.—If the Administrator determines that the program described in subsection (a) is not sufficiently operational 2 years after the date of enactment of this Act to permit its utilization in accordance with subsection (a), the Administrator shall notify the committees referred to in paragraph (1) of that determination."

§44937. Prohibition on transferring duties and powers

Except as specifically provided by law, the Administrator of the Transportation Security Administration may not transfer a duty or power under section 44903(a), (b), (c), or (e), 44906, 44912, 44935, 44936, or 44938(b)(3) of this title to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1219; Pub. L. 103–429, §6(57), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(28), Oct. 5, 2018, 132 Stat. 3639.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44937	49 App.:1357(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(e)(1); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 417.

The word "otherwise" is omitted as surplus. The word "assigned" is omitted as being included in "transfer". The word "function" is omitted as being included in "duty or power". The words "department, agency, or instrumentality of the United States Government" are substituted for "Federal department or agency" for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:44937 to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1219).

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254 substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

2001—Pub. L. 107–71 substituted "Under Secretary of Transportation for Security" for "Administrator of the Federal Aviation Administration".

1994—Pub. L. 103–429 substituted "44906" for "44906(a)(1) or (b)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§44938. Reports

(a) TRANSPORTATION SECURITY.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit to Congress a report on transportation security with recommendations the Secretary considers appropriate. The report shall be prepared in conjunction with the biennial report the Administrator of the Transportation Security Administration submits under subsection (b) of this section in each year the Administrator of the Transportation Security Administration submits the biennial report, but may not duplicate the information submitted under subsection (b) or section 44907(a)(3) of this title. The Secretary may submit the report in classified and unclassified parts. The report shall include—

(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

(2) an evaluation of deployment of explosive detection devices;

(3) recommendations for research, engineering, and development activities related to transportation security, except research engineering and development activities related to aviation security to the extent those activities are covered by the national aviation research plan required under section 44501(c) of this title;

(4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the United States Government;

(5) an evaluation of cooperation with foreign transportation and security authorities;

(6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out those recommendations;

(7) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of the report;

(8) financial and staffing requirements of the Director;

(9) an assessment of financial and staffing requirements, and attainment of existing staffing goals, for carrying out duties and powers of the Administrator of the Transportation Security Administration related to security; and

(10) appropriate legislative and regulatory recommendations.

(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY.—The Administrator of the Transportation Security Administration shall submit biennially to Congress a report—

(1) on the effectiveness of procedures under section 44901 of this title;

(2) that includes a summary of the assessments conducted under section 44907(a)(1) and (2) of this title; and

(3) that includes an assessment of the steps being taken, and the progress being made, in ensuring compliance with section 44906 of this title for each foreign air carrier security program at airports outside the United States—

(A) at which the Administrator of the Transportation Security Administration decides that Foreign Security Liaison Officers are necessary for air transportation security; and

(B) for which extraordinary security measures are in place.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1220; Pub. L. 103–305, title V, §502, Aug. 23, 1994, 108 Stat. 1595; Pub. L. 105–362, title XV, §1502(b), Nov. 10, 1998, 112 Stat. 3295; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(29), Oct. 5, 2018, 132 Stat. 3639.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44938(a)	49 App.:1356(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §315(b); added Nov. 16, 1990, Pub. L. 101–604, §102(a), 104 Stat. 3068.
44938(b)(1), (2)	49 App.:1356(a) (3d sentence 1st–18th words, last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §315(a) (3d sentence 1st–18th words, last sentence); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, §551(b)(1), 99 Stat. 225; Nov. 16, 1990, Pub. L. 101–604, §102(b), 104 Stat. 3069.
44938(b)(3)	49 App.:1357(k)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(k)(4); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3074.
44938(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §106(d), 104 Stat. 3075.

In subsection (a), before clause (1), the words "each year" are substituted for "of calendar year 1991 and of each calendar year thereafter" to eliminate unnecessary words. In clauses (8) and (9), the word "financial" is substituted for "funding" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word "screening" is omitted as surplus.

In subsection (b)(2), the words "a summary of the assessments conducted under section 44907(a)(1) and (2) of this title" are substituted for "the information described in section 1515(c) of this Appendix" for clarity.

In subsection (b)(3), before clause (A), the words "that includes" are substituted for "The Administrator shall submit to Congress as part of the annual report required by section 315(a)" because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(29)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(d)(29)(A), substituted "Secretary of Homeland Security" for "Secretary of Transportation" and "Administrator of the Transportation Security Administration submits under subsection (b)" for "Under Secretary of Transportation for Security submits under subsection (b)" in introductory provisions.

2001—Subsec. (a). Pub. L. 107–71, §101(f)(7), (9), in introductory provisions, substituted "Under Secretary" for "Administrator" in two places and "of Transportation for Security" for "of the Federal Aviation Administration".

Subsec. (a)(9). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator".

Subsec. (b). Pub. L. 107–71, §101(f)(7), substituted "Under Secretary" for "Administrator" in introductory

provisions and par. (3)(A).

1998—Subsec. (a). Pub. L. 105–362, §1502(b)(1), in second sentence of introductory provisions, substituted "biennial report" for "annual report" and inserted "in each year the Administrator submits the biennial report" after "subsection (b) of this section".

Subsec. (b). Pub. L. 105–362, §1502(b)(2), substituted "biennially" for "annually" in introductory provisions.

Subsec. (c). Pub. L. 105–362, §1502(b)(3), struck out heading and text of subsec. (c). Text read as follows: "The Administrator shall submit to Congress an annual report for each of the calendar years 1991 and 1992 on the progress being made, and the problems occurring, in carrying out section 44904 of this title. The report shall include recommendations for improving domestic air transportation security."

1994—Subsec. (a). Pub. L. 103–305 substituted "March 31" for "December 31".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 8th item on page 132 and the 11th item on page 138 identify reporting provisions which, as subsequently amended, are contained, respectively, in subsecs. (a) and (b)(1), (2) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§44939. Training to operate certain aircraft

(a) WAITING PERIOD.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if—

(1) that person has first notified the Secretary that the alien or individual has requested such training and submitted to the Secretary, in such form as the Secretary may prescribe, the following information about the alien or individual:

(A) full name, including any aliases used by the applicant or variations in spelling of the applicant's name;

(B) passport and visa information;

(C) country of citizenship;

(D) date of birth;

(E) dates of training; and

(F) fingerprints collected by, or under the supervision of, a Federal, State, or local law enforcement agency or by another entity approved by the Federal Bureau of Investigation or the Secretary of Homeland Security, including fingerprints taken by United States Government personnel at a United States embassy or consulate; and

(2) the Secretary has not directed, within 30 days after being notified under paragraph (1), that person not to provide the requested training because the Secretary has determined that the individual presents a risk to aviation or national security.

(b) INTERRUPTION OF TRAINING.—If the Secretary of Homeland Security, more than 30 days after receiving notification under subsection (a) from a person providing training described in subsection (a), determines that the individual presents a risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

(c) NOTIFICATION.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to an alien (as defined in

section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if that person has notified the Secretary that the individual has requested such training and furnished the Secretary with that individual's identification in such form as the Secretary may require.

(d) EXPEDITED PROCESSING.—The Secretary of Homeland Security shall establish a process to ensure that the waiting period under subsection (a) shall not exceed 5 days for an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

(1) holds an airman's certification of a foreign country that is recognized by an agency of the United States, including a military agency, that permits an individual to operate a multi-engine aircraft that has a certificated takeoff weight of more than 12,500 pounds;

(2) is employed by a foreign air carrier that is certified under part 129 of title 14, Code of Federal Regulations, and that has a security program approved under section 1546 of title 49, Code of Federal Regulations;

(3) is an individual that has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii); or

(4) is an individual that is part of a class of individuals that the Secretary has determined that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals.

(e) TRAINING.—In subsection (a), the term "training" means training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes.

(f) NONAPPLICABILITY TO CERTAIN FOREIGN MILITARY PILOTS.—The procedures and processes required by subsections (a) through (d) shall not apply to a foreign military pilot endorsed by the Department of Defense for flight training in the United States and seeking training described in subsection (e) in the United States.

(g) FEE.—

(1) IN GENERAL.—The Secretary of Homeland Security may assess a fee for an investigation under this section, which may not exceed $100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

(2) OFFSET.—Notwithstanding section 3302 of title 31, any fee collected under this section—

(A) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Secretary for those expenses; and

(B) shall remain available until expended.

(h) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Secretary in implementing this section.

(i) SECURITY AWARENESS TRAINING FOR EMPLOYEES.—The Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.

(Added Pub. L. 107–71, title I, §113(a), Nov. 19, 2001, 115 Stat. 622; amended Pub. L. 108–176, title VI, §612(a), Dec. 12, 2003, 117 Stat. 2572; Pub. L. 115–254, div. K, title I, §1991(d)(30), Oct. 5, 2018, 132 Stat. 3639.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–254 substituted "The Secretary of Homeland Security" for "Not later than 60 days after the date of enactment of this section, the Secretary" in introductory provisions.

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) relating to waiting period for training, interruption of training, covered training, and security awareness training for employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title VI, §612(c), Dec. 12, 2003, 117 Stat. 2574, provided that: "The amendment made by subsection (a) [amending this section] takes effect on the effective date of the interim final rule required by subsection (b)(1) [set out below] [rule effective Sept. 20, 2004, see 69 F.R. 56323]."

EFFECTIVE DATE

Pub. L. 107–71, title I, §113(d), Nov. 19, 2001, 115 Stat. 622, provided that: "The amendment made by subsection (a) [enacting this section] applies to applications for training received after the date of enactment of this Act [Nov. 19, 2001]."

FLIGHT INSTRUCTOR CERTIFICATES

Pub. L. 118–63, title VIII, §820, May 16, 2024, 138 Stat. 1330, provided that: "Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall issue a final rule for the rulemaking activity titled 'Removal of the Expiration Date on a Flight Instructor Certificate', published in Fall 2022 in the Unified Agenda of Federal Regulatory and Deregulatory Actions (RIN 2120–AL25) to, at a minimum, update part 61 of title 14, Code of Federal Regulations, to—

"(1) remove the expiration date on a flight instructor certificate; and

"(2) replace the requirement that a flight instructor renews their flight instructor certificate with appropriate recent experience requirements for the holder of a flight instructor certificate to exercise the privileges of such certificate."

IMPLEMENTATION

Pub. L. 108–176, title VI, §612(b), Dec. 12, 2003, 117 Stat. 2574, provided that:

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Dec. 12, 2003], the Secretary of Homeland Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

"(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Secretary or other agency designated by the Secretary. The Attorney General and the Secretary of State shall cooperate with the Secretary of Homeland Security in carrying out this paragraph.

"(3) USE OF UNITED STATES FACILITIES.—If the Secretary of Homeland Security requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section."

REPORT

Pub. L. 108–176, title VI, §612(d), Dec. 12, 2003, 117 Stat. 2574, provided that, not later than 1 year after Dec. 12, 2003, the Secretary of Homeland Security would submit to Congress a report on the effectiveness of the activities carried out under this section in reducing risks to aviation and national security.

INTERNATIONAL COOPERATION

Pub. L. 107–71, title I, §113(c), Nov. 19, 2001, 115 Stat. 622, provided that: "The Secretary of Transportation, in consultation with the Secretary of State, shall work with the International Civil Aviation Organization and the civil aviation authorities of other countries to improve international aviation security through screening programs for flight instruction candidates."

§44940. Security service fee

(a) GENERAL AUTHORITY.—

(1) PASSENGER FEES.—The Administrator of the Transportation Security Administration shall impose a uniform fee, on passengers of air carriers and foreign air carriers in air transportation and intrastate air transportation originating at airports in the United States, to pay for the following costs of providing civil aviation security services:

(A) Salary, benefits, overtime, retirement and other costs of screening personnel, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations under section 44901.

(B) The costs of training personnel described in subparagraph (A), and the acquisition, operation, and maintenance of equipment used by such personnel.

(C) The costs of performing background investigations of personnel described in subparagraphs (A), (D), (F), and (G).

(D) The costs of the Federal air marshals program.

(E) The costs of performing civil aviation security research and development under this title.

(F) The costs of Federal Security Managers under section 44903.

(G) The costs of deploying Federal law enforcement personnel pursuant to section 44903(h).

(H) The costs of security-related capital improvements at airports.

(I) The costs of training pilots and flight attendants under sections 44918 and 44921.

(2) DETERMINATION OF COSTS.—

(A) IN GENERAL.—The amount of the costs under paragraph (1) shall be determined by the Administrator of the Transportation Security Administration and shall not be subject to judicial review.

(B) DEFINITION OF FEDERAL LAW ENFORCEMENT PERSONNEL.—For purposes of paragraph (1)(A), the term "Federal law enforcement personnel" includes State and local law enforcement officers who are deputized under section 44922.

(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Administrator of the Transportation Security Administration shall ensure that the fees are reasonably related to the Transportation Security Administration's costs of providing services rendered.

(c) LIMITATION ON FEE.—

(1) AMOUNT.—Fees imposed under subsection (a)(1) shall be $5.60 per one-way trip in air transportation or intrastate air transportation that originates at an airport in the United States, except that the fee imposed per round trip shall not exceed $11.20.

(2) DEFINITION OF ROUND TRIP.—In this subsection, the term "round trip" means a trip on an air travel itinerary that terminates or has a stopover at the origin point (or co-terminal).

(3) OFFSETTING COLLECTIONS.—Beginning on October 1, 2027, fees collected under subsection (a)(1) for any fiscal year shall be credited as offsetting collections to appropriations made for aviation security measures carried out by the Transportation Security Administration, to remain available until expended.

(d) IMPOSITION OF FEE.—

(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Administrator of the Transportation Security Administration shall impose the fee under subsection (a)(1) through the publication of notice of such fee in the Federal Register and begin collection of the fee as soon as possible.

(2) SPECIAL RULES PASSENGER FEES.—A fee imposed under subsection (a)(1) through the procedures under paragraph (1) of this subsection shall apply only to tickets sold after the date on which such fee is imposed. If a fee imposed under subsection (a)(1) through the procedures under paragraph (1) of this subsection on transportation of a passenger of a carrier described in subsection (a)(1) is not collected from the passenger, the amount of the fee shall be paid by the carrier.

(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee in accordance with

paragraph (1), the Administrator of the Transportation Security Administration may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both.

(4) LIMITATION ON COLLECTION.—No fee may be collected under this section, other than subsection (i), except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act or in section 44923.

(e) ADMINISTRATION OF FEES.—

(1) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this section are payable to the Administrator of the Transportation Security Administration.

(2) FEES COLLECTED BY AIR CARRIER.—A fee imposed under subsection (a)(1) shall be collected by the air carrier or foreign air carrier that sells a ticket for transportation described in subsection (a)(1).

(3) DUE DATE FOR REMITTANCE.—A fee collected under this section shall be remitted on the last day of each calendar month by the carrier collecting the fee. The amount to be remitted shall be for the calendar month preceding the calendar month in which the remittance is made.

(4) INFORMATION.—The Administrator of the Transportation Security Administration may require the provision of such information as the Administrator of the Transportation Security Administration decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

(5) FEE NOT SUBJECT TO TAX.—For purposes of section 4261 of the Internal Revenue Code of 1986 (26 U.S.C. 4261), a fee imposed under this section shall not be considered to be part of the amount paid for taxable transportation.

(6) COST OF COLLECTING FEE.—No portion of the fee collected under this section may be retained by the air carrier or foreign air carrier for the costs of collecting, handling, or remitting the fee except for interest accruing to the carrier after collection and before remittance.

(f) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

(3) shall remain available until expended.

(g) REFUNDS.—The Administrator of the Transportation Security Administration may refund any fee paid by mistake or any amount paid in excess of that required.

(h) EXEMPTIONS.—The Administrator of the Transportation Security Administration may exempt from the passenger fee imposed under subsection (a)(1) any passenger enplaning at an airport in the United States that does not receive screening services under section 44901 for that segment of the trip for which the passenger does not receive screening.

(i) DEPOSIT OF RECEIPTS IN GENERAL FUND.—

(1) IN GENERAL.—Beginning in fiscal year 2014, out of fees received in a fiscal year under subsection (a)(1), after amounts are made available in the fiscal year under section 44923(h), the next funds derived from such fees in the fiscal year, in the amount specified for the fiscal year in paragraph (4), shall be credited as offsetting receipts and deposited in the general fund of the Treasury.

(2) FEE LEVELS.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect in a fiscal year at least the amount specified in paragraph (4) for the fiscal year for making deposits under paragraph (1).

(3) RELATIONSHIP TO OTHER PROVISIONS.—Subsections (b) and (f) shall not apply to amounts to be used for making deposits under this subsection.

(4) FISCAL YEAR AMOUNTS.—For purposes of paragraphs (1) and (2), the fiscal year amounts are as follows:

(A) $1,320,000,000 for fiscal year 2018.
(B) $1,360,000,000 for fiscal year 2019.
(C) $1,400,000,000 for fiscal year 2020.
(D) $1,440,000,000 for fiscal year 2021.
(E) $1,480,000,000 for fiscal year 2022.
(F) $1,520,000,000 for fiscal year 2023.
(G) $760,000,000 for fiscal year 2024.
(H) $1,600,000,000 for fiscal year 2025.
(M) [1] $1,640,000,000 for fiscal year 2026.
(N) [1] $1,680,000,000 for fiscal year 2027.

(Added Pub. L. 107–71, title I, §118(a), Nov. 19, 2001, 115 Stat. 625; amended Pub. L. 108–7, div. I, title III, §351(b), Feb. 20, 2003, 117 Stat. 420; Pub. L. 108–176, title VI, §605(b)(1), (2), Dec. 12, 2003, 117 Stat. 2568; Pub. L. 110–53, title XVI, §1601, Aug. 3, 2007, 121 Stat. 477; Pub. L. 110–161, div. E, title V, §540, Dec. 26, 2007, 121 Stat. 2079; Pub. L. 113–67, div. A, title VI, §601(a)(1), (2), (b), (c), Dec. 26, 2013, 127 Stat. 1187; Pub. L. 113–294, §1(a), Dec. 19, 2014, 128 Stat. 4009; Pub. L. 114–41, title III, §3001, July 31, 2015, 129 Stat. 460; Pub. L. 115–123, div. C, title II, §30202, Feb. 9, 2018, 132 Stat. 126; Pub. L. 115–254, div. K, title I, §§1940, 1991(d)(31), Oct. 5, 2018, 132 Stat. 3582, 3639; Pub. L. 118–47, div. G, title I, §108(a), Mar. 23, 2024, 138 Stat. 857.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 107–71, title I, §118(a), Nov. 19, 2001, 115 Stat. 625, which directed the addition of section 44940 at end of subchapter II of chapter 449 without specifying the Code title to be amended, was executed by adding this section at the end of this subchapter, to reflect the probable intent of Congress.

AMENDMENTS

2024—Subsec. (i)(4)(G). Pub. L. 118–47 substituted "$760,000,000" for "$1,560,000,000".

2018—Subsec. (a)(1). Pub. L. 115–254, §1991(d)(31)(A)(i)(II), struck out concluding provisions which read as follows: "The amount of such costs shall be determined by the Under Secretary and shall not be subject to judicial review. For purposes of subparagraph (A), the term 'Federal law enforcement personnel' includes State and local law enforcement officers who are deputized under section 44922."

Pub. L. 115–254, §1991(d)(31)(A)(i)(I), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security" in introductory provisions.

Subsec. (a)(2). Pub. L. 115–254, §1991(d)(31)(A)(ii), added par. (2).

Subsec. (b). Pub. L. 115–254, §1991(d)(31)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (c)(3). Pub. L. 115–254, §1940, added par. (3).

Subsec. (d)(1). Pub. L. 115–254, §1991(d)(31)(C)(i), struck out "within 60 days of the date of enactment of this Act, or" after "of the fee" and "thereafter" before period at end.

Pub. L. 115–254, §1991(d)(31)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (d)(2). Pub. L. 115–254, §1991(d)(31)(C)(ii), substituted "paragraph (1) of this subsection" for "subsection (d)" in two places.

Subsec. (d)(3). Pub. L. 115–254, §1991(d)(31)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (e)(1). Pub. L. 115–254, §1991(d)(31)(D), substituted "Fees payable to Administrator" for "Fees payable to Under Secretary" in heading.

Pub. L. 115–254, §1991(d)(31)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (e)(4). Pub. L. 115–254, §1991(d)(31)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" in two places.

Subsecs. (g), (h). Pub. L. 115–254, §1991(d)(31)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary".

Subsec. (i)(4)(A) to (L). Pub. L. 115–254, §1991(d)(31)(E), redesignated subpars. (E) to (L) as (A) to (H), respectively, and struck out former subpars. (A) to (D) which read as follows:

"(A) $390,000,000 for fiscal year 2014.

"(B) $1,190,000,000 for fiscal year 2015.

"(C) $1,250,000,000 for fiscal year 2016.

"(D) $1,280,000,000 for fiscal year 2017."

Subsec. (i)(4)(M), (N). Pub. L. 115–123 added subpars. (M) and (N).

2015—Subsec. (i)(4)(K), (L). Pub. L. 114–41 added subpars. (K) and (L).

2014—Subsec. (c). Pub. L. 113–294 amended subsec. (c) generally. Prior to amendment, text read as follows: "Fees imposed under subsection (a)(1) shall be $5.60 per one-way trip in air transportation or intrastate air transportation that originates at an airport in the United States."

2013—Subsec. (a)(2). Pub. L. 113–67, §601(a)(1), struck out par. (2) which related to fees on air carriers and foreign air carriers engaged in air transportation and intrastate air transportation.

Subsec. (c). Pub. L. 113–67, §601(b), amended subsec. (c) generally. Prior to amendment, text read as follows: "Fees imposed under subsection (a)(1) may not exceed $2.50 per enplanement in air transportation or intrastate air transportation that originates at an airport in the United States, except that the total amount of such fees may not exceed $5.00 per one-way trip."

Subsec. (d)(1). Pub. L. 113–67, §601(a)(2), struck out ", and may impose a fee under subsection (a)(2)," after "under subsection (a)(1)".

Subsec. (i). Pub. L. 113–67, §601(c), amended subsec. (i) generally. Prior to amendment, subsec. (i) related to the Checkpoint Screening Security Fund.

2007—Subsec. (a)(2)(A), (B)(iv). Pub. L. 110–161, which directed amendment of subsec. (a)(2) "by striking the period in the last sentence of subparagraph (A) and the clause (iv) of subparagraph B and adding the following, 'except for estimates and additional collections made pursuant to the appropriation for Aviation Security in Public Law 108–334: *Provided*, That such judicial review shall be pursuant to section 46110 of title 49, United States Code: *Provided further*, That such judicial review shall be limited only to additional amounts collected by the Secretary before October 1, 2007.' ", was executed by substituting the quoted language directed to be added for the period at the end of last sentence of subpar. (A) and for the period at the end of cl. (iv) of subpar. (B), to reflect the probable intent of Congress.

Subsec. (d)(4). Pub. L. 110–53, §1601(1), inserted ", other than subsection (i)," before "except to".

Subsec. (i). Pub. L. 110–53, §1601(2), added subsec. (i).

2003—Subsec. (a)(1). Pub. L. 108–7 inserted at end of concluding provisions "For purposes of subparagraph (A), the term 'Federal law enforcement personnel' includes State and local law enforcement officers who are deputized under section 44922."

Subsec. (a)(1)(H), (I). Pub. L. 108–176, §605(b)(1), added subpars. (H) and (I).

Subsec. (d)(4). Pub. L. 108–176, §605(b)(2), substituted "appropriations Act or in section 44923" for "appropriations Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–294, §1(b), Dec. 19, 2014, 128 Stat. 4009, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to a trip in air transportation or intrastate air transportation that is purchased on or after the date of the enactment of this Act [Dec. 19, 2014]."

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–67, div. A, title VI, §601(a)(3), Dec. 26, 2013, 127 Stat. 1187, provided that: "The repeal made by paragraph (1) [amending this section] and the amendment made by paragraph (2) [amending this section] shall each take effect on October 1, 2014."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

APPLICABILITY DATE OF 2024 AMENDMENT

Pub. L. 118–47, div. G, title I, §108(b), Mar. 23, 2024, 138 Stat. 857, provided that: "This section [amending this section] shall be applied as if it were in effect on October 1, 2023."

IMPOSITION OF FEE INCREASE

Pub. L. 113–67, div. A, title VI, §601(d), Dec. 26, 2013, 127 Stat. 1188, provided that: "The Secretary of Homeland Security shall implement the fee increase authorized by the amendment made by subsection (b) [amending this section]—

"(1) beginning on July 1, 2014; and

"(2) through the publication of notice of such fee in the Federal Register, notwithstanding section 9701 of title 31, United States Code, and the procedural requirements of section 553 of title 5, United States Code."

CONTINUED AVAILABILITY OF EXISTING BALANCES

Pub. L. 113–67, div. A, title VI, §601(e), Dec. 26, 2013, 127 Stat. 1188, provided that: "The amendments made by this section [amending this section] shall not affect the availability of funds made available under section 44940(i) of title 49, United States Code, before the date of enactment of this Act [Dec. 26, 2013]."

[1] *So in original.*

§44941. Immunity for reporting suspicious activities

(a) IN GENERAL.—Any air carrier or foreign air carrier or any employee of an air carrier or foreign air carrier who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, relating to air piracy, a threat to aircraft or passenger safety, or terrorism, as defined by section 3077 of title 18, United States Code, to any employee or agent of the Department of Transportation, the Department of Homeland Security, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be civilly liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

(b) APPLICATION.—Subsection (a) shall not apply to—

(1) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

(2) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

(Added Pub. L. 107–71, title I, §125(a), Nov. 19, 2001, 115 Stat. 631; amended Pub. L. 115–254, div. K, title I, §1991(d)(32), Oct. 5, 2018, 132 Stat. 3640.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 inserted "the Department of Homeland Security," after "Department of Transportation,".

§44942. Performance goals and objectives

(a) SHORT TERM TRANSITION.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration may, in consultation with other relevant Federal agencies and Congress—

(A) establish acceptable levels of performance for aviation security, including screening operations and access control; and

(B) provide Congress with an action plan, containing measurable goals and milestones, that outlines how those levels of performance will be achieved.

(2) BASICS OF ACTION PLAN.—The action plan shall clarify the responsibilities of the Transportation Security Administration, the Federal Aviation Administration, and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

(b) LONG-TERM RESULTS-BASED MANAGEMENT.—

(1) PERFORMANCE PLAN.—

(A) Each year, consistent with the requirements of the Government Performance and Results Act of 1993 (GPRA), the Secretary of Homeland Security and the Administrator of the Transportation Security Administration shall agree on a performance plan for the succeeding 5 years that establishes measurable goals and objectives for aviation security. The plan shall identify action steps necessary to achieve such goals.

(B) In addition to meeting the requirements of GPRA, the performance plan should clarify the responsibilities of the Secretary of Homeland Security, the Administrator of the Transportation Security Administration, and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

(2) PERFORMANCE REPORT.—Each year, consistent with the requirements of GPRA, the Administrator of the Transportation Security Administration shall prepare and submit to Congress an annual report including an evaluation of the extent goals and objectives were met. The report shall include the results achieved during the year relative to the goals established in the performance plan.

(Added Pub. L. 107–71, title I, §130, Nov. 19, 2001, 115 Stat. 633; amended Pub. L. 115–254, div. K, title I, §1991(d)(33), Oct. 5, 2018, 132 Stat. 3640.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (b), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–254, §1991(d)(33)(A)(i)(I), in introductory provisions, substituted "The Administrator of the Transportation Security Administration may, in consultation with other relevant Federal agencies and" for "Within 180 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary for Transportation Security may, in consultation with".

Subsec. (a)(1)(A). Pub. L. 115–254, §1991(d)(33)(A)(i)(II), substituted "; and" for ", and".

Subsec. (a)(2). Pub. L. 115–254, §1991(d)(33)(A)(ii), inserted comma after "Federal Aviation Administration".

Subsec. (b). Pub. L. 115–254, §1991(d)(33)(B)(i), (ii), struck out par. (1) designation and heading "Performance plan and report" and redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively.

Subsec. (b)(1). Pub. L. 115–254, §1991(d)(33)(B)(iii)(I), redesignated cls. (i) and (ii) of former par. (1)(A) as subpars. (A) and (B), respectively, of par. (1).

Subsec. (b)(1)(A). Pub. L. 115–254, §1991(d)(33)(B)(iii)(II), substituted "the Secretary of Homeland Security and the Administrator of the Transportation Security Administration shall agree" for "the Secretary and the Under Secretary for Transportation Security shall agree".

Subsec. (b)(1)(B). Pub. L. 115–254, §1991(d)(33)(B)(iii)(III), substituted "the Secretary of Homeland

Security, the Administrator of the Transportation Security Administration," for "the Secretary, the Under Secretary for Transportation Security".

Subsec. (b)(2). Pub. L. 115–254, §1991(d)(33)(B)(iv), substituted "Administrator of the Transportation Security Administration" for "Under Secretary for Transportation Security".

§44943. Performance management system

(a) ESTABLISHING A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The Administrator of the Transportation Security Administration shall establish a performance management system which strengthens the organization's effectiveness by providing for the establishment of goals and objectives for managers, employees, and organizational performance consistent with the performance plan.

(b) ESTABLISHING MANAGEMENT ACCOUNTABILITY FOR MEETING PERFORMANCE GOALS.—

(1) IN GENERAL.—Each year, the Secretary of Homeland Security and Administrator of the Transportation Security Administration shall enter into an annual performance agreement that shall set forth organizational and individual performance goals for the Administrator of the Transportation Security Administration.

(2) GOALS.—Each year, the Administrator of the Transportation Security Administration and each senior manager who reports to the Administrator shall enter into an annual performance agreement that sets forth organization and individual goals for those managers. All other employees hired under the authority of the Administrator shall enter into an annual performance agreement that sets forth organization and individual goals for those employees.

(c) PERFORMANCE-BASED SERVICE CONTRACTING.—To the extent contracts, if any, are used to implement the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), the Administrator of the Transportation Security Administration shall, to the extent practical, maximize the use of performance-based service contracts. These contracts should be consistent with guidelines published by the Office of Federal Procurement Policy.

(Added Pub. L. 107–71, title I, §130, Nov. 19, 2001, 115 Stat. 634; amended Pub. L. 115–254, div. K, title I, §1991(d)(34), Oct. 5, 2018, 132 Stat. 3640.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Aviation and Transportation Security Act, referred to in subsec. (c), is Pub. L. 107–71, Nov. 19, 2001, 115 Stat. 597. For complete classification of this Act to the Code, see Short Title of 2001 Amendment note set out under section 40101 of this title and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(d)(34)(A), substituted "Administrator of the Transportation Security Administration" for "Under Secretary for Transportation Security".

Subsec. (b)(1). Pub. L. 115–254, §1991(d)(34)(B)(i), substituted "Secretary of Homeland Security and Administrator of the Transportation Security Administration" for "Secretary and Under Secretary of Transportation for Security" and "for the Administrator of the Transportation Security Administration" for "for the Under Secretary".

Subsec. (b)(2). Pub. L. 115–254, §1991(d)(34)(B)(ii), substituted "Administrator of the Transportation Security Administration and" for "Under Secretary and" and, in two places, substituted "Administrator shall" for "Under Secretary shall".

Subsec. (c). Pub. L. 115–254, §1991(d)(34)(C), substituted "Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), the Administrator of the Transportation Security Administration" for "Aviation Security Act, the Under Secretary for Transportation Security".

§44944. Voluntary provision of emergency services

(a) PROGRAM FOR PROVISION OF VOLUNTARY SERVICES.—

(1) PROGRAM.—The Administrator of the Transportation Security Administration shall carry out a program to permit qualified law enforcement officers, firefighters, and emergency medical technicians to provide emergency services on commercial air flights during emergencies.

(2) REQUIREMENTS.—The Administrator of the Transportation Security Administration shall establish such requirements for qualifications of providers of voluntary services under the program under paragraph (1), including training requirements, as the Administrator of the Transportation Security Administration considers appropriate.

(3) CONFIDENTIALITY OF REGISTRY.—If as part of the program under paragraph (1) the Administrator of the Transportation Security Administration requires or permits registration of law enforcement officers, firefighters, or emergency medical technicians who are willing to provide emergency services on commercial flights during emergencies, the Administrator of the Transportation Security Administration shall take appropriate actions to ensure that the registry is available only to appropriate airline personnel and otherwise remains confidential.

(4) CONSULTATION.—The Administrator of the Transportation Security Administration shall consult with the Administrator of the Federal Aviation Administration, appropriate representatives of the commercial airline industry, and organizations representing community-based law enforcement, firefighters, and emergency medical technicians, in carrying out the program under paragraph (1), including the actions taken under paragraph (3).

(b) EXEMPTION FROM LIABILITY.—An individual shall not be liable for damages in any action brought in a Federal or State court that arises from an act or omission of the individual in providing or attempting to provide assistance in the case of an in-flight emergency in an aircraft of an air carrier if the individual meets such qualifications as the Administrator of the Transportation Security Administration shall prescribe for purposes of this section.

(c) EXCEPTION.—The exemption under subsection (b) shall not apply in any case in which an individual provides, or attempts to provide, assistance described in that paragraph in a manner that constitutes gross negligence or willful misconduct.

(Added Pub. L. 107–71, title I, §131(a), Nov. 19, 2001, 115 Stat. 635; amended Pub. L. 115–254, div. K, title I, §1991(d)(35), Oct. 5, 2018, 132 Stat. 3641.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(d)(35)(B), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a)(1). Pub. L. 115–254, §1991(d)(35)(A)(i), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Transportation Security".

Subsec. (a)(4). Pub. L. 115–254, §1991(d)(35)(A)(ii), inserted "the Administrator of the Federal Aviation Administration," after "consult with".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONSTRUCTION

Pub. L. 107–71, title I, §131(c), Nov. 19, 2001, 115 Stat. 635, provided that: "Nothing in this section [enacting this section] may be construed to require any modification of regulations of the Department of Transportation governing the possession of firearms while in aircraft or air transportation facilities or to authorize the possession of a firearm in an aircraft or any such facility not authorized under those regulations."

[For definitions of "aircraft" and "air transportation" used in section 131(c) of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

§44945. Disposition of unclaimed money and clothing

(a) DISPOSITION OF UNCLAIMED MONEY.—Notwithstanding section 3302 of title 31, unclaimed money recovered at any airport security checkpoint shall be retained by the Transportation Security Administration and shall remain available until expended for the purpose of providing civil aviation security as required in this chapter.

(b) DISPOSITION OF UNCLAIMED CLOTHING.—

(1) IN GENERAL.—In disposing of unclaimed clothing recovered at any airport security checkpoint, the Administrator of the Transportation Security Administration shall make every reasonable effort, in consultation with the Secretary of Veterans Affairs, to transfer the clothing to the local airport authority or other local authorities for donation to charity, including local veterans organizations or other local charitable organizations for distribution to homeless or needy veterans and veteran families.

(2) AGREEMENTS.—In implementing paragraph (1), the Administrator of the Transportation Security Administration may enter into agreements with airport authorities.

(3) OTHER CHARITABLE ARRANGEMENTS.—Nothing in this subsection shall prevent an airport or the Transportation Security Administration from donating unclaimed clothing to a charitable organization of their choosing.

(4) LIMITATION.—Nothing in this subsection shall create a cost to the Government.

(Added Pub. L. 108–334, title V, §515(a), Oct. 18, 2004, 118 Stat. 1317; amended Pub. L. 112–271, §2(a), Jan. 14, 2013, 126 Stat. 2446; Pub. L. 115–254, div. K, title I, §1991(d)(36), Oct. 5, 2018, 132 Stat. 3641.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b)(1), (2). Pub. L. 115–254 substituted "Administrator of the Transportation Security Administration" for "Assistant Secretary".

2013—Pub. L. 112–271 inserted "and clothing" after "money" in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

ANNUAL BRIEFING

Pub. L. 108–334, title V, §515(b), Oct. 18, 2004, 118 Stat. 1318, as amended by Pub. L. 119–86, div. A, title II, §212, Apr. 30, 2026, 140 Stat. 784, provided that: "Not later than 180 days after the date of enactment of this Act [Oct. 18, 2004] and annually thereafter, the Administrator of the Transportation Security Administration shall provide the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Appropriations of the House of Representatives; the Committee on Commerce, Science and Transportation of the Senate; and the Committee on Appropriations of the Senate, a briefing that contains a detailed description of the amount of unclaimed money recovered in total and at each individual airport, and specifically how the unclaimed money is being used to provide civil aviation security."

§44946. Aviation Security Advisory Committee

(a) ESTABLISHMENT.—The Administrator shall establish within the Transportation Security Administration an aviation security advisory committee.

(b) DUTIES.—

(1) IN GENERAL.—The Administrator shall consult the Advisory Committee, as appropriate, on aviation security matters, including on the development, refinement, and implementation of policies, programs, rulemaking, and security directives pertaining to aviation security, while adhering to sensitive security guidelines.

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The Advisory Committee shall develop, at the request of the

Administrator, recommendations for improvements to aviation security.

(B) RECOMMENDATIONS OF SUBCOMMITTEES.—Recommendations agreed upon by the subcommittees established under this section shall be approved by the Advisory Committee before transmission to the Administrator.

(3) PERIODIC REPORTS.—The Advisory Committee shall periodically submit to the Administrator—

(A) reports on matters identified by the Administrator; and

(B) reports on other matters identified by a majority of the members of the Advisory Committee.

(4) ANNUAL REPORT.—The Advisory Committee shall submit to the Administrator an annual report providing information on the activities, findings, and recommendations of the Advisory Committee, including its subcommittees, for the preceding year. Not later than 6 months after the date that the Administrator receives the annual report, the Administrator shall publish a public version describing the Advisory Committee's activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of title 5.

(5) FEEDBACK.—Not later than 90 days after receiving recommendations transmitted by the Advisory Committee under paragraph (2) or (4), the Administrator shall respond in writing to the Advisory Committee with feedback on each of the recommendations, an action plan to implement any of the recommendations with which the Administrator concurs, and a justification for why any of the recommendations have been rejected.

(6) CONGRESSIONAL NOTIFICATION.—Not later than 30 days after providing written feedback to the Advisory Committee under paragraph (5), the Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives on such feedback, and provide a briefing upon request.

(7) REPORT TO CONGRESS.—Prior to briefing the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives under paragraph (6), the Administrator shall submit to such committees a report containing information relating to the recommendations transmitted by the Advisory Committee in accordance with paragraph (4).

(c) MEMBERSHIP.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The Administrator shall appoint the members of the Advisory Committee.

(B) COMPOSITION.—The membership of the Advisory Committee shall consist of individuals representing not more than 34 member organizations. Each organization shall be represented by 1 individual (or the individual's designee).

(C) REPRESENTATION.—The membership of the Advisory Committee shall include representatives of air carriers, all-cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, labor organizations representing transportation security officers, aircraft manufacturers, airport operators, airport construction and maintenance contractors, labor organizations representing employees of airport construction and maintenance contractors, general aviation, privacy organizations, the travel industry, airport-based businesses (including minority-owned small businesses), businesses that conduct security screening operations at airports, aeronautical repair stations, passenger advocacy groups, the aviation security technology industry (including screening technology and biometrics), victims of terrorist acts against aviation, and law enforcement and security experts.

(2) TERM OF OFFICE.—

(A) TERMS.—The term of each member of the Advisory Committee shall be two years, but

a member may continue to serve until a successor is appointed. A member of the Advisory Committee may be reappointed.

(B) REMOVAL.—The Administrator may review the participation of a member of the Advisory Committee and remove such member for cause at any time.

(3) PROHIBITION ON COMPENSATION.—The members of the Advisory Committee shall not receive pay, allowances, or benefits from the Government by reason of their service on the Advisory Committee.

(4) MEETINGS.—

(A) IN GENERAL.—The Administrator shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

(B) PUBLIC MEETINGS.—At least 1 of the meetings described in subparagraph (A) shall be open to the public.

(C) ATTENDANCE.—The Advisory Committee shall maintain a record of the persons present at each meeting.

(5) MEMBER ACCESS TO SENSITIVE SECURITY INFORMATION.—Not later than 60 days after the date of a member's appointment, the Administrator shall determine if there is cause for the member to be restricted from possessing sensitive security information. Without such cause, and upon the member voluntarily signing a non-disclosure agreement, the member may be granted access to sensitive security information that is relevant to the member's advisory duties. The member shall protect the sensitive security information in accordance with part 1520 of title 49, Code of Federal Regulations.

(6) CHAIRPERSON.—A stakeholder representative on the Advisory Committee who is elected by the appointed membership of the Advisory Committee shall chair the Advisory Committee.

(d) SUBCOMMITTEES.—

(1) MEMBERSHIP.—The Advisory Committee chairperson, in coordination with the Administrator, may establish within the Advisory Committee any subcommittee that the Administrator and Advisory Committee determine to be necessary. The Administrator and the Advisory Committee shall create subcommittees to address aviation security issues, including the following:

(A) AIR CARGO SECURITY.—The implementation of the air cargo security programs established by the Transportation Security Administration to screen air cargo on passenger aircraft and all-cargo aircraft in accordance with established cargo screening mandates.

(B) GENERAL AVIATION.—General aviation facilities, general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

(C) PERIMETER AND ACCESS CONTROL.—Recommendations on airport perimeter security, exit lane security and technology at commercial service airports, and access control issues.

(D) SECURITY TECHNOLOGY.—Security technology standards and requirements, including their harmonization internationally, technology to screen passengers, passenger baggage, carry-on baggage, and cargo, and biometric technology.

(2) RISK-BASED SECURITY.—All subcommittees established by the Advisory Committee chairperson in coordination with the Administrator shall consider risk-based security approaches in the performance of their functions that weigh the optimum balance of costs and benefits in transportation security, including for passenger screening, baggage screening, air cargo security policies, and general aviation security matters.

(3) MEETINGS AND REPORTING.—Each subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding issues within the subcommittee.

(4) SUBCOMMITTEE CHAIRS.—Each subcommittee shall be co-chaired by a Government

official and an industry official.

(e) SUBJECT MATTER EXPERTS.—Each subcommittee under this section shall include subject matter experts with relevant expertise who are appointed by the respective subcommittee chairpersons.

(f) NONAPPLICABILITY OF CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 shall not apply to the Advisory Committee and its subcommittees.

(g) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Transportation Security Administration.

(2) ADVISORY COMMITTEE.—The term "Advisory Committee" means the aviation security advisory committee established under subsection (a).

(3) PERIMETER SECURITY.—

(A) IN GENERAL.—The term "perimeter security" means procedures or systems to monitor, secure, and prevent unauthorized access to an airport, including its airfield and terminal.

(B) INCLUSIONS.—The term "perimeter security" includes the fence area surrounding an airport, access gates, and access controls.

(Added Pub. L. 113–238, §2(a), Dec. 18, 2014, 128 Stat. 2842; amended Pub. L. 114–190, title III, §3411, July 15, 2016, 130 Stat. 662; Pub. L. 115–254, div. K, title I, §1991(d)(37), Oct. 5, 2018, 132 Stat. 3641; Pub. L. 117–286, §4(a)(317), Dec. 27, 2022, 136 Stat. 4340.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (f). Pub. L. 117–286 substituted "Chapter 10 of Title 5" for "FACA" in heading and "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)" in text.

2018—Pub. L. 115–254, §1991(d)(37)(B), substituted "Administrator" for "Assistant Secretary" wherever appearing.

Subsec. (b)(4). Pub. L. 115–254, §1991(d)(37)(C), substituted "the Administrator receives" for "the Secretary receives" and "the Administrator shall" for "the Secretary shall".

Subsec. (c)(1)(A). Pub. L. 115–254, §1991(d)(37)(D), substituted "The" for "Not later than 180 days after the date of enactment of the Aviation Security Stakeholder Participation Act of 2014, the".

Subsec. (g). Pub. L. 115–254, §1991(d)(37)(A), added par. (1), redesignated former par. (1) as (2), and struck out former par. (2) which defined "Assistant Secretary".

2016—Subsec. (b)(5). Pub. L. 114–190, §3411(b), substituted "paragraph (2) or (4)" for "paragraph (4)".

Subsec. (c)(2)(A). Pub. L. 114–190, §3411(a), amended subpar. (A) generally. Prior to amendment, text read as follows: "The term of each member of the Advisory Committee shall be 2 years. A member of the Advisory Committee may be reappointed."

§44947. Air cargo security division

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the TSA Modernization Act, the Administrator shall establish an air cargo security division to carry out and engage with stakeholders regarding the implementation of air cargo security programs established by the Administration.

(b) LEADERSHIP; STAFFING.—The air cargo security division established pursuant to subsection (a) shall be headed by an individual in the executive service within the TSA and be staffed by not fewer than 4 full-time equivalents, including the head of the division.

(c) STAFFING.—The Administrator of the Transportation Security Administration shall staff the air cargo security division with existing TSA personnel.

(Added Pub. L. 115–254, div. K, title I, §1943(a), Oct. 5, 2018, 132 Stat. 3584.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the TSA Modernization Act, referred to in subsec. (a), is the date of enactment of title I of div. K of Pub. L. 115–254, which was approved Oct. 5, 2018.

§44948. National Deployment Office

(a) ESTABLISHMENT.—There is established within the Transportation Security Administration a National Deployment Office, to be headed by an individual with supervisory experience. Such individual shall be designated by the Administrator of the Transportation Security Administration.

(b) DUTIES.—The individual designated as the head of the National Deployment Office shall be responsible for the following:

(1) Maintaining a National Deployment Force within the Transportation Security Administration, including transportation security officers, supervisory transportation security officers and lead transportation security officers, to provide the Administration with rapid and efficient response capabilities and augment the Department of Homeland Security's homeland security operations to mitigate and reduce risk, including for the following:

(A) Airports temporarily requiring additional security personnel due to an emergency, seasonal demands, hiring shortfalls, severe weather conditions, passenger volume mitigation, equipment support, or other reasons.

(B) Special events requiring enhanced security including National Special Security Events, as determined by the Secretary of Homeland Security.

(C) Response in the aftermath of any manmade disaster, including any terrorist attack.

(D) Other such situations, as determined by the Administrator.

(2) Educating transportation security officers regarding how to participate in the Administration's National Deployment Force.

(3) Recruiting officers to serve on the National Deployment Force, in accordance with a staffing model to be developed by the Administrator.

(4) Approving 1-year appointments for officers to serve on the National Deployment Force, with an option to extend upon officer request and with the approval of the appropriate Federal Security Director.

(5) Training officers to serve on the National Deployment Force.

(Added Pub. L. 115–254, div. K, title I, §1988(a), Oct. 5, 2018, 132 Stat. 3622.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CAREER DEVELOPMENT

Pub. L. 115–254, div. K, title I, §1988(d), Oct. 5, 2018, 132 Stat. 3623, provided that: "The Administrator [of the Transportation Security Administration] may consider service in the National Deployment Force as a positive factor when evaluating applicants for promotion opportunities within the TSA [Transportation Security Administration]."

CHAPTER 451—ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Sec.

45101. Definition.
45102. Alcohol and controlled substances testing programs.
45103. Prohibited service.
45104. Testing and laboratory requirements.
45105. Rehabilitation.
45106. Relationship to other laws, regulations, standards, and orders.

45107. Transportation Security Administration.

EDITORIAL NOTES

AMENDMENTS

2001—Pub. L. 107–71, title I, §139(5), Nov. 19, 2001, 115 Stat. 641, added item 45107.

§45101. Definition

In this chapter, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1221.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45101	49 App.:1434(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(f); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 956.

§45102. Alcohol and controlled substances testing programs

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS .—(1) In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of a controlled substance in violation of law or a United States Government regulation; and to conduct reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit air carriers and foreign air carriers to conduct preemployment testing of airmen, crew members, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of airmen, crewmembers, airport security screening personnel, and other air carrier employees responsible for safety-sensitive functions for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION .—(1) The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of a controlled substance in violation of law or a United States Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions and shall establish a program of reasonable suspicion, random, and post-accident testing for the use of alcohol in violation of law or a United States Government regulation for such employees. The Administrator may establish a program of preemployment testing for the use of alcohol for such employees.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of employees of the Administration responsible for safety-sensitive functions for use of alcohol or a controlled substance

in violation of law or a Government regulation.

(c) SANCTIONS.—In prescribing regulations under the programs required by this section, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to an individual referred to in this section, or the disqualification or dismissal of the individual, under this chapter when a test conducted and confirmed under this chapter indicates the individual has used alcohol or a controlled substance in violation of law or a Government regulation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1221; Pub. L. 104–59, title III, §342(d), Nov. 28, 1995, 109 Stat. 609; Pub. L. 107–71, title I, §139(1), Nov. 19, 2001, 115 Stat. 640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45102(a)	49 App.:1434(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(a); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 953.
45102(b)	49 App.:1434(a)(2).	
45102(c)	49 App.:1434(a)(3).	

In subsections (a)(2) and (b)(2), the word "also" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71 substituted "personnel" for "contract personnel" wherever appearing.

1995—Subsec. (a)(1). Pub. L. 104–59, §342(d)(1), added par. (1) and struck out former par. (1) which read as follows: "In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations not later than October 28, 1992, that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation."

Subsec. (b)(1). Pub. L. 104–59, §342(d)(2), added par. (1) and struck out former par. (1) which read as follows: "The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of alcohol or a controlled substance in violation of law or a Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions."

STATUTORY NOTES AND RELATED SUBSIDIARIES

RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS

Pub. L. 103–305, title V, §501, Aug. 23, 1994, 108 Stat. 1594, provided that, not later than 180 days after Aug. 23, 1994, the Secretary would complete a rulemaking proceeding and issue a final decision on whether there should be a reduction in the annualized rate required of random drug testing for personnel engaged in aviation activities.

§45103. Prohibited service

(a) USE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An individual may not use alcohol or a controlled substance after October 28, 1991, in violation of law or a United States Government regulation and serve as an airman, crewmember, airport security screening employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator of

the Federal Aviation Administration), or employee of the Administration with responsibility for safety-sensitive functions.

(b) REHABILITATION REQUIRED TO RESUME SERVICE.—Notwithstanding subsection (a) of this section, an individual found to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may serve as an airman, crewmember, airport security screening employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions only if the individual completes a rehabilitation program described in section 45105 of this title.

(c) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—An individual who served as an airman, crewmember, airport security screening employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions and who was found by the Administrator to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may not carry out the duties related to air transportation that the individual carried out before the finding of the Administrator if the individual—

(1) used the alcohol or controlled substance when on duty;

(2) began or completed a rehabilitation program described in section 45105 of this title before using the alcohol or controlled substance; or

(3) refuses to begin or complete a rehabilitation program described in section 45105 of this title after a finding by the Administrator under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1222; Pub. L. 107–71, title I, §139(2), Nov. 19, 2001, 115 Stat. 640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45103(a)	49 App.:1434(b)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(b); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 954.
45103(b)	49 App.:1434(b)(2).	
45103(c)	49 App.:1434(b)(3).	

In subsection (b), the words "Notwithstanding subsection (a) of this section" are added for clarity.

EDITORIAL NOTES

AMENDMENTS

2001—Pub. L. 107–71 substituted "screening employee" for "screening contract employee" wherever appearing.

§45104. Testing and laboratory requirements

In carrying out section 45102 of this title, the Administrator of the Federal Aviation Administration shall develop requirements that—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and

laboratory procedures to be applied in carrying out this chapter, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this chapter;

(3) require that a laboratory involved in controlled substances testing under this chapter have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a United States Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this chapter; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1222.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45104	49 App.:1434(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(d); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 955.

In this section, the word "samples" is omitted as surplus.

In clause (2), before subclause (A), the word "subsequent" is omitted as surplus.

In clause (3), the words "of any individual" are omitted as surplus.

In clause (4), the words "by any individual" are omitted as surplus.

In clause (5), the word "tested" is substituted for "assayed" for consistency. The words "2d confirmation test" are substituted for "independent test" for clarity and consistency.

In clause (6), the word "Secretary" is substituted for "Department" for consistency in the revised title and with other titles of the United States Code.

§45105. Rehabilitation

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS .—The Administrator of the Federal Aviation Administration shall prescribe regulations establishing requirements for rehabilitation programs that at least provide for the identification and opportunity

for treatment of employees of air carriers and foreign air carriers referred to in section 45102(a)(1) of this title who need assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a United States Government regulation. Each air carrier and foreign air carrier is encouraged to make such a program available to all its employees in addition to the employees referred to in section 45102(a)(1). The Administrator shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent an air carrier or foreign air carrier from establishing a program under this subsection in cooperation with another air carrier or foreign air carrier.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION .—The Administrator shall establish and maintain a rehabilitation program that at least provides for the identification and opportunity for treatment of employees of the Administration whose duties include responsibility for safety-sensitive functions who need assistance in resolving problems with the use of alcohol or a controlled substance.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1223; Pub. L. 103–429, §6(58), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45105(a)	49 App.:1434(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(c); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 954.
45105(b)	49 App.:1434(c)(2).	

In subsection (a), the words "of air carriers and foreign air carriers" are added for clarity.

PUB. L. 103–429

This amends 49:45105(a) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1224).

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted "section 45102(a)(1)" for "section 45102(a)(1)(A)" in second sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

PRIORITIZING AND SUPPORTING THE HUMAN INTERVENTION MOTIVATION STUDY (HIMS) PROGRAM AND THE FLIGHT ATTENDANT DRUG AND ALCOHOL PROGRAM (FADAP)

Pub. L. 115–254, div. B, title V, §554(a), Oct. 5, 2018, 132 Stat. 3380, provided that: "The [Federal Aviation] Administration shall continue to prioritize and support the Human Intervention Motivation Study (HIMS) program for flight crewmembers and the Flight Attendant Drug and Alcohol Program (FADAP) for flight attendants."

HUMAN INTERVENTION MOTIVATION STUDY

Pub. L. 112–95, title VIII, §819, Feb. 14, 2012, 126 Stat. 127, provided that: "Not later than 180 days after

the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall develop a Human Intervention Motivation Study program for cabin crew members employed by commercial air carriers in the United States."

§45106. Relationship to other laws, regulations, standards, and orders

(a) EFFECT ON STATE AND LOCAL GOVERNMENT LAWS, REGULATIONS, STANDARDS, OR ORDERS.—A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this chapter. However, a regulation prescribed under this chapter does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(b) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—(1) In prescribing regulations under this chapter, the Administrator of the Federal Aviation Administration—

(A) shall establish only requirements applicable to foreign air carriers that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(2) The Secretaries of State and Transportation jointly shall request the governments of foreign countries that are members of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit crewmembers in international civil aviation from using alcohol or a controlled substance in violation of law or a United States Government regulation.

(c) OTHER REGULATIONS ALLOWED.—This section does not prevent the Administrator from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by airmen, crewmembers, airport security screening employees, air carrier employees responsible for safety-sensitive functions (as decided by the Administrator), or employees of the Administration with responsibility for safety-sensitive functions.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1224; Pub. L. 107–71, title I, §139(3), Nov. 19, 2001, 115 Stat. 640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45106(a)	49 App.:1434(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(e); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 956.
45106(b)	49 App.:1434(e)(3).	
45106(c)	49 App.:1434(e)(2).	

In subsection (a), the word "prescribe" is substituted for "adopt" for consistency in the revised title and with other titles of the United States Code. The word "rule" is omitted as being synonymous with "regulation". The word "ordinance" is omitted as being included in "law" and "regulation". The words "actual" and "whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public" are omitted as surplus.

In subsection (c) the word "prevent" is substituted for "restrict the discretion of" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–71 substituted "screening employees" for "screening contract employees".

§45107. Transportation Security Administration

(a) TRANSFER OF FUNCTIONS RELATING TO TESTING PROGRAMS WITH RESPECT TO AIRPORT SECURITY SCREENING PERSONNEL.—The authority of the Administrator of the Federal Aviation Administration under this chapter with respect to programs relating to testing of airport security screening personnel are transferred to the Administrator of the Transportation Security Administration. Notwithstanding section 45102(a), the regulations prescribed under section 45102(a) shall require testing of such personnel by their employers instead of by air carriers and foreign air carriers.

(b) APPLICABILITY OF CHAPTER WITH RESPECT TO EMPLOYEES OF ADMINISTRATION.—The provisions of this chapter that apply with respect to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions shall apply with respect to employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions.

(Added Pub. L. 107–71, title I, §139(4), Nov. 19, 2001, 115 Stat. 640; amended Pub. L. 115–254, div. K, title I, §1991(e), Oct. 5, 2018, 132 Stat. 3642.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1991(e)(1), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

Subsec. (b). Pub. L. 115–254, §1991(e)(2), struck out at end "The Under Secretary of Transportation for Security, the Transportation Security Administration, and employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions shall be subject to and comply with such provisions in the same manner and to the same extent as the Administrator of the Federal Aviation Administration, the Federal Aviation Administration, and employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions, respectively."

CHAPTER 453—FEES

Sec.

45301. General provisions.
45302. Fees involving aircraft not providing air transportation.
45303. Administrative provisions.
45304. Maximum fees for private person services.
45305. Registration, certification, and related fees.
45306. Manual surcharge.

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title XI, §1101(q), May 16, 2024, 138 Stat. 1414, added item 45306.

2012—Pub. L. 112–95, title I, §122(b), Feb. 14, 2012, 126 Stat. 20, added item 45305.

1996—Pub. L. 104–264, title II, §§273(b), 276(b), Oct. 9, 1996, 110 Stat. 3240, 3248, substituted "General provisions" for "Authority to impose fees" in item 45301, added items 45303 and 45304, and struck out former item 45303 "Maximum fees for private person services".

§45301. General provisions

(a) SCHEDULE OF FEES.—The Administrator of the Federal Aviation Administration shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States Government or of a foreign government that neither take off from, nor land in, the United States.

(2) Services (other than air traffic control services) provided to a foreign government or services provided to any entity obtaining services outside the United States, except that the Administrator shall not impose fees in any manner for production-certification related service performed outside the United States pertaining to aeronautical products manufactured outside the United States.

(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

(1) IN GENERAL.—In establishing and adjusting fees under this section, the Administrator shall ensure that the fees are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered.

(2) SERVICES FOR WHICH COSTS MAY BE RECOVERED.—Services for which costs may be recovered under this section include the costs of air traffic control, navigation, weather services, training, and emergency services that are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States.

(3) LIMITATIONS ON JUDICIAL REVIEW.—Notwithstanding section 702 of title 5 or any other provision of law, the following actions and other matters shall not be subject to judicial review:

(A) The establishment or adjustment of a fee by the Administrator under this section.

(B) The validity of a determination of costs by the Administrator under paragraph (1), and the processes and procedures applied by the Administrator when reaching such determination.

(C) An allocation of costs by the Administrator under paragraph (1) to services provided, and the processes and procedures applied by the Administrator when establishing such allocation.

(4) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

(5) COSTS DEFINED.—In this subsection, the term "costs" includes operation and maintenance costs, leasing costs, and overhead expenses associated with the services provided and the facilities and equipment used in providing such services.

(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.

(d) PRODUCTION-CERTIFICATION RELATED SERVICE DEFINED.—In this section, the term "production-certification related service" has the meaning given that term in appendix C of part 187 of title 14, Code of Federal Regulations.

(e) ADJUSTMENT OF FEES.—In addition to adjustments under subsection (b), the Administrator may periodically adjust the fees established under this section.

(Added Pub. L. 104–264, title II, §273(a), Oct. 9, 1996, 110 Stat. 3239; amended Pub. L. 106–181, title VII, §719, Apr. 5, 2000, 114 Stat. 163; Pub. L. 107–71, title I, §119(d), Nov. 19, 2001, 115 Stat. 629; Pub. L. 112–95, title I, §121, Feb. 14, 2012, 126 Stat. 19; Pub. L. 115–254, div. B, title V, §539(k), Oct. 5, 2018, 132 Stat. 3371; Pub. L. 118–63, title XI, §1101(r), May 16, 2024, 138 Stat. 1414.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 45301, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–305, title II, §209, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104–287, §5(76), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105–102, §3(d)(1)(C), Nov. 20, 1997, 111 Stat. 2215, related to authority to impose fees, prior to repeal by Pub. L. 104–264, title II, §§203, 273(a), Oct. 9, 1996, 110 Stat. 3227, 3239, effective 30 days after Oct. 9, 1996.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 substituted "The Administrator of the Federal Aviation Administration shall establish" for "The Administrator shall establish" in introductory provisions.

2018—Subsec. (a)(1). Pub. L. 115–254 substituted "United States Government" for "United States government".

2012—Subsec. (b). Pub. L. 112–95, §121(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to limitations on fees.

Subsec. (e). Pub. L. 112–95, §121(b), added subsec. (e).

2001—Subsec. (b)(1)(B). Pub. L. 107–71 substituted "reasonably" for "directly" and "Administration's costs, as determined by the Administrator," for "Administration's costs" and inserted "The Determination of such costs by the Administrator is not subject to judicial review." at end.

2000—Subsec. (a)(2). Pub. L. 106–181, §719(1), added par. (2) and struck out former par. (2) which read as follows: "Services (other than air traffic control services) provided to a foreign government."

Subsec. (d). Pub. L. 106–181, §719(2), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

OVERFLIGHT FEES

Pub. L. 108–176, title II, §229, Dec. 12, 2003, 117 Stat. 2532, provided that:

"(a) ADOPTION AND LEGALIZATION OF CERTAIN RULES.—

"(1) APPLICABILITY AND EFFECT OF CERTAIN LAW.—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act [Pub. L. 107–71] (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

"(2) ADOPTION AND LEGALIZATION.—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

"(3) FEES TO WHICH APPLICABLE.—This subsection applies to fees assessed after November 19, 2001, and before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

"(b) DEFERRED COLLECTION OF FEES.—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress responding to the issues raised by the court in Air Transport Association of Canada v. Federal Aviation Administration and Administrator, FAA, decided on April 8, 2003, and (2) consults with users and other interested parties regarding the consistency of the fees established under such section with the international obligations of the United States.

"(c) ENFORCEMENT.—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title."

§45302. Fees involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL AUTHORITY AND MAXIMUM FEES.—The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates to pilots and certificates of registration of aircraft and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) $12 for issuing an airman's certificate to a pilot.

(2) $25 for registering an aircraft after the transfer of ownership.

(3) $15 for renewing an aircraft registration.

(4) $7.50 for processing a form for a major repair or alteration of a fuel tank or fuel system of an aircraft.

(c) ADJUSTMENTS.—The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) CREDIT TO ACCOUNT AND AVAILABILITY.—Money collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701–44716 of this title (except sections 44701(c), 44703(g)(2), and 44713(d)(2)). The money is available to the Administrator to pay expenses for which the fees are collected.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(g)(2), and 44713(d)(2) of this title take effect.

(2) EFFECT OF IMPOSITION OF OTHER FEES.—A fee may not be imposed for a service or activity under this section during any period in which a fee for the same service or activity is imposed under section 45305.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–429, §6(59), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 112–95, title I, §122(c), Feb. 14, 2012, 126 Stat. 20; Pub. L. 115–254, div. B, title V, §539(j), Oct. 5, 2018, 132 Stat. 3371.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45302(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
45302(b), (c)	49 App.:1354(f)(1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §313(f); added Nov. 18, 1988, Pub. L. 100–690, §7207(c)(1), 102 Stat. 4427.
45302(d)	49 App.:1354(f)(4).	

In subsection (b), before clause (1), the text of 49 App.:1354(f)(3) is omitted as obsolete because the final regulations are effective. The word "impose" is substituted for "establish and collect" for consistency.

In subsection (d), the words "Money collected from fees imposed" are substituted for "The amount of fees collected" for clarity and consistency.

PUB. L. 103–429

This amends 49:45302 because the final regulations are not yet effective.

EDITORIAL NOTES

AMENDMENTS

2018—Subsecs. (d), (e)(1). Pub. L. 115–254 substituted "44703(g)(2)" for "44703(f)(2)".

2012—Subsec. (e). Pub. L. 112–95 designated existing provisions as par. (1), inserted heading, and added par. (2).

1994—Subsec. (e). Pub. L. 103–429 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

INSPECTOR GENERAL AUDIT

Pub. L. 100–690, title VII, §7207(c)(4), Nov. 18, 1988, 102 Stat. 4428, as amended by Pub. L. 104–66, title II, §2041, Dec. 21, 1995, 109 Stat. 728, provided that: "During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958 [see subsec. (b) of this section], the Department of Transportation Inspector General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit."

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 30th item on page 4 identifies a reporting provision which, as subsequently amended, is contained in section 7207(c)(4) of Pub. L. 100–690, set out as a note above), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

§45303. Administrative provisions

(a) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration are payable to the Administrator of the Federal Aviation Administration.

(b) REFUNDS.—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

(c) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31, all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on September 30, 1996, are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

(1) shall be credited to a separate account established in the Treasury and made available for Administration activities;

(2) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

(3) shall remain available until expended.

(d) ANNUAL BUDGET REPORT BY ADMINISTRATOR.—The Administrator shall, on the same day each year as the President submits the annual budget to Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) a list of fee collections by the Administration during the preceding fiscal year;

(2) a list of activities by the Administration during the preceding fiscal year that were supported

by fee expenditures and appropriations;

(3) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Administration; and

(5) such other information as those committees consider necessary.

(e) DEVELOPMENT OF COST ACCOUNTING SYSTEM.—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

(f) COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Administration shall prescribe regulations to ensure that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.

(g) DATA TRANSPARENCY.—

(1) AIR TRAFFIC SERVICES INITIAL DATA REPORT.—

(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the FAA Reauthorization Act of 2018, the Administrator and the Chief Operating Officer of the Air Traffic Organization shall, based upon the most recently available full fiscal year data, complete the following calculations for each segment of air traffic services users:

(i) The total costs allocable to the use of air traffic services for that segment during such fiscal year.

(ii) The total revenues received from that segment during such fiscal year.

(B) VALIDATION OF MODEL.—

(i) REVIEW AND DETERMINATION.—Not later than 3 months after completion of the initial report required under subparagraph (A), the inspector general of the Department of Transportation shall review and determine the validity of the model used by the Administrator and the Chief Operating Officer to complete the calculations required under subparagraph (A).

(ii) VALIDATION PROCESS.—In the event that the inspector general determines that the model used by the Administrator and the Chief Operating Officer to complete the calculations required by subparagraph (A) is not valid—

(I) the inspector general shall provide the Administrator and Chief Operating Officer recommendations on how to revise the model;

(II) the Administrator and the Chief Operating Officer shall complete the calculations required by subparagraph (A) utilizing the revised model and resubmit the revised initial report required under subparagraph (A) to the inspector general; and

(III) not later than 3 months after completion of the revised initial report required under subparagraph (A), the inspector general shall review and determine the validity of the revised model used by the Administrator and the Chief Operating Officer to complete the calculations required by subparagraph (A).

(iii) ACCESS TO DATA.—The Administrator and the Chief Operating Officer shall provide the inspector general of the Department of Transportation with unfettered access to all data produced by the cost accounting system operated and maintained pursuant to subsection (e).

(C) REPORT TO CONGRESS.—Not later than 60 days after completion of the review and receiving a determination that the model used is valid under subparagraph (B), the Administrator and the Chief Operating Officer shall submit to the Committee on Transportation

and Infrastructure, the Committee on Appropriations, and the Committee on Ways and Means of the House of Representatives, and the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on Finance of the Senate a report describing the results of the calculations completed under subparagraph (A).

(D) PUBLICATION.—Not later than 60 days after submission of the report required under subparagraph (C), the Administrator and Chief Operating Officer shall publish the initial report, including any revision thereto if required as a result of the validation process for the model.

(2) AIR TRAFFIC SERVICES BIENNIAL DATA REPORTING.—

(A) BIENNIAL DATA REPORTING.—Not later than March 31, 2019, and biennially thereafter for 14 years, the Administrator and the Chief Operating Officer shall, using the validated model, complete the following calculations for each segment of air traffic services users for the most recent full fiscal year:

(i) The total costs allocable to the use of the air traffic services for that segment.

(ii) The total revenues received from that segment.

(B) REPORT TO CONGRESS.—Not later than 15 days after completing the calculations under subparagraph (A), the Administrator and the Chief Operating Officer shall complete and submit to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on Ways and Means of the House of Representatives, and the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on Finance of the Senate a report containing the results of such calculations.

(C) PUBLICATION.—Not later than 60 days after completing the calculations pursuant to subparagraph (A), the Administrator and the Chief Operating Officer shall publish the results of such calculations.

(3) SEGMENTS OF AIR TRAFFIC SERVICES USERS.—

(A) IN GENERAL.—For purposes of this subsection, each of the following shall constitute a separate segment of air traffic services users:

(i) Passenger air carriers conducting operations under part 121 of title 14, Code of Federal Regulations.

(ii) All-cargo air carriers conducting operations under part 121 of such title.

(iii) Operators covered by part 125 of such title.

(iv) Air carriers and operators of piston-engine aircraft operating under part 135 of such title.

(v) Air carriers and operators of turbine-engine aircraft operating under part 135 of such title.

(vi) Foreign air carriers providing passenger air transportation.

(vii) Foreign air carriers providing all-cargo air transportation.

(viii) Operators of turbine-engine aircraft operating under part 91 of such title, excluding those operating under subpart (K) of such part.

(ix) Operators of piston-engine aircraft operating under part 91 of such title, excluding those operating under subpart (K) of such part.

(x) Operators covered by subpart (K) of part 91 of such title.

(xi) Operators covered by part 133 of such title.

(xii) Operators covered by part 136 of such title.

(xiii) Operators covered by part 137 of such title.

(xiv) Operators of public aircraft that qualify under section 40125.

(xv) Operators of aircraft that neither take off from, nor land in, the United States.

(B) ADDITIONAL SEGMENTS.—The Secretary may identify and include additional segments of air traffic users under subparagraph (A) as revenue and air traffic services cost data become available for that additional segment of air traffic services users.

(4) DEFINITIONS.—For purposes of this subsection:

(A) AIR TRAFFIC SERVICES.—The term "air traffic services" means services—

(i) used for the monitoring, directing, control, and guidance of aircraft or flows of aircraft and for the safe conduct of flight, including communications, navigation, and surveillance services and provision of aeronautical information; and

(ii) provided directly, or contracted for, by the Federal Aviation Administration.

(B) AIR TRAFFIC SERVICES USER.—The term "air traffic services user" means any individual or entity using air traffic services provided directly, or contracted for, by the Federal Aviation Administration within United States airspace or international airspace delegated to the United States.

(Added Pub. L. 104–264, title II, §276(a)(2), Oct. 9, 1996, 110 Stat. 3247; amended Pub. L. 115–254, div. B, title V, §519, Oct. 5, 2018, 132 Stat. 3359; Pub. L. 118–63, title VI, §607, May 16, 2024, 138 Stat. 1225.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), is title II of Pub. L. 104–264, Oct. 9, 1996, 110 Stat. 3227. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 40101 of this title and Tables.

The date of enactment of the FAA Reauthorization Act of 2018, referred to in subsec. (g)(1)(A), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

PRIOR PROVISIONS

A prior section 45303 was renumbered section 45304 of this title.

AMENDMENTS

2024—Subsec. (g)(2)(A). Pub. L. 118–63 substituted "14 years" for "8 years" in introductory provisions.

2018—Subsec. (g). Pub. L. 115–254 added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§45304. Maximum fees for private person services

The Administrator of the Federal Aviation Administration may establish maximum fees that private persons may charge for services performed under a delegation to the person under section 44702(d) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1225, §45303; renumbered §45304, Pub. L. 104–264, title II, §276(a)(1), Oct. 9, 1996, 110 Stat. 3247.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

45303	49 App.:1355(a) (last sentence related to fees).	Aug. 23, 1958, Pub. L. 85–726, §314(a) (last sentence related to fees), 72 Stat. 754.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, the word "Administrator" in section 314(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754) is retained on authority of 49:106(g). The words "services performed under a delegation to the person under section 44702(d) of this title" are substituted for "their services" because of the restatement.

§45305. Registration, certification, and related fees

(a) GENERAL AUTHORITY AND FEES.—Subject to subsection (c), the Administrator of the Federal Aviation Administration shall establish and collect a fee for each of the following services and activities of the Administration that does not exceed the estimated costs of the service or activity:

(1) Registering an aircraft.
(2) Reregistering, replacing, or renewing an aircraft registration certificate.
(3) Issuing an original dealer's aircraft registration certificate.
(4) Issuing an additional dealer's aircraft registration certificate (other than the original).
(5) Issuing a special registration number.
(6) Issuing a renewal of a special registration number reservation.
(7) Recording a security interest in an aircraft or aircraft part.
(8) Issuing an airman certificate.
(9) Issuing a replacement airman certificate.
(10) Issuing an airman medical certificate.
(11) Providing a legal opinion pertaining to aircraft registration or recordation.

(b) CERTIFICATION SERVICES.—Subject to subsection (c), and notwithstanding section 45301(a), the Administrator may establish and collect a fee from a foreign government or entity for services related to certification, regardless of where the services are provided, if the fee—

(1) is established and collected in a manner consistent with aviation safety agreements; and
(2) does not exceed the estimated costs of the services.

(c) LIMITATION ON COLLECTION.—No fee may be collected under this section unless the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

(d) FEES CREDITED AS OFFSETTING COLLECTIONS.—

(1) IN GENERAL.—Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall—

(A) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed, including all costs associated with collecting the fee; and

(C) remain available until expended.

(2) CONTINUING APPROPRIATIONS.—The Administrator may continue to assess, collect, and spend fees established under this section during any period in which the funding for the Federal Aviation Administration is provided under an Act providing continuing appropriations in lieu of the Administration's regular appropriations.

(3) ADJUSTMENTS.—The Administrator shall adjust a fee established under subsection (a)

for a service or activity if the Administrator determines that the actual cost of the service or activity is higher or lower than was indicated by the cost data used to establish such fee.

(Added Pub. L. 112–95, title I, §122(a), Feb. 14, 2012, 126 Stat. 19; amended Pub. L. 115–254, div. B, title II, §244, Oct. 5, 2018, 132 Stat. 3260.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §244(1), substituted "Subject to subsection (c)" for "Subject to subsection (b)" in introductory provisions.

Subsecs. (b) to (d). Pub. L. 115–254, §244(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

§45306. Manual surcharge

(a) IN GENERAL.—Not later 3 years after the date of enactment of the FAA Reauthorization Act of 2018, the Administrator shall impose and collect a surcharge on a Civil Aviation Registry transaction that—

(1) is conducted in person at the Civil Aviation Registry;

(2) could be conducted, as determined by the Administrator, with the same or greater level of efficiency by electronic or other remote means; and

(3) is not related to research or other non-commercial activities.

(b) MAXIMUM SURCHARGE.—A surcharge imposed and collected under subsection (a) shall not exceed twice the maximum fee the Administrator is authorized to charge for the registration of an aircraft, not used to provide air transportation, after the transfer of ownership under section 45302(b)(2).

(c) CREDIT TO ACCOUNT AND AVAILABILITY.—Monies collected from a surcharge imposed under subsection (a) shall be treated as monies collected under section 45302 and subject to the terms and conditions set forth in section 45302(d).

(Added Pub. L. 115–254, div. B, title V, §546(d), Oct. 5, 2018, 132 Stat. 3376.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2018, referred to in subsec. (a), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

SUBPART IV—ENFORCEMENT AND PENALTIES

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.

46101. Complaints and investigations.
46102. Proceedings.
46103. Service of notice, process, and actions.
46104. Evidence.
46105. Regulations and orders.
46106. Enforcement by the Department of Transportation.
46107. Enforcement by the Attorney General.
46108. Enforcement of certificate requirements by interested persons.

46109. Joinder and intervention.
46110. Judicial review.
46111. Certificate actions in response to a security threat.

EDITORIAL NOTES

AMENDMENTS

2003—Pub. L. 108–176, title VI, §601(b), Dec. 12, 2003, 117 Stat. 2563, added item 46111.

2001—Pub. L. 107–71, title I, §140(b)(8), Nov. 19, 2001, 115 Stat. 641, substituted "Department of Transportation" for "Secretary of Transportation and Administrator of the Federal Aviation Administration" in item 46106.

§46101. Complaints and investigations

(a) GENERAL.—(1) A person may file a complaint in writing with the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) about a person violating this part or a requirement prescribed under this part. Except as provided in subsection (b) of this section, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall investigate the complaint if a reasonable ground appears to the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration for the investigation.

(2) On the initiative of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, as appropriate, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration may conduct an investigation, if a reasonable ground appears to the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration for the investigation, about—

(A) a person violating this part or a requirement prescribed under this part; or

(B) any question that may arise under this part.

(3) The Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration may dismiss a complaint without a hearing when the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration is of the opinion that the complaint does not state facts that warrant an investigation or action.

(4) After notice and an opportunity for a hearing and subject to section 40105(b) of this title, the Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall issue an order to compel compliance with this part if the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration finds in an investigation under this subsection that a person is violating this part.

(b) COMPLAINTS AGAINST MEMBERS OF ARMED FORCES.—The Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall refer a complaint against a member of the armed forces of the United States performing official duties to the Secretary of the department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration of the action taken on the complaint, including any corrective or disciplinary action taken.

(c) PROHIBITION ON USING ADS–B OUT DATA TO INITIATE AN INVESTIGATION.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Administrator of the Federal Aviation Administration may not initiate an investigation (excluding a criminal investigation) of a person based exclusively on automatic dependent surveillance–broadcast data.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall prohibit the use of automatic dependent surveillance–broadcast data in an investigation that was initiated for any reason other than the review of automatic dependent surveillance–broadcast data, including if such investigation was initiated as a result of a report or complaint submitted to the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1226; Pub. L. 107–71, title I, §140(b)(1)–(3), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(4), Oct. 5, 2018, 132 Stat. 3642; Pub. L. 118–63, title VIII, §829, May 16, 2024, 138 Stat. 1336.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46101(a)(1)	49 App.:1482(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §1002(a), (b), 72 Stat. 788.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46101(a)(2)	49 App.:1482(b).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(3)	49 App.:1482(a) (3d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(4)	49 App.:1482(c).	Aug. 23, 1958, Pub. L. 85–726, §1002(c), 72 Stat. 789; Feb. 15, 1980, Pub. L. 96–192, §25, 94 Stat. 47.
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(b)	49 App.:1482(a) (4th, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a)(1), the words "the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part" are substituted for "the Secretary of Transportation or the Board, as to matters within their respective jurisdictions . . . with respect to anything done or omitted to be done by any person in contravention of any provisions of this chapter, or of any requirement established pursuant thereto" for clarity and because of the restatement. The words "Except as provided in subsection (b) of this section" are added because of the restatement of the source provisions in subsection (b) of this section. The words "If the person complained against shall not satisfy the complaint and" are omitted as surplus.

In subsection (a)(2), before clause (A), the words "the Secretary of Transportation or the Administrator, as appropriate" are substituted for "The Secretary of Transportation or Board, with respect to matters within their respective jurisdictions" to eliminate unnecessary words. The words "if a reasonable ground appears to the

Secretary or Administrator for the investigation" are substituted for 49 App.:1482(b) (last sentence) for clarity and to eliminate unnecessary words. Clause (A) is substituted for "in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Secretary of Transportation or Board by any provision of this chapter . . . or relating to the enforcement of any of the provisions of this chapter" for clarity and to eliminate unnecessary words.

In subsection (a)(4), the words "an opportunity for a" are added for consistency in the revised title and with other titles of the United States Code. The words "compel compliance with this part" are substituted for "compel such person to comply therewith" for clarity. The words "in an investigation under this subsection" are substituted for "in any investigation instituted upon complaint or upon their own initiative" to eliminate unnecessary words. The words "is violating this part" are substituted for "has failed to comply with any provision of this chapter or any requirement established pursuant thereto" for clarity and to eliminate unnecessary words. The words "with respect to matters within their jurisdiction" are omitted as unnecessary because of the restatement.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 added subsec. (c).

2018—Pub. L. 115–254, §1991(f)(4), substituted "Administrator of the Transportation Security Administration," for "Under Secretary," wherever appearing.

Pub. L. 115–254, §1991(f)(2), substituted "or Administrator of the Federal Aviation Administration" for "or Administrator" wherever appearing.

Subsec. (a)(1). Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)".

Pub. L. 115–254, §1991(f)(1), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary".

2001—Subsec. (a)(1). Pub. L. 107–71, §140(b)(1), (2), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or" and substituted ", Under Secretary, or Administrator" for "or Administrator" in two places.

Subsec. (a)(2). Pub. L. 107–71, §140(b)(2), (3), in introductory provisions, substituted ", Under Secretary, or Administrator, as" for "of Transportation or the Administrator, as" and substituted ", Under Secretary, or Administrator" for "or Administrator" in two places.

Subsec. (a)(3), (4). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator" wherever appearing.

Subsec. (b). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AUTHORITY FOR LEGAL COUNSEL TO ISSUE CERTAIN NOTICES

Pub. L. 115–254, div. B, title III, §396, Oct. 5, 2018, 132 Stat. 3327, provided that: "Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall designate the appropriate legal counsel of the [Federal Aviation] Administration as an appropriate official for purposes of section 13.11 of title 14, Code of Federal Regulations."

§46102. Proceedings

(a) CONDUCTING PROCEEDINGS.—Subject to subchapter II of chapter 5 of title 5, the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) may conduct proceedings in a way conducive to justice and the proper dispatch of business.

(b) APPEARANCE.—A person may appear and be heard before the Secretary, the Administrator of the Transportation Security Administration, and the Administrator of the Federal Aviation Administration in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator of the Federal Aviation Administration conducts under section 40113(a) of this title.

(c) RECORDING AND PUBLIC ACCESS.—Official action taken by the Secretary, Administrator of the Transportation Security Administration, and Administrator of the Federal Aviation Administration under this part shall be recorded. Proceedings before the Secretary, Administrator of the Transportation Security Administration, and Administrator of the Federal Aviation Administration shall be open to the public on the request of an interested party unless the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration decides that secrecy is required because of national defense.

(d) CONFLICTS OF INTEREST.—The Secretary, the Administrator of the Transportation Security Administration, the Administrator of the Federal Aviation Administration, or an officer or employee of the Federal Aviation Administration may not participate in a proceeding referred to in subsection (a) of this section in which the individual has a pecuniary interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1226; Pub. L. 107–71, title I, §140(b)(1), (2), (4)–(6), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(5), Oct. 5, 2018, 132 Stat. 3642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46102(a)	49 App.:1481 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1001, 72 Stat. 788.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46102(b)	49 App.:1481 (3d, 4th sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46102(c)	49 App.:1481 (last sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46102(d)	49 App.:1481 (2d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a), the cross-reference to chapter 7 of title 5 is omitted as unnecessary.

In subsection (b), the text of 49 App.:1481 (4th sentence words after last comma) is omitted as obsolete. The words "National Transportation Safety Board" were substituted for "Board" in 49 App.:1481 (4th sentence) because 49 App.:1655(d) transferred all functions, duties, and powers of the Civil Aeronautics Board under titles VI and VII of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775) to the Secretary of Transportation to be carried out through the former National Transportation Safety Board in the Department of Transportation. Title VI includes sections 602 and 609 [49 App.:1422, 1429], that provide for appeals to the Civil Aeronautics Board (subsequently transferred to the National Transportation Safety Board), and section 611(e) [49 App.:1431(e)], that provides for appeals to the National Transportation Safety Board.

Under 49 App.:1902(a), the National Transportation Safety Board in the Department of Transportation was replaced by an independent National Transportation Safety Board outside the Department, and 49 App.:1903(a)(9)(A) gave the independent Board the authority to review appeals from actions of the Secretary under 49 App.:1422, 1429, and 1431(e).

In subsection (c), the words "vote and" are omitted as surplus.

In subsection (d), the words "officer or employee of the Administration" are substituted for "member" for clarity and consistency in the revised title and with other titles of the United States Code. The words "hearing or" are omitted as surplus. The words "referred to in subsection (a) of this section" are added for clarity.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(f)(4), substituted "Administrator of the Transportation Security Administration," for "Under Secretary," wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)".

Pub. L. 115–254, §1991(f)(1), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary".

Subsec. (b). Pub. L. 115–254, §1991(f)(5)(A), substituted "the Administrator of the Federal Aviation Administration" for "the Administrator" in two places.

Subsec. (c). Pub. L. 115–254, §1991(f)(5)(B), substituted "and Administrator of the Federal Aviation Administration" for "and Administrator" in two places.

Pub. L. 115–254, §1991(f)(2), substituted "or Administrator of the Federal Aviation Administration" for "or Administrator".

Subsec. (d). Pub. L. 115–254, §1991(f)(5)(C), substituted "the Administrator of the Federal Aviation Administration, or an officer or employee of the Federal Aviation Administration" for "the Administrator, or an officer or employee of the Administration".

2001—Subsec. (a). Pub. L. 107–71, §140(b)(1), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

Subsec. (b). Pub. L. 107–71, §140(b)(4), substituted ", the Under Secretary, and the Administrator" for "and the Administrator".

Subsec. (c). Pub. L. 107–71, §140(b)(2), (5), substituted ", Under Secretary, and Administrator" for "and Administrator" in two places and ", Under Secretary, or Administrator" for "or Administrator".

Subsec. (d). Pub. L. 107–71, §140(b)(6), inserted "the Under Secretary," after "Secretary,".

§46103. Service of notice, process, and actions

(a) DESIGNATING AGENTS.—(1) Each air carrier and foreign air carrier shall designate an agent on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration; and

(B) may be changed in the same way as originally made.

(b) SERVICE.—(1) Service may be made—

(A) by personal service;

(B) on a designated agent;

(C) by certified or registered mail to the person to be served or the designated agent of the person;

(D) by electronic or facsimile transmission to the person to be served or the designated agent of the person; or

(E) as designated by regulation or guidance published in the Federal Register.

(2) The date of service made by certified or registered mail is the date of mailing.

(3) The date of service made by an electronic or facsimile method is—

(A) the date an electronic or facsimile transmission is sent; or

(B) the date a notification is sent by an electronic or facsimile method that a notice, process, or action is immediately available and accessible in an electronic database.

(c) SERVING AGENTS.—Service on an agent designated under this section shall be made at the office or usual place of residence of the agent or at the electronic or facsimile address designated by the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1227; Pub. L. 107–71, title I, §140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(4), Oct. 5, 2018, 132 Stat. 3642; Pub. L. 118–63, title II, §219, May 16, 2024, 138 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46103(a)	49 App.:1485(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1005(b), 72 Stat. 794..
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46103(b)	49 App.:1485(c).	Aug. 23, 1958, Pub. L. 85–726, §1005(c), 72 Stat. 794; restated Aug. 25, 1959, Pub. L. 86–199, 73 Stat. 427.
46103(c)	49 App.:1485(b) (last sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a)(1), the words "in a proceeding before" are added for clarity. The word "action" is substituted for "orders, decisions, and requirements" to eliminate unnecessary words. The words "for and on behalf of said carrier" are omitted as surplus.

In subsection (a)(2)(B), the words "from time to time" are omitted as surplus.

In subsection (b)(1)(B), the words "in writing for the purpose" are omitted as surplus.

In subsection (b)(1)(C), the word "addressed" is omitted as surplus.

In subsection (b)(2), the word "date" is substituted for "time" for clarity and consistency.

In subsection (c), the words "with like effect as if made personally upon such carrier" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b)(1)(D), (E). Pub. L. 118–63, §219(1)(A), added subpars. (D) and (E).

Subsec. (b)(3). Pub. L. 118–63, §219(1)(B), added par. (3).

Subsec. (c). Pub. L. 118–63, §219(2), substituted "Service on an agent designated under this section shall be made at the office or usual place of residence of the agent or at the electronic or facsimile address designated by the agent." for "Service on an agent designated under this section shall be made at the office or usual place of residence of the agent."

2018—Subsec. (a)(1). Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)".

Pub. L. 115–254, §1991(f)(1), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary".

Subsec. (a)(2)(A). Pub. L. 115–254, §1991(f)(2), (4), substituted "Administrator of the Transportation Security Administration," for "Under Secretary," and "or Administrator of the Federal Aviation Administration" for "or Administrator".

Subsec. (c). Pub. L. 115–254, §1991(f)(2), (4), substituted "Administrator of the Transportation Security Administration," for "Under Secretary," and "or Administrator of the Federal Aviation Administration" for "or Administrator".

2001—Subsec. (a)(1). Pub. L. 107–71, §140(b)(1), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

Subsec. (a)(2)(A). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator".

Subsec. (c). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator".

§46104. Evidence

(a) GENERAL.—In conducting a hearing or investigation under this part, the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) may—

(1) subpoena witnesses and records related to a matter involved in the hearing or investigation from any place in the United States to the designated place of the hearing or investigation;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence at a place in the United States the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration designates.

(b) COMPLIANCE WITH SUBPOENAS.—If a person disobeys a subpoena, the Secretary, the Administrator of the Transportation Security Administration, the Administrator of the Federal Aviation Administration, or a party to a proceeding before the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration may petition a court of the United States to enforce the subpoena. A judicial proceeding to enforce a subpoena under this section may be brought in the jurisdiction in which the proceeding or investigation is conducted. The court may punish a failure to obey an order of the court to comply with the subpoena as a contempt of court.

(c) DEPOSITIONS.—(1) In a proceeding or investigation, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration

may order a person to give testimony by deposition and to produce records. If a person fails to be deposed or to produce records, the order may be enforced in the same way a subpoena may be enforced under subsection (b) of this section.

(2) A deposition may be taken before an individual designated by the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration and having the power to administer oaths.

(3) Before taking a deposition, the party or the attorney of the party proposing to take the deposition must give reasonable notice in writing to the opposing party or the attorney of record of that party. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent. Each deposition shall be filed promptly with the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration.

(5) If the laws of a foreign country allow, the testimony of a witness in that country may be taken by deposition—

(A) by a consular officer or an individual commissioned by the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration or agreed on by the parties by written stipulation filed with the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration; or

(B) under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration.

(d) WITNESS FEES AND MILEAGE AND CERTAIN FOREIGN COUNTRY EXPENSES.—A witness summoned before the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration or whose deposition is taken under this section and the individual taking the deposition are each entitled to the same fee and mileage that the witness and individual would have been paid for those services in a court of the United States. Under regulations of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall pay the necessary expenses incident to executing, in another country, a commission or letter rogatory issued at the initiative of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration.

(e) DESIGNATING EMPLOYEES TO CONDUCT HEARINGS.—When designated by the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, an employee appointed under section 3105 of title 5 may conduct a hearing, subpoena witnesses, administer oaths, examine witnesses, and receive evidence at a place in the United States the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration designates. On request of a party, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall hear or receive argument.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1227; Pub. L. 107–71, title I, §140(b)(1), (2), (6), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(4), (6), Oct. 5, 2018, 132 Stat. 3642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

46104(a)	49 App.:1354(c) (related to this chapter).	Aug. 23, 1958, Pub. L. 85–726, §§313(c) (related to this Act), 1004(a)–(h), 72 Stat. 753, 792.
	49 App.:1484(a) (related to member of the Board), (b) (1st sentence), (c) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46104(b)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(c) (last sentence), (d).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(1)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (1st, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(2)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (2d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(3)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (3d sentence).	
	49 App.:1655(c)(1).	
46104(c)(4)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(f).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(5)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(g).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(d)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(b) (last sentence), (h).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

46104(e)	49 App.:1354(c) (related to this chapter). 49 App.:1484(a) (related to examiner). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In this section, the word "Administrator" in section 313(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

Subsection (a)(1) is substituted for "sign and issue subpenas", "shall have the power to require by subpena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation", and "The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing" in 49 App.:1484 for clarity and consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the words "petition a court of the United States to enforce the subpena" are substituted for "invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section" in 49 App.:1484(c) to eliminate unnecessary words. The words "to enforce a subpena under this section" are substituted for "in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question" in 49 App.:1484(d) to eliminate unnecessary words.

In subsection (c)(1), the words "pending before it, at any stage of such proceeding or investigation" in 49 App.:1484(e) are omitted as surplus. The words "a person to give" are substituted for "to be taken", and the words "to produce records" are added, for clarity and consistency. The last sentence is substituted for 49 App.:1484(e) (last sentence) for clarity and consistency and to eliminate unnecessary words.

In subsection (c)(4), the words "shall be cautioned . . . to testify the whole truth, and shall be carefully examined" in 49 App.:1484(f) are omitted as surplus. The words "shall be under oath" are substituted for "shall be required to swear (or affirm, if he so requests)" for consistency and because of 1:1.

In subsection (d), the words "that the witness and individual would have been" are added for clarity and consistency in the revised title and with other titles of the Code. The words "fees, charges, or" and "on the subject" are omitted as surplus.

In subsection (e), the words "duly . . . for such purpose" are omitted as surplus. The words "employee appointed under section 3105 of title 5" are substituted for "examiner", and the words "subpena witnesses" are substituted for "sign and issue subpenas", for consistency in the revised title and with other titles of the Code. The words "In all cases heard by an examiner or a single member" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(f)(6)(A), substituted "subpoena" for "subpena" wherever appearing.

Pub. L. 115–254, §1991(f)(4), substituted "Administrator of the Transportation Security Administration," for "Under Secretary," wherever appearing.

Pub. L. 115–254, §1991(f)(2), substituted "or Administrator of the Federal Aviation Administration" for "or Administrator" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)" in introductory provisions.

Pub. L. 115–254, §1991(f)(1), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary" in introductory provisions.

Subsec. (b). Pub. L. 115–254, §1991(f)(6)(B), substituted "Subpoenas" for "Subpenas" in heading and "the Administrator of the Federal Aviation Administration, or" for "the Administrator, or" in text.

2001—Subsec. (a). Pub. L. 107–71, §140(b)(1), in introductory provisions inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

Subsec. (a)(4). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or

Administrator".

Subsec. (b). Pub. L. 107–71, §140(b)(2), (6), inserted "the Under Secretary," after 'Secretary," and substituted ", Under Secretary, or Administrator" for "or Administrator".

Subsecs. (c) to (e). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator" wherever appearing.

§46105. Regulations and orders

(a) EFFECTIVENESS OF ORDERS.—Except as provided in this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) takes effect within a reasonable time prescribed by the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration. The regulation or order remains in effect under its own terms or until superseded. Except as provided in this part, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration may amend, modify, or suspend an order in the way, and by giving the notice, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration decides.

(b) CONTENTS AND SERVICE OF ORDERS.—An order of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall include the findings of fact on which the order is based and shall be served on the parties to the proceeding and the persons affected by the order.

(c) EMERGENCIES.—When the Administrator of the Federal Aviation Administration is of the opinion that an emergency exists related to safety in air commerce and requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency, with or without notice and without regard to this part and subchapter II of chapter 5 of title 5. The Administrator shall begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1228; Pub. L. 107–71, title I, §140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(4), (7), Oct. 5, 2018, 132 Stat. 3642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46105(a)	49 App.:1485(a) (words before 1st proviso), (d), (e).	Aug. 23, 1958, Pub. L. 85–726, §1005(a), (d)–(f), 72 Stat. 794.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46105(b)	49 App.:1485(f).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46105(c)	49 App.:1485(a) (provisos).	
	49 App.:1655(c)(1).	

In subsection (a), the words "under its own terms or until superseded" are substituted for "until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation" for clarity and to eliminate unnecessary words. The word "amend" is added for consistency in the revised title. The text of 49 App.:1485(e) is omitted as surplus.

In subsection (c), the words "without complaint" and "if he so orders" are omitted as surplus. The words "prescribe . . . issue" are substituted for "make" for consistency in the revised title and with other titles of the United States Code. The words "just and reasonable" and "as may be essential in the interest of safety in air commerce" are omitted as surplus. The words "without regard to this part and subchapter II of chapter 5 of title 5" are substituted for "without answer or other form of pleading by the interested person or persons, and . . . hearing, or the making or filing of a report" to eliminate unnecessary words. The words "over all others under this chapter" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(f)(4), substituted "Administrator of the Transportation Security Administration," for "Under Secretary," wherever appearing.

Pub. L. 115–254, §1991(f)(2), substituted "or Administrator of the Federal Aviation Administration" for "or Administrator" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)".

Pub. L. 115–254, §1991(f)(1), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary".

Subsec. (c). Pub. L. 115–254, §1991(f)(7), substituted "When the Administrator of the Federal Aviation Administration" for "When the Administrator".

2001—Subsec. (a). Pub. L. 107–71, §140(b)(1), (2), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or" and substituted ", Under Secretary, or Administrator" for "or Administrator" wherever appearing.

Subsec. (b). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator".

§46106. Enforcement by the Department of Transportation

The Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) may bring a civil action against a person in a district court of the United States to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part. The action may be brought in the judicial district in which the person does business or the violation occurred.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229; Pub. L. 107–71, title I, §140(b)(1), (7), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1), (3), Oct. 5, 2018, 132 Stat. 3642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46106	49 App.:1487(a) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to Administrator and CAB), 72 Stat. 796.

	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The words "their duly authorized agents" are omitted as surplus. The words "may bring a civil action" are substituted for "may apply" for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word "prescribed" is added for consistency in the revised title and with other titles of the Code. The words "condition, or limitation" are omitted as being included in "term". The text of 49 App.:1487(a) (words after semicolon related to Secretary and CAB) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure (28 App. U.S.C.).

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)".

Pub. L. 115–254, §1991(f)(1), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary".

2001—Pub. L. 107–71, §140(b)(7), substituted "Department of Transportation" for "Secretary of Transportation and Administrator of the Federal Aviation Administration" in section catchline.

Pub. L. 107–71, §140(b)(1), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

§46107. Enforcement by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE SECTION 40106(b).—The Attorney General may bring a civil action in a district court of the United States against a person to enforce section 40106(b) of this title. The action may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS TO ENFORCE THIS PART.—(1) On request of the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration), the Attorney General may bring a civil action in an appropriate court—

(A) to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part; and

(B) to prosecute a person violating this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part.

(2) The costs and expenses of a civil action shall be paid out of the appropriations for the expenses of the courts of the United States.

(c) PARTICIPATION OF SECRETARY, ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION, OR ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION.—On request of the Attorney General, the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, as appropriate, may participate in a civil action under this part.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229; Pub. L. 107–71, title I, §140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(4), Oct. 5, 2018, 132 Stat. 3642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46107(a)	49 App.:1487(a) (related to Attorney General).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to Attorney General), 72 Stat. 796; Aug. 5, 1974, Pub. L. 93–366, §108, 88 Stat. 414.
46107(b)	49 App.:1487(b) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §§1007(b) (related to Administrator and CAB), 1008 (related to Administrator and CAB), 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46107(c)	49 App.:1488 (related to Secretary and CAB). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a), the words "may bring a civil action" are substituted for "may apply" for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49 App.:1487(a) (words after semicolon related to Attorney General) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

In subsection (b)(1), before clause (A), the words "Attorney General" are substituted for "any district attorney of the United States to whom the Board or Secretary of Transportation may apply", and the words "under the direction of the Attorney General" are omitted, because of 28:503 and 509. The words "bring a civil action" are substituted for "institute . . . and to prosecute . . . all necessary proceedings" for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure. In clauses (A) and (B), the words "prescribed" and "issued" are added for consistency in the revised title and with other titles of the Code. The words "condition, or limitation" are omitted as being included in "term".

In subsection (b)(2), the words "civil action" are substituted for "prosecutions" for consistency in the revised title and with other titles of the Code.

In subsection (c), the words "civil action" are substituted for "proceeding in court" for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)" in introductory provisions.

Pub. L. 115–254, §1991(f)(1), in introductory provisions, substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary".

Subsec. (c). Pub. L. 115–254, §1991(f)(4), which directed substitution of "Administrator of the

Transportation Security Administration," for "Under Secretary,", was executed by making the substitution in heading and text to reflect the probable intent of Congress.

Pub. L. 115–254, §1991(f)(2), which directed substitution of "or Administrator of the Federal Aviation Administration" for "or Administrator", was executed by making the substitution in heading and text to reflect the probable intent of Congress.

2001—Subsec. (b)(1). Pub. L. 107–71, §140(b)(1), in introductory provisions, inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

Subsec. (c). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator" in heading and text.

§46108. Enforcement of certificate requirements by interested persons

An interested person may bring a civil action in a district court of the United States against a person to enforce section 41101(a)(1) of this title. The action may be brought in the judicial district in which the defendant does business or the violation occurred.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46108	49 App.:1487(a) (related to party in interest).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to party in interest), 72 Stat. 796.

The words "interested person" are substituted for "party in interest" for consistency. The words "may bring a civil action" are substituted for "may apply" for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49 App.:1487(a) (words after semicolon related to party in interest) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

§46109. Joinder and intervention

A person interested in or affected by a matter under consideration in a proceeding before the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) or civil action to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1230; Pub. L. 115–254, div. K, title I, §1991(f)(8), Oct. 5, 2018, 132 Stat. 3642.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46109	49 App.:1489.	Aug. 23, 1958, Pub. L. 85–726, §1009, 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat.

		1704.

The words "proceeding . . . or civil action" are substituted for "proceeding . . . whether such proceedings be instituted . . . or be begun originally in any court of the United States" for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "prescribed . . . issued" are added for consistency in the revised title and with other titles of the Code. The words "condition, or limitation" are omitted as being included in "term". The words "may be joined as a party or permitted to intervene" are substituted for "it shall be lawful to include as parties, or to permit the intervention of" for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254 inserted "(or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator)" after "Secretary of Transportation".

§46110. Judicial review

(a) FILING AND VENUE.—Except for an order related to a foreign air carrier subject to disapproval by the President under section 41307 or 41509(f) of this title, a person disclosing a substantial interest in an order issued by the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) in whole or in part under this part, part B, or subsection (l) or (r) of section 114 may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, as appropriate. The Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration to conduct further proceedings. After reasonable notice to the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, if supported by substantial evidence, are conclusive.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing an order under this section, the court may consider an objection to an order of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration only if the objection was made in the proceeding conducted by the Secretary, Administrator of the

Transportation Security Administration, or Administrator of the Federal Aviation Administration or if there was a reasonable ground for not making the objection in the proceeding.

(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1230; Pub. L. 107–71, title I, §140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641; Pub. L. 108–176, title II, §228, Dec. 12, 2003, 117 Stat. 2532; Pub. L. 115–254, div. K, title I, §1991(f)(1)–(4), Oct. 5, 2018, 132 Stat. 3642; Pub. L. 118–63, title XI, §1101(s), May 16, 2024, 138 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46110(a)	49 App.:1486(a), (b) (as 1486(a), (b) relates to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(a), (b), (e), (f) (as §1006(a), (b), (e), (f) relates to Administrator and CAB), 72 Stat. 795.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46110(b)	49 App.:1486(c) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(c) (related to Administrator and CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86–546, §1, 74 Stat. 255.
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(c)	49 App.:1486(d) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(d) (related to Administrator and CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87–225, §2, 75 Stat. 497.
	49 App.:1486(e) (1st sentence related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(d)	49 App.:1486(e) (last sentence) (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(e)	49 App.:1486(f) (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsections (a)–(d), the word "Administrator" in section 1006 of the Federal Aviation Act of 1958

(Public Law 85–726, 72 Stat. 795) is retained on authority of 49:106(g).

In subsection (a), the words "affirmative or negative" are omitted as surplus. The words "is issued" are substituted for "the entry of" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words "if any" are omitted as surplus. The words "of any proceeding" are added for clarity. The words "complained of" are omitted as surplus.

In subsection (c), the word "amend" is added for consistency in the revised title. The word "interim" is substituted for "interlocutory" for clarity. The words "taking other appropriate action" are substituted for "by such mandatory or other relief as may be appropriate" for clarity and to eliminate unnecessary words.

In subsection (d), the words "made in the proceeding conducted by" are substituted for "urged before" for clarity.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 substituted "subsection (l) or (r) of section 114" for "subsection (l) or (s) of section 114".

2018—Pub. L. 115–254, §1991(f)(4), substituted "Administrator of the Transportation Security Administration," for "Under Secretary," wherever appearing.

Pub. L. 115–254, §1991(f)(2), substituted "or Administrator of the Federal Aviation Administration" for "or Administrator" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(f)(3), substituted "by the Administrator of the Federal Aviation Administration)" for "by the Administrator)".

Pub. L. 115–254, §1991(f)(1), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary".

2003—Subsec. (a). Pub. L. 108–176, in first sentence, struck out "safety" before "duties and powers designated to be carried out by the Administrator)" and substituted "in whole or in part under this part, part B, or subsection (l) or (s) of section 114" for "under this part".

2001—Subsec. (a). Pub. L. 107–71, §140(b)(1), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

Subsecs. (b) to (d). Pub. L. 107–71, §140(b)(2), substituted ", Under Secretary, or Administrator" for "or Administrator" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§46111. Certificate actions in response to a security threat

(a) ORDERS.—The Administrator of the Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator of the Federal Aviation Administration is notified by the Administrator of the Transportation Security Administration that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Administrator of the Transportation Security Administration, the order shall be effective immediately.

(b) HEARINGS FOR CITIZENS.—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator of the Federal Aviation Administration under subsection (a) is entitled to a hearing on the record.

(c) HEARINGS.—When conducting a hearing under this section, the administrative law judge

shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator of the Federal Aviation Administration or the Administrator of the Transportation Security Administration.

(d) APPEALS.—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

(e) REVIEW.—A person substantially affected by an action of a panel under subsection (d), or the Administrator of the Transportation Security Administration when the Administrator of the Transportation Security Administration decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain review of the order under section 46110. The Administrator of the Transportation Security Administration and the Administrator of the Federal Aviation Administration shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

(f) EXPLANATION OF DECISIONS.—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

(g) CLASSIFIED EVIDENCE.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration, in consultation with the Administrator of the Federal Aviation Administration and the Director of Central Intelligence, shall issue regulations to establish procedures by which the Administrator of the Transportation Security Administration, as part of a hearing conducted under this section, may provide an unclassified summary of classified evidence upon which the order of the Administrator of the Federal Aviation Administration was based to the individual adversely affected by the order.

(2) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

(A) REVIEW.—As part of a hearing conducted under this section, if the order of the Administrator of the Federal Aviation Administration issued under subsection (a) is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Administrator of the Transportation Security Administration to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

(B) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Administrator of the Transportation Security Administration shall, in coordination, as necessary, with the heads of other affected departments or agencies, ensure that administrative law judges reviewing orders of the Administrator of the Federal Aviation Administration under this section possess security clearances appropriate for their work under this section.

(3) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a hearing conducted under this section and upon the request of the individual adversely affected by an order of the Administrator of the Federal Aviation Administration under subsection (a), the Administrator of the Transportation Security Administration shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under paragraph (1), an unclassified summary of any classified information upon which the order of the Administrator of the Federal Aviation Administration is based.

(Added Pub. L. 108–176, title VI, §601(a), Dec. 12, 2003, 117 Stat. 2561; amended Pub. L. 115–254, div. B, title V, §539(l), div. K, title I, §1991(f)(9), Oct. 5, 2018, 132 Stat. 3371, 3643.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1(a) of the Classified Information Procedures Act, referred to in subsec. (g)(2)(A), is section 1(a) of Pub. L. 96–456, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2018—Pub. L. 115–254, §1991(f)(9)(D), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(f)(9)(A), inserted "the" before "Federal Aviation Administration shall issue" and substituted "Administrator of the Federal Aviation Administration is notified by the Administrator of the Transportation Security Administration" for "Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security".

Subsecs. (b), (c), (e). Pub. L. 115–254, §1991(f)(9)(B), substituted "Administrator of the Federal Aviation Administration" for "Administrator".

Subsec. (g). Pub. L. 115–254, §1991(f)(9)(B), substituted "Administrator of the Federal Aviation Administration" for "Administrator" wherever appearing.

Subsec. (g)(2)(A). Pub. L. 115–254, §§539(l), 1991(f)(9)(C), made identical amendments, substituting "(18 U.S.C. App.))" for "(18 U.S.C. App.)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

CHAPTER 463—PENALTIES

Sec.

46301. Civil penalties.
46302. False information.
46303. Carrying a weapon.
46304. Liens on aircraft.
46305. Actions to recover civil penalties.
46306. Registration violations involving aircraft not providing air transportation.
46307. Violation of national defense airspace.
46308. Interference with air navigation.
46309. Concession and price violations.
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46311. Unlawful disclosure of information.
46312. Transporting hazardous material.
46313. Refusing to appear or produce records.
46314. Entering aircraft or airport area in violation of security requirements.
46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation.
46316. General criminal penalty when specific penalty not provided.
46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.
46318. Interference with cabin or flight crew.

46319. Permanent closure of an airport without providing sufficient notice.
46320. Interference with wildfire suppression, law enforcement, or emergency response effort by operation of unmanned aircraft.

EDITORIAL NOTES

AMENDMENTS

2016—Pub. L. 114–190, title II, §2205(c), July 15, 2016, 130 Stat. 631, added item 46320.
2003—Pub. L. 108–176, title I, §185(b), Dec. 12, 2003, 117 Stat. 2518, added item 46319.
2000—Pub. L. 106–181, title V, §§509(b), 511(b), Apr. 5, 2000, 114 Stat. 141, 142, added items 46317 and 46318.

§46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $75,000 (or $1,100 if the person is an individual or small business concern) for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II or III of chapter 421, chapter 423 (except section 42306), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 448, chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), chapter 451, section 47107(a)(22) (including any assurance made under such section), section 47107(b) (including any assurance made under such section), or section 47133 of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A separate violation occurs under this subsection for each day the violation (other than a violation of section 41719) continues or, if applicable, for each flight involving the violation (other than a violation of section 41719).

(3) PENALTY FOR DIVERSION OF AVIATION REVENUES.—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 47133 of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.

(4) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraph (1) of this subsection, the maximum civil penalty for violating chapter 449 shall be $10,000; except that the maximum civil penalty shall be $25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).

(5) PENALTIES APPLICABLE TO INDIVIDUALS AND SMALL BUSINESS CONCERNS.—

(A) An individual (except an airman serving as an airman) or small business concern is liable to the Government for a civil penalty of not more than $10,000 for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502 (b) or (c), chapter 447 (except sections 44717–44723), chapter 448, chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909), chapter 451, or section 46314(a) of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) applies.

(B) A civil penalty of not more than $10,000 may be imposed for each violation under

paragraph (1) committed by an individual or small business concern related to—

(i) the transportation of hazardous material;

(ii) the registration or recordation under chapter 441 of an aircraft not used to provide air transportation;

(iii) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

(iv) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

(v) a violation of section 40127 or section 41705, relating to discrimination.

(C) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41719 committed by an individual or small business concern shall be $5,000 instead of $1,000.

(D) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary of Transportation by an individual or small business concern that is intended to afford consumer protection to commercial air transportation passengers shall be $2,500 for each violation.

(6) FAILURE TO COLLECT AIRPORT SECURITY BADGES.—Notwithstanding paragraph (1), any employer (other than a governmental entity or airport operator) who employs an employee to whom an airport security badge or other identifier used to obtain access to a secure area of an airport is issued before, on, or after the date of enactment of this paragraph and who does not collect or make reasonable efforts to collect such badge from the employee on the date that the employment of the employee is terminated and does not notify the operator of the airport of such termination within 24 hours of the date of such termination shall be liable to the Government for a civil penalty not to exceed $10,000.

(7) PENALTIES RELATING TO HARM TO PASSENGERS WITH DISABILITIES.—

(A) PENALTY FOR BODILY HARM OR DAMAGE TO WHEELCHAIR OR OTHER MOBILITY AID.—The amount of a civil penalty assessed under this section for a violation of section 41705 that involves damage to a passenger's wheelchair or other mobility aid or injury to a passenger with a disability may be increased above the otherwise applicable maximum amount under this section for a violation of section 41705 to an amount not to exceed 3 times the maximum penalty otherwise allowed.

(B) EACH ACT CONSTITUTES SEPARATE OFFENSE.—Notwithstanding paragraph (2), a separate violation of section 41705 occurs for each act of discrimination prohibited by that section.

(8) FAILURE TO CONTINUE OFFERING AVIATION FUEL [1].—Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 47107(a)(22) (including any assurance made under such section) committed by a person, including if the person is an individual or a small business concern, shall be $5,000 for each day that the person is in violation of that section.

(b) SMOKE ALARM DEVICE PENALTY.—(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than $2,000.

(c) PROCEDURAL REQUIREMENTS.—(1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, chapter 423, or section 44909 of this title.

(B) a violation of a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(C) a violation of any term of a certificate or permit issued under section 41102, 41103, or

41302 of this title.

(D) a violation under subsection (a)(1) of this section related to the transportation of hazardous material.

(2) The Secretary shall give written notice of the finding of a violation and the civil penalty under paragraph (1) of this subsection.

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) In this subsection—

(A) "flight engineer" means an individual who holds a flight engineer certificate issued under part 63 of title 14, Code of Federal Regulations.

(B) "mechanic" means an individual who holds a mechanic certificate issued under part 65 of title 14, Code of Federal Regulations.

(C) "pilot" means an individual who holds a pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

(D) "repairman" means an individual who holds a repairman certificate issued under part 65 of title 14, Code of Federal Regulations.

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 42121, chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 448, chapter 451, section 46301(b), section 46302 (for a violation relating to section 46504), section 46318, section 46319, section 46320, or section 47107(b) (as further defined by the Secretary of Transportation under section 47107(k) and including any assurance made under section 47107(b)) of this title or a regulation prescribed or order issued under any of those provisions. The Secretary of Homeland Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), section 46302 (except for a violation relating to section 46504), or section 46303 of this title or a regulation prescribed or order issued under any of those provisions. The Secretary of Homeland Security or Administrator of the Federal Aviation Administration shall give written notice of the finding of a violation and the penalty.

(3) In a civil action to collect a civil penalty imposed by the Secretary of Homeland Security or Administrator of the Federal Aviation Administration under this subsection, the issues of liability and the amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (2) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action involving a penalty the Secretary of Homeland Security or Administrator of the Federal Aviation Administration initiates if—

(A) the amount in controversy is more than—

(i) $400,000 if the violation was committed by any person other than an individual or small business concern before the date of enactment of the FAA Reauthorization Act of 2024;

(ii) $50,000 if the violation was committed by an individual or small business concern before the date of enactment of the FAA Reauthorization Act of 2024;

(iii) $1,200,000 if the violation was committed by a person other than an individual or small business concern on or after the date of enactment of the FAA Reauthorization Act of 2024; or

(iv) $100,000 if the violation was committed by an individual on or after the date of enactment of the FAA Reauthorization Act of 2024;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5)(A) The Administrator of the Federal Aviation Administration may issue an order imposing a penalty under this subsection against an individual acting as a pilot, flight engineer, mechanic, or

repairman only after advising the individual of the charges or any reason the Administrator of the Federal Aviation Administration relied on for the proposed penalty and providing the individual an opportunity to answer the charges and be heard about why the order shall not be issued.

(B) An individual acting as a pilot, flight engineer, mechanic, or repairman may appeal an order imposing a penalty under this subsection to the National Transportation Safety Board. After notice and an opportunity for a hearing on the record, the Board shall affirm, modify, or reverse the order. The Board may modify a civil penalty imposed to a suspension or revocation of a certificate.

(C) When conducting a hearing under this paragraph, the Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration but is bound by all validly adopted interpretations of laws and regulations the Administrator of the Federal Aviation Administration carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(D) When an individual files an appeal with the Board under this paragraph, the order of the Administrator of the Federal Aviation Administration is stayed.

(6) An individual substantially affected by an order of the Board under paragraph (5) of this subsection, or the Administrator of the Federal Aviation Administration when the Administrator of the Federal Aviation Administration decides that an order of the Board under paragraph (5) will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator of the Federal Aviation Administration shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(7)(A) The Administrator of the Federal Aviation Administration may impose a penalty on a person (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

(B) In an appeal from a decision of an administrative law judge as the result of a hearing under subparagraph (A) of this paragraph, the Administrator of the Federal Aviation Administration shall consider only whether—

(i) each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence;

(ii) each conclusion of law is made according to applicable law, precedent, and public policy; and

(iii) the judge committed a prejudicial error that supports the appeal.

(C) Except for good cause, a civil action involving a penalty under this paragraph may not be initiated later than 2 years after the violation occurs.

(D) In the case of a violation of section 47107(b) of this title or any assurance made under such section—

(i) a civil penalty shall not be assessed against an individual;

(ii) a civil penalty may be compromised as provided under subsection (f); and

(iii) judicial review of any order assessing a civil penalty may be obtained only pursuant to section 46110 of this title.

(8) The maximum civil penalty the Administrator of the Transportation Security Administration, Administrator of the Federal Aviation Administration, or Board may impose under this subsection is—

(A) $400,000 if the violation was committed by a person other than an individual or small business concern before the date of enactment of the FAA Reauthorization Act of 2024;

(B) $50,000 if the violation was committed by an individual or small business concern before the date of enactment of the FAA Reauthorization Act of 2024;

(C) $1,200,000 if the violation was committed by a person other than an individual or small business concern on or after the date of enactment of the FAA Reauthorization Act of 2024; or

(D) $100,000 if the violation was committed by an individual on or after the date of enactment

of the FAA Reauthorization Act of 2024.

(9) This subsection applies only to a violation occurring after August 25, 1992.

(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subsection (a)(3) of this section related to transportation of hazardous material, the Secretary of Transportation shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f) COMPROMISE AND SETOFF.—(1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 448, chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909), or chapter 451 of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) of this subparagraph applies.

(B) The Postal Service may compromise the amount of a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(g) JUDICIAL REVIEW.—An order of the Secretary or the Administrator of the Federal Aviation Administration imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h) NONAPPLICATION.—(1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces of the United States.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) a timely report on action taken.

(i) SMALL BUSINESS CONCERN DEFINED.—In this section, the term "small business concern" has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1231; Pub. L. 103–305, title I, §112(c), title II, §207(c), Aug. 23, 1994, 108 Stat. 1575, 1588; Pub. L. 103–429, §6(60), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title V, §502(c), title VIII, §804(b), title XII, §1220(b), Oct. 9, 1996, 110 Stat. 3263, 3271, 3286; Pub. L. 104–287, §5(77), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105–102, §3(c)(4), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–181, title II, §222, title V, §§503(c), 504(b), 519(c), title VII, §§707(b), 720, Apr. 5, 2000, 114 Stat. 102, 133, 134, 149, 158, 163; Pub. L. 106–424, §15, Nov. 1, 2000, 114 Stat. 1888; Pub. L. 107–71, title I, §140(d)(1)–(4), Nov. 19, 2001, 115 Stat. 642; Pub. L. 107–296, title XVI, §1602, Nov. 25, 2002, 116 Stat. 2312; Pub. L. 108–176, title V, §503(a)–(c), Dec. 12, 2003, 117 Stat. 2557, 2558; Pub. L. 108–458, title IV, §4027(a), Dec. 17, 2004, 118 Stat. 3727; Pub. L. 110–53, title XIII, §1302(b), Aug. 3, 2007, 121 Stat. 392; Pub. L. 110–161, div. E, title V, §542, Dec. 26, 2007, 121 Stat. 2079; Pub. L. 112–74, div. D, title V, §564(a), Dec. 23, 2011, 125 Stat. 981; Pub. L. 112–95, title IV, §415(b), title VIII, §803, Feb. 14,

2012, 126 Stat. 96, 119; Pub. L. 113–188, title XV, §1501(b)(2)(B), Nov. 26, 2014, 128 Stat. 2024; Pub. L. 114–190, title II, §2205(b), July 15, 2016, 130 Stat. 631; Pub. L. 115–254, div. B, title III, §372(e), title IV, §436, div. K, title I, §1991(g)(1), Oct. 5, 2018, 132 Stat. 3312, 3344, 3643; Pub. L. 118–63, title III, §§345, 371, title V, §§504(b), 507(a), title VII, §770(b), title XI, §1101(t), May 16, 2024, 138 Stat. 1102, 1139, 1191, 1193, 1295, 1414.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46301(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
	49 App.:1405 (last sentence).	Aug. 23, 1958, Pub. L. 85–726, §505 (last sentence), 72 Stat. 774.
	49 App.:1471(a)(1) (1st, 2d sentences less subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(1) (less title VII), 72 Stat. 783; restated July 10, 1962, Pub. L. 87–528, §12, 76 Stat. 149; Aug. 5, 1974, Pub. L. 93–366, §107, 88 Stat. 414; Jan. 3, 1975, Pub. L. 93–633, §113(b), 88 Stat. 2162; Oct. 24, 1978, Pub. L. 95–504, §35(a), 92 Stat. 1740; Aug. 8, 1985, Pub. L. 99–83, §551(b)(2), 99 Stat. 225; Dec. 30, 1987, Pub. L. 100–223, §204(a)–(c), 101 Stat. 1519; Nov. 18, 1988, Pub. L. 100–690, §7208(a), 102 Stat. 4429.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46301(b)	49 App.:1374(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §404(d)(2); added Dec. 22, 1987, Pub. L. 100–202, §328(a), 101 Stat. 1329–383.
46301(c)	49 App.:1471(a)(1) (3d, 5th sentences less subchapter VII).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
46301(d)(1)	49 App.:1471(a)(3)(H).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §901(a)(3) (less (D)(v) (related to Administrator under title VII)); added Nov. 18, 1988, Pub. L. 100–690, §7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102–345, §2(a), 106 Stat. 923; Oct. 31, 1992, Pub. L. 102–581, §208, 106 Stat. 4895.
46301(d)(2)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690,

		§7214, 102 Stat. 4434.
	49 App.:1471(a)(3)(A).	
46301(d)(3)	49 App.:1471(a)(3)(B).	
46301(d)(4)	49 App.:1471(a)(3)(C).	
46301(d)(5)	49 App.:1471(a) (3)(D)(i)–(iv).	
46301(d)(6)	49 App.:1471(a) (3)(D)(v) (less Administrator under subch. VII).	
46301(d)(7)	49 App.:1471(a)(3)(E).	
46301(d)(8)	49 App.:1471(a)(3)(G).	
46301(d)(9)	49 App.:1471(a)(3)(F).	
46301(e)	49 App.:1471(a)(1) (4th sentence less subchapter VII).	
46301(f)	49 App.:1471(a)(2) (related to subchapter III, V, VI, or XII, §1501, 1514, or 1515(e)(2)(B), and Postal Service).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(2) (related to title III, V, VI, or XII, §1101, 1114, or 1115(e)(2)(B), and Postmaster General), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, §12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, §35(b), 92 Stat. 1740; Dec. 30, 1987, Pub. L. 100–223, §204(d), 101 Stat. 1519.
	49 App.:1551(b)(1)(E).	
46301(g)	49 App.:1471(a)(1) (6th sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	
46301(h)	49 App.:1471(a)(1) (last sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	

In this section, the word "prescribed" is added for consistency in the revised title and with other titles of the United States Code. The words "United States Postal Service" and "Postal Service" are substituted for "Postmaster General" because of section 4(a) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773).

In subsections (a)(1)(C) and (c), the words "condition, or limitation" are omitted as surplus.

In subsection (a)(2), before clause (A), the words "occurring after December 30, 1987" are omitted as obsolete.

In subsection (b)(1), the word "providing" is substituted for "engaged in" for consistency in the revised title.

In subsection (b)(2), the words "in accordance with section 1471 of this Appendix" are omitted as surplus.

In subsection (c)(1), before clause (A), the words "or his delegate" are omitted because of 49:322(b). The word "impose" is substituted for "assessed" for consistency. The words "amount of any such" are omitted as surplus.

In subsection (d), the word "impose" is substituted for "assess" for consistency.

In subsection (d)(1), before clause (A), the words "the following definitions apply" are omitted as surplus.

In subsection (d)(2), the text of section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat 4434) is omitted as obsolete. The words "or the delegate of the Administrator" are omitted because of 49:322(b).

In subsection (d)(4)(C), the word "or" is substituted for "and" for clarity.

In subsection (d)(5)(B) and (7)(A), the words "in accordance with section 554 of title 5" are omitted for consistency in the revised title and because 5:554 applies to a hearing on the record unless otherwise stated.

In subsection (d)(5)(B), the words "consistent with this subsection" are omitted as surplus.

In subsection (d)(5)(C), the word "Administrator" is substituted for "Federal Aviation Administration" because of 49:106(b) and (g).

In subsection (d)(7)(B), before clause (i), the words "as the result of a hearing under subparagraph (A) of this paragraph" are added for clarity.

In subsection (e), before clause (1), the words "civil penalty under subsection (a)(3) of this section related to transportation of hazardous material" are substituted for "such penalty" for clarity. In clause (1), the word "committed" is omitted as surplus.

In subsection (f)(2), the word "imposed" is substituted for "when finally determined or fixed by order of the Board" for consistency. The words "agreed upon" are omitted as surplus.

In subsection (g), the word "imposing" is substituted for "assessing" for consistency.

In subsection (h)(2), the words "with respect thereto" are omitted as surplus. The word "Administrator" in section 901(a)(1) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) is retained on authority of 49:106(g).

PUB. L. 103–429

This amends 49:46301(a)(1)(A) and (2)(A), (c)(1)(A), (d)(2), and (f)(1)(A)(i) to correct erroneous cross-references.

PUB. L. 104–287, §5(77)(A) AND (B)

These amend 49:46301(a)(1)(A) and (2)(A) to correct errors in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1231), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

PUB. L. 104–287, §5(77)(C)

This makes a conforming amendment to 49:46301(a)(3).

PUB. L. 104–287, §5(77)(D)–(F)

These amend 49:46301(c)(1)(A), (d)(2), and (f)(1)(A)(i) to correct errors in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1231), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (a)(6), is the date of enactment of Pub. L. 110–161, which was approved Dec. 26, 2007.

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (d)(4)(A), (8), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Subsec. (a)(1). Pub. L. 118–63, §507(a), substituted "$75,000" for "$25,000" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 118–63, §770(b)(1), inserted "section 47107(a)(22) (including any assurance made under such section)," after "chapter 451,".

Pub. L. 118–63, §504(b), substituted "chapter 423 (except section 42306)" for "chapter 423".

Subsec. (a)(6). Pub. L. 118–63, §1101(t)(1), substituted "FAILURE TO COLLECT AIRPORT SECURITY BADGES" for "FAILURE TO COLLECT AIRPORT SECURITY BADGES" in heading.

Subsec. (a)(7). Pub. L. 118–63, §1101(t)(2), substituted "PENALTIES RELATING TO HARM TO PASSENGERS WITH DISABILITIES" for "PENALTIES RELATING TO HARM TO PASSENGERS WITH DISABILITIES" in heading.

Subsec. (a)(8). Pub. L. 118–63, §770(b)(2), added par. (8).

Subsec. (d)(2). Pub. L. 118–63, §371, inserted "section 42121," before "chapter 441".

Subsec. (d)(4)(A). Pub. L. 118–63, §345(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "the amount in controversy is more than—

"(i) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

"(ii) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

"(iii) $50,000 if the violation was committed by an individual or small business concern on or after that date;".

Subsec. (d)(8). Pub. L. 118–63, §345(2), added par. (8) and struck out former par. (8) which read as follows: "The maximum civil penalty the Administrator of the Transportation Security Administration, Administrator of the Federal Aviation Administration, or Board may impose under this subsection is—

"(A) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

"(B) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

"(C) $50,000 if the violation was committed by an individual or small business concern on or after that date."

2018—Subsec. (a)(1)(A). Pub. L. 115–254, §372(e)(1), inserted "chapter 448," after "chapter 447 (except sections 44717 and 44719–44723),".

Subsec. (a)(5)(A)(i). Pub. L. 115–254, §1991(g)(1)(A)(i), substituted "chapter 451" for "or chapter 451".

Pub. L. 115–254, §372(e)(2), inserted "chapter 448," after "chapter 447 (except sections 44717–44723),".

Subsec. (a)(5)(D). Pub. L. 115–254, §1991(g)(1)(A)(ii), inserted "of Transportation" after "Secretary".

Subsec. (a)(7). Pub. L. 115–254, §436, added par. (7).

Subsec. (d)(2). Pub. L. 115–254, §1991(g)(1)(B)(i), substituted "defined by the Secretary of Transportation" for "defined by the Secretary" and "Administrator of the Federal Aviation Administration shall" for "Administrator shall".

Pub. L. 115–254, §372(e)(3), inserted "chapter 448," after "chapter 447 (except sections 44717 and 44719–44723),".

Subsec. (d)(3) to (7). Pub. L. 115–254, §1991(g)(1)(B)(ii), substituted "Administrator of the Federal Aviation Administration" for "Administrator" wherever appearing.

Subsec. (d)(8). Pub. L. 115–254, §1991(g)(1)(B)(ii), (iii), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" and "Administrator of the Federal Aviation Administration" for "Administrator" in introductory provisions.

Subsec. (e). Pub. L. 115–254, §1991(g)(1)(C), inserted "of Transportation" after "Secretary" in introductory provisions.

Subsec. (f)(1)(A)(i). Pub. L. 115–254, §372(e)(4), inserted "chapter 448," after "chapter 447 (except sections 44717 and 44719–44723),".

Subsec. (g). Pub. L. 115–254, §1991(g)(1)(D), substituted "Administrator of the Federal Aviation Administration" for "Administrator".

Subsec. (h)(2). Pub. L. 115–254, §1991(g)(1)(E), substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator".

2016—Subsec. (d)(2). Pub. L. 114–190 inserted "section 46320," after "section 46319,".

2014—Subsec. (d)(2). Pub. L. 113–188 substituted "section 47107(k)" for "section 47107(l)".

2012—Subsec. (a)(1)(A). Pub. L. 112–95, §803(1), inserted "chapter 451," before "section 47107(b)".

Pub. L. 112–95, §415(b), inserted "chapter 423," after "chapter 421,".

Subsec. (a)(5)(A)(i). Pub. L. 112–95, §803(2)(B), inserted ", or chapter 451" after "44907–44909)".

Pub. L. 112–95, §803(2)(A), which directed the substitution of "chapter 449" for "or chapter 449", could not be executed because of the prior amendment by Pub. L. 112–74, §564(a). See 2011 Amendment note below.

Subsec. (c)(1)(A). Pub. L. 112–95, §415(b), inserted "chapter 423," after "chapter 421,".

Subsec. (d)(2). Pub. L. 112–95, §803(3), substituted "44723), chapter 451," for "44723) or", "section 46302" for "46302", "section 46318, section 46319, or section 47107(b)" for "46318, or 47107(b)" in first sentence , and "section 46302" for "46302", "or section 46303 of this title" for "46303,", and "any of those provisions" for "such chapter 449" in second sentence.

Subsec. (f)(1)(A)(i). Pub. L. 112–95, §803(4), substituted "chapter 449" for "or chapter 449" and inserted ", or chapter 451" after "44909)".

2011—Subsec. (a)(5)(A)(i). Pub. L. 112–74 substituted "chapter 449" for "or chapter 449" and inserted ", or

section 46314(a)" after "44909)".

2007—Subsec. (a)(4). Pub. L. 110–53 struck out "or another requirement under this title administered by the Under Secretary of Transportation for Security" after "chapter 449".

Subsec. (a)(6). Pub. L. 110–161 added par. (6).

2004—Subsec. (d)(2). Pub. L. 108–458, §4027(a)(1)–(3), substituted "46302 (for a violation relating to section 46504)," for "46302, 46303,", "The Secretary of Homeland Security may" for "The Under Secretary of Transportation for Security may", "44909), 46302 (except for a violation relating to section 46504), 46303," for "44909)", and "The Secretary of Homeland Security or" for "The Under Secretary or".

Subsec. (d)(3). Pub. L. 108–458, §4027(a)(3), substituted "Secretary of Homeland Security or" for "Under Secretary or".

Subsec. (d)(4). Pub. L. 108–458, §4027(a)(3), substituted "Secretary of Homeland Security or" for "Under Secretary or" in introductory provisions.

Subsec. (d)(4)(A). Pub. L. 108–458, §4027(a)(4), realigned margins.

2003—Subsec. (a)(1). Pub. L. 108–176, §503(a)(1), substituted "$25,000 (or $1,100 if the person is an individual or small business concern)" for "$1,000" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 108–176, §503(a)(2), (3), struck out "or" before "section 47107(b)" and substituted "section), or section 47133" for "section)".

Subsec. (a)(2). Pub. L. 108–176, §503(a)(5), substituted "section 41719" for "section 41715" in two places.

Pub. L. 108–176, §503(a)(4), redesignated par. (4) as (2) and struck out former par. (2) which read as follows: "A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than $10,000 for violating—

"(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502(b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title; or

"(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies."

Subsec. (a)(3). Pub. L. 108–176, §503(a)(4), redesignated par. (5) as (3) and struck out former par. (3) which read as follows: "A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to

"(A) the transportation of hazardous material;

"(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation;

"(C) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

"(D) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

"(E) a violation of section 41705, relating to discrimination against handicapped individuals."

Subsec. (a)(4). Pub. L. 108–176, §503(a)(6), substituted "paragraph (1)" for "paragraphs (1) and (2)".

Pub. L. 108–176, §503(a)(4), redesignated par. (8) as (4). Former par. (4) redesignated (2).

Subsec. (a)(5). Pub. L. 108–176, §503(a)(7), added par. (5). Former par. (5) redesignated (3).

Subsec. (a)(6). Pub. L. 108–176, §503(a)(4), struck out heading and text of par. (6). Text read as follows: "Notwithstanding paragraph (1), the maximum civil penalty for violating section 41715 shall be $5,000 instead of $1,000."

Subsec. (a)(7). Pub. L. 108–176, §503(a)(4), struck out heading and text of par. (7). Text read as follows: "Notwithstanding paragraphs (1) and (4), the maximum civil penalty for violating section 40127 or 41712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary that is intended to afford consumer protection to commercial air transportation passengers, shall be $2,500 for each violation."

Subsec. (a)(8). Pub. L. 108–176, §503(a)(4), redesignated par. (8) as (4).

Subsec. (d)(4)(A). Pub. L. 108–176, §503(b)(1), substituted "more than—" for "more than $50,000;" and added cls. (i) to (iii).

Subsec. (d)(8). Pub. L. 108–176, §503(b)(2), substituted "is—" for "is $50,000." and added subpars. (A) to (C).

Subsec. (i). Pub. L. 108–176, §503(c), added subsec. (i).

2002—Subsec. (a)(8). Pub. L. 107–296 added par. (8).

2001—Subsec. (d)(2). Pub. L. 107–71, §140(d)(1)(C), inserted "Under Secretary or" before "Administrator shall".

Pub. L. 107–71, §140(d)(1)(B), inserted after first sentence "The Under Secretary of Transportation for

Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909) or a regulation prescribed or order issued under such chapter 449."

Pub. L. 107–71, §140(d)(1)(A), which directed amendment of subsec. (d)(2) by striking out ", chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909),", was executed by striking out ", chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909)," before "or section 46301(b)", to reflect the probable intent of Congress.

Subsec. (d)(3), (4). Pub. L. 107–71, §140(d)(2), substituted "Under Secretary or Administrator" for "Administrator".

Subsec. (d)(8). Pub. L. 107–71, §140(d)(3), substituted "Under Secretary, Administrator," for "Administrator".

Subsec. (h)(2). Pub. L. 107–71, §140(d)(4), inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

2000—Subsec. (a)(1)(A). Pub. L. 106–181, §§519(c), 720(1), substituted "subchapter II or III of chapter 421" for "subchapter II of chapter 421" and struck out "46302, 46303, or" before "47107(b) (including".

Subsec. (a)(3)(C). Pub. L. 106–181, §503(c), added subpar. (C).

Subsec. (a)(3)(D), (E). Pub. L. 106–181, §§504(b), 707(b), added subpars. (D) and (E).

Subsec. (a)(6). Pub. L. 106–181, §222(b), inserted heading and realigned margins.

Subsec. (a)(7). Pub. L. 106–181, §222(a), added par. (7).

Subsec. (d)(2). Pub. L. 106–424 substituted "46301(b), 46302, 46303, 46318," for "46302, 46303,".

Subsec. (d)(7)(A). Pub. L. 106–181, §720(2), substituted "a penalty on a person" for "a penalty on an individual".

Subsec. (g). Pub. L. 106–181, §720(3), inserted "or the Administrator" after "Secretary".

1997—Subsecs. (a)(1)(A), (2)(A), (d)(2), (f)(1)(A)(i). Pub. L. 105–102 repealed Pub. L. 104–264, §§502(c), 1220(b). See 1996 Amendment notes below.

1996—Subsec. (a)(1)(A). Pub. L. 104–287, §5(77)(A)(iii), (iv), inserted "or" after "46303," and struck out ", or 41715" after "under such section)".

Pub. L. 104–287, §5(77)(A)(ii), substituted "section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), or section" for "or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44909(a), 44912–44915, 44932–44938,".

Pub. L. 104–287, §5(77)(A)(i), substituted "chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714)," for "any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742,".

Pub. L. 104–264, §1220(b), which directed amendment of subpar. (A) by inserting "44718(d)," after "44716,", was repealed by Pub. L. 105–102.

Pub. L. 104–264, §502(c)(1), which directed amendment of subpar. (A) by inserting "44724," after "44718(d),", was repealed by Pub. L. 105–102.

Subsec. (a)(2)(A). Pub. L. 104–287, §5(77)(B), substituted ", section 44502(b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)" for "or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44912–44915, or 44932–44938".

Pub. L. 104–264, §502(c)(2), which directed amendment of subpar. (A) by inserting "44724," after "44716,", was repealed by Pub. L. 105–102.

Subsec. (a)(3). Pub. L. 104–287, §5(77)(C), realigned margins of subpars. (A) and (B).

Subsec. (a)(5). Pub. L. 104–264, §804(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "In the case of a violation of section 47107(b) of this title, the maximum civil penalty for a continuing violation shall not exceed $50,000."

Subsec. (c)(1)(A). Pub. L. 104–287, §5(77)(D)(ii), (iii), struck out "or" before "subchapter II" and inserted ", or section 44909" before "of this title".

Pub. L. 104–287, §5(77)(D)(i), substituted "chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714)," for "any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742,".

Subsec. (d)(2). Pub. L. 104–287, §5(77)(E), substituted "section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909), or section" for "or any of sections 44701(a) or (b), 44702–44716,

44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, 44932–44938,".

Pub. L. 104–264, §1220(b), which directed amendment of par. (2) by inserting "44718(d)," after "44716,", was repealed by Pub. L. 105–102.

Pub. L. 104–264, §502(c)(1), which directed amendment of par. (2) by inserting "44724," after "44718(d),", was repealed by Pub. L. 105–102.

Subsec. (f)(1)(A)(i). Pub. L. 104–287, §5(77)(F), substituted "section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), or chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909)" for "or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, or 44932–44938".

Pub. L. 104–264, §1220(b), which directed amendment of cl. (i) by inserting "44718(d)," after "44716,", was repealed by Pub. L. 105–102.

Pub. L. 104–264, §502(c)(1), which directed amendment of cl. (i) by inserting "44724," after "44718(d),", was repealed by Pub. L. 105–102.

1994—Subsec. (a)(1)(A). Pub. L. 103–429, §6(60)(A), substituted "any of sections 41301–41306" for "section 41301–41306" and "any of sections 44701(a)" for "section 44701(a)".

Pub. L. 103–305, §207(c)(1), inserted ", or 41715" before "of this title".

Pub. L. 103–305, §112(c)(1)(A), substituted "46303, 47107(b) (including any assurance made under such section)" for "or 46303".

Subsec. (a)(2)(A). Pub. L. 103–429, §6(60)(B), substituted "any of sections 44701(a)" for "section 44701(a)".

Subsec. (a)(4). Pub. L. 103–305, §207(c)(2), inserted "(other than a violation of section 41715)" after "the violation" in two places.

Subsec. (a)(5). Pub. L. 103–305, §112(c)(1)(B), added par. (5).

Subsec. (a)(6). Pub. L. 103–305, §207(c)(3), added par. (6).

Subsec. (c)(1)(A). Pub. L. 103–429, §6(60)(C), substituted "any of sections 41301–41306" for "section 41301–41306".

Subsec. (d)(2). Pub. L. 103–429, §6(60)(B), substituted "any of sections 44701(a)" for "section 44701(a)".

Pub. L. 103–305, §112(c)(2), substituted "46303, or 47107(b) (as further defined by the Secretary under section 47107(l) and including any assurance made under section 47107(b))" for "or 46303".

Subsec. (d)(7)(D). Pub. L. 103–305, §112(c)(3), added subpar. (D).

Subsec. (f)(1)(A)(i). Pub. L. 103–429, §6(60)(B), substituted "any of sections 44701(a)" for "section 44701(a)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2024 AMENDMENT

Amendment by section 504(b) of Pub. L. 118–63 effective 1 year after May 16, 2024, see section 504(d) of Pub. L. 118–63, set out as an Effective Date note under section 42306 of this title.

Pub. L. 118–63, title V, §507(b), May 16, 2024, 138 Stat. 1193, provided that: "The amendment made by subsection (a) [amending this section] shall apply to violations occurring on or after the date of enactment of this Act [May 16, 2024]."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(c)(4) is effective Oct. 9, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

Amendment by section 502(c) of Pub. L. 104–264 applicable to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following Oct. 9, 1996, see section 502(d) of Pub. L. 104–264, set out as a note under section 30305 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

Amendment by section 207(c) of Pub. L. 103–305 effective Feb. 1, 1995, see section 207(d) of Pub. L. 103–305, set out as an Effective Date note under section 41719 of this title.

CONFORMING REGULATIONS

Pub. L. 118–63, title V, §507(c), May 16, 2024, 138 Stat. 1193, provided that: "The Secretary [of Transportation] shall revise such regulations as necessary to conform to the amendment made by subsection (a) [amending this section]."

SAVINGS PROVISION

Pub. L. 102–345, §2(c), Aug. 26, 1992, 106 Stat. 925, provided that: "Notwithstanding subsections (a) and (b) of this section, sections 901(a)(3) and 905 of the Federal Aviation Act of 1958 [Pub. L. 85–726] as in effect on July 31, 1992, shall continue in effect on and after such date of enactment with respect to violations of the Federal Aviation Act of 1958 occurring before such date of enactment."

LASER POINTER INCIDENTS

Pub. L. 114–190, title II, §2104, July 15, 2016, 130 Stat. 620, as amended by Pub. L. 118–63, title II, §218(m), May 16, 2024, 138 Stat. 1057, provided that:

"(a) IN GENERAL.—Beginning 90 days after the date of enactment of this Act [July 15, 2016], the Administrator of the Federal Aviation Administration, in coordination with appropriate Federal law enforcement agencies, shall provide annually an annual [sic] briefing to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] regarding—

"(1) the number of incidents involving the beam from a laser pointer (as defined in section 39A of title 18, United States Code) being aimed at, or in the flight path of, an aircraft in the airspace jurisdiction of the United States;

"(2) the number of civil or criminal enforcement actions taken by the Federal Aviation Administration, the Department of Transportation, or another Federal agency with regard to the incidents described in paragraph (1), including the amount of the civil or criminal penalties imposed on violators;

"(3) the resolution of any incidents described in paragraph (1) that did not result in a civil or criminal enforcement action; and

"(4) any actions the Department of Transportation or another Federal agency has taken on its own, or in conjunction with other Federal agencies or local law enforcement agencies, to deter the type of activity described in paragraph (1).

"(b) CIVIL PENALTIES.—The Administrator shall revise the maximum civil penalty that may be imposed on an individual who aims the beam of a laser pointer at an aircraft in the airspace jurisdiction of the United States, or at the flight path of such an aircraft, to be $25,000.

"(c) REPORT SUNSET.—Subsection (a) shall cease to be effective after September 30, 2028."

[1] *So in original. Words following initial word in par. heading probably should not be capitalized.*

§46302. False information

(a) CIVIL PENALTY.—A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation, may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1234; Pub. L. 108–458, title IV, §4027(b), Dec. 17, 2004, 118 Stat. 3727.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46302(a)	49 App.:1471(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §901(c); added Oct. 12, 1984, Pub. L. 98–473, §2014(a)(1), 98 Stat. 2189.
46302(b)	49 App.:1471(a)(2) (related to 1471(c)).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(2) (related to §901(c)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, §12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, §35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, §2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), the words "gives, or causes to be given" are substituted for "imparts or conveys or causes to be imparted or conveyed" to eliminate unnecessary words. The words "attempt or", "a crime", and "which shall be recoverable in a civil action brought in the name of the United States" are omitted as surplus.

In subsection (b)(1), the words "imposed under" are substituted for "provided for in" for consistency.

In subsection (b)(2), the words "imposed or compromised" are substituted for "The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–458 substituted "Secretary of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation," for "Secretary of Transportation".

§46303. Carrying a weapon

(a) CIVIL PENALTY.—An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the

individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Homeland Security may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.

(c) NONAPPLICATION.—This section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration or the Secretary of Homeland Security by regulation authorizes to carry arms in an official capacity.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1234; Pub. L. 107–71, title I, §140(d)(5), Nov. 19, 2001, 115 Stat. 642; Pub. L. 108–458, title IV, §4027(c), Dec. 17, 2004, 118 Stat. 3727.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46303(a)	49 App.:1471(d) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §901(d); added Oct. 12, 1984, Pub. L. 98–473, §2014(a)(1), 98 Stat. 2189.
46303(b)	49 App.:1471(a)(2) (related to 1471(d)).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(2) (related to §901(d)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, §12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, §35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, §2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
46303(c)	49 App.:1471(d) (words before 3d comma).	

In subsection (a), the words "deadly or" and "which shall be recoverable in a civil action brought in the name of the United States" are omitted as surplus.

In subsection (b)(1), the words "imposed under" are substituted for "provided for in" for consistency.

In subsection (b)(2), the words "imposed or compromised" are substituted for "The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise" to eliminate unnecessary words.

In subsection (c)(1), the words "State or political subdivision of a State" are substituted for "municipal or State government" for consistency in the revised title and with other titles of the United States Code. The words "or required" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–458, §4027(c)(1), substituted "Secretary of Homeland Security" for "Secretary of Transportation".

Subsec. (c)(2). Pub. L. 108–458, §4027(c)(2), substituted "Secretary of Homeland Security" for "Under

Secretary of Transportation for Security".

2001—Subsec. (c)(2). Pub. L. 107–71 inserted "or the Under Secretary of Transportation for Security" after "Federal Aviation Administration".

§46304. Liens on aircraft

(a) AIRCRAFT SUBJECT TO LIENS.—When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) SEIZURE.—An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) RELEASE.—An aircraft seized under subsection (b) of this section shall be released from custody when—

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes), conditioned on payment of the penalty or compromise, is deposited with the Secretary or Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1235; Pub. L. 108–176, title V, §503(d)(2), Dec. 12, 2003, 117 Stat. 2559; Pub. L. 115–254, div. K, title I, §1991(g)(2), Oct. 5, 2018, 132 Stat. 3644.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46304(a)	49 App.:1471(b).	Aug. 23, 1958, Pub. L. 85–726, §§901(b), 903(b)(2), (3), 72 Stat. 784, 786.
46304(b)	49 App.:1473(b)(2).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46304(c)	49 App.:1473(b)(3).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In this section, the word "civil" is added before "penalty" for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (c), the word "Administrator" in section 902(b)(2) and (3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 786) is retained on authority of 49:106(g). The words "Attorney General" are substituted for "United States attorney for the judicial district in which the seizure is made" and

"United States attorney" because of 28:503 and 509.

In subsection (b), the words "report on the seizure" are substituted for "report of the cause" for clarity. The words "bring a civil action in rem" are substituted for "institute proceedings" for clarity and consistency in the revised title and with other titles of the Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "that the action will not be brought" are substituted for "of his failure to so act" for clarity.

In subsection (c)(3), the words "under a civil action in rem" are substituted for "in pursuance of process of any court in proceedings in rem" to eliminate unnecessary words and for consistency.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b). Pub. L. 115–254 substituted "or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration" for "or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator".

2003—Subsec. (a). Pub. L. 108–176 struck out ", (2), or (3)" after "section 46301(a)(1)(A)–(C)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this chapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than $20. Issues of fact tried by a jury may be reexamined only under common law rules.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46305	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95–504, §36, 92 Stat. 1741.
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85–726, §903(b)(4), 72 Stat. 787.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The text of 49 App.:1473(b)(4) is omitted because of 28:ch. 131. The words "imposed or assessed" are omitted as surplus. The words "bringing a civil action" are substituted for "proceedings in personam", the

words "civil action in rem" are substituted for "proceedings in rem", and the words "civil action" are substituted for "civil suits", for consistency in the revised title and with other titles of the United States Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "regardless of the place an aircraft in a civil action in rem is seized" are substituted for 49 App.:1473(b)(1) (last sentence) to eliminate unnecessary words. The word "civil" is added after "involving a" for clarity. The words "(except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board)" are substituted for "other than those assessed by the Board" because the Civil Aeronautics Board went out of existence and its duties and powers were transferred to the Secretary of Transportation.

§46306. Registration violations involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL CRIMINAL PENALTY.—Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or alters a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 of this title and knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 of this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity;

(8) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or

facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) that is provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d) SEIZURE AND FORFEITURE.—(1) The Administrator of Drug Enforcement or the Commissioner of U.S. Customs and Border Protection may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

(A) subsection (b)(1) of this section if the aircraft certificate of registration has been forged or altered;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if—

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft certificate of registration contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or altered—

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or alteration is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Commissioner shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) RELATIONSHIP TO STATE LAWS.—This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that—

(1) knowingly and willfully forges or alters an aircraft certificate of registration;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft certificate of registration;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft certificate of registration from the Administrator of the Federal Aviation Administration by—

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1235; Pub. L. 104–287, §5(78), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46306(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
46306(b)	49 App.:1472(b)(1), (2) (1st sentence cl. (A)).	Aug. 23, 1958, Pub. L. 85–726, §902(b)(1)–(4), 72 Stat. 784; Oct. 19, 1984, Pub. L. 98–499, §6, 98 Stat. 2316; restated Nov. 18, 1988, Pub. L. 100–690, §7209(a), 102 Stat. 4429.
46306(c)(1)	49 App.:1472(b)(4).	
46306(c)(2)	49 App.:1472(b)(2) (1st sentence cl. (B)).	
46306(c)(3)	49 App.:1472(b)(2) (last sentence).	
46306(d)	49 App.:1472(b)(3).	
46306(e)	49 App.:1472(b)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(b)(5); added Oct. 27, 1986, Pub. L. 99–570, §3401(a)(1), 100 Stat. 3207–99; Nov. 18, 1988, Pub. L. 100–690, §7209(a), (b)(1), 102 Stat. 4429, 4432.

In subsections (b)(9), (d), and (e), the word "Administrator" in section 902(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g).

In subsection (b), before clause (1), the words "Except as provided by subsection (c) of this section" are added for clarity. The words "It shall be unlawful for any person" and "upon conviction" are omitted as surplus. The words "fined under title 18" are substituted for "a fine of not more than $15,000" for consistency with title 18. In clause (1), the words "counterfeit" and "falsely make" are omitted as surplus. In clause (4), the words "covering up", "representation", and "writing" are omitted as surplus. In clause (7), the word "valid" is omitted as surplus.

In subsection (c)(2), before clause (A), the words "fined under title 18" are substituted for "a fine of not more than $25,000" for consistency with title 18.

In subsection (d)(1) and (3), the words "Administrator of Drug Enforcement" are substituted for "Drug Enforcement Administration of the Department of Justice" and "Drug Enforcement Administration" because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words "Commissioner of Customs" and "Commissioner" are substituted for "United States Customs Service" because of 19:2071.

In subsection (d)(2)(A), the words "aircraft certificate of registration" are substituted for "registration" for consistency in this section. The words "counterfeited" and "falsely made" are omitted as surplus.

In subsections (d)(2)(C)(ii) and (e), the words "aircraft certificate of registration" are substituted for "aircraft registration certificate" for consistency with 49 App.:1401, restated in chapter 441 of the revised title.

In subsection (e), before clause (1), the words "this subsection or in any other provision of" are omitted as surplus. In clause (1), the words "counterfeits" and "falsely makes" are omitted as surplus. In clause (4)(A), the words "covering up" are omitted as surplus. In clause (4)(B), the words "or representation" are omitted as surplus. In clause (4)(C), the words "writing or" are omitted as surplus.

PUB. L. 104–287

This makes a clarifying amendment to 49:46306(c)(2)(B).

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (c)(2)(B). Pub. L. 104–287 inserted "that is" before "provided".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in subsec. (d)(1) on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

§46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both. If a person is convicted of a second or subsequent offense under this section, the punishment shall be imprisonment for not more than 5 years, a fine under title 18, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1237; Pub. L. 119–60, div. H, title LXXXVI, §8605(b), Dec. 18, 2025, 139 Stat. 1943.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46307	49 App.:1523.	Aug. 23, 1958, Pub. L. 85–726, §1203, 72 Stat. 800.

The words "In addition to the penalties otherwise provided for by this chapter" are omitted as surplus. The word "prescribed" is added for consistency in the revised title. The words "fined under title 18" are substituted for "a fine of not exceeding $10,000", and the words "shall be deemed guilty of a misdemeanor" are omitted, for consistency with title 18. The words "and upon conviction thereof" and "such fine and imprisonment" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2025—Pub. L. 119–60 inserted at end "If a person is convicted of a second or subsequent offense under this section, the punishment shall be imprisonment for not more than 5 years, a fine under title 18, or both."

§46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46308	49 App.:1472(c). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §902(c), 72 Stat. 784. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, before clause (1), the words "fined under title 18" are substituted for "a fine of not exceeding $5,000" for consistency with title 18. The words "such fine and imprisonment" are omitted as surplus. In clause (1), the words "used at" are substituted for "in connection with" for clarity. The words "airport or other" are omitted as being included in the definition of "air navigation facility" in section 40102(a) of the revised title. In clause (2), the word "due" is omitted as surplus. The word "Administrator" in section 902(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). In clause (3), the words "removes, extinguishes, or" are omitted as surplus.

§46309. Concession and price violations

(a) CRIMINAL PENALTY FOR OFFERING, GRANTING, GIVING, OR HELPING TO OBTAIN CONCESSIONS AND LOWER PRICES.—An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee—

(1) knowingly and willfully offers, grants, or gives, or causes to be offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the price lawfully in effect.

(b) CRIMINAL PENALTY FOR RECEIVING REBATES, PRIVILEGES, AND FACILITIES .—A person shall be fined under title 18 if the person by any means—

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a price lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46309(a)	49 App.:1472(d)(1).	Aug. 23, 1958, Pub. L. 85–726, §902(d)(1), 72 Stat. 785; Jan. 3, 1975, Pub L. 93–623, §8(b), 88 Stat.

		2105.
46309(b)	49 App.:1472(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(d)(2); added Jan. 3, 1975, Pub. L. 93–623, §8(b), 88 Stat. 2106.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, the words "fined under title 18" are substituted for "a fine of not less than $100 and not more than $5,000" and "fined not less than $100, nor more than $5,000" for consistency with title 18. The words "for each offense" are omitted as surplus. The words "fares, or charges" are omitted as surplus because of the definition of "rate" in section 40102(a) of the revised title.

In subsection (a), before clause (1), the word "representative" is omitted as surplus. The words "shall be deemed guilty of a misdemeanor" are omitted as superseded by 18:3559. The words "and, upon conviction thereof" are omitted as surplus. In clause (2), the words "device or" and "suffer or" are omitted as surplus.

In subsection (b), before clause (1), the words "by any means" are substituted for "in any manner or by any device" for consistency in this section and to eliminate unnecessary words. In clauses (1) and (2), the word "foreign" is added for clarity because only foreign air transportation has regulated prices. In clause (1), the word "rebate" is substituted for "refund or remittance" for consistency in this section. In clause (2), the word "favor" is omitted as being included in "privilege".

§46310. Reporting and recordkeeping violations

(a) GENERAL CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally—

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or altering a report or record under this part; or

(3) filing a false report or record under this part.

(b) SAFETY REGULATION CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of material fact, in a report or record under section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1238; Pub. L. 103–429, §6(56), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46310	49 App.:1472(e).	Aug. 23, 1958, Pub. L. 85–726, §902(e), 72 Stat. 785; restated Sept. 30, 1987, Pub. L. 100–121, 101 Stat. 792.

In this section, the word "representative" is omitted as surplus. The words "account" and "memorandum" are omitted as being included in "record".

In subsection (a), before clause (1), the words "fined under title 18" are substituted for "fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual" for consistency in this section and with title 18.

In subsection (b), the words "or representation" are omitted a surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 inserted "any of sections" before "44702–44716".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§46311. Unlawful disclosure of information

(a) CRIMINAL PENALTY.—The Secretary of Transportation, the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration, or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration, or an officer or employee of the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Administrator of the Transportation Security Administration, Administrator of the Federal Aviation Administration, officer, or employee knowingly and willfully discloses information that—

(1) the Secretary, Administrator of the Transportation Security Administration, Administrator of the Federal Aviation Administration, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40115 of this title.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply if—

(1) the officer or employee is directed by the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration to disclose information that the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration had ordered withheld; or

(2) the Secretary, Administrator of the Transportation Security Administration, Administrator of the Federal Aviation Administration, officer, or employee is directed by a court of competent jurisdiction to disclose the information.

(c) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1239; Pub. L. 107–71, title I, §140(d)(6), Nov. 19, 2001, 115 Stat. 642; Pub. L. 115–254, div. K, title I, §1991(g)(3), Oct. 5, 2018, 132 Stat. 3644.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46311(a), (b)	49 App.:1472(f) (words before proviso).	Aug. 23, 1958, Pub. L. 85–726, §902(f), 72 Stat. 785.

	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46311(c)	49 App.:1472(f) (proviso). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In this section, the word "Administrator" in section 902(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words "fined under title 18" are substituted for "a fine of not more than $5,000" for consistency with title 18. The words "upon conviction thereof be subject for each offense" are omitted as surplus. The words "any fact or" are omitted as being included in "information". In clause (1), the words "the Secretary, Administrator, officer, or employee acquires" are substituted for "may come to his knowledge" for clarity and consistency.

In subsection (b)(2), the words "or a judge thereof" are omitted as surplus.

In subsection (c), the word "duly" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1991(g)(3)(C), substituted "Administrator of the Transportation Security Administration" for "Under Secretary" wherever appearing.

Subsec. (a). Pub. L. 115–254, §1991(g)(3)(A)(i), in introductory provisions, substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration, or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator", "Administrator of the Federal Aviation Administration shall" for "Administrator shall", and "Administrator of the Federal Aviation Administration," for "Administrator,".

Subsec. (a)(1). Pub. L. 115–254, §1991(g)(3)(A)(ii), substituted "Administrator of the Federal Aviation Administration" for "Administrator".

Subsecs. (b), (c). Pub. L. 115–254, §1991(g)(3)(B), substituted "Administrator of the Federal Aviation Administration" for "Administrator" wherever appearing.

2001—Subsec. (a). Pub. L. 107–71, §140(d)(6), in introductory provisions, inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary," after "Transportation," and "Under Secretary," after "Secretary," and substituted ", Under Secretary, or Administrator" for "or Administrator".

Subsec. (a)(1). Pub. L. 107–71, §140(d)(6)(B) inserted "Under Secretary," after "Secretary,".

Subsec. (b)(1). Pub. L. 107–71, §140(d)(6)(C), substituted ", Under Secretary, or Administrator" for "or Administrator" in two places.

Subsec. (b)(2). Pub. L. 107–71, §140(d)(6)(B) inserted "Under Secretary," after "Secretary,".

Subsec. (c). Pub. L. 107–71, §140(d)(6)(C), substituted ", Under Secretary, or Administrator" for "or Administrator".

§46312. Transporting hazardous material

(a) IN GENERAL.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation or requirement related to the transportation of

hazardous material prescribed by the Secretary of Transportation under this part or chapter 51—

(1) willfully delivers, or causes to be delivered, property containing hazardous material to an air carrier or to an operator of a civil aircraft for transportation in air commerce; or

(2) recklessly causes the transportation in air commerce of the property.

(b) KNOWLEDGE OF REGULATIONS.—For purposes of subsection (a), knowledge by the person of the existence of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary under this part or chapter 51 is not an element of an offense under this section but shall be considered in mitigation of the penalty.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1239; Pub. L. 106–181, title V, §507, Apr. 5, 2000, 114 Stat. 140; Pub. L. 109–59, title VII, §7128(a), Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46312	49 App.:1472(h)(2).	Aug. 23, 1958, Pub. L. 85–726, §902(h)(2), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, §113(c), 88 Stat. 2162.

In this section, before clause (1), the words "is guilty of an offense", "Upon conviction", and "for each offense" are omitted as surplus. The words "fined under title 18" are substituted for "a fine of not more than $25,000" for consistency with title 18. The word "prescribed" is substituted for "issued" for consistency in the revised title and with other titles of the United States Code. In clause (1), the words "shipment, baggage, or other" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, §7128(a)(1), substituted "this part or chapter 51—" for "this part—" in introductory provisions.

Subsec. (b). Pub. L. 109–59, §7128(a)(2), inserted "or chapter 51" after "under this part".

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§46313. Refusing to appear or produce records

A person not obeying a subpoena or requirement of the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1239; Pub. L. 107–71, title I, §140(d)(7), Nov. 19, 2001, 115 Stat. 642; Pub. L. 115–254, div. K, title I, §1991(g)(4), Oct. 5, 2018, 132 Stat. 3644.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46313	49 App.:1472(g).	Aug. 23, 1958, Pub. L. 85–726, §902(g), 72 Stat. 785.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The word "Administrator" in section 902(g) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g). The words "not obeying" are substituted for "who shall neglect or refuse . . . or to answer any lawful inquiry . . . in obedience to" to eliminate surplus words. The word "lawful" is omitted as surplus. The word "appear" is substituted for "attend" for clarity. The word "records" is substituted for "books, papers, or documents" for consistency in the revised title and with other titles of the United States Code. The words "if in his power to do so" are omitted as surplus. The words "shall be guilty of a misdemeanor" are omitted for consistency with title 18. The words "and, upon conviction thereof" are omitted as surplus. The words "fined under title 18" are substituted for "a fine of not less than $100 nor more than $5,000" for consistency with title 18.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254 substituted "subpoena" for "subpena" and "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator".

2001—Pub. L. 107–71 inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

§46314. Entering aircraft or airport area in violation of security requirements

(a) PROHIBITION.—A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901, 44903(b) or (c), or 44906 of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b) CRIMINAL PENALTY.—(1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to evade security procedures or restrictions or with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

(c) NOTICE OF PENALTIES.—

(1) IN GENERAL.—Each operator of an airport in the United States that is required to establish an air transportation security program pursuant to section 44903(c) shall ensure that signs that meet such requirements as the Secretary of Homeland Security may prescribe providing notice of

the penalties imposed under section 46301(a)(5)(A)(i) and subsection (b) of this section are displayed near all screening locations, all locations where passengers exit the sterile area, and such other locations at the airport as the Secretary of Homeland Security determines appropriate.

(2) EFFECT OF SIGNS ON PENALTIES.—An individual shall be subject to a penalty imposed under section 46301(a)(5)(A)(i) or subsection (b) of this section without regard to whether signs are displayed at an airport as required by paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1239; Pub. L. 112–74, div. D, title V, §564(b), (c), Dec. 23, 2011, 125 Stat. 981.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46314	49 App.:1472(r).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(r); added Dec. 30, 1987, Pub. L. 100–223, §204(f)(2), 101 Stat. 1520.

In subsection (b), the words "fined under title 18" are substituted for "a fine not to exceed $1,000" and "a fine not to exceed $10,000" for consistency with title 18.

In subsection (b)(1), the words "Upon conviction" are omitted as surplus.

In subsection (b)(2), the words "airport area" are substituted for "secured area" for consistency in this section.

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (b)(2). Pub. L. 112–74, §564(b), inserted "with intent to evade security procedures or restrictions or" after "of this section".

Subsec. (c). Pub. L. 112–74, §564(c), added subsec. (c).

§46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) CRIMINAL PENALTY.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if—

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

46315(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
46315(b)	49 App.:1472(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(q); added Oct. 19, 1984, Pub. L. 98–499, §5(a), 98 Stat. 2315; restated Oct. 27, 1986, Pub. L. 99–570, §3401(b)(1), 100 Stat. 3207–100; Nov. 18, 1988, Pub. L. 100–690, §7209(c)(1), (2)(A), 102 Stat. 4432.

In subsection (b), before clause (1), the words "fined under title 18" are substituted for "a fine not exceeding $25,000" for consistency with title 18. In clause (2), the word "knowingly" is substituted for "and with knowledge of such act" to eliminate unnecessary words.

§46316. General criminal penalty when specific penalty not provided

(a) CRIMINAL PENALTY.—Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), chapter 445, chapter 447 (except section 44718(a)), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1240; Pub. L. 104–287, §5(79), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(d)(1)(D), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 107–71, title I, §140(d)(7), Nov. 19, 2001, 115 Stat. 642; Pub. L. 115–254, div. K, title I, §1991(g)(5), Oct. 5, 2018, 132 Stat. 3645.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46316	49 App.:1472(a).	Aug. 23, 1958, Pub. L. 85–726, §902(a), 72 Stat. 784; restated July 10, 1962, Pub. L. 87–528, §13, 76 Stat. 150.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In subsection (a), the word "prescribed" is added for consistency in the revised title. The words "condition,

or limitation of" are omitted as surplus. The word "Administrator" in section 902(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). The words "or in section 1474 of this Appendix" are omitted as surplus because 49 App.:1474 is not included in the revised title. The words "shall be deemed guilty of a misdemeanor" are omitted for consistency with title 18. The words "and upon conviction thereof" are omitted as surplus. The words "shall be fined under title 18" are substituted for "shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000" for consistency with title 18.

In subsection (b), reference to 49 App.:ch. 20, subch. VII is omitted as unnecessary because subchapter VII is not restated in this part.

PUB. L. 104–287

This amends 49:46316(b) to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 substituted "Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by the Administrator of the Transportation Security Administration or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator of the Federal Aviation Administration" for "Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator".

2001—Subsec. (a). Pub. L. 107–71 inserted "the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or" after "(or".

1997—Subsec. (b). Pub. L. 105–102 amended directory language of Pub. L. 104–287. See 1996 Amendment note below.

1996—Subsec. (b). Pub. L. 104–287, as amended by Pub. L. 105–102, substituted "chapter 447 (except section 44718(a)), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)" for "and sections 44701(a) and (b), 44702–44716, 44901, 44903(b) and (c), 44905, 44906, 44912–44915, and 44932–44938".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(D) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§46317. Criminal penalty for pilots operating in air transportation without an

airman's certificate

(a) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18 or imprisoned for not more than 3 years, or both, if that individual—

(1) knowingly and willfully serves or attempts to serve in any capacity as an airman operating an aircraft in air transportation without an airman's certificate authorizing the individual to serve in that capacity; or

(2) knowingly and willfully employs for service or uses in any capacity as an airman to operate an aircraft in air transportation an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

(b) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—

(1) CONTROLLED SUBSTANCES DEFINED.—In this subsection, the term "controlled substance" has the meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) CRIMINAL PENALTY.—An individual violating subsection (a) shall be fined under title 18 or imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

(3) TERMS OF IMPRISONMENT.—A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.

(Added Pub. L. 106–181, title V, §509(a), Apr. 5, 2000, 114 Stat. 141.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§46318. Interference with cabin or flight crew

(a) GENERAL RULE.—An individual who physically or sexually assaults or threatens to physically or sexually assault a member of the flight crew or cabin crew of a civil aircraft or any other individual on the aircraft, or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft is liable to the United States Government for a civil penalty of not more than $35,000.

(b) COMPROMISE AND SETOFF.—

(1) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section.

(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts the Government owes the person liable for the penalty.

(Added Pub. L. 106–181, title V, §511(a), Apr. 5, 2000, 114 Stat. 142; amended Pub. L. 115–254, div. B, title III, §339(a), Oct. 5, 2018, 132 Stat. 3282.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 inserted "or sexually" after "physically" in two places and substituted "$35,000" for "$25,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§46319. Permanent closure of an airport without providing sufficient notice

(a) PROHIBITION.—A public agency (as defined in section 47102) may not permanently close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.

(Added Pub. L. 108–176, title I, §185(a), Dec. 12, 2003, 117 Stat. 2517.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§46320. Interference with wildfire suppression, law enforcement, or emergency response effort by operation of unmanned aircraft

(a) IN GENERAL.—Except as provided in subsection (b), an individual who operates an unmanned aircraft and in so doing knowingly or recklessly interferes with a wildfire suppression, law enforcement, or emergency response effort is liable to the United States Government for a civil penalty of not more than $20,000.

(b) EXCEPTIONS.—This section does not apply to the operation of an unmanned aircraft conducted by a unit or agency of the United States Government or of a State, tribal, or local government (including any individual conducting such operation pursuant to a contract or other agreement entered into with the unit or agency) for the purpose of protecting the public safety and welfare, including firefighting, law enforcement, or emergency response.

(c) COMPROMISE AND SETOFF.—

(1) COMPROMISE.—The United States Government may compromise the amount of a civil penalty imposed under this section.

(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from the amounts the Government owes the person liable for the penalty.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) WILDFIRE.—The term "wildfire" has the meaning given that term in section 2 of the Emergency Wildfire Suppression Act (42 U.S.C. 1856m).

(2) WILDFIRE SUPPRESSION.—The term "wildfire suppression" means an effort to contain, extinguish, or suppress a wildfire.

(Added Pub. L. 114–190, title II, §2205(a), July 15, 2016, 130 Stat. 630.)

CHAPTER 465—SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

Sec.

46501. Definitions.
46502. Aircraft piracy.
46503. Interference with security screening personnel.
46504. Interference with flight crew members and attendants.
46505. Carrying a weapon or explosive on an aircraft.
46506. Application of certain criminal laws to acts on aircraft.
46507. False information and threats.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, div. B, title V, §539(m), div. K, title I, §1991(h)(2), Oct. 5, 2018, 132 Stat. 3371, 3645, made identical amendments, striking out item 46503 "Repealed".

2001—Pub. L. 107–71, title I, §114(b), Nov. 19, 2001, 115 Stat. 623, added item 46503 "Interference with security screening personnel".

1994—Pub. L. 103–322, title VI, §60003(b)(1), Sept. 13, 1994, 108 Stat. 1970, substituted "Repealed" for "Death penalty sentencing procedure for aircraft piracy" in item 46503.

§46501. Definitions

In this chapter—

(1) "aircraft in flight" means an aircraft from the moment all external doors are closed following boarding—

(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

(2) "special aircraft jurisdiction of the United States" includes any of the following aircraft in flight:

(A) a civil aircraft of the United States.

(B) an aircraft of the armed forces of the United States.

(C) another aircraft in the United States.

(D) another aircraft outside the United States—

(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight—

(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

(B) is an accomplice of an individual referred to in subclause (A) of this clause.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46501(1)	49 App.:1301(38) (words after 10th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(38); added Oct. 14, 1970, Pub. L. 91–449, §1(1), 84 Stat. 921; restated Aug. 5, 1974, Pub. L. 93–366, §§102, 206, 88 Stat. 409, 419; Nov. 9, 1977, Pub. L. 95–163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, §2(b), 92 Stat. 1705; Oct. 12, 1984, Pub. L. 98–473, §2013(c), 98 Stat. 2189.
	49 App.:1472(n)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(n)(2), (4); added Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410, 411.
46501(2)	49 App.:1301(38) (words before 10th comma).	
46501(3)	49 App.:1472(n)(2).	

In clause (2), before subclause (A), the words "any of the following" are substituted for "includes" for clarity. In subclause (B), the words "armed forces" are substituted for "national defense forces" because of 10:101. In subclause (D)(i), the word "place" is substituted for "point" for consistency in the revised title. The word "actually" is omitted as surplus. In subclause (D)(ii), the words "on which an individual commits" are substituted for "having . . . committed aboard" for clarity. In subclause (D)(iii), the words "against which an individual commits" are substituted for "regarding which an offense . . . is committed" for clarity. The words "(Montreal, September 23, 1971)" are omitted as surplus. In subclause (E), the words "the lessee does not have a principal place of business" are substituted for "none" for clarity.

In clause (3), the words "by force or threat thereof, or . . . other" are omitted as surplus.

§46502. Aircraft piracy

(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) In this subsection—

(A) "aircraft piracy" means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) An individual committing or attempting or conspiring to commit aircraft piracy—
(A) shall be imprisoned for at least 20 years; or
(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1) An individual committing or conspiring to commit an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States—
(A) shall be imprisoned for at least 20 years; or
(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(2) There is jurisdiction over the offense in paragraph (1) if—
(A) a national of the United States was aboard the aircraft;
(B) an offender is a national of the United States; or
(C) an offender is afterwards found in the United States.

(3) For purposes of this subsection, the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1241; Pub. L. 103–429, §6(61), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–132, title VII, §§721(a), 723(b), Apr. 24, 1996, 110 Stat. 1298, 1300.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46502(a)(1)	49 App.:1472(i)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(i); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, §1(3), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §§103(a), 104, 88 Stat. 410, 411.
46502(a)(2)	49 App.:1472(i)(1).	
46502(b)(1)	49 App.:1472(n)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(n)(1), (3); added Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410.
46502(b)(2)	49 App.:1472(n)(3).	

In subsection (a)(1)(B), the words "offense of" are omitted as surplus.
In subsection (a)(2), the words "as herein defined" are omitted as surplus.
In subsection (b)(2), the words "the place of actual" are omitted as surplus. The words "as defined in paragraph (2) of this subsection" are omitted because of the restatement. The word "country" is substituted for "State" for consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:46502(a)(2)(B) and (b)(1)(B) to clarify the restatement of 49 App.:1472(i)(1)(B) and (n)(1)(B) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1241, 1242).

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–132, §723(b)(1), inserted "or conspiring" after "attempting".

Subsec. (b)(1). Pub. L. 104–132, §§721(a)(1), 723(b)(2), in introductory provisions, inserted "or conspiring to commit" after "committing" and struck out "and later found in the United States" after "jurisdiction of the United States".

Subsec. (b)(2). Pub. L. 104–132, §721(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft."

Subsec. (b)(3). Pub. L. 104–132, §721(a)(3), added par. (3).

1994—Subsecs. (a)(2)(B), (b)(1)(B). Pub. L. 103–429 inserted "notwithstanding section 3559(b) of title 18," before "if the death".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

DEATH PENALTY PROCEDURES FOR CERTAIN AIR PIRACY CASES OCCURRING BEFORE ENACTMENT OF THE FEDERAL DEATH PENALTY ACT OF 1994

Pub. L. 109–177, title II, §211, Mar. 9, 2006, 120 Stat. 230, provided that:

"(a) IN GENERAL.—Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended, as of the time of its enactment [Sept. 13, 1994], by adding at the end the following:

" '(c) [Omitted, see below.]'.

"(b) SEVERABILITY CLAUSE.—If any provision of section 60003(b)(2) of the Violent Crime and Law Enforcement Act of 1994 (Public Law 103–322) [repealed section 46503 of this title], or the application thereof to any person or any circumstance is held invalid, the remainder of such section and the application of such section to other persons or circumstances shall not be affected thereby."

Pub. L. 103–322, title VI, §60003(c), as added by Pub. L. 109–177, title II, §211(a), Mar. 9, 2006, 120 Stat. 230, provided that:

"(c) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) [Sept. 13, 1994], but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366) [Aug. 5, 1974], it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code."

AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

§46503. Interference with security screening personnel

(a) IN GENERAL.—An individual in an area within a commercial service airport in the United States who, by assaulting a Federal, airport, or air carrier employee who has security duties within the airport, interferes with the performance of the duties of the employee or lessens the ability of the

employee to perform those duties, shall be fined under title 18, imprisoned for not more than 10 years, or both. If the individual used a dangerous weapon in committing the assault or interference, the individual may be imprisoned for any term of years or life imprisonment.

(b) AIRPORT AND AIR CARRIER EMPLOYEES.—For purposes of this section, an airport or air carrier employee who has security duties within the airport includes an airport or air carrier employee performing ticketing, check-in, baggage claim, or boarding functions.

(Added Pub. L. 107–71, title I, §114(a), Nov. 19, 2001, 115 Stat. 623; amended Pub. L. 118–63, title IV, §436, May 16, 2024, 138 Stat. 1176.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 46503, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1242, provided for death penalty sentencing procedure for individuals convicted of aircraft piracy, prior to repeal by Pub. L. 103–322, title VI, §60003(b)(2), Sept. 13, 1994, 108 Stat. 1970.

AMENDMENTS

2024—Pub. L. 118–63 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§46504. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, or attempts or conspires to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1244; Pub. L. 107–56, title VIII, §811(i), Oct. 26, 2001, 115 Stat. 382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46504	49 App.:1472(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(j); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, §1(3), 84 Stat. 921.

The words "or threatens" are omitted as being included in "intimidating". The words "(including any steward or stewardess)" are omitted as being included in "attendant". The words "fined under title 18" are substituted for "fined not more than $10,000" for consistency with title 18. The words "deadly or" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2001—Pub. L. 107–56 inserted "or attempts or conspires to do such an act," before "shall be fined under title 18,".

§46505. Carrying a weapon or explosive on an aircraft

(a) DEFINITION.—In this section, "loaded firearm" means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 10 years, or both, if the individual—

(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(d) NONAPPLICATION.—Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration or the Administrator of the Transportation Security Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

(e) CONSPIRACY.—If two or more persons conspire to violate subsection (b) or (c), and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in such subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1244; Pub. L. 104–132, title VII, §705(b), Apr. 24, 1996, 110 Stat. 1295; Pub. L. 107–56, title VIII, §§810(g), 811(j), Oct. 26, 2001, 115 Stat. 381, 382; Pub. L. 107–71, title I, §140(d)(8), Nov. 19, 2001, 115 Stat. 642; Pub. L. 115–254, div. K, title I, §1991(h)(1), Oct. 5, 2018, 132 Stat. 3645.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46505(a)	49 App.:1472(*l*)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(*l*)(4); added Feb. 18, 1980, Pub. L. 96–193, §502(c), 94 Stat. 59.
46505(b)	49 App.:1472(*l*)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(*l*)(1); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; Aug. 5, 1974, Pub. L. 93–366, §203, 88 Stat. 417; restated Feb. 18, 1980, Pub. L. 96–193, §502(a), 94 Stat. 59; Oct. 12, 1984, Pub. L. 98–473, §2014(c)(1), 98 Stat. 2189.
46505(c)	49 App.:1472(*l*)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(*l*)(2); added Sept. 5, 1961,

		Pub. L. 87–197, §1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, §203, 88 Stat. 418; Oct. 12, 1984, Pub. L 98–473, §2014(c)(2), 98 Stat. 2189.
46505(d)	49 App.:1472(*l*)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(*l*)(3); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, §203, 88 Stat. 418; Feb. 18, 1980, Pub. L. 96–193, §502(b), 94 Stat. 59.

In subsection (a), the definition of "firearm" is merged with the definition of "loaded firearm" because the term "firearm" is only used in the defined term "loaded firearm".

In subsections (b) and (c), the words "fined under title 18" are substituted for "fined not more than $10,000" and "fined not more than $25,000" for consistency with title 18.

In subsections (b)(1) and (d)(2), the words "deadly or" are omitted as surplus.

In subsection (b)(2), the words "baggage or other" are omitted as surplus.

In subsection (b)(3), the words "bomb or similar" are omitted as surplus.

In subsection (d)(1), the words "State or political subdivision of a State" are substituted for "municipal or State government" for consistency in the revised title and with other titles of the United States Code. The words "or required" are omitted as surplus.

In subsection (d)(3), the word "contained" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (d)(2). Pub. L. 115–254 substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

2001—Subsec. (c). Pub. L. 107–56, §810(g), substituted "20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life." for "15 years, or both."

Subsec. (d)(2). Pub. L. 107–71, §140(d)(8), inserted "or the Under Secretary of Transportation for Security" after "Federal Aviation Administration".

Subsec. (e). Pub. L. 107–56, §811(j), added subsec. (e).

1996—Subsec. (b). Pub. L. 104–132, §705(b)(1), substituted "10 years" for "one year".

Subsec. (c). Pub. L. 104–132, §705(b)(2), substituted "15 years" for "5 years".

§46506. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111 or chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code §22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

46506	49 App.:1472(k).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(k); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, §1(3), 84 Stat. 921; Nov. 10, 1986, Pub. L. 99–646, §87(d)(8), 100 Stat. 3624; Nov. 14, 1986, Pub. L. 99–654, §3(b)(8), 100 Stat. 3664.

In clause (1), the words "fined under title 18, imprisoned under that section or chapter, or both" are substituted for "punished as provided therein" for consistency with title 18.

In clause (2), the words "fined under title 18, imprisoned under section 9 of the Act, or both" are substituted for "punished as provided therein" for consistency with title 18.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9 of the Act of July 29, 1892, referred to in par. (2), is section 9 of act July 29, 1892, ch. 320, 27 Stat. 324, which is not classified to the Code. Section 9 of the Act was reclassified to section 22–1312 of the D.C. Code (2014).

§46507. False information and threats

An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual—

(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

(2)(A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

(B) has the apparent determination and will to carry out the threat.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46507	49 App.:1472(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(m); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 467; restated Oct. 12, 1984, Pub. L. 98–473, §2014(d)(1), 98 Stat. 2190.

In this section, before clause (1), the words "fined under title 18" are substituted for "fined not more than $25,000" for consistency with title 18. In clauses (1) and (2), the words "a felony" are omitted as surplus. In clause (1), the words "gives, or causes to be given" are substituted for "imparts or conveys or causes to be imparted or conveyed" to eliminate unnecessary words. The words "attempt or" are omitted as surplus. In clause (2), the words "threatens . . . or causes a threat . . . to be made" are substituted for "imparts or conveys or causes to be imparted or conveyed any threat" to eliminate unnecessary words.

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

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SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

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EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title VII, §§725(b), 726(b), May 16, 2024, 138 Stat. 1269, 1271, which directed amendment of the analysis for subchapter I of this chapter by adding items 47145 and 47146, was executed by making the amendment to the analysis for this chapter, to reflect the probable intent of Congress.

Pub. L. 118–63, title II, §218(d), title VII, §§723(c), 742(b), May 16, 2024, 138 Stat. 1055, 1267, 1279, struck out item 47131 "Annual report", added items 47140 and 47142, and struck out former items 47140 "Increasing the energy efficiency of airport power sources" and 47142 "Design-build contracting".

2018—Pub. L. 115–254, div. B, title I, §§140(b), 160(b), 166(c), title III, §395(b), Oct. 5, 2018, 132 Stat. 3211, 3221, 3226, 3327, added items 47124a, 47136, 47140, and 47143, substituted "Airport investment partnership program" for "Pilot program on private ownership of airports" in item 47134, and struck out former item 47136 "Inherently low-emission airport vehicle pilot program", item 47136a "Zero-emission airport vehicles and infrastructure", former item 47140 "Airport ground support equipment emissions retrofit pilot program", and item 47140a "Increasing the energy efficiency of airport power sources".

2017—Pub. L. 115–31, div. K, title I, §119F(b), May 5, 2017, 131 Stat. 735, which directed amendment of the analysis for this chapter by adding item 47144 after item 47143, was executed by adding item 47144 after item 47142 to reflect the probable intent of Congress, because no item for section 47143 has been enacted.

2012—Pub. L. 112–95, title I, §148(b), title V, §§511(c), 512(b), Feb. 14, 2012, 126 Stat. 32, 108, 109, substituted "Resolution of disputes concerning airport fees" for "Resolution of airport-air carrier disputes concerning airport fees" in item 47129 and added items 47136a and 47140a.

2003—Pub. L. 108–176, title I, §§152(b), 158(b), 159(a)(2), 160(b), 181(b), title III, §304(b), Dec. 12, 2003, 117 Stat. 2507, 2509, 2510, 2513, 2515, 2538, added items 47138 to 47142, subchapter III heading, and items 47171 to 47175.

2000—Pub. L. 106–181, title I, §§123(a)(2), 132(b), 133(b), 134(b), 135(d)(4), Apr. 5, 2000, 114 Stat. 74, 81–83, 85, struck out item 47132 "Pavement maintenance", added items 47135 to 47137, and substituted "conveyances" for "gifts" in item 47152.

1996—Pub. L. 104–264, title I, §§142(c), 147(c)(2), 149(a)(2), title VIII, §804(c), Oct. 9, 1996, 110 Stat. 3221, 3223, 3226, 3271, substituted "grant program" for "grant pilot program" in item 47128 and added items 47132, 47133, and 47134.

1994—Pub. L. 103–305, title I, §§113(b), 118(b), Aug. 23, 1994, 108 Stat. 1579, 1580, added items 47129 and 47130 and redesignated former item 47129 as 47131.

[1] So in original. Does not conform to section catchline.

SUBCHAPTER I—AIRPORT IMPROVEMENT

§47101. Policies

(a) GENERAL.—It is the policy of the United States—

(1) that the safe operation of the airport and airway system is the highest aviation priority;

(2) that projects, activities, and actions that prevent runway incursions serve to—

(A) improve airport surface surveillance; and

(B) mitigate surface safety risks that are essential to ensuring the safe operation of the airport and airway system;

(3) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;

(4) to give special emphasis to developing reliever airports;

(5) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;

(6) to encourage the development of intermodal connections on airport property between aeronautical and other transportation modes and systems to serve air transportation passengers and cargo efficiently and effectively and promote economic development;

(7) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;

(8) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and cargo traffic be undertaken to the maximum feasible extent so that safety and efficiency increase and delays decrease;

(9) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system;

(10) that artificial restrictions on airport capacity—

(A) are not in the public interest;

(B) should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried; and

(C) should not discriminate unjustly between categories and classes of aircraft;

(11) that special emphasis should be placed on converting appropriate former military air bases to civil use and identifying and improving additional joint-use facilities;

(12) that the airport improvement program should be administered to encourage projects that employ innovative technology (including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices), concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to this subchapter;

(13) that airport fees, rates, and charges must be reasonable and may only be used for purposes not prohibited by this subchapter; and

(14) that airports should be as self-sustaining as possible under the circumstances existing at each particular airport and in establishing new fees, rates, and charges, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system purposes and for other purposes for which airport revenues may be spent under section 47107(b)(1) of this title, including reasonable reserves and other funds to facilitate financing and cover contingencies.

(b) NATIONAL TRANSPORTATION POLICY.—(1) It is a goal of the United States to develop a national intermodal transportation system that transports passengers and property in an efficient manner. The future economic direction of the United States depends on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the infrastructure of the United States.

(2) United States leadership in the world economy, the expanding wealth of the United States, the competitiveness of the industry of the United States, the standard of living, and the quality of life are at stake.

(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation that transports passengers and property in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance the ability of the industry of the United States to compete in the global marketplace.

(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

(5) An intermodal transportation system consists of transportation hubs that connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the vast rural areas of the United States, as well as providing links to other forms of transportation and to intercity connections.

(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the United States to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The future economic prosperity of the United States depends on its ability to compete in an international marketplace that is teeming with competitors but in which a full one-quarter of the economic activity of the United States takes place.

(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will transport passengers and property in an efficient manner.

(c) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.

(d) CONSISTENCY WITH AIR COMMERCE AND SAFETY POLICIES.—Each airport and airway program should be carried out consistently with section 40101(a), (b), (d), and (f) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices, including as the practices may be applied between categories and classes of aircraft.

(e) ADEQUACY OF NAVIGATION AIDS AND AIRPORT FACILITIES.—This subchapter should be carried out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

(1) reliever airports; and

(2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting aircraft passengers from fixed-wing aircraft to helicopter carriers.

(f) MAXIMUM USE OF SAFETY FACILITIES.—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) electronic or visual vertical guidance on each runway;

(2) grooving or friction treatment of each primary and secondary runway;

(3) distance-to-go signs for each primary and secondary runway;

(4) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;

(5) a nonprecision instrument approach for each secondary runway;

(6) runway end identifier lights on each runway that does not have an approach light system;

(7) a surface movement radar system at each category III airport;

(8) a taxiway lighting and sign system;

(9) runway edge lighting and marking;

(10) radar approach coverage for each airport terminal area; and

(11) runway and taxiway incursion prevention devices, including integrated in-pavement

lighting systems for runways and taxiways.

(g) INTERMODAL PLANNING.—To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall take each of the following actions:

(1) COORDINATION IN DEVELOPMENT OF AIRPORT PLANS AND PROGRAMS .—Cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental (including long-term resilience from the impact of natural hazards and severe weather events), system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

(2) GOALS FOR AIRPORT MASTER AND SYSTEM PLANS.—Encourage airport sponsors and State and local officials to develop airport master plans and airport system plans that—

(A) foster effective coordination between aviation planning and metropolitan planning;

(B) include an evaluation of aviation needs within the context of multimodal planning;

(C) consider passenger convenience, airport ground access, and access to airport facilities;

(D) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access; and

(E) consider the impact of hazardous weather events on long-term operational resilience.

(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO'S.—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.

(h) CONSULTATION.—To carry out the policy of subsection (a)(7) of this section, the Secretary of Transportation may consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving the location of an airport or runway, or a major runway extension, that may have a significant effect on—

(1) natural resources, including fish and wildlife;

(2) natural, scenic, and recreation assets;

(3) water and air quality; or

(4) another factor affecting the environment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1246; Pub. L. 103–305, title I, §§104, 110, Aug. 23, 1994, 108 Stat. 1571, 1573; Pub. L. 103–429, §6(62), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §141, Oct. 9, 1996, 110 Stat. 3220; Pub. L. 106–181, title I, §§121(a), (b), 137(a), Apr. 5, 2000, 114 Stat. 74, 85; Pub. L. 112–95, title I, §131, Feb. 14, 2012, 126 Stat. 21; Pub. L. 118–63, title III, §347(a)(1), (2), title VII, §§701, 781, May 16, 2024, 138 Stat. 1104, 1245, 1302.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47101(a)(1)	49 App.:2201(a)(1), (2).	Sept. 3, 1982, Pub. L. 97–248, §§502(a)(1)–(3), (6), (b), 509(b)(5) (1st sentence, last sentence words before 11th comma), 96 Stat. 671, 672, 684.
	49 App.:2201(a)(9).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(9), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §102(b)(1),

		(c)(1), 101 Stat. 1487.
	49 App.:2201(a)(10).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(10), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §102(b)(1), (c)(2), 101 Stat. 1487.
47101(a)(2)	49 App.:2201(a)(8).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(8), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §102(b)(1), 101 Stat. 1487.
47101(a)(3)	49 App.:2201(a)(6).	
47101(a)(4)	49 App.:2201(a)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(7); added Dec. 30, 1987, Pub. L. 100–223, §102(b)(2), 101 Stat. 1487.
47101(a)(5)	49 App.:2201(b) (1st sentence).	
47101(a)(6)	49 App.:2208(b)(5) (1st sentence).	
47101(a)(7)	49 App.:2201(a)(11).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(11); added Dec. 30, 1987, Pub. L. 100–223, §102(c)(3), 101 Stat. 1488.
47101(a)(8)	49 App.:2201(a)(12).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(12); added Dec. 30, 1987, Pub. L. 100–223, §102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, §9109(a)(1), 104 Stat. 1388–356.
47101(a)(9)	49 App.:2201(a)(13).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(13); added Dec. 30, 1987, Pub. L. 100–223, §102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, §§9103(2), 9109(a)(2), 104 Stat. 1388–354, 1388–356.
47101(a)(10)	49 App.:2201(a)(14).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(14); added Nov. 5, 1990, Pub. L. 101–508, §9109(a)(3), 104 Stat. 1388–356.
47101(b)	49 App.:2201(c).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(c), (d); added Oct. 31, 1992, Pub. L. 102–581, §101, 106 Stat. 4875.
47101(c)	49 App.:2201(d).	
47101(d)	49 App.:2201(a)(5).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(5), 96 Stat. 671; Nov. 5, 1990, Pub. L. 101–508, §9103(1), 104 Stat. 1388–354.
47101(e)	49 App.:2201(a)(3).	
	49 App.:2202(a)(20).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(20), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.

47101(f)	49 App.:2201(a)(4).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(4), 96 Stat. 671; Dec. 30, 1987, Pub. L. 100–223, §102(a), 101 Stat. 1487.
47101(g)	49 App.:2201(b) (2d, last sentences).	
47101(h)	49 App.:2208(b)(5) (last sentence words before 11th comma).	

In subsection (a), before clause (1), the text of 49 App.:2201(a)(2), (9), and (10) is omitted as executed. The words "It is the policy of the United States" are substituted for "The Congress hereby . . . declares" in 49 App.:2201(a) (words before cl. (1)), "it is in the national interest" in 49 App.:2201(a)(12), "are not in the public interest and" in 49 App.:2201(a)(13), "It is declared to be in the national interest to" in 49 App.:2201(b), and "It is declared to be national policy that" in 49 App.:2208(b)(5) for consistency in the revised title and with other titles of the United States Code. In clause (1), the word "is" is substituted for "will continue to be" to eliminate unnecessary words. In clause (2), the words "with due regard" are omitted as surplus. In clause (3), the words "reliever airports make an important contribution to the efficient operation of the airport and airway system" are omitted as executed. In clause (4), the words "cargo hub airports play a critical role in the movement of commerce through the airport and airway system" are omitted as executed. In clause (5), the words "and promote" are omitted as surplus.

In subsection (d), the word "to" is substituted for "with due regard for the goals expressed therein of" to eliminate unnecessary words.

In subsection (e), before clause (1), the words "The facilities provided may include" are substituted for "including" because of the restatement. Clause (2) is substituted for "reliever heliports" to incorporate the definition of that term from 49 App.:2202(a)(19) into this subsection.

In subsection (f), before clause (1), the words "the goal of" are omitted as surplus.

In subsection (g), the words "formulated" and "due" are omitted as surplus. The words "process of developing airport plans and programs" are substituted for "process" for clarity.

PUB. L. 103–429

This amends 49:47101(a)(12) to translate a cross-reference to the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 671) to the corresponding cross-reference of title 49, United States Code.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(2) to (14). Pub. L. 118–63, §347(a)(1), added par. (2) and redesignated former pars. (2) to (13) as (3) to (14), respectively.

Subsec. (g). Pub. L. 118–63, §347(a)(2)(A), substituted "subsection (a)(6)" for "subsection (a)(5)" in introductory provisions.

Subsec. (g)(1). Pub. L. 118–63, §701(1), inserted "(including long-term resilience from the impact of natural hazards and severe weather events)" after "environmental".

Subsec. (g)(2)(E). Pub. L. 118–63, §701(2), added subpar. (E).

Subsec. (h). Pub. L. 118–63, §781, substituted "may consult" for "shall consult" in introductory provisions.

Pub. L. 118–63, §347(a)(2)(B), substituted "subsection (a)(7)" for "subsection (a)(6)" in introductory provisions.

2012—Subsec. (g)(2)(C), (D). Pub. L. 112–95 added subpar. (C) and redesignated former subpar. (C) as (D).

2000—Subsec. (a)(5). Pub. L. 106–181, §137(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;".

Subsec. (a)(11). Pub. L. 106–181, §121(a), inserted "(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)" after "employ innovative technology".

Subsec. (f)(11). Pub. L. 106–181, §121(b), added par. (11).

1996—Subsec. (g). Pub. L. 104–264 substituted "INTERMODAL PLANNING" for "COOPERATION" in

heading and amended text generally. Prior to amendment, text read as follows: "To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems."

1994—Subsec. (a)(11). Pub. L. 103–305, §104, added par. (11).

Subsec. (a)(12). Pub. L. 103–429 substituted "subchapter" for "Act".

Pub. L. 103–305, §110, added par. (12).

Subsec. (a)(13). Pub. L. 103–305, §110, added par. (13).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

RUNWAY LENGTH IN ALASKA

Pub. L. 118–63, title III, §342(d), May 16, 2024, 138 Stat. 1100, provided that: "The Administrator [of the Federal Aviation Administration]—

"(1) may not restrict funding made available under chapter 471 of title 49, United States Code, from being used at an airport in Alaska to rehabilitate, resurface, or reconstruct the full length and width of an existing runway within Alaska based solely on reduced current or forecasted aeronautical activity levels or critical design type standards;

"(2) may not reject requests for runway projects at airports in Alaska if such projects address critical community needs, including projects—

"(A) that support economic development by expanding a runway to meet new demands; or

"(B) that preserve the length of runways used by aircraft to deliver necessary cargo, including heating fuel and gasoline, for the community served by the airport; and

"(3) shall, not later than 60 days after receiving a request for a runway rehabilitation or reconstruction project at an airport in Alaska, review each such request on a case-by-case basis."

CONTINUOUS EVALUATION OF GROUND AND AIR TRAFFIC ACTIVITY AND RELATED INCIDENTS

Pub. L. 118–63, title III, §347(a)(3), May 16, 2024, 138 Stat. 1104, provided that: "In carrying out section 47101(a) of title 49, United States Code, as amended by this subsection, the Administrator [of the Federal Aviation Administration] shall establish a process to continuously track and evaluate ground traffic and air traffic activity and related incidents at airports."

RUNWAY AND SURFACE SAFETY

Pub. L. 118–63, title III, §347(b)–(f), May 16, 2024, 138 Stat. 1104–1107, provided that:

"(b) RUNWAY SAFETY COUNCIL.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a council, to be known as the 'Runway Safety Council' (in this section referred to as the 'Council'), to develop a systematic management strategy to address airport surface safety risks.

"(2) DUTIES.—The duties of the Council shall include, at a minimum, advancing the development of risk-based, data driven, integrated systems solutions and strategies to enhance airport surface safety risk

mitigation.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—In establishing the Council, the Administrator shall appoint at least 1 member from each of the following:

"(i) Airport operators.

"(ii) Air carriers.

"(iii) Aircraft operators.

"(iv) Avionics manufacturers.

"(v) Flight schools.

"(vi) The exclusive collective bargaining representative of aviation safety professionals for the FAA [Federal Aviation Administration] certified under section 7111 of title 5, United States Code.

"(vii) The exclusive bargaining representative of the air traffic controllers certified under section 7111 of title 5, United States Code.

"(viii) Other safety experts the Administrator determines appropriate.

"(B) ADDITIONAL MEMBERS.—The Administrator may appoint members representing any other stakeholder organization that the Administrator determines appropriate to the Runway Safety Council.

"(c) AIRPORT SURFACE SAFETY TECHNOLOGIES.—

"(1) IDENTIFICATION.—Not later than 6 months after the date of enactment of this Act, the Administrator shall, in coordination with the Council, consult with relevant stakeholders to identify technologies, equipment, systems, and process changes, that—

"(A) may provide airport surface surveillance capabilities at airports lacking such capabilities;

"(B) may augment existing airport surface detection and surveillance system; or

"(C) may improve onboard situational awareness for flight crewmembers, including technologies for use in an aircraft that—

"(i) reduce the risk of collision on the runway with other aircraft or vehicles;

"(ii) calculate safe landing distances; and

"(iii) prompt actions to bring the aircraft to a safe stop.

"(2) CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Administrator shall—

"(A) based on the information obtained pursuant to paragraph (1)(A) and (1)(B), identify airport surface detection and surveillance systems that meet the standards of the FAA and may be able to—

"(i) provide airport surface surveillance capabilities at airports lacking such capabilities; or

"(ii) augment existing airport surface detection and surveillance systems, such as Airport Surface Detection System—Model X or the Airport Surface Surveillance Capability;

"(B) establish a timeline and action plan for replacing, maintaining, or enhancing the operational capability provided by existing airport surface detection and surveillance systems, and implementing runway safety technologies at airports without airport surface detection and surveillance systems, as needed, to improve runway safety;

"(C) based on the information obtained pursuant to paragraph (1)(C), identify safety technologies and systems in transport airplanes that meet the standards of the FAA that will—

"(i) enhance runway safety for transport airplanes that lack the capabilities of such technologies and systems, as appropriate; or

"(ii) augment existing onboard situational awareness runway traffic alerting and runway landing safety technologies installed on transport airplanes; and

"(D) establish clear and quantifiable criteria relating to operational factors, including ground traffic and air traffic activity and the rate of runway and terminal airspace safety events (including runway incursions), that determine when the installation and deployment of an airport surface detection or surveillance system, or other runway safety system (including runway status lights), at an airport is required.

"(3) DEPLOYMENT.—Not later than 5 years after the date of enactment of this Act, the Administrator shall ensure that airport surface detection and surveillance systems are deployed and operational at—

"(A) all airports described in paragraph (2)(A); and

"(B) all medium and large hub airports.

"(4) BRIEFING.—Not later than 3 years after the date of enactment of this Act, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] on the

progress of the deployment described in paragraph (3).

"(d) FOREIGN OBJECT DEBRIS DETECTION.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator shall assess, in coordination with the Council, automated foreign object debris monitoring and detection systems at not less than 3 airports that are using such systems.

"(2) CONSIDERATIONS.—In conducting the assessment under paragraph (1), the Administrator shall consider the following:

"(A) The categorization of an airport.

"(B) The potential frequency of foreign object debris incidents on airport runways or adjacent ramp areas.

"(C) The availability of funding for the installation and maintenance of foreign object debris monitoring and detection systems.

"(D) The impact of such systems on the airfield operations of an airport.

"(E) The effectiveness of available foreign object debris monitoring and detection systems.

"(F) Any other factors relevant to assessing the return on investment of foreign object debris monitoring and detection systems.

"(3) CONSULTATION.—In carrying out this subsection, the Administrator and the Council shall consult with manufacturers and suppliers of foreign object debris detection technology and any other relevant stakeholders.

"(e) RUNWAY SAFETY STUDY.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall seek to enter into appropriate arrangements with a federally funded research and development center to conduct a study of runway incursions, airport surface incidents, operational errors, or losses of standard separation of aircraft in the approach or departure phase of flight to determine how advanced technologies and future airport development projects may be able to reduce the frequency of such events and enhance aviation safety.

"(2) CONSIDERATIONS.—In conducting the study under paragraph (1), the federally funded research and development center shall—

"(A) examine data relating to recurring runway incursions, surface incidents, operational errors, or losses of standard separation of aircraft in the approach or departure phase of flight at airports to identify the underlying factors that caused such events;

"(B) assess metrics used to identify when such events are increasing at an airport;

"(C) assess available and developmental technologies, including and beyond such technologies considered in subsection (c), that may augment existing air traffic management capabilities of surface surveillance and terminal airspace equipment;

"(D) consider growth trends in airport size, staffing and communication complexities to identify—

"(i) future gaps in information exchange between aerospace stakeholders; and

"(ii) methods for meeting future near real-time information sharing needs; and

"(E) examine airfield safety training programs used by airport tenants and other stakeholders operating on airfields of airports, including airfield familiarization training programs for employees, to assess scalability to handle future growth in airfield capacity and traffic.

"(3) RECOMMENDATIONS.—In conducting the study required by paragraph (1), the federally funded research and development center shall develop recommendations for the strategic planning efforts of the Administration to appropriately maintain surface safety considering future increases in air traffic and based on the considerations described in paragraph (2).

"(4) REPORT TO CONGRESS.—Not later than 90 days after the completion of the study required by paragraph (1), the Administrator shall submit to the appropriate committees of Congress a report on the findings of such study and any recommendations developed under paragraph (3).

"(f) DEFINITIONS.—In this section:

"(1) AIR CARRIER; FOREIGN AIR CARRIER.—The terms 'air carrier' and 'foreign air carrier' have the meanings given such terms in section 40102 of title 49, United States Code.

"(2) AIRPORT SURFACE DETECTION AND SURVEILLANCE SYSTEM.—The term 'airport surface detection and surveillance system' means an airport surveillance system that is—

"(A) designed to track surface movement of aircraft and vehicles; or

"(B) capable of alerting air traffic controllers or flight crewmembers of a possible runway incursion, misaligned approach, or other safety event.

"(3) TRANSPORT AIRPLANE.—The term 'transport airplane' means a transport category airplane

designed for operation by an air carrier or foreign air carrier jet type-certificated with a passenger seating capacity of at least 10 seats or a maximum takeoff weight above 12,500 pounds or an all-cargo or combi derivative of such an airplane."

PROHIBITION ON PROVISION OF AIRPORT IMPROVEMENT GRANT FUNDS TO CERTAIN ENTITIES THAT HAVE VIOLATED INTELLECTUAL PROPERTY RIGHTS OF UNITED STATES ENTITIES

Pub. L. 118–63, title VII, §711, May 16, 2024, 138 Stat. 1253, provided that:

"(a) IN GENERAL.—Beginning on the date that is 30 days after the date of enactment of this Act [May 16, 2024], amounts provided as project grants under subchapter I of chapter 471 of title 49, United States Code, may not be used to enter into a covered contract with any entity on the list required under subsection (b).

"(b) LIST REQUIRED.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, and thereafter as required under paragraph (2), the United States Trade Representative, the Attorney General, and the Administrator [of the Federal Aviation Administration] shall make available to the Administrator a publicly-available list of entities manufacturing airport passenger boarding infrastructure or equipment that—

"(A) are owned, directed by, or subsidized in whole or in part by the People's Republic of China;

"(B) have been determined by a Federal court to have misappropriated intellectual property or trade secrets from an entity organized under the laws of the United States or any jurisdiction within the United States;

"(C) own or control, are owned or controlled by, are under common ownership or control with, or are successors to an entity described in subparagraph (A); or

"(D) have entered into an agreement with or accepted funding from, whether in the form of minority investment interest or debt, have entered into a partnership with, or have entered into another contractual or other written arrangement with an entity described in subparagraph (A).

"(2) UPDATES TO LIST.—The United States Trade Representative shall update the list required under paragraph (1), based on information provided by the Attorney General and the Administrator—

"(A) not less frequently than every 90 days during the 180-day period following the initial publication of the list under paragraph (1); and

"(B) not less frequently than annually thereafter.

"(c) DEFINITIONS.—In this section:

"(1) IN GENERAL.—The definitions in section 47102 of title 49, United States Code, shall apply.

"(2) COVERED CONTRACT.—The term 'covered contract' means a contract or other agreement for the procurement of infrastructure or equipment for a passenger boarding bridge at an airport."

NATIONAL PRIORITY SYSTEM FORMULAS

Pub. L. 118–63, title VII, §729, May 16, 2024, 138 Stat. 1271, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall review and update the National Priority System prioritization formulas contained in FAA Order 5090.5 to account for the amendments to chapter 471 of title 49, United States Code, made by this Act [see Tables for classification].

"(b) REQUIRED CONSULTATION.—In revising the formulas under subsection (a), the Secretary shall consult with representatives of the following:

"(1) Primary airports, including large, medium, small, and nonhub airports.

"(2) Non-primary airports, including general aviation airports.

"(3) Airport trade associations, including trade associations representing airport executives.

"(4) State aviation officials, including associations representing such officials.

"(5) Air carriers, including mainline, regional, and low-cost air carriers.

"(6) Associations representing air carriers.

"(c) PRIORITY PROJECTS.—In revising the formulas under subsection (a), the Secretary shall assign the highest priority to projects that increase or maintain the safety, efficiency, and capacity of the aviation system."

AIRPORT IMPROVEMENT PROGRAM HANDBOOK UPDATE

Pub. L. 118–63, title VII, §733, May 16, 2024, 138 Stat. 1273, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall revise the Airport Improvement Program Handbook (FAA [Federal Aviation Administration] Order 5100.38D) (in this section referred to as the 'AIP

Handbook') to account for legislative changes to the airport improvement program under subchapter I of chapter 471 and chapter 475 of title 49, United States Code, and to make such other changes as the Administrator determines necessary.

"(b) REQUIREMENTS RELATING TO ALASKA.—In revising the AIP Handbook under subsection (a) (and in any subsequent revision), the Administrator, in consultation with the Governor of Alaska, shall identify and incorporate reasonable exceptions to the general requirements of the AIP Handbook to meet the unique circumstances, and advance the safety needs, of airports in Alaska, including with respect to the following:

"(1) Snow Removal Equipment Building size and configuration.

"(2) Expansion of lease areas.

"(3) Shared governmental use of airport equipment and facilities in remote locations.

"(4) Ensuring the resurfacing or reconstruction of legacy runways to support—

"(A) aircraft necessary to support critical health needs of a community;

"(B) remote fuel deliveries; and

"(C) firefighting response.

"(5) The use of runway end identifier lights at airports in Alaska.

"(c) ADDITIONAL REQUIREMENT.—In revising the AIP Handbook under subsection (a), the Administrator shall include updates to reflect whether a light emitting diode system is an appropriate replacement for any existing halogen system.

"(d) PUBLIC COMMENT.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall publish a draft revision of the AIP Handbook and make such draft available for public comment for a period of not less than 90 days.

"(2) REVIEW.—The Administrator shall—

"(A) review all comments submitted during the public comment period described under paragraph (1);

"(B) as the Administrator considers appropriate, incorporate changes based on such comments into the final revision of the Handbook; and

"(C) provide a response to all significant comments.

"(e) INTERIM IMPLEMENTATION OF CHANGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 1 year after the date of enactment of this Act, the Administrator shall issue program guidance letters to provide for the interim implementation of amendments made by this Act to the Airport Improvement Program.

"(2) ALASKA EXCEPTIONS.—Not later than 60 days after the date on which the Administrator identified reasonable exceptions under subsection (b), the Administrator, in consultation with the Regional Administrator of the FAA Alaskan Region, shall issue program guidance letters to provide for the interim application of such exceptions."

CURB MANAGEMENT PRACTICES

Pub. L. 118–63, title VII, §746, May 16, 2024, 138 Stat. 1282, provided that: "Nothing in this Act [see Tables for classification] shall be construed to prevent airports from—

"(1) engaging in curb management practices, including determining and assigning curb designations and regulations;

"(2) installing and maintaining upon any of the roadways or parts of roadways as many curb zones as necessary to aid in the regulation, control, and inspection of passenger loading and unloading; or

"(3) enforcing curb zones using sensor, camera, automated license plate recognition, and software technologies and issuing citations by mail to the registered owner of the vehicle."

NOTICE OF FUNDING OPPORTUNITY

Pub. L. 118–63, title VII, §747, May 16, 2024, 138 Stat. 1282, provided that: "Notwithstanding part 200 of title 2, Code of Federal Regulations, or any other provision of law, funds made available as part of the Airport Improvement Program under subchapter I of chapter 471 or chapter 475 of title 49, United States Code, shall not be subject to any public notice of funding opportunity requirement."

DISPUTED CHANGES OF SPONSORSHIP AT FEDERALLY OBLIGATED, PUBLICLY OWNED AIRPORT

Pub. L. 118–63, title VII, §757, May 16, 2024, 138 Stat. 1285, provided that:

"(a) APPROVAL AUTHORITY.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a disputed change of airport sponsorship,

the Administrator [of the Federal Aviation Administration] shall have the sole legal authority to approve any change in the sponsorship of, or operational responsibility for, the airport from the airport sponsor of record to another public or private entity.

"(2) EXCLUSION.—This section shall not apply to a change of sponsorship or ownership of a privately-owned airport, a transfer under the Airport Investment Partnership Program, a change when the Federal Government exercises a right of reverter, or a change that is not disputed.

"(b) CONDITIONS FOR APPROVAL.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Administrator shall not approve any disputed change of airport sponsorship unless the Administrator receives—

"(A) written documentation from the airport sponsor of record consenting to the change in sponsorship or operation;

"(B) notice of a final, non-reviewable judicial decision requiring such change; or

"(C) notice of a legally-binding agreement between the parties involved.

"(2) PENDING JUDICIAL REVIEW.—The Administrator may not evaluate or approve a disputed change of airport sponsorship where a legal dispute is pending before a court of competent jurisdiction.

"(3) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—Any State or local legislative body or public agency considering whether to take an action (including by drafting legislation) that would impact the ownership, sponsorship, governance, or operations of a federally obligated, publicly owned airport may request from the Administrator, at any point in the deliberative process—

"(i) technical assistance regarding the interrelationship between Federal and State or local requirements applicable to any such action; and

"(ii) review and comment on such action.

"(B) FAILURE TO SEEK TECHNICAL ASSISTANCE.—The Administrator may deny a change in the ownership, sponsorship, or governance of, or operational responsibility for, a federally obligated, publicly owned airport if a State or local legislative body or public agency does not seek technical assistance under subparagraph (A) with respect to such change.

"(c) FINAL DECISION AUTHORITY.—In addition to the conditions outlined in subsection (b), the Administrator shall independently determine whether the proposed sponsor or operator is able to satisfy Federal requirements for airport sponsorship or operation and shall ensure, by requiring whatever terms and conditions the Administrator determines necessary, that any change in the ownership, sponsorship, or governance of, or operational responsibility for, a federally obligated, publicly owned airport is consistent with existing Federal law, regulations, existing grant assurances, and Federal land conveyance obligations.

"(d) DEFINITION OF DISPUTED CHANGE OF AIRPORT SPONSORSHIP.—In this section, the term 'disputed change of airport sponsorship' means any action that seeks to change the ownership, sponsorship, or governance of, or operational responsibility for, a federally obligated, publicly owned airport, including any such change directed by judicial action or State or local legislative action, where the airport sponsor of record initially does not consent to such change."

PROCUREMENT REGULATIONS APPLICABLE TO FAA MULTIMODAL PROJECTS

Pub. L. 118–63, title VII, §758, May 16, 2024, 138 Stat. 1287, provided that:

"(a) IN GENERAL.—Any multimodal airport development project that uses grant funding from funds made available to the Administrator [of the Federal Aviation Administration] to carry out subchapter I of chapter 471 of title 49, United States Code, or airport infrastructure projects under the Infrastructure Investment and Jobs Act (Public Law 117–58) [see Tables for classification] shall abide by the procurement regulations applicable to—

"(1) the FAA [Federal Aviation Administration]; and

"(2) subject to subsection (b), the component of the project relating to transit, highway, or rail, respectively.

"(b) MULTIPLE COMPONENT PROJECTS.—In the case of a multimodal airport development project described in subsection (a) that involves more than 1 component described in paragraph (2) of such subsection, such project shall only be required to apply the procurement regulations applicable to the component where the greatest amount of Federal financial assistance will be expended."

REGIONAL AIRPORT CAPACITY STUDY

Pub. L. 118–63, title VII, §765, May 16, 2024, 138 Stat. 1291, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall initiate a study on the following:

"(1) Existing FAA [Federal Aviation Administration] policy and guidance that govern the siting of

new airports or the transition of general aviation airports to commercial service.

"(2) Ways that existing regulations and policies could be streamlined to facilitate the development of new airport capacity, particularly in high-demand air travel regions looking to invest in new airport capacity.

"(3) Whether Federal funding sources (existing as of the date of enactment of this Act) that are authorized by the Secretary [of Transportation] could be used for such purposes.

"(4) Whether such Federal funding sources meet the needs of the national airspace system for adding new airport capacity outside of the commercial service airports in operation as of the date of enactment of this Act.

"(5) If such Federal funding sources are determined by the Administrator to be insufficient for the purposes described in this subsection, an estimate of the funding gap.

"(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the study conducted under subsection (a), together with recommendations for such legislative or administrative action as the Administrator determines appropriate.

"(c) GUIDANCE.—Not later than 3 years after the date of enactment of this Act, the Administrator shall, if appropriate, revise FAA guidance to incorporate the findings of the study conducted under subsection (a) to assist airports and State and local departments of transportation in increasing airport capacity to meet regional air travel demand."

APPLICATION OF AMENDMENTS TO AIRPORT IMPROVEMENT PROGRAM APPORTIONMENT AND DISCRETIONARY FORMULAS

Pub. L. 118–63, title VII, §772, May 16, 2024, 138 Stat. 1297, provided that: "The amendments to the Airport Improvement Program apportionment and discretionary formulas under chapter 471 of title 49, United States Code, made by this Act [see Tables for classification] (except as they relate to the extension of provisions or authorities expiring on May 10, 2024, or May 11, 2024) shall not apply in a fiscal year beginning before the date of enactment of this Act [May 16, 2024]."

AIR TRAFFIC SURFACE OPERATIONS SAFETY

Pub. L. 118–63, title X, §1023, May 16, 2024, 138 Stat. 1401, provided that:

"(a) RESEARCH.—Subject to the availability of appropriations, the Administrator [of the Federal Aviation Administration], in consultation with the Administrator of NASA [National Aeronautics and Space Administration] and other appropriate Federal agencies, shall continue to carry out research and development activities relating to technologies and operations to enhance air traffic surface operations safety.

"(b) REQUIREMENTS.—In carrying out the research and development under subsection (a) shall [sic] examine the following:

"(1) Methods and technologies to enhance the safety and efficiency of air traffic control operations related to air traffic surface operations.

"(2) Emerging technologies installed in aircraft cockpits to enhance ground situational awareness, including enhancements to the operational performance of runway traffic alerting and runway landing safety technologies.

"(3) Safety enhancements and adjustments to air traffic surface operations to account for and enable safe operations of advanced aviation technology.

"(c) REPORT.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator shall submit to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] a report on the research and development activities carried out under this section, including regarding the transition into operational use of such activities."

LIMITED REGULATION OF NON-FEDERALLY SPONSORED PROPERTY

Pub. L. 115–254, div. B, title I, §163(a)–(c), Oct. 5, 2018, 132 Stat. 3224, as amended by Pub. L. 118–63, title VII, §743(a), May 16, 2024, 138 Stat. 1279, provided that:

"(a) [Reserved].

"(b) [Reserved].

"(c) RULE OF CONSTRUCTION.—Nothing in this section [enacting this note and amending section 47107 of this title] shall be construed to affect the applicability of sections [sic] 47107(b) or 47133 of title 49, United States Code, to revenues generated by the use, lease, encumbrance, transfer, or disposal of land under subsection (a), facilities upon such land, or any portion of such land or facilities."

REIMBURSABLE AGREEMENTS FOR CERTAIN AIRPORT PROJECTS

Pub. L. 114–307, §1, Dec. 16, 2016, 130 Stat. 1523, provided that: "The Administrator of the Federal Aviation Administration may enter into a reimbursable agreement with a State or local government agency to carry out a project at an airport as to which notice is required under section 77.9 of title 14, Code of Federal Regulations, if the agreement—

"(1) includes measures for cost-effective completion of such project; and

"(2) would not negatively affect the safety or efficiency of the national airspace system."

RUNWAY SAFETY

Pub. L. 112–95, title III, §314, Feb. 14, 2012, 126 Stat. 67, provided that:

"(a) STRATEGIC RUNWAY SAFETY PLAN.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall develop and submit to Congress a report containing a strategic runway safety plan.

"(2) CONTENTS OF PLAN.—The strategic runway safety plan—

"(A) shall include, at a minimum—

"(i) goals to improve runway safety;

"(ii) near- and long-term actions designed to reduce the severity, number, and rate of runway incursions, losses of standard separation, and operational errors;

"(iii) time frames and resources needed for the actions described in clause (ii);

"(iv) a continuous evaluative process to track performance toward the goals referred to in clause (i); and

"(v) a review with respect to runway safety of every commercial service airport (as defined in section 47102 of title 49, United States Code) in the United States and proposed action to improve airport lighting, provide better signs, and improve runway and taxiway markings at those airports; and

"(B) shall address the increased runway safety risk associated with the expected increased volume of air traffic.

"(b) PROCESS.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall develop a process for tracking and investigating operational errors, losses of standard separation, and runway incursions that includes procedures for—

"(1) identifying who is responsible for tracking operational errors, losses of standard separation, and runway incursions, including a process for lower level employees to report to higher supervisory levels and for frontline managers to receive the information in a timely manner;

"(2) conducting periodic random audits of the oversight process; and

"(3) ensuring proper accountability.

"(c) PLAN FOR INSTALLATION AND DEPLOYMENT OF SYSTEMS TO PROVIDE ALERTS OF POTENTIAL RUNWAY INCURSIONS.—Not later than June 30, 2012, the Administrator shall submit to Congress a report containing a plan for the installation and deployment of systems to alert air traffic controllers or flight crewmembers, or both, of potential runway incursions. The plan shall be integrated into the annual NextGen Implementation Plan of the Administration or any successor document."

AVAILABILITY OF GATES AND OTHER ESSENTIAL SERVICES

Pub. L. 106–181, title I, §155(d), Apr. 5, 2000, 114 Stat. 89, provided that: "The Secretary [of Transportation] shall ensure that gates and other facilities are made available at costs that are fair and reasonable to air carriers at covered airports (as defined in section 47106(f)(4) [47106(f)(3)] of title 49, United States Code) where a 'majority-in-interest clause' of a contract or other agreement or arrangement inhibits the ability of the local airport authority to provide or build new gates or other facilities."

CONSTRUCTION OF RUNWAYS

Pub. L. 106–181, title I, §158, Apr. 5, 2000, 114 Stat. 90, provided that: "Notwithstanding any provision of law that specifically restricts the number of runways at a single international airport, the Secretary [of Transportation] may obligate funds made available under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed."

INNOVATIVE FINANCING TECHNIQUES

Pub. L. 104–264, title I, §148, Oct. 9, 1996, 110 Stat. 3223, authorized the Secretary of Transportation until Sept. 30, 1998, to carry out a demonstration program to provide information on the use of innovative financing techniques for airport development projects to Congress and the National Civil Aviation Review

Commission. See section 47135 of this title.

AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE

Pub. L. 104–264, title XII, §1203, Oct. 9, 1996, 110 Stat. 3280, which related to closure of an airport that is not a commercial service airport that is located within 2 miles of a United States Army depot which has been closed or realigned, was repealed by Pub. L. 118–63, title VII, §719(c)(1), May 16, 2024, 138 Stat. 1262.

STUDY ON INNOVATIVE FINANCING

Pub. L. 103–305, title V, §520, Aug. 23, 1994, 108 Stat. 1601, required the Secretary to conduct a study on innovative approaches for using Federal funds to finance airport development as a means of supplementing financing available under the Airport Improvement Program and set out matters for the Secretary to consider and persons to consult, and provided that the Secretary would transmit to Congress a report on the results of the study not later than 12 months after Aug. 23, 1994.

§47102. Definitions

In this subchapter—

(1) "air carrier" has the meaning given such term in section 40102.

(2) "airport"—

(A) means—

(i) an area of land or water used or intended to be used for the landing and taking off of aircraft;

(ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and

(iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

(i) removing, lowering, relocating, marking, and lighting an airport hazard;

(ii) preparing a plan or specification, including carrying out a field investigation; and

(iii) a secondary runway at a nonhub airport that is equivalent in size and type to the primary runway of such airport.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment, including explosive detection devices, universal access systems, and emergency call boxes, the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting, including closed circuit weather surveillance equipment and fuel infrastructure for such equipment to remove snow if the airport is located in Alaska;

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 9 passenger seats;

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids);

(vi) interactive training systems;

(vii) windshear detection equipment that is certified by the Administrator of the Federal Aviation Administration;

(viii) stainless steel adjustable lighting extensions approved by the Administrator;

(ix) engineered materials arresting systems as described in the Advisory Circular No. 150/5220–22 published by the Federal Aviation Administration on August 21, 1998, including any revision to the circular;

(x) replacement of baggage conveyor systems, and reconfiguration of terminal baggage areas, that the Secretary determines are necessary to install bulk explosive detection devices; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114; and

(xi) a medium intensity approach lighting system with runway alignment indicator lights.

(C) acquiring an interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(D) acquiring land for, or constructing, a burn area training structure on or off the airport to provide live fire drill training for aircraft rescue and firefighting personnel required to receive the training under regulations the Secretary prescribes, including basic equipment and minimum structures to support the training under standards the Administrator of the Federal Aviation Administration prescribes.

(E) relocating an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter or under section 40117.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, and including acquiring glycol recovery vehicles, but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

(H) routine work to preserve and extend the useful life of runways, taxiways, and aprons at nonhub airports and airports that are not primary airports, under guidelines issued by the Administrator of the Federal Aviation Administration.

(I) constructing, reconstructing, or improving an airport, or purchasing nonrevenue generating capital equipment to be owned by an airport, for the purpose of transferring passengers, cargo, or baggage between the aeronautical and ground transportation modes on airport property.

(J) constructing an air traffic control tower or acquiring and installing air traffic control, communications, and related equipment at an air traffic control tower under the terms specified in section 47124(b)(4).

(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport.

(L) a project by a commercial service airport for the acquisition of airport-owned vehicles or ground support equipment equipped with low-emission technology if the vehicles are;

(i) used exclusively on airport property; or

(ii) used exclusively to transport passengers and employees between the airport and the airport's consolidated rental car facility or an intermodal surface transportation facility adjacent to the airport.

(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.

(N) terminal development under section 47119(a).

(O) acquiring and installing facilities and equipment to provide air conditioning, heating, or electric power from terminal-based, nonexclusive use facilities to aircraft parked at a public use airport for the purpose of reducing energy use or harmful emissions as compared to the provision of such air conditioning, heating, or electric power from aircraft-based systems.

(P) an on-airport project to improve reliability and efficiency of the power supply of the airport or meet current and future electrical power demand and to prevent power disruptions to the airfield, passenger terminal, and any other airport facilities, including the acquisition and installation of electrical generators, renewable energy generation and storage infrastructure (including necessary substation upgrades to support such infrastructure), separation of the airport's main power supply from its redundant power supply, the construction or modification of airport facilities to install a microgrid (as defined in section 641 of the United States Energy Storage Competitiveness Act of 2007 (42 U.S.C. 17231)), and smart glass (including electrochromic glass).

(Q) converting or retrofitting vehicles and ground support equipment into eligible zero-emission vehicles and equipment (as defined in section 47136) and for acquiring, by purchase or lease, eligible zero-emission vehicles and equipment.

(R) predevelopment planning, including financial, legal, or procurement consulting services, related to an application or proposed application for an exemption under section 47134.

(S) acquisition of advanced digital construction management systems and related technology used in the planning, design and engineering, construction, and maintenance of airport facilities when such systems or technologies are acquired to carry out a project approved by the Secretary under this subchapter.

(T) improvements, or planning for improvements (including monitoring equipment or services), that would be necessary to sustain commercial service flight operations or permit the resumption of such flight operations following a natural disaster (including an earthquake, flooding, high water, wildfires, hurricane, storm surge, tidal wave, tornado, tsunami, wind driven water, sea level rise, tropical storm, cyclone, land instability, or winter storm) at—

(i) a primary airport; or

(ii) a nonprimary airport that is designated as a Federal staging area or incident support base by the Administrator of the Federal Emergency Management Agency.

(U) a project to comply with rulemakings and recommendations on airport cybersecurity standards from the aviation rulemaking committee convened under section 395 of the FAA Reauthorization Act of 2024.

(V) reconstructing or rehabilitating an existing crosswind runway (regardless of the wind coverage of the primary runway) if the reconstruction or rehabilitation of such crosswind runway is in the most recently approved airport layout plan of the sponsor.

(W) constructing or acquiring such airport-owned infrastructure or equipment, notwithstanding revenue producing capability of such infrastructure or equipment, as may be required for—

(i) the on-airport distribution or storage of unleaded aviation gasoline for piston-driven aircraft, including on-airport construction or expansion of pipelines, storage tanks, low-emission fuel systems, and airport-owned fuel trucks providing exclusively unleaded aviation fuels (unless the Secretary determines that an alternative fuel may be safely used in such fuel truck for a limited time); or

(ii) fueling systems for type certificated hydrogen-powered aircraft.

(X) constructing, reconstructing, or rehabilitating a taxiway or taxilane that serves non-exclusive use aeronautical facilities, including aircraft storage facilities, except for the 50 feet of pavement immediately in front of an ineligible building.

(Y) any other activity (excluding terminal development) that the Secretary concludes will reasonably improve the safety of the airport.

(4) "airport hazard" means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or otherwise is hazardous to the landing or taking off of aircraft at or from the airport.

(5) "airport planning" means planning as defined by requirements the Secretary prescribes and includes—

(A) integrated airport system planning and catchment area analyses;

(B) developing an environmental management system;

(C) developing a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit; and

(D) assessing current and future electrical power demand for airport airside and landside activities.

(6) "amount made available under section 48103" or "amount newly made available" means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).

(7) "commercial service airport" means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) "general aviation airport" means a public-use airport that is located in a State and that, as determined by the Secretary—

(A) does not have scheduled service; or

(B) has scheduled service with less than 2,500 passenger boardings each year.

(9) "integrated airport system planning" means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) standards prescribed by a State, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(10) "landed weight" means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(11) "large hub airport" means a commercial service airport that has at least 1.0 percent of the passenger boardings.

(12) "low-emission technology" means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental

Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.

(13) "medium hub airport" means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

(14) "nonhub airport" means a commercial service airport that has less than 0.05 percent of the passenger boardings.

(15) "passenger boardings"—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(16) "primary airport" means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

(17) "project" means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

(18) "project cost" means a cost involved in carrying out a project.

(19) "project grant" means a grant of money the Secretary makes to a sponsor to carry out at least one project.

(20) "public agency" means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization;

(C) an Indian tribe or pueblo; or

(D) the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau.

(21) "public airport" means an airport used or intended to be used for public purposes—

(A) that is under the control of a public agency; and

(B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(22) "public-use airport" means—

(A) a public airport; or

(B) a privately-owned airport used or intended to be used for public purposes that is—

(i) a reliever airport; or

(ii) determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.

(23) "reliever airport" means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(24) "revenue producing aeronautical support facilities" means fuel farms, hangar buildings, self-service credit card aeronautical fueling systems, airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.

(25) "small hub airport" means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

(26) "sponsor" means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter

an application for financial assistance for the airport.

(27) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and Guam.

(28) "terminal development" means—

(A) development of—

(i) an airport passenger terminal building, including terminal gates;

(ii) access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and

(iii) walkways that lead directly to or from an airport passenger terminal building; and

(B) the cost of a vehicle for moving passengers and baggage between terminal facilities and between terminal facilities and aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1248; Pub. L. 103–305, title I, §105, Aug. 23, 1994, 108 Stat. 1572; Pub. L. 104–264, title I, §142(b)(1), Oct. 9, 1996, 110 Stat. 3221; Pub. L. 106–181, title I, §§121(c), 122, 123(b), 137(b), title V, §514(a), Apr. 5, 2000, 114 Stat. 74, 75, 85, 144; Pub. L. 107–71, title I, §119(a)(1), (5), Nov. 19, 2001, 115 Stat. 628, 629; Pub. L. 108–7, div. I, title III, §370(a), Feb. 20, 2003, 117 Stat. 424; Pub. L. 108–176, title I, §§141, 142, 159(b)(1), (d), title VIII, §801(a), Dec. 12, 2003, 117 Stat. 2503, 2510, 2511, 2586; Pub. L. 112–95, title I, §132, Feb. 14, 2012, 126 Stat. 21; Pub. L. 115–254, div. B, title I, §165, Oct. 5, 2018, 132 Stat. 3225; Pub. L. 118–63, title VII, §702, May 16, 2024, 138 Stat. 1246.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47102(1)	(no source).	
47102(2)	49 App.:2202(a)(1).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(1), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §103(a), 101 Stat. 1488.
	49 App.:2202(a)(21).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(13)–(19), (21)–(23), 96 Stat. 673, 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
47102(3)	49 App.:2202(a)(2).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(2), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §103(b), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, §9102, 104 Stat. 1388–354; Oct. 31, 1992, Pub. L. 102–581, §112(a), (b), 106 Stat. 4880.
47102(4)	49 App.:2202(a)(3).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(3)–(5), (7), (8), (b), 96 Stat. 673, 674.
47102(5)	49 App.:2202(a)(4).	
47102(6)	49 App.:2202(b).	
47102(7)	49 App.:2202(a)(5).	
47102(8)	49 App.:2202(a)(7).	
47102(9)	49 App.:2202(a)(9).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §503(a)(9); added Dec. 30,

		1987, Pub. L. 100–223, §103(c)(2), 101 Stat. 1488.
47102(10)	49 App.:2202(a)(10).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(10), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), (d), 101 Stat. 1488; Oct. 31, 1992, Pub. L. 102–581, §115, 106 Stat. 4881.
47102(11)	49 App.:2202(a)(12).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(12), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), (e), 101 Stat. 1488.
47102(12)	49 App.:2202(a)(13).	
47102(13)	49 App.:2202(a)(14).	
47102(14)	49 App.:2202(a)(15).	
47102(15)	49 App.:2202(a)(16).	
47102(16)	49 App.:2202(a)(8), (17).	
47102(17)	49 App.:2202(a)(18).	
47102(18)	49 App.:2202(a)(19).	
47102(19)	49 App.:2202(a)(22).	
47102(20)	49 App.:2202(a)(23).	

In this section, before clause (1), the words "In this subchapter" are substituted for "As used in this chapter" and "Whenever in this chapter reference is made to . . . such reference shall mean" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

Clause (1) restates the definition of "air carrier airport" that was contained in section 11(1) of the Airport and Airway Development Act of 1970 as in effect both on February 18, 1980, and immediately before September 3, 1982. The clause is added to this section to eliminate the cross-references to definitions in section 11 of the Airport and Airway Development Act of 1970 that are contained in the source provisions restated in sections 47106(d) and 47119(a) of the revised title. Because some of the terms used in the definition of "air carrier airport" were themselves defined in section 11, the definitions of those terms are incorporated in the definition added in clause (1) to the extent they differ from the definitions of those terms restated in this section. The words "Secretary of Transportation" and "Secretary" are substituted for "Civil Aeronautics Board" because of the transfer of authority under 49 App.:1551(b)(1)(E).

In clause (2), before subclause (A), the text of 49 App.:2202(a)(21) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In subclause (A)(iii), the words "those areas" are substituted for "thereon" for clarity.

In clause (3)(A), before subclause (i), the words "any work involved in" and "or portion thereof" are eliminated as unnecessary. The word "reconstructing" is omitted as being included in "constructing". In subclause (ii), the words "carrying out a field investigation" are substituted for "field investigations incidental thereto" for clarity.

In clause (3)(B), before subclause (i), the word "for" is substituted for "by" for clarity. In subclause (i), the words "required by the acquisition or installation" are substituted for "thereby required" for clarity. In subclause (ii), the word "individuals" is substituted for "persons" for clarity and consistency in the revised title and with other titles of the Code.

In clause (3)(C), before subclause (i), the words "interest in land or airspace" are substituted for "land or of any interest therein, or of any easement through or other interest in airspace" to eliminate unnecessary words. In subclause (ii), the words "existing airport hazard . . . the creation of a new airport hazard" are added for clarity and consistency in this chapter.

In clause (3)(D), the words "any . . . work involved to" are omitted as surplus. The word "Secretary" is substituted for "Department of Transportation" because of 49:102(b). The words "Administrator of the" are added because of 49:106(b).

In clause (4), the word "near" is substituted for "in the vicinity of" to eliminate unnecessary words. The words "obstructs or otherwise is hazardous to the landing or taking off" are substituted for "obstructs the airspace required for the flight of aircraft in landing or taking off . . . or is otherwise hazardous to such landing

or taking off" for clarity and to eliminate unnecessary words.

In clause (6), the words "for a fiscal year . . . for that fiscal year" are omitted as surplus. The words "authorized for grants" are substituted for "made available for obligation" for clarity and consistency. The word "law" is substituted for "Act of Congress" for consistency in the revised title and with other titles of the Code. The words "or limited" are omitted as surplus.

In clause (8), before subclause (A), the words "the initial as well as continuing" and "nature" are omitted as surplus. In subclause (C), the words "needed to decide which aeronautical needs should be met" are substituted for "as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met" for clarity and to eliminate unnecessary words. The word "particular" is eliminated as unnecessary. In subclause (D), the word "prescribed" is substituted for "the establishment . . . of" for consistency in the revised title and with other titles of the Code.

In clause (9), the words "scheduled and nonscheduled" are omitted as surplus. The word "cargo" is substituted for "property (including mail)" for consistency in the revised title.

In clause (10), before subclause (A), the words "passenger boardings" are substituted for "passengers enplaned" for clarity. In subclause (A), the words "domestic, territorial, and international", "in the States", "scheduled and nonscheduled", and "intrastate, interstate, and foreign" are omitted as surplus. In subclause (B), the words "who continue on an aircraft in" are substituted for "on board" for clarity. (See Cong. Rec., pp. S15296, 15297, Oct. 28, 1987, daily ed.). The words "that stops" are substituted for "which transit" for clarity. The word "located" is omitted as surplus.

In clause (12), the words "included in one project grant application" are substituted for "submitted together", and the words "or all projects to be undertaken" are substituted for "including the combined submission of all projects", for clarity and consistency in this chapter.

In clause (15)(A), the words "or any agency of a State, a municipality . . . other" are omitted as surplus.

In clause (19)(A), the words "either individually or jointly with one or more other public agencies" are omitted as surplus.

In clause (20), the words "the Commonwealth of" and "the Government of" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (3)(F), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in par. (3)(F), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in par. (3)(F), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

Section 395 of the FAA Reauthorization Act of 2024, referred to in par. (3)(U), is section 395 of Pub. L. 118–63, which is set out as a note under section 40131 of this title.

AMENDMENTS

2024—Par. (1). Pub. L. 118–63, §702(1), added par. (1) and struck out former par. (1) which read as follows: " 'air carrier airport' means a public airport regularly served by—

"(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

"(B) at least one air carrier—

"(i) operating under an exemption from section 41101(a)(1) of this title that the Secretary grants; and

"(ii) having at least 2,500 passenger boardings at the airport during the prior calendar year."

Par. (3)(A)(iii). Pub. L. 118–63, §702(2)(A), added cl. (iii).

Par. (3)(B)(iii). Pub. L. 118–63, §702(2)(B)(i), inserted "and fuel infrastructure for such equipment to remove snow" after "surveillance equipment".

Par. (3)(B)(xi). Pub. L. 118–63, §702(2)(B)(ii)–(iv), added cl. (xi).

Par. (3)(E). Pub. L. 118–63, §702(2)(C), struck out "after December 31, 1991," after "relocating".

Par. (3)(K). Pub. L. 118–63, §702(2)(D), struck out before period at end: "if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a)) and if the airport would be able to receive emission credits, as described in section 47139".

Par. (3)(L). Pub. L. 118–63, §702(2)(E), struck out "the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a)), if the airport would be able to receive appropriate emission credits (as described in section 47139), and" after "technology if" in introductory provisions.

Par. (3)(P). Pub. L. 118–63, §702(2)(F), substituted "improve reliability and efficiency of the power supply of the airport or meet current and future electrical power demand" for "improve the reliability and efficiency of the airport's power supply" and "redundant power supply," for "redundant power supply, and", and inserted ", renewable energy generation and storage infrastructure (including necessary substation upgrades to support such infrastructure)" after "electrical generators" and ", and smart glass (including electrochromic glass)" before period at end.

Par. (3)(S) to (Y). Pub. L. 118–63, §702(2)(G), added subpars. (S) to (Y).

Par. (5)(A). Pub. L. 118–63, §702(3)(A), inserted "and catchment area analyses" after "planning".

Par. (5)(D). Pub. L. 118–63, §702(3)(B)–(D), added subpar. (D).

Par. (20)(D). Pub. L. 118–63, §702(4), added subpar. (D).

Par. (27). Pub. L. 118–63, §702(5), struck out "the Trust Territory of the Pacific Islands," after "the Northern Mariana Islands,".

Par. (28)(B). Pub. L. 118–63, §702(6), substituted "for moving passengers and baggage between terminal facilities and between terminal facilities and aircraft" for "described in section 47119(a)(1)(B)".

2018—Par. (3)(K). Pub. L. 115–254, §165(1)(A), substituted "7505a)) and if the airport would be able to receive" for "7505a) and if such project will result in an airport receiving appropriate".

Par. (3)(L). Pub. L. 115–254, §165(1)(B), added subpar. (L) and struck out former subpar. (L) which read as follows: "a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139."

Par. (3)(P) to (R). Pub. L. 115–254, §165(1)(C), added subpars. (P) to (R).

Par. (5). Pub. L. 115–254, §165(2), substituted "requirements" for "regulations" in introductory provisions.

Par. (8). Pub. L. 115–254, §165(3), substituted "public-use" for "public" in introductory provisions.

2012—Par. (3)(B)(iv). Pub. L. 112–95, §132(a)(1), substituted "9" for "20".

Par. (3)(G). Pub. L. 112–95, §132(a)(2), inserted "and including acquiring glycol recovery vehicles," after "vehicles and aircraft,".

Par. (3)(M) to (O). Pub. L. 112–95, §132(a)(3), added subpars. (M) to (O).

Par. (5). Pub. L. 112–95, §132(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: " 'airport planning' means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning."

Par. (8). Pub. L. 112–95, §132(c)(3), added par. (8). Former par. (8) redesignated (9).

Pars. (9) to (23). Pub. L. 112–95, §132(c)(2), redesignated pars. (8) to (22) as (9) to (23), respectively. Former par. (23) redesignated (25).

Par. (24). Pub. L. 112–95, §132(d), added par. (24). Former par. (24) redesignated (26).

Pars. (25) to (27). Pub. L. 112–95, §132(c)(1), redesignated pars. (23) to (25) as (25) to (27), respectively.

Par. (28). Pub. L. 112–95, §132(e), added par. (28).

2003—Par. (3)(B)(x). Pub. L. 108–176, §142, inserted "; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114" before period at end.

Par. (3)(H). Pub. L. 108–176, §141, inserted "nonhub airports and" before "airports that are not primary airports".

Par. (3)(J). Pub. L. 108–176, §159(b)(1)(A), redesignated subpar. (M) as (J) and struck out former subpar. (J) which read as follows: "in fiscal year 2002, any additional security related activity required by law or by the Secretary after September 11, 2001, and before October 1, 2002."

Par. (3)(K), (L). Pub. L. 108–176, §159(b)(1), added subpars. (K) and (L) and struck out former subpars. (K) and (L) which read as follows:

"(K) in fiscal year 2002 with respect to funds apportioned under section 47114 in fiscal years 2001 and 2002, any activity, including operational activities, of an airport that is not a primary airport if that airport is located within the confines of enhanced class B airspace, as defined by Notice to Airmen FDC 1/0618 issued

by the Federal Aviation Administration and the activity was carried out when any restriction in the Notice is in effect.

"(L) in fiscal year 2002, payments for debt service on indebtedness incurred to carry out a project at an airport owned or controlled by the sponsor or at a privately owned or operated airport passenger terminal financed by indebtedness incurred by the sponsor if the Secretary determines that such payments are necessary to prevent a default on the indebtedness."

Par. (3)(M). Pub. L. 108–176, §159(b)(1)(A), redesignated subpar. (M) as (J).

Pub. L. 108–7 added subpar. (M).

Par. (6). Pub. L. 108–176, §801(a)(6), added par. (6) and struck out former par. (6) which read as follows: " 'amount made available under section 48103 of this title' means the amount authorized for grants under section 48103 of this title as reduced by any law enacted after September 3, 1982."

Par. (10). Pub. L. 108–176, §801(a)(5), added par. (10). Former par. (10) redesignated (14).

Par. (10)(A), (B). Pub. L. 108–176, §801(a)(3), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

"(A) means revenue passenger boardings on an aircraft in service in air commerce as the Secretary determines under regulations the Secretary prescribes; and

"(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose."

Par. (11). Pub. L. 108–176, §159(d), amended section as amended by Pub. L. 108–176, §801, by adding par. (11).

Pub. L. 108–176, §801(a)(4), redesignated par. (11) as (15).

Pars. (12) to (18). Pub. L. 108–176, §801(a)(4), (5), added pars. (12) and (13) and redesignated pars. (10) to (14) as (14) to (18), respectively. Former pars. (15) to (18) redesignated (19) to (22), respectively.

Pars. (19), (20). Pub. L. 108–176, §801(a)(4), redesignated pars. (15) and (16) as (19) and (20), respectively. Former pars. (19) and (20) redesignated (24) and (25), respectively.

Pars. (21) and (22). Pub. L. 108–176, §801(a)(4), redesignated pars. (17) and (18) as pars. (21) and (22), respectively.

Par. (23). Pub. L. 108–176, §801(a)(2), added par. (23).

Pars. (24), (25). Pub. L. 108–176, §801(a)(1), redesignated pars. (19) and (20) as (24) and (25), respectively.

2001—Par. (3)(B)(x). Pub. L. 107–71, §119(a)(5), added cl. (x).

Par. (3)(J) to (L). Pub. L. 107–71, §119(a)(1), added subpars. (J) to (L).

2000—Par. (3)(B)(ii). Pub. L. 106–181, §121(c)(1), substituted ", universal access systems, and emergency call boxes," for "and universal access systems," and inserted "and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices" before semicolon at end.

Par. (3)(B)(iii). Pub. L. 106–181, §121(c)(2), inserted before semicolon at end ", including closed circuit weather surveillance equipment if the airport is located in Alaska".

Par. (3)(B)(vii), (viii). Pub. L. 106–181, §122, added cls. (vii) and (viii).

Par. (3)(B)(ix). Pub. L. 106–181, §514(a), added cl. (ix).

Par. (3)(H). Pub. L. 106–181, §123(b), added subpar. (H).

Par. (3)(I). Pub. L. 106–181, §137(b), added subpar. (I).

1996—Par. (3)(E). Pub. L. 104–264, §142(b)(1)(A), inserted "or under section 40117" before period at end.

Par. (3)(F). Pub. L. 104–264, §142(b)(1)(B), struck out "paid for by a grant under this subchapter and" after "airport, if".

1994—Par. (3)(B)(ii). Pub. L. 103–305 inserted ", including explosive detection devices and universal access systems," after "or security equipment".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

AIRPORT ACCESS ROADS IN REMOTE LOCATIONS

Pub. L. 115–254, div. B, title I, §162, Oct. 5, 2018, 132 Stat. 3223, as amended by Pub. L. 118–15, div. B, title II, §2202(p), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(p), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(p), Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title VII, §731, May 16, 2024, 138 Stat. 1273, provided that: "Notwithstanding section 47102 of title 49, United States Code, for fiscal years 2024 through 2028—

"(1) the definition of the term 'airport development' under that section includes the construction of a storage facility to shelter snow removal equipment or aircraft rescue and firefighting equipment that is owned by an airport sponsor and used exclusively to maintain safe airfield operations, up to the facility size necessary to accommodate the types and quantities of equipment prescribed by the FAA, regardless of whether Federal funding was used to acquire the equipment;

"(2) a storage facility to shelter snow removal equipment may exceed the facility size limitation described in paragraph (1) if the airport sponsor certifies to the Secretary that the following conditions are met:

"(A) The storage facility to be constructed will be used to store snow removal equipment exclusively used for clearing airfield pavement of snow and ice following a weather event.

"(B) The airport is categorized as a local general aviation airport in the Federal Aviation Administration's 2017–2021 National Plan of Integrated Airport Systems (NPIAS) report.

"(C) The 30-year annual snowfall normal of the nearest weather station based on the National Oceanic and Atmospheric Administration Summary of Monthly Normals 1981–2010 exceeds 26 inches.

"(D) The airport serves as a base for a medical air ambulance transport aircraft.

"(E) The airport master record (Form 5010–1) effective on September 14, 2017 for the airport indicates 45 based aircraft consisting of single engine, multiple engine, and jet engine aircraft.

"(F) No funding under this section will be used for any portion of the storage facility designed to shelter maintenance and operations equipment that are not required for clearing airfield pavement of snow and ice.

"(G) The airport sponsor will complete design of the storage building not later than September 30, 2019, and will initiate construction of the storage building not later than September 30, 2020.

"(H) The area of the storage facility, or portion thereof, to be funded under this subsection [sic] does not exceed 6,000 square feet; and

"(3) the definition of the term 'terminal development' under that section includes the development of an airport access road that—

"(A) is located in a noncontiguous State;

"(B) is not more than 5 miles in length;

"(C) connects to the nearest public roadways of not more than the 2 closest census designated places; and

"(D) may provide incidental access to public or private property that is adjacent to the road and is not otherwise connected to a public road."

GUIDANCE

Pub. L. 108–176, title I, §159(b)(2), Dec. 12, 2003, 117 Stat. 2510, provided that:

"(A) ELIGIBLE LOW-EMISSION MODIFICATIONS AND IMPROVEMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(K) of title 49, United States Code, as added by this subsection.

"(B) ELIGIBLE LOW-EMISSION VEHICLE TECHNOLOGY.—The Secretary, in consultation with the Administrator, shall issue guidance describing eligible low-emission vehicle technology, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(L) of title 49, United States Code, as added by this subsection."

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States, named "the national plan of integrated airport systems". The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of the airport system to—

(1) the rest of the transportation system, including connection to the surface transportation network; and

(2) forecasted technological developments in aeronautics.

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community; and

(2) make every reasonable effort to address the needs of air cargo operations and rotary wing aircraft operations.

(c) AVAILABILITY OF DOMESTIC MILITARY AIRPORTS AND AIRPORT FACILITIES .—To the extent possible, the Secretary of Defense shall make domestic military airports and airport facilities available for civil use. In advising the Secretary of Transportation under subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities are available for civil use.

(d) NON-COMPLIANT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall include in the plan a detailed statement listing airports the Secretary has reason to believe are not in compliance with grant assurances or other requirements with respect to airport lands and shall include—

(A) the circumstances of noncompliance;

(B) the timeline for corrective action with respect to such noncompliance; and

(C) any corrective action the Secretary intends to require to bring the airport sponsor into compliance.

(2) LISTING.—The Secretary is not required to conduct an audit or make a final determination before including an airport on the list referred to in paragraph (1).

(e) PUBLICATION.—The Secretary of Transportation shall publish the plan every 2 years.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1251; Pub. L. 112–95, title I, §152(a), Feb. 14, 2012, 126 Stat. 32; Pub. L. 118–63, title II, §218(e), May 16, 2024, 138 Stat. 1055.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

47103(a)	49 App.:2203(a)(1) (2d–last sentences).	Sept. 3, 1982, Pub. L. 97–248, §504(a)(1), 96 Stat. 675; Dec. 30, 1987, Pub. L. 100–223, §104(a)(1)(A), (2), 101 Stat. 1489.
47103(b)	49 App.:2203(a)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §504(a)(2); added Dec. 30, 1987, Pub. L. 100–223, §104(a)(1)(B), 101 Stat. 1489.
	49 App.:2203(c).	Sept. 3, 1982, Pub. L. 97–248, §504(c), 96 Stat. 676.
47103(c)	49 App.:2203(d)(1).	Sept. 3, 1982, Pub. L. 97–248, §504(d)(1), 96 Stat. 676; Dec. 30, 1987, Pub. L. 100–223, §104(b)(2), 101 Stat. 1489.
47103(d)	49 App.:2203(a)(1) (1st sentence).	

In subsection (a), before clause (1), the words "shall maintain" and "In maintaining" are substituted for "In reviewing and revising" for clarity and consistency in the revised title. The word "named" is substituted for "After September 3, 1982, the revised national airport system plan shall be known as", and the words "the national defense requirements of the Secretary of Defense" are substituted for "requirements in support of the national defense as determined by the Secretary of Defense", to eliminate unnecessary words. The words "included in the plan may not be limited to meeting the needs of any particular" are substituted for "identified by this plan shall not be limited to the requirements of any" for clarity and consistency in this section. The words "among other things" are omitted as surplus.

In subsection (b), before clause (1), the words "In maintaining" are substituted for "In reviewing and revising" for consistency in this section. In clause (1), the words "departments, agencies, and instrumentalities of the United States Government" are substituted for "Federal . . . agencies" for consistency in the revised title and with other titles of the United States Code. In clauses (2) and (3), the words "As soon as feasible following December 30, 1987" are omitted as obsolete. In clause (3), the word "legitimate" is omitted as surplus.

In subsection (c), the words "Secretary of Defense" are substituted for "Department of Defense" because of 10:133.

In subsection (d), the words "Not later than two years after September 3, 1982" are omitted as executed.

EDITORIAL NOTES

AMENDMENTS

2024—Subsecs. (d), (e). Pub. L. 118–63 added subsec. (d) and redesignated former subsec. (d) as (e).

2012—Subsec. (a). Pub. L. 112–95, §152(a)(1)(A), substituted "the airport system to" for "each airport to" in introductory provisions.

Subsec. (a)(1). Pub. L. 112–95, §152(a)(1)(B), substituted "system, including connection to the surface transportation network; and" for "system in the particular area;".

Subsec. (a)(2). Pub. L. 112–95, §152(a)(1)(C), substituted period at end for "; and".

Subsec. (a)(3). Pub. L. 112–95, §152(a)(1)(D), struck out par. (3) which read as follows: "forecasted developments in other modes of intercity transportation."

Subsec. (b). Pub. L. 112–95, §152(a)(2), inserted "and" at end of par. (1), redesignated par. (3) as (2) and struck out ", Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations," after "air cargo operations", and struck out former par. (2) which read as follows: "consider tall structures that reduce safety or airport capacity; and".

Subsec. (d). Pub. L. 112–95, §152(a)(3), struck out "status of the" before "plan".

STATUTORY NOTES AND RELATED SUBSIDIARIES

POPULOUS COUNTIES WITHOUT AIRPORTS

Pub. L. 118–63, title VII, §732, May 16, 2024, 138 Stat. 1273, provided that: "Notwithstanding any other provision of law, the Secretary [of Transportation] may not deny inclusion in the national plan of integrated airport systems maintained under section 47103 of title 49, United States Code, to an airport or proposed airport if the airport or proposed airport—

"(1) is located in the most populous county (as such term is defined in section 2 of title 1, United States Code) of a State that does not have an airport listed in the national plan;

"(2) has an airport sponsor that was established before January 1, 2017;

"(3) is located more than 15 miles away from another airport listed in the national plan;

"(4) demonstrates how the airport will meet the operational activity required, through a forecast validated by the Secretary, within the first 10 years of operation;

"(5) meets FAA [Federal Aviation Administration] airport design standards;

"(6) submits a benefit-cost analysis;

"(7) presents a detailed financial plan to accomplish construction and ongoing maintenance; and

"(8) has the documented support of the State government for the entry of the airport or proposed airport into the national plan."

§47104. Project grant authority

(a) GENERAL AUTHORITY.—To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) EXPIRATION OF AUTHORITY.—After September 30, 2028, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) remaining available after that date under section 47117(b) of this title; or

(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1252; Pub. L. 103–305, title I, §101(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 103–429, §6(63), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §101(b), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 105–277, div. C, title I, §110(b)(2), Oct. 21, 1998, 112 Stat. 2681–587; Pub. L. 106–6, §2(b), Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, §6002(b), May 21, 1999, 113 Stat. 113; Pub. L. 106–59, §1(b), Sept. 29, 1999, 113 Stat. 482; Pub. L. 106–181, title I, §101(b), Apr. 5, 2000, 114 Stat. 65; Pub. L. 108–176, title I, §101(b), Dec. 12, 2003, 117 Stat. 2494; Pub. L. 110–190, §4(b), Feb. 28, 2008, 122 Stat. 644; Pub. L. 110–253, §4(b), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §4(b), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §4(b), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §4(b), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §4(b), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §4(b), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §4(b), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §4(b), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §103, Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §4(b), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §4(b), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §4(b), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §4(b), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §4(b), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §4(b), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §204(b), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §4(b), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §101(b), Feb. 14, 2012, 126 Stat. 15; Pub. L. 114–55, title I, §101(b), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §101(b), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1101(b), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §101(b), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §101(b), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §111(b), Oct. 5, 2018, 132 Stat. 3199; Pub. L. 118–15, div. B, title II, §2201(d), Sept. 30, 2023, 137 Stat. 82; Pub. L. 118–34, title I, §101(d), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §101(d), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title I, §101(b), May 16, 2024, 138 Stat. 1033.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(a) (1st sentence), 96 Stat. 676.
47104(b)	49 App.:2204(b)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(b)(1), 96 Stat. 677; Nov. 5, 1990, Pub. L. 101–508, §9104(2), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §102(b), 106 Stat. 4877.
47104(c)	49 App.:2204(b)(1) (last sentence).	

In subsection (a), the words "project grants" are substituted for "grants . . . for airport development and airport planning by project grants" in 49 App.:2204(a) to eliminate unnecessary words and because of the definitions of "project" and "project grant" in section 47102 of the revised title.

In subsection (b), the words "and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) of this section" are omitted as surplus.

In subsection (c), the words "except for obligations of amounts" are substituted for "except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds" to eliminate unnecessary words.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(c)	49 App.:2204(b)(1) (last sentence). 49App.:2204 note.	Sept. 3, 1982, Pub. L. 97–248, §505(b)(1) (last sentence), as amended May 26, 1994, Pub. L. 103–260, §109, 108 Stat. 700.

In subsection (c), the text of section 109(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 700) is omitted as executed.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 substituted "September 30, 2028" for "May 10, 2024" in introductory provisions.

Pub. L. 118–41 substituted "May 10, 2024," for "March 8, 2024," in introductory provisions.

2023—Subsec. (c). Pub. L. 118–34 substituted "March 8, 2024," for "December 31, 2023," in introductory provisions.

Pub. L. 118–15 substituted "December 31, 2023," for "September 30, 2023," in introductory provisions.

2018—Subsec. (c). Pub. L. 115–254 substituted "2023," for "2018," in introductory provisions.

Pub. L. 115–141 substituted "September 30, 2018," for "March 31, 2018," in introductory provisions.

2017—Subsec. (c). Pub. L. 115–63 substituted "March 31, 2018," for "September 30, 2017," in introductory provisions.

2016—Subsec. (c). Pub. L. 114–190 substituted "September 30, 2017," for "July 15, 2016," in introductory

provisions.

Pub. L. 114–141 substituted "July 15, 2016," for "March 31, 2016," in introductory provisions.

2015—Subsec. (c). Pub. L. 114–55 substituted "March 31, 2016," for "September 30, 2015," in introductory provisions.

2012—Subsec. (c). Pub. L. 112–95 substituted "After September 30, 2015," for "After February 17, 2012," in introductory provisions.

Pub. L. 112–91 substituted "February 17, 2012," for "January 31, 2012," in introductory provisions.

2011—Subsec. (c). Pub. L. 112–30 substituted "January 31, 2012," for "September 16, 2011," in introductory provisions.

Pub. L. 112–27 substituted "September 16, 2011," for "July 22, 2011," in introductory provisions.

Pub. L. 112–21 substituted "July 22, 2011," for "June 30, 2011," in introductory provisions.

Pub. L. 112–16 substituted "June 30, 2011," for "May 31, 2011," in introductory provisions.

Pub. L. 112–7 substituted "May 31, 2011," for "March 31, 2011," in introductory provisions.

2010—Subsec. (c). Pub. L. 111–329 substituted "March 31, 2011," for "December 31, 2010," in introductory provisions.

Pub. L. 111–249 substituted "December 31, 2010," for "September 30, 2010," in introductory provisions.

Pub. L. 111–216 substituted "September 30, 2010," for "August 1, 2010," in introductory provisions.

Pub. L. 111–197 substituted "August 1, 2010," for "July 3, 2010," in introductory provisions.

Pub. L. 111–161 substituted "July 3, 2010," for "April 30, 2010," in introductory provisions.

Pub. L. 111–153 substituted "April 30, 2010," for "March 31, 2010," in introductory provisions.

2009—Subsec. (c). Pub. L. 111–116 substituted "March 31, 2010," for "December 31, 2009," in introductory provisions.

Pub. L. 111–69 substituted "December 31, 2009," for "September 30, 2009," in introductory provisions.

Pub. L. 111–12 substituted "September 30, 2009," for "March 31, 2009," in introductory provisions.

2008—Subsec. (c). Pub. L. 110–330 substituted "March 31, 2009," for "September 30, 2008," in introductory provisions.

Pub. L. 110–253 substituted "September 30, 2008," for "June 30, 2008," in introductory provisions.

Pub. L. 110–190 substituted "June 30, 2008," for "September 30, 2007," in introductory provisions.

2003—Subsec. (c). Pub. L. 108–176 substituted "September 30, 2007" for "September 30, 2003" in introductory provisions.

2000—Subsec. (c). Pub. L. 106–181 substituted "September 30, 2003," for "September 30, 1999," in introductory provisions.

1999—Subsec. (c). Pub. L. 106–59 substituted "September 30, 1999" for "August 6, 1999" in introductory provisions.

Pub. L. 106–31 substituted "August 6, 1999" for "May 31, 1999" in introductory provisions.

Pub. L. 106–6 substituted "May" for "March" in introductory provisions.

1998—Subsec. (c). Pub. L. 105–277 substituted "March 31, 1999" for "September 30, 1998" in introductory provisions.

1996—Subsec. (c). Pub. L. 104–264 substituted "1998" for "1996" in introductory provisions.

1994—Subsec. (c). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47117(b) of this title."

Pub. L. 103–305 substituted "After September 30, 1996, the Secretary" for "After September 30, 1993, the Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–253, §4(c), June 30, 2008, 122 Stat. 2418, provided that: "The amendments made by this section [amending this section and section 48103 of this title] shall take effect on July 1, 2008."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

REMOTE TOWER PILOT PROGRAM FOR RURAL AND SMALL COMMUNITIES

Pub. L. 115–254, div. B, title I, §161, Oct. 5, 2018, 132 Stat. 3221, as amended by Pub. L. 118–15, div. B, title II, §2202(o), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(o), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(o), Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title VI, §621(d), May 16, 2024, 138 Stat. 1237, provided that:

"(a) PILOT PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish—

"(A) in consultation with airport operators and other aviation stakeholders, a pilot program at public-use airports to construct and operate remote towers in order to assess their operational benefits;

"(B) a selection process for participation in the pilot program; and

"(C) a clear process for the safety and operational certification of the remote towers.

"(2) SAFETY CONSIDERATIONS.—

"(A) SAFETY RISK MANAGEMENT PANEL.—Prior to the operational use of a remote tower under the pilot program established in subsection (a), the Administrator shall convene a safety risk management panel for the tower to address any safety issues with respect to the tower. The panels shall be created and utilized in a manner similar to that of the safety risk management panels previously convened for remote towers and shall take into account existing best practices and operational data from existing remote towers in the United States.

"(B) CONSULTATION.—In establishing the pilot program, the Administrator shall consult with operators of remote towers in the United States and foreign countries to design the pilot program in a manner that leverages as many safety and airspace efficiency benefits as possible.

"(3) APPLICATIONS.—The operator of an airport seeking to participate in the pilot program shall submit to the Administrator an application that is in such form and contains such information as the Administrator may require.

"(4) PROGRAM DESIGN.—In designing the pilot program, the Administrator shall—

"(A) to the maximum extent practicable, ensure that at least 2 different vendors of remote tower systems participate;

"(B) identify which air traffic control information and data will assist the Administrator in evaluating the feasibility, safety, costs, and benefits of remote towers;

"(C) implement processes necessary to collect the information and data identified in subparagraph (B);

"(D) develop criteria, in addition to considering possible selection criteria in paragraph (5), for the selection of airports that will best assist the Administrator in evaluating the feasibility, safety, costs, and benefits of remote towers, including the amount and variety of air traffic at an airport; and

"(E) prioritize the selection of airports that can best demonstrate the capabilities and benefits of remote towers, including applicants proposing to operate multiple remote towers from a single facility.

"(5) SELECTION CRITERIA FOR CONSIDERATION.—In selecting airports for participation in the pilot program, the Administrator, after consultation with representatives of labor organizations representing operators and employees of the air traffic control system, shall consider for participation in the pilot program—

"(A) 1 nonhub airport;

"(B) 3 airports that are not primary airports and that do not have existing air traffic control towers;

"(C) 1 airport that participates in the Contract Tower Program; and

"(D) 1 airport selected at the discretion of the Administrator.

"(6) DATA.—The Administrator shall clearly identify and collect air traffic control information and

data from participating airports that will assist the Administrator in evaluating the feasibility, safety, costs, and benefits of remote towers.

"(7) REPORT.—Not later than 1 year after the date the first remote tower is operational, and annually thereafter, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report—

"(A) detailing any benefits, costs, or safety improvements associated with the use of the remote towers; and

"(B) evaluating the feasibility of using remote towers, particularly in the Contract Tower Program, for airports without an air traffic control tower, to improve safety at airports with towers, or to reduce costs without impacting safety at airports with or without existing towers.

"(8) DEADLINE.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall select airports for participation in the pilot program.

"(9) DEFINITIONS.—In this subsection:

"(A) CONTRACT TOWER PROGRAM.—The term 'Contract Tower Program' has the meaning given the term in section 47124(e) of title 49, United States Code, as added by this Act.

"(B) REMOTE TOWER.—The term 'remote tower' means a remotely operated air navigation facility, including all necessary system components, that provides the functions and capabilities of an air traffic control tower whereby air traffic services are provided to operators at an airport from a location that may not be on or near the airport.

"(C) OTHER DEFINITIONS.—The terms 'nonhub airport', 'primary airport', and 'public-use airport' have the meanings given such terms in section 47102 of title 49, United States Code.

"(10) SUNSET.—This subsection, including the report required under paragraph (8), shall not be in effect after September 30, 2028.

"(b) REMOTE TOWER PROGRAM.—Concurrent with the establishment of the process for safety and operational certification of remote towers under subsection (a)(1)(C), the Administrator shall establish a process to authorize the construction and commissioning of additional remote towers that are certificated under subsection (a)(1)(C) at other airports.

"(c) AIP FUNDING ELIGIBILITY.—For purposes of the pilot program under subsection (a), and after certificated remote towers are available under subsection (b), constructing a remote tower or acquiring and installing air traffic control, communications, or related equipment specifically for a remote tower shall be considered airport development (as defined in section 47102 of title 49, United States Code) for purposes of subchapter I of chapter 471 of that title if the components are installed and used at the airport, except, as needed, for off-airport sensors installed on leased towers."

ENVIRONMENTAL MITIGATION PILOT PROGRAM

Pub. L. 115–254, div. B, title I, §190, Oct. 5, 2018, 132 Stat. 3237, as amended by Pub. L. 118–63, title VII, §785, May 16, 2024, 138 Stat. 1313, provided that:

"(a) IN GENERAL.—The Secretary of Transportation may carry out a pilot program involving not more than 6 projects in each fiscal year at public-use airports in accordance with this section.

"(b) GRANTS.—In carrying out the program, the Secretary may make grants to sponsors of public-use airports from funds apportioned under section 47117(e)(1)(A) of title 49, United States Code.

"(c) USE OF FUNDS.—Amounts from a grant received by the sponsor of a public-use airport under the program shall be used for environmental mitigation projects that will measurably reduce or mitigate aviation impacts on noise, air quality, or water quality at the airport or within 5 miles of the airport.

"(d) ELIGIBILITY.—Notwithstanding any other provision of chapter 471 of title 49, United States Code, an environmental mitigation project approved under this section shall be treated as eligible for assistance under that chapter.

"(e) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary may give priority consideration to projects that—

"(1) will achieve the greatest reductions in aircraft noise, airport emissions, or airport water quality impacts either on an absolute basis or on a per dollar of funds expended basis; and

"(2) will be implemented by an eligible consortium.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the program shall be 50 percent.

"(g) MAXIMUM AMOUNT.—Not more than $2,500,000 may be made available by the Secretary in grants under the program for any single project.

"(h) IDENTIFYING BEST PRACTICES.—The Secretary may establish and publish information

identifying best practices for reducing or mitigating aviation impacts on noise, air quality, and water quality at airports or in the vicinity of airports based on the projects carried out under the program.

"(i) SUNSET.—The program shall terminate on October 1, 2028.

"(j) DEFINITIONS.—In this section, the following definitions apply:

"(1) ELIGIBLE CONSORTIUM.—The term 'eligible consortium' means a consortium that is composed of 2 or more of the following entities:

"(A) Businesses incorporated in the United States.

"(B) Public or private educational or research organizations located in the United States.

"(C) Entities of State or local governments in the United States.

"(D) Federal laboratories.

"(2) ENVIRONMENTAL MITIGATION PROJECT.—The term 'environmental mitigation project' means a project that—

"(A) introduces new environmental mitigation techniques or technologies that have been proven in laboratory demonstrations;

"(B) proposes methods for efficient adaptation or integration of new concepts into airport operations; and

"(C) will demonstrate whether new techniques or technologies for environmental mitigation are—

"(i) practical to implement at or near multiple public-use airports; and

"(ii) capable of reducing noise, airport emissions, or water quality impacts in measurably significant amounts.

"(k) AUTHORIZATION FOR THE TRANSFER OF FUNDS FROM DEPARTMENT OF DEFENSE.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may accept funds from the Secretary of Defense to increase the authorized funding for this section by the amount of such transfer only to carry out projects designed for environmental mitigation at a site previously, but not currently, managed by the Department of Defense.

"(2) ADDITIONAL GRANTEES.—If additional funds are made available by the Secretary of Defense under paragraph (1), the Administrator may increase the number of grantees under subsection (a)."

DESIGN-BUILD CONTRACTING

Pub. L. 106–181, title I, §139, Apr. 5, 2000, 114 Stat. 85, authorized the Administrator of the Federal Aviation Administration to establish a pilot program, subject to certain contract and cost specifications, under which design-build contracts could be used to carry out up to 7 projects at airports in the United States with a grant awarded under this section, and stipulated that this authorization would expire on Sept. 30, 2003.

§47105. Project grant applications

(a) SUBMISSION AND CONSULTATION.—(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a sponsor; or

(B) a State, as the only sponsor, for an airport development project benefitting 1 or more airports in the State or for airport planning for projects for 1 or more airports in the State if—

(i) the sponsor of each airport gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the sponsor; and

(iii) an acceptable agreement exists that ensures that the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a sponsor shall consult with the airport users that will be affected by the project.

(3) This subsection does not authorize a public agency that is subject to the laws of a State to apply for a project grant in violation of a law of the State.

(b) CONTENTS AND FORM.—An application for a project grant under this subchapter—

(1) shall describe the project proposed to be undertaken;

(2) may propose a project only for a public-use airport included in the current national plan of integrated airport systems;

(3) may propose airport development only if the development complies with standards the

Secretary prescribes or approves, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches; and

(4) shall be in the form and contain other information the Secretary prescribes.

(c) STATE STANDARDS FOR AIRPORT DEVELOPMENT.—

(1) IN GENERAL.—The Secretary may approve standards (except standards for safety of approaches) that a State prescribes for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary, or the State with the approval of the Secretary, may revise standards approved under this subsection.

(2) PAVEMENT STANDARDS.—

(A) TECHNICAL ASSISTANCE.—At the request of a State, the Secretary shall, not later than 30 days after the date of the request, provide technical assistance to the State in developing standards, acceptable to the Secretary under subparagraph (B), for pavement on nonprimary public-use airports in the State.

(B) REQUIREMENTS.—The Secretary shall—

(i) continue to provide technical assistance under subparagraph (A) until the standards are approved under paragraph (1); and

(ii) clearly indicate to the State the standards that are acceptable to the Secretary, considering, at a minimum, local conditions and locally available materials.

(d) CERTIFICATION OF COMPLIANCE.—The Secretary may require a sponsor to certify that the sponsor will comply with this subchapter in carrying out the project. The Secretary may rescind the acceptance of a certification at any time. This subsection does not affect an obligation or responsibility of the Secretary under another law of the United States.

(e) PREVENTIVE MAINTENANCE.—After January 1, 1995, the Secretary may approve an application under this subchapter for the replacement or reconstruction of pavement at an airport only if the sponsor has provided such assurances or certifications as the Secretary may determine appropriate that such airport has implemented an effective airport pavement maintenance-management program. The Secretary may require such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

(f) NOTIFICATION.—The sponsor of an airport for which an amount is apportioned under section 47114(c) of this title shall notify the Secretary of the fiscal year in which the sponsor intends to submit a project grant application for the apportioned amount. The notification shall be given by the time and contain the information the Secretary prescribes.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1253; Pub. L. 103–305, title I, §§106, 107(a), Aug. 23, 1994, 108 Stat. 1572; Pub. L. 115–254, div. B, title I, §183, Oct. 5, 2018, 132 Stat. 3233.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47105(a) (1)(A)	49 App.:2208(a)(1) (1st sentence related to authority to submit applications).	Sept. 3, 1982, Pub. L. 97–248, §§509(a)(1), (c), (d), 511(c), 96 Stat. 682, 685, 688.
47105(a) (1)(B)	49 App.:2208(a)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §509(a)(3); added Dec. 30, 1987, Pub. L. 100–223, §108, 101 Stat. 1498.
47105(a)(2)	49 App.:2210(c).	
47105(a)(3)	49 App.:2208(a)(1) (3d sentence).	

47105(b)	49 App.:2208(a)(1) (1st sentence related to form and contents, 2d, last sentences).	
47105(c)	49 App.:2208(c).	
47105(d)	49 App.:2208(d).	
47105(e)	49 App.:2208(e).	Sept. 3, 1982, Pub. L. 97–248, §509(e), 96 Stat. 685; Dec. 30, 1987, Pub. L. 100–223, §106(b)(3)(B), 101 Stat. 1498.

In subsection (a)(1), before clause (A), the words "Subject to the provisions of this subsection" are omitted as surplus. The words "for one or more projects" are omitted as surplus because of the definition of "project grant" in section 47102 of the revised title. Clause (A) is substituted for "(A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors, acting jointly" because of the definition of "sponsor" in section 47102 of the revised title.

In subsection (a)(2), the word "Before" is substituted for "In" as the more appropriate word. The words "at an airport" are substituted for "at which such project is proposed" to eliminate unnecessary words. The words "airport users that will be affected by the project" are substituted for "affected parties" for clarity.

Subsection (a)(3) is substituted for 49 App.:2208(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (b)(1), the words "shall describe" are substituted for "setting forth" for clarity.

In subsection (b)(2), the word "project" is substituted for "airport development or airport planning" because of the definition of "project" in section 47102 of the revised title. The words "prepared pursuant to section 2203 of the Appendix" are eliminated as unnecessary.

In subsection (c), the words "from time to time" are eliminated as unnecessary.

In subsection (d), the words "in connection with any project" are omitted as surplus. The words "that the sponsor will comply with this subchapter in carrying out the project" are substituted for "that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this chapter in connection with such project" to eliminate unnecessary words. The words "or discharge" are omitted as included in "affect". The words "including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b) [42 U.S.C. 2000d et seq.], title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)" are omitted as included in "another law of the United States".

In subsection (e), the words "of an airport for which" are substituted for "to which" for clarity.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (c). Pub. L. 115–254 designated existing provisions as par. (1), inserted heading, and added par. (2).

1994—Subsec. (a)(1)(B). Pub. L. 103–305, §106, in introductory provisions, substituted "1 or more airports" for "at least 2 airports" in two places and struck out "similar" before "projects".

Subsecs. (e), (f). Pub. L. 103–305, §107(a), added subsec. (e) and redesignated former subsec. (e) as (f).

§47106. Project grant application approval conditioned on satisfaction of project requirements

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States

Government under this subchapter;

(4) the project will be completed without unreasonable delay;

(5) the sponsor has authority to carry out the project as proposed;

(6) if the project is for an airport that has an airport master plan that includes the project, the master plan addresses issues relating to solid waste recycling at the airport, including—

(A) the feasibility of solid waste recycling at the airport;

(B) minimizing the generation of solid waste at the airport;

(C) operation and maintenance requirements;

(D) the review of waste management contracts; and

(E) the potential for cost savings or the generation of revenue; and

(7) if the project is at an airport that is listed as having an unclassified status under the most recent national plan of integrated airport systems (as described in section 47103), the project will be funded with an amount appropriated under section 47114(d)(2)(B) and is—

(A) for maintenance of the pavement of the primary runway;

(B) for obstruction removal for the primary runway;

(C) for the rehabilitation of the primary runway; or

(D) for a project that the Secretary considers necessary for the safe operation of the airport.

(b) AIRPORT DEVELOPMENT PROJECT GRANT APPLICATION APPROVAL.—The Secretary may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary is satisfied that—

(1) the sponsor, a public agency, or the Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or that good title will be acquired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) ENVIRONMENTAL REQUIREMENTS.—(1) The Secretary may approve an application under this subchapter for an airport development project involving the location of an airport or runway or a major runway extension—

(A) only if the sponsor certifies to the Secretary that—

(i) an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and the location's consistency with the objectives of any planning that the community has carried out;

(ii) the airport management board has voting representation from the communities in which the project is located or has advised the communities that they have the right to petition the Secretary about a proposed project; and

(iii) with respect to an airport development project involving the location of an airport, runway, or major runway extension at a medium or large hub airport, the airport sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted; and

(B) if the application is found to have a significant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after finding that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect.

(2) The Secretary may approve an application under this subchapter for an airport development project that does not involve the location of an airport or runway, or a major runway extension, at an existing airport without requiring an environmental impact statement related to noise for the project if—

(A) completing the project would allow operations at the airport involving aircraft complying with the noise standards prescribed for "stage 3" aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace existing operations involving aircraft that do not comply with those standards; and

(B) the project meets the other requirements under this subchapter.

(3) At the Secretary's request, the sponsor shall give the Secretary a copy of the transcript of any hearing held under paragraph (1)(A) of this subsection.

(4) The Secretary may make a finding under paragraph (1)(B) of this subsection only after completely reviewing the matter. The review and finding must be a matter of public record.

(d) WITHHOLDING APPROVAL.—(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the sponsor an opportunity for a hearing; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary finds that a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may obtain review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

(e) REPORTS RELATING TO CONSTRUCTION OF CERTAIN NEW HUB AIRPORTS.—At least 90 days prior to the approval under this subchapter of a project grant application for construction of a new hub airport that is expected to have 0.25 percent or more of the total annual enplanements in the United States, the Secretary shall submit to Congress a report analyzing the anticipated impact of such proposed new airport on—

(1) the fees charged to air carriers (including landing fees), and other costs that will be incurred by air carriers, for using the proposed airport;

(2) air transportation that will be provided in the geographic region of the proposed airport; and

(3) the availability and cost of providing air transportation to rural areas in such geographic region.

(f) COMPETITION PLANS.—

(1) PROHIBITION.—Beginning in fiscal year 2001, no passenger facility charge may be approved for a covered airport under section 40117 and no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

(2) CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, and whether the airport intends to build or acquire gates that would be used as common facilities.

(3) SPECIAL RULE FOR FISCAL YEAR 2002.—This subsection does not apply to any

passenger facility fee approved, or grant made, in fiscal year 2002 if the fee or grant is to be used to improve security at a covered airport.

(4) COVERED AIRPORT DEFINED.—In this subsection, the term "covered airport" means a commercial service airport—

(A) that has more than .25 percent of the total number of passenger boardings each year at all such airports; and

(B) at which one or two air carriers control more than 50 percent of the passenger boardings.

(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.

(h) EVALUATION OF AIRPORT MASTER PLANS.—When evaluating the master plan of an airport for purposes of this subchapter, the Secretary shall take into account—

(1) the role the airport plays with respect to medical emergencies and evacuations; and

(2) the role the airport plays in emergency or disaster preparedness in the community served by the airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1254; Pub. L. 103–305, title I, §§108, 109, Aug. 23, 1994, 108 Stat. 1573; Pub. L. 106–181, title I, §155(b), Apr. 5, 2000, 114 Stat. 88; Pub. L. 107–71, title I, §123(a), Nov. 19, 2001, 115 Stat. 630; Pub. L. 107–296, title IV, §426(b), Nov. 25, 2002, 116 Stat. 2187; Pub. L. 108–176, title I, §187, title III, §305, Dec. 12, 2003, 117 Stat. 2518, 2539; Pub. L. 112–95, title I, §§111(c)(2)(A)(i), 133, 134, Feb. 14, 2012, 126 Stat. 18, 22; Pub. L. 115–254, div. B, title I, §§148(a), 149, Oct. 5, 2018, 132 Stat. 3214, 3215; Pub. L. 118–63, title VII, §712(c)(1), May 16, 2024, 138 Stat. 1256.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47106(a)	49 App.:2208(b) (1)(A)–(D).	Sept. 3, 1982, Pub. L. 97–248, §§503(a)(8), 509(b)(1)(A)– (D), (2)–(4), (5) (last sentence words after 11th comma), (6)(B)–(8), 96 Stat. 673, 683, 684.
47106(b)	49 App.:2202(a)(8). 49 App.:2208(b) (2)–(4).	
47106(c) (1)(A)	49 App.:2208(b)(6)(A).	Sept. 3, 1982, Pub. L. 97–248, §509(b)(6)(A), 96 Stat. 684; Oct. 31, 1992, Pub. L. 102–581, §113(b), 106 Stat. 4881.
47106(c) (1)(B)	49 App.:2208(b)(7)(A) (1st, 2d sentences).	
47106(c) (1)(C)	49 App.:2208(b)(5) (last sentence words between 11th and 12th commas and after last comma).	
47106(c)(2)	49 App.:2208(b)(8).	
47106(c)(3)	49 App.:2208(b)(6)(B).	
47106(c)(4)	49 App.:2208(b)(7)(A) (last sentence), (B).	
47106(c)(5)	49 App.:2208(b)(5) (last	

	sentence words between 12th and last commas).	
47106(d)	49 App.:1731.	May 21, 1970, Pub. L. 91–258, 84 Stat. 219, §31; added Feb. 18, 1980, Pub. L. 96–193, §206, 94 Stat. 55; Sept. 3, 1982, Pub. L. 97–248, §524(e), 96 Stat. 697.
47106(e)	49 App.:2218(b) (related to application).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §519(b) (related to application); added Dec. 30, 1987, Pub. L. 100–223, §112(2), 101 Stat. 1504.

In subsection (a)(1), the word "reasonably" is omitted as surplus.

In subsection (a)(2), the words "carrying out" are substituted for "accomplishment of the purposes of" for consistency in the revised title.

In subsection (a)(3), the words "that portion of" are omitted as surplus.

In subsection (a)(5), the words "which submitted the project grant application" and "legal" are omitted as surplus.

In subsection (b), before clause (1), the words "for an airport" are added for clarity. In clause (1), the words "or an agency thereof" are omitted surplus. In clause (3), the words "that the Secretary . . . decides is necessary" are substituted for "when it is determined by the Secretary that any such item is required" to eliminate unnecessary words.

In subsection (c)(1)(B), before subclause (i), the words "chief executive officer" are substituted for "Governor" because this chapter applies to the District of Columbia which does not have a Governor. The words "except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if" are substituted for "In any case where . . . certification shall be obtained from such Administrator" for clarity. Subclause (i) is substituted for "such standards have not been approved" for clarity.

In subsection (c)(2), before clause (A), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "that does not involve the location of an airport or runway, or a major runway extension" are substituted for "(other than an airport development project in which paragraph (7)(A) applies)" for clarity. The words "the preparation of" are omitted as surplus. In clause (B), the words "statutory and administrative" are omitted as surplus.

In subsection (c)(4)(A), the words "to the Secretary" are added for clarity.

In subsection (c)(5), the words "full and" are omitted as surplus. The words "in writing" are omitted as surplus because of the requirement that the decision be a matter of public record.

In subsection (d)(1), the words "(as defined by section 1711(8) of this Appendix, as in effect on February 18, 1980)" are omitted because of the definition of "air carrier airport" in section 47102 of the revised title.

In subsection (d)(2), the words "Notwithstanding any other provision of the Airport and Airway Improvement Act of 1982 [49 App. U.S.C. 2201 et seq.]" and "single" are omitted as surplus.

In subsection (e)(1) and (2), the word "sponsor" is substituted for "applicant" for consistency.

In subsection (e)(1), before clause (A), the words "under this subchapter" are added for consistency in this section. The word "other" is omitted as surplus.

In subsection (e)(2)(A), the word "mutual" is omitted as surplus.

In subsection (e)(3), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title and with other titles of the United States Code. The words "the date on which" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(7). Pub. L. 118–63 substituted "section 47114(d)(2)(B)" for "section 47114(d)(3)(B)" in introductory provisions.

2018—Subsec. (a)(6). Pub. L. 115–254, §148(a)(2), inserted "that includes the project" before ", the master plan" in introductory provisions.

Subsec. (a)(7). Pub. L. 115–254, §148(a)(1), (3), (4), added par. (7).

Subsec. (h). Pub. L. 115–254, §149, added subsec. (h).

2012—Subsec. (a)(6). Pub. L. 112–95, §133, added par. (6).

Subsec. (f)(1). Pub. L. 112–95, §111(c)(2)(A)(i), substituted "charge" for "fee".

Subsec. (f)(2). Pub. L. 112–95, §134, struck out "patterns of air service," after "gate-use requirements," and ", and airfare levels (as compiled by the Department of Transportation) compared to other large airports" after "common facilities" and inserted "and" after "ground-side capacity,".

2003—Subsec. (c)(1)(A)(iii). Pub. L. 108–176, §305(1), inserted "and" after semicolon at end.

Pub. L. 108–176, §187, added cl. (iii).

Subsec. (c)(1)(B), (C). Pub. L. 108–176, §305(2), (3), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards, except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

"(i) the State has not approved any applicable State or local standards; and

"(ii) the Administrator has prescribed applicable standards; and".

Subsec. (c)(2)(A). Pub. L. 108–176, §305(4), substituted "stage 3" for "stage 2".

Subsec. (c)(4), (5). Pub. L. 108–176, §305(5)–(7), redesignated par. (5) as (4), substituted "paragraph (1)(B)" for "paragraph (1)(C)", and struck out former par. (4) which read as follows:

"(4)(A) Notice of certification or of refusal to certify under paragraph (1)(B) of this subsection shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

"(B) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation."

2002—Subsec. (g). Pub. L. 107–296 added subsec. (g).

2001—Subsec. (f)(3), (4). Pub. L. 107–71, which directed the amendment of section 47106(f) by adding par. (3) and redesignating former par. (3) as (4), without specifying the Code title to be amended, was executed by making the amendments to this section, to reflect the probable intent of Congress.

2000—Subsec. (f). Pub. L. 106–181 added subsec. (f).

1994—Subsecs. (d), (e). Pub. L. 103–305 added subsec. (e), redesignated former subsec. (e) as (d), and struck out former subsec. (d) which read as follows:

"(d) GENERAL AVIATION AIRPORT PROJECT GRANT APPLICATION APPROVAL.—(1) In this subsection, 'general aviation airport' means a public airport that is not an air carrier airport.

"(2) The Secretary may approve an application under this subchapter for an airport development project included in a project grant application involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the nearest boundary of the airport."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

PROHIBITION ON CERTAIN RUNWAY LENGTH REQUIREMENTS

Pub. L. 118–63, title VII, §752, May 16, 2024, 138 Stat. 1284, provided that: "Notwithstanding any other provision of law, the Secretary [of Transportation] may not require an airport to shorten the length or width of

the runway, apron, or taxiway of the airport as a condition for the receipt of federal financial assistance if the airport directly supports a base of the United States Air Force or the Air National Guard at the airport, regardless of the stationing of military aircraft."

ENVIRONMENTAL REVIEW OF AIRPORT IMPROVEMENT PROJECTS

Pub. L. 106–181, title III, §310, Apr. 5, 2000, 114 Stat. 128, provided that:

"(a) STUDY.—The Secretary [of Transportation] shall conduct a study of Federal environmental requirements related to the planning and approval of airport improvement projects.

"(b) CONTENTS.—In conducting the study, the Secretary, at a minimum, shall assess—

"(1) the current level of coordination among Federal and State agencies in conducting environmental reviews in the planning and approval of airport improvement projects;

"(2) the role of public involvement in the planning and approval of airport improvement projects;

"(3) the staffing and other resources associated with conducting such environmental reviews; and

"(4) the time line for conducting such environmental reviews.

"(c) CONSULTATION.—The Secretary shall conduct the study in consultation with the Administrator [of the Federal Aviation Administration], the heads of other appropriate Federal departments and agencies, airport sponsors, the heads of State aviation agencies, representatives of the design and construction industry, representatives of employee organizations, and representatives of public interest groups.

"(d) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, together with recommendations for streamlining, if appropriate, the environmental review process in the planning and approval of airport improvement projects."

GRANTS FOR ENGINEERED MATERIALS ARRESTING SYSTEMS

Pub. L. 106–181, title V, §514(c), Apr. 5, 2000, 114 Stat. 144, provided that: "In making grants under section 47104 of title 49, United States Code, for engineered materials arresting systems, the Secretary [of Transportation] shall require the sponsor to demonstrate that the effects of jet blasts have been adequately considered."

GRANTS FOR RUNWAY REHABILITATION

Pub. L. 106–181, title V, §514(d), Apr. 5, 2000, 114 Stat. 144, provided that: "In any case in which an airport's runways are constrained by physical conditions, the Secretary [of Transportation] shall consider alternative means for ensuring runway safety (other than a safety overrun area) when prescribing conditions for grants for runway rehabilitation."

COMPLIANCE WITH REQUIREMENTS

Pub. L. 106–181, title VII, §737, Apr. 5, 2000, 114 Stat. 172, provided that: "Notwithstanding any other provision of law, in order to avoid unnecessary duplication of expense and effort, the Secretary [of Transportation] may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for new construction projects on the air operations area of an airport, if the completed assessment or study was for a project at the airport that is substantially similar in nature to the new project. Any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study."

§47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications,

such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests and make such reports available to the public;

(16) the airport owner or operator will maintain a current layout plan of the airport that meets

the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) subject to subsection (x), the Secretary will review and approve or disapprove the plan and any revision or modification of the plan before the plan, revision, or modification takes effect;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities unless the alteration—

(i) is outside the scope of the Secretary's review and approval authority as set forth in subsection (x); or

(ii) complies with the portions of the plan approved by the Secretary; and

(D) when an alteration in the airport or its facility is made that is within the scope of the Secretary's review and approval authority as set forth in subparagraph (B), and does not conform with the portions of the plan approved by the Secretary, and the Secretary decides that the alteration adversely affects the safety, utility, or efficiency of aircraft operations, or of any property on or off the airport that is owned, leased, or financed by the Government, then the owner or operator will, if requested by the Secretary—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d);

(17) if any phase of such project has received funds under this subchapter, each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement prescribed for or by the sponsor;

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places;

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property;

(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation;

(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose; and

(22) the airport owner or operator may not restrict or prohibit the sale or self-fueling of any 100-octane low lead aviation gasoline for purchase or use by operators of general aviation aircraft if such aviation gasoline was available at such airport at any time during calendar year 2022, until the earlier of—

(A) December 31, 2030; or

(B) the date on which the airport or any retail fuel seller at such airport makes available an unleaded aviation gasoline that—

(i) has been authorized for use by the Administrator of the Federal Aviation Administration as a replacement for 100-octane low lead aviation gasoline for use in nearly all piston-engine aircraft and engine models; and

(ii) meets either an industry consensus standard or other standard that facilitates the safe use, production, and distribution of such unleaded aviation gasoline, as determined appropriate by the Administrator.

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose (including land serving as a noise buffer either by being undeveloped or developed in a way that is compatible with using the land for noise buffering purposes)—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4); or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4).

(3) Proceeds referred to in paragraph (2)(A)(iii) and (B)(iii) of this subsection and deposited in the Airport and Airway Trust Fund are available as provided in subsection (f) of this section.

(4) In approving the reinvestment or transfer of proceeds under paragraph (2)(A)(iii) or (2)(B)(iii), the Secretary shall give preference, in descending order, to the following actions:

(A) Reinvestment in an approved noise compatibility project.

(B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

(C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

(D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

(E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.

(5)(A) A lease at fair market value by an airport owner or operator of land acquired for a noise compatibility purpose using a grant provided under this subchapter shall not be considered a disposal for purposes of paragraph (2).

(B) The airport owner or operator may use revenues from a lease described in subparagraph (A) for an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

(C) The Secretary shall coordinate with each airport owner or operator to ensure that leases described in subparagraph (A) are consistent with noise buffering purposes.

(D) The provisions of this paragraph apply to all land acquired before, on, or after the date of enactment of this paragraph.

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS .—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products or providing consumer services to the public are small business concerns (as defined by regulations of the Secretary) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title) or qualified HUBZone small business concerns (as defined in section 31(b) of the Small Business Act).

(2) An airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including any business operated through a management contract or subcontract. The dollar

amount of a management contract or subcontract with a disadvantaged business enterprise shall be added to the total participation by disadvantaged business enterprises in airport concessions and to the base from which the airport's percentage goal is calculated. The dollar amount of a management contract or subcontract with a non-disadvantaged business enterprise and the gross revenue of business activities to which the management contract or subcontract pertains may not be added to this base.

(3) Except as provided in paragraph (4) of this subsection, an airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including the purchase from disadvantaged business enterprises of goods and services used in businesses conducted at the airport, but the owner or operator and the businesses conducted at the airport shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

(4)(A) In complying with paragraph (1) of this subsection, an airport owner or operator shall include the revenues of car rental firms at the airport in the base from which the percentage goal in paragraph (1) is calculated.

(B) An airport owner or operator may require a car rental firm to meet a requirement under paragraph (1) of this subsection by purchasing or leasing goods or services from a disadvantaged business enterprise. If an owner or operator requires such a purchase or lease, a car rental firm shall be permitted to meet the requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual or as a qualified HUBZone small business concern (as defined in section 31(b) of the Small Business Act).

(C) This subsection does not require a car rental firm to change its corporate structure to provide for direct ownership arrangements to meet the requirements of this subsection.

(5) This subsection does not preempt—

(A) a State or local law, regulation, or policy enacted by the governing body of an airport owner or operator; or

(B) the authority of a State or local government or airport owner or operator to adopt or enforce a law, regulation, or policy related to disadvantaged business enterprises.

(6) An airport owner or operator may provide opportunities for a small business concern owned and controlled by a socially and economically disadvantaged individual or a qualified HUBZone small business concern (as defined in section 31(b) of the Small Business Act) to participate through direct contractual agreement with that concern.

(7) An air carrier that provides passenger or property-carrying services or another business that conducts aeronautical activities at an airport may not be included in the percentage goal of paragraph (1) of this subsection for participation of small business concerns at the airport.

(8) Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection.

(f) AVAILABILITY OF AMOUNTS.—An amount deposited in the Airport and Airway Trust Fund under—

(1) subsection (c)(2)(A)(iii) of this section is available to the Secretary of Transportation to make a grant for airport development or airport planning under section 47104 of this title;

(2) subsection (c)(2)(B)(iii) of this section is available to the Secretary—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(B)(ii) of this section; and

(3) subsection (c)(2)(B)(iii) of this section is in addition to an amount made available to the Secretary under section 48103 of this title and not subject to apportionment under section 47114 of this title.

(g) ENSURING COMPLIANCE.—(1) To ensure compliance with this section, the Secretary of

Transportation—

(A) shall prescribe requirements for sponsors that the Secretary considers necessary; and

(B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection have been or will be met.

(h) MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—

(1) IN GENERAL.—Subject to paragraph (2), before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(A) publish notice of the proposed modification in the Federal Register; and

(B) provide an opportunity for comment on the proposal.

(2) PUBLIC NOTICE BEFORE WAIVER OF AERONAUTICAL LAND-USE ASSURANCE .—Before modifying an assurance under subsection (c)(2)(B) that requires any property to be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before making such modification.

(i) RELIEF FROM OBLIGATION TO PROVIDE FREE SPACE.—When a sponsor provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the sponsor from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building, to the extent the Secretary finds that the free space no longer is needed to carry out activities related to air traffic control or navigation.

(j) USE OF REVENUE IN HAWAII.—(1) In this subsection—

(A) "duty-free merchandise" and "duty-free sales enterprise" have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) "highway" and "Federal-aid system" have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is $250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport operated by Hawaii is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived

from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

(k) POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—

(1) IN GENERAL.—Not later than 90 days after August 23, 1994, the Secretary of Transportation shall establish policies and procedures that will assure the prompt and effective enforcement of subsections (a)(13) and (b) of this section and grant assurances made under such subsections. Such policies and procedures shall recognize the exemption provision in subsection (b)(2) of this section and shall respond to the information contained in the reports of the Inspector General of the Department of Transportation on airport revenue diversion and such other relevant information as the Secretary may by law consider.

(2) REVENUE DIVERSION.—Policies and procedures to be established pursuant to paragraph (1) of this subsection shall prohibit, at a minimum, the diversion of airport revenues (except as authorized under subsection (b) of this section) through—

(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or

(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

(3) EFFORTS TO BE SELF-SUSTAINING.—With respect to subsection (a)(13) of this section, policies and procedures to be established pursuant to paragraph (1) of this subsection shall take into account, at a minimum, whether owners and operators of airports, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, have undertaken reasonable efforts to make their particular airports as self-sustaining as possible under the circumstances existing at such airports.

(4) ADMINISTRATIVE SAFEGUARDS.—Policies and procedures to be established pursuant to paragraph (1) shall mandate internal controls, auditing requirements, and increased levels of Department of Transportation personnel sufficient to respond fully and promptly to complaints received regarding possible violations of subsections (a)(13) and (b) of this section and grant assurances made under such subsections and to alert the Secretary to such possible violations.

(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (m)(7), with respect to project grants made under this chapter—

(A) any request by a sponsor or any other governmental entity to any airport for additional

payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (m).

(l) AUDIT CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall include a provision in the compliance supplement provisions to require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

(m) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (k) and section 47133), the Secretary, acting through the Administrator, shall—

(A) review the audit or report;

(B) perform appropriate factfinding; and

(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

(A) the finding; and

(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

(A) receives notification that the sponsor is required to reimburse an airport; and

(B) has had an opportunity to reimburse the airport, but has failed to do so.

(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to double the illegal diversion in question plus interest (as determined under subsection (n)).

(5) DISPOSITION OF PENALTIES.—

(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (n)).

(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (k)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

(n) INTEREST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (m) in an amount equal to double the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

(3) ACCRUAL.—Interest assessed under subsection (m) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (m).

(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

(o) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (n), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.

(p) Notwithstanding any written assurances prescribed in subsections (a) through (o), a general aviation airport with more than 300,000 annual operations may be exempt from having to accept scheduled passenger air carrier service, provided that the following conditions are met:

(1) No scheduled passenger air carrier has provided service at the airport within 5 years prior to January 1, 2002.

(2) The airport is located within or underneath the Class B airspace of an airport that maintains an airport operating certificate pursuant to section 44706 of title 49.

(3) The certificated airport operating under section 44706 of title 49 does not contribute to significant passenger delays as defined by DOT/FAA in the "Airport Capacity Benchmark Report 2001".

(q) An airport that meets the conditions of paragraphs (1) through (3) of subsection (p) is not subject to section 47524 of title 49 with respect to a prohibition on all scheduled passenger service.

(r) COMPETITION DISCLOSURE REQUIREMENT.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application under this

subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

(2) COMPETITIVE ACCESS.—On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—

(A) describes the requests;

(B) provides an explanation as to why the requests could not be accommodated; and

(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, 2028.

(s) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to or near the airport access to the airfield of the airport for the following:

(A) Aircraft of the person.

(B) Aircraft authorized by the person.

(2) THROUGH-THE-FENCE AGREEMENTS.—

(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor's relationship with the property owner.

(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall require the property owner, at minimum—

(i) to pay airport access charges that, as determined by the airport sponsor, are comparable to those charged to tenants and operators on-airport making similar use of the airport;

(ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to or near the airport access to the airfield of the airport;

(iii) to maintain the property for residential, noncommercial use for the duration of the agreement;

(iv) to prohibit access to the airport from other properties through the property of the property owner; and

(v) to prohibit any aircraft refueling from occurring on the property.

(3) EXEMPTION.—The terms and conditions of paragraph (2) shall not apply to an agreement described in paragraph (1) made before the enactment of the FAA Modernization and Reform Act of 2012 (Public Law 112–95) that the Secretary determines does not comply with such terms and conditions but involves property that is subject to deed or lease restrictions that are considered perpetual and that cannot readily be brought into compliance. However, if the Secretary

determines that the airport sponsor and residential property owners are able to make any modification to such an agreement on or after the date of enactment of this paragraph, the exemption provided by this paragraph shall no longer apply.

(t) RENEWAL OF CERTAIN LEASES.—

(1) IN GENERAL.—Notwithstanding subsection (a)(13), an airport owner or operator who renews a covered lease shall not be treated as violating a written assurance requirement under this section as a result of such renewal.

(2) COVERED LEASE DEFINED.—In this subsection, the term "covered lease" means a lease—

(A) originally entered into before October 7, 2016;

(B) under which a nominal lease rate is provided;

(C) under which the lessee is a Federal or State government entity; and

(D) that—

(i) supports the operation of military aircraft by the Air Force or Air National Guard—

(I) at the airport; or

(II) remotely from the airport; or

(ii) is for the use of nonaeronautical land or facilities of the airport by the National Guard.

(u) CONSTRUCTION OF RECREATIONAL AIRCRAFT.—

(1) IN GENERAL.—The construction of a covered aircraft shall be treated as an aeronautical activity for purposes of—

(A) determining an airport's compliance with a grant assurance made under this section or any other provision of law; and

(B) the receipt of Federal financial assistance for airport development.

(2) COVERED AIRCRAFT DEFINED.—In this subsection, the term "covered aircraft" means an aircraft—

(A) used or intended to be used exclusively for recreational purposes; and

(B) constructed or under construction by a private individual at a general aviation airport.

(v) COMMUNITY USE OF AIRPORT LAND.—

(1) IN GENERAL.—Notwithstanding subsections (a)(13), (b), and (c) and section 47133, and subject to paragraph (2), the sponsor of a public-use airport shall not be considered to be in violation of this subtitle, or to be found in violation of a grant assurance made under this section, or under any other provision of law, as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor has—

(A) entered into an agreement, including a revised agreement, with a local government providing for the use of airport property for an interim compatible recreational purpose at below fair market value; or

(B) permanently restricted the use of airport property to compatible recreational and public park use without paying or otherwise obtaining payment of fair market value for the property.

(2) RESTRICTIONS.—

(A) INTERIM COMPATIBLE RECREATIONAL PURPOSE.—Paragraph (1) shall apply, with respect to a sponsor that has taken the action described in subparagraph (A) of such paragraph, only—

(i) to an agreement regarding airport property that was initially entered into before the publication of the Federal Aviation Administration's Policy and Procedures Concerning the Use of Airport Revenue, dated February 16, 1999;

(ii) if the agreement between the sponsor and the local government is subordinate to any existing or future agreements between the sponsor and the Secretary, including agreements

related to a grant assurance under this section;

(iii) to airport property that was purchased using funds from a Federal grant for acquiring land issued prior to January 1, 1989;

(iv) if the airport sponsor has provided a written statement to the Administrator that the property made available for a recreational purpose will not be needed for any aeronautical purpose during the next 10 years;

(v) if the agreement includes a term of not more than 2 years to prepare the airport property for the interim compatible recreational purpose and not more than 10 years of use for that purpose;

(vi) if the recreational purpose will not impact the aeronautical use of the airport;

(vii) if the airport sponsor provides a certification that the sponsor is not responsible for preparation, startup, operations, maintenance, or any other costs associated with the recreational purpose; and

(viii) if the recreational purpose is consistent with Federal land use compatibility criteria under section 47502.

(B) RECREATIONAL USE.—Paragraph (1) shall apply, with respect to a sponsor that has taken the action described in subparagraph (B) of such paragraph, only—

(i) to airport property that was purchased using funds from a Federal grant for acquiring land issued prior to January 1, 1989;

(ii) to airport property that has been continuously leased or licensed through a written agreement with a governmental entity or non-profit entity for recreational or public park uses since July 1, 2003;

(iii) if the airport sponsor has provided a written statement to the Administrator that the recreational or public park use does not impact the aeronautical use of the airport and that the property to be permanently restricted for recreational or public park use is not needed for any aeronautical use at the time the written statement is provided and is not expected to be needed for any aeronautical use at any time after such statement is provided;

(iv) if the airport sponsor provides a certification to the Administrator that the sponsor is not responsible for operations, maintenance, or any other costs associated with the recreational or public park use;

(v) if the recreational purpose is consistent with Federal land use compatibility criteria under section 47502; and

(vi) if the airport sponsor will—

(I) lease the property to a local government entity or non-profit entity to operate and maintain the property at no cost to the airport sponsor; or

(II) transfer title to the property to a local government entity subject to a permanent deed restriction ensuring compatible airport use under regulations issued pursuant to section 47502.

(3) REVENUE FROM CERTAIN SALES OF AIRPORT PROPERTY.—Notwithstanding any other provision of law, an airport sponsor leasing or selling a portion of airport property as described in paragraph (2)(B)(vi) may—

(A) lease or sell such portion of airport property for less than fair market value; and

(B) subject to the requirements of subsection (b), retain the revenue from the lease or sale of such portion of airport property for use in accordance with section 47133.

(4) SECRETARY REVIEW AND APPROVAL.—Notwithstanding any other provision of law, and subject to the sponsor providing a written statement certifying such sponsor meets the requirements under this subsection, no actions permitted under this subsection shall require the review or approval of the Secretary of Transportation.

(5) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed as permitting a diversion of airport revenue for the capital or operating costs associated with the

community use of airport land.

(6) AERONAUTICAL USE; AERONAUTICAL PURPOSE DEFINED.—In this subsection, the terms "aeronautical use" and "aeronautical purpose"—

(A) mean all activities that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe;

(B) include services located at an airport that are directly and substantially related to the movement of passengers, baggage, mail, and cargo; and

(C) do not include any uses of an airport that are not described in subparagraph (A) or (B), including any aviation-related uses that do not need to be located at an airport, such as flight kitchens and airline reservation centers.

(w) MOTHERS' ROOMS.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances that the airport owner or operator will maintain—

(A) a lactation area in the sterile area of each passenger terminal building of the airport; and

(B) a baby changing table in at least one men's and at least one women's restroom in each passenger terminal building of the airport.

(2) APPLICABILITY.—

(A) AIRPORT SIZE.—

(i) IN GENERAL.—The requirements in paragraph (1) shall only apply to applications submitted by the airport sponsor of—

(I) a medium or large hub airport in fiscal year 2021 and each fiscal year thereafter; and

(II) an applicable small hub airport in fiscal year 2023 and each fiscal year thereafter.

(ii) APPLICABLE SMALL HUB AIRPORT DEFINED.—In clause (i)(II), the term "applicable small hub airport" means an airport designated as a small hub airport during—

(I) the 3-year period consisting of 2020, 2021, and 2022; or

(II) any consecutive 3-year period beginning after 2020.

(B) PREEXISTING FACILITIES.—On application by an airport sponsor, the Secretary may determine that a lactation area in existence on October 5, 2018, complies with the requirement in paragraph (1)(A), notwithstanding the absence of one of the facilities or characteristics referred to in the definition of the term "lactation area" in this subsection.

(C) SPECIAL RULE.—The requirement in paragraph (1)(A) shall not apply with respect to a project grant application for a period of time, determined by the Secretary, if the Secretary determines that construction or maintenance activities make it impracticable or unsafe for the lactation area to be located in the sterile area of the building.

(3) DEFINITION.—In this section, the term—

(A) "lactation area" means a room or similar accommodation that—

(i) provides a location for members of the public to express breast milk that is shielded from view and free from intrusion from the public;

(ii) has a door that can be locked;

(iii) includes a place to sit, a table or other flat surface, a sink or sanitizing equipment, and an electrical outlet;

(iv) is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(v) is not located in a restroom; and

(B) "sterile area" has the same meaning given that term in section 1540.5 of title 49, Code of Federal Regulations.

(x) SCOPE OF AIRPORT LAYOUT PLAN REVIEW AND APPROVAL AUTHORITY OF SECRETARY.—

(1) AUTHORITY OVER PROJECTS ON LAND ACQUIRED WITHOUT FEDERAL ASSISTANCE.—For purposes of subsection (a)(16)(B), with respect to any project proposed on land acquired by an airport owner or operator without Federal assistance, the Secretary may review and approve or disapprove only the portions of the plan (or any subsequent revision to the plan) that—

(A) materially impact the safe and efficient operation of aircraft at, to, or from the airport;

(B) adversely affect the safety of people or property on the ground as a result of aircraft operations; or

(C) adversely affect the value of prior Federal investments to a significant extent.

(2) LIMITATION ON NON-AERONAUTICAL REVIEW.—

(A) IN GENERAL.—The Secretary may not require an airport to seek approval for (including in the submission of an airport layout plan), or directly or indirectly regulate or place conditions on (including through any grant assurance), any project that is not subject to paragraph (1).

(B) REVIEW AND APPROVAL AUTHORITY.—If only a portion of a project proposed by an airport owner or operator is subject to the review and approval of the Secretary under subsection (a)(16)(B), the Secretary shall not extend review and approval authority to other non-aeronautical portions of the project.

(3) NOTICE.—

(A) IN GENERAL.—An airport owner or operator shall submit to the Secretary a notice of intent to proceed with a proposed project (or a portion thereof) that is outside of the review and approval authority of the Secretary, as described in this subsection, if the project was not on the most recently submitted airport layout plan of the airport.

(B) FAILURE TO OBJECT.—If not later than 45 days after receiving the notice of intent described in subparagraph (A), the Secretary fails to object to such notice, the proposed project (or portion thereof) shall be deemed as being outside the scope of the review and approval authority of the Secretary under subsection (a)(16)(B).

(y) UNIVERSAL CHANGING STATION.—

(1) IN GENERAL.—In fiscal year 2030 and each fiscal year thereafter, the Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances that the airport owner or operator will install or maintain (in compliance with the requirements of section 35.133 of title 28, Code of Federal Regulations), as applicable—

(A) at least 1 private, single-use room with a universal changing station that—

(i) meets the standards established under paragraph (2)(A); and

(ii) is accessible to all individuals for purposes of use by an individual with a disability in each passenger terminal building of the airport; and

(B) signage at or near the entrance to the changing station indicating the location of the changing station.

(2) STANDARDS REQUIRED.—Not later than 2 years after the date of enactment of this subsection, the United States Access Board shall—

(A) establish—

(i) comprehensive accessible design standards for universal changing tables; and

(ii) standards on the privacy, accessibility, and sanitation equipment of the room in which such table is located, required to be installed, or maintained under this subsection; and

(B) in establishing the standards under subparagraph (A), consult with entities with appropriate expertise relating to the use of universal changing stations used by individuals with disabilities.

(3) APPLICABILITY.—

(A) AIRPORT SIZE.—The requirement in paragraph (1) shall only apply to applications submitted by the airport sponsor of a medium or large hub airport.

(B) SPECIAL RULE.—The requirement in paragraph (1) shall not apply with respect to a project grant application for a period of time, determined by the Secretary, if the Secretary determines that construction or maintenance activities make it impracticable or unsafe for the universal changing station to be located in the sterile area of the building.

(4) EXCEPTION.—Upon application by an airport sponsor, the Secretary may determine that a universal changing station in existence before the date of enactment of the FAA Reauthorization Act of 2024, complies with the requirements of paragraph (1) (including the standards established under paragraph (2)(A)), notwithstanding the absence of 1 or more of the standards or characteristics required under such paragraph.

(5) DEFINITION.—In this section:

(A) DISABILITY.—The term "disability" has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(B) STERILE AREA.—The term "sterile area" has the same meaning given that term in section 1540.5 of title 49, Code of Federal Regulations.

(C) UNIVERSAL CHANGING STATION.—The term "universal changing station" means a universal or adult changing station that meets the standards established by the United States Access Board under paragraph (2)(A).

(D) UNITED STATES ACCESS BOARD.—The term "United States Access Board" means the Architectural and Transportation Barriers Compliance Board established under section 502(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 792(a)(1)).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1256; Pub. L. 103–305, title I, §§111(a), (c), 112(a), Aug. 23, 1994, 108 Stat. 1573, 1574; Pub. L. 104–264, title I, §143, title VIII, §805(a), (b)(2), Oct. 9, 1996, 110 Stat. 3221, 3271, 3274; Pub. L. 104–287, §5(9), (80), Oct. 11, 1996, 110 Stat. 3389, 3397; Pub. L. 105–135, title VI, §604(h)(1), Dec. 2, 1997, 111 Stat. 2634; Pub. L. 106–181, title I, §125(a), Apr. 5, 2000, 114 Stat. 75; Pub. L. 107–217, §3(n)(7), Aug. 21, 2002, 116 Stat. 1303; Pub. L. 108–7, div. I, title III, §321(a), Feb. 20, 2003, 117 Stat. 411; Pub. L. 108–11, title II, §2702, Apr. 16, 2003, 117 Stat. 600; Pub. L. 108–176, title I, §§144, 164, 165, title IV, §424, Dec. 12, 2003, 117 Stat. 2503, 2513, 2514, 2554; Pub. L. 110–330, §5(e), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(d), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(e), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(d), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(d), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(d), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(d), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(d), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(e), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(d), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(d), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(d), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(d), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(d), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(e), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(e), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §§135, 136(a), title IV, §404, Feb. 14, 2012, 126 Stat. 22, 23, 85; Pub. L. 113–188, title XV, §1501(b)(1), (2)(A), Nov. 26, 2014, 128 Stat. 2023, 2024; Pub. L. 114–55, title I, §102(a), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(a), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(a), July 15, 2016, 130 Stat. 617; Pub. L. 114–238, §1, Oct. 7, 2016, 130 Stat. 972; Pub. L. 115–63, title I, §102(a), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(G)(i), Dec. 12, 2017, 131 Stat. 1796; Pub. L. 115–141, div. M, title I, §102(a), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §§131, 132(a), 163(d), 185, Oct. 5, 2018, 132 Stat. 3203–3205, 3224, 3234; Pub. L. 116–190, §2,

Oct. 30, 2020, 134 Stat. 974; Pub. L. 118–15, div. B, title II, §2202(e), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(e), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(e), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title VII, §§703(a), 704–706, 743(b), 770(a), 774(a), May 16, 2024, 138 Stat. 1248, 1249, 1280, 1295, 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47107(a)	49 App.:2202(a)(6).	Sept. 3, 1982, Pub. L. 97–248, §§503(a)(6), 505(b)(2), 509(b)(1)(E), 511(a)(1)(B), (C), (2), (5)–(10), (b), 96 Stat. 673, 677, 683, 686, 687.
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a) (1)–(11), (15), (16)).	
	49 App.:2210(a)(1)(A).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(1)(A), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(a), 101 Stat. 1499.
	49 App.:2210(a)(1)(B), (C), (2).	
	49 App.:2210(a)(3).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(3), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(b), 101 Stat. 1499.
	49 App.:2210(a)(4).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(4), 96 Stat. 686; restated Dec. 30, 1987, Pub. L. 100–223, §109(c), 101 Stat. 1499.
	49 App.:2210(a) (5)–(10).	
	49 App.:2210(a)(11).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(11), 96 Stat. 687; Oct. 31, 1992, Pub. L. 102–581, §113(a), 106 Stat. 4881.
	49 App.:2210(a)(15).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(15); added Dec. 30, 1987, Pub. L. 100–223, §109(f), 101 Stat. 1500.
	49 App.:2210(a)(16).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(16); added Dec. 30, 1987, Pub. L. 100–223, §109(g), 101 Stat. 1501.
47107(b)(1), (2)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)).	
	49 App.:2210(a)(12).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(12), 96 Stat. 687; restated Dec. 30, 1987, Pub. L. 100–223, §109(d), 101 Stat. 1499.
47107(b)(3)	49 App.:2210(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(d); added Dec. 30, 1987, Pub. L. 100–223, §109(i), 101 Stat. 1501.

47107(c)(1), (2)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)).	
	49 App.:2210(a)(13).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(13), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, §109(e), 101 Stat. 1499.
	49 App.:2210(a)(14).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(14), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §109(e), 101 Stat. 1499; restated Dec. 15, 1989, Pub. L. 101–236, §4, 103 Stat. 2061.
47107(c)(3)	(no source).	
47107(d)	49 App.:2204(b)(2).	
	49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)).	
47107(e)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)).	
	49 App.:2210(a)(17).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(17); added Dec. 30, 1987, Pub. L. 100–223, §109(h), 101 Stat. 1501; Oct. 31, 1992, Pub. L. 102–581, §117(a), 106 Stat. 4882.
	49 App.:2210(h).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(h); added Oct. 31, 1992, Pub. L. 102–581, §117(b), 106 Stat. 4882.
	49 App.:2210 (note).	Oct. 31, 1992, Pub. L. 102–581, §117(d), 106 Stat. 4883.
47107(f)	49 App.:2210(e).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(e); added Dec. 30, 1987, Pub. L. 100–223, §109(j), 101 Stat. 1501.
47107(g)(1)	49 App.:2210(b) (1st, 2d sentences).	
47107(g)(2)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(b)).	
47107(h)	49 App.:2210(f).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(f); added Dec. 30, 1987, Pub. L. 100–223, §109(k), 101 Stat. 1502.
47107(i)	49 App.:2210(b) (last sentence).	
47107(j)(1)	49 App.:2210(g)(4)(B), (D).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(g); added May 4, 1990, Pub. L. 101–281, §2, 104 Stat. 164.
47107(j)(2)	49 App.:2210(g)(1), (2)(B), (4)(A), (C).	
47107(j)(3)	49 App.:2210(g)(2)(C), (D).	

47107(j)(4)	49 App.:2210(g)(2)(E).	
47107(j)(5)	49 App.:2210(g)(2)(F).	
47107(j)(6)	49 App.:2210(g)(2)(G).	
47107(j) (7)(A)	49 App.:2210(g)(2)(A).	
47107(j) (7)(B)	49 App.:2210(g)(3).	

In subsection (a), before clause (1), the words "may approve a project grant application under this subchapter for an airport development project only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)) and the words "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall" in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (1), the words "to which the project relates" and "fair and" are omitted as surplus. In clause (2), before subclause (A), the words "including the requirement that" are omitted as unnecessary because of the restatement. The words "air carriers making similar use of the airport" are substituted for "each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) . . . all such air carriers which make similar use of such airport" to eliminate unnecessary words. The words "and which utilize similar facilities" are omitted because of the definition of "airport" in section 47102 of the revised title. The words "nondiscriminatory and" and "rates, fees, rentals, and other" are omitted as surplus. In subclause (B), before subclause (i), the words "except for differences based on" are substituted for "subject to" for clarity. In clause (3), the words "airport operator" are substituted for "airport" for clarity and consistency in this chapter. In clause (4), before subclause (A), the words "a right given to only one fixed-base operator to provide services at an airport" are substituted for "the providing of services at an airport by a single fixed-based operator" for clarity. In subclause (B), the words "the airport operator or owner" are substituted for "such airport" for clarity and consistency in this subchapter. Clause (5) is substituted for 49 App.:2210(a)(1)(B) for consistency and to eliminate unnecessary words. In clause (6), the words "allowed by the airport operator" are substituted for "authorized by the airport or permitted by the airport" for clarity and consistency in this chapter and to eliminate unnecessary words. In clause (9), the words "operations at" are added for clarity. The words "adequately", "removing, lowering, relocating, marking, or lighting or otherwise", and "the establishment or creation of" are omitted as surplus. In clause (10), the word "near" is substituted for "in the immediate vicinity of", and the word "uses" is substituted for "activities and purposes", to eliminate unnecessary words. The words "including landing and takeoff of aircraft" are omitted as surplus. In clause (12), the words "property interests of the sponsor in land or water areas or buildings" are substituted for "any areas of land or water, or estate therein, or rights in buildings of the sponsor" for consistency in the revised title and to eliminate unnecessary words. The words "necessary or" are omitted as surplus. The words "for, and that will be used for, constructing . . . facilities for carrying out activities related to air traffic control or navigation" are substituted for "for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control . . . for construction . . . of space or facilities for such purposes" to eliminate unnecessary words. In clause (13), before subclause (A), the words "schedule of charges" are substituted for "fee and rental structure" for clarity and consistency in this chapter. In subclause (A), the word "particular" is omitted as surplus. The word "including" is substituted for "taking into account such factors as" to eliminate unnecessary words. In subclause (B), the words "fees, rates, and" are omitted as surplus. The words "airport development or airport planning" are omitted because of the definition of "project" in section 47102 of the revised title. In clause (16), before subclause (A), the words "maintain . . . current" are substituted for "keep up to date at all times" to eliminate unnecessary words. In subclause (B), the words "be submitted to, and" and "amendment" are omitted as surplus. In subclauses (C) and (D), the words "changes or" and "change or", respectively, are omitted as surplus. In subclause (D)(ii), the words "was made" are added for clarity. In clause (17), the words "with respect to the project" are omitted as surplus. In clause (18), the words "duly authorized agent of" are omitted because of 49:322(b).

In subsection (b)(1), before clause (A), the words "may approve a project grant application under this subchapter for an airport development project only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)) and "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall" in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (C) the word "actual" is omitted as surplus.

In subsection (b)(2), the words "Paragraph (1) of this subsection does not apply" are substituted for "except that . . . then this limitation on the use of all other revenues generated by the airport . . . shall not apply" to eliminate unnecessary words. The word "law" is substituted for "provisions . . . in governing statutes" for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words "considered to be" are omitted as surplus. In clause (B),

the words "department, agency, or instrumentality of the Government" are substituted for "Federal agency" for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), before clause (A), the words "may approve an application under this subchapter for an airport development project grant only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)) and "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter" in 49 App.:2210(a) for clarity and to eliminate unnecessary words. The words "has received or will receive" are substituted for "before, on, or after December 30, 1987" and "before, on, or after December 31, 1987" because of the restatement. In clauses (A)(ii) and (B)(ii), the words "or right" and "only" are omitted as surplus. In clause (A)(iii), the words "at the discretion of the Secretary" in 49 App.:2210(a)(13)(C) are omitted as surplus. In clause (B)(iii), the words "under this subchapter" are substituted for "at that airport or within the national airport system" for clarity and to eliminate unnecessary words.

Subsection (c)(3) is added for clarity.

In subsection (d), the words "may approve an application under this subchapter for an airport development project grant . . . only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)) and "No obligation shall be incurred by the Secretary for airport development . . . unless" in 49 App.:2204(b) for clarity and to eliminate unnecessary words.

In subsection (e)(1), the words "may approve a project grant application under this subchapter for an airport development project only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)) and "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall" for clarity and to eliminate unnecessary words. The words "food, beverages, printed materials, or other" and "ground transportation, baggage carts, automobile rentals, or other" are omitted as surplus.

In subsection (e)(2)–(5), the words "disadvantaged business enterprise" are substituted for "DBE" for clarity.

In subsection (e)(4), the words "(as defined by the Secretary by regulation)" and "(as defined under section 2204(d)(2)(B) of this title)" are omitted as unnecessary because of paragraph (1) of this subsection.

In subsection (f)(2)(A), the words "at the discretion of the Secretary" are omitted as surplus. The words "at primary airports and reliever airports" are omitted as surplus because 49 App.:2206(c)(2), restated in section 47115(c) of the revised title, involves only primary and reliever airports.

In subsection (g)(1)(A), the words "consistent with the terms of this chapter" are omitted as surplus.

In subsection (g)(1)(B), the words "Among other steps to insure such compliance" and "on behalf of the United States" are omitted as surplus.

In subsection (g)(2), the words "by or . . . the authority of" are omitted as surplus.

In subsection (h), before clause (1), the words "proposes to" are omitted as surplus. The word "subchapter" is substituted for "Act" in section 511(f) of the Airport and Airway Improvement Act of 1982, as added by section 109(k) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1502), to correct a mistake.

In subsection (i), the words "a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility" are substituted for "any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon" for consistency in this section.

In subsection (j)(2), the words "the limitation on the use of revenues generated by airports contained in", "located", "of funds", and "(including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this chapter for expenditure at such airports)" are omitted as surplus.

In subsection (j)(3)(A), the words "amount that is greater than 150 percent as determined" are substituted for "amount of the excess determined" for clarity.

In subsection (j)(3)(B), the words "in the aggregate" are omitted as surplus.

In subsection (j)(4), the word "imposed" is substituted for "levied" for consistency in the revised title and with other titles of the Code. The words "for the use of airport facilities" and "a percentage which is" are omitted as surplus. The words "Secretary of Labor" are substituted for "Bureau of Labor Statistics of the Department of Labor" because of 29:551 and 557.

In subsection (j)(5), the words "from fee increases" and "for approval" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Airport Act, referred to in subsecs. (a)(13)(B) and (i), is act May 13, 1946, ch. 251, 60 Stat.

170, which was classified to chapter 14 (§1101 et seq.) of former Title 49, Transportation, prior to repeal by Pub. L. 91–258, title I, §52(a), May 21, 1970, 84 Stat. 235.

The Airport and Airway Development Act of 1970, referred to in subsecs. (a)(13)(B) and (i), is title I of Pub. L. 91–258, May 21, 1970, 84 Stat. 219, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49, Transportation. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (c)(4)(E), is classified to section 9502 of Title 26, Internal Revenue Code.

The date of enactment of this paragraph, referred to in subsec. (c)(5)(D), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

Section 31(b) of the Small Business Act, referred to in subsec. (e)(1), (4)(B), (6), is classified to section 657a(b) of Title 15, Commerce and Trade.

Section 101(a) of title 23, referred to in subsec. (j)(1)(B), was subsequently amended, and section 101(a) no longer defines "Federal-aid system".

The enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (s)(3), means the enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

The date of enactment of this paragraph, referred to in subsec. (s)(3), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

The date of enactment of this subsection, referred to in subsec. (y)(2), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (y)(4), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Subsec. (a)(16)(B). Pub. L. 118–63, §743(b)(1)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: "the Secretary will review and approve or disapprove only those portions of the plan (or any subsequent revision to the plan) that materially impact the safe and efficient operation of aircraft at, to, or from the airport or that would adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations, or that adversely affect the value of prior Federal investments to a significant extent;".

Subsec. (a)(16)(C)(i). Pub. L. 118–63, §743(b)(1)(B), substituted "subsection (x)" for "subparagraph (B)".

Subsec. (a)(22). Pub. L. 118–63, §770(a), added par. (22).

Subsec. (m)(4). Pub. L. 118–63, §703(a)(1), substituted "an amount equal to double" for "an amount equal to".

Subsec. (n)(1). Pub. L. 118–63, §703(a)(2), substituted "an amount equal to double" for "an amount equal to".

Subsec. (r)(3). Pub. L. 118–63, §704, substituted "October 1, 2028" for "May 11, 2024".

Pub. L. 118–41 substituted "May 11, 2024" for "March 9, 2024".

Subsec. (t)(2)(A). Pub. L. 118–63, §705(1), substituted "October 7, 2016" for "the date of enactment of this subsection".

Subsec. (t)(2)(D). Pub. L. 118–63, §705(2), added subpar. (D) and struck out former subpar. (D) which read as follows: "that supports the operation of military aircraft by the Air Force or Air National Guard—

"(i) at the airport; or

"(ii) remotely from the airport."

Subsec. (v). Pub. L. 118–63, §706, amended subsec. (v) generally. Prior to amendment, subsec. (v) related to community use of airport land.

Subsec. (x). Pub. L. 118–63, §743(b)(2), added subsec. (x).

Subsec. (y). Pub. L. 118–63, §774(a), added subsec. (y).

2023—Subsec. (r)(3). Pub. L. 118–34 substituted "March 9, 2024" for "January 1, 2024".

Pub. L. 118–15 substituted "January 1, 2024" for "October 1, 2023".

2020—Subsec. (w)(1). Pub. L. 116–190, §2(1), substituted "The Secretary of Transportation" for "In fiscal year 2021 and each fiscal year thereafter, the Secretary of Transportation".

Subsec. (w)(1)(B). Pub. L. 116–190, §2(2), substituted "at least one men's and at least one women's" for

"one men's and one women's".

Subsec. (w)(2)(A). Pub. L. 116–190, §2(3), added subpar. (A) and struck out former subpar. (A) which read as follows: "The requirement in paragraph (1) shall only apply to applications submitted by the airport sponsor of a medium or large hub airport."

Subsec. (w)(2)(B). Pub. L. 116–190, §2(4), substituted "October 5, 2018, complies with the requirement in paragraph (1)(A)" for "the date of enactment of this Act complies with the requirement in paragraph (1)".

Subsec. (w)(2)(C). Pub. L. 116–190, §2(5), substituted "paragraph (1)(A)" for "paragraph (1)".

2018—Subsec. (a)(16)(B). Pub. L. 115–254, §163(d)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: "the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect;".

Subsec. (a)(16)(C). Pub. L. 115–254, §163(d)(2), substituted "unless the alteration—" and cls. (i) and (ii) for "if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and".

Subsec. (a)(16)(D). Pub. L. 115–254, §163(d)(3), which directed substitution of "when an alteration in the airport or its facility is made that is within the scope of the Secretary's review and approval authority as set forth in subparagraph (B), and does not conform with the portions of the plan approved by the Secretary, and the Secretary decides that the alteration adversely affects the safety, utility, or efficiency of aircraft operations, or of any property on or off the airport that is owned, leased, or financed by the Government, then the owner or operator will, if requested by the Secretary" for "when an alternation" and all that follows through "Secretary, will", was executed by making the substitution for "when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will" to reflect the probable intent of Congress.

Subsec. (a)(17). Pub. L. 115–254, §131(1), substituted "if any phase of such project has received funds under this subchapter, each contract" for "each contract".

Subsec. (r)(3). Pub. L. 115–254, §131(2), substituted "2023" for "2018".

Pub. L. 115–141 substituted "October 1, 2018" for "April 1, 2018".

Subsec. (s)(3). Pub. L. 115–254, §185, added par. (3).

Subsecs. (u), (v). Pub. L. 115–254, §131(3), added subsecs. (u) and (v).

Subsec. (w). Pub. L. 115–254, §132(a), added subsec. (w).

2017—Subsec. (e)(1), (4)(B), (6). Pub. L. 115–91 substituted "section 31(b) of the Small Business Act" for "section 3(p) of the Small Business Act".

Subsec. (r)(3). Pub. L. 115–63 substituted "April 1, 2018" for "October 1, 2017".

2016—Subsec. (r)(3). Pub. L. 114–190 substituted "October 1, 2017" for "July 16, 2016".

Pub. L. 114–141 substituted "July 16, 2016" for "April 1, 2016".

Subsec. (t). Pub. L. 114–238 added subsec. (t).

2015—Subsec. (r)(3). Pub. L. 114–55 substituted "April 1, 2016" for "October 1, 2015".

2014—Subsec. (k). Pub. L. 113–188, §1501(b)(1), (2)(A)(i), redesignated subsec. (l) as (k) and struck out former subsec. (k). Prior to amendment, text of subsec. (k) read as follows: "The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual summary of the reports submitted to the Secretary under subsection (a)(19) of this section and under section 111(b) of the Federal Aviation Administration Authorization Act of 1994."

Subsec. (k)(5). Pub. L. 113–188, §1501(b)(2)(A)(ii), substituted "subsection (m)(7)" for "subsection (n)(7)" in introductory provisions and "subsection (m)" for "subsection (n)" in subpar. (B).

Subsec. (l). Pub. L. 113–188, §1501(b)(2)(A)(i), redesignated subsec. (m) as (l). Former subsec. (l) redesignated (k).

Subsec. (m). Pub. L. 113–188, §1501(b)(2)(A)(i), (iii), redesignated subsec. (n) as (m) and substituted "subsections (b) and (k)" for "subsections (b) and (l)" in pars. (1) and (7) and "subsection (n)" for "subsection (o)" in pars. (4) and (6). Former subsec. (m) redesignated (l).

Subsec. (n). Pub. L. 113–188, §1501(b)(2)(A)(i), (iv), redesignated subsec. (o) as (n) and substituted "subsection (m)" for "subsection (n)" wherever appearing. Former subsec. (n) redesignated (m).

Subsec. (o). Pub. L. 113–188, §1501(b)(2)(A)(i), (v), redesignated subsec. (p) as (o) and substituted "subsection (n)" for "subsection (o)". Former subsec. (o) redesignated (n).

Subsec. (p). Pub. L. 113–188, §1501(b)(2)(A)(i), (vi), redesignated subsec. (q) as (p) and substituted "subsections (a) through (o)" for "subsections (a) through (p)" in introductory provisions. Former subsec. (p) redesignated (o).

Subsec. (q). Pub. L. 113–188, §1501(b)(2)(A)(i), (vii), redesignated subsec. (r) as (q) and substituted "paragraphs (1) through (3) of subsection (p)" for "subsections (q)(1) through (3)". Former subsec. (q) redesignated (p).

Subsecs. (r) to (t). Pub. L. 113–188, §1501(b)(2)(A)(i), redesignated subsecs. (s) and (t) as (r) and (s), respectively. Former subsec. (r) redesignated (q).

2012—Subsec. (a)(16)(D)(ii). Pub. L. 112–95, §135(a), inserted ", except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)" before semicolon at end.

Subsec. (c)(2)(A). Pub. L. 112–95, §135(b)(1)(A)(i), substituted "purpose (including land serving as a noise buffer either by being undeveloped or developed in a way that is compatible with using the land for noise buffering purposes)" for "purpose" in introductory provisions.

Subsec. (c)(2)(A)(iii). Pub. L. 112–95, §135(b)(1)(A)(ii), substituted "reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)" for "paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program".

Subsec. (c)(2)(B)(iii). Pub. L. 112–95, §135(b)(1)(B), substituted "reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)" for "reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist".

Subsec. (c)(4), (5). Pub. L. 112–95, §135(b)(2), added pars. (4) and (5).

Subsec. (s)(3). Pub. L. 112–95, §404, amended par. (3) generally. Prior to amendment, text read as follows: "This subsection shall cease to be effective beginning February 18, 2012."

Pub. L. 112–91 substituted "February 18, 2012." for "February 1, 2012."

Subsec. (t). Pub. L. 112–95, §136(a), added subsec. (t).

2011—Subsec. (s)(3). Pub. L. 112–30 substituted "February 1, 2012." for "September 17, 2011."

Pub. L. 112–27 substituted "September 17, 2011." for "July 23, 2011."

Pub. L. 112–21 substituted "July 23, 2011." for "July 1, 2011."

Pub. L. 112–16 substituted "July 1, 2011." for "June 1, 2011."

Pub. L. 112–7 substituted "June 1, 2011." for "April 1, 2011."

2010—Subsec. (s)(3). Pub. L. 111–329 substituted "April 1, 2011." for "January 1, 2011."

Pub. L. 111–249 substituted "January 1, 2011." for "October 1, 2010."

Pub. L. 111–216 substituted "October 1, 2010." for "August 2, 2010."

Pub. L. 111–197 substituted "August 2, 2010." for "July 4, 2010."

Pub. L. 111–161 substituted "July 4, 2010." for "May 1, 2010."

Pub. L. 111–153 substituted "May 1, 2010." for "April 1, 2010."

2009—Subsec. (s)(3). Pub. L. 111–116 substituted "April 1, 2010." for "January 1, 2010."

Pub. L. 111–69 substituted "January 1, 2010." for "October 1, 2009."

Pub. L. 111–12 substituted "October 1, 2009." for "April 1, 2009."

2008—Subsec. (s)(3). Pub. L. 110–330 substituted "April 1, 2009" for "October 1, 2008".

2003—Subsec. (a)(21). Pub. L. 108–176, §165, added par. (21).

Subsec. (c)(2)(A)(iii). Pub. L. 108–176, §164, inserted before semicolon at end ", including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program".

Subsec. (l)(5)(A). Pub. L. 108–176, §144(a), inserted "or any other governmental entity" after "sponsor".

Subsec. (m)(1). Pub. L. 108–176, §144(b)(1), (2), substituted "include a provision in the compliance supplement provisions to" for "promulgate regulations that" and struck out "and opinion of the review" before "concerning the funding activities".

Subsec. (m)(3). Pub. L. 108–176, §144(b)(3), struck out heading and text of par. (3). Text read as follows: "The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor."

Subsec. (q). Pub. L. 108–7 added subsec. (q).

Subsec. (q)(2). Pub. L. 108–11, §2702(1), which directed the amendment of subsec. (q)(2) of section 321 of Pub. L. 108–7 by inserting "or underneath" before "the Class B airspace", was executed by making the insertion in subsec. (q)(2) of this section, to reflect the probable intent of Congress.

Subsec. (q)(3). Pub. L. 108–11, §2702(2), (3), which directed the amendment of subsec. (q)(3) of section 321 of Pub. L. 108–7 by striking out "has sufficient capacity and" after "Title 49" and inserting "passenger"

before "delays", was executed by inserting "passenger" before "delays" and striking out "has sufficient capacity and" after "title 49" in subsec. (q)(3) of this section, to reflect the probable intent of Congress.

Subsec. (r). Pub. L. 108–7 added subsec. (r).

Subsec. (s). Pub. L. 108–176, §424, added subsec. (s).

2002—Subsec. (a)(17). Pub. L. 107–217 substituted "chapter 11 of title 40" for "title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

2000—Subsec. (h). Pub. L. 106–181 amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: "Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

"(1) publish notice of the proposed modification in the Federal Register; and

"(2) provide an opportunity for comment on the proposal."

1997—Subsec. (e)(1). Pub. L. 105–135, §604(h)(1)(A), inserted before period at end "or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)".

Subsec. (e)(4)(B). Pub. L. 105–135, §604(h)(1)(B), which directed the amendment of subpar. (B) by inserting before the period "or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)", was executed by inserting the material before period at end of last sentence to reflect the probable intent of Congress.

Subsec. (e)(6). Pub. L. 105–135, §604(h)(1)(C), inserted "or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)" after "disadvantaged individual".

1996—Subsec. (a)(20). Pub. L. 104–264, §143, added par. (20).

Subsec. (k). Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (l)(1). Pub. L. 104–287, §5(80), substituted "August 23, 1994" for "the date of the enactment of this subsection".

Subsec. (l)(5). Pub. L. 104–264, §805(b)(2), added par. (5).

Subsecs. (m) to (p). Pub. L. 104–264, §805(a), added subsecs. (m) to (p).

1994—Subsec. (a)(15). Pub. L. 103–305, §111(a)(1), inserted before semicolon at end "and make such reports available to the public".

Subsec. (a)(19). Pub. L. 103–305, §111(a)(2)–(4), added par. (19).

Subsec. (k). Pub. L. 103–305, §111(c), added subsec. (k).

Subsec. (l). Pub. L. 103–305, §112(a), added subsec. (l).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–63, title VII, §703(b), May 16, 2024, 138 Stat. 1248, provided that: "The amendments made by subsection (a) [amending this section] shall not apply to any illegal diversion of airport revenues (as described in section 47107(m) of title 49, United States Code) that occurred prior to the date of enactment of this Act [May 16, 2024]."

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115–91, set out as a note under section 657a of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, title I, §136(b), Feb. 14, 2012, 126 Stat. 24, provided that: "The amendment made by subsection (a) [amending this section] shall apply to an agreement between an airport sponsor and a property owner (or an association representing such property owner) entered into before, on, or after the date of enactment of this Act [Feb. 14, 2012]."

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

Pub. L. 108–7, div. I, title III, §321(b), Feb. 20, 2003, 117 Stat. 411, provided that: "This section [amending this section] shall be effective upon enactment [Feb. 20, 2003], notwithstanding any other section of title 49."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–181, title I, §125(e), Apr. 5, 2000, 114 Stat. 76, provided that: "Nothing in any amendment made by this section [amending this section and sections 47125, 47151, and 47153 of this title] shall be construed to authorize the Secretary [of Transportation] to issue a waiver or make a modification referred to in such amendment."

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

DIVERSION OF AIRPORT REVENUES FOR CLAIMS RELATED TO CERTAIN CEDED LANDS

Pub. L. 105–66, title III, §340, Oct. 27, 1997, 111 Stat. 1448, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) Congress has the authority under article I, section 8 of the Constitution to regulate the air commerce of the United States;

"(2) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

"(3) a grant recipient that uses airport revenues for purposes that are not airport-related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

"(4) illegal diversion of airport revenues undermines the interest of the United States in promoting a strong national air transportation system;

"(5) the policy of the United States that airports should be as self-sustaining as possible and that revenues generated at airports should not be diverted from airport purposes was stated by Congress in 1982 and reaffirmed and strengthened in 1987, 1994, and 1996;

"(6) certain airports are constructed on lands that may have belonged, at one time, to Native Americans, Native Hawaiians, or Alaska Natives;

"(7) contrary to the prohibition against diverting airport revenues from airport purposes under section 47107 of title 49, United States Code, certain payments from airport revenues may have been made for the betterment of Native Americans, Native Hawaiians, or Alaska Natives based upon the claims related to lands ceded to the United States;

"(8) Federal law prohibits diversions of airport revenues obtained from any source whatsoever to occur in the future whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997]; and

"(9) because of the special circumstances surrounding such past diversions of airport revenues for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, it is in the national interest that amounts from airport revenues previously received by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, as specified in subsection (b) of this section, should not be subject to repayment.

"(b) TERMINATION OF REPAYMENT RESPONSIBILITY.—Notwithstanding the provisions of [section] 47107 of title 49, United States Code, or any other provision of law, monies paid for claims related to ceded lands and diverted from airport revenues and received prior to April 1, 1996, by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, shall not be subject to repayment.

"(c) PROHIBITION ON FURTHER DIVERSION.—There shall be no further payment of airport revenues for claims related to ceded lands, whether characterized as operating expenses, rent, or otherwise, and whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997].

"(d) CLARIFICATION.—Nothing in this Act [see Tables for classification] shall be construed to affect any existing Federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that define the obligations of such States to Native Americans, Native Hawaiians, or Alaska Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations."

FINDINGS AND PURPOSE

Pub. L. 104–264, title VIII, §802, Oct. 9, 1996, 110 Stat. 3270, provided that:

"(a) IN GENERAL.—Congress finds that—

"(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

"(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

"(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

"(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

"(5) sponsors who have been found to have illegally diverted airport revenues—

"(A) have not reimbursed or made restitution to airports in a timely manner; and

"(B) must be encouraged to do so.

"(b) PURPOSE.—The purpose of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title] is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

"(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project

grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

"(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

"(3) establishing a statute of limitations for airport revenue diversion actions;

"(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

"(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion."

DEFINITIONS

Pub. L. 104–264, title VIII, §803, Oct. 9, 1996, 110 Stat. 3270, provided that: "For purposes of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title], the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(2) AIRPORT.—The term 'airport' has the meaning provided that term in section 47102(2) of title 49, United States Code.

"(3) PROJECT GRANT.—The term 'project grant' has the meaning provided that term in section 47102(14) [now section 47102(19)] of title 49, United States Code.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(5) SPONSOR.—The term 'sponsor' has the meaning provided that term in section 47102(19) [now section 47102(26)] of title 49, United States Code."

REVISION OF POLICIES AND PROCEDURES; DEADLINES

Pub. L. 104–264, title VIII, §805(b)(1), Oct. 9, 1996, 110 Stat. 3273, provided that: "Not later than 90 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) [now 47107(k)] of title 49, United States Code, to take into account the amendments made to that section by this title."

FORMAT FOR REPORTING

Pub. L. 103–305, title I, §111(b), Aug. 23, 1994, 108 Stat. 1574, provided that, within 180 days after Aug. 23, 1994, the Secretary of Transportation was to prescribe a uniform simplified format readily comprehensible to the public for reporting applicable to airports.

§47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) or 47114(d)(2)(A) for the fiscal years necessary to pay the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3), the amount stated in an offer as the maximum amount the Government will pay may not be increased when the offer has been accepted in writing.

(2) EXCEPTION.—For a project receiving assistance under a grant approved under this chapter or chapter 475, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) to acquire an interest in land for an airport (except a primary airport), based on creditable appraisals at the time of the acquisition or a court award in a condemnation proceeding, by not more than the greater of—

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(3) PRICE ADJUSTMENT PROVISIONS.—

(A) IN GENERAL.—The Secretary may incorporate a provision in a project grant agreement under which the Secretary agrees to pay more than the maximum amount otherwise specified in the agreement if the Secretary finds that commodity or labor prices have increased since the agreement was made.

(B) DECREASE IN COSTS.—A provision incorporated in a project grant agreement under this paragraph shall ensure that the Secretary realizes any financial benefit associated with a decrease in material or labor costs for the project.

(c) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed under the grant if the amendment does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

(d) CHANGE IN AIRPORT STATUS.—

(1) CHANGES TO NONPRIMARY AIRPORT STATUS.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.

(2) CHANGES TO NONCOMMERCIAL SERVICE AIRPORT STATUS.—If the status of a commercial service airport changes to a noncommercial service airport at a time when a terminal development project under a phased-funding arrangement is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the arrangement subject to the availability of funds.

(3) CHANGES TO NONHUB PRIMARY STATUS.—If the status of a nonhub primary airport changes to a small hub primary airport at a time when the airport has received discretionary funds under this chapter for a terminal development project in accordance with section 47119(a), and the project is not yet completed, the project shall remain eligible for funding from the discretionary fund and the small airport fund to pay costs allowable under section 47119(a). Such project shall remain eligible for such funds for three fiscal years after the start of construction of the project, or if the Secretary determines that a further extension of eligibility is justified, until the project is completed.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1262; Pub. L. 106–181, title I, §135(c), Apr. 5, 2000, 114 Stat. 84; Pub. L. 108–176, title I, §149(a), Dec. 12, 2003, 117 Stat. 2505; Pub. L. 109–115, div. A, title I, §176(a), Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112–95, title I, §152(e)(2), Feb. 14, 2012, 126 Stat. 34; Pub. L. 118–63, title VII, §707, May 16, 2024, 138 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47108(a)	49 App.:2211(a).	Sept. 3, 1982, Pub. L. 97–248, §512(a), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(4), 110(c), 101 Stat. 1498, 1502.
47108(b)	49 App.:2211(b).	Sept. 3, 1982, Pub. L. 97–248, §512(b),

		96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, §110(a), 101 Stat. 1502; Oct. 31, 1992, Pub. L. 102–581, §109, 106 Stat. 4879.
47108(c)	49 App.:2211(c).	
47108(d)	49 App.:2211(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §512(d); added Dec. 30, 1987, Pub. L. 100–223, §110(b), 101 Stat. 1502.

In subsection (a), the words "on behalf of the United States" are omitted as surplus. The words "or sponsors" are omitted because of 1:1. The words "of the application" are omitted as surplus. The words "under section 47110 of this title" are added for clarity. The words "and conditions" are omitted as being included in "terms". The words "for the project" are added for clarity. The words "an offer of a grant for a project" are substituted for "In any case where the Secretary approves a project grant application for a project . . . the offer" to eliminate unnecessary words. The words "(including future fiscal years)" are omitted as surplus. The words "An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor" are substituted for "If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor" to eliminate unnecessary words. The words "which have been or may be incurred" are omitted as surplus.

In subsection (b)(1), the words "by a sponsor" are omitted as surplus. The words "amount the Government will pay" are substituted for "obligation of the United States" for clarity and consistency in this section.

In subsection (b)(2), the text of 49 App.:2211(b)(2) (last sentence) is restated to apply only to 49 App.:2211(b)(2) (1st sentence) to carry out the probable intent of Congress.

In subsection (b)(3)(B), the words "for fiscal year 1993 and thereafter" are omitted as unnecessary.

In subsection (c), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "a project receiving assistance under" are added for consistency.

In subsection (d), the word "sponsor" is substituted for "grant recipient" for clarity. The words "amount the Government may pay" are substituted for "obligation of the United States authorized" for clarity and consistency in this section.

EDITORIAL NOTES

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2)(A), (3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §707(1), substituted "47114(d)(2)(A)" for "47114(d)(3)(A) of this title".

Subsec. (b). Pub. L. 118–63, §707(2), added subsec. (b) and struck out former subsec. (b) which allowed increasing Government's share after an offer has been accepted in writing in certain circumstances.

Subsecs. (c) to (e). Pub. L. 118–63, §707(3), (4), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act."

2012—Subsec. (e)(3). Pub. L. 112–95 substituted "accordance with section 47119(a)" for "accordance with section 47110(d)(2)" and "allowable under section 47119(a)" for "allowable under section 47110(d)".

2005—Subsec. (e)(3). Pub. L. 109–115 added par. (3).

2003—Subsec. (a). Pub. L. 108–176 inserted "or 47114(d)(3)(A)" after "under section 47114(c)".

2000—Subsec. (e). Pub. L. 106–181 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

LAND ACQUISITION COSTS

Pub. L. 107–71, title I, §143, Nov. 19, 2001, 115 Stat. 644, provided that: "In the case of a grant for land acquisition issued to an airport under chapter 471 of title 49, United States Code, prior to January 1, 1995, the Secretary of Transportation may waive the provisions of section 47108 of such title and provide an upward adjustment in the maximum obligation of the United States under that chapter to assist the airport in funding land acquisition costs (and associated eligible costs) that increased as a result of a judicial order."

[For definitions of "airport" and "United States" used in section 143 of Pub. L. 107–71, set out above, see section 133 of Pub. L. 107–71, set out as a note under section 40102 of this title.]

§47109. United States Government's share of project costs

(a) GENERAL.—Except as otherwise provided in this section, the United States Government's share of allowable project costs is—

(1) 75 percent for a project at a medium or large hub airport;

(2) not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;

(3) 90 percent for a project at any other airport;

(4) 70 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134; and

(5) 95 percent for a project that—

(A) the Administrator determines is a successive phase of a multiphase construction project for which the sponsor received a grant in fiscal year 2011; and

(B) for which the United States Government's share of allowable project costs would otherwise be capped at 90 percent under paragraph (2) or (3).

(b) INCREASED GOVERNMENT SHARE.—If, under subsection (a) of this section, the Government's share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government's share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act.

(c) GRANDFATHER RULE.—

(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the

Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

(2) The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b), except that at a primary non-hub and non-primary commercial service airport located in a State as set forth in paragraph (1) of this subsection that is within 15 miles of another State as set forth in paragraph (1) of this subsection, the Government's share shall be an average of the Government share applicable to any project in each of the States.

(d) SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.

(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS .—If the status of a small hub airport changes to a medium hub airport, the Government's share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years after such change in hub status.

(f) SPECIAL RULE FOR ECONOMICALLY DISTRESSED COMMUNITIES.—The Government's share of allowable project costs shall be 95 percent for a project at an airport that—

(1) is receiving essential air service for which compensation was provided to an air carrier under subchapter II of chapter 417; and

(2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.

(g) SPECIAL RULE FOR COVERED EQUIPMENT.—

(1) IN GENERAL.—The Government's share of allowable project costs for covered equipment and its installation shall be 100 percent.

(2) DEFINITION OF COVERED EQUIPMENT.—For purposes of this subsection, the term "covered equipment" means aqueous film forming foam input-based testing equipment that is eligible for Airport Improvement Program funding based on Federal Aviation Administration PGL 21–01, titled "Extension of Eligibility for stand-alone acquisition of input-based testing equipment and truck modification", dated October 5, 2021 (or any other successor program guidance letter).

(3) SUNSET.—The higher cost share authority established in this subsection shall terminate on the earlier of—

(A) 180 days after the date on which the eligibility of covered equipment for Airport Improvement Program funding under the authority described in paragraph (2) terminates or is discontinued by the Administrator; or

(B) 5 years after the date of enactment of this subsection.

(h) SPECIAL RULE FOR FISCAL YEARS 2025 AND 2026.—Notwithstanding subsection (a), the Government's share of allowable project costs for a grant made to a nonhub or nonprimary airport in each of fiscal years 2025 and 2026 shall be 95 percent.

(i) SPECIAL RULE FOR SOUND INSULATION REPAIR AND REPLACEMENT.—With respect to a project to carry out sound insulation that is granted a waiver under section 47110(j), the allowable project cost for such project shall be calculated without consideration of any costs that were previously paid by the Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, §114, Aug. 23, 1994,

108 Stat. 1579; Pub. L. 104–264, title I, §149(c), title XII, §1211, Oct. 9, 1996, 110 Stat. 3227, 3282; Pub. L. 106–181, title I, §126, Apr. 5, 2000, 114 Stat. 76; Pub. L. 107–71, title I, §119(a)(4), Nov. 19, 2001, 115 Stat. 629; Pub. L. 108–176, title I, §§162, 163, Dec. 12, 2003, 117 Stat. 2513; Pub. L. 112–95, title I, §137, Feb. 14, 2012, 126 Stat. 24; Pub. L. 113–235, div. K, title I, §119F, Dec. 16, 2014, 128 Stat. 2704; Pub. L. 115–31, div. K, title I, §119E, May 5, 2017, 131 Stat. 734; Pub. L. 115–254, div. B, title I, §134, Oct. 5, 2018, 132 Stat. 3209; Pub. L. 117–254, §2(a), Dec. 20, 2022, 136 Stat. 2361; Pub. L. 118–63, title VII, §708, May 16, 2024, 138 Stat. 1251; Pub. L. 119–60, div. H, title LXXXVIII, §8801(a), Dec. 18, 2025, 139 Stat. 1969.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47109(a)	49 App.:2209(a), (b).	Sept. 3, 1982, Pub. L. 97–248, §510, 96 Stat. 685.
47109(b)	49 App.:2209(c).	
47109(c)	49 App.:2212(b)(5).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(5), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, §111(a)(2), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §110(b), 106 Stat. 4880.

In subsection (a), before clause (1), the words "Except as provided in subsections (b) and (c) of this section" are substituted for "Except as otherwise provided in this chapter" because subsections (b) and (c) restate the only parts of the chapter that provide exceptions to the general rule stated in subsection (a). In clauses (1) and (2), the words "for a project" are substituted for "payable on account of any project contained in an approved project grant application submitted in accordance with this chapter" in 49 App.:2209(a) and "payable on account of any project contained in an approved project grant application" in 49 App.:2209(b) for consistency in this chapter and to eliminate unnecessary words. A project cost is allowable only if it is incurred under a grant agreement made under the chapter, and a grant agreement may be made only if the project grant application is approved. In clause (1), the words "number of passenger boardings" are substituted for "enplaning . . . of the . . . passengers enplaned" because of the definition of "passenger boardings" in section 47102 of the revised title.

In subsection (b), the words "If, under subsection (a) of this section, the Government's share of allowable costs . . . is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970" and "(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act" are substituted for 49 App.:2209(c) (last sentence) for clarity. The words "of the total of all lands therein" are omitted as surplus.

In subsection (c), the words "Notwithstanding subsections (a) and (b) of this section" are substituted for "Notwithstanding any other provision of this chapter" because subsections (a) and (b) are the only other parts of the chapter that specify the United States Government's share of allowable project costs.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 17(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b), is section 17(b) of Pub. L. 91–258, which was classified to section 1717(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

The date of enactment of this subsection, referred to in subsec. (g)(3)(B), is the date of enactment of Pub. L. 117–254, which was approved Dec. 20, 2022.

AMENDMENTS

2025—Subsec. (i). Pub. L. 119–60 added subsec. (i).

2024—Subsec. (h). Pub. L. 118–63 added subsec. (h).

2022—Subsec. (g). Pub. L. 117–254 added subsec. (g).

2018—Subsec. (a)(1). Pub. L. 115–254, §134(1), substituted "medium or large hub airport;" for "primary

airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports;".

Subsec. (a)(5). Pub. L. 115–254, §134(2), added par. (5) and struck out former par. (5) which read as follows: "for fiscal year 2002, 100 percent for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L)."

2017—Subsec. (c)(2). Pub. L. 115–31 amended par. (2) generally. Prior to amendment, text read as follows: "The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b), except that at a primary non-hub airport located in a State as set forth in paragraph (1) of this subsection that is within 15 miles of another State as set forth in paragraph (1) of this subsection, the Government's share shall be an average of the Government share applicable to any project in each of the States."

2014—Subsec. (c)(2). Pub. L. 113–235 inserted before period at end ", except that at a primary non-hub airport located in a State as set forth in paragraph (1) of this subsection that is within 15 miles of another State as set forth in paragraph (1) of this subsection, the Government's share shall be an average of the Government share applicable to any project in each of the States".

2012—Subsec. (a). Pub. L. 112–95, §137(1), substituted "otherwise provided in this section" for "provided in subsection (b) or subsection (c) of this section" in introductory provisions.

Subsecs. (e), (f). Pub. L. 112–95, §137(2), added subsecs. (e) and (f).

2003—Subsec. (a). Pub. L. 108–176, §162(b), substituted "Except as provided in subsection (b) or subsection (c)" for "Except as provided in subsection (b)" in introductory provisions.

Subsec. (a)(4). Pub. L. 108–176, §163, substituted "70 percent" for "40 percent".

Subsecs. (c), (d). Pub. L. 108–176, §162(a), added subsec. (c) and redesignated former subsec. (c) as (d).

2001—Subsec. (a)(5). Pub. L. 107–71 added par. (5).

2000—Subsec. (a)(2) to (4). Pub. L. 106–181 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (a)(3). Pub. L. 104–264, §149(c), added par. (3).

Subsec. (c). Pub. L. 104–264, §1211, added subsec. (c).

1994—Subsec. (a). Pub. L. 103–305, §114(1), substituted "subsection (b)" for "subsections (b) and (c)".

Subsec. (c). Pub. L. 103–305, §114(2), struck out subsec. (c) which read as follows: "(c) LIMITATION .—Notwithstanding subsections (a) and (b) of this section, the Government's share of project costs allowable under section 47110(d) of this title may not be more than 75 percent, except that the Government's share shall be 85 percent for a project at a commercial service airport that does not have more than .05 percent of the total annual passenger boardings in the United States."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

OUTREACH EFFORTS

Pub. L. 117–254, §2(b), Dec. 20, 2022, 136 Stat. 2361, provided that: "Not later than 90 days after the date of enactment of this Act [Dec. 20, 2022], the Administrator of the Federal Aviation Administration shall conduct an outreach effort to make airports aware of the higher cost share authority established in section 47109(g) of title 49, United States Code, as added by subsection (a)."

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 117–254, §2(d), Dec. 20, 2022, 136 Stat. 2362, provided that: "The amendments made by this Act [amending this section] shall apply to amounts that first become available in fiscal year 2023 or thereafter."

TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS

Pub. L. 108–176, title I, §161, Dec. 12, 2003, 117 Stat. 2513, as amended by Pub. L. 110–190, §4(c), Feb. 28, 2008, 122 Stat. 644; Pub. L. 110–253, §3(c)(3), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §5(i), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(h), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(i), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(h), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(h), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(h), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(h), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(h), Aug. 1, 2010, 124 Stat. 2350; Pub. L. 111–249, §5(i), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(h), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(h), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(h), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(h), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(h), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(i), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(i), Jan. 31, 2012, 126 Stat. 4, provided that: "Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in any of fiscal years 2009 through 2011, or in the portion of fiscal year 2012 ending before February 18, 2012, under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent."

[Pub. L. 110–253, §3(c)(3), which directed amendment of section 161 of Pub. L. 108–176, set out above, by substituting "fiscal year 2008." for "fiscal year 2008 before July 1, 2008.", was executed by substituting "fiscal year 2008," for "fiscal year 2008 before July 1, 2008," to reflect the probable intent of Congress.]

§47110. Allowable project costs

(a) GENERAL AUTHORITY.—Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1)(A) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type; or

(B) if the cost is an incentive payment incurred in carrying out the project described in subparagraph (A) that is to be provided to a contractor upon early completion of a project, if—

(i) such payment does not exceed the lesser of 5 percent of the initial construction contract amount or $1,000,000;

(ii) the level of contractor's control of, or access to, the worksite necessary to shorten the duration of the project does not negatively impact the operation of the airport;

(iii) the contract specifies application of the incentive structure in the event of unforeseeable, non-weather delays beyond the control of the contractor;

(iv) nothing in any agreement with the contractor prevents the airport operator from retaining responsibility for the safety, efficiency, and capacity of the airport during the execution of the grant agreement; and

(v) the Secretary determines that the use of an incentive payment is likely to increase airport capacity or efficiency or result in cost savings as a result of shortening the project's duration;

(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;

(C) if the Government's share is paid only with amounts apportioned under paragraphs (1) and

(2) of section 47114(c) or section 47114(d)(3)(A) [1] and if the cost is incurred—

(i) after September 30, 1996;

(ii) before a grant agreement is executed for the project; and

(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed; or

(D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if—

(i) the cost was incurred before execution of the grant agreement because the airport has a shortened construction season due to climatic conditions in the vicinity of the airport;

(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement, including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;

(iii) the sponsor notifies the Secretary before authorizing work to commence on the project;

(iv) the sponsor has an alternative funding source available to fund the project; and

(v) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;

(3) to the extent the cost is reasonable in amount;

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted;

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title);

(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary; and

(7) if the cost is incurred on a measure to improve the efficiency of an airport building (such as a measure designed to meet one or more of the criteria for being considered a high-performance green building as set forth under section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13))) and—

(A) the measure is for a project for airport development;

(B) the measure is for an airport building that is otherwise eligible for construction assistance under this subchapter; and

(C) if the measure results in an increase in initial project costs, the increase is justified by expected savings over the life cycle of the project.

(c) CERTAIN PRIOR COSTS AS ALLOWABLE COSTS.—The Secretary may decide that a project cost under subsection (b)(2)(A) of this section incurred before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating or preparing for an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, utility relocation, work site preparation, and administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that

the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

(1) the Government's share of such costs will be paid with funds apportioned to the airport sponsor under section 47114 or distributed from the small airport fund under section 47116;

(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

(3) the Secretary determines that the change is beyond the control of the airport sponsor.

(e) LETTERS OF INTENT.—(1) The Secretary may issue a letter of intent to the sponsor stating an intention to obligate from future budget authority an amount, not more than the Government's share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the sponsor notifies the Secretary, before the project begins, of the sponsor's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) that meets the criteria of section 47115(d) and, if for a project at a medium hub airport or large hub airport, the Secretary decides will enhance system-wide airport capacity significantly.

(3) A letter of intent issued under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 48103 of this title, less an amount reasonably estimated by the Secretary to be needed for grants under section 48103 that are not covered by a letter.

(5) LETTERS OF INTENT.—The Secretary may not require an eligible agency to impose a passenger facility charge under section 40117 in order to obtain a letter of intent under this section.

(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(7) PARTNERSHIP PROGRAM AIRPORTS.—The Secretary may issue a letter of intent under this subsection to an airport sponsor with an approved application under section 47134(b) if—

(A) the application was approved in fiscal year 2019; and

(B) the project meets all other requirements set forth in this chapter.

(f) NONALLOWABLE COSTS.—Except as provided in subsection (d) of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

(g) USE OF DISCRETIONARY FUNDS.—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made

available under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A) [1] are not sufficient to cover the Government's share of the cost of the project.

(h) NONPRIMARY AIRPORTS.—The Secretary may decide that the construction costs of revenue producing aeronautical support facilities are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(c)(1)(D) or section 47114(d)(2)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

(i) SMALL AIRPORT LETTERS OF INTENT.—

(1) IN GENERAL.—The Secretary may issue a letter of intent to a sponsor stating an intention to obligate an amount from future budget authority for an airport development project (including costs of formulating the project) at a nonhub airport or an airport that is not a primary airport.

(2) CONTENTS.—In the letter issued under paragraph (1), the Secretary shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(3) LIMITATIONS.—The amount the Secretary intends to obligate in a letter of intent issued under this subsection shall not exceed the larger of—

(A) the Government's share of allowable project costs; or

(B) $10,000,000.

(4) FINANCING.—Allowable project costs under paragraphs (1) and (2) may include costs associated with making payments for debt service on indebtedness incurred to carry out the project.

(5) REQUIREMENTS.—The Secretary shall issue a letter of intent under paragraph (1) only if—

(A) the sponsor notifies the Secretary, before the project begins, of the intent of the sponsor to carry out the project and requests a letter of intent; and

(B) the sponsor agrees to comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter.

(6) ASSESSMENT.—In reviewing a request for a letter of intent under this subsection, the Secretary shall consider the grant history of an airport, the enplanements or operations of an airport, and such other factors as the Secretary determines appropriate.

(7) PRIORITIZATION.—In issuing letters of intent under this subsection, the Secretary shall—

(A) prioritize projects that—

(i) cannot reasonably be funded by an airport sponsor using funds apportioned under section 47114(c), 47114(d)(2)(A), or 47114(d)(6), including funds apportioned under such sections in multiple fiscal years pursuant to section 47117(b)(1); and

(ii) are necessary to the continued safe operation or development of an airport; and

(B) structure the reimbursement schedules under such letters in a manner that minimizes unnecessary or undesirable project segmentation.

(8) NO OBLIGATION OR COMMITMENT.—

(A) IN GENERAL.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing.

(B) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation Acts.

(9) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection

in the same fiscal year as the letter of intent is issued.

(j) PILOT PROGRAM FOR SOUND INSULATION REPAIR AND REPLACEMENTS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, the Administrator of the Federal Aviation Administration shall establish a pilot program at up to two large hub public-use airports for local airport operators that have established a local program to fund secondary noise insulation using nonaeronautical revenue that provides a one-time waiver of the requirement of subsection (b)(4) for a qualifying airport as applied to projects to carry out repair and replacement of sound insulation for a residential building for which the airport previously received Federal assistance or Federally authorized airport assistance under this subchapter if—

(A) the Secretary determines that the additional assistance is justified due to the residence containing any sound insulation treatment or other type of sound proofing material previously installed under this subchapter that is determined to be eligible pursuant to paragraph (2);

(B) the residence—

(i) falls within the Day Night Level (DNL) of 65 to 75 decibel (dB) noise contours, according to the most recent noise exposure map (as such term is defined in section 150.7 of title 14, Code of Federal Regulations) available as of the date of enactment of this subsection;

(ii) fell within such noise contours at the time the initial sound insulation treatment was installed, but a qualified noise auditor has determined that—

(I) such sound insulation treatment caused physical damage to the residence; or

(II) the materials used for sound insulation treatment were of low quality and have deteriorated, broken, or otherwise no longer function as intended; and

(iii) is shown through testing that current interior noise levels exceed DNL 45 dB, and the new insulation would have the ability to achieve a 5 dB noise reduction; and

(C) the qualifying airport—

(i) is a large hub airport (as defined in section 40102 of title 49, United States Code);

(ii) is located in a dense residential area, with a minimum population of 200,000 residents within a 5-mile radius of the airport;

(iii) has an established residential sound insulation program that has been operational for at least 30 years and began in the year 1985;

(iv) is located in a metropolitan statistical area with a population of at least 4,000,000 people; and

(v) has at least 22,000,000 enplanements annually.

(2) ELIGIBILITY DETERMINATION.—To be eligible for waiver under this subsection for repair or replacement of sound insulation treatment projects, an applicant shall—

(A) ensure that the applicant and the property owner have made a good faith effort to exhaust any amounts available through warranties, insurance coverage, and legal remedies for the sound insulation treatment previously installed on the eligible residence;

(B) verify the sound insulation treatment for which Federal assistance was previously provided was installed prior to the year 2002; and

(C) demonstrate that a qualified noise auditor, based on an inspection of the residence, determined that—

(i) the sound insulation treatment for which Federal assistance was previously provided has resulted in structural deterioration that was not caused by failure of the property owner to repair or adequately maintain the residential building or through the negligence of the applicant or the property owner; and

(ii) the condition of the sound insulation treatment described in subparagraph (A) is not attributed to actions taken by an owner or occupant of the residence.

(3) ADDITIONAL AUTHORITY FOR SURVEYS.—Notwithstanding any other provision of law, the Secretary shall consider a cost allowable under this subchapter for an airport to conduct periodic surveys of properties in which repair and replacement of sound insulation treatment was carried out as described in paragraph (1) and for which the airport previously received Federal assistance or Federally authorized airport assistance under this subchapter. The surveys shall be conducted only for those properties for which the airport has identified a property owner who is interested in having a survey be undertaken to assess the current effectiveness of the sound insulation treatment. Such surveys shall be carried out to identify any properties described in the preceding sentence that are eligible for funds under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, §115, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(64), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §144, Oct. 9, 1996, 110 Stat. 3222; Pub. L. 106–181, title I, §127, Apr. 5, 2000, 114 Stat. 76; Pub. L. 107–71, title I, §119(a)(2), Nov. 19, 2001, 115 Stat. 628; Pub. L. 108–176, title I, §§145, 149(b), 159(c), Dec. 12, 2003, 117 Stat. 2504, 2505, 2511; Pub. L. 109–115, div. A, title I, §176(b), Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112–95, title I, §§111(c)(2)(A)(ii), 138, Feb. 14, 2012, 126 Stat. 18, 25; Pub. L. 115–254, div. B, title I, §184(b), title V, §539(n), Oct. 5, 2018, 132 Stat. 3234, 3371; Pub. L. 117–186, §2, Oct. 10, 2022, 136 Stat. 2199; Pub. L. 118–63, title VII, §§709–710(b)(1), May 16, 2024, 138 Stat. 1252, 1253; Pub. L. 119–60, div. H, title LXXXVIII, §8801(b), Dec. 18, 2025, 139 Stat. 1969.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(a)	49 App.:2212(a) (1st, last sentences).	Sept. 3, 1982, Pub. L. 97–248, §513(a), 96 Stat. 689; Aug. 4, 1989, Pub. L. 101–71, §3, 103 Stat. 181.
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2) (words before period), (3), (4)).	
47110(c)	49 App.:2212(a) (2d sentence cl. (2) (words after period)).	
47110(d)	49 App.:2212(b)(1), (6).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(1), (6), 96 Stat. 691; Oct. 31, 1992, Pub. L. 102–581, §110(a), 106 Stat. 4879.
47110(e)	49 App.:2212(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §513(d); added Dec. 30, 1987, Pub. L. 100–223, §111(c), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §111, 106 Stat. 4880.
47110(f)	49 App.:2212(c).	Sept. 3, 1982, Pub. L. 97–248, §513(c), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, §111(b), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §107(c)(2), 106 Stat. 4879.

In subsection (a), the words "for airport development or airport planning" are omitted because of the definition of "project" in section 47102 of the revised title. The text of 49 App.:2212(a) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the word "approved" is omitted as surplus because a project that was not approved could not be carried out in compliance with a grant agreement. The words "in compliance with the grant agreement made for the project under this subchapter" are substituted for "in conformity with the terms and

conditions of the grant agreement entered into in connection with the project" to eliminate unnecessary words. The word "sponsor" is substituted for "recipient" for clarity.

In subsection (b)(2)(A), the words "with respect to the project" are omitted as unnecessary because "the grant agreement" means "the grant agreement made for the project" referred to in clause (1) of this subsection. The words "under the project" are omitted as surplus.

Subsection (b)(3) is substituted for "in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable" to eliminate unnecessary words.

Subsection (b)(5) is substituted for "except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 2211(b) of this Appendix" for consistency in this section.

In subsection (c), before clause (1), the words "The Secretary may decide that a project cost . . . is allowable" are substituted for "However, the allowable costs of a project . . . may include . . . and the allowable costs of a project . . . may include" for clarity and consistency in the revised title. The words "incurred after May 13, 1946, and before the date the grant agreement is executed" are substituted for "which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946" and "which were incurred subsequent to May 13, 1946" to eliminate unnecessary words. In clause (1), the words "preparation of", "acquisition of", "by the sponsor specifically in connection with the accomplishment of the project for airport development" are omitted as surplus. The words "property interests in land or airspace" are substituted for "land or interests therein or easements through or other interests in airspace" to eliminate unnecessary words.

In subsection (d)(1), before clause (A), the words "The Secretary may decide that the cost . . . is allowable" are substituted for "the Secretary may approve, as allowable project costs" and "The Secretary shall approve project costs allowable under paragraph (1) of this subsection" for clarity and consistency in this section. In clause (B), the words "the boundaries of" are omitted as surplus. In clause (C), the words "and conditions" are omitted as being included in "terms".

In subsection (d)(2), the words "In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs" are substituted for "In the case of a commercial service airport . . . the Secretary may approve, under the preceding sentence as allowable project costs" for consistency in this subsection.

In subsection (e)(1), the word "sponsor" is substituted for "applicant" for consistency. The words "stipulated as" and "Subject to the provisions of this paragraph" are omitted as surplus. The word "reimburse" is substituted for "make payments under paragraph (2) of this subsection" and "pay" for clarity. The words "payable on account of such project in accordance with such letter of intent" are omitted as surplus.

In subsection (e)(2), before clause (A), the text of 49 App.:2212(d)(1)(C) (last sentence) is omitted as obsolete.

In subsection (e)(3), the words "A letter of intent issued" are substituted for "action" for clarity. The word "deemed" before "an obligation" is omitted as surplus.

In subsection (f)(2), the words "of a hangar or" are omitted as being included in "airport building".

PUB. L. 103–429

The source credits for all of subsection (b) are included for clarity though only subsection (b)(2) is affected by the amendment. The source credits for 49:47110(c) are included to correct a mistake on p. 405 of H. R. Rept. 103–180 (103d Cong., 1st Sess., July 15, 1993).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2)(A) (words before period), (B), (3), (4)).	Sept. 3, 1982, Pub. L. 97–248, §513(a) (2d sentence), as amended May 26, 1994, Pub. L. 103–260, §106, 108 Stat. 699.
47110(c)	49 App.:2212(a) (2d sentence cl. (2)(A) (words after period).	

In subsection (b)(2)(C)(ii), the words "before the cost is incurred" are added for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 47114(d)(3)(A), referred to in subsecs. (b)(2)(C) and (g), was redesignated section 47114(d)(2)(A) by Pub. L. 118–63, title VII, §712(b)(6), May 16, 2024, 138 Stat. 1256.

The date of enactment of this subsection, referred to in subsec. (j)(1), is the date of enactment of Pub. L. 119–60, which was approved Dec. 18, 2025.

AMENDMENTS

2025—Subsec. (j). Pub. L. 119–60 added subsec. (j).

2024—Subsec. (c). Pub. L. 118–63, §709(1)(A), struck out "after May 13, 1946, and" after "this section incurred" in introductory provisions.

Subsec. (c)(1). Pub. L. 118–63, §709(1)(B), inserted "or preparing for" after "formulating" and "utility relocation, work site preparation," before "and administration".

Subsec. (d)(1). Pub. L. 118–63, §709(2), substituted "section 47114 or distributed from the small airport fund under section 47116" for "section 47114(c)(1) or 47114(d)".

Subsec. (e)(2)(C). Pub. L. 118–63, §709(3), substituted "medium hub airport or large hub airport" for "commercial service airport having at least 0.25 percent of the boardings each year at all such airports".

Subsec. (e)(7). Pub. L. 118–63, §710(b)(1), substituted "under this subsection" for "under this section" in introductory provisions.

Subsec. (h). Pub. L. 118–63, §709(4), substituted "section 47114(c)(1)(D) or section 47114(d)(2)(A)" for "section 47114(d)(3)(A)".

Subsec. (i). Pub. L. 118–63, §§709(5), 710(a), added subsec. (i) and struck out former subsec. (i) which related to bird-detecting radar systems.

2022—Subsec. (b)(1). Pub. L. 117–186, §2(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e)(7). Pub. L. 117–186, §2(b), substituted "PARTNERSHIP PROGRAM AIRPORTS" for " PARTNERSHIP PROGRAM AIRPORTS" in heading.

2018—Subsec. (b)(2)(B). Pub. L. 115–254, §539(n)(1), substituted "compatibility" for "compatability".

Subsec. (b)(2)(D)(i). Pub. L. 115–254, §539(n)(2), substituted "climatic" for "climactic".

Subsec. (e)(7). Pub. L. 115–254, §184(b), added par. (7).

2012—Subsec. (b)(2)(D). Pub. L. 112–95, §138(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L) and shall not depend upon the date of execution of a grant agreement made under this subchapter;".

Subsec. (b)(7). Pub. L. 112–95, §138(b), added par. (7).

Subsec. (d). Pub. L. 112–95, §138(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to terminal development costs.

Subsec. (e)(5). Pub. L. 112–95, §111(c)(2)(A)(ii), substituted "charge" for "fee".

Subsec. (h). Pub. L. 112–95, §138(d), inserted "construction" before "costs of revenue producing" and struck out ", including fuel farms and hangars," before "are allowable".

Subsec. (i). Pub. L. 112–95, §138(e), added subsec. (i).

2005—Subsec. (d)(2)(A). Pub. L. 109–115, which directed amendment of section 47110(d)(2)(A), without specifying the title to be amended, by substituting "(A) except as provided in section 47108(e)(3), the" for "(A) the", was executed to this section, to reflect the probable intent of Congress.

2003—Subsec. (b)(1). Pub. L. 108–176, §145, inserted "and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type" before semicolon at end.

Subsec. (b)(2)(C). Pub. L. 108–176, §149(b)(1), substituted "or section 47114(d)(3)(A)" for "of this title" in introductory provisions.

Subsec. (b)(6). Pub. L. 108–176, §159(c), added par. (6).

Subsec. (g). Pub. L. 108–176, §149(b)(2), inserted "or section 47114(d)(3)(A)" after "of section 47114(c)" and substituted "of the project" for "of project".

Subsec. (h). Pub. L. 108–176, §149(b)(3), added subsec. (h).

2001—Subsec. (b)(2)(D). Pub. L. 107–71 added subpar. (D).

2000—Subsec. (e)(2)(C). Pub. L. 106–181, §127(1), added subpar. (C) and struck out former subpar. (C) which read as follows: "the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title."

Subsec. (e)(5). Pub. L. 106–181, §127(2), added par. (5) and struck out former par. (5) which read as follows: "A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee."

1996—Subsec. (b)(2)(C). Pub. L. 104–264, §144(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "if the Government's share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

"(i) during the fiscal year ending September 30, 1994;

"(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

"(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;".

Subsec. (g). Pub. L. 104–264, §144(b), added subsec. (g).

1994—Subsec. (b)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "if the cost is incurred—

"(A) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

"(B) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;".

Subsec. (e)(6). Pub. L. 103–305 added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

LETTERS OF INTENT FOR AIRPORT SECURITY IMPROVEMENT PROJECTS

Pub. L. 108–7, div. I, title III, §367, Feb. 20, 2003, 117 Stat. 423, provided that:

"(a) The Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] may issue a letter of intent to an airport committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project) at the airport. The letter shall establish a schedule under which the Under Secretary will reimburse the airport for the Government's share of the project's costs, as amounts become available, if the airport, after the Under Secretary issues the letter, carries out the project without receiving amounts under Chapter 471 of title 49 [United States Code].

"(b) The airport shall notify the Under Secretary of the airport's intent to carry out the airport security improvement project before the project begins.

"(c) A letter of intent may be issued under this section only if—

"(1) The airport security improvement project to which the letter applies involves the replacement of baggage conveyer systems or the reconfiguration of terminal baggage areas in order to install explosive detection systems; and

"(2) The Under Secretary determines that the project will improve security or will improve the efficiency of the airport without lessening security.

"(d) A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31 [United States Code], and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and

appropriations laws.

"(e) The Government's share of the project's cost shall be 75 percent for a project at an airport having at least 0.25 percent of the total number of passenger boardings each year at all airports and 90 percent for a project at any other airport.

"(f) Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this section in the same fiscal year as the letter of intent is issued.

"(g) The Under Secretary shall notify the House and Senate Committees on Appropriations, the House Transportation and Infrastructure Committee, and the Senate Commerce, Science, and Transportation Committee at least 3 days prior to the issuance of a letter of intent under this section.

"(h) There is authorized to be appropriated to carry out this section $500,000,000 in each of fiscal years 2003, 2004, 2005, 2006, and 2007."

LETTERS OF INTENT; DURATION OF AUTHORITY AND APPROVAL BY CONGRESS

Pub. L. 102–388, title III, §320, Oct. 6, 1992, 106 Stat. 1546, provided that: "The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended [see subsec. (e) of this section], to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act [substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by first section thereof as this subchapter]: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives." Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–143, title III, §320, Oct. 28, 1991, 105 Stat. 942.

Pub. L. 101–516, title III, §320, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101–164 title III, §326, Nov. 21, 1989, 103 Stat. 1096.

Pub. L. 100–457, title III, §334, Sept. 30, 1988, 102 Stat. 2153.

[1] *See References in Text note below.*

§47111. Payments under project grant agreements

(a) GENERAL AUTHORITY.—After making a project grant agreement under this subchapter and consulting with the sponsor, the Secretary of Transportation may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government's share of the project's estimated allowable costs may be made before the project is completed if the sponsor certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) RECOVERING PAYMENTS.—If the Secretary determines that the total amount of payments made under a grant agreement under this subchapter is more than the Government's share of the total allowable project costs, the Government may recover the excess amount. If the Secretary finds that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) PAYMENT DEPOSITS.—A payment under a project grant agreement under this subchapter may be made only to an official or depository designated by the sponsor and authorized by law to receive public money.

(d) WITHHOLDING PAYMENTS.—(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) notifies the sponsor and provides an opportunity for a hearing; and

(B) finds that the sponsor has violated the agreement.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

(e) ACTION ON GRANT ASSURANCES CONCERNING AIRPORT REVENUES.—If, after notice and opportunity for a hearing, the Secretary finds a violation of section 47107(b) of this title, as further defined by the Secretary under section 47107(k) of this title, or a violation of an assurance made under section 47107(b) of this title, and the Secretary has provided an opportunity for the airport sponsor to take corrective action to cure such violation, and such corrective action has not been taken within the period of time set by the Secretary, the Secretary shall withhold approval of any new grant application for funds under this chapter, or any proposed modification to an existing grant that would increase the amount of funds made available under this chapter to the airport sponsor, and withhold approval of any new application to impose a charge under section 40117 of this title. Such applications may thereafter be approved only upon a finding by the Secretary that such corrective action as the Secretary requires has been taken to address the violation and that the violation no longer exists.

(f) JUDICIAL ENFORCEMENT.—For any violation of this chapter or any grant assurance made under this chapter, the Secretary may apply to the district court of the United States for any district in which the violation occurred for enforcement. Such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining any person from further violation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1266; Pub. L. 103–305, title I, §112(b), Aug. 23, 1994, 108 Stat. 1575; Pub. L. 113–188, title XV, §1501(b)(2)(C), Nov. 26, 2014, 128 Stat. 2024; Pub. L. 118–63, title XI, §1101(u), May 16, 2024, 138 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47111(a)	49 App.:2213 (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, §514, 96 Stat. 691.
47111(b)	49 App.:2213 (3d, 4th sentences).	
47111(c)	49 App.:2213 (last sentence).	
47111(d)	49 App.:2218(b) (related to payment).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §519(b) (related to payment); added Dec. 30, 1987, Pub. L. 100–223, §112(2), 101 Stat. 1504.

In subsection (a), the words "the terms of" are omitted as surplus. The words "totaling" and "total" are substituted for "in an aggregate amount" and "aggregate" for consistency in the revised title. The words "from time to time" are omitted as surplus. The words "before the project is completed" are substituted for "in advance of accomplishment of the airport project to which the payments relate" for consistency in this chapter and to eliminate unnecessary words.

In subsection (b), the words "at any time" are omitted as surplus. The words "project for which an advance payment was made has not been completed within a reasonable time" are substituted for "any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed" for clarity, for consistency in this chapter, and to eliminate unnecessary words.

In subsection (d)(1) and (2), the word "sponsor" is substituted for "recipient" and "grant recipient" for clarity.

In subsection (d)(2)(A), the word "mutual" is omitted as surplus.

In subsection (d)(3), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title and with other titles of the United States Code. The words "the date on which" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (e). Pub. L. 118–63 substituted "charge" for "fee".

2014—Subsec. (e). Pub. L. 113–188 substituted "section 47107(k)" for "section 47107(l)".

1994—Subsecs. (e), (f). Pub. L. 103–305 added subsecs. (e) and (f).

§47112. Carrying out airport development projects

(a) CONSTRUCTION WORK.—The Secretary of Transportation may inspect and approve construction work for an airport development project carried out under a grant agreement under this subchapter. The construction work must be carried out in compliance with regulations the Secretary prescribes. The regulations shall require the sponsor to make necessary cost and progress reports on the project. The regulations may amend or modify a contract related to the project only if the contract was made with actual notice of the regulations.

(b) PREVAILING WAGES.—A contract for more than $2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under sections 3141–3144, 3146, and 3147 of title 40. The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c) VETERANS' PREFERENCE.—(1) In this subsection—

(A) "disabled veteran" has the same meaning given that term in section 2108 of title 5.

(B) "Vietnam-era veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was discharged or released from active duty in the armed forces under honorable conditions.

(C) "Afghanistan-Iraq war veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces in support of Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor contingency operation to such operations for more than 180 consecutive days, any part of which occurred after September 11, 2001, and before the date prescribed by presidential proclamation or by law as the last day of Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor contingency operation to such operations (whichever is later), and who was discharged or released from active duty in the armed forces under honorable conditions.

(D) "Persian Gulf veteran" means an individual who served on active duty in the armed forces in the Southwest Asia theater of operations during the Persian Gulf War for more than 180 consecutive days, any part of which occurred after August 2, 1990, and before the date prescribed by presidential proclamation or by law, and who was discharged or released from active duty in the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans when they are available and qualified for the employment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1267; Pub. L. 107–217, §3(n)(8), Aug. 21, 2002, 116 Stat. 1303; Pub. L. 112–95, title I, §139, Feb. 14, 2012, 126 Stat. 26; Pub. L. 115–254, div. B, title I, §135, Oct. 5, 2018, 132 Stat. 3209.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47112(a)	49 App.:2214(a).	Sept. 3, 1982, Pub. L. 97–248, §515, 96 Stat. 691.
47112(b)	49 App.:2214(b).	
47112(c)	49 App.:2214(c).	

In this section, the words "for an airport development project carried out under a grant agreement under this subchapter" are substituted for "on any project for airport development contained in an approved project grant application submitted in accordance with this chapter" in 49 App.:2214(a), "on projects for airport development approved under this chapter" in 49 App.:2214(b), and "under project grants for airport development approved under this chapter" in 49 App.:2214(c) for clarity and consistency in this section. See H.R. Rept. No. 97–760, 97th Cong., 2d Sess., p. 715 (1982).

In subsection (a), the words "or sponsors" are omitted because of 1:1.

In subsection (b), the words "must require contractors to pay labor minimum wage rates" are substituted for "shall contain provisions establishing minimum rates of wages . . . which contractors shall pay to skilled and unskilled labor" to eliminate unnecessary words. The word "proposals" is omitted as included in "bids".

Subsection (c)(1)(A) is substituted for "a disabled veteran is an individual described in section 2108(2) of title 5" for consistency in the revised title and with other titles of the Code.

In subsection (c)(1)(B), the words "after August 4, 1964, and before May 8, 1975" are substituted for "during the period beginning August 5, 1964, and ending May 7, 1975" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (c)(2), the words "must require that" are substituted for "shall contain such provisions as are necessary to insure that", and the words "when they are available and qualified for the employment" are substituted for "However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates", to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (c)(1)(C). Pub. L. 115–254 substituted "Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor contingency operation to such operations for more" for "or Operation New Dawn for more" and "Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor contingency operation to such operations (whichever is later)" for "or Operation New Dawn (whichever is later)".

2012—Subsec. (c)(1)(B). Pub. L. 112–95, §139(1)(A), substituted "discharged or released from active duty in" for "separated from".

Subsec. (c)(1)(C), (D). Pub. L. 112–95, §139(1)(B), added subpars. (C) and (D).

Subsec. (c)(2). Pub. L. 112–95, §139(2), substituted "Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans" for "Vietnam-era veterans and disabled veterans".

2002—Subsec. (b). Pub. L. 107–217 substituted "sections 3141–3144, 3146, and 3147 of title 40" for "the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

PRIORITY REVIEW OF CONSTRUCTION PROJECTS IN COLD WEATHER STATES

Pub. L. 115–254, div. B, title I, §156(a), Oct. 5, 2018, 132 Stat. 3217, as amended by Pub. L. 118–63, title II, §218(n)(1), May 16, 2024, 138 Stat. 1057, provided that: "The Administrator of the Federal Aviation

Administration, to the extent practicable, shall schedule the Administrator's review of construction projects so that projects to be carried out in the States in which the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible."

Pub. L. 112–95, title I, §154, Feb. 14, 2012, 126 Stat. 35, which provided that the Administrator of the Federal Aviation Administration review as early as possible construction projects in States in which the weather prevents major projects from being carried out before May 1, was repealed by Pub. L. 115–254, div. B, title I, §156(b), formerly §156(c), Oct. 5, 2018, 132 Stat. 3218; renumbered §156(b), Pub. L. 118–63, title II, §218(n)(2), May 16, 2024, 138 Stat. 1057.

§47113. Minority and disadvantaged business participation

(a) DEFINITIONS.—In this section—

(1) "small business concern"—

(A) has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) in the case of a concern in the construction industry, a concern shall be considered a small business concern if the concern meets the size standard for the North American Industry Classification System Code 237310, as adjusted by the Small Business Administration;

(2) "socially and economically disadvantaged individual" has the same meaning given that term in section 8(d) of the Act (15 U.S.C. 637(d)) and relevant subcontracting regulations prescribed under section 8(d), except that women are presumed to be socially and economically disadvantaged; and

(3) the term "qualified HUBZone small business concern" has the meaning given that term in section 31(b) of the Small Business Act.

(b) GENERAL REQUIREMENT.—Except to the extent the Secretary decides otherwise, at least 10 percent of amounts available in a fiscal year under section 48103 of this title shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals or qualified HUBZone small business concerns.

(c) UNIFORM CRITERIA.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a small business concern qualifies under this section. The criteria shall include on-site visits, personal interviews, licenses, analyses of stock ownership and bonding capacity, listings of equipment and work completed, resumes of principal owners, financial capacity, and type of work preferred.

(d) SURVEYS AND LISTS.—Each State or airport sponsor annually shall survey and compile a list of small business concerns referred to in subsection (b) of this section and the location of each concern in the State.

(e) MANDATORY TRAINING PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish a mandatory training program for persons described in paragraph (3) to provide streamlined training on certifying whether a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section and section 47107(e).

(2) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

(3) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport sponsor—

(A) who is required to provide a written assurance under this section or section 47107(e) that the airport owner or operator will meet the percentage goal of subsection (b) of this section or section 47107(e)(1), as the case may be; or

(B) who is responsible for determining whether or not a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged

individuals under this section or section 47107(e).

(f) SUPPORTIVE SERVICES.—

(1) IN GENERAL.—The Secretary, in coordination with the Administrator of the Federal Aviation Administration, may, at the request of an airport sponsor, provide assistance under a grant issued under this subchapter to develop, conduct, and administer training programs and assistance programs in connection with any airport improvement project subject to part 26 of title 49, Code of Federal Regulations, for small business concerns referred to in subsection (b) to achieve proficiency to compete, on an equal basis for contracts and subcontracts related to such projects.

(2) ELIGIBLE ENTITIES.—An entity eligible to receive assistance under this section is—

(A) a State;

(B) a political subdivision of a State or local government;

(C) a Tribal government;

(D) an airport sponsor;

(E) a metropolitan planning organization;

(F) a group of entities described in subparagraphs (A) through (E); or

(G) any other organization considered appropriate by the Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, §6(65), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 105–135, title VI, §604(h)(2), Dec. 2, 1997, 111 Stat. 2635; Pub. L. 112–95, title I, §140(b), Feb. 14, 2012, 126 Stat. 27; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(G)(ii), Dec. 12, 2017, 131 Stat. 1796; Pub. L. 115–254, div. B, title I, §150, title V, §539(o), Oct. 5, 2018, 132 Stat. 3215, 3371; Pub. L. 118–63, title VII, §730(b), May 16, 2024, 138 Stat. 1272.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47113(a)	49 App.:2204(d)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §505(d); added Dec. 30, 1987, Pub. L. 100–223, §105(f), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, §117(c), 106 Stat. 4883.
47113(b)	49 App.:2204(d)(1).	
47113(c)	49 App.:2204(d)(4).	
47113(d)	49 App.:2204(d)(3).	

In subsection (a)(1)(B), the words "or individuals" are omitted because of 1:1.

In subsection (a)(2), the reference is to section 8(c) of the Act because 15:637(d) was redesignated as 15:637(c) by section 3 of the Women's Business Development Act of 1991 (Public Law 102–191, 105 Stat. 1591).

In subsection (b), the words "beginning after September 30, 1987" are omitted as obsolete.

PUB. L. 103–429

This amends 49:47113(a)(2) to correct erroneous cross-references.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 31(b) of the Small Business Act, referred to in subsec. (a)(3), is classified to section 657a(b) of Title 15, Commerce and Trade.

The date of enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

AMENDMENTS

2024—Subsec. (f). Pub. L. 118–63 added subsec. (f).

2018—Subsec. (a)(1). Pub. L. 115–254, §150, amended par. (1) generally. Prior to amendment, par. (1) read as follows: " 'small business concern'—

"(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

"(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than $16,015,000, as adjusted by the Secretary of Transportation for inflation;".

Subsec. (a)(3). Pub. L. 115–254, §539(o), substituted "(15 U.S.C. 632(p))" for "(15 U.S.C. 632(o))".

2017—Subsec. (a)(3). Pub. L. 115–91 substituted "section 31(b) of the Small Business Act" for "section 3(p) of the Small Business Act (15 U.S.C. 632(o))".

2012—Subsec. (e). Pub. L. 112–95 added subsec. (e).

1997—Subsec. (a). Pub. L. 105–135, §604(h)(2)(A), substituted semicolon for period at end of par. (1), substituted "; and" for period at end of par. (2), and added par. (3).

Subsec. (b). Pub. L. 105–135, §604(h)(2)(B), inserted "or qualified HUBZone small business concerns" before period at end.

1994—Subsec. (a)(2). Pub. L. 103–429 substituted "8(d)" for "8(c)" in two places and "637(d))" for "637(c))".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115–91, set out as a note under section 657a of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Pub. L. 115–254, div. B, title I, §157, Oct. 5, 2018, 132 Stat. 3218, as amended by Pub. L. 118–63, title VII, §751, May 16, 2024, 138 Stat. 1284, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) While significant progress has occurred due to the establishment of the airport disadvantaged business enterprise program (sections 47107(e) and 47113 of title 49, United States Code), discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in airport-related markets across the Nation. These continuing barriers merit the continuation of the airport disadvantaged business enterprise program.

"(2) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits. This testimony and documentation shows that race- and gender-neutral efforts alone are insufficient to address the problem.

"(3) This testimony and documentation demonstrates that discrimination across the Nation poses a barrier to full and fair participation in airport-related businesses of women business owners and minority business owners in the racial groups detailed in parts 23 and 26 of title 49, Code of Federal Regulations, and has impacted firm development and many aspects of airport-related business in the public and private markets.

"(4) This testimony and documentation provides a strong basis that there is a compelling need for the continuation of the airport disadvantaged business enterprise ["DBE"] program and the airport concessions disadvantaged business enterprise ["ACDBE"] program to address race and gender discrimination in airport-related business.

"(b) PROMPT PAYMENTS.—

"(1) REPORTING OF COMPLAINTS.—Not later than 120 days after the date of enactment of this

Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall ensure that each airport that participates in the Program tracks, and reports to the Administrator, the number of covered complaints made in relation to activities at that airport.

"(2) IMPROVING COMPLIANCE.—

"(A) IN GENERAL.—The Administrator shall take actions to assess and improve compliance with prompt payment requirements under part 26 of title 49, Code of Federal Regulations.

"(B) CONTENTS OF ASSESSMENT.—In carrying out subparagraph (A), the Administrator shall assess—

"(i) whether requirements relating to the inclusion of prompt payment language in contracts are being satisfied;

"(ii) whether and how airports are enforcing prompt payment requirements;

"(iii) the processes by which covered complaints are received and resolved by airports;

"(iv) whether improvements need to be made to—

"(I) better track covered complaints received by airports; and

"(II) assist the resolution of covered complaints in a timely manner;

"(v) whether changes to prime contractor specifications need to be made to ensure prompt payments to subcontractors; and,

"(vi) whether changes to prime contractor specifications need to be made to ensure prompt payment of retainage to subcontractors.

"(C) REPORTING.—The Administrator shall make available to the public on an appropriate website operated by the Administrator a report describing the results of the assessment completed under this paragraph, including a plan to respond to such results.

"(D) PUBLISHING DATA.—The Secretary of Transportation shall report on a publicly accessible website the uniform report of DBE awards/commitments and payments specified in part 26 of title 49, Code of Federal Regulations, and the uniform report of ACDBE Participation for non-car rental and car rental concessions, for each airport sponsor beginning with fiscal year 2025.

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) COVERED COMPLAINT.—The term 'covered complaint' means a complaint relating to an alleged failure to satisfy a prompt payment requirement under part 26 of title 49, Code of Federal Regulations.

"(B) PROGRAM.—The term 'Program' means the airport disadvantaged business enterprise program referenced in subsection (a)(1) [probably means section 140(a)(1)] of the FAA Modernization and Reform Act of 2012 [Pub. L. 112–95] (49 U.S.C. 47113 note)."

Pub. L. 112–95, title I, §140(a), Feb. 14, 2012, 126 Stat. 27, provided that: "Congress finds the following:

"(1) While significant progress has occurred due to the establishment of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113), discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in airport-related markets across the Nation. These continuing barriers merit the continuation of the airport disadvantaged business enterprise program.

"(2) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits. This testimony and documentation shows that race- and gender-neutral efforts alone are insufficient to address the problem.

"(3) This testimony and documentation demonstrates that discrimination across the Nation poses a barrier to full and fair participation in airport-related businesses of women business owners and minority business owners in the racial groups detailed in parts 23 and 26 of title 49, Code of Federal Regulations, and has impacted firm development and many aspects of airport-related business in the public and private markets.

"(4) This testimony and documentation provides a strong basis that there is a compelling need for the continuation of the airport disadvantaged business enterprise program and the airport concessions disadvantaged business enterprise program to address race and gender discrimination in airport-related business."

§47114. Apportionments

(a) DEFINITION.—In this section, "amount subject to apportionment" means the amount newly

made available under section 48103 of this title for a fiscal year.

(b) APPORTIONMENT DATE.—On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AND COMMERCIAL SERVICE AIRPORTS.—

(A) PRIMARY AIRPORT APPORTIONMENT.—The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) $15.60 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $10.40 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $5.20 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;

(iv) $1.30 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and

(v) $1.00 for each additional passenger boarding at the airport during the prior calendar year.

(B) MINIMUM AND MAXIMUM APPORTIONMENTS.—Not less than $1,300,000 nor more than $22,000,000 may be apportioned under subparagraph (A) to an airport sponsor for a primary airport for each fiscal year.

(C) NEW AIRPORT.—Notwithstanding subparagraph (A), the Secretary shall apportion in the first fiscal year following the official opening of a new airport with scheduled passenger air transportation an amount equal to $1,300,000 to the sponsor of such airport.

(D) NONPRIMARY COMMERCIAL SERVICE AIRPORT APPORTIONMENT.—

(i) IN GENERAL.—The Secretary shall apportion to each commercial service airport that is not a primary airport an amount equal to—

(I) $60 for each of the first 2,500 passenger boardings at the airport during the prior calendar year; and

(II) $153.33 for each of the next 7,499 passenger boardings at the airport during the prior calendar year.

(ii) APPLICABILITY.—Paragraphs (4) and (5) of subsection (d) shall apply to funds apportioned under this subparagraph.

(E) PUBLIC AIRPORTS WITH MILITARY USE.—Notwithstanding any other provision of law, a public airport shall be considered a primary airport in each of fiscal years 2025 through 2028 for purposes of this chapter if such airport was—

(i) designated as a primary airport in fiscal year 2017; and

(ii) in use by an air reserve station in the calendar year used to calculate apportionments to airport sponsors in a fiscal year.

(F) SPECIAL RULE FOR FISCAL YEAR 2024.—Notwithstanding any other provision of this paragraph or the absence of scheduled passenger service at an airport, the Secretary shall apportion in fiscal year 2024 to the sponsor of an airport an amount based on the number of passenger boardings at the airport during whichever of the following years that would result in the highest apportioned amount under this paragraph:

(i) Calendar year 2018.

(ii) Calendar year 2019.

(iii) The prior full calendar year prior to fiscal year 2024.

(2) CARGO AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 4 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 25,000,000 pounds.

(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

(C) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

(D) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.

(d) AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) AREA.—The term "area" includes land and water.

(B) POPULATION.—The term "population" means the population stated in the latest decennial census of the United States.

(2) APPORTIONMENT.—In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, rather than making an apportionment under paragraph (2), the Secretary shall apportion 25 percent of the amount subject to apportionment for each fiscal year as follows:

(A) To each airport, excluding commercial service airports but including reliever airports, in States the lesser of—

(i) $150,000; or

(ii) 1/5 of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

(B) Any remaining amount to States as follows:

(i) 0.62 percent of the remaining amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

(ii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding commercial service airports but including reliever airports, in States not named in clause (i) in the proportion that the population of each of those States bears to the total population of all of those States.

(iii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding commercial service airports but including reliever airports, in States not named in clause (i) in the proportion that the area of each of those States bears to the total area of all of those States.

(C) An airport that has previously been listed as unclassified under the national plan of integrated airport systems that has reestablished the classified status of such airport as of the date of apportionment shall be eligible to accrue apportionment funds pursuant to subparagraph (A) so long as such airport retains such classified status.

(3) AIRPORTS IN NONCONTIGUOUS STATES AND TERRITORIES.—

(A) ALASKA, PUERTO RICO, AND HAWAII.—An amount apportioned under this subsection to Alaska, Puerto Rico, or Hawaii for airports in such State may be made available by the Secretary for any public airport in those respective jurisdictions.

(B) OTHER TERRITORIES.—An amount apportioned under paragraph (2)(B)(i) may be made available by the Secretary for any public-use airport in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands if the Secretary determines that there are insufficient qualified grant applications for projects at airports that are otherwise eligible for funding under that paragraph. The Secretary shall prioritize the use of such amounts in the territory the amount was originally apportioned in.

(4) USE OF STATE HIGHWAY SPECIFICATIONS.—The Secretary shall use the highway specifications of a State for airfield pavement construction and improvement using funds made available under this subsection or subsection (c)(1)(D) at nonprimary airports serving aircraft that do not exceed 60,000 pounds gross weight if—

(A) such State requests the use of such specifications; and

(B) the Secretary determines that—

(i) safety will not be negatively affected; and

(ii) the life of the pavement, with necessary maintenance and upkeep, will not be shorter than it would be if constructed using Administration standards.

(5) INTEGRATED AIRPORT SYSTEM PLANNING.—Notwithstanding any other provision of this section, funds made available under this subsection or subsection (c)(1)(D) may be used for integrated airport system planning that encompasses one or more primary airports.

(6) ELIGIBILITY TO RECEIVE PRIMARY AIRPORT MINIMUM APPORTIONMENT AMOUNT.—Notwithstanding any other provision of this subsection, the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the minimum apportionment available under subsection (c)(1)(B) if the Secretary finds that the airport—

(A) received scheduled or unscheduled air service from a large certificated air carrier (as defined in part 241 of title 14, Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) in the calendar year used to calculate the apportionment; and

(B) had more than 10,000 passenger boardings in the calendar year used to calculate the apportionment.

(e) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—

(1) IN GENERAL.—Notwithstanding subsections (c) and (d) of this section, the Secretary may apportion amounts for airports in Alaska in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) AUTHORITY FOR DISCRETIONARY GRANTS.—This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

(3) AIRPORTS ELIGIBLE FOR FUNDS.—An amount apportioned under this subsection may be used for any public airport in Alaska.

(4) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, the amount that may be apportioned for airports in Alaska under paragraph (1) shall be increased by doubling the amount that would otherwise be

apportioned.

(f) REDUCING APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), an amount that would be apportioned under this section (except subsection (c)(2)) in a fiscal year to the sponsor of a medium or large hub airport for which a charge is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to—

(A) in the case of a charge of $3.00 or less—

(i) except as provided in clause (ii), 40 percent of the projected revenues from the charge in the fiscal year but not by more than 40 percent of the amount that otherwise would be apportioned under this section; or

(ii) with respect to an airport in Hawaii, 40 percent of the projected revenues from the charge in the fiscal year but not by more than 40 percent of the excess of—

(I) the amount that otherwise would be apportioned under this section; over

(II) the amount equal to the amount specified in subclause (I) multiplied by the percentage of the total passenger boardings at the applicable airport that are comprised of interisland passengers; and

(B) in the case of a charge of more than $3.00—

(i) except as provided in clause (ii), 60 percent of the projected revenues from the charge in the fiscal year but not by more than 60 percent of the amount that otherwise would be apportioned under this section; or

(ii) with respect to an airport in Hawaii, 60 percent of the projected revenues from the charge in the fiscal year but not by more than 60 percent of the excess of—

(I) the amount that otherwise would be apportioned under this section; over

(II) the amount equal to the amount specified in subclause (I) multiplied by the percentage of the total passenger boardings at the applicable airport that are comprised of interisland passengers.

(2) EFFECTIVE DATE OF REDUCTION.—

(A) NEW CHARGE COLLECTION.—A reduction in an apportionment under paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the charge imposed under section 40117 has begun.

(B) NEW CATEGORIZATION.—A reduction in an apportionment under paragraph (1) shall only be applied to an airport if such airport has been designated as a medium or large hub airport for 3 consecutive years.

(g) SUPPLEMENTAL APPORTIONMENT FOR PUERTO RICO AND UNITED STATES TERRITORIES.—The Secretary shall apportion amounts for airports in Puerto Rico and all other United States territories in accordance with this section. This subsection does not prohibit the Secretary from making project grants for airports in Puerto Rico or other United States territories from the discretionary fund under section 47115.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, §6(66), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104–264, title I, §121, Oct. 9, 1996, 110 Stat. 3217; Pub. L. 106–181, title I, §§104(a)–(d), 105(c), Apr. 5, 2000, 114 Stat. 67–71; Pub. L. 108–176, title I, §§146, 147, Dec. 12, 2003, 117 Stat. 2504; Pub. L. 109–115, div. A, title I, §109, Nov. 30, 2005, 119 Stat. 2402; Pub. L. 112–95, title I, §§111(c)(2)(A)(iii), 141–143, Feb. 14, 2012, 126 Stat. 18, 28, 29; Pub. L. 114–190, title II, §2301, July 15, 2016, 130 Stat. 638; Pub. L. 115–63, title I, §102(b), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–254, div. B, title I, §§136, 148(b), 151, 164, Oct. 5, 2018, 132 Stat. 3210, 3214, 3215, 3225; Pub. L. 116–260, div. L, title IV, §422, Dec. 27, 2020, 134 Stat. 1909; Pub. L. 118–15, div. B, title II, §2201(e), Sept. 30, 2023, 137 Stat. 82; Pub. L. 118–34, title I, §101(e), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §101(e), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title VII, §§712(a), (b), 713(a), May 16, 2024, 138 Stat. 1254, 1255, 1257.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(a), (b)	49 App.:2206(a) (words before cl. (1)).	Sept. 3, 1982, Pub. L. 97–248, §507(a)(1), (3), (b)(2), (4)–(5)(C), (E), (6), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, §106(a), 101 Stat. 1494, 1496.
47114(c) (1)(A)	49 App.:2206(a)(1).	
	49 App.:2206(e)(1).	Sept. 3, 1982, Pub. L. 97–248, §507(e), (f), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, §106(a), 101 Stat. 1497; Nov. 5, 1990, Pub. L. 101–508, §9112(b), 104 Stat. 1388–362.
47114(c) (1)(B)	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, §507(a)(2), (b)(1), (3), (5)(F), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, §106(a), 101 Stat. 1494, 1496; Oct. 31, 1992, Pub. L. 102–581, §106, 106 Stat. 4878.
47114(c)(2)	49 App.:2206(a)(2), (b)(4), (e)(2).	
47114(c)(3)	49 App.:2206(b)(2), (3).	
47114(d)(1)	49 App.:2206(f).	
47114(d)(2)	49 App.:2206(a)(3).	
47114(d)(3)	49 App.:2206(b)(6).	
47114(e)	49 App.:2206(b) (5)(A)–(C), (E), (F).	
47114(f)	49 App.:2206(b)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §507(b)(7); added Nov. 5, 1990, Pub. L. 101–508, §9111, 104 Stat. 1388–362.

In subsection (a), the word "newly" is substituted for "and not previously apportioned" for clarity. The words "made available" are substituted for "authorized to be obligated" for clarity and consistency.

In subsection (c)(1)(A), the words "during the prior calendar year" are substituted for 49 App.:2206(b) for clarity.

In subsection (c)(2)(A), the word "cargo" is substituted for "property (including mail)" for consistency in the revised title.

In subsection (c)(3), the words "The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for a fiscal year" are substituted for 49 App.:2206(b)(2)(A) and (3)(A) for clarity and to eliminate unnecessary words. The words

"If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection" are substituted for "In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)" for clarity.

In subsection (d)(2)(A), the words "the Commonwealth of" are omitted as surplus.

In subsection (d)(2)(B) and (C), the words "except as provided in paragraph (3) of this subsection" are added, and the words "49.5 percent of the apportioned amount" are substituted for "1/2 of the remaining 99 percent", for clarity.

In subsection (d)(3), before clause (A), the words "Notwithstanding subsection (a)(3)(B) of this section" are omitted as surplus.

In subsection (e)(1), before clause (A), the words "Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section" are substituted for "Notwithstanding any other provision of subsection (a) of this section" for clarity.

In subsection (e)(2), the words "be construed as" are omitted as surplus.

In subsection (f), the words "which, but for this paragraph, would be" the first time they appear are omitted as surplus. The words "but not by more than" are substituted for "The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be" to eliminate unnecessary words.

PUB. L. 103–429

Revision notes for 49:47114(c)(3)(A) are included to reflect changes made for clarity and to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1269).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(c) (1)(B)	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(1), as amended May 26, 1994, Pub. L. 103–260, §103, 108 Stat. 698.
47114(c) (3)(B)	49 App.:2206(b)(3).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(3), as amended May 26, 1994, Pub. L. 103–260, §102, 108 Stat. 698.

In subsection (c)(3)(A) and (B), the words "If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection" are substituted for "In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)" for clarity.

In subsection (c)(3)(A), the words "Except as provided in subparagraph (B) of this paragraph" are added for clarity. The words "the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year" are substituted for 49 App.:2206(b)(2)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

In subsection (c)(3)(B), the words "the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year" are substituted for 49 App.:2206(b)(3)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 15(a) of the Airport and Airway Development Act of 1970, referred to in subsec. (e)(1), is section 15(a) of Pub. L. 91–258, which was classified to section 1715(a) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

2024—Subsec. (c)(1). Pub. L. 118–63, §712(a)(1), amended par. (1) generally. Prior to amendment, par. (1) related to amounts apportioned to sponsors of primary airports, new airports, and seasonal airports, minimum

and maximum apportionments for primary airport, special rule for total amount of $3,200,000,000 or more, use of previous fiscal year's apportionment, special rules for fiscal years 2018 through 2020 and 2022 and 2023, limitations and waivers, and minimum apportionment for commercial service airports with more than 8,000 passenger boardings in a calendar year.

Subsec. (c)(1)(J). Pub. L. 118–41 substituted "May 10, 2024," for "March 8, 2024,".

Subsec. (c)(2)(A). Pub. L. 118–63, §712(a)(2)(A), substituted "4 percent" for "3.5 percent" and "25,000,000 pounds" for "100,000,000 pounds".

Subsec. (c)(2)(C) to (E). Pub. L. 118–63, §712(a)(2)(B), (C), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C). Prior to amendment, text of subpar. (C) read as follows: "In any fiscal year in which the total amount made available under section 48103 is less than $3,200,000,000, not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport."

Subsec. (d)(2). Pub. L. 118–63, §712(b)(6), redesignated par. (3) as (2). Former par. (2) struck out.

Pub. L. 118–63, §712(b)(5), struck out par. (2). Text read as follows: "Except as provided in paragraph (3), the Secretary shall apportion to the States 18.5 percent of the amount subject to apportionment for each fiscal year as follows:

"(A) 0.66 percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

"(B) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A) in the proportion that the population of each of those States bears to the total population of all of those States.

"(C) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A) in the proportion that the area of each of those States bears to the total area of all of those States."

Subsec. (d)(3). Pub. L. 118–63, §712(b)(6), redesignated par. (3) as (2).

Pub. L. 118–63, §712(b)(1)(A)–(C), substituted "Apportionment" for "Special rule" in heading, "25 percent" for "20 percent" in introductory provisions, and "excluding commercial service airports but including reliever airports" for "excluding primary airports but including reliever and nonprimary commercial service airports" wherever appearing.

Subsec. (d)(3)(C), (D). Pub. L. 118–63, §712(b)(1)(D), added subpar. (C) and struck out former subpars. (C) and (D) which read as follows:

"(C) During fiscal years 2019 and 2020—

"(i) an airport that accrued apportionment funds under subparagraph (A) in fiscal year 2013 that is listed as having an unclassified status under the most recent national plan of integrated airport systems shall continue to accrue apportionment funds under subparagraph (A) at the same amount the airport accrued apportionment funds in fiscal year 2013, subject to the conditions of this paragraph;

"(ii) notwithstanding the period of availability as described in section 47117(b), an amount apportioned to an airport under clause (i) shall be available to the airport only during the fiscal year in which the amount is apportioned; and

"(iii) notwithstanding the waiver permitted under section 47117(c)(2), an airport receiving apportionment funds under clause (i) may not waive its claim to any part of the apportioned funds in order to make the funds available for a grant for another public-use airport.

"(D) An airport that re-establishes its classified status shall be eligible to accrue apportionment funds pursuant to subparagraph (A) so long as such airport retains its classified status."

Subsec. (d)(4). Pub. L. 118–63, §712(b)(6), redesignated par. (4) as (3).

Pub. L. 118–63, §712(b)(2), substituted "Airports in noncontiguous states and territories" for "Airports in alaska, puerto rico, and hawaii" in heading; designated existing provisions as subpar. (A), inserted heading, and substituted "An amount apportioned under this subsection" for "An amount apportioned under paragraph (2) or (3)"; and added subpar. (B). Text quoted in directory language of amendment of the heading was editorially conformed to the style of the heading.

Subsec. (d)(5). Pub. L. 118–63, §712(b)(6), redesignated par. (5) as (4).

Pub. L. 118–63, §712(b)(3), inserted "or subsection (c)(1)(D)" after "under this subsection" in introductory provisions.

Subsec. (d)(6). Pub. L. 118–63, §712(b)(6), redesignated par. (6) as (5).

Pub. L. 118–63, §712(b)(4), substituted "provision of this section" for "provision of this subsection" and inserted "or subsection (c)(1)(D)" after "under this subsection".

Subsec. (d)(7). Pub. L. 118–63, §712(b)(6), redesignated par. (7) as (6).

Subsec. (f)(1). Pub. L. 118–63, §713(a)(1)(A), substituted "sponsor of a medium or large hub airport" for "sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and" in introductory provisions.

Subsec. (f)(1)(A). Pub. L. 118–63, §713(a)(1)(B), substituted "40 percent" for "50 percent" wherever appearing.

Subsec. (f)(1)(B). Pub. L. 118–63, §713(a)(1)(C), substituted "60 percent" for "75 percent" wherever appearing.

Subsec. (f)(2), (3). Pub. L. 118–63, §713(a)(2), added par. (2) and struck out former pars. (2) and (3) which read as follows:

"(2) EFFECTIVE DATE OF REDUCTION.—A reduction in an apportionment required by paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the charge imposed under section 40117 is begun.

"(3) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—

"(A) IN GENERAL.—Beginning with the fiscal year following the first calendar year in which the sponsor of an airport has more than .25 percent of the total number of boardings in the United States, the sum of the amount that would be apportioned under this section after application of paragraph (1) in a fiscal year to such sponsor and the projected revenues to be derived from the charge in such fiscal year shall not be less than the sum of the apportionment to such airport for the preceding fiscal year and the revenues derived from such charge in the preceding fiscal year.

"(B) EFFECTIVE PERIOD.—Subparagraph (A) shall be in effect for fiscal year 2004."

2023—Subsec. (c)(1)(J). Pub. L. 118–34 substituted "March 8, 2024," for "December 31, 2023,".

Pub. L. 118–15 substituted "2023, and for the period beginning on October 1, 2023, and ending on December 31, 2023, to" for "2023 to".

2020—Subsec. (c)(1)(J). Pub. L. 116–260 added subpar. (J).

2018—Subsec. (c)(1)(F) to (H). Pub. L. 115–254, §151, added subpars. (F) to (H) and struck out former subpar. (F) which related to apportionment of funds for fiscal years 2017 and 2018 to sponsors of primary airports.

Subsec. (c)(1)(I). Pub. L. 115–254, §164, added subpar. (I).

Subsec. (d)(3)(C), (D). Pub. L. 115–254, §148(b), added subpars. (C) and (D).

Subsec. (d)(5). Pub. L. 115–254, §136, amended par. (5) generally. Prior to amendment, text read as follows:

"(A) IN GENERAL.—The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight if the Secretary determines that—

"(i) safety will not be negatively affected; and

"(ii) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

"(B) LIMITATION.—An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed unless the Secretary determines that the rehabilitation or reconstruction is required for safety reasons."

2017—Subsec. (c)(1)(F). Pub. L. 115–63 struck out "for fiscal year 2017" after "rule" in heading and substituted "for each of fiscal years 2017 and 2018 an amount" for "for fiscal year 2017 an amount" in introductory provisions.

2016—Subsec. (c)(1)(F). Pub. L. 114–190 amended subpar. (F) generally. Prior to amendment, text read as follows: "Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar year 2009 or 2010, or in both years, the number of passenger boardings decreased to a level below 10,000 boardings per year at such airport, the Secretary may apportion in each of fiscal years 2012 and 2013 to the sponsor of such airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009."

2012—Subsec. (c)(1)(F), (G). Pub. L. 112–95, §141(b), added subpar. (F) and struck out former subpars. (F) and (G) which related, respectively, to special rules for fiscal years 2004 and 2005 and to special rule for fiscal year 2006.

Subsec. (d)(7). Pub. L. 112–95, §141(a), added par. (7).

Subsec. (f). Pub. L. 112–95, §111(c)(2)(A)(iii), substituted "charge" for "fee" wherever appearing.

Subsec. (f)(1)(A), (B). Pub. L. 112–95, §143, added subpars. (A) and (B) and struck out former subpars. (A)

and (B) which read as follows:

"(A) in the case of a charge of $3.00 or less, 50 percent of the projected revenues from the charge in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

"(B) in the case of a charge of more than $3.00, 75 percent of the projected revenues from the charge in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section."

Subsec. (g). Pub. L. 112–95, §142, added subsec. (g).

2005—Subsec. (c)(1)(G). Pub. L. 109–115 added subpar. (G).

2003—Subsec. (c)(1)(F). Pub. L. 108–176, §146(a), added subpar. (F).

Subsec. (c)(2). Pub. L. 108–176, §147(1), struck out "ONLY" after "CARGO" in heading.

Subsec. (c)(2)(A). Pub. L. 108–176, §147(2), substituted "3.5 percent" for "3 percent".

Subsec. (f)(3). Pub. L. 108–176, §146(b)(1), substituted "AIRPORTS" for "AIRORTS" in heading.

Subsec. (f)(3)(B). Pub. L. 108–176, §146(b)(2), substituted "fiscal year 2004" for "fiscal years 2000 through 2003".

2000—Subsec. (c)(1). Pub. L. 106–181, §104(a)(2)(A), (C), inserted headings for par. (1) and subpar. (A) and realigned margins.

Subsec. (c)(1)(B). Pub. L. 106–181, §104(a)(1)(A), (2)(B), (C), inserted heading, substituted "$650,000" for "$500,000", and realigned margins.

Subsec. (c)(1)(C) to (E). Pub. L. 106–181, §104(a)(1)(B), added subpars. (C) to (E).

Subsec. (c)(2)(A). Pub. L. 106–181, §104(b)(1), substituted "3 percent" for "2.5 percent".

Subsec. (c)(2)(C). Pub. L. 106–181, §104(b)(2), substituted "In any fiscal year in which the total amount made available under section 48103 is less than $3,200,000,000, not more than" for "Not more than".

Subsec. (d). Pub. L. 106–181, §104(c), amended heading and text of subsec. (d) generally, revising and restating as pars. (1) to (6) provisions formerly contained in pars. (1) to (3).

Subsec. (e). Pub. L. 106–181, §104(d)(1), substituted "Supplemental" for "Alternative" in heading.

Subsec. (e)(1). Pub. L. 106–181, §104(d)(2), (5), inserted heading, realigned margins, and in introductory provisions substituted "Notwithstanding" for "Instead of apportioning amounts for airports in Alaska under" and "airports in Alaska" for "those airports".

Subsec. (e)(2). Pub. L. 106–181, §104(d)(3), (5), inserted heading and realigned margins.

Subsec. (e)(3), (4). Pub. L. 106–181, §104(d)(4), added pars. (3) and (4) and struck out former par. (3) which read as follows: "Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency."

Subsec. (f). Pub. L. 106–181, §105(c), designated existing provisions as par. (1), inserted heading, realigned margins, substituted "Subject to paragraph (3), an amount" for "An amount" and "an amount equal to—" and subpars. (A) and (B) for "an amount equal to 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section.", and added pars. (2) and (3).

1996—Subsec. (c)(1)(A)(iv). Pub. L. 104–264, §121(a)(1)(B), substituted "of the next 500,000 passenger boardings" for "additional passenger boarding".

Subsec. (c)(1)(A)(v). Pub. L. 104–264, §121(a)(1)(A), (C), (D), added cl. (v).

Subsec. (c)(2). Pub. L. 104–264, §121(a)(2)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3.5 percent of the amount subject to apportionment each year, allocated among those airports in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

"(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of aircraft landing at each of those airports and all those airports during the prior calendar year."

Subsec. (c)(3). Pub. L. 104–264, §121(a)(3), struck out par. (3) which read as follows:

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to

apportionment for a fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 49.5 percent limit is achieved.

"(B) If a law limits the amount subject to apportionment to less than $1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved."

Subsec. (d)(2). Pub. L. 104–264, §121(b)(1), substituted "18.5" for "12" in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 104–264, §121(b)(2), substituted "0.66" for "one".

Subsec. (d)(2)(B), (C). Pub. L. 104–264, §121(b)(3), (4), substituted "49.67" for "49.5" and "excluding primary airports but including reliever and nonprimary commercial service airports," for "except primary airports and airports described in section 47117(e)(1)(C) of this title,".

1994—Subsec. (c)(1)(B). Pub. L. 103–429, §6(66)(A), substituted "$500,000" for "$400,000".

Subsec. (c)(3). Pub. L. 103–429, §6(66)(B), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B) of this paragraph, the" for "The", "49.5" for "44" in two places, and "If this subparagraph" for "If this paragraph", and added subpar. (B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–63, title VII, §713(b), May 16, 2024, 138 Stat. 1257, provided that: "For an airport that increased in categorization from a small hub to a medium hub in any fiscal year beginning after the date of enactment of the FAA Reauthorization Act of 2018 (Public Law 115–254) [Oct. 5, 2018] and prior to the date of enactment of this Act [May 16, 2024], the amendment to section 47114(f)(2) of title 49, United States Code, under subsection (a)[(2)] shall be applied as though the airport increased in categorization from a small hub to a medium hub in the calendar year prior to the first fiscal year in which such amendment is applicable."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Pub. L. 104–264, title I, §125, Oct. 9, 1996, 110 Stat. 3220, which provided that the amendments made by subtitle B (§§121–125) of title I of Pub. L. 104–264, amending this section and sections 47115, 47117, and 47118 of this title, were to cease to be effective on Sept. 30, 1998, and that on and after such date, sections 47114, 47115, 47117, and 47118 of this title were to read as if such amendments had not been enacted, was repealed by Pub. L. 105–277, div. C, title I, §110(a), Oct. 21, 1998, 112 Stat. 2681–587, effective Sept. 29, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 6(66)(B) of Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

APPORTIONED FUNDS

Pub. L. 107–71, title I, §119(b), Nov. 19, 2001, 115 Stat. 629, provided that, for the purpose of carrying out this section, for fiscal year 2003, the Secretary would use, in lieu of passenger boardings at an airport during the prior calendar year, the greater of the number of passenger boardings at that airport during 2000 or 2001.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§47115. Discretionary fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a discretionary fund. The fund consists of—

(1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and

(2) 12.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) AVAILABILITY OF AMOUNTS.—Subject to subsection (c) of this section and section 47117(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 48103 of this title that the Secretary considers most appropriate to carry out this subchapter.

(c) MINIMUM PERCENTAGE FOR PRIMARY AND RELIEVER AIRPORTS.—At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

(1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and

(2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(d) CONSIDERATIONS.—

(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

(A) the effect that the project will have on overall national transportation system capacity;

(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B);

(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out; and

(F) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.

(2) FOR ALL PROJECTS.—In selecting a project for a grant under this section, the Secretary shall consider among other factors whether—

(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.

(e) WAIVING PERCENTAGE REQUIREMENT.—If the Secretary decides the Secretary cannot comply with the percentage requirement of subsection (c) of this section in a fiscal year because there are insufficient qualified grant applications to meet that percentage, the amount the Secretary determines will not be distributed as required by subsection (c) is available for obligation during the fiscal year without regard to the requirement.

(f) CONSIDERATION OF DIVERSION OF REVENUES IN AWARDING DISCRETIONARY GRANTS.—

(1) GENERAL RULE.—Subject to paragraph (2), in deciding whether or not to distribute funds to an airport from the discretionary funds established by subsection (a) of this section and section 47116 of this title, the Secretary shall consider as a factor militating against the distribution of such funds to the airport the fact that the airport is using revenues generated by the airport or by local taxes on aviation fuel for purposes other than capital or operating costs of the airport or the local airports system or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property.

(2) REQUIRED FINDING.—Paragraph (1) shall apply only when the Secretary finds that the amount of revenues used by the airport for purposes other than capital or operating costs in the airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of such revenues in the airport's first fiscal year ending after August 23, 1994, adjusted by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(g) MINIMUM AMOUNT TO BE CREDITED.—

(1) GENERAL RULE.—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the sum of—

(A) $148,000,000; plus

(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

(2) REDUCTION OF APPORTIONMENTS.—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

(3) AMOUNT OF REDUCTION.—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

(h) PRIORITY FOR LETTERS OF INTENT.—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e) prior to fulfilling intentions to obligate under section 47110(i).

(i) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For fiscal years 2024 through 2028, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.

(j) AIRPORT SAFETY AND RESILIENT INFRASTRUCTURE DISCRETIONARY PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants, subject to the conditions of this subsection, for any purpose for which amounts are made available under section 48103 that the Secretary considers most appropriate to carry out this subchapter.

(2) TREATMENT OF GRANTS.—

(A) IN GENERAL.—A grant made under this subsection shall be treated as having been made pursuant to the Secretary's authority under section 47104(a) and from the Secretary's discretionary fund under subsection (a) of this section.

(B) EXCEPTION.—Except as otherwise provided in this subsection, grants made under this subsection shall not be subject to subsection (c), section 47117(e), or any other apportionment formula, special apportionment category, or minimum percentage set forth in this chapter.

(3) ELIGIBILITY AND PRIORITIZATION.—

(A) ELIGIBILITY.—The Secretary may provide grants under this subsection for an airport or terminal development project at any airport that is eligible to receive a grant from the discretionary fund under subsection (a) of this section.

(B) MINIMUM ALLOCATION.—Not less than 50 percent of the amounts available under this subsection shall be used to provide grants at nonprimary, nonhub, and small hub airports.

(C) PRIORITIZATION.—In making grants for projects eligible under subparagraph (D)(iii), the Secretary shall prioritize grants to large and medium hub airports.

(D) ELIGIBILITIES.—In making grants under this subsection, the Secretary shall provide grants to airports for projects that—

(i) meet the definition of "airport development" under section 47102(3)(T);

(ii) would otherwise increase the resilience of airport infrastructure against changing flooding or inundation patterns; or

(iii) reduce runway incursions or increase runway or taxiway safety.

(4) AUTHORIZATION.—

(A) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this subsection the following amounts:

(i) $532,392,074 for fiscal year 2024.

(ii) $200,000,000 for fiscal year 2025.

(iii) $200,000,000 for fiscal year 2026.

(iv) $200,000,000 for fiscal year 2027.

(v) $200,000,000 for fiscal year 2028.

(B) AVAILABILITY.—Sums authorized to be appropriated under subparagraph (A) shall remain available for 3 fiscal years.

(k) PARTNERSHIP PROGRAM AIRPORTS.—

(1) AUTHORITY.—The Secretary may make grants with funds made available under this section for an airport participating in the program under section 47134 if—

(A) the Secretary has approved the application of an airport sponsor under section 47134(b) in fiscal year 2019; and

(B) the grant will—

(i) satisfy an obligation incurred by an airport sponsor under section 47110(e) or funded by a nonpublic sponsor for an airport development project on the airport; or

(ii) provide partial Federal reimbursement for airport development (as defined in section 47102) on the airport layout plan initiated in the fiscal year in which the application was approved, or later, for over a period of not more than 10 years.

(2) NONAPPLICABILITY OF CERTAIN SECTIONS.—Grants made under this subsection shall not be subject to—

(A) subsection (c) of this section;

(B) section 47117(e); or

(C) any other apportionment formula, special apportionment category, or minimum percentage set forth in this chapter.

(l) SPECIAL CARRYOVER ASSUMPTION RULE.—Notwithstanding any other provision of law, in addition to amounts made available under paragraphs (1) and (2) of subsection (a), the Secretary may add to the discretionary fund an amount equal to one-third of the apportionment funds made available under section 47114 that were not required during the previous fiscal year pursuant to section 47117(b)(1) out of the anticipated amount of apportionment funds made available under section 47114 that will not be required during the current fiscal year pursuant to section 47117(b)(1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1270; Pub. L. 103–305, title I, §112(d), Aug. 23, 1994, 108 Stat. 1576; Pub. L. 103–429, §6(67), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104–264, title I, §§122, 145, Oct. 9, 1996, 110 Stat. 3218, 3222; Pub. L. 104–287, §5(81), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 106–6, §§5, 8(a), Mar. 31, 1999, 113 Stat. 10, 11; Pub. L. 107–71, title I, §119(a)(3), Nov. 19, 2001, 115 Stat. 628; Pub. L. 108–176, title I, §§148, 188, Dec. 12, 2003, 117 Stat. 2504, 2519; Pub. L. 110–253, §3(c)(5), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §5(f), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(e), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(f), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(e), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(e), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(e), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(e), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(e), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(f), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(e), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(e), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(e), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(e), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(e), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(f), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(f), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §144, Feb. 14, 2012, 126 Stat. 29; Pub. L. 114–55, title I, §102(b), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(b), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(b), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(c), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(b), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §§117(a), 158, 184(a), Oct. 5, 2018, 132 Stat. 3201, 3219, 3234; Pub. L. 118–15, div. B, title II, §2202(f), (g), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(f), (g), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(f), (g), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title I, §104(b), title VII, §§710(b)(2), 714(a), 715, May 16, 2024, 138 Stat. 1034, 1253, 1257, 1258.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(a)	49 App.:2206(c)(1) (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, §507(c), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, §106(a), 101 Stat. 1496; Nov. 5, 1990, Pub. L. 101–508, §9112(a), 104 Stat. 1388–362.
47115(b)	49 App.:2206(c)(1) (3d, last sentences).	
47115(c)	49 App.:2206(c)(2).	
47115(d)	49 App.:2206(c)(3).	
47115(e)	49 App.:2206(c)(4).	

In subsection (a), before clause (1), the words "The Secretary of Transportation has a discretionary fund" are added for clarity. In clause (1), the words "subject to apportionment for a fiscal year" are substituted for "which are made available for a fiscal year under section 2204 of this Appendix" and "which have not been previously apportioned by the Secretary" for consistency with section 47114 of the revised title.

In subsection (c), before clause (1), the words "Subject to section 2207(d) of this Appendix and paragraph (4) of this subsection" and "pursuant to paragraph (1) and distributed by the Secretary under this subsection in

a fiscal year beginning after September 30, 1987" are omitted as surplus.

In subsection (d), before clause (1), the words "at airports" are omitted as surplus. In clause (3), the words "airport operator or other" are omitted as surplus.

In subsection (e), the words "submitted in compliance with this chapter" and "portion of" are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(f)	49 App.:2206(c)(5).	Sept. 3, 1982, Pub. L. 97–248, §507(c)(5), as added May 26, 1994, Pub. L. 103–260, §104(a), 108 Stat. 698.
	49 App.:2206 (note).	May 26, 1994, Pub. L. 103–260, §104(b), 108 Stat. 699.

In subsection (f), the text of section 104(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 699) is omitted as executed.

PUB. L. 104–287, §5(81)(A)

This sets out the date of enactment of 49:47115(f), as enacted by section 112(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1576).

PUB. L. 104–287, §5(81)(B)

This redesignates 49:47115(f), as enacted by section 6(67) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4386), as 49:47115(g).

EDITORIAL NOTES

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (g)(1)(B), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

AMENDMENTS

2024—Subsec. (h). Pub. L. 118–63, §710(b)(2), inserted "prior to fulfilling intentions to obligate under section 47110(i)" after "section 47110(e)".

Subsec. (i). Pub. L. 118–63, §104(b), substituted "fiscal years 2024 through 2028," for "fiscal years 2018 through 2023, and for the period beginning on October 1, 2023, and ending on May 10, 2024,".

Pub. L. 118–41, §102(f), substituted "May 10, 2024" for "March 8, 2024".

Subsec. (j). Pub. L. 118–63, §714(a)(1), substituted "Airport Safety and Resilient Infrastructure Discretionary Program" for "Supplemental Discretionary Funds" in heading.

Subsec. (j)(3)(B) to (D). Pub. L. 118–63, §714(a)(2), added subpars. (B) to (D) and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: "Not less than 50 percent of the amounts available under this subsection shall used to provide grants at—

"(i) airports that are eligible for apportionment under section 47114(d)(3); and

"(ii) nonhub and small hub airports."

Subsec. (j)(4)(A)(i) to (v). Pub. L. 118–63, §714(a)(3), added cls. (i) to (v) and struck out former cls. (i) to (v) which read as follows:

"(i) $1,020,000,000 for fiscal year 2019.

"(ii) $1,041,000,000 for fiscal year 2020.

"(iii) $1,064,000,000 for fiscal year 2021.

"(iv) $1,087,000,000 for fiscal year 2022.

"(v) $1,110,000,000 for fiscal year 2023."

Subsec. (j)(4)(A)(vi). Pub. L. 118–63, §714(a)(3), struck out cl. (vi) which read as follows: "$340,321,762 for the period beginning on October 1, 2023, and ending on May 10, 2024."

Pub. L. 118–41, §102(g), added cl. (vi) and struck out former cl. (vi) which read as follows: "$244,177,049 for the period beginning on October 1, 2023, and ending on March 8, 2024."

Subsec. (j)(4)(B). Pub. L. 118–63, §714(a)(4), substituted "3 fiscal years" for "2 fiscal years".

Subsec. (l). Pub. L. 118–63, §715, added subsec. (l).

2023—Subsec. (i). Pub. L. 118–34, §102(f), substituted "March 8, 2024" for "December 31, 2023".

Pub. L. 118–15, §2202(f), inserted ", and for the period beginning on October 1, 2023, and ending on December 31, 2023" after "fiscal years 2018 through 2023".

Subsec. (j)(4)(A)(vi). Pub. L. 118–34, §102(g), added cl. (vi) and struck out former cl. (vi) which read as follows: "$140,401,803 for the period beginning on October 1, 2023, and ending on December 31, 2023."

Pub. L. 118–15, §2202(g), added cl. (vi).

2018—Subsec. (i). Pub. L. 115–254, §117(a)(3), substituted "fiscal years 2018 through 2023" for "fiscal years 2012 through 2018".

Pub. L. 115–254, §117(a)(1), (2), redesignated subsec. (j) as (i) and struck out former subsec. (i). Prior to amendment, text of subsec. (i) read as follows: "In order to assure that funding under this subchapter is provided to the greatest needs, the Secretary, in selecting a project described in section 47102(3)(J) for a grant, shall consider the non-federal resources available to sponsor, the use of such non-federal resources, and the degree to which the sponsor is providing increased funding for the project."

Subsec. (j). Pub. L. 115–254, §158, added subsec. (j).

Pub. L. 115–254, §117(a)(2), redesignated subsec. (j) as (i).

Pub. L. 115–141 substituted "2018" for "2017 and for the period beginning on October 1, 2017, and ending on March 31, 2018".

Subsec. (k). Pub. L. 115–254, §184(a), added subsec. (k).

2017—Subsec. (j). Pub. L. 115–63 inserted "and for the period beginning on October 1, 2017, and ending on March 31, 2018" after "fiscal years 2012 through 2017".

2016—Subsec. (j). Pub. L. 114–190 substituted "fiscal years 2012 through 2017," for "fiscal years 2012 through 2015 and for the period beginning on October 1, 2015, and ending on July 15, 2016,".

Pub. L. 114–141 substituted "July 15, 2016" for "March 31, 2016".

2015—Subsec. (j). Pub. L. 114–55 inserted "and for the period beginning on October 1, 2015, and ending on March 31, 2016" after "fiscal years 2012 through 2015".

2012—Subsec. (j). Pub. L. 112–95 substituted "For fiscal years 2012 through 2015," for "For fiscal years 2004 through 2011, and for the portion of fiscal year 2012 ending before February 18, 2012,".

Pub. L. 112–91 substituted "February 18, 2012," for "February 1, 2012,".

2011—Subsec. (j). Pub. L. 112–30 substituted "fiscal years 2004 through 2011, and for the portion of fiscal year 2012 ending before February 1, 2012," for "fiscal years 2004 through 2010, and for the portion of fiscal year 2011 ending before September 17, 2011,".

Pub. L. 112–27 substituted "September 17, 2011," for "July 23, 2011,".

Pub. L. 112–21 substituted "July 23, 2011," for "July 1, 2011,".

Pub. L. 112–16 substituted "July 1, 2011," for "June 1, 2011,".

Pub. L. 112–7 substituted "June 1, 2011," for "April 1, 2011,".

2010—Subsec. (j). Pub. L. 111–329 substituted "April 1, 2011," for "January 1, 2011,".

Pub. L. 111–249 inserted "and for the portion of fiscal year 2011 ending before January 1, 2011," after "2010,".

Pub. L. 111–216 substituted "fiscal years 2004 through 2010," for "fiscal years 2004 through 2009, and for the portion of fiscal year 2010 ending before August 2, 2010,".

Pub. L. 111–197 substituted "August 2, 2010," for "July 4, 2010,".

Pub. L. 111–161 substituted "July 4, 2010," for "May 1, 2010,".

Pub. L. 111–153 substituted "May 1, 2010," for "April 1, 2010,".

2009—Subsec. (j). Pub. L. 111–116 substituted "April 1, 2010," for "January 1, 2010,".

Pub. L. 111–69 inserted "and for the portion of fiscal year 2010 ending before January 1, 2010," after "2009,".

Pub. L. 111–12 substituted "2009," for "2008, and for the portion of fiscal year 2009 ending before April 1, 2009,".

2008—Subsec. (j). Pub. L. 110–330 inserted "and for the portion of fiscal year 2009 ending before April 1, 2009," after "2008,".

Pub. L. 110–253 substituted "fiscal years 2004 through 2008," for "fiscal years 2004 through 2007,".

2003—Subsec. (d). Pub. L. 108–176, §148, amended subsec. (d) generally. Prior to amendment, subsec. (d) listed six things the Secretary was required to consider in selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section.

Subsec. (j). Pub. L. 108–176, §188, added subsec. (j).

2001—Subsec. (i). Pub. L. 107–71 added subsec. (i).

1999—Subsec. (a)(2). Pub. L. 106–6, §8(a)(1), substituted "12.5" for "25".

Subsec. (b). Pub. L. 106–6, §8(a)(2), struck out at end "However, 50 percent of amounts not apportioned under section 47114 of this title because of section 47114(f) and added to the fund is available for making grants for projects at small hub airports (as defined in section 41731 of this title)."

Subsec. (g)(4). Pub. L. 106–6, §5, which directed the amendment of section 47115(g) by striking paragraph (4), without specifying the Code title to be amended, was executed by striking heading and text of par. (4) of subsec. (g) of this section, to reflect the probable intent of Congress. Text read as follows: "For a fiscal year in which the amount credited to the fund under this subsection exceeds $300,000,000, the Secretary shall allocate the amount of such excess as follows:

"(A) 1/3 shall be made available to airports for which apportionments are made under section 47114(d) of this title.

"(B) 1/3 shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

"(C) 1/3 shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title."

1996—Subsec. (d)(2). Pub. L. 104–264, §145(a)(1), substituted ", including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;" for "; and".

Subsec. (d)(4) to (6). Pub. L. 104–264, §145(a)(2), (3), added pars. (4) to (6).

Subsec. (f). Pub. L. 104–287, §5(81)(B), which directed that subsec. (f), as enacted by Pub. L. 103–429, be redesignated (g), could not be executed because of amendment by Pub. L. 104–264, §122, which struck out that subsec. See below.

Pub. L. 104–264, §122, struck out subsec. (f), relating to minimum amount to be credited, which read as follows:

"(f) MINIMUM AMOUNT TO BE CREDITED.—(1) In a fiscal year, at least $325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

"(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than $325,000,000, the total amount calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals $325,000,000.

"(3) For a fiscal year, the total amount available to reduce to carry out paragraph (2) of this subsection is the total of the amounts determined under sections 47114(c)(1)(A) and (2) and (d) and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction."

Subsec. (f)(2). Pub. L. 104–287, §5(81)(A), substituted "August 23, 1994" for "the date of the enactment of this subsection".

Subsec. (g). Pub. L. 104–264, §122, added subsec. (g).

Subsec. (h). Pub. L. 104–264, §145(b), added subsec. (h).

1994—Subsec. (f). Pub. L. 103–429 added subsec. (f) relating to minimum amount to be credited.

Pub. L. 103–305 added subsec. (f) relating to consideration of diversion of revenues in awarding discretionary grants.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

Amendment by Pub. L. 110–253 effective July 1, 2008, see section 3(d) of Pub. L. 110–253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 5(81)(B) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L. 104–287, set out as a note under section 47117 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

RUNWAY SAFETY PROJECTS

Pub. L. 118–63, title VII, §748, May 16, 2024, 138 Stat. 1283, provided that: "In awarding grants under section 47115 of title 49, United States Code, for runway safety projects, the Administrator [of the Federal Aviation Administration] shall, to the maximum extent practicable—

"(1) reduce unnecessary or undesirable project segmentation; and

"(2) complete the entire project in an expeditious manner."

§47116. Small airport fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a small airport fund. The fund consists of 87.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) DISTRIBUTION OF AMOUNTS.—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

(1) Not more than 25 percent for grants for projects at small hub airports.

(2) Not less than 25 percent for grants to sponsors of public-use airports (except commercial service airports).

(3) Not less than 50 percent for grants to sponsors of commercial service airports that are not

larger than a nonhub airport.

(c) AUTHORITY TO RECEIVE GRANT NOT DEPENDENT ON PARTICIPATION IN BLOCK GRANT PILOT PROGRAM.—An airport in a State participating in the State block grant pilot program under section 47128 of this title may receive a grant under this section to the same extent the airport may receive a grant if the State were not participating in the program.

(d) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—

(1) CONSTRUCTION OF NEW RUNWAYS.—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.

(2) CONTROL TOWER CONSTRUCTION.—Notwithstanding section 47124(b)(4)(A), the Secretary may provide grants under this section to an airport sponsor participating in the contract tower program under section 47124 for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower. Such grants shall be subject to the distribution requirements of subsection (b) and the eligibility requirements of section 47124(b)(4)(B).

(e) GENERAL AVIATION TRANSIENT APRONS.—In distributing amounts from the fund described in subsection (a) to sponsors described in subsection [1] (b)(2) and [1] (b)(3), 5 percent of each amount shall be used for projects to construct or rehabilitate aprons intended to be used for itinerant general aviation aircraft parking.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 104–264, title I, §146, Oct. 9, 1996, 110 Stat. 3223; Pub. L. 106–6, §8(b), Mar. 31, 1999, 113 Stat. 11; Pub. L. 106–181, title I, §128, Apr. 5, 2000, 114 Stat. 76; Pub. L. 108–176, title VIII, §801(b), Dec. 12, 2003, 117 Stat. 2587; Pub. L. 115–254, div. B, title I, §§152, 154, Oct. 5, 2018, 132 Stat. 3216, 3217; Pub. L. 118–63, title VII, §716, May 16, 2024, 138 Stat. 1259.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47116(a)	49 App.:2206(d)(1) (words before "to be distributed").	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §507(d); added Nov. 5, 1990, Pub. L. 101–508, §9112(b), 104 Stat. 1388–362.
47116(b)	49 App.:2206(d)(1) (words after "small airport fund"), (2), (3).	
47116(c)	49 App.:2206(d)(4).	

In subsection (a), the words "The Secretary of Transportation has a small airport fund" are added for clarity.

In subsection (b), before clause (1), the words "under this subsection" are omitted as surplus. In clauses (1) and (2), the words "used" and "making" are omitted as surplus.

In subsection (c), the word "pilot" is added for consistency with section 47128 of the revised title.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63, §716(1), added pars. (1) to (3) and struck out former pars. (1) and (2) which read as follows:

"(1) one-seventh for grants for projects at small hub airports; and

"(2) the remaining amounts based on the following:

"(A) one-third for grants to sponsors of public-use airports (except commercial service airports).

"(B) two-thirds for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year."

Subsec. (d)(2), (3). Pub. L. 118–63, §716(2), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "In making grants to sponsors described in subsection (b), the Secretary shall give priority consideration to mass grading and associated structural support (including access road, duct banks, and other related infrastructure) at mountaintop airports, provided that the airport would not otherwise have sufficient surface area for—

"(A) eligible and justified airport development projects; or

"(B) additional hangar space."

Subsecs. (e), (f). Pub. L. 118–63, §716(3), added subsec. (e) and struck out former subsecs. (e) and (f) which read as follows:

"(e) SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.—In the first fiscal year beginning after the effective date of regulations issued to carry out section 44706(b) with respect to airports described in section 44706(a)(2), and in each of the next 4 fiscal years, the lesser of $15,000,000 or 20 percent of the amounts that would otherwise be distributed to sponsors of airports under subsection (b)(2) shall be used to assist the airports in meeting the terms established by the regulations. If the Secretary publishes in the Federal Register a finding that all the terms established by the regulations have been met, this subsection shall cease to be effective as of the date of such publication.

"(f) NOTIFICATION OF SOURCE OF GRANT.—Whenever the Secretary makes a grant under this section, the Secretary shall notify the recipient of the grant, in writing, that the source of the grant is from the small airport fund."

2018—Subsec. (d)(2). Pub. L. 115–254, §154, amended par. (2) generally. Prior to amendment, text read as follows: "In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft if the non-Federal share of the project is at least 40 percent."

Subsec. (d)(3). Pub. L. 115–254, §152, added par. (3).

2003—Subsec. (b)(1). Pub. L. 108–176 struck out "(as defined in section 41731 of this title)" after "small hub airports".

2000—Subsec. (d). Pub. L. 106–181, §128(c), designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

Subsec. (e). Pub. L. 106–181, §128(a), added subsec. (e).

Subsec. (f). Pub. L. 106–181, §128(b), added subsec. (f).

1999—Subsec. (a). Pub. L. 106–6, §8(b)(1), substituted "87.5" for "75".

Subsec. (b). Pub. L. 106–6, §8(b)(2), added pars. (1) and (2) and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (2).

1996—Subsec. (d). Pub. L. 104–264 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

[1] *So in original.*

§47117. Use of apportioned amounts

(a) GRANT PURPOSE.—Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) PERIOD OF AVAILABILITY.—

(1) IN GENERAL.—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year or the 3 fiscal years immediately following that year in the case of a nonhub airport or any airport that is not a commercial service airport. Except as provided in paragraph (2), if the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(2) EXPIRED AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if an amount apportioned under section 47114(d) is not obligated within the time specified in paragraph (1), that amount shall be added to the discretionary fund under section 47115 of this title, provided that—

(i) amounts made available under paragraph (2)(A) shall be used for grants for projects in accordance with section 47115(d)(2) at airports eligible to receive an apportionment under section 47114(d)(2); and

(ii) amounts made available under paragraph (2)(A) that are not obligated by July 1 of the fiscal year in which the funds will expire shall be made available for all projects in accordance with section 47115(d)(2).

(B) STATE BLOCK GRANT PROGRAM.—If an amount apportioned to an airport under section 47114(d)(2)(A) is not obligated within the time specified in paragraph (1), and the airport is located in a State participating in the State block grant program under section 47128, the amount shall be made available to that State under the same conditions as if the State had been apportioned the amount under section 47114(d)(2)(B).

(c) PRIMARY AIRPORTS.—(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) WAIVER.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(2)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.

(d) STATE USE.—An amount apportioned to a State under—

(1) section 47114(d)(2)(B)(i) is available for grants for airports located in the State; and

(2) section 47114(d)(2)(B)(ii) or (iii) is available for grants for airports described in section 47114(d)(2)(B)(ii) or (iii) and located in the State.

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least 35 percent, but not more than $200,000,000, for grants for airport noise compatibility planning under section 47505(a)(2), for carrying out noise compatibility programs under section 47504(c), for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for airport development described in subparagraphs (O), (P), (Q), and (W) of section 47102(3), for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L), and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.), approved in an environmental record of decision for an airport development project under this title. The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not the requirements of the preceding sentence are being met in that fiscal year. The Secretary shall provide not less than two-thirds of amounts

under this subparagraph and paragraph (3) for grants to sponsors of small hub, medium hub, and large hub airports.

(B) At least 4 percent to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.

(2) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(3) SPECIAL RULE.—Beginning in fiscal year 2026, if the amount made available under paragraph (1)(A) was not equal to or greater than $150,000,000 in the preceding fiscal year, the Secretary shall issue grants for projects eligible under paragraph (1)(A) from apportionment funds made available under section 47114 that are not required during the fiscal year pursuant to subsection (b)(1) in an amount that is not less than—

(A) $150,000,000; minus

(B) the amount made available under paragraph (1)(A) in the preceding fiscal year.

(f) DISCRETIONARY USE OF APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary finds that all or part of an amount of an apportionment under section 47114 is not required during a fiscal year to fund a grant for which the apportionment may be used, the Secretary may use during such fiscal year the amount not so required to make grants for any purpose for which grants may be made under section 48103. The finding may be based on the notifications that the Secretary receives under section 47105(f) or on other information received from airport sponsors.

(2) RESTORATION OF APPORTIONMENTS.—

(A) IN GENERAL.—If the fiscal year for which a finding is made under paragraph (1) with respect to an apportionment is not the last fiscal year of availability of the apportionment under subsection (b), the Secretary shall restore to the apportionment an amount equal to the amount of the apportionment used under paragraph (1) for a discretionary grant whenever a sufficient amount is made available under section 48103.

(B) PERIOD OF AVAILABILITY.—If restoration under this paragraph is made in the fiscal year for which the finding is made or the succeeding fiscal year, the amount restored shall be subject to the original period of availability of the apportionment under subsection (b). If the restoration is made thereafter, the amount restored shall remain available in accordance with subsection (b) for the original period of availability of the apportionment plus the number of fiscal years during which a sufficient amount was not available for the restoration.

(3) NEWLY AVAILABLE AMOUNTS.—

(A) RESTORED AMOUNTS TO BE UNAVAILABLE FOR DISCRETIONARY GRANTS .—Of an amount newly available under section 48103 of this title, an amount equal to the amounts restored under paragraph (2) shall not be available for discretionary grant obligations under section 47115.

(B) USE OF REMAINING AMOUNTS.—Subparagraph (A) does not impair the Secretary's authority under paragraph (1), after a restoration under paragraph (2), to apply all or part of a restored amount that is not required to fund a grant under an apportionment to fund discretionary grants.

(4) LIMITATIONS ON OBLIGATIONS APPLY.—Nothing in this subsection shall be construed to authorize the Secretary to incur grant obligations under section 47104 for a fiscal year in an amount greater than the amount made available under section 48103 for such obligations for such fiscal year.

(g) LIMITING AUTHORITY OF SECRETARY.—The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 103–305, title I, §116(a), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(68), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, §§123, 124(d), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, §5(82), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(c)(1), (2), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–6, §7, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, §6002(d), May 21, 1999, 113 Stat. 113; Pub. L. 106–181, title I, §§104(e)–(g), 129, title II, §231(f), Apr. 5, 2000, 114 Stat. 70, 77, 114; Pub. L. 108–176, title I, §§149(c), 150, 151, Dec. 12, 2003, 117 Stat. 2505, 2506; Pub. L. 112–95, title I, §145, Feb. 14, 2012, 126 Stat. 30; Pub. L. 115–254, div. B, title I, §§155, 192(b), title V, §539(p), Oct. 5, 2018, 132 Stat. 3217, 3241, 3371; Pub. L. 118–63, title VII, §717, May 16, 2024, 138 Stat. 1259.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(a)	49 App.:2207(b)(1) (related to purposes for which funds may be used).	Sept. 3, 1982, Pub. L. 97–248, §§506(e)(4), 508(b), 96 Stat. 679, 681.
	49 App.:2207(c) (1st sentence related to purposes for which funds are available).	Sept. 3, 1982, Pub. L. 97–248, §508(c), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(C), 101 Stat. 1498.
47117(b)	49 App.:2207(a).	Sept. 3, 1982, Pub. L. 97–248, §508(a), 96 Stat. 681; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(A), (B), 101 Stat. 1497.
47117(c)(1)	49 App.:2207(b)(1) (related to airports at which funds may be used).	
47117(c)(2)	49 App.:2207(b)(2).	
47117(d)	49 App.:2207(c) (1st sentence related to airports at which funds are available, last sentence).	
47117(e)	49 App.:2202(a)(11).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(11), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(2)(D), 107, 101 Stat. 1498; Nov. 5, 1990, Pub. L.

		101–508, §9109(b), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §§107(a), 108, 106 Stat. 4878, 4879.
47117(f)	49 App.:2206(b)(5)(D).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(5)(D), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, §106(a), 101 Stat. 1496.
47117(g)	49 App.:2207(e)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(1); added Oct. 2, 1982, Pub. L. 97–276, §167, 96 Stat. 1204; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(E), 101 Stat. 1498.
	49 App.:2207(e)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(2); added Oct. 2, 1982, Pub. L. 97–276, §167, 96 Stat. 1205.
47117(h)	49 App.:2205(e)(4).	

In subsection (b), the words "for grants" are added, and the word "apportioned" is substituted for "first authorized to be obligated", for clarity. The words "established by section 2206(c) of this Appendix" are omitted as surplus.

In subsection (c)(2), the word "if" is substituted for "on the condition that" to eliminate unnecessary words. The word "in" is substituted for "which is a part of" for clarity.

Subsection (d) is substituted for 49 App.:2207(c) (1st sentence related to airports at which funds are available) for clarity. The text of 49 App.:2207(c) (last sentence) is omitted as surplus because of section 47105(a) of the revised title.

In subsection (e)(1), the words "The Secretary shall use . . . (A) . . . for grants . . . (B) . . . for grants . . . (C) . . . for grants . . . (D) . . . for . . . grants . . . (E) . . . for grants" are substituted for "shall be distributed" and "shall be obligated" for clarity and consistency in the revised title. Clause (C)(ii) is substituted for 49 App.:2207(d)(3)(B) and (C) to eliminate unnecessary words. In clause (E), the references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsection (e)(2), the words "for each fiscal year" are omitted as surplus.

In subsection (e)(3), the words "an amount required to be used for grants under paragraph (1) of this subsection cannot be used" are substituted for "he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection" for consistency. The words "submitted in compliance with this chapter" are omitted as surplus. The words "cannot be used" are substituted for "will not be distributed" for consistency. The words "for which amounts are" are added for clarity and consistency in this chapter.

Subsection (f) is substituted for 49 App.:2206(b)(5)(D) for clarity and consistency in the revised title.

In subsection (g)(1), the words "and (3)" are omitted because 49 App.:2207(e)(3) has expired. The words "at his discretion" are omitted as surplus.

In subsection (g)(2)(A), the words "made available" are substituted for "authorized" for clarity.

In subsection (h), the words "to make grants" are substituted for "to obligate to an airport by grant agreement" for consistency in the revised title and to eliminate unnecessary words. The words "the unobligated balance of" are omitted as surplus. The words "limits that authority" are substituted for "limits the application of this paragraph" for clarity. The words "in addition to the amounts authorized for that fiscal year by section 2204 of this Appendix" are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(e)	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), as amended May 26, 1994, Pub. L.

		103–260, §105, 108 Stat. 699.

PUB. L. 104–287, §5(82)(A)

This amends 49:47117(e)(1)(B) because of the redesignation of 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and (D) by section 6(71)(C) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4387).

PUB. L. 104–287, §5(82)(B)

This amends 49:47117(g)(1) because of the redesignation of 49:47105(e) as 49:47105(f) by section 107(a)(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1572).

EDITORIAL NOTES

REFERENCES IN TEXT

The Act of June 30, 1948, referred to in subsec. (e)(1)(A), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

2024—Subsec. (b)(2)(A)(i). Pub. L. 118–63, §717(1)(A), struck out "or (3)(A), whichever is applicable" after "section 47114(d)(2)".

Subsec. (b)(2)(B). Pub. L. 118–63, §717(1)(B), substituted "section 47114(d)(2)(A)" for "section 47114(d)(3)(A)" and "section 47114(d)(2)(B)" for "section 47114(d)(3)(B)".

Subsec. (c)(2). Pub. L. 118–63, §717(2), substituted "47114(d)(2)(A)" for "47114(d)(3)(A)".

Subsec. (d)(1). Pub. L. 118–63, §717(3)(A), substituted "section 47114(d)(2)(B)(i)" for "section 47114(d)(2)(A) of this title".

Subsec. (d)(2). Pub. L. 118–63, §717(3)(B), substituted "section 47114(d)(2)(B)(ii) or (iii)" for "section 47114(d)(2)(B) or (C)" in two places and struck out "of this title" before "is available".

Subsec. (e)(1)(A). Pub. L. 118–63, §717(4)(A)(i), substituted "$200,000,000" for "$300,000,000" and "subparagraphs (O), (P), (Q), and (W) of section 47102(3)" for "section 47102(3)(Q)", struck out "for compatible land use planning and projects carried out by State and local governments under section 47141," after "under this title," and "to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)" after "for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L)", and inserted "The Secretary shall provide not less than two-thirds of amounts under this subparagraph and paragraph (3) for grants to sponsors of small hub, medium hub, and large hub airports." after "being met in that fiscal year."

Subsec. (e)(1)(C). Pub. L. 118–63, §717(4)(A)(ii), struck out subpar. (C) which read as follows: "In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, at least two-thirds of 1 percent for grants to sponsors of reliever airports which have—

"(i) more than 75,000 annual operations;

"(ii) a runway with a minimum usable landing distance of 5,000 feet;

"(iii) a precision instrument landing procedure;

"(iv) a minimum number of aircraft, to be determined by the Secretary, based at the airport; and

"(v) been designated by the Secretary as a reliever airport to an airport with 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings."

Subsec. (e)(3). Pub. L. 118–63, §717(4)(B), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—

"(A) Chicago O'Hare International Airport;

"(B) LaGuardia Airport;

"(C) John F. Kennedy International Airport; and

"(D) Ronald Reagan Washington National Airport."

2018—Subsec. (b). Pub. L. 115–254, §155, designated existing provisions as par. (1), inserted heading, substituted "Except as provided in paragraph (2), if the amount" for "If the amount", and added par. (2).

Subsec. (e)(1)(A). Pub. L. 115–254, §192(b), inserted "for airport development described in section 47102(3)(Q)," after "under section 47141,".

Subsec. (e)(1)(B). Pub. L. 115–254, §539(p), which directed substitution of "At least" for "at least" in section 47117(e)(1)(B), without specifying the Code title to be amended, was executed by making the substitution in subsec. (e)(1)(B) of this section, to reflect the probable intent of Congress.

2012—Subsec. (e)(1)(A). Pub. L. 112–95 substituted "At least 35 percent, but not more than $300,000,000," for "At least 35 percent", "et seq.), and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.), approved in an environmental record of decision for an airport development project under this title." for "et seq.).", and "the requirements of the preceding sentence are" for "such 35 percent requirement is" and struck out "and" after "47141,".

2003—Subsec. (b). Pub. L. 108–176, §150, substituted "nonhub airport or any airport that is not a commercial service airport" for "primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year".

Subsec. (c)(2). Pub. L. 108–176, §149(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport."

Subsec. (e)(1)(A). Pub. L. 108–176, §151, substituted "At least 35 percent" for "At least 34 percent", "section 47505(a)(2)," for "section 47505(a)(2) of this title and", ", for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)." for "of this title.", and "35 percent requirement" for "34 percent requirement".

2000—Subsec. (e)(1)(A). Pub. L. 106–181, §104(e), substituted "34 percent" for "31 percent" in two places.

Subsec. (e)(1)(C). Pub. L. 106–181, §104(f), added subpar. (C).

Subsec. (e)(3). Pub. L. 106–181, §231(f), added par. (3).

Subsec. (f). Pub. L. 106–181, §129, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

"(f) DISCRETIONARY USE OF APPORTIONMENTS.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(f) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

"(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

"(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

"(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section."

Pub. L. 106–181, §104(g), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: "The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title."

Subsecs. (g), (h). Pub. L. 106–181, §104(g), redesignated subsecs. (g) and (h) as (f) and (g), respectively.

1999—Subsec. (e)(1)(B). Pub. L. 106–31 struck out "for each of fiscal years 1997 and 1998" after "4 percent".

Pub. L. 106–6 made amendment identical to that made by Pub. L. 105–102, §3(c)(2). See 1997 Amendment note below.

1997—Subsec. (e)(1)(A). Pub. L. 105–102, §3(c)(1)(B), added Pub. L. 104–264, §123(d). See 1996 Amendment note below.

Subsec. (e)(1)(B). Pub. L. 105–102, §3(c)(2), repealed Pub. L. 104–264, §124(d). See 1996 Amendment note below.

Pub. L. 105–102, §3(c)(1)(A), amended Pub. L. 104–264, §123(b)(6). See 1996 Amendment note below.

1996—Subsec. (b). Pub. L. 104–264, §123(a), inserted "or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year" before period at end of first sentence.

Subsec. (e)(1). Pub. L. 104–264, §123(b)(1), substituted "available to the discretionary fund under section 47115" for "made available under section 48103" in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 104–264, §123(d), as added by Pub. L. 105–102, §3(c)(1)(B), substituted "47504(c)" for "47504(c)(1)".

Pub. L. 104–264, §123(b)(4), (5), substituted "At least 31" for "at least 12.5" and inserted at end "The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year."

Pub. L. 104–264, §123(b)(2), (3), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: "at least 5 percent for grants for reliever airports."

Subsec. (e)(1)(B). Pub. L. 104–287, §5(82)(A), which directed the amendment of subpar. (B) by substituting "47504(c)" for "47504(c)(1)", could not be executed because "47504(c)(1)" did not appear in text of subpar. (B) subsequent to amendment by Pub. L. 104–264. See below.

Pub. L. 104–264, §124(d), which directed the amendment of subpar. (B) by substituting "1996, 1997, and 1998" for "and 1996,", was repealed by Pub. L. 105–102, §3(c)(2).

Pub. L. 104–264, §123(b)(6), as amended by Pub. L. 105–102, §3(c)(1)(A), substituted "at least 4 percent for each of fiscal years 1997 and 1998" for "at least 2.25 percent for the fiscal year ending September 30, 1993, and at least 2.5 percent for each of the fiscal years ending September 30, 1994, 1995, and 1996,".

Pub. L. 104–264, §123(b)(3), (7), redesignated subpar. (E) as (B) and inserted before period at end "and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant". Former subpar. (B) redesignated (A).

Subsec. (e)(1)(C), (D). Pub. L. 104–264, §123(b)(2), struck out subpars. (C) and (D) which read as follows:

"(C) at least 1.5 percent for grants for—

"(i) nonprimary commercial service airports; and

"(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.

"(D) at least .75 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used."

Subsec. (e)(1)(E). Pub. L. 104–264, §123(b)(3), redesignated subpar. (E) as (B).

Subsec. (e)(2), (3). Pub. L. 104–264, §123(c), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 1.5 percent required to be used for grants under paragraph (1)(C) of this subsection."

Subsec. (g)(1). Pub. L. 104–287, §5(82)(B), substituted "47105(f)" for "47105(e)".

1994—Subsec. (e)(1)(A). Pub. L. 103–429, §6(68)(A), substituted "5 percent" for "10 percent".

Subsec. (e)(1)(C). Pub. L. 103–429, §6(68)(B), substituted "1.5 percent" for "2.5 percent" in introductory provisions.

Subsec. (e)(1)(D). Pub. L. 103–429, §6(68)(C), substituted ".75 percent" for ".5 percent".

Subsec. (e)(1)(E). Pub. L. 103–305 substituted ", 1995, and 1996" for ", and 1995".

Subsec. (e)(2). Pub. L. 103–429, §6(68)(D), substituted "1.5 percent" for "2.5 percent".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(c)(1)(B) is effective Oct. 9, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 8(2) of Pub. L. 104–287, as amended by Pub. L. 105–102, §3(d)(2)(B), Nov. 20, 1997, 111 Stat. 2215, provided that: "The amendments made by section 5(81)(B), (82)(A), and (83)(A) [amending this section and sections 47115 and 47118 of this title] shall take effect on September 30, 1998."

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

§47118. Designating current and former military airports

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is 15. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

(1) the airport is a former military installation closed or realigned under—

(A) section 2687 of title 10;

(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note);

(2) the airport is a military installation with both military and civil aircraft operations; or

(3) the airport is—

(A) a former military installation that, at any time after December 31, 1965, was owned and operated by the Department of Defense; and

(B) a nonhub primary airport.

(b) SURVEY.—Not later than September 30, 1991, the Secretary shall complete a survey of current and former military airports to identify which airports have the greatest potential to improve the capacity of the national air transportation system. The survey shall identify the capital development needs of those airports to make them part of the system and which of those qualify for grants under section 47104 of this title.

(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports for designation under this section if a grant under section 47117(e)(1)(B) would—

(1) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings;

(2) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays; or

(3) preserve or enhance minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations—

(A) within United States jurisdiction or control; and

(B) where there is a demonstrable lack of diversionary airports within the distance or flight-time required by regulations governing transoceanic flights.

(d) GRANTS.—Grants under section 47117(e)(1)(B) of this title may be made for an airport

designated under subsection (a) of this section for the 5 fiscal years following the designation, and for subsequent periods, each not to exceed 5 fiscal years, if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent period.

(e) TERMINAL BUILDING FACILITIES.—From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

(1) may not be leased for more than 10 years; and

(2) is not subject to majority in interest clauses.

(f) PARKING LOTS, FUEL FARMS, UTILITIES, HANGARS, AND AIR CARGO TERMINALS.—

(1) CONSTRUCTION.—From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, utilities, and hangars and air cargo terminals of an area that is 50,000 square feet or less.

(2) REIMBURSEMENT.—Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47115 or 47117(e)(1)(B), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1).

(g) DESIGNATION OF GENERAL AVIATION AIRPORTS.—Notwithstanding any other provision of this section, 3 of the airports bearing designations under subsection (a) may be general aviation airports that were former military installations closed or realigned under a section referred to in subsection (a)(1).

(h) SAFETY-CRITICAL AIRPORTS.—Notwithstanding any other provision of this chapter, a grant under section 47117(e)(1)(B) may be made for a federally owned airport designated under subsection (a) if the grant is for a project that is—

(1) to preserve or enhance minimum airfield infrastructure facilities described in subsection (c)(3); and

(2) necessary to meet the minimum safety and emergency operational requirements established under part 139 of title 14, Code of Federal Regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1273; Pub. L. 103–305, title I, §116(b)–(d), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 104–264, title I, §124(a)–(c), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, §5(83), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 106–181, title I, §130, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108–176, title I, §153, Dec. 12, 2003, 117 Stat. 2507; Pub. L. 112–95, title I, §146, Feb. 14, 2012, 126 Stat. 30; Pub. L. 115–254, div. B, title I, §137, Oct. 5, 2018, 132 Stat. 3210.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47118(a)	49 App.:2207(f)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(1); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §107(b), 106 Stat. 4878.

47118(b)	49 App.:2207(f)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(2)–(5); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356.
47118(c)	49 App.:2207(f)(3).	
47118(d)	49 App.:2207(f)(4).	
47118(e)	49 App.:2207(f)(5).	
47118(f)	49 App.:2207(f)(6).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(6); added Oct. 31, 1992, Pub. L. 102–581, §107(c)(1), 106 Stat. 4878.

In subsection (d), the word "Grants" is substituted for "to participate in the program", and the word "grants" is substituted for "participation in the program", for clarity and consistency and to eliminate unnecessary words.

In subsection (e), before clause (1), the words "at the discretion" and "with Federal funding" are omitted as surplus.

PUB. L. 104–287, §5(83)(A)

This sets out the date of enactment of 49:47118(a) (last sentence).

PUB. L. 104–287, §5(83)(B)

This makes a clarifying amendment to 49:47118(e) because 49:47109(c) was struck by section 114(b) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1579).

EDITORIAL NOTES

REFERENCES IN TEXT

Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (a)(1)(B), is section 201 of Pub. L. 100–526, which is set out in a note under section 2687 of Title 10, Armed Forces.

Section 2905 of the Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(1)(C), is section 2905 of Pub. L. 101–510, which is set out in a note under section 2687 of Title 10.

AMENDMENTS

2018—Subsec. (a)(3). Pub. L. 115–254 added par. (3).

2012—Subsec. (c)(3). Pub. L. 112–95, §146(a), added par. (3).

Subsec. (g). Pub. L. 112–95, §146(b), substituted "Airports" for "Airport" in heading and "3 of the airports bearing designations under subsection (a) may be general aviation airports that were former military installations" for "one of the airports bearing a designation under subsection (a) may be a general aviation airport that was a former military installation" in text.

Subsec. (h). Pub. L. 112–95, §146(c), added subsec. (h).

2003—Subsec. (e). Pub. L. 108–176, §153(1), substituted "From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available" for "Not more than $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available" in introductory provisions.

Subsec. (f). Pub. L. 108–176, §153(2), (3), inserted par. (1) designation and heading, substituted "From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available" for "Not more than a total of $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available", and added par. (2).

2000—Subsec. (a). Pub. L. 106–181, §130(a)(1)(A), substituted "15" for "12" in introductory provisions.

Subsec. (a)(2). Pub. L. 106–181, §130(a)(1)(B), added par. (2) and struck out former par. (2) which read as follows: "the Secretary finds that such grants would—

"(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

"(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current

and projected flight delays."

Subsec. (c). Pub. L. 106–181, §130(a)(2), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays."

Subsec. (d). Pub. L. 106–181, §130(a)(3), substituted "47117(e)(1)(B)" for "47117(e)(1)(E)", "periods, each not to exceed 5 fiscal years," for "5-fiscal-year periods", and "each such subsequent period" for "each such subsequent 5-fiscal-year period".

Subsec. (e). Pub. L. 106–181, §130(b), substituted "$7,000,000" for "$5,000,000".

Subsec. (f). Pub. L. 106–181, §130(c), in heading, substituted "Hangars, and Air Cargo Terminals" for "and Hangars" and, in text, substituted "$7,000,000" for "$4,000,000" and inserted "and air cargo terminals of an area that is 50,000 square feet or less" before period at end.

Subsec. (g). Pub. L. 106–181, §130(a)(4), added subsec. (g).

1996—Subsec. (a). Pub. L. 104–287, §5(83)(A), which directed amendment of subsec. (a) by substituting "before August 24, 1994" for "on or before the date of the enactment of this sentence", could not be executed because the phrase to be amended did not appear subsequent to amendment by Pub. L. 104–264, §124(a). See below.

Pub. L. 104–264, §124(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate not more than 15 current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title. The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings."

Subsec. (d). Pub. L. 104–264, §124(b), substituted "designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period." for "designation."

Subsec. (e). Pub. L. 104–287, §5(83)(B), substituted "Not" for "Notwithstanding section 47109(c) of this title, not".

Subsec. (f). Pub. L. 104–264, §124(c), amended subsec. (f) by substituting "Utilities, and Hangars" for "and Utilities" in heading and "for fiscal years beginning after September 30, 1992," for "for the fiscal years ending September 30, 1993–1996," and "utilities, and hangars" for "and utilities" in text.

1994—Subsec. (a). Pub. L. 103–305, §116(b), substituted "15" for "12" and inserted at end "The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings."

Subsec. (d). Pub. L. 103–305, §116(c), struck out at end "If an airport does not have a level of passengers getting on aircraft during that 5-year period that qualifies the airport as a small hub airport (as defined on January 1, 1990) or reliever airport, the Secretary may redesignate the airport for grants for additional fiscal years that the Secretary decides."

Subsec. (f). Pub. L. 103–305, §116(d), substituted "September 30, 1993–1996" for "September 30, 1993–1995".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 5(83)(A) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L.

104–287, as amended, set out as a note under section 47117 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§47119. Terminal development costs

(a) TERMINAL DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary of Transportation may approve a project for terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport—

(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(i) all the safety equipment required for certification of the airport under section 44706;

(ii) all the security equipment required by regulation; and

(iii) provided for access by passengers to the area of the airport for boarding or exiting aircraft that are not air carrier aircraft;

(B) if the cost is directly related to—

(i) moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; or

(ii) installing security cameras in the public area of the interior and exterior of the terminal; and

(C) under terms necessary to protect the interests of the Government.

(2) PROJECT IN REVENUE-PRODUCING AREAS AND NONREVENUE-PRODUCING PARKING LOTS.—In making a decision under paragraph (1), the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

(A) except as provided in section 47108(e)(3),[1] the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.

(3) LACTATION AREAS.—In addition to the projects described in paragraph (1), the Secretary may approve a project for terminal development for the construction or installation of a lactation area (as defined in section 47107(w)) at a commercial service airport.

(4) UNIVERSAL CHANGING STATIONS.—In addition to the projects described in paragraph (1), the Secretary may approve a project for terminal development for the construction or installation of a universal changing station (as defined in section 47107(y)) at a commercial service airport.

(b) REPAYING BORROWED MONEY.—

(1) TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to

the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

(B) that is a designated airport under section 47118 in fiscal year 2003; and

(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under subsection (a).

(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

(A) the sponsor submits the certification required under subsection (a);

(B) the Secretary decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 1 year beginning on the date the grant is used to repay the borrowed money.

(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsections (c)(1) and (c)(2).

(c) AVAILABILITY OF AMOUNTS.—In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under subsection (a);

(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under subsection (a); and

(B) to a sponsor of a reliever airport for the types of project costs allowable under subsection (a), including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under subsection (a);

(4) not more than $25,000,000 to pay project costs allowable for the fiscal year under subsection (a) for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970;

(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under sections 47114(c) and 47114(d)(2)(A) for project costs allowable under subsection (a); or

(6) not more than $20,000,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115, to the sponsor of a nonprimary airport to pay costs allowable under subsection (a) for terminal development projects, if the Secretary determines (which may be based on actual and projected enplanement trends, as well as completion of an air service development study, demonstrated commitment by airlines to provide commercial service accommodating at least 10,000 annual enplanements, the documented commitment of a sponsor to

providing the remaining funding to complete the proposed project, and a favorable environmental finding (including all required permits) in support of the proposed project) that the status of the nonprimary airport is reasonably expected to change to primary status based on enplanements for the third calendar year after the issuance of the discretionary grant.

(d) NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

(e) DETERMINATION OF PASSENGER BOARDING AT COMMERCIAL SERVICE AIRPORTS.—For the purpose of determining whether an amount may be distributed for a fiscal year from the discretionary fund in accordance with subsection (b)(2)(A) to a commercial service airport, the Secretary shall make the determination of whether or not a public airport is a commercial service airport on the basis of the number of passenger boardings and type of air service at the public airport in the calendar year that includes the first day of such fiscal year or the preceding calendar year, whichever is more beneficial to the airport.

(f) Limitation on Discretionary Funds.—The Secretary may distribute not more than $30,000,000 from the discretionary fund established under section 47115 for terminal development projects at a nonhub airport or a small hub airport that is eligible to receive discretionary funds under section 47108(e)(3).[1]

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 103–305, title I, §117, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(69), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 106–181, title I, §152(b), Apr. 5, 2000, 114 Stat. 87; Pub. L. 108–176, title I, §§149(d), 166, Dec. 12, 2003, 117 Stat. 2505, 2514; Pub. L. 112–95, title I, §152(b), Feb. 14, 2012, 126 Stat. 33; Pub. L. 115–254, div. B, title I, §§132(b), 138, Oct. 5, 2018, 132 Stat. 3206, 3210; Pub. L. 118–63, title VII, §§718, 774(b), May 16, 2024, 138 Stat. 1260, 1298.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(a)	49 App.:2212(b)(4).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(4), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, §106(b)(5)(B), 101 Stat. 1498.
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(2), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(5)(A), 111(a)(1), 101 Stat. 1498, 1503.
	49 App.:2212(b)(3).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(3), 96 Stat. 690.

In subsection (a), before clause (1), the words "(within the meaning of section 11(1) of the Airport and Airway Development Act of 1970 [49 App. U.S.C. 1711(1)] as in effect immediately before September 3, 1982)" are omitted because of the definition of "air carrier airport" in section 47102 of the revised title. The words "after June 30, 1970" are substituted for "on or after July 1, 1970" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The words "to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title" are substituted for "for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection" for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words "In a fiscal year" are added for clarity. In clause (2), the words "from the discretionary fund" are substituted for "sums to be distributed at the discretion of the Secretary under section 2206(c) of this Appendix" for clarity and consistency in this chapter. In clause (3), the words "for projects" are added for clarity.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(2), as amended May 26, 1994, Pub. L. 103–260, §107, 108 Stat. 700.

In subsection (b)(3), the words "from the discretionary fund and small airport fund" are substituted for "sums to be distributed at the discretion of the Secretary under section 2206(c) and 2206(d) of this Appendix" for clarity and consistency in this chapter.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 47108(e)(3), referred to in subsecs. (a)(2)(A) and (f), was redesignated section 47108(d)(3) of this title by Pub. L. 118–63, title VII, §707(4), May 16, 2024, 138 Stat. 1251.

Section 20(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (c)(4), is section 20(b) of Pub. L. 91–258, which was classified to section 1720(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

Subsec. (a)(4). Pub. L. 118–63, §774(b), added par. (4).

Subsec. (c)(5). Pub. L. 118–63, §718(a)(2)(A), substituted "sections 47114(c) and 47114(d)(2)(A)" for "section 47114(d)(3)(A)".

Subsec. (c)(6). Pub. L. 118–63, §718(a)(1), (2)(B), (3), added par. (6).

Subsec. (f). Pub. L. 118–63, §718(b), substituted "$30,000,000" for "$20,000,000".

2018—Subsec. (a)(1)(B). Pub. L. 115–254, §138, substituted "directly related to—" for "directly related to", inserted cl. (i) designation before "moving passengers and", substituted "; or" for "; and", and added cl. (ii). Amendments were executed to this section to reflect the probable intent of Congress, notwithstanding directory language amending section 47119(a)(1)(B), without specifying the Code title to be amended.

Subsec. (a)(3). Pub. L. 115–254, §132(b), added par. (3).

2012—Subsec. (a). Pub. L. 112–95, §152(b)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 112–95, §152(b)(1), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (b)(3), (4)(A). Pub. L. 112–95, §152(b)(4), substituted "subsection (a)" for "section 47110(d)".

Subsec. (b)(4)(B). Pub. L. 112–95, §152(b)(3), substituted "Secretary" for "Secretary of Transportation".

Subsec. (b)(5). Pub. L. 112–95, §152(b)(5), substituted "subsections (c)(1) and (c)(2)" for "subsection (b)(1) and (2)".

Subsec. (c). Pub. L. 112–95, §152(b)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1), (2)(A). Pub. L. 112–95, §152(b)(6), substituted "subsection (a)" for "section 47110(d) of this title".

Subsec. (c)(2)(B). Pub. L. 112–95, §152(b)(7), substituted "subsection (a)" for "section 47110(d)".

Subsec. (c)(3), (4). Pub. L. 112–95, §152(b)(6), substituted "subsection (a)" for "section 47110(d) of this title".

Subsec. (c)(5). Pub. L. 112–95, §152(b)(7), substituted "subsection (a)" for "section 47110(d)".

Subsecs. (d), (e). Pub. L. 112–95, §152(b)(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (f). Pub. L. 112–95, §152(b)(8), added subsec. (f).

2003—Subsec. (a). Pub. L. 108–176, §166, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and

before July 12, 1976, or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

"(1) only if—

"(A) the sponsor submits the certification required under section 47110(d) of this title;

"(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

"(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

"(2) subject to the limitations in subsection (b)(1) and (2) of this section."

Subsec. (b)(5). Pub. L. 108–176, §149(d), added par. (5).

2000—Subsec. (d). Pub. L. 106–181 added subsec. (d).

1994—Subsec. (a). Pub. L. 103–305, §117(1), inserted "or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992," after "July 12, 1976,".

Subsec. (b)(2). Pub. L. 103–429, §6(69)(B), added par. (2) and struck out former par. (2) which read as follows: "to a sponsor of a nonprimary commercial service airport, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47110(d) of this title; or".

Subsec. (b)(3). Pub. L. 103–429, §6(69)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 103–429, §6(69)(A), redesignated par. (3) as (4).

Subsec. (c). Pub. L. 103–305, §117(2), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

[1] *See References in Text note below.*

§47120. Grant priority

(a) IN GENERAL.—In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 106–181, title I, §162, Apr. 5, 2000, 114 Stat. 91.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

47120	49 App.:2208(b)(9).	Sept. 3, 1982, Pub. L. 97–248, §509(b)(9), 96 Stat. 685.

The words "In making a grant under this subchapter" are substituted for "In establishing priorities for distribution of funds available pursuant to section 2206 of this Appendix" for consistency in this chapter and to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§47121. Records and audits

(a) RECORDS.—A sponsor shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

(A) the amount and disposition by the sponsor of the proceeds of the grant;

(B) the total cost of the plan or program for which the grant is given or used; and

(C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) AUDITS AND EXAMINATIONS.—The Secretary and the Comptroller General may audit and examine records of a sponsor that are related to a grant made under this subchapter.

(c) AUTHORITY OF COMPTROLLER GENERAL.—When an independent audit is made of the accounts of a sponsor under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the sponsor shall submit a certified copy of the audit to the Secretary not more than 6 months after the end of the fiscal year for which the audit was made. The Comptroller General may report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year.

(d) AUDIT REQUIREMENT.—The Secretary may require a sponsor to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) ANNUAL REVIEW.—The Secretary shall review annually the recordkeeping and reporting requirements under this subchapter to ensure that they are the minimum necessary to carry out this subchapter.

(f) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 104–316, title I, §127(f), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

47121(a)	49 App.:2217(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §518, 96 Stat. 693.
47121(b)	49 App.:2217(b) (1st sentence).	
47121(c)	49 App.:2217(c).	
47121(d)	49 App.:2217(b) (last sentence).	
47121(e)	49 App.:2217(a) (last sentence).	
47121(f)	49 App.:2217(d).	

In subsections (a)–(d), the word "sponsor" is substituted for "recipient of a grant under this chapter" and "recipient" for clarity.

In subsection (a), before clause (1), the words "The Secretary may require records" are substituted for "including records" for clarity. In clause (1), before subclause (A), the word "fully" is omitted as surplus.

In subsection (b), the words "or any of their duly authorized representatives" are omitted as surplus because of 49:322(b) and 31:711. The words "may audit and examine" are substituted for "shall have access for the purpose of audit and examination" to eliminate unnecessary words. The words "books, documents, papers" are omitted as being included in "records".

In subsection (e), the words "minimum necessary to carry out" are substituted for "that such requirements are kept to the minimum level necessary for the proper administration of" to eliminate unnecessary words.

In subsection (f), the words "or any officer or employee under the control of either of them" are omitted as surplus because of 49:322(b) and 31:711.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–316, in first sentence, substituted "Secretary" for "Comptroller General", in second sentence, substituted "The Comptroller General may" for "Not later than April 15 of each year, the Comptroller General shall", and struck out at end "The Comptroller General shall prescribe regulations necessary to carry out this subsection."

§47122. Administrative

(a) GENERAL.—The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

(b) CONDUCTING INVESTIGATIONS AND PUBLIC HEARINGS.—In conducting an investigation or public hearing under this subchapter, the Secretary has the same authority the Secretary has under section 46104 of this title. An action of the Secretary in exercising that authority is governed by the procedures specified in section 46104 and shall be enforced as provided in section 46104.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47122(a)	49 App.:2218(a).	Sept. 3, 1982, Pub. L. 97–248, §519(a), 96 Stat. 694; Dec. 30, 1987, Pub. L. 100–223, §112(1), 101 Stat. 1504.
47122(b)	49 App.:1354(c) (related to Airport and Airway Improvement Act of 1982).	Aug. 23, 1958, Pub. L. 85–726, §313(c) (related to Airport and Airway Improvement Act of 1982), 72 Stat. 753; Sept. 3, 1982, Pub. L. 97–248, §524(a)(2), 96 Stat. 696.

Subsection (a) is substituted for 49 App.:2218(a) to eliminate unnecessary words.

§47123. Nondiscrimination

(a) IN GENERAL.—The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

(b) INDIAN EMPLOYMENT.—

(1) TRIBAL SPONSOR PREFERENCE.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on a project or contract at—

(A) an airport sponsored by an Indian tribal government; or

(B) an airport located on an Indian reservation.

(2) STATE PREFERENCE.—A State may implement a preference for employment of Indians on a project carried out under this subchapter near an Indian reservation.

(3) IMPLEMENTATION.—The Secretary shall consult with Indian tribal governments and cooperate with the States to implement this subsection.

(4) INDIAN TRIBAL GOVERNMENT DEFINED.—In this section, the term "Indian tribal government" has the same meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1275; Pub. L. 115–254, div. B, title I, §153, Oct. 5, 2018, 132 Stat. 3216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47123	49 App.:2219.	Sept. 3, 1982, Pub. L. 97–248, §520, 96 Stat. 694.

The words "as the Secretary deems" and "the purposes of" are omitted as surplus. The words "The regulations shall be similar to those in effect under" are substituted for "and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under" for clarity and to eliminate unnecessary words and because "rules" and "regulations" are synonymous. The words "The provisions of . . . and not in lieu of the provisions of" are omitted as surplus. The word "is" is substituted for "shall be considered to be" to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2018—Pub. L. 115–254 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§47124. Agreements for State and local operation of airport facilities

(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—

(1) CONTRACT TOWER PROGRAM.—

(A) CONTINUATION.—The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(B) SPECIAL RULE.—If the Secretary determines that a tower already operating under the Contract Tower Program has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit—

(i) for the 1-year period after such determination is made; or

(ii) if an appeal of such determination is requested, for the 1-year period described in subsection (d)(4)(D).

(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Cost-share Program.

(2) GENERAL AUTHORITY.—

(A) IN GENERAL.—The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(B) SMALL OR MEDIUM HUB AIRPORTS.—In the case of a contract entered into on or after the date of enactment of this subparagraph to operate an airport traffic control tower at a small or medium hub airport, the contract shall require the Secretary, after coordination with the airport sponsor and the entity, State, or subdivision, and not later than 18 months after the date of enactment of the FAA Reauthorization Act of 2024, to provide funding sufficient for the cost of wages and benefits of at least 2 air traffic controllers for each tower operating shift.

(3) COST-SHARE PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at nonapproach control towers, as defined by the Secretary, that do not qualify for the Contract Tower Program.

(B) PROGRAM COMPONENTS.—In carrying out the Cost-share Program, the Secretary shall—

(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Secretary; and

(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1-to-1 benefit-to-cost ratio using actual site-specific contract tower operating costs in any case in which there is an operating air

traffic control tower or a remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration, as required for eligibility under the Contract Tower Program.

(C) PRIORITY.—In selecting facilities to participate in the Cost-share Program, the Secretary shall give priority to the following facilities:

(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Secretary has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

(ii) Air traffic control towers that the Secretary determines have a benefit-to-cost ratio of at least .50.

(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

(iv) Air traffic control towers located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

(vi) Air traffic control towers located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

(vii) Air traffic control towers located at an airport at which the community has been operating the tower at its own expense.

(viii) Air traffic control towers at airports with safety or operational problems related to the lack of an existing tower.

(ix) Air traffic control towers at airports with projected commercial and military increases in aircraft or flight operations.

(x) Air traffic control towers at airports with a variety of aircraft operations, including a variety of commercial and military flight operations.

(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower under the Cost-share Program exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit, with the maximum allowable local cost share capped at 20 percent. Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph.

(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than $10,350,000 for each of fiscal years 2012 through 2018 may be used to carry out this paragraph.

(F) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Contract Tower Program.

(G) BENEFIT-TO-COST CALCULATION.—Not later than 90 days after receiving an application to the Contract Tower Program, the Secretary shall calculate a benefit-to-cost ratio (as described in subsection (d)) for the applicable air traffic control tower for purposes of selecting towers for participation in the Contract Tower Program.

(H) PERIOD FOR COMPLETION OF AN OPERATIONAL READINESS INSPECTION .—The Secretary shall provide airport sponsors acting in good faith 7 years to complete an operational readiness inspection after receiving a benefit-to-cost ratio of air traffic control services for an airport.

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) GRANTS.—The Secretary may provide grants to a sponsor of—

(i) a primary airport—

(I) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration; and

(ii) a public-use airport that is not a primary airport—

(I) from amounts made available under subsections (c) and (d) of section 47114 for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c) and 47114(d)(2)(A) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c) and 47114(d)(2)(A) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration.

(B) ELIGIBILITY.—An airport sponsor shall be eligible for a grant under this paragraph only if—

(i)(I) the sponsor is a participant in the Federal Aviation Administration Contract Tower Program or the Cost-share Program; or

(II) construction of a nonapproach control tower would qualify the sponsor to be eligible to participate in such program;

(ii) the sponsor certifies that it will pay not less than 10 percent of the cost of the activities for which the sponsor is receiving assistance under this paragraph;

(iii) the Secretary affirmatively accepts the proposed contract tower into a contract tower program under this section and certifies that the Secretary will seek future appropriations to pay the Federal Aviation Administration's cost of the contract to operate the tower to be constructed under this paragraph;

(iv) the sponsor certifies that it will pay its share of the cost of the contract to operate the tower to be constructed under this paragraph; and

(v) in the case of a tower to be constructed under this paragraph from amounts made available under section 47114(d)(2)(B), the Secretary certifies that—

(I) the Federal Aviation Administration has consulted the State within the borders of which the tower is to be constructed and the State supports the construction of the tower as part of its State airport capital plan; and

(II) the selection of the tower for funding is based on objective criteria.

(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for regular safety assessments of air traffic control towers that receive funding under this section.

(d) CRITERIA TO EVALUATE PARTICIPANTS.—

(1) TIMING OF EVALUATIONS.—

(A) TOWERS PARTICIPATING IN COST-SHARE PROGRAM.—In the case of an air traffic control tower that is operated under the Cost-share Program, the Secretary shall annually calculate a benefit-to-cost ratio with respect to the tower.

(B) TOWERS PARTICIPATING IN CONTRACT TOWER PROGRAM.—In the case of an air traffic control tower that is operated under the Contract Tower Program, the Secretary shall not calculate a benefit-to-cost ratio after the date of enactment of this subsection with respect to the tower unless the Secretary determines that the annual aircraft traffic at the airport where the tower is located has decreased—

(i) by more than 25 percent from the previous year; or

(ii) by more than 55 percent cumulatively in the preceding 3-year period.

(2) COSTS TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall consider only the following costs:

(A) The Federal Aviation Administration's actual cost of wages and benefits of personnel working at the tower.

(B) The Federal Aviation Administration's actual telecommunications costs directly associated with the tower.

(C) The Federal Aviation Administration's costs of purchasing and installing any air traffic control equipment that would not have been purchased or installed except as a result of the operation of the tower.

(D) The Federal Aviation Administration's actual travel costs associated with maintaining air traffic control equipment that is owned by the Administration and would not be maintained except as a result of the operation of the tower.

(E) Other actual costs of the Federal Aviation Administration directly associated with the tower that would not be incurred except as a result of the operation of the tower (excluding costs for noncontract tower-related personnel and equipment, even if the personnel or equipment is located in the contract tower building).

(3) OTHER CRITERIA TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall add a 10 percentage point margin of error to the benefit-to-cost ratio determination to acknowledge and account for the direct and indirect economic and other benefits that are not included in the criteria the Secretary used in calculating that ratio.

(4) REVIEW OF COST-BENEFIT DETERMINATIONS.—In issuing a benefit-to-cost ratio determination under this section with respect to an air traffic control tower located at an airport, the Secretary shall implement the following procedures:

(A) The Secretary shall provide the airport (or the State or local government having jurisdiction over the airport) at least 90 days following the date of receipt of the determination to submit to the Secretary a request for an appeal of the determination, together with updated or additional data in support of the appeal.

(B) Upon receipt of a request for an appeal submitted pursuant to subparagraph (A), the Secretary shall—

(i) transmit to the Administrator of the Federal Aviation Administration any updated or additional data submitted in support of the appeal; and

(ii) provide the Administrator not more than 90 days to review the data and provide a response to the Secretary based on the review.

(C) After receiving a response from the Administrator pursuant to subparagraph (B), the

Secretary shall—

(i) provide the airport, State, or local government that requested the appeal at least 30 days to review the response; and

(ii) withhold from taking further action in connection with the appeal during that 30-day period.

(D) If, after completion of the appeal procedures with respect to the determination, the Secretary requires the tower to transition into the Cost-share Program, the Secretary shall not require a cost-share payment from the airport, State, or local government for 1 year following the last day of the 30-day period described in subparagraph (C).

(e) DEFINITIONS.—In this section:

(1) CONTRACT TOWER PROGRAM.—The term "Contract Tower Program" means the level I air traffic control tower contract program established under subsection (a) and continued under subsection (b)(1).

(2) COST-SHARE PROGRAM.—The term "Cost-share Program" means the cost-share program established under subsection (b)(3).

(f) IMPROVING CONTROLLER SITUATIONAL AWARENESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall allow air traffic controllers at towers operated under the Contract Tower Program to use approved advanced equipment and technologies to improve operational situational awareness, including Standard Terminal Automation Replacement System radar displays, Automatic Dependent Surveillance-Broadcast, Flight Data Input/Output, and Automatic Terminal Information System.

(2) INSTALLATION AND MAINTENANCE.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall allow airports to—

(A) procure a Standard Terminal Automation Replacement System or any equivalent system through the Federal Aviation Administration, and install and maintain such system using Administration services; or

(B) purchase a Standard Terminal Automation Replacement System, or any equivalent system, and install and maintain such system using services directly from an original equipment manufacturer.

(3) REQUIREMENTS.—To help facilitate the integration of the equipment and technology described in paragraph (1), the Secretary—

(A) shall establish minimum performance and technical standards that ensure the safe use of equipment and technology, including commercial radar displays capable of displaying primary and secondary radar targets, for use by controllers in contract towers to improve situational awareness;

(B) shall identify approved vendors for such equipment and technology, to the maximum extent practicable;

(C) shall establish, in consultation with contract tower operators, an appropriate training program to periodically train air traffic controllers employed by such operators to ensure proper and efficient integration and use of the situational awareness equipment and technology described in paragraph (1) into contract tower operations;

(D) may add Standard Terminal Automation Replacement System equipment or any equivalent system to the minimum level of equipage necessary for Federal contract towers to perform the function of such towers, as applicable; and

(E) shall require that any technology, system, or equipment procured pursuant to this subsection be procured using non-Federal funds, except as made available under a grant issued pursuant to 47124(b)(4).[1]

(g) LIABILITY INSURANCE.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall consult with aviation industry experts, including air traffic control contractors and aviation insurance professionals, to determine adequate limits of liability for the Contract Tower Program.

(2) INTERIM STEPS.—Not later than 6 months after the date of enactment of this subsection and until the Secretary makes a determination on liability limits under paragraph (1), the Secretary shall require air traffic control contractors to have excess liability insurance (as determined by the Secretary) to ensure continuity of such coverage should a major accident occur.

(3) BRIEFING.—Not later than 24 months after the date of enactment of this subsection, the Secretary shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Commerce,[2] Science, and Transportation of the Senate on the findings, conclusions, and actions taken and planned to be taken to carry out this subsection.

(h) MILESTONES FOR DESIGN APPROVAL OF REMOTE TOWERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administrator of the Federal Aviation Administration shall create a program and publish milestones to achieve system design and operational approval for a remote tower system.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Administrator shall—

(A) rely on support from the Office of Airports of the Federal Aviation Administration and the Air Traffic Organization of the Federal Aviation Administration, including the Air Traffic Services Service Unit and the Technical Operations Service Unit;

(B) consult with relevant stakeholders, as the Administrator determines appropriate;

(C) establish requirements for the system design and operational approval of remote towers, including—

(i) visual siting processes and requirements for electro-optical sensors;

(ii) datalink latency requirements;

(iii) visual presentation design requirements for monitors used to display sensor and camera feeds; and

(iv) any other wireless telecommunications infrastructure requirements to enable the operation of such towers;

(D) use a safety risk management panel process to address any safety issues with respect to a remote tower;

(E) if a remote tower is intended to be installed at a non-towered airport, assess the safety benefits of the remote tower against the lack of an existing tower;

(F) allow the use of surface surveillance technology, either standalone or integrated into the visual automation platform, as a situational awareness tool;

(G) establish protocols for contingency operations and procedures in the event of remote tower technology failures and malfunctions; and

(H) support active testing of a remote tower system that has achieved system design approval by the William J. Hughes Technical Center at an airport that has installed remote tower infrastructure to support such system.

(3) SYSTEM DESIGN APPROVAL AND EVALUATION PROCESS.—Not later than December 31, 2024, the Administrator shall expand the system design approval and evaluation process for a digital or remote tower system to not less than 3 airports at which a digital or remote tower will be installed or operated at airports not located at the William J. Hughes Technical Center and using the criteria under section 161 of the FAA Reauthorization Act of 2018 (49 U.S.C. 47104 note), to the extent the Administrator has willing technology providers and airports interested in the installation and operation of such towers.

(4) PRESERVATION OF EXISTING DESIGN APPROVALS.—Nothing in this subsection shall be construed to invalidate any system design approval activity carried out by the William J.

Hughes Technical Center prior to the date of enactment of this subsection.

(5) PRIORITIZATION FOR REMOTE TOWER CERTIFICATION.—In carrying out the program established under paragraph (1), the Administrator shall prioritize system design and operational approval for a remote tower system at—

(A) airports that do not have a permanent air traffic control tower at the time of application;

(B) airports that would provide small and rural community air service; or

(C) airports that have been newly accepted as of the date of enactment of this subsection into the Contract Tower Program.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106–181, title I, §131, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108–7, div. I, title III, §370(b)(1), (2), Feb. 20, 2003, 117 Stat. 425, 426; Pub. L. 108–176, title I, §105, Dec. 12, 2003, 117 Stat. 2498; Pub. L. 112–55, div. C, title I, §119, Nov. 18, 2011, 125 Stat. 649; Pub. L. 112–95, title I, §147, Feb. 14, 2012, 126 Stat. 30; Pub. L. 113–76, div. L, title I, §118, Jan. 17, 2014, 128 Stat. 581; Pub. L. 113–235, div. K, title I, §118, Dec. 16, 2014, 128 Stat. 2704; Pub. L. 114–55, title I, §102(c), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(c), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(c), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(d), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(c), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §133(a)–(c), Oct. 5, 2018, 132 Stat. 3206–3208; Pub. L. 118–63, title VI, §§620, 621(a), (c), 625(b), (c), title VII, §712(c)(2), title XI, §1101(v), May 16, 2024, 138 Stat. 1234, 1235, 1237, 1242, 1256, 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47124(a)	49 App.:2222.	Sept. 3, 1982, Pub. L. 97–248, §526, 96 Stat. 698.
47124(b)(1)	49 App.:2222 (note).	Dec. 30, 1987, Pub. L. 100–223, §306, 101 Stat. 1526.
47124(b)(2)	49 App.:1344(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, §303(h); added Oct. 31, 1992, Pub. L. 102–581, §201(a), 106 Stat. 4890.

In subsection (a), the words "In the powers granted under section 2218 of this Appendix" and "contract or other" are omitted as surplus. The word "relieves" is substituted for "contain, among others, a provision relieving", and the words "from any liability arising out of, or related to" are substituted for "of any and all liability for the payment of any claim or other obligation arising out of or in connection with", to eliminate unnecessary words.

In subsection (b)(1), the words "in effect" are omitted as surplus. The words "on December 30, 1987" are added for clarity.

In subsection (b)(2), the word "Secretary" is substituted for "Administrator" for consistency in the chapter.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

The date of enactment of this subsection, referred to in subsec. (d)(1)(B), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

The date of enactment of this subsection, referred to in subsecs. (f)(1), (2), (g), and (h)(1), (4), (5)(C), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 161 of the FAA Reauthorization Act of 2018, referred to in subsec. (h)(3), is section 161 of Pub. L.

115–254, which is set out as a note under section 47104 of this title.

AMENDMENTS

2024—Subsec. (b)(1)(B)(ii). Pub. L. 118–63, §1101(v), struck out second period at end.

Subsec. (b)(2). Pub. L. 118–63, §625(b), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(3)(B)(ii). Pub. L. 118–63, §621(c)(1), inserted "or a remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration" after "an operating air traffic control tower".

Subsec. (b)(3)(C)(viii) to (x). Pub. L. 118–63, §625(c), added cls. (viii) to (x).

Subsec. (b)(3)(H). Pub. L. 118–63, §620(1), added subpar. (H).

Subsec. (b)(4)(A)(i)(III). Pub. L. 118–63, §621(c)(2)(A), inserted "or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration" after "certified by the Federal Aviation Administration".

Subsec. (b)(4)(A)(ii)(I). Pub. L. 118–63, §712(c)(2)(A)(i), substituted "subsections (c) and (d) of section 47114" for "sections 47114(c)(2) and 47114(d)".

Subsec. (b)(4)(A)(ii)(II). Pub. L. 118–63, §712(c)(2)(A)(ii), substituted "sections 47114(c) and 47114(d)(2)(A)" for "sections 47114(c)(2) and 47114(d)(3)(A)".

Subsec. (b)(4)(A)(ii)(III). Pub. L. 118–63, §712(c)(2)(A)(iii), substituted "sections 47114(c) and 47114(d)(2)(A)" for "sections 47114(c)(2) and 47114(d)(3)(A)".

Pub. L. 118–63, §621(c)(2)(B), inserted "or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration" after "certified by the Federal Aviation Administration".

Subsec. (b)(4)(B)(v). Pub. L. 118–63, §712(c)(2)(B), substituted "section 47114(d)(2)(B)" for "section 47114(d)(2) or 47114(d)(3)(B)".

Subsecs. (f), (g). Pub. L. 118–63, §620(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 118–63, §621(a)(1), added subsec. (h).

2018—Subsec. (b)(1)(B). Pub. L. 115–254, §133(a)(1), substituted "under the Contract Tower Program" for "under the program continued under this paragraph" and "exceeds the benefit—" and cls. (i) and (ii) for "exceeds the benefit for a period of 18 months after such determination is made".

Subsec. (b)(1)(C). Pub. L. 115–254, §133(c)(1), substituted "the Cost-share Program" for "the program established under paragraph (3)".

Subsec. (b)(3). Pub. L. 115–254, §133(c)(2)(A), substituted "Cost-share program" for "Contract air traffic control tower program" in heading.

Subsec. (b)(3)(A). Pub. L. 115–254, §133(c)(2)(B), substituted "Contract Tower Program" for "contract tower program established under subsection (a) and continued under paragraph (1) (in this paragraph referred to as the 'Contract Tower Program')".

Subsec. (b)(3)(B). Pub. L. 115–254, §133(c)(2)(C), substituted "In carrying out the Cost-share Program" for "In carrying out the program" in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 115–254, §133(c)(2)(D), substituted "participate in the Cost-share Program" for "participate in the program" in introductory provisions.

Subsec. (b)(3)(D). Pub. L. 115–254, §133(a)(2), substituted "under the Cost-share Program" for "under the program" and inserted at end "Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph."

Subsec. (b)(3)(E). Pub. L. 115–141 substituted "2012 through 2018" for "2012 through 2017 and not more than $5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018,".

Subsec. (b)(3)(F). Pub. L. 115–254, §133(c)(2)(E), substituted "the Contract Tower Program" for "the program continued under paragraph (1)".

Subsec. (b)(3)(G). Pub. L. 115–254, §133(a)(4), added subpar. (G).

Subsec. (b)(4)(A)(i)(III), (ii)(III). Pub. L. 115–254, §133(a)(3)(A), inserted ", including remote air traffic control tower equipment certified by the Federal Aviation Administration" after "1996".

Subsec. (b)(4)(B)(i)(I). Pub. L. 115–254, §133(a)(3)(B), substituted "Contract Tower Program or the Cost-share Program" for "contract tower program established under subsection (a) and continued under paragraph (1) or the pilot program established under paragraph (3)".

Subsec. (b)(4)(C). Pub. L. 115–254, §133(a)(3)(C), struck out subpar. (C). Text read as follows: "The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed $2,000,000."

Subsecs. (d), (e). Pub. L. 115–254, §133(b), added subsecs. (d) and (e).

2017—Subsec. (b)(3)(E). Pub. L. 115–63 inserted "and not more than $5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018," after "fiscal years 2012 through 2017".

2016—Subsec. (b)(3)(E). Pub. L. 114–190 substituted "fiscal years 2012 through 2017" for "fiscal years 2012 through 2015 and not more than $8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016,".

Pub. L. 114–141 substituted "$8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016," for "$5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016,".

2015—Subsec. (b)(3)(E). Pub. L. 114–55 inserted "and not more than $5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016," after "fiscal years 2012 through 2015".

2014—Subsec. (b)(3)(D). Pub. L. 113–76 and Pub. L. 113–235, which identically directed substitution of "benefit, with the maximum allowable local cost share capped at 20 percent." for "benefit.", could not be executed because of the prior amendment by Pub. L. 112–55. See 2011 Amendment note below.

2012—Subsec. (b)(1). Pub. L. 112–95, §147(a)(1), designated existing provisions as subpar. (A), inserted par. and subpar. headings, and added subpars. (B) and (C).

Subsec. (b)(2). Pub. L. 112–95, §147(a)(2), inserted heading.

Subsec. (b)(3)(E), (F). Pub. L. 112–95, §147(b), added subpars. (E) and (F) and struck out former subpar. (E). Prior to amendment, text of subpar. (E) read as follows: "Of the amounts appropriated pursuant to section 106(k), not more than $6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007 may be used to carry out this paragraph."

Subsec. (b)(4)(C). Pub. L. 112–95, §147(c), substituted "$2,000,000" for "$1,500,000".

Subsec. (c). Pub. L. 112–95, §147(d), added subsec. (c).

2011—Subsec. (b)(3)(D). Pub. L. 112–55 substituted "benefit, with the maximum allowable local cost share capped at 20 percent." for "benefit."

2003—Subsec. (a). Pub. L. 108–176, §105(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "The Secretary of Transportation shall ensure that an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility."

Subsec. (b)(2). Pub. L. 108–176, §105(2), added par. (2) and struck out former par. (2) which read as follows: "The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract."

Subsec. (b)(3). Pub. L. 108–176, §105(3)(A), (B), struck out "PILOT" before "PROGRAM" in par. heading, before "program to contract" in subpar. (A), before "program, the Secretary" in subpars. (B) and (C), and before "program exceed" in subpar. (D).

Subsec. (b)(3)(A). Pub. L. 108–7, §370(b)(2)(A), substituted "nonapproach control towers, as defined by the Secretary," for "Level I air traffic control towers, as defined by the Secretary,".

Subsec. (b)(3)(E). Pub. L. 108–176, §105(3)(C), substituted "$6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007" for "$6,000,000 per fiscal year".

Pub. L. 108–7, §370(b)(2)(B), substituted "Of" for "Subject to paragraph (4)(D), of".

Subsec. (b)(4). Pub. L. 108–7, §370(b)(1), reenacted heading without change and amended text generally. Prior to amendment, par. authorized the Secretary to provide grants under this subchapter to not more than two airport sponsors for the construction of a low-level activity visual flight rule (level 1) air traffic control tower.

Subsec. (b)(4)(C). Pub. L. 108–176, §105(4), substituted "$1,500,000" for "$1,100,000".

2000—Subsec. (b)(3), (4). Pub. L. 106–181 added pars. (3) and (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this

title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

SAVINGS PROVISION

Pub. L. 108–7, div. I, title III, §370(b)(3), Feb. 20, 2003, 117 Stat. 426, provided that: "Notwithstanding the amendments made by this section [amending this section and section 47102 of this title], the towers for which assistance is being provided on the day before the date of enactment of this Act [Feb. 20, 2003] under section 47124(b)(4) of title 49, United States Code, as in effect on such day, may continue to be provided such assistance under the terms of such section."

FAA CONTRACT TOWER WORKFORCE AUDIT

Pub. L. 118–63, title VI, §605, May 16, 2024, 138 Stat. 1224, provided that:

"(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [May 16, 2024], the inspector general of the Department of Transportation shall initiate an audit of the workforce needs of the Contract Tower Program, as established under section 47124 of title 49, United States Code.

"(b) CONTENTS.—In conducting the audit required under subsection (a), the inspector general shall, at a minimum—

"(1) review the assumptions and methodologies used in assessing FAA [Federal Aviation Administration] contract towers staffing levels and determine the adequacy of staffing levels at such towers;

"(2) evaluate the supply and demand of trained and certificated personnel prepared for work and such towers;

"(3) examine efforts to establish an air traffic controller training program or curriculum to allow contract tower contractors to conduct—

"(A) initial training of controller candidates employed or soon to be employed by such contractors who do not have a Control Tower Operator certificate or a FAA tower credential;

"(B) any initial training for controller candidates who have completed an approved Air Traffic Collegiate Training Initiative program from an accredited school that has a demonstrated successful curriculum; or

"(C) on-the-job training of such candidates described in subparagraphs (A) or (B);

"(4) assess whether establishing pathways to allow contract tower contractors to use the air traffic technical training academy of the FAA, or other means such as higher educational institutions, to provide initial technical training for air traffic controllers employed by such contractors could improve the workforce needs of the contract tower program and any related impact such training may have on air traffic controller staffing more broadly; and

"(5) consult with the exclusive bargaining representative of the air traffic controllers certified under section 7111 of title 5, United States Code.

"(c) REPORT.—Not later than 90 days after the completion of the audit under subsection (a), the inspector general shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the findings of such audit and any recommendations as a result of such audit.

"(d) IMPLEMENTATION.—The Administrator [of the Federal Aviation Administration] shall take such actions as are necessary to implement any recommendations included in the report required under subsection (c) with which the Administrator concurs.

"(e) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as a delegation of authority by the Administrator to air traffic control contractors for the purposes of issuing initial certifications to air traffic controllers."

AIR TRAFFIC CONTROL TOWER SAFETY

Pub. L. 118–63, title VI, §606, May 16, 2024, 138 Stat. 1225, provided that: "In designing, adopting a design, or constructing an air traffic control tower based on a previously adopted design, the Administrator [of the Federal Aviation Administration] shall prioritize the safety of the national airspace system, the safety of employees of the Administration, the operational reliability of such air traffic control tower, and the costs of such tower."

FEDERAL CONTRACT TOWER WAGE DETERMINATIONS AND POSITIONS

Pub. L. 118–63, title VI, §611, May 16, 2024, 138 Stat. 1226, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall request that the Secretary of Labor—

"(1) review and update, as necessary, including to account for cost-of-living adjustments, the basis for the wage determination for air traffic controllers who are employed at air traffic control towers operated under the Contract Tower Program established under section 47124 of title 49, United States Code;

"(2) reassess the basis for air traffic controller occupation codes;

"(3) create a new wage determination category or occupation code for managers of air traffic controllers who are employed at air traffic control towers operated under the Contract Tower Program; and

"(4) consult with the Administrator [of the Federal Aviation Administration] in carrying out the requirements of paragraphs (1) through (3).

"(b) REPORT.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Secretary, in consultation with the Secretary of Labor, shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report that includes—

"(1) a description of the findings and conclusions of the review and reassessment made under subsection (a);

"(2) an explanation of and justification for the basis for the wage determination; and

"(3) a description of the actions taken by the Department of Transportation and the Department of Labor to ensure that contract tower air traffic controller wages are adjusted for inflation and are assigned the appropriate occupation codes."

LIST OF REPLACED AIR TRAFFIC CONTROL TOWER FACILITIES

Pub. L. 118–63, title VI, §624(c), May 16, 2024, 138 Stat. 1241, provided that: "The Administrator [of the Federal Aviation Administration] shall establish, maintain, and publish on the website of the FAA [Federal Aviation Administration] a list of the following:

"(1) All air traffic control tower facilities replaced within the 10-year period preceding the date of enactment of this Act [May 16, 2024].

"(2) Any air traffic control tower facilities for which the Administrator has made a determination requiring replacement, but for which such replacement has not yet been completed."

PILOT PROGRAM FOR TRANSITIONING TO FAA TOWERS

Pub. L. 118–63, title VI, §625(a), May 16, 2024, 138 Stat. 1241, provided that:

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a pilot program to convert high-activity air traffic control towers operating under the Contract Tower Program as established under section 47124 of title 49, United States Code, (in this section referred to as the 'Contract Tower Program') to a level I (Visual Flight Rules) tower staffed by the FAA [Federal Aviation Administration].

"(2) PRIORITY.—In selecting air traffic control towers to participate in the pilot program established under paragraph (1), the Administrator shall prioritize air traffic control towers operating under the Contract Tower Program that—

"(A) either—

"(i) had over 200,000 annual tower operations in calendar year 2022; or

"(ii) served a small hub airport with more than 900,000 passenger enplanements in calendar year 2021;

"(B) are either currently owned by the FAA or are constructed to FAA standards; and

"(C) operate within complex airspace, including airspace that serves air carrier, general aviation, and military aircraft.

"(3) TOWER SELECTION.—The number of air traffic control towers selected to participate in the pilot program established under paragraph (1) shall be determined based on the availability of funds for the pilot program and the interest of the airport sponsor related to such facility.

"(4) CONTROLLER RETENTION.—With respect to any high-activity air traffic control tower selected to be converted under the pilot program established under paragraph (1), the Administrator shall appoint to the position of air traffic controller any air traffic controller who—

"(A) is employed at such air traffic control tower as of the date on which the Administrator selects such tower to be converted;

"(B) meets the qualifications contained in section 44506(f)(1)(A) of title 49, United States Code; and

"(C) has all other pre-employment qualifications required by law to be a certified controller of the FAA.

"(5) SAFETY ANALYSIS.—

"(A) IN GENERAL.—The Administrator shall conduct a safety analysis to determine whether the

conversion of any air traffic control tower described in paragraph (1) negatively impacts aviation safety at such air traffic control tower and take such actions needed to address any negative impact.

"(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report describing the results of the safety analysis under subparagraph (A), any actions taken to address any negative impacts to safety, and the overall results of the pilot program established under this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—Out of amounts made available under section 106(k) of title 49, United States Code, there is authorized to be appropriated to carry out this subsection $30,000,000 to remain available for 5 fiscal years."

APPROVAL OF CERTAIN APPLICATIONS FOR THE CONTRACT TOWER PROGRAM

Pub. L. 115–254, div. B, title I, §133(d), Oct. 5, 2018, 132 Stat. 3209, provided that:

"(1) IN GENERAL.—If the Administrator of the Federal Aviation Administration has not implemented a revised cost-benefit methodology for purposes of determining eligibility for the Contract Tower Program before the date that is 30 days after the date of enactment of this Act [Oct. 5, 2018], any airport with an application for participation in the Contract Tower Program pending as of January 1, 2017, shall be approved for participation in the Contract Tower Program if the Administrator determines the tower is eligible under the criteria set forth in the Federal Aviation Administration report entitled 'Establishment and Discontinuance Criteria for Airport Traffic Control Towers', and dated August 1990 (FAA–APO–90–7).

"(2) REQUESTS FOR ADDITIONAL AUTHORITY.—The Administrator shall respond not later than 60 days after the date the Administrator receives a formal request from an airport and air traffic control contractor for additional authority to expand contract tower operational hours and staff to accommodate flight traffic outside of current tower operational hours.

"(3) DEFINITION OF CONTRACT TOWER PROGRAM.—In this section [probably means "subsection"], the term 'Contract Tower Program' has the meaning given the term in section 47124(e) of title 49, United States Code, as added by this Act."

NONAPPROACH CONTROL TOWERS

Pub. L. 108–7, div. I, title III, §370(c), Feb. 20, 2003, 117 Stat. 426, provided that:

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a lease agreement or contract agreement with a private entity to provide for construction and operation of a nonapproach control tower as defined by the Secretary of Transportation.

"(2) TERMS AND CONDITIONS.—An agreement entered into under this section—

"(A) shall be negotiated under such procedures as the Administrator considers necessary to ensure the integrity of the selection process, the safety of air travel, and to protect the interests of the United States;

"(B) may provide a lease option to the United States, to be exercised at the discretion of the Administrator, to occupy any general-purpose space in a facility covered by the agreement;

"(C) shall not require, unless specifically determined otherwise by the Administrator, Federal ownership of a facility covered under the agreement after the expiration of the agreement;

"(D) shall describe the consideration, duties, and responsibilities for which the United States and the private entity are responsible;

"(E) shall provide that the United States will not be liable for any action, debt, or liability of any entity created by the agreement;

"(F) shall provide that the private entity may not execute any instrument or document creating or evidencing any indebtedness with respect to a facility covered by the agreement unless such instrument or document specifically disclaims any liability of the United States under the instrument or document; and

"(G) shall include such other terms and conditions as the Administrator considers appropriate."

USE OF APPORTIONMENTS TO PAY NON-FEDERAL SHARE OF OPERATION COSTS

Pub. L. 108–7, div. I, title III, §370(d), Feb. 20, 2003, 117 Stat. 427, provided that:

"(1) STUDY.—The Secretary of Transportation shall conduct a study of the feasibility, costs, and benefits of allowing the sponsor of an airport to use not to exceed 10 percent of amounts apportioned to the sponsor under section 47114 to pay the non-Federal share of the cost of operation of an air traffic control tower under section 47124(b) of title 49, United States Code.

"(2) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 20, 2003], the Secretary shall transmit to Congress a report on the results of the study."

CONTRACT TOWER ASSISTANCE

Pub. L. 103–305, title V, §508, Aug. 23, 1994, 108 Stat. 1596, provided that: "The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities."

[1] *So in original. Probably should be preceded by "section".*

[2] *So in original. Probably should be preceded by "Committee on".*

§47124a. Accessibility of certain flight data

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(3) APPLICABLE INDIVIDUAL.—The term "applicable individual" means an individual who is the subject of an investigation initiated by the Administrator related to a covered flight record.

(4) CONTRACT TOWER.—The term "contract tower" means an air traffic control tower providing air traffic control services pursuant to a contract with the Administration under section 47124.

(5) COVERED FLIGHT RECORD.—The term "covered flight record" means any air traffic data (as defined in section 2(b)(4)(B) of the Pilot's Bill of Rights (49 U.S.C. 44703 note)), created, maintained, or controlled by any program of the Administration, including any program of the Administration carried out by employees or contractors of the Administration, such as contract towers, flight service stations, and controller training programs.

(b) PROVISION OF COVERED FLIGHT RECORD TO ADMINISTRATION.—

(1) REQUESTS.—Whenever the Administration receives a written request for a covered flight record from an applicable individual and the covered flight record is not in the possession of the Administration, the Administrator shall request the covered flight record from the contract tower or other contractor of the Administration in possession of the covered flight record.

(2) PROVISION OF RECORDS.—Any covered flight record created, maintained, or controlled by a contract tower or another contractor of the Administration that maintains covered flight records shall be provided to the Administration if the Administration requests the record pursuant to paragraph (1).

(3) NOTICE OF PROPOSED CERTIFICATE ACTION.—If the Administrator has issued, or subsequently issues, a Notice of Proposed Certificate Action relying on evidence contained in the covered flight record and the individual who is the subject of an investigation has requested the record, the Administrator shall promptly produce the record and extend the time the individual has to respond to the Notice of Proposed Certificate Action until the covered flight record is provided.

(c) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Fairness for Pilots Act, the Administrator shall promulgate regulations or guidance to ensure compliance with this section.

(2) COMPLIANCE BY CONTRACTORS.—

(A) IN GENERAL.—Compliance with this section by a contract tower or other contractor of the Administration that maintains covered flight records shall be included as a material term in any contract between the Administration and the contract tower or contractor entered into or renewed on or after the date of enactment of the Fairness for Pilots Act.

(B) NONAPPLICABILITY.—Subparagraph (A) shall not apply to any contract or agreement in effect on the date of enactment of the Fairness for Pilots Act unless the contract or agreement is renegotiated, renewed, or modified after that date.

(d) PROTECTION OF CERTAIN DATA.—The Administrator of the Federal Aviation Administration may withhold information that would otherwise be required to be made available under section [1] only if—

(1) the Administrator determines, based on information in the possession of the Administrator, that the Administrator may withhold the information in accordance with section 552a of title 5, United States Code; or

(2) the information is submitted pursuant to a voluntary safety reporting program covered by section 40123 of title 49, United States Code.

(Added Pub. L. 115–254, div. B, title III, §395(a), Oct. 5, 2018, 132 Stat. 3326.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2 of the Pilot's Bill of Rights, referred to in subsec. (a)(5), is section 2 of Pub. L. 112–153, which is set out as a note under section 44703 of this title.

The date of enactment of the Fairness for Pilots Act, referred to in subsec. (c), is the date of enactment of subtitle C of title III of div. B of Pub. L. 115–254, which was approved Oct. 5, 2018.

[1] *So in original. Probably should be "this section".*

§47125. Conveyances of United States Government land

(a) CONVEYANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems. The head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision not later than 4 months after receiving the request. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance. Before waiving a condition that property be used for an aeronautical purpose under the preceding sentence, the Secretary must provide notice to the public not less than 30 days before waiving such condition.

(b) NONAPPLICATION.—Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

(1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;

(2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or

(3) a national forest or Indian reservation.

(c) WAIVING RESTRICTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may grant to an airport, city, or county a waiver of any of the terms, conditions, reservations, or restrictions contained in a deed under which the United States conveyed to the airport, city, or county an interest in real property

for airport purposes pursuant to section 16 of the Federal Airport Act (60 Stat. 179), section 23 of the Airport and Airway Development Act of 1970 (84 Stat. 232), or this section.

(2) CONDITIONS.—Any waiver granted by the Secretary pursuant to paragraph (1) shall be subject to the following conditions:

(A) The applicable airport, city, county, or other political subdivision shall agree that in conveying any interest in the real property which the United States conveyed to the airport, city, or county, the airport, city, or county will receive consideration for such interest that is equal to its current fair market value.

(B) Any consideration received by the airport, city, or county under subparagraph (A) shall be used exclusively for the development, improvement, operation, or maintenance of a public airport by the airport, city, or county.

(C) Such waiver—

(i) will not significantly impair the aeronautical purpose of an airport;

(ii) will not result in the permanent closure of an airport (unless the Secretary determines that the waiver will directly facilitate the construction of a replacement airport); or

(iii) is necessary to protect or advance the civil aviation interests of the United States.

(D) Any other conditions required by the Secretary.

(3) ANNUAL REPORTING.—The Secretary shall include a list and description of each waiver granted pursuant to paragraph (1) in the plan required under section 47103.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106–181, title I, §125(b), Apr. 5, 2000, 114 Stat. 75; Pub. L. 118–63, title VII, §719(a), May 16, 2024, 138 Stat. 1260.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47125(a)	49 App.:2215(a), (b).	Sept. 3, 1982, Pub. L. 97–248, §516, 96 Stat. 692.
47125(b)	49 App.:2215(c).	

In subsection (a), the text of 49 App.:2215(a) (last sentence) is omitted as surplus because a "property interest in land or airspace" necessarily includes "title to . . . land or any easement through . . . airspace". The words "when necessary" are substituted for "whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for", and the words "for the future development" are substituted for "including lands reasonably necessary to meet future development", to eliminate unnecessary words. The words "not later than 4 months after receiving the request" are substituted for "Upon receipt of a request from the Secretary under this section" and "within a period of four months after receipt of the Secretary's request" for clarity and to eliminate unnecessary words. The words "make the conveyance" are substituted for "perform any acts and to execute any instruments necessary to make the conveyance requested", and the words "that the property interest conveyed reverts to the Government . . . to the extent it is not" are substituted for "the property interest conveyed shall revert to the United States in the event that the lands in question are not" and "If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States", to eliminate unnecessary words. The words "the terms of" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 16 of the Federal Airport Act, referred to in subsec. (c)(1), is section 16 of act May 13, 1946, ch. 251, 60 Stat. 179, which is not classified to the Code.

Section 23 of the Airport and Airway Development Act of 1970, referred to in subsec. (c)(1), is section 23 of Pub. L. 91–258, title I, May 21, 1970, 84 Stat. 232, which is not classified to the Code.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 added subsec. (c).

2000—Subsec. (a). Pub. L. 106–181 inserted at end "Before waiving a condition that property be used for an aeronautical purpose under the preceding sentence, the Secretary must provide notice to the public not less than 30 days before waiving such condition."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

RELEASE FROM RESTRICTIONS

Pub. L. 112–95, title VIII, §817, Feb. 14, 2012, 126 Stat. 127, as amended by Pub. L. 115–254, div. B, title I, §141, Oct. 5, 2018, 132 Stat. 3211, which authorized the Secretary of Transportation to grant to an airport, city, or county a release from any of the terms, conditions, reservations, or restrictions contained in a deed under which the United States conveyed to the airport, city, or county an interest in real property for airport purposes, was repealed by Pub. L. 118–63, title VII, §719(c)(2), May 16, 2024, 138 Stat. 1262. See subsec. (c) of this section.

§47126. Criminal penalties for false statements

A person (including an officer, agent, or employee of the United States Government or a public agency) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, with intent to defraud the Government, knowingly makes—

(1) a false statement about the kind, quantity, quality, or cost of the material used or to be used, or the quantity, quality, or cost of work performed or to be performed, in connection with the submission of a plan, map, specification, contract, or estimate of project cost for a project included in a grant application submitted to the Secretary of Transportation for approval under this subchapter;

(2) a false statement or claim for work or material for a project included in a grant application approved by the Secretary under this subchapter; or

(3) a false statement in a report or certification required under this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47126	49 App.:2216.	Sept. 3, 1982, Pub. L. 97–248, §517, 96 Stat. 693.

In this section, before clause (1), the words "association, firm, or corporation" are omitted because of 1:1. The words "fined under title 18" are substituted for "a fine of not to exceed $10,000" for consistency with title 18. In clauses (1)–(3), the words "false representation" are omitted as surplus. In clauses (1) and (2), the words "false report" are omitted as surplus. The words "included in a grant application" are added for clarity and consistency in this chapter. In clause (3), the words "to be made" are omitted as surplus.

§47127. Ground transportation demonstration projects

(a) GENERAL AUTHORITY.—To improve the airport and airway system of the United States consistent with regional airport system plans financed under section 13(b) of the Airport and Airway Development Act of 1970, the Secretary of Transportation may carry out ground transportation demonstration projects to improve ground access to air carrier airport terminals. The Secretary may carry out a demonstration project independently or by grant or contract, including an agreement with another department, agency, or instrumentality of the United States Government.

(b) PRIORITY.—In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47127(a)	49 App.:1713a(1).	July 12, 1976, Pub. L. 94–353, §23(a), 90 Stat. 884.
47127(b)	49 App.:1713a(2).	

In subsection (a), the words "To improve" are substituted for "which he determines will assist the improvement of" to eliminate unnecessary words.

In subsection (b)(2), the word "facilities" is omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 13(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (a), is section 13(b) of Pub. L. 91–258, which was classified to section 1713(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

§47128. State block grant program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall issue guidance to carry out a State block grant program. The guidance shall provide that the Secretary may designate not more than 20 qualified States for each fiscal year to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) APPLICATIONS AND SELECTION.—A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(1) deciding the State has an organization capable of effectively administering a block grant made under this section;

(2) deciding the State uses a satisfactory airport system planning process;

(3) deciding the State uses a programming process acceptable to the Secretary;

(4) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive orders,

agency regulations and guidance, and other Federal environmental requirements; and

(5) finding that the State has agreed to provide the Secretary with program information the Secretary requires.

(c) SAFETY AND SECURITY NEEDS AND NEEDS OF SYSTEM.—Before deciding whether a planning process is satisfactory or a programming process is acceptable under subsection (b)(2) or (b)(3) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government. In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.

(d) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

(1) coordinate and consult with the State;

(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

(3) as necessary, consult with the State to describe the supplemental analysis the State must provide to meet applicable Federal requirements.

(e) TRAINING FOR PARTICIPATING STATES.—

(1) IN GENERAL.—The Secretary shall provide to each State participating in the block grant program under this section training or updated training materials for the administrative responsibilities assumed by the State under such program at no cost to the State.

(2) TIMING.—The training or updated training materials provided under paragraph (1) shall be provided at least once during each 2-year period and at any time there is a material change in the program.

(f) ROLES AND RESPONSIBILITIES OF PARTICIPATING STATES.—

(1) AIRPORTS.—Unless a State participating in the block grant program under this section expressly agrees in a memorandum of agreement, the Secretary shall not require the State to manage functions and responsibilities for airport actions or projects that do not relate to such program.

(2) PROGRAM DOCUMENTATION.—

(A) IN GENERAL.—Any grant agreement providing funds to be administered under such program shall be consistent with the most recently executed memorandum of agreement between the State and the Federal Aviation Administration.

(B) PARITY.—The Administrator of the Federal Aviation Administration shall provide parity to participating States and shall only require the same type of information and level of detail for any program agreements and documentation that the Administrator would perform with respect to such action if the State did not participate in the program.

(3) RESPONSIBILITIES.—Unless the State expressly agrees to retain responsibility, the Administrator shall retain responsibility for the following:

(A) Grant compliance investigations, determinations, and enforcement.

(B) Obstruction evaluation and airport airspace analysis, determinations, and enforcement off airport property.

(C) Non-rulemaking analysis, determinations, and enforcement for proposed improvements on airport properties not associated with this subchapter, or off airport property.

(D) Land use determinations, compatibility planning, and airport layout plan review and approval (consistent with section 47107(x)) for projects not funded by amounts available under

this subchapter.

(E) Nonaeronautical and special event recommendations and approvals.

(F) Instrument approach procedure evaluations and determinations.

(G) Environmental review for projects not funded by amounts available under this subchapter.

(H) Review and approval of land leases, land releases, changes in on-airport land-use designation, and through-the-fence agreements.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277; Pub. L. 103–429, §6(70), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, §147(a)–(c)(1), Oct. 9, 1996, 110 Stat. 3223; Pub. L. 104–287, §5(84), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(d)(1)(E), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–181, title I, §138, Apr. 5, 2000, 114 Stat. 85; Pub. L. 112–95, title V, §502, Feb. 14, 2012, 126 Stat. 103; Pub. L. 115–254, div. B, title I, §139, Oct. 5, 2018, 132 Stat. 3210; Pub. L. 118–63, title VII, §720(a), (b), May 16, 2024, 138 Stat. 1262.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47128(a)	49 App.:2227(a) (1st sentence), (b) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §534; added Dec. 30, 1987, Pub. L. 100–223, §116, 101 Stat. 1507; Nov. 5, 1990, Pub. L. 101–508, §9114, 104 Stat. 1388–364; Oct. 31, 1992, Pub. L. 102–581, §116, 106 Stat. 4881.
47128(b)(1)	49 App.:2227(c) (1st, 2d sentences).	
47128(b)(2)	49 App.:2227(b) (last sentence).	
47128(c)	49 App.:2227(c) (last sentence).	
47128(d)	49 App.:2227(a) (last sentence), (d).	

In subsection (a), the words "Not later than 180 days after December 30, 1987" and "to become effective on October 1, 1989" are omitted as obsolete.

In subsection (b)(1)(A), the words "agency or" are omitted as surplus.

In subsection (b)(1)(D), the words "procedural and other" are omitted as surplus.

In subsection (d), the text of 49 App.:2227(d) is omitted as executed.

PUB. L. 103–429

This amends 49:47128(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1278).

PUB. L. 104–287

This makes a clarifying amendment to the catchline for 49:47128(d).

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(4), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2024—Subsec. (e). Pub. L. 118–63, §720(a), added subsec. (e).

Subsec. (f). Pub. L. 118–63, §720(b), added subsec. (f).

2018—Subsec. (a). Pub. L. 115–254 substituted "not more than 20 qualified States for each fiscal year" for "not more than 9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter".

2012—Subsec. (a). Pub. L. 112–95, §502(a), substituted "issue guidance" for "prescribe regulations" in first sentence and "guidance" for "regulations" in second sentence.

Subsec. (b)(4). Pub. L. 112–95, §502(b), inserted before semicolon ", including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive orders, agency regulations and guidance, and other Federal environmental requirements".

Subsec. (d). Pub. L. 112–95, §502(c), added subsec. (d).

2000—Subsec. (a). Pub. L. 106–181 substituted "9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter" for "8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter".

1997—Subsec. (d). Pub. L. 105–102 repealed Pub. L. 104–287, §5(84). See 1996 Amendment note below.

1996—Pub. L. 104–264, §147(c)(1)(A), substituted "grant program" for "grant pilot program" in section catchline.

Subsec. (a). Pub. L. 104–264, §147(a)(1), (c)(1)(B), substituted "block grant program" for "block grant pilot program" and "8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter" for "7 qualified States".

Subsec. (b). Pub. L. 104–264, §147(a)(2), (3), struck out "(1)" before "A State wishing", redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, and struck out former par. (2) which read as follows: "For the fiscal years ending September 30, 1993–1996, the States selected shall include Illinois, Missouri, and North Carolina."

Subsec. (c). Pub. L. 104–264, §147(b), substituted "(b)(2) or (b)(3)" for "(b)(1)(B) or (C)" and inserted at end "In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system."

Subsec. (d). Pub. L. 104–287, §5(84), which directed amendment of heading by striking "and report", was repealed by Pub. L. 105–102.

Pub. L. 104–264, §147(c)(1)(C), struck out subsec. (d) which read as follows:

"(d) ENDING EFFECTIVE DATE AND REPORT.—This section is effective only through September 30, 1996."

1994—Subsec. (c). Pub. L. 103–429 substituted "subsection (b)(1)(B) or (C)" for "subsection (b)(2) or (3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(E) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§47129. Resolution of disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more air carriers or foreign air carriers (as those terms are defined in section 40102) by the owner or operator of an airport is reasonable if—

(A) a written request for such determination is filed with the Secretary by such owner or operator; or

(B) a written complaint requesting such determination is filed with the Secretary by an affected air carrier or foreign air carrier within 60 days after such carrier receives written notice of the establishment or increase of such fee.

(2) CALCULATION OF FEE.—A fee subject to a determination of reasonableness under this section may be calculated pursuant to either a compensatory or residual fee methodology or any combination thereof.

(3) SECRETARY NOT TO SET FEE.—In determining whether a fee is reasonable under this section, the Secretary may only determine whether the fee is reasonable or unreasonable and shall not set the level of the fee.

(4) FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47134 of this title, the Secretary shall consider whether the airport has complied with section 47134(c)(4).

(b) PROCEDURAL REGULATIONS.—Not later than 90 days after August 23, 1994, the Secretary shall publish in the Federal Register final regulations, policy statements, or guidelines establishing—

(1) the procedures for acting upon any written request or complaint filed under subsection (a)(1); and

(2) the standards or guidelines that shall be used by the Secretary in determining under this section whether an airport fee is reasonable.

(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an air carrier or foreign air carrier files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

(2) Within 30 days after such complaint is filed with the Secretary, the Secretary shall dismiss the complaint if no significant dispute exists or shall assign the matter to an administrative law judge; and thereafter the matter shall be handled in accordance with part 302 of title 14, Code of Federal Regulations, or as modified by the Secretary to ensure an orderly disposition of the matter within the 120-day period and any specifically applicable provisions of this section.

(3) The administrative law judge shall issue a recommended decision within 60 days after the complaint is assigned or within such shorter period as the Secretary may specify.

(4) If the Secretary, upon the expiration of 120 days after the filing of the complaint, has not issued a final order, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

(5) Any party to the dispute may seek review of a final order of the Secretary under this subsection in the Circuit Court of Appeals for the District of Columbia Circuit or the court of appeals in the circuit where the airport which gives rise to the written complaint is located.

(6) Any findings of fact in a final order of the Secretary under this subsection, if supported by substantial evidence, shall be conclusive if challenged in a court pursuant to this subsection. No objection to such a final order shall be considered by the court unless objection was urged before an administrative law judge or the Secretary at a proceeding under this subsection or, if not so urged, unless there were reasonable grounds for failure to do so.

(d) PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER AND FOREIGN AIR

CARRIER ACCESS.—

(1) PAYMENT UNDER PROTEST.—

(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant air carrier or foreign air carrier to the airport under protest.

(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant air carrier or foreign air carrier to the airport under protest shall be subject to refund or credit to the air carrier or foreign air carrier in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant air carrier or foreign air carrier agree otherwise.

(D) DEADLINE.—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

(2) GUARANTEE OF AIR CARRIER AND FOREIGN AIR CARRIER ACCESS .—Contingent upon an air carrier's or foreign air carrier's compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an air carrier or foreign air carrier currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an air carrier's or foreign air carrier's prices, routes, or services, as a means of enforcing the fee.

(e) APPLICABILITY.—This section does not apply to—

(1) a fee imposed pursuant to a written agreement with air carriers or foreign air carriers using the facilities of an airport;

(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to August 23, 1994; or

(3) any other existing fee not in dispute as of August 23, 1994.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an air carrier or foreign air carrier and the owner or operator of an airport; or

(2) the ability of an airport to meet its obligations under a financing agreement, or covenant, that is in force as of August 23, 1994.

(g) DEFINITION.—In this section, the term "fee" means any rate, rental charge, landing fee, or other service charge for the use of airport facilities.

(Added Pub. L. 103–305, title I, §113(a)(2), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 104–264, title I, §149(d), Oct. 9, 1996, 110 Stat. 3227; Pub. L. 104–287, §5(85), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 112–95, title I, §148(a), Feb. 14, 2012, 126 Stat. 31.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(85)(A)

This amends 49:47129(a)(1) to conform to the style of title 49.

PUB. L. 104–287, §5(85)(B) AND (C)

These set out the date of enactment of 49:47129.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 47129 was renumbered section 47131 of this title and was subsequently repealed.

AMENDMENTS

2012—Pub. L. 112–95, §148(a)(1), substituted "Resolution of disputes concerning airport fees" for "Resolution of airport-air carrier disputes concerning airport fees" in section catchline.

Subsec. (a)(1). Pub. L. 112–95, §148(a)(6), (7), substituted "air carriers or foreign air carriers" for "air carriers" and "(as those terms are defined in section 40102)" for "(as defined in section 40102 of this title)" in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 112–95, §148(a)(4), substituted "air carrier or foreign air carrier" for "air carrier".

Subsec. (c)(1). Pub. L. 112–95, §148(a)(4), substituted "air carrier or foreign air carrier" for "air carrier".

Subsec. (d). Pub. L. 112–95, §148(a)(2), inserted "and Foreign Air Carrier" after "Carrier" in heading.

Subsec. (d)(1)(A) to (C). Pub. L. 112–95, §148(a)(4), substituted "air carrier or foreign air carrier" for "air carrier" wherever appearing.

Subsec. (d)(2). Pub. L. 112–95, §148(a)(3)–(5), inserted "and foreign air carrier" after "carrier" in heading and, in text, substituted "air carrier's or foreign air carrier's" for "air carrier's" in two places and "air carrier or foreign air carrier" for "air carrier".

Subsec. (e)(1). Pub. L. 112–95, §148(a)(6), substituted "air carriers or foreign air carriers" for "air carriers".

Subsec. (f)(1). Pub. L. 112–95, §148(a)(4), substituted "air carrier or foreign air carrier" for "air carrier".

1996—Subsec. (a)(1). Pub. L. 104–287, §5(85)(A), substituted "of this title" for "of this subtitle" in introductory provisions.

Subsec. (a)(4). Pub. L. 104–264 added par. (4).

Subsecs. (b), (e)(2). Pub. L. 104–287, §5(85)(B), substituted "August 23, 1994" for "the date of the enactment of this section".

Subsec. (e)(3). Pub. L. 104–287, §5(85)(C), substituted "August 23, 1994" for "such date of enactment".

Subsec. (f)(2). Pub. L. 104–287, §5(85)(B), substituted "August 23, 1994" for "the date of the enactment of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§47130. Airport safety data collection

Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent.

(Added Pub. L. 103–305, title I, §118(a), Aug. 23, 1994, 108 Stat. 1580; amended Pub. L. 108–176, title I, §154, Dec. 12, 2003, 117 Stat. 2507.)

EDITORIAL NOTES

AMENDMENTS

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract, using sole source or limited source authority, for the collection

of airport safety data."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

[§47131. Repealed. Pub. L. 118–63, title II, §218(d), May 16, 2024, 138 Stat. 1055]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1278, §47129; renumbered §47131, Pub. L. 103–305, title I, §113(a)(1), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 106–181, title VII, §722, Apr. 5, 2000, 114 Stat. 165; Pub. L. 112–95, title I, §152(c), Feb. 14, 2012, 126 Stat. 34, related to annual report submitted to Congress on activities carried out under this subchapter during the prior fiscal year.

[§47132. Repealed. Pub. L. 106–181, title I, §123(a)(1), Apr. 5, 2000, 114 Stat. 74]

Section, added Pub. L. 104–264, title I, §142(a), Oct. 9, 1996, 110 Stat. 3221, temporarily directed the Administrator of the Federal Aviation Administration to issue guidelines to carry out not more than 10 pavement maintenance pilot projects.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§47133. Restriction on use of revenues

(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

(1) the airport;

(2) the local airport system; or

(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) EXCEPTIONS.—

(1) PRIOR LAWS AND AGREEMENTS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(2) SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.—In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

(A) the sale is approved by the Secretary;

(B) funding is provided under this subchapter for any portion of the public sponsor's

acquisition of airport land; and

(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

(3) TREATMENT OF REPAYMENTS.—Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(Added Pub. L. 104–264, title VIII, §804(a), Oct. 9, 1996, 110 Stat. 3271; amended Pub. L. 112–95, title I, §149(a), Feb. 14, 2012, 126 Stat. 32.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–95, designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, title I, §149(b), Feb. 14, 2012, 126 Stat. 32, provided that: "The amendments made by subsection (a) [amending this section] shall apply to grants issued on or after October 1, 1996."

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

USE OF MINERAL REVENUE AT CERTAIN AIRPORTS

Pub. L. 112–95, title VIII, §813, Feb. 14, 2012, 126 Stat. 124, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may declare certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport to be revenue greater than the amount needed to carry out the 5-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Administration.

"(b) USE OF REVENUE.—An airport sponsor that is in compliance with the conditions under subsection (c) may allocate revenue identified by the Administrator under subsection (a) for Federal, State, or local transportation infrastructure projects carried out by the airport sponsor or by a governing body within the geographical limits of the airport sponsor's jurisdiction.

"(c) CONDITIONS.—An airport sponsor may not allocate revenue identified by the Administrator under subsection (a) unless the airport sponsor—

"(1) enters into a written agreement with the Administrator that sets forth a 5-year capital improvement program for the airport, which—

"(A) includes the projected costs for the operation, maintenance, and capacity needs of the airport in order to comply with applicable design and safety standards of the Administration; and

"(B) appropriately adjusts such costs to account for inflation;

"(2) agrees in writing—

"(A) to waive all rights to receive entitlement funds or discretionary funds to be used at the airport under section 47114 or 47115 of title 49, United States Code, during the 5-year period of the capital improvement plan described in paragraph (1);

"(B) to perpetually comply with sections 47107(b) and 47133 of such title, unless granted specific exceptions by the Administrator in accordance with this section; and

"(C) to operate the airport as a public-use airport, unless the Administrator specifically grants a request to allow the airport to close; and

"(3) complies with all grant assurance obligations in effect as of the date of the enactment of this Act [Feb. 14, 2012] during the 20-year period beginning on the date of enactment of this Act.

"(d) COMPLETION OF DETERMINATION.—Not later than 90 days after receiving an airport sponsor's application and requisite supporting documentation to declare that certain mineral revenue is not needed to carry out the 5-year capital improvement program at such airport, the Administrator shall determine whether the airport sponsor's request should be granted. The Administrator may not unreasonably deny an application under this subsection.

"(e) RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate regulations to carry out this section.

"(f) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term 'general aviation airport' has the meaning given that term in section 47102 of title 49, United States Code, as amended by this Act."

§47134. Airport investment partnership program

(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.

(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.

(C) LANDED WEIGHT DEFINED.—In this paragraph, the term "landed weight" means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(2) REPAYMENT REQUIREMENTS.—If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

(3) COMPENSATION FROM AIRPORT OPERATIONS.—If the Secretary grants an

exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the corresponding purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

(4) BENEFIT-COST ANALYSIS.—

(A) IN GENERAL.—Prior to approving an application submitted under subsection (a), the Secretary may require a benefit-cost analysis.

(B) FINDING.—If a benefit-cost analysis is required, the Secretary shall issue a preliminary and conditional finding, which shall—

(i) be issued not later than 60 days after the date on which the sponsor submits all information required by the Secretary;

(ii) be based upon a collaborative review process that includes the sponsor or a representative of the sponsor;

(iii) not constitute the issuance of a Federal grant or obligation to issue a grant under this chapter or other provision of law; and

(iv) not constitute any other obligation on the part of the Federal Government until the conditions specified in the final benefit-cost analysis are met.

(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

(A) by at least 65 percent of the air carriers serving the airport; and

(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

(6) Safety and security at the airport will be maintained at the highest possible levels.

(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

(d) PROGRAM PARTICIPATION.—

(1) MULTIPLE AIRPORTS.—The Secretary may consider applications under this section submitted by a public airport sponsor for multiple airports under the control of the sponsor if all airports under the control of the sponsor are located in the same State.

(2) PARTIAL PRIVATIZATION.—A purchaser or lessee may be an entity in which a sponsor has an interest.

(e) REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

(f) INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

(g) PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES .—Notwithstanding that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

(1) imposing a passenger facility charge under section 40117 of this title;

(2) receiving apportionments under section 47114 of this title; or

(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

(h) EFFECTIVENESS OF EXEMPTIONS.—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

(i) REVOCATION OF EXEMPTIONS.—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

(j) NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES .—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

(k) AUDITS.—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

(l) PREDEVELOPMENT LIMITATION.—A grant to an airport sponsor under this subchapter for predevelopment planning costs relating to the preparation of an application or proposed application under this section may not exceed $750,000 per application or proposed application.

(Added Pub. L. 104–264, title I, §149(a)(1), Oct. 9, 1996, 110 Stat. 3224; amended Pub. L. 108–176, title I, §155(a), Dec. 12, 2003, 117 Stat. 2508; Pub. L. 112–95, title I, §§111(c)(2)(A)(iv), 156, Feb. 14, 2012, 126 Stat. 18, 36; Pub. L. 115–254, div. B, title I, §160(a), Oct. 5, 2018, 132 Stat. 3220; Pub. L. 118–63, title VII, §738, May 16, 2024, 138 Stat. 1276.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

AMENDMENTS

2024—Subsec. (b)(4). Pub. L. 118–63 added par. (4).

2018—Pub. L. 115–254, §160(a)(1), substituted "Airport investment partnership program" for "Pilot program on private ownership of airports" in section catchline.

Subsec. (b). Pub. L. 115–254, §160(a)(2), struck out ", with respect to not more than 10 airports," after "approve" in introductory provisions.

Subsec. (b)(2). Pub. L. 115–254, §160(a)(3), substituted "If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the sponsor" for "The Secretary may grant

an exemption to a sponsor".

Subsec. (b)(3). Pub. L. 115–254, §160(a)(4), substituted "If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the corresponding purchaser or lessee" for "The Secretary may grant an exemption to a purchaser or lessee".

Subsec. (d). Pub. L. 115–254, §160(a)(5), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to participation of general aviation airports and large hub airports.

Subsecs. (l), (m). Pub. L. 115–254, §160(a)(6), added subsec. (l) and struck out former subsecs. (l) and (m) which related to report on implementation of the pilot program and defined "general aviation airport", respectively.

2012—Subsec. (b). Pub. L. 112–95, §156, substituted "10 airports" for "5 airports" in introductory provisions.

Subsec. (g)(1). Pub. L. 112–95, §111(c)(2)(A)(iv), substituted "charge" for "fee".

2003—Subsec. (b)(1)(A). Pub. L. 108–176, §155(a)(1), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) by at least 65 percent of the air carriers serving the airport; and

"(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year."

Subsec. (b)(1)(B), (C). Pub. L. 108–176, §155(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title I, §155(b), Dec. 12, 2003, 117 Stat. 2508, provided that: "The amendments made by subsection (a) [amending this section] shall not affect any application submitted before the date of enactment of this Act [Dec. 12, 2003]."

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

§47135. Innovative financing techniques

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application by an airport sponsor to use grants received under this subchapter for innovative financing techniques related to an airport development project that is located at an airport that is not a large hub airport.

(2) APPROVAL.—The Secretary may approve not more than 30 applications described under paragraph (1) in a fiscal year.

(b) PURPOSES.—The purpose of grants made under this section shall be to—

(1) provide information on the benefits and difficulties of using innovative financing techniques for airport development projects;

(2) lower the total cost of an airport development project; or

(3) expedite the delivery or completion of an airport development project without reducing safety or causing environmental harm.

(c) LIMITATIONS.—

(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

(A) payment of interest;

(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development;

(C) flexible non-Federal matching requirements;

(D) use of funds apportioned under section 47114 for the payment of principal and interest of terminal development for costs incurred before the date of the enactment of this section; and

(E) any other techniques that the Secretary determines are consistent with the purposes of this section.

(Added Pub. L. 106–181, title I, §132(a), Apr. 5, 2000, 114 Stat. 80; amended Pub. L. 108–176, title I, §156, Dec. 12, 2003, 117 Stat. 2508; Pub. L. 118–63, title VII, §721, May 16, 2024, 138 Stat. 1264.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2)(D), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2024—Subsecs. (a), (b). Pub. L. 118–63, §721(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(a) IN GENERAL.—The Secretary of Transportation may approve, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, applications for not more than 20 airport development projects for which grants received under this subchapter may be used for innovative financing techniques. Such projects shall be located at airports that each year have less than .25 percent of the total number of passenger boardings each year at all commercial service airports in the most recent calendar year for which data is available.

"(b) PURPOSE.—The purpose of grants made under this section shall be to provide information on the benefits and difficulties of using innovative financing techniques for airport development projects."

Subsec. (c)(2)(E). Pub. L. 118–63, §721(2), added subpar. (E).

2003—Subsec. (a). Pub. L. 108–176 inserted ", after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act," after "approve" in first sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§47136. Zero-emission airport vehicles and infrastructure

(a) IN GENERAL.—The Secretary of Transportation may establish a pilot program under which the sponsors of public-use airports may use funds made available under this chapter or section 48103 for use at such airports to carry out—

(1) activities associated with the acquisition, by purchase or lease, and operation of eligible zero-emission vehicles and equipment, including removable power sources for such vehicles; and

(2) the construction or modification of infrastructure to facilitate the delivery of fuel, power or services necessary for the use of such vehicles.

(b) ELIGIBILITY.—A public-use airport is eligible for participation in the program if the eligible vehicles or equipment are—

(1) used exclusively on airport property; or

(2) used exclusively to transport passengers and employees between the airport and—

(A) nearby facilities which are owned or controlled by the airport or which otherwise directly support the functions or services provided by the airport; or

(B) an intermodal surface transportation facility adjacent to the airport.

(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary shall give priority consideration to applicants that—

(1) will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program; and

(2) provide a long-term management plan for eligible vehicles and equipment that includes the existing and future infrastructure requirements of the airport related to such vehicles and equipment.

(d) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the program shall be the Federal share specified in section 47109.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The sponsor of a public-use airport may use not more than 10 percent of the amounts made available to the sponsor under the program in any fiscal year for—

(A) technical assistance; and

(B) project management support to assist the airport with the solicitation, acquisition, and deployment of zero-emission vehicles, related equipment, and supporting infrastructure.

(2) PROVIDERS OF TECHNICAL ASSISTANCE.—To receive the technical assistance or project management support described in paragraph (1), participants in the program may use—

(A) a nonprofit organization selected by the Secretary; or

(B) a university transportation center receiving grants under section 5505 in the region of the airport.

(f) MATERIALS IDENTIFYING BEST PRACTICES.—The Secretary may create and make available materials identifying best practices for carrying out activities funded under the program based on previous related projects and other sources.

(g) ALLOWABLE PROJECT COST.—The allowable project cost for the acquisition of a zero-emission vehicle shall be the total cost of purchasing or leasing the vehicle, including the cost of technical assistance or project management support described in subsection (e).

(h) FLEXIBLE PROCUREMENT.—A sponsor of a public-use airport may use funds made available under the program to acquire, by purchase or lease, a zero-emission vehicle and a removable power source in separate transactions, including transactions by which the airport purchases the vehicle and leases the removable power source.

(i) TESTING REQUIRED.—

(1) IN GENERAL.—A sponsor of a public-use airport may not use funds made available under the program to acquire a zero-emission vehicle unless that make, model, or type of vehicle has been tested by a Federal vehicle testing facility acceptable to the Secretary.

(2) PENALTIES FOR FALSE STATEMENTS.—A certification of compliance under paragraph (1) shall be considered a certification required under this subchapter for purposes of section 47126.

(j) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE ZERO-EMISSION VEHICLE AND EQUIPMENT.—The term "eligible zero-emission vehicle and equipment" means a zero-emission vehicle, equipment related to such a vehicle, or ground support equipment that includes zero-emission technology that is—

(A) used exclusively on airport property; or

(B) used exclusively to transport passengers and employees between the airport and—

(i) nearby facilities which are owned or controlled by the airport or which otherwise directly support the functions or services provided by the airport; or

(ii) an intermodal surface transportation facility adjacent to the airport.

(2) REMOVABLE POWER SOURCE.—The term "removable power source" means a power source that is separately installed in, and removable from, a zero-emission vehicle and may include a battery, a fuel cell, an ultra-capacitor, or other power source used in a zero-emission vehicle.

(3) ZERO-EMISSION VEHICLE.—The term "zero-emission vehicle" means—

(A) a zero-emission vehicle as defined in section 88.102–94 of title 40, Code of Federal Regulations; or

(B) a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) under any possible operational modes and conditions.

(Added Pub. L. 112–95, title V, §511(a), Feb. 14, 2012, 126 Stat. 107, §47136a; renumbered §47136 and amended Pub. L. 115–254, div. B, title I, §§166(b)(1), 192(a), Oct. 5, 2018, 132 Stat. 3226, 3239; Pub. L. 118–63, title VII, §722, May 16, 2024, 138 Stat. 1265.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 47136, added Pub. L. 106–181, title I, §133(a), Apr. 5, 2000, 114 Stat. 81; amended Pub. L. 112–95, title V, §511(d), Feb. 14, 2012, 126 Stat. 108, related to inherently low-emission airport vehicle pilot program, prior to repeal by Pub. L. 115–254, div. B, title I, §166(a), Oct. 5, 2018, 132 Stat. 3226.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 inserted dash after "applicants that" and par (1) designation before "will", substituted "; and" for period at end, and added par. (2).

2018—Pub. L. 115–254, §166(b)(1), renumbered section 47136a of this title as this section.

Subsecs. (a), (b). Pub. L. 115–254, §192(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to the establishment of a zero-emission vehicle pilot program and location in air quality nonattainment areas, respectively.

Subsecs. (d) to (j). Pub. L. 115–254, §192(a)(2), added subsecs. (d) to (j) and struck out former subsecs. (d) to (f) which related to Federal share of project costs, technical assistance, and materials identifying best practices, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEPLOYMENT OF ZERO EMISSION VEHICLE TECHNOLOGY

Pub. L. 115–254, div. B, title I, §192(c), Oct. 5, 2018, 132 Stat. 3241, provided that:

"(1) ESTABLISHMENT.—The Secretary of Transportation may establish a zero-emission airport technology program—

"(A) to facilitate the deployment of commercially viable zero-emission airport vehicles, technology, and related infrastructure; and

"(B) to minimize the risk of deploying such vehicles, technology, and infrastructure.

"(2) GENERAL AUTHORITY.—

"(A) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—The Secretary may provide assistance under the program to not more than 3 geographically diverse, eligible organizations to conduct zero-emission airport technology and infrastructure projects.

"(B) FORMS OF ASSISTANCE.—The Secretary may provide assistance under the program in the form of grants, contracts, and cooperative agreements.

"(3) SELECTION OF PARTICIPANTS.—

"(A) NATIONAL SOLICITATION.—In selecting participants, the Secretary shall—

"(i) conduct a national solicitation for applications for assistance under the program; and

"(ii) select the recipients of assistance under the program on a competitive basis.

"(B) CONSIDERATIONS.—In selecting from among applicants for assistance under the program, the Secretary shall consider—

"(i) the ability of an applicant to contribute significantly to deploying zero-emission technology as the technology relates to airport operations;

"(ii) the financing plan and cost-share potential of the applicant; and

"(iii) other factors, as the Secretary determines appropriate.

"(C) PRIORITY.—ln [sic] selecting from among applicants for assistance under the program, the Secretary shall give priority consideration to an applicant that has successfully managed advanced transportation technology projects, including projects related to zero-emission transportation operations.

"(4) ELIGIBLE PROJECTS.—A recipient of assistance under the program shall use the assistance—

"(A) to review and conduct demonstrations of zero-emission technologies and related infrastructure at airports;

"(B) to evaluate the credibility of new, unproven vehicle and energy-efficient technologies in various aspects of airport operations prior to widespread investment in the technologies by airports and the aviation industry;

"(C) to collect data and make the recipient's findings available to airports, so that airports can evaluate the applicability of new technologies to their facilities; and

"(D) to report the recipient's findings to the Secretary.

"(5) ADMINISTRATIVE PROVISIONS.—

"(A) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the program may not exceed 80 percent.

"(B) TERMS AND CONDITIONS.—A grant, contract, or cooperative agreement under this section shall be subject to such terms and conditions as the Secretary determines appropriate.

"(6) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means an organization that has expertise in zero-emission technology.

"(B) ORGANIZATION.—The term 'organization' means—

"(i) described [sic] in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of the Internal Revenue Code of 1986;

"(ii) a university transportation center receiving grants under section 5505 of title 49, United States Code; or

"(iii) any other Federal or non-Federal entity as the Secretary considers appropriate."

[§47136a. Renumbered §47136]

§47137. Airport security program

(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than one project to test and evaluate innovative aviation security systems and related technology.

(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and aircraft physical security, access control, and passenger and baggage screening; and

(2) provides testing and evaluation of airport security systems and technology in an operational, testbed environment.

(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share

of allowable project costs for a project under this section shall be 100 percent.

(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.

(f) ELIGIBLE SPONSOR DEFINED.—In this section, the term "eligible sponsor" means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.

(Added Pub. L. 106–181, title I, §134(a), Apr. 5, 2000, 114 Stat. 83; amended Pub. L. 108–176, title I, §157, Dec. 12, 2003, 117 Stat. 2508.)

EDITORIAL NOTES

AMENDMENTS

2003—Subsecs. (e) to (g). Pub. L. 108–176 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§47138. Pilot program for purchase of airport development rights

(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

(b) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant is made—

(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

(2) MATCHING REQUIREMENT.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

(c) GRANT STANDARDS.—The Secretary shall prescribe standards for grants under subsection (a), including—

(1) grant application and approval procedures; and

(2) requirements for the content of the instrument recording the purchase of the development rights.

(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

(e) LIMITATION.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.

(Added Pub. L. 108–176, title I, §152(a), Dec. 12, 2003, 117 Stat. 2506.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§47139. Emission credits for air quality projects

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors may receive appropriate emission reduction credits for carrying out projects, including projects described in sections 40117(a)(3)(G), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following considerations:

(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

(2) Credits generated by the emissions reductions are kept by the airport sponsor, including for an airport outside of a nonattainment area or maintenance area, and may be used for purposes of any current or future general conformity determination under the Clean Air Act, as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport, or as part of a State implementation plan.

(3) Credits are calculated and provided to airports on a consistent basis nationwide.

(4) Credits are provided to airport sponsors in a timely manner.

(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

(b) STATE AUTHORITY UNDER CAA.—Nothing in this section shall be construed as overriding existing State law or regulation pursuant to section 116 of the Clean Air Act (42 U.S.C. 7416).

(Added Pub. L. 108–176, title I, §158(a), Dec. 12, 2003, 117 Stat. 2508; amended Pub. L. 112–95, title I, §§111(c)(2)(A)(v), 152(d), Feb. 14, 2012, 126 Stat. 18, 34; Pub. L. 115–254, div. B, title I, §166(b)(2), Oct. 5, 2018, 132 Stat. 3226; Pub. L. 118–63, title VII, §782, May 16, 2024, 138 Stat. 1302.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(1), (2), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete

classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §782(1)(A), substituted "airport sponsors may receive" for "airport sponsors receive", "carrying out projects, including projects" for "carrying out projects", and "considerations" for "conditions" in introductory provisions.

Subsec. (a)(2). Pub. L. 118–63, §782(1)(B), substituted "airport sponsor, including for an airport outside of a nonattainment area or maintenance area," for "airport sponsor", ", as offsets" for "or as offsets", and ", or as part of a State implementation plan." for period at end and struck out "only" after "may".

Subsecs. (b), (c). Pub. L. 118–63, §782(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility charge for a project described in section 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section."

2018—Subsecs. (c), (d). Pub. L. 115–254 redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall determine how to provide appropriate emissions credits to airport projects previously approved under section 47136 consistent with the guidance and conditions specified in subsection (a)."

2012—Subsec. (a). Pub. L. 112–95, §152(d)(1), struck out "47102(3)(F)," after "40117(a)(3)(G)," in introductory provisions.

Subsec. (b). Pub. L. 112–95, §152(d)(2), struck out "47102(3)(F)," after "grant for a project described in section" and "47103(3)(F)," after "40117(a)(3)(G),".

Pub. L. 112–95, §111(c)(2)(A)(v), substituted "charge" for "fee".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§47140. Meeting current and future energy power demand

(a) IN GENERAL.—The Secretary of Transportation shall establish a program under which the Secretary shall—

(1) encourage the sponsor of each public-use airport to—

(A) conduct airport planning that assesses the airport's—

(i) current and future energy power requirements, including—

(I) heating and cooling;

(II) on-road airport vehicles and ground support equipment;

(III) gate electrification;

(IV) electric aircraft charging; and

(V) vehicles and equipment used to transport passengers and employees between the airport and—

(aa) nearby facilities owned or controlled by the airport or which otherwise directly support the functions or services provided by the airport; or

(bb) an intermodal surface transportation facility adjacent to the airport; and

(ii) existing energy infrastructure condition, location, and capacity, including base load and backup power, to meet the current and future electrical power demand as identified in this subparagraph; and

(B) conduct airport development to improve energy efficiency, increase peak load savings at the airport, and meet future electrical power demands as identified in subparagraph (A); and

(2) reimburse the airport sponsor for the costs incurred in conducting the assessment under paragraph (1)(A).

(b) GRANTS.—The Secretary shall make grants to airport sponsors from amounts made available under section 48103 to assist such sponsors that have completed the assessment described in subsection (a)(1)—

(1) to acquire or construct equipment that will improve energy efficiency at the airport; and

(2) to pursue an airport development project described in subsection (a)(1)(B).

(c) APPLICATION.—To be eligible for a grant under paragraph (1),[1] the sponsor of a public-use airport shall submit an application, including a certification that no safety projects are being deferred by requesting a grant under this section, to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(Added Pub. L. 112–95, title V, §512(a), Feb. 14, 2012, 126 Stat. 109, §47140a; renumbered §47140 and amended Pub. L. 115–254, div. B, title I, §§166(b)(1), 171, Oct. 5, 2018, 132 Stat. 3226, 3227; Pub. L. 118–63, title VII, §742(a), May 16, 2024, 138 Stat. 1278.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 47140, added Pub. L. 108–176, title I, §159(a)(1), Dec. 12, 2003, 117 Stat. 2509, related to airport ground support equipment emissions retrofit pilot program, prior to repeal by Pub. L. 115–254, div. B, title I, §166(a), Oct. 5, 2018, 132 Stat. 3226.

AMENDMENTS

2024—Pub. L. 118–63 amended section generally. Prior to amendment, section related to increasing the energy efficiency of airport power sources.

2018—Pub. L. 115–254, §166(b)(1), renumbered section 47140a of this title as this section.

Subsec. (a). Pub. L. 115–254, §171(a), inserted ", and to reimburse the airport sponsor for the costs incurred in conducting the assessment" before period at end.

Subsec. (b)(2). Pub. L. 115–254, §171(b), inserted ", including a certification that no safety projects are being be deferred by requesting a grant under this section," after "an application".

[1] *So in original. Probably should be "subsection (b)".*

[§47140a. Renumbered §47140]

§47141. Compatible land use planning and projects by State and local governments

(a) IN GENERAL.—The Secretary of Transportation may make grants, from amounts set aside under section 47117(e)(1)(A), to States and units of local government for development and implementation of land use compatibility plans and implementation of land use compatibility projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations. The Secretary may make a grant under this section for a land use compatibility plan or a project resulting from such plan only if—

(1) the airport operator has not submitted a noise compatibility program to the Secretary under

section 47504 or has not updated such program within the preceding 10 years; and

(2) the land use plan or project meets the requirements of this section.

(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

(2) enter into an agreement with the airport owner or operator that the development of the land use compatibility plan will be done cooperatively; and

(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be made under this section for a land use plan or a project resulting from such plan to provide—

(1) assurances satisfactory to the Secretary that the plan—

(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;

(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other land use compatibility measures under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

(D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and

(E) has been approved jointly by the airport owner or operator and the State or unit of local government; and

(2) such other assurances as the Secretary determines to be necessary to carry out this section.

(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require a State or unit of local government to which a grant may be made under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a project resulting from a land use compatibility plan only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, the State or unit of local government has provided the assurances required by this section, the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with applicable Federal Aviation Administration standards.

(f) SUNSET.—This section shall not be in effect after May 10, 2024.

(Added Pub. L. 108–176, title I, §160(a), Dec. 12, 2003, 117 Stat. 2511; amended Pub. L. 110–253, §3(c)(2), June 30, 2008, 122 Stat. 2417; Pub. L. 110–330, §5(g), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(f), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(g), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(f), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(f), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(f), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(f), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(f), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(g), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(f), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(f), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(f), May 31, 2011, 125

Stat. 219; Pub. L. 112–21, §5(f), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(f), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(g), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(g), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §153, Feb. 14, 2012, 126 Stat. 34; Pub. L. 114–55, title I, §102(d), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(d), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(d), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(e), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(d), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §117(b), Oct. 5, 2018, 132 Stat. 3201; Pub. L. 118–15, div. B, title II, §2202(h), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(h), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(h), Mar. 8, 2024, 138 Stat. 21.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (f). Pub. L. 118–41 substituted "May 10, 2024" for "March 8, 2024".

2023—Subsec. (f). Pub. L. 118–34 substituted "March 8, 2024" for "December 31, 2023".

Pub. L. 118–15 substituted "December 31, 2023" for "September 30, 2023".

2018—Subsec. (f). Pub. L. 115–254 substituted "September 30, 2023" for "September 30, 2018".

Pub. L. 115–141 substituted "September 30, 2018" for "March 31, 2018".

2017—Subsec. (f). Pub. L. 115–63 substituted "March 31, 2018" for "September 30, 2017".

2016—Subsec. (f). Pub. L. 114–190 substituted "September 30, 2017" for "July 15, 2016".

Pub. L. 114–141 substituted "July 15, 2016" for "March 31, 2016".

2015—Subsec. (f). Pub. L. 114–55 substituted "March 31, 2016" for "September 30, 2015".

2012—Subsec. (f). Pub. L. 112–95 amended subsec. (f) generally. Prior to amendment, text read as follows: "This section shall not be in effect after February 17, 2012."

Pub. L. 112–91 substituted "February 17, 2012." for "January 31, 2012."

2011—Subsec. (f). Pub. L. 112–30 substituted "January 31, 2012." for "September 16, 2011."

Pub. L. 112–27 substituted "September 16, 2011." for "July 22, 2011."

Pub. L. 112–21 substituted "July 22, 2011." for "June 30, 2011."

Pub. L. 112–16 substituted "June 30, 2011." for "May 31, 2011."

Pub. L. 112–7 substituted "May 31, 2011." for "March 31, 2011."

2010—Subsec. (f). Pub. L. 111–329 substituted "March 31, 2011." for "December 31, 2010."

Pub. L. 111–249 substituted "December 31, 2010." for "September 30, 2010."

Pub. L. 111–216 substituted "September 30, 2010." for "August 1, 2010."

Pub. L. 111–197 substituted "August 1, 2010." for "July 3, 2010."

Pub. L. 111–161 substituted "July 3, 2010." for "April 30, 2010."

Pub. L. 111–153 substituted "April 30, 2010." for "March 31, 2010."

2009—Subsec. (f). Pub. L. 111–116 substituted "March 31, 2010." for "December 31, 2009."

Pub. L. 111–69 substituted "December 31, 2009." for "September 30, 2009."

Pub. L. 111–12 substituted "September 30, 2009." for "March 31, 2009."

2008—Subsec. (f). Pub. L. 110–330 substituted "March 31, 2009" for "September 30, 2008".

Pub. L. 110–253 substituted "September 30, 2008" for "September 30, 2007".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a

note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

Amendment by Pub. L. 110–253 effective July 1, 2008, see section 3(d) of Pub. L. 110–253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES

Pub. L. 112–95, title VIII, §822, Feb. 14, 2012, 126 Stat. 128, as amended by Pub. L. 114–55, title I, §102(j), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(h), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(k), July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §102(j), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §102(h), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §117(d), Oct. 5, 2018, 132 Stat. 3201; Pub. L. 118–15, div. B, title II, §2202(v), Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §102(v), Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §102(v), Mar. 8, 2024, 138 Stat. 22, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall establish a pilot program under which operators of up to 4 public-use airports may receive grants for activities related to the redevelopment of airport properties in accordance with the requirements of this section.

"(b) GRANTS.—Under the pilot program, the Administrator may make a grant in a fiscal year, from funds made available for grants under section 47117(e)(1)(A) of title 49, United States Code, to an airport operator for a project—

"(1) to support joint planning, engineering, design, and environmental permitting of projects, including the assembly and redevelopment of property purchased with noise mitigation funds made available under section 48103 of such title or passenger facility revenue collected under section 40117 of such title; and

"(2) to encourage airport-compatible land uses and generate economic benefits to the local airport authority and adjacent community.

"(c) ELIGIBILITY.—An airport operator shall be eligible to participate in the pilot program if—

"(1) the operator has received approval for a noise compatibility program under section 47504 of such title; and

"(2) the operator demonstrates, as determined by the Administrator—

"(A) a readiness to implement cooperative land use management and redevelopment plans with neighboring local jurisdictions; and

"(B) the probability of a clear economic benefit to neighboring local jurisdictions and financial return to the airport through the implementation of those plans.

"(d) DISTRIBUTION.—The Administrator shall seek to award grants under the pilot program to airport operators representing different geographic areas of the United States.

"(e) PARTNERSHIP WITH NEIGHBORING LOCAL JURISDICTIONS.—An airport operator shall use grant funds made available under the pilot program only in partnership with neighboring local jurisdictions.

"(f) GRANT REQUIREMENTS.—The Administrator may not make a grant to an airport operator under the pilot program unless the grant is—

"(1) made to enable the airport operator and local jurisdictions undertaking community redevelopment efforts to expedite those efforts;

"(2) subject to a requirement that the local jurisdiction governing the property interests subject to the redevelopment efforts has adopted and will continue in effect zoning regulations that permit airport-compatible redevelopment; and

"(3) subject to a requirement that, in determining the part of the proceeds from disposing of land that is subject to repayment and reinvestment requirements under section 47107(c)(2)(A) of such title, the total amount of a grant issued under the pilot program that is attributable to the redevelopment of such land shall be added to other amounts that must be repaid or reinvested under that section upon disposal of such land by the airport operator.

"(g) EXCEPTIONS TO REPAYMENT AND REINVESTMENT REQUIREMENTS.—Amounts paid to the Secretary of Transportation under subsection (f)(3)—

"(1) shall be available to the Secretary for, giving preference to the actions in descending order—

"(A) reinvestment in an approved noise compatibility project at the applicable airport;

"(B) reinvestment in another approved project at the airport that is eligible for funding under section 47117(e) of such title;

"(C) reinvestment in an approved airport development project at the airport that is eligible for funding under section 47114, 47115, or 47117 of such title;

"(D) transfer to an operator of another public airport to be reinvested in an approved noise compatibility project at such airport; and

"(E) deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502);

"(2) shall be available in addition to amounts authorized under section 48103 of such title;

"(3) shall not be subject to any limitation on grant obligations for any fiscal year; and

"(4) shall remain available until expended.

"(h) FEDERAL SHARE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

"(2) ALLOWABLE COSTS.—In determining the allowable costs, the Administrator shall deduct from the total costs of the activities described in subsection (b) that portion of the costs which is equal to that portion of the total property to be redeveloped under this section that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program or that is not owned by the affected neighboring local jurisdictions or other public entities.

"(i) MAXIMUM AMOUNT.—Not more than $5,000,000 of the funds made available for grants under section 47117(e)(1)(A) of such title may be expended under the pilot program for any single public-use airport.

"(j) USE OF PASSENGER REVENUE.—An airport operator participating in the pilot program may use passenger facility revenue collected under section 40117 of such title to pay any project cost described in subsection (b) that is not financed by a grant under the pilot program.

"(k) SUNSET.—This section shall not be in effect after May 10, 2024."

§47142. Alternative project delivery

(a) IN GENERAL.—The Secretary of Transportation may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a covered project delivery contract using a selection process permitted under applicable State or local law if—

(1) the Administrator approves the application using criteria established by the Administrator;

(2) the covered project delivery contract is in a form that is approved by the Administrator;

(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

(4) use of a covered project delivery contract is projected to be cost effective and expedite the project;

(5) the Administrator is satisfied that there will be no conflict of interest; and

(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least 3 or more bids will be submitted for each project under the selection process.

(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter if the project were carried out after a grant agreement had been executed.

(c) PILOT PROGRAM.—

(1) PILOT PROGRAM.—Not later than 270 days after the date of enactment of this section, the Secretary shall establish a pilot program under which the Administrator may award grants for integrated project delivery contracts, as described in subsection (d)(2), to carry out up to 5 building construction projects at airports in the United States with a grant awarded under section 47104.

(2) APPLICATION.—

(A) ELIGIBILITY.—A sponsor of an airport may submit to the Secretary an application, in such time and manner and containing such information as the Secretary may require, to carry out a building construction project under the pilot program that would otherwise be eligible for assistance under this chapter.

(B) APPROVAL.—The Secretary may approve the application of a sponsor of an airport submitted under paragraph (1) to authorize such sponsor to award an integrated project delivery contract using a selection process permitted under applicable State or local law if—

(i) the Secretary approves the application using criteria established by the Secretary;

(ii) the integrated project delivery contract is in a form that is approved by the Secretary;

(iii) the Secretary is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design and any other material that the Secretary determines sufficient to approve the grant;

(iv) the Secretary is satisfied that the use of an integrated project delivery contract will be cost effective and expedite the project;

(v) the Secretary is satisfied that there will be no conflict of interest; and

(vi) the Secretary is satisfied that the contract selection process will be open, fair, and objective and that not less than 2 sets of proposals will be submitted for each team entity under the selection process.

(3) REIMBURSEMENT OF COSTS.—

(A) IN GENERAL.—The Secretary may reimburse a sponsor of an airport for any design or construction costs incurred before a grant is made pursuant to this section if—

(i) the project funding is approved by the Secretary in advance;

(ii) the project is carried out in accordance with all administrative and statutory requirements under this chapter; and

(iii) the project is carried out under this chapter after a grant agreement has been executed.

(B) ACCOUNTING.—Reimbursement of costs shall be based on transparent cost accounting or open book cost accounting.

(d) COVERED PROJECT DELIVERY CONTRACT DEFINED.—In this section, the term "covered project delivery contract" means—

(1) an agreement that provides for both design and construction of a project by a contractor through alternative project delivery methods, including construction manager-at-risk and progressive design build; or

(2) a single contract for the delivery of a whole project that—

(A) includes, at a minimum, the sponsor, builder, and architect-engineer as parties that are subject to the terms of the contract;

(B) aligns the interests of all the parties to the contract with respect to the project costs and project outcomes; and

(C) includes processes to ensure transparency and collaboration among all parties to the contract relating to project costs and project outcomes.

(Added Pub. L. 108–176, title I, §181(a), Dec. 12, 2003, 117 Stat. 2515; amended Pub. L. 118–63, title VII, §723(a), May 16, 2024, 138 Stat. 1265.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(1), probably means the date of enactment of Pub. L. 118–63, which added subsec. (c) and was approved May 16, 2024.

AMENDMENTS

2024—Pub. L. 118–63, §723(a)(1), substituted "Alternative project delivery" for "Design-build contracting" in section catchline.

Subsec. (a). Pub. L. 118–63, §723(a)(2)(A), substituted "Secretary of Transportation" for "Administrator of the Federal Aviation Administration" and "award a covered project delivery" for "award a design-build" in introductory provisions.

Subsec. (a)(2). Pub. L. 118–63, §723(a)(2)(B), substituted "covered project delivery" for "design-build".

Subsec. (a)(4). Pub. L. 118–63, §723(a)(2)(C), substituted "covered project delivery contract is projected to" for "design-build contract will".

Subsecs. (c), (d). Pub. L. 118–63, §723(a)(3), added subsecs. (c) and (d) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§47143. Non-movement area surveillance surface display systems pilot program

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may carry out a pilot program to support non-Federal acquisition and installation of qualifying non-movement area surveillance surface display systems and sensors if—

(1) the Administrator determines that such systems and sensors would improve safety or capacity in the National Airspace System; and

(2) the non-movement area surveillance surface display systems and sensors supplement existing movement area systems and sensors at the selected airports established under other programs administered by the Administrator.

(b) PROJECT GRANTS.—

(1) IN GENERAL.—For purposes of carrying out the pilot program, the Administrator may make a project grant out of funds apportioned under paragraph (1) or paragraph (2) of section 47114(c) to not more than 5 eligible sponsors to acquire and install qualifying non-movement area surveillance surface display systems and sensors. The airports selected to participate in the pilot program shall have existing Administration movement area systems and airlines that are participants in Federal Aviation Administration's airport collaborative decision-making process.

(2) DATA EXCHANGE PROCESSES.—As part of the pilot program carried out under this

section, the Administrator may establish data exchange processes to allow airport participation in the Administration's airport collaborative decision-making process and fusion of the non-movement surveillance data with the Administration's movement area systems.

(c) SUNSET.—This section shall cease to be effective on October 1, 2028.
(d) DEFINITIONS.—In this section:
(1) NON-MOVEMENT AREA.—The term "non-movement area" means the portion of the airfield surface that is not under the control of air traffic control.
(2) NON-MOVEMENT AREA SURVEILLANCE SURFACE DISPLAY SYSTEMS AND SENSORS.—The term "non-movement area surveillance surface display systems and sensors" means a non-Federal surveillance system that uses on-airport sensors that track vehicles or aircraft that are equipped with transponders in the non-movement area.
(3) QUALIFYING NON-MOVEMENT AREA SURVEILLANCE SURFACE DISPLAY SYSTEM AND SENSORS.—The term "qualifying non-movement area surveillance surface display system and sensors" means a non-movement area surveillance surface display system that—
(A) provides the required transmit and receive data formats consistent with the National Airspace System architecture at the appropriate service delivery point;
(B) is on-airport; and
(C) is airport operated.

(Added Pub. L. 115–254, div. B, title I, §140(a), Oct. 5, 2018, 132 Stat. 3210; amended Pub. L. 118–15, div. B, title II, §2202(i), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(i), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(i), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title VII, §724, May 16, 2024, 138 Stat. 1267.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 substituted "October 1, 2028" for "May 11, 2024".
Pub. L. 118–41 substituted "May 11, 2024" for "March 9, 2024".
2023—Subsec. (c). Pub. L. 118–34 substituted "March 9, 2024" for "January 1, 2024".
Pub. L. 118–15 substituted "January 1, 2024" for "October 1, 2023".

§47144. Use of funds for repairs for runway safety repairs

(a) IN GENERAL.—The Secretary of Transportation may make project grants under this subchapter to an airport described in subsection (b) from funds under section 47114 apportioned to that airport or funds available for discretionary grants to that airport under section 47115 to conduct airport development to repair the runway safety area of the airport damaged as a result of a natural disaster in order to maintain compliance with the regulations of the Federal Aviation Administration relating to runway safety areas, without regard to whether construction of the runway safety area damaged was carried out using amounts the airport received under this subchapter.
(b) AIRPORTS DESCRIBED.—An airport is described in this subsection if—
(1) the airport is a public-use airport;
(2) the airport is listed in the National Plan of Integrated Airport Systems of the Federal Aviation Administration;
(3) the runway safety area of the airport was damaged as a result of a natural disaster;
(4) the airport was denied funding under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) with respect to the disaster;
(5) the operator of the airport has exhausted all legal remedies, including legal action against any parties (or insurers thereof) whose action or inaction may have contributed to the need for the repair of the runway safety area;
(6) there is still a demonstrated need for the runway safety area to accommodate current or

imminent aeronautical demand; and

(7) the cost of repairing or replacing the runway safety area is reasonable in relation to the anticipated operational benefit of repairing the runway safety area, as determined by the Administrator of the Federal Aviation Administration.

(Added Pub. L. 115–31, div. K, title I, §119F(a), May 5, 2017, 131 Stat. 734; amended Pub. L. 118–63, title XI, §1101(w), May 16, 2024, 138 Stat. 1414.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(4), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

CODIFICATION

Section 119F(a) of Pub. L. 115–31, which directed amendment of "subchapter I of chapter 471" by adding at the end this section, was executed by adding this section at the end of subchapter I of chapter 471 of this title to reflect the probable intent of Congress.

AMENDMENTS

2024—Subsec. (b)(4). Pub. L. 118–63 substituted "(42 U.S.C. 5121 et seq.)" for "(42 U.S.C. 4121 et seq.)".

§47145. Pilot program for airport accessibility

(a) IN GENERAL.—The Secretary of Transportation shall establish and carry out a pilot program to award grants to sponsors to carry out capital projects to upgrade the accessibility of commercial service airports for individuals with disabilities by increasing the number of commercial service airports, airport terminals, or airport facilities that meet or exceed the standards and regulations under the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) [1] and the Rehabilitation Act of 1973 (29 U.S.C. 701 note) [1].

(b) USE OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), a sponsor shall use a grant awarded under this section—

(A) for a project to repair, improve, or relocate the infrastructure of an airport, airport terminal, or airport facility to increase accessibility for individuals with disabilities, or as part of a plan to increase accessibility for individuals with disabilities;

(B) to develop or modify a plan (as described in subsection (e)) for a project that increases accessibility for individuals with disabilities, including—

(i) assessments of accessibility or assessments of planned modifications to an airport, airport terminal, or airport facility for passenger use, performed by the disability advisory committee of the recipient airport (if applicable), the protection and advocacy system for individuals with disabilities in the applicable State, a center for independent living, or a disability organization, including an advocacy or nonprofit organization that represents or provides services to individuals with disabilities; or

(ii) coordination by the disability advisory committee of the recipient airport with a protection and advocacy system, center for independent living, or such disability organization; or

(C) to carry out any other project that meets or exceeds the standards and regulations described in subsection (a).

(2) LIMITATION.—Eligible costs for a project funded with a grant awarded under this section

shall be limited to the costs associated with carrying out the purpose authorized under subsection (a).

(c) ELIGIBILITY.—A sponsor may use a grant under this section to upgrade a commercial service airport that is accessible to and usable by individuals with disabilities—

(1) consistent with the current (as of the date of the upgrade) standards and regulations described in subsection (a); and

(2) even if the related service, program, or activity, when viewed in the entirely of the service, program, or activity, is readily accessible and usable as so described.

(d) SELECTION CRITERIA.—In making grants to sponsors under this section, the Secretary shall give priority to sponsors that are proposing—

(1) a capital project to upgrade the accessibility of a commercial service airport that is not accessible to and usable by individuals with disabilities consistent with standards and regulations described in subsection (a); or

(2) to meet or exceed the Airports Council International accreditation under the Accessibility Enhancement Accreditation, through the incorporation of universal design principles.

(e) ACCESSIBILITY COMMITMENT.—A sponsor that receives a grant under this section shall adopt a plan under which the sponsor commits to pursuing airport accessibility projects that—

(1) enhance the passenger experience and maximize accessibility of commercial service airports, airport terminals, or airport facilities for individuals with disabilities, including by—

(A) upgrading bathrooms, counters, or pumping rooms;

(B) increasing audio and visual accessibility on information boards, security gates, or paging systems;

(C) updating airport terminals to increase the availability of accessible seating and power outlets for durable medical equipment (such as powered wheelchairs);

(D) updating airport websites and other information communication technology to be accessible for individuals with disabilities; or

(E) increasing the number of elevators, including elevators that move power wheelchairs to an aircraft;

(2) improve the operations of, provide efficiencies of service to, and enhance the use of commercial service airports for individuals with disabilities;

(3) establish a disability advisory committee if the airport is a small, medium, or large hub airport; and

(4) make improvements in personnel, infrastructure, and technology that can assist passenger self-identification regarding disability and needing assistance.

(f) COORDINATION WITH DISABILITY ADVOCACY ENTITIES.—In administering grants under this section, the Secretary shall encourage—

(1) engagement with disability advocacy entities (such as the disability advisory committee of the sponsor) and a protection and advocacy system for individuals with disabilities in the applicable State, a center for independent living, or a disability organization, including an advocacy or nonprofit organization that represents or provides services to individuals with disabilities; and

(2) assessments of accessibility or assessments of planned modifications to commercial service airports to the extent merited by the scope of the capital project of the sponsor proposed to be assisted under this section, taking into account any such assessment already conducted by the Federal Aviation Administration.

(g) FEDERAL SHARE OF COSTS.—The Government's share of allowable project costs for a project carried out with a grant under this section shall be the Government's share of allowable

project costs specified under section 47109.

(h) DEFINITIONS.—In this section:

(1) CENTER FOR INDEPENDENT LIVING.—The term "center for independent living" has the meaning given such term in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).

(2) DISABILITY ADVISORY COMMITTEE.—The term "disability advisory committee" means a body of stakeholders (including airport staff, airline representatives, and individuals with disabilities) that provide to airports and appropriate transportation authorities input from individuals with disabilities, including identifying opportunities for removing barriers, expanding accessibility features, and improving accessibility for individuals with disabilities at airports.

(3) PROTECTION AND ADVOCACY SYSTEM.—The term "protection and advocacy system" means a system established in accordance with section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(i) FUNDING.—Notwithstanding any other provision of this chapter, for each of fiscal years 2025 through 2028, the Secretary may use up to $20,000,000 of the amounts that would otherwise be used to make grants from the discretionary fund under section 47115 for each such fiscal year to carry out this section.

(Added Pub. L. 118–63, title VII, §725(a), May 16, 2024, 138 Stat. 1267.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. Title II of the Act is classified generally to subchapter II (§12131 et seq.) of chapter 126 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

[1] *See References in Text note below.*

§47146. General aviation program runway extension pilot program

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish and carry out a pilot program to provide grants to general aviation airports to increase the usable runway length capability at such airports in order to—

(1) expand access to such airports for larger aircraft; and

(2) support the development and economic viability of such airports.

(b) GRANTS.—

(1) IN GENERAL.—For the purpose of carrying out the pilot program established in subsection (a), the Secretary shall make grants to not more than 2 sponsors of general aviation airports per fiscal year.

(2) USE OF FUNDS.—A sponsor of a general aviation airport shall use a grant awarded under this section to plan, design, or construct a project to extend an existing primary runway by not greater than 1,000 feet in order to accommodate large turboprop or turbojet aircraft that cannot be accommodated with the existing runway length.

(3) ELIGIBILITY.—To be eligible to receive a grant under this section, a sponsor of a general aviation airport shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(4) SELECTION.—In selecting an applicant for a grant under this section, the Secretary shall

prioritize projects that demonstrate that the existing runway length at the airport is—

(A) inadequate to support the near-term operations of 1 or more business entities operating at the airport as of the date of submission of such application;

(B) a direct aircraft operational impediment to airport economic viability, job creation or retention, or local economic development; and

(C) not located within 20 miles of another National Plan of Integrated Airport Systems airport with comparable runway length.

(c) PROJECT JUSTIFICATION.—A project that demonstrates the criteria described in subsection (b) shall be considered a justified cost with respect to the pilot program, notwithstanding—

(1) any benefit-cost analysis required under section 47115(d); or

(2) a project justification determination described in section 3 of chapter 3 of FAA Order 5100.38D, Airport Improvement Program Handbook (dated September 30, 2014) (or any successor document).

(d) FEDERAL SHARE.—The Government's share of allowable project costs for a project carried out with a grant under this section shall be the Government's share of allowable project costs specified under section 47109.

(e) REPORT TO CONGRESS.—Not later than 5 years after the establishment of the pilot program under subsection (a), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that evaluates the pilot program, including—

(1) information regarding the level of applicant interest in grants for increasing runway length;

(2) the number of large aircraft that accessed each general aviation airport that received a grant under the pilot program in comparison to the number of such aircraft that accessed the airport prior to the date of enactment of the FAA Reauthorization Act of 2024, based on data provided to the Secretary by the airport sponsor not later than 6 months before the submission date described in this subsection; and

(3) a description, provided to the Secretary by the airport sponsor not later than 6 months before the submission date described in this subsection, of the economic development opportunities supported by increasing the runway length at general aviation airports.

(f) FUNDING.—For each of fiscal years 2025 through 2028, the Secretary may use funds under section 47116(b)(2) to carry out this section.

(Added Pub. L. 118–63, title VII, §726(a), May 16, 2024, 138 Stat. 1269.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (e)(2), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§47151. Authority to transfer an interest in surplus property

(a) GENERAL AUTHORITY.—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may convey to a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the conveyance and decides the interest is not best suited for industrial use.

(b) ENSURING COMPLIANCE.—Only the Secretary may ensure compliance with an instrument conveying an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the conveyance comply with law.

(c) DISPOSING OF INTERESTS NOT CONVEYED UNDER THIS SUBCHAPTER.—An interest in surplus property that could be used at a public airport but that is not conveyed under this subchapter shall be disposed of under other applicable law.

(d) WAIVER OF CONDITION.—The Secretary may not waive any condition imposed on an interest in surplus property conveyed under subsection (a) that such interest be used for an aeronautical purpose unless the Secretary provides public notice not less than 30 days before the issuance of such waiver and determines that such waiver—

(1) will not significantly impair the aeronautical purpose of an airport;

(2) will not result in the permanent closure of an airport (unless the Secretary determines that the waiver will directly facilitate the construction of a replacement airport); or

(3) is necessary to protect or advance the civil aviation interests of the United States.

(e) REQUESTS BY PUBLIC AGENCIES.—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) for use at a public airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1278; Pub. L. 106–181, title I, §§125(c), 135(d)(1), 136, Apr. 5, 2000, 114 Stat. 75, 84, 85; Pub. L. 112–95, title I, §152(f), Feb. 14, 2012, 126 Stat. 34; Pub. L. 118–63, title VII, §719(b)(1), May 16, 2024, 138 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47151(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	50 App.:1622(g)(1).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(1); added July 30, 1947, ch. 404, §2, 61 Stat. 678; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807; May 21, 1970, Pub. L. 91–258, §52(b)(6), 84 Stat. 235; Sept. 3, 1982, Pub. L. 97–248, §524(c), 96 Stat. 696.
47151(b)	49 App.:1655(c)(1).	
	50 App.:1622b.	Oct. 1, 1949, ch. 589, §3, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726,

47151(c)	50 App.:1622(g)(5), (6).	§1402(c), 72 Stat. 807. Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(5), (6); added July 30, 1947, ch. 404, §2, 61 Stat. 680.

In subsection (a), before clause (1), the words "Notwithstanding any other provision of this Act" are omitted as surplus. The words "Subject to sections 47152 and 47153 of this title" are substituted for "but subject to the terms, conditions, reservations, and restrictions hereinafter provided for" to eliminate unnecessary words. The words "a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation" are substituted for "any disposal agency designated pursuant to this Act" for clarity because disposal agencies were Government agencies designated under 50 App.:1619(a), that was repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399), and Government agencies were all departments, agencies, and instrumentalities of the executive branch of the United States Government and wholly owned Government corporations. The word "give" is substituted for "convey or dispose of . . . without monetary consideration to the United States", to eliminate unnecessary words. The word "municipality" is omitted as being included in "political subdivision". The words "of a State" are added for clarity and consistency in the revised title and with other titles of the United States Code. The word "organization" is substituted for "institution" for consistency in the revised title. The words "all of the right, title, and . . . of the United States . . . and to . . . real or personal" are omitted as surplus. In clause (1)(A), the words "essential, suitable, or" are omitted as surplus. In clause (1)(B), the words "of the grantee" are omitted as surplus. In clause (2), the words "Administrator of General Services" are substituted for "[War Assets] Administrator" in section 13(g)(1) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 105 of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 381). The words "and decides the interest is not best suited for industrial use" are substituted for "(exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection)" to eliminate unnecessary words.

Subsection (b) is substituted for 50 App.:1622b to eliminate unnecessary words.

In subsection (c), the text of 50 App.:1622(g)(5) is omitted as obsolete because 50 App.:1621, 1622(f), and 1627(e) were repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399). The words "An interest in surplus property that could be used at a public airport" are substituted for "All surplus property within the purview of this subsection" for clarity. The words "elsewhere in this Act or other applicable" are omitted as surplus. The word "law" is substituted for "Federal Statute" for consistency in the revised title and with other titles of the Code.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (d). Pub. L. 118–63 added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "Before the Secretary may waive any condition imposed on an interest in surplus property conveyed under subsection (a) that such interest be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before waiving such condition."

2012—Subsec. (e). Pub. L. 112–95 struck out "(other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note))" after "subsection (a)".

2000—Subsec. (a). Pub. L. 106–181, §135(d)(1)(A)(i), substituted "convey to" for "give" in introductory provisions.

Subsec. (a)(2). Pub. L. 106–181, §135(d)(1)(A)(ii), substituted "conveyance" for "gift".

Subsec. (b). Pub. L. 106–181, §135(d)(1)(B), substituted "conveying" for "giving" and "conveyance" for "gift".

Subsec. (c). Pub. L. 106–181, §135(d)(1)(C), substituted "Conveyed" for "Given" in heading and "conveyed" for "given" in text.

Subsec. (d). Pub. L. 106–181, §125(c), added subsec. (d).

Subsec. (e). Pub. L. 106–181, §136, added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by section 125(c) of Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

§47152. Terms of conveyances

Except as provided in section 47153 of this title, the following terms apply to a conveyance of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for public use and benefit without unreasonable discrimination.

(3) A right may not be vested in a person, excluding others in the same class from using the airport at which the property is located—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to engage in selling or supplying aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances).

(4) The State, political subdivision, or tax-supported organization accepting the interest shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the emergency;

(B) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining the property it uses nonexclusively, or over which the Government has nonexclusive control or possession, during the emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without Government assistance.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located. The Secretary may limit the use of the landing area if necessary to prevent unreasonable interference with use by other authorized aircraft. However, the Government shall—

(A) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining and operating the landing area; and

(B) pay for damages caused by its use of the landing area if its use of the landing area is substantial.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of any part of an airport owned, controlled, or operated by the State, political

subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located.

(8) When a term under this section is not satisfied, any part of the interest in the property reverts to the Government, at the option of the Government, as the property then exists.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1279; Pub. L. 106–181, title I, §135(d)(2), Apr. 5, 2000, 114 Stat. 85.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47152	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	50 App.:1622(g)(2).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(2); added July 30, 1947, ch. 404, §2, 61 Stat. 678; Oct. 1, 1949, ch. 589, §1, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.

In this section, before paragraph (1), the words "conditions, reservations, and restrictions" and "the authority of" are omitted as surplus. In paragraph (1), the words "A State, political subdivision of a State, or tax-supported organization receiving the interest" are substituted for "grantee or transferee" for clarity. The words "sold" and "disposed of under the authority of this subsection" are omitted as surplus. In paragraph (2), the words "transferred for airport purposes" are omitted as surplus. In paragraph (3), before clause (A), the words "For the purpose of this condition, an exclusive right is defined to mean" and "any exclusive right to" are omitted because of the restatement. The words "exclusive" and "(either directly or indirectly)" are omitted as surplus. The words "or persons" are omitted because of 1:1. The words "disposed of" are omitted as surplus. In clause (A), the word "particular" is omitted as surplus. In paragraph (4), the words "removing, lowering, relocating, marking, or lighting or otherwise" and "the establishment or creation of" are omitted as surplus. In paragraphs (5)–(7), the words "or used" are omitted as surplus. In paragraph (5), before clause (A), the words "exclusive or nonexclusive" and "as it may desire" are omitted as surplus. In clause (A), the word "pay" is substituted for "be responsible for" to eliminate unnecessary words. The words "during the emergency" are substituted for "during the period of such use, possession, or control" to eliminate unnecessary words and for clarity. In clause (B), the words "be obligated to" are omitted as surplus. The words "during the emergency" are added for clarity. In clause (C), the words "exclusively or nonexclusively" are omitted as surplus. In paragraph (6), before clause (A), the words "as may be determined at any time" are omitted as surplus. In clause (B), the words "be obligated to" are omitted as surplus. In paragraph (7), the words "The State, political subdivision, or tax-supported organization accepting the interest" are substituted for "Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection" to eliminate unnecessary words and for consistency in this section. The words "any and . . . it may be under for restoration or other . . lease or other" are omitted as surplus. The text of 50 App.:1622(g)(2)(G) (proviso) is omitted because 49 App.:1116 was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Public Law 91–258, 84 Stat. 235). Paragraph (8) is substituted for 50 App.:1622(g)(2)(H) to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–181 substituted "conveyances" for "gifts" in section catchline and "conveyance" for "gift" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§47153. Waiving and adding terms

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a conveyance of an interest in property under this subchapter if the Secretary decides that—

(A) the property no longer serves the purpose for which it was conveyed; or

(B) the waiver will not prevent carrying out the purpose for which the conveyance was made and is necessary to advance the civil aviation interests of the United States.

(2) The Secretary of Transportation shall waive a term under paragraph (1) of this subsection on terms the Secretary considers necessary to protect or advance the civil aviation interests of the United States.

(b) WAIVERS AND INCLUSION OF ADDITIONAL TERMS ON REQUEST.—On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may waive a term required by section 47152 of this title or add another term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(c) RESTRICTIONS ON WAIVER.—Notwithstanding subsections (a) and (b), the Secretary may not waive any term under this section that an interest in land be used for an aeronautical purpose unless—

(1) the Secretary provides public notice not less than 30 days before the issuance of a waiver; and

(2) the Secretary determines that such waiver—

(A) will not significantly impair the aeronautical purpose of an airport;

(B) will not result in the permanent closure of an airport (unless the Secretary determines that the waiver will directly facilitate the construction of a replacement airport); or

(C) is necessary to protect or advance the civil aviation interests of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1280; Pub. L. 106–181, title I, §§125(d), 135(d)(3), Apr. 5, 2000, 114 Stat. 76, 85; Pub. L. 118–63, title VII, §719(b)(2), May 16, 2024, 138 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47153(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	50 App.:1622c.	Oct. 1, 1949, ch. 589, §4, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.
47153(b)	49 App.:1655(c)(1).	
	50 App.:1622(g)(3).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(3); added July 30, 1947, ch. 404, §2, 61 Stat. 680; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.

In subsection (a), before clause (1), the words "Notwithstanding any other provision of law" and "further" are omitted as surplus. The word "waive" is substituted for "grant releases from" and "and to convey, quitclaim, or release any right or interest reserved to the United States by" to eliminate unnecessary words.

The words "a term of a gift of an interest in property under this subchapter" are substituted for "any of the terms, conditions, reservations, and restrictions contained in . . . any such instrument of disposal" for clarity and consistency. In clause (1), the words "transferred by such instrument" are omitted as surplus. In clause (2), the text of 50 App.:1622c (last proviso) is omitted as executed. The words "protect or" are omitted as surplus.

In subsection (b), the words "In making any disposition of surplus property under this subsection" are omitted as surplus. The words "Secretary of a military department" are substituted for "the Secretary of the Army, or the Secretary of the Navy" for consistency with other titles of the United States Code and to eliminate unnecessary words. The words "Secretary of the Army" are substituted for "Secretary of War" in section 13(g)(3) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501). The Secretary of the Air Force is included in "Secretary of a military department" because of section 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 502, 503). The word "waive" is substituted for "omit from the instrument of disposal" to eliminate unnecessary words and for consistency in this subchapter. The words "conditions, reservations, and restrictions" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "Notwithstanding subsections (a) and (b), before the Secretary may waive any term imposed under this section that an interest in land be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before waiving such term."

2000—Subsec. (a)(1). Pub. L. 106–181, §135(d)(3), substituted "conveyance" for "gift" in introductory provisions and subpar. (B) and "conveyed" for "given" in subpar. (A).

Subsec. (c). Pub. L. 106–181, §125(d), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by section 125(d) of Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

§47171. Expedited, coordinated environmental review process

(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall implement an expedited and coordinated environmental review process for airport capacity enhancement projects, terminal development projects, general aviation airport construction or improvement projects, and aviation safety projects that—

(1) provides for streamlined coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be

completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

(1) IN GENERAL.—Any airport capacity enhancement project, terminal development project, or general aviation airport construction or improvement project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(2) PROJECT DESIGNATION CRITERIA.—

(A) IN GENERAL.—The Secretary may designate an aviation safety project for priority environmental review.

(B) REQUIREMENTS.—A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(C) GUIDELINES.—

(i) IN GENERAL.—The Secretary shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review.

(ii) CONSIDERATION.—Guidelines established under clause (i) shall provide for consideration of—

(I) the importance or urgency of the project;

(II) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(III) the need for cooperation and concurrent reviews by other Federal or State agencies; and

(IV) the prospect for undue delay if the project is not designated for priority review.

(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license, or approval involving a project described or designated under subsection (b) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to a project described or designated under subsection (b), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with

respect to the project and, if applicable, the airport sponsor.

(g) USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.—

(1) IN GENERAL.—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

(2) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

(h) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for projects described in subsection (b)(1) and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

(i) EFFECT OF FAILURE TO MEET DEADLINE.—

(1) NOTIFICATION OF CONGRESS AND CEQ.— If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

(j) PURPOSE AND NEED.—

(1) IN GENERAL.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

(2) DEADLINE.—The Secretary shall define the purpose and need of a project not later than 45 days after—

(A) the submission of the appropriately completed proposed purpose and need description of the airport sponsor; and

(B) any appropriately completed proposed revision to a development project that affects the purpose and need description previously prepared or accepted by the Federal Aviation

Administration.

(3) ASSISTANCE.—The Secretary shall provide all airport sponsors with technical assistance in drafting purpose and need statements and necessary supporting documentation for projects involving Federal approvals from more than 1 Federal agency.

(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to a project described or designated under subsection (b). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall—

(1) consider only those alternatives to the project that the Secretary has determined are reasonable; and

(2) limit the comments of the agency to—

(A) subject matter areas within the special expertise of the agency; and

(B) changes necessary to ensure the agency is carrying out the obligations of that agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable law.

(l) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1503 of title 40, Code of Federal Regulations.

(m) COORDINATION AND SCHEDULE.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the Secretary of Transportation shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project described or designated under subsection (b). The coordination plan may be incorporated into a memorandum of understanding.

(B) CLOUD-BASED, INTERACTIVE DIGITAL PLATFORMS.—The Secretary is encouraged to utilize cloud-based, interactive digital platforms to meet community engagement and agency coordination requirements under subparagraph (A).

(C) SCHEDULE.—

(i) IN GENERAL.—The Secretary shall establish as part of such coordination plan, after consultation with and the concurrence of each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for—

(I) interim milestones and deadlines for agency activities necessary to complete the environmental review; and

(II) completion of the environmental review process for the project.

(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule under clause (i), the Secretary shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the project;

(IV) the overall time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the project.

(iii) MAXIMUM PROJECT SCHEDULE.—To the maximum extent practicable and consistent with applicable Federal law, the Secretary shall develop, in concurrence with the project sponsor, a maximum schedule for the project described or designated under subsection (b) that is not more than 2 years for the completion of the environmental review process for such projects, as measured from, as applicable, the date of publication of a notice of intent to prepare an environmental impact statement to the record of decision.

(iv) DISPUTE RESOLUTION.—

(I) IN GENERAL.—Any issue or dispute that arises between the Secretary and participating agencies (or amongst participating agencies) during the environmental review process shall be addressed expeditiously to avoid delay.

(II) RESPONSIBILITIES.—The Secretary and participating agencies shall—

(aa) implement the requirements of this section consistent with any dispute resolution process established in an applicable law, regulation, or legally binding agreement to the maximum extent permitted by law; and

(bb) seek to resolve issues or disputes at the earliest possible time at the project level through agency employees who have day-to-day involvement in the project.

(III) SECRETARY RESPONSIBILITIES.—

(aa) IN GENERAL.—The Secretary shall make information available to each cooperating and participating agency and project sponsor as early as practicable in the environmental review regarding the environmental, historic, and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(bb) SOURCES OF INFORMATION.—The information described in item (aa) may be based on existing data sources, including geographic information systems mapping.

(IV) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES .—Each cooperating and participating agency shall—

(aa) identify, as early as practicable, any issues of concern regarding any potential environmental impacts of the project, including any issues that could substantially delay or prevent an agency from completing any environmental review or authorization required for the project; and

(bb) communicate any issues described in item (aa) to the project sponsor.

(V) ELEVATION FOR MISSED MILESTONE.—If a dispute between the Secretary and participating agencies (or amongst participating agencies) causes a milestone to be missed or extended, or the Secretary anticipates that a permitting timetable milestone will be missed or will need to be extended, the dispute shall be elevated to an official designated by the relevant agency for resolution. The elevation of a dispute shall take place as soon as practicable after the Secretary becomes aware of the dispute or potential missed milestone.

(VI) EXCEPTION.—Disputes that do not impact the ability of an agency to meet a milestone may be elevated as appropriate.

(VII) FURTHER EVALUATION.—If a resolution has not been reached at the end of the 30-day period after a relevant milestone date or extension date after a dispute has been elevated to the designated official, the relevant agencies shall elevate the dispute to senior agency leadership for resolution.

(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

(E) MODIFICATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may lengthen or shorten a schedule established under subparagraph (C) for good cause. The Secretary may

consider a decision by the project sponsor to change, modify, expand, or reduce the scope of a project as good cause for purposes of this clause.

(ii) LIMITATIONS.—

(I) LENGTHENED SCHEDULE.—The Secretary may lengthen a schedule under clause (i) for a cooperating Federal agency by not more than 1 year after the latest deadline established for the project described or designated under subsection (b) by the Secretary.

(II) SHORTENED SCHEDULE.—The Secretary may not shorten a schedule under clause (i) if doing so would impair the ability of a cooperating Federal agency to conduct necessary analyses or otherwise carry out relevant obligations of the Federal agency for the project.

(F) FAILURE TO MEET DEADLINE.—If a cooperating Federal agency fails to meet a deadline established under subparagraph (D)(ii)(I)— [1]

(i) the cooperating Federal agency shall, not later than 10 days after failing to meet the deadline, submit to the Secretary a report that describes the reasons why the deadline was not met; and

(ii) the Secretary shall—

(I) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the report under clause (i); and

(II) make the report under clause (i) publicly available on a website of the Department of Transportation.

(G) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule under subparagraph (E), shall be—

(i) provided to all participating agencies and to the State department of transportation of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) COMMENT DEADLINES.—The Secretary shall establish the following deadlines for comment during the environmental review process for a project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such statement, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than 45 days from availability of the materials on which comment is requested, unless—

(i) a different deadline is established by agreement of the Secretary, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project described or designated under subsection (b) (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project or 180 days after the date on which an application was

submitted for the permit or license, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and publish on a website of the Department of Transportation—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

(n) CONCURRENT REVIEWS AND SINGLE NEPA DOCUMENT.—

(1) CONCURRENT REVIEWS.—Each participating agency and cooperating agency under the expedited and coordinated environmental review process established under this section shall—

(A) carry out the obligations of such agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of such agency to conduct needed analysis or otherwise carry out such obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(2) SINGLE NEPA DOCUMENT.—

(A) IN GENERAL.—To the maximum extent practicable and consistent with Federal law, all Federal permits and reviews for a project shall rely on a single environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the Secretary.

(B) USE OF DOCUMENT.—

(i) IN GENERAL.—To the maximum extent practicable, the Secretary shall develop an environmental document sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including permits issued by other Federal agencies.

(ii) COOPERATION OF PARTICIPATING AGENCIES.—In carrying out this subparagraph, other participating agencies shall cooperate with the lead agency and provide timely information.

(C) TREATMENT AS PARTICIPATING AND COOPERATING AGENCIES.—A Federal agency required to make an approval or take an action for a project, as described in this paragraph, shall work with the Secretary to ensure that the agency making the approval or taking the action is treated as being both a participating and cooperating agency for the project.

(D) EXCEPTIONS.—The Secretary may waive the application of subparagraph (A) with respect to a project if—

(i) the project sponsor requests that agencies issue separate environmental documents;

(ii) the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to the project; or

(iii) the Secretary determines that reliance on a single environmental document (as described in subparagraph (A)) would not facilitate timely completion of the environmental review process for the project.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—An agency participating in the expedited and coordinated environmental review process under this section shall—

(A) provide comments, responses, studies, or methodologies on areas within the special expertise or jurisdiction of the agency; and

(B) use the process to address any environmental issues of concern to the agency.

(o) ENVIRONMENTAL IMPACT STATEMENT.—

(1) IN GENERAL.—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project described or designated under subsection (b), if the Secretary modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the Secretary may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

(A) cite the sources, authorities, and reasons that support the position of the agency; and

(B) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(2) SINGLE DOCUMENT.—To the maximum extent practicable, for a project subject to a coordinated review process under this section, the Secretary shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

(A) the final environmental impact statement or record of decision makes substantial changes to the project that are relevant to environmental or safety concerns; or

(B) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the environmental impacts of the proposed action.

(3) LENGTH OF ENVIRONMENTAL DOCUMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an environmental impact statement shall not exceed 150 pages, not including any citations or appendices.

(B) EXTRAORDINARY COMPLEXITY.—An environmental impact statement for a proposed agency action of extraordinary complexity shall not exceed 300 pages, not including any citations or appendices.

(p) INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.—

(1) IN GENERAL.—Subject to paragraph (5) and to the maximum extent practicable and appropriate, the following agencies may adopt or incorporate by reference, and use a planning product in proceedings relating to, any class of action in the environmental review process of a project described or designated under subsection (b):

(A) The lead agency for a project, with respect to an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A cooperating agency with responsibility under Federal law with respect to the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if consistent with such Act.

(2) IDENTIFICATION.—If a lead or cooperating agency makes a determination to adopt or incorporate by reference and use a planning product under paragraph (1), such agency shall identify the agencies that participated in the development of the planning products.

(3) ADOPTION OR INCORPORATION BY REFERENCE OF PLANNING PRODUCTS .—Such agency may—

(A) adopt or incorporate by reference an entire planning product under paragraph (1); or

(B) select portions of a planning project under paragraph (1) for adoption or incorporation by

reference.

(4) TIMING.—The adoption or incorporation by reference of a planning product under paragraph (1) may—

(A) be made at the time the lead and cooperating agencies decide the appropriate scope of environmental review for the project; or

(B) occur later in the environmental review process, as appropriate.

(5) CONDITIONS.—Such agency in the environmental review process may adopt or incorporate by reference a planning product under this section if such agency determines, with the concurrence of the lead agency, if appropriate, and, if the planning product is necessary for a cooperating agency to issue a permit, review, or approval for the project, with the concurrence of the cooperating agency, if appropriate, that the following conditions have been met:

(A) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

(B) The planning product was developed in consultation with appropriate Federal and State resource agencies and Indian Tribes.

(C) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment.

(D) The planning process included public notice that the planning products produced in the planning process may be adopted during any subsequent environmental review process in accordance with this section.

(E) During the environmental review process, the such agency has—

(i) made the planning documents available for public review and comment by members of the general public and Federal, State, local, and Tribal governments that may have an interest in the proposed project;

(ii) provided notice of the intention of the such agency to adopt or incorporate by reference the planning product; and

(iii) considered any resulting comments.

(F) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product or portions thereof.

(G) The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

(H) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

(I) The planning product is appropriate for adoption or incorporation by reference and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1502.21 of title 40, Code of Federal Regulations.

(6) EFFECT OF ADOPTION OR INCORPORATION BY REFERENCE.—Any planning product or portions thereof adopted or incorporated by reference by such agency in accordance with this subsection may be—

(A) incorporated directly into an environmental review process document or other environmental document; and

(B) relied on and used by other Federal agencies in carrying out reviews of the project.

(q) REPORT ON NEPA DATA.—

(1) IN GENERAL.—The Secretary shall carry out a process to track, and annually submit to the

Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on projects described in subsection (b)(1) that contains the information described in paragraph (3).

(2) TIME TO COMPLETE.—For purposes of paragraph (3), the NEPA process—

(A) for an environmental impact statement—

(i) begins on the date on which a notice of intent is published in the Federal Register; and

(ii) ends on the date on which the Secretary issues a record of decision, including, if necessary, a revised record of decision; and

(B) for an environmental assessment—

(i) begins on the date on which the Secretary makes a determination to prepare an environmental assessment; and

(ii) ends on the date on which the Secretary issues a finding of no significant impact or determines that preparation of an environmental impact statement is necessary.

(3) INFORMATION DESCRIBED.—The information referred to in paragraph (1) is, with respect to the Federal Aviation Administration—

(A) the number of proposed actions for which a categorical exclusion was applied by the Secretary during the reporting period;

(B) the number of proposed actions for which a documented categorical exclusion was applied by the Secretary during the reporting period;

(C) the number of proposed actions pending on the date on which the report is submitted for which the issuance of a documented categorical exclusion by the Secretary is pending;

(D) the number of proposed actions for which an environmental assessment was issued by the Secretary during the reporting period;

(E) the length of time the Administration took to complete each environmental assessment described in subparagraph (D);

(F) the number of proposed actions pending on the date on which the report is submitted for which an environmental assessment is being drafted by the Secretary;

(G) the number of proposed actions for which a final environmental impact statement was completed by the Secretary during the reporting period;

(H) the length of time that the Secretary took to complete each environmental impact statement described in subparagraph (G);

(I) the number of proposed actions pending on the date on which the report is submitted for which an environmental impact statement is being drafted; and

(J) for the proposed actions reported under subparagraphs (F) and (I), the percentage of such proposed actions for which—

(i) project funding has been identified; and

(ii) all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.

(4) DEFINITIONS.—In this section:

(A) ENVIRONMENTAL ASSESSMENT.—The term "environmental assessment" has the meaning given such term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(B) ENVIRONMENTAL IMPACT STATEMENT.—The term "environmental impact statement" means a detailed statement required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(C) NEPA PROCESS.—The term "NEPA process" means the entirety of the development and documentation of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the assessment and analysis of any impacts,

alternatives, and mitigation of a proposed action, and any interagency participation and public involvement required to be carried out before the Secretary undertakes a proposed action.

(D) PROPOSED ACTION.—The term "proposed action" means an action (within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) under this title that the Secretary proposes to carry out.

(E) REPORTING PERIOD.—The term "reporting period" means the fiscal year prior to the fiscal year in which a report is issued under subsection (a).

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2534; amended Pub. L. 115–254, div. B, title I, §191(a), title V, §539(q), Oct. 5, 2018, 132 Stat. 3238, 3371; Pub. L. 118–63, title VII, §783, May 16, 2024, 138 Stat. 1302.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b)(2)(C)(ii)(II), (k)(2)(B), (l), (n)(1)(A), (2)(A), (D)(ii), (o)(1), (p)(1), (5)(I), and (q)(4)(C), (D), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §783(1)(A), struck out "develop and" after "shall" and substituted "projects, terminal development projects, general aviation airport construction or improvement projects, and aviation safety projects" for "projects at congested airports, general aviation airport construction or improvement projects, aviation safety projects, and aviation security projects" in introductory provisions.

Subsec. (a)(1). Pub. L. 118–63, §783(1)(B), substituted "streamlined" for "better".

Subsec. (b). Pub. L. 118–63, §783(2), added subsec. (b) and struck out former subsec. (b) which related to aviation projects subject to a streamlined environmental review process, including airport capacity enhancement projects at congested airports, general aviation airport construction or improvement projects, and aviation safety and aviation security projects.

Subsec. (c)(1). Pub. L. 118–63, §783(3), substituted "a project described or designated under subsection (b)" for "an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)".

Subsec. (d). Pub. L. 118–63, §783(4), substituted "a project described or designated under subsection (b)" for "each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)".

Subsec. (h). Pub. L. 118–63, §783(5), substituted "described in subsection (b)(1)" for "designated under subsection (b)(3) and airport capacity enhancement projects at congested airports".

Subsec. (j). Pub. L. 118–63, §783(6), designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (k). Pub. L. 118–63, §783(7), substituted "a project described or designated under subsection (b)" for "an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)"; inserted dash after "project shall" and par. (1) designation before "consider"; substituted "; and" for period at end; and added par. (2).

Subsec. (l). Pub. L. 118–63, §783(8), substituted "and section 1503 of title 40, Code of Federal Regulations." for period at end.

Subsecs. (m) to (q). Pub. L. 118–63, §783(9), added subsecs. (m) to (q) and struck out former subsec. (m). Prior to amendment, text of subsec. (m) read as follows: "The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section."

2018—Subsec. (a). Pub. L. 115–254, §191(a)(1), inserted "general aviation airport construction or improvement projects," after "congested airports," in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 115–254, §191(a)(2), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c)(1), (d), (h), (k). Pub. L. 115–254, §191(a)(3)–(6), substituted "subsection (b)(3)" for "subsection (b)(2)".

Subsec. (l). Pub. L. 115–254, §539(q), substituted "4321" for "4371".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

CATEGORICAL EXCLUSIONS

Pub. L. 118–63, title VII, §788, May 16, 2024, 138 Stat. 1314, provided that:

"(a) CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.—An action by the Administrator [of the Federal Aviation Administration] to approve, permit, finance, or otherwise authorize any airport project that is undertaken by the sponsor, owner, or operator of a public-use airport shall be presumed to be covered by a categorical exclusion under FAA [Federal Aviation Administration] Order 1050.1F (or any successor document), if such project—

"(1) receives less than $6,000,000 (as adjusted annually by the Administrator to reflect any increases in the Consumer Price Index prepared by the Department of Labor) of Federal funds or funds from charges collected under section 40117 of title 49, United States Code; or

"(2) has a total estimated cost of not more than $35,000,000 (as adjusted annually by the Administrator to reflect any increases in the Consumer Price Index prepared by the Department of Labor) and Federal funds comprising less than 15 percent of the total estimated project cost.

"(b) CATEGORICAL EXCLUSION IN EMERGENCIES.—An action by the Administrator to approve, permit, finance, or otherwise authorize an airport project that is undertaken by the sponsor, owner, or operator of a public-use airport shall be presumed to be covered by a categorical exclusion under FAA Order 1050.1F (or any successor document), if such project is—

"(1) for the repair or reconstruction of any airport facility, runway, taxiway, or similar structure that is in operation or under construction when damaged by an emergency declared by the Governor of the State with concurrence of the Administrator or for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

"(2) in the same location with the same capacity, dimensions, and design as the original airport facility, runway, taxiway, or similar structure as before the declaration described in this section; and

"(3) commenced within a 2-year period beginning on the date of a declaration described in this section.

"(c) EXTRAORDINARY CIRCUMSTANCES.—The presumption that an action is covered by a categorical exclusion under subsections (a) and (b) shall not apply if the Administrator determines that extraordinary circumstances exist with respect to such action.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to impact any aviation safety authority of the Administrator.

"(e) DEFINITIONS.—In this section:

"(1) CATEGORICAL EXCLUSION.—The term 'categorical exclusion' has the meaning given such term in section 1508.1(d) of title 40, Code of Federal Regulations.

"(2) PUBLIC-USE AIRPORT; SPONSOR.—The terms 'public-use airport' and 'sponsor' have the meanings given such terms in section 47102 of title 49, United States Code."

UPDATING PRESUMED TO CONFORM LIMITS

Pub. L. 118–63, title VII, §789, May 16, 2024, 138 Stat. 1315, provided that: "Not later than 24 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall take such actions as are necessary to update the FAA's [Federal Aviation Administration's] list of actions that are presumed to conform to a State implementation plan pursuant to section 93.153(f) of title 40, Code of Federal Regulations, to include projects relating to the construction of aircraft hangars."

FINDINGS

Pub. L. 108–176, title III, §302, Dec. 12, 2003, 117 Stat. 2533, provided that: "Congress finds that—

"(1) airports play a major role in interstate and foreign commerce;

"(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

"(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

"(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

"(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation."

LIMITATIONS

Pub. L. 108–176, title III, §308, Dec. 12, 2003, 117 Stat. 2539, provided that: "Nothing in this subtitle [subtitle A (§§301–309) of title III of Pub. L. 108–176, enacting this subchapter, amending sections 40104, 47106, and 47504 of this title, and enacting provisions set out as notes under this section], including any amendment made by this title [enacting this subchapter and amending sections 40104, 40128, 47106, 47503, and 47504 of this title], shall preempt or interfere with—

"(1) any practice of seeking public comment;

"(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

"(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 [4321] et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act."

RELATIONSHIP TO OTHER REQUIREMENTS

Pub. L. 108–176, title III, §309, Dec. 12, 2003, 117 Stat. 2540, provided that: "The coordinated review process required under the amendments made by this subtitle [enacting this subchapter and amending sections 40104, 47106, and 47504 of this title] shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 [49 U.S.C. 301 note] (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews)."

[1] So in original. Probably should be "subparagraph (E)(ii)(I)—".

§47172. Air traffic procedures for airport capacity enhancement projects at congested airports

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environmental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2537.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

§47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants—

(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

(2) to conduct special environmental studies related to an airport project funded with Federal funds;

(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;

(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and

(5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation procedures, such as required navigation performance procedures and area navigation procedures.

(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(3) shall remain available until expended.

(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2537; amended Pub. L. 112–95, title V, §503, Feb. 14, 2012, 126 Stat. 103.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002, referred to in subsec. (d), is section 337 of Pub. L. 107–87, Dec. 18, 2001, 115 Stat. 862, which is not classified to the Code.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–95 substituted "services of consultants—" for "services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project." and added pars. (1) to (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

§47174. Authorization of appropriations

In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2538.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

§47175. Definitions

In this subchapter, the following definitions apply:

(1) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term "airport capacity enhancement project" means—

(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; or

(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

(2) AIRPORT SPONSOR.—The term "airport sponsor" has the meaning given the term "sponsor" under section 47102.

(3) AVIATION SAFETY PROJECT.—The term "aviation safety project" means an aviation project that—

(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator;

(B) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

(C) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

(4) CONGESTED AIRPORT.—The term "congested airport" means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2004 or any successor report.

(5) FEDERAL AGENCY.—The term "Federal agency" means a department or agency of the United States Government.

(6) GENERAL AVIATION AIRPORT CONSTRUCTION OR IMPROVEMENT PROJECT .—The term "general aviation airport construction or improvement project" means—

(A) a project for the construction or extension of a runway, including any land acquisition, helipad, taxiway, safety area, apron, or navigational aids associated with the runway or runway

extension, at a general aviation airport, a reliever airport, or a commercial service airport that is not a primary airport (as such terms are defined in section 47102); and

(B) any other airport development project that the Secretary designates as facilitating aviation capacity building projects at a general aviation airport.

(7) JOINT USE AIRPORT.—The term "joint use airport" means an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.

(8) TERMINAL DEVELOPMENT.—The term "terminal development" has the meaning given such term in section 47102.

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2538; amended Pub. L. 112–95, title I, §152(g), Feb. 14, 2012, 126 Stat. 34; Pub. L. 115–254, div. B, title I, §191(b), Oct. 5, 2018, 132 Stat. 3239; Pub. L. 118–63, title VII, §784, May 16, 2024, 138 Stat. 1313.)

EDITORIAL NOTES

AMENDMENTS

2024—Par. (1). Pub. L. 118–63, §784(4), redesignated par. (3) as (1). Former par. (1) redesignated (2).
Par. (2). Pub. L. 118–63, §784(4), redesignated par. (1) as (2). Former par. (2) redesignated (4).
Par. (3). Pub. L. 118–63, §784(4), redesignated par. (4) as (3). Former par. (3) redesignated (1).
Par. (3)(A). Pub. L. 118–63, §784(1), substituted "or" for "and".
Par. (4). Pub. L. 118–63, §784(4), redesignated par. (2) as (4). Former par. (4) redesignated (3).
Par. (4)(A). Pub. L. 118–63, §784(2)(A), struck out "and" at end.
Par. (4)(B), (C). Pub. L. 118–63, §784(2)(B), struck out subpar. (B) designation and redesignated cls. (i) and (ii) of former subpar. (B) as subpars. (B) and (C), respectively, of par. (4).
Par. (5). Pub. L. 118–63, §784(4), redesignated par. (6) as (5). Former par. (5) struck out.
Pub. L. 118–63, §784(3), struck out par. (5). Text read as follows: "The term 'aviation security project' means a security project at an airport required by the Department of Homeland Security."
Pars. (6), (8). Pub. L. 118–63, §784(4), (5), added par. (8) and redesignated former par. (8) as (6). Former par. (6) redesignated (5).
2018—Par. (8). Pub. L. 115–254 added par. (8).
2012—Par. (2). Pub. L. 112–95, §152(g)(1), substituted "2004 or any successor report" for "2001".
Par. (7). Pub. L. 112–95, §152(g)(2), added par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out an Effective Date of 2003 Amendment note under section 106 of this title.

CHAPTER 473—INTERNATIONAL AIRPORT FACILITIES

Sec.
47301. Definitions.
47302. Providing airport and airway property in foreign territories.
47303. Training foreign citizens.
47304. Transfer of airport and airway property.
47305. Administrative.
[47306. Repealed.]

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–63, title VII, §727, May 16, 2024, 138 Stat. 1271, struck out item 47306 "Criminal penalty".

§47301. Definitions

In this chapter—

(1) "airport property" means an interest in property used or useful in operating and maintaining an airport.

(2) "airway property" means an interest in property used or useful in operating and maintaining a ground installation, facility, or equipment desirable for the orderly and safe operation of air traffic, including air navigation, air traffic control, airway communication, and meteorological facilities.

(3) "foreign territory" means an area—

(A) over which no government or a government of a foreign country has sovereignty;

(B) temporarily under military occupation by the United States Government; or

(C) occupied or administered by the Government or a government of a foreign country under an international agreement.

(4) "territory outside the continental United States" means territory outside the 48 contiguous States and the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47301(1)–(3)	49 App.:1151.	June 16, 1948, ch. 473, §2, 62 Stat. 450; Aug. 23, 1958, Pub. L. 85–726, §1403, 72 Stat. 808.
47301(4)	(no source).	

In this section, the words "the purposes of" and "The term" are omitted as surplus.

In clauses (1) and (2), the words "real or personal", "directly or indirectly", "administration", and "(including parts and components thereof)" are omitted as surplus.

In clause (1), the words "including . . . (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment . . . furniture, vehicles, and supplies" are omitted as being included in "an interest in property".

In clause (2), the words "necessary or" are omitted as surplus.

In clause (3), before subclause (A), the words "of land or water" are omitted as surplus. In subclause (A), the words "no government or a government of a foreign country" are substituted for "no nation or a nation other than the United States" for consistency in the revised title and with other titles of the United States Code. The words "(including territory of undetermined sovereignty and the high seas)" are omitted as surplus. In subclause (C), the words "government of a foreign country" are substituted for "other nation" for consistency in the revised title and with other titles of the Code.

Clause (4) is derived from the source provisions of the chapter and is included to avoid repeating the phrase "territory (including Alaska) outside the continental limits of the United States".

§47302. Providing airport and airway property in foreign territories

(a) GENERAL AUTHORITY.—Subject to the concurrence of the Secretary of State and the consideration of objectives of the International Civil Aviation Organization—

(1) the Secretary of Transportation may acquire, establish, and construct airport property and airway property (except meteorological facilities) in foreign territory; and

(2) the Secretary of Commerce may acquire, establish, and construct meteorological facilities in foreign territory.

(b) SPECIFIC APPROPRIATIONS REQUIRED.—Except for airport property transferred under section 47304(b) of this title, an airport (as defined in section 40102(a) of this title) may be acquired, established, or constructed under subsection (a) of this section only if amounts have been appropriated specifically for the airport.

(c) ACCEPTING FOREIGN PAYMENTS.—The Secretary of Transportation or Commerce, as appropriate, may accept payment from a government of a foreign country or international organization for facilities or services sold or provided the government or organization under this chapter. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47302(a), (b)	49 App.:1152.	June 16, 1948, ch. 473, §3, 62 Stat. 451; Aug. 23, 1958, Pub. L. 85–726, §1403, 72 Stat. 808.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
47302(c)	49 App.:1154.	June 16, 1948, ch. 473, §5, 62 Stat. 451.
	49 App.:1655(c)(1).	

In this chapter, the words "government of a foreign country" are substituted for "foreign government" for consistency in the revised title and with other titles of the United States Code.

In this section, the title "Secretary of Commerce" is substituted for "Chief of the Weather Bureau of the Department of Commerce" in section 3, and "Chief of the Weather Bureau" in section 5, of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words "by contract or otherwise" are omitted as surplus. The words "airport property and airway property (except meteorological facilities)" and "meteorological facilities" are substituted for "within their respective fields" for clarity.

In subsection (b), the words "for the airport" are substituted for "for such purpose" for clarity. The words "by the Congress" are omitted as surplus.

In subsection (c), the words "on behalf of the United States" are omitted as surplus. The words "sold or provided" are substituted for "supplied or . . . performed" for consistency in this chapter. The words "by the Secretary of Transportation or the Secretary of Commerce, either directly or indirectly" and "the authority of" are omitted as surplus. The words "or the Civil Aeronautics Act of 1938, as amended" are omitted as obsolete because the Act was repealed by section 1401(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 806). The words "including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services" are omitted as being included in "facilities or services sold or provided". The words "or both" are substituted for "or (C) in part as provided under clause (A) and in part as provided under clause (B)" to eliminate unnecessary words.

§47303. Training foreign citizens

Subject to the concurrence of the Secretary of State, the Secretary of Transportation or Commerce, as appropriate, may train a foreign citizen in a subject related to aeronautics and essential to the orderly and safe operation of civil aircraft. The training may be provided—

(1) directly by the appropriate Secretary or jointly with another department, agency, or instrumentality of the United States Government;

(2) through a public or private agency of the United States (including a State or municipal educational institution); or

(3) through an international organization.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47303	49 App.:1153.	June 16, 1948, ch. 473, §4, 62 Stat. 451.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, before clause (1), the title "Secretary of Commerce" is substituted for "Chief of the Weather Bureau" in section 4 of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). The words "within or outside the United States" are omitted as surplus. The word "citizen" is substituted for "nationals" as being more appropriate. In clause (1), the word "jointly" is substituted for "or in conjunction" to eliminate unnecessary words. The words "department, agency, or instrumentality of the United States Government" are substituted for "United States Government agency" for consistency in the revised title and with other titles of the United States Code.

§47304. Transfer of airport and airway property

(a) GENERAL AUTHORITY.—When requested by the government of a foreign country or an international organization, the Secretary of Transportation or Commerce, as appropriate, may transfer to the government or organization airport property and airway property operated and maintained under this chapter by the appropriate Secretary in foreign territory. The transfer shall be on terms the appropriate Secretary considers proper, including consideration agreed on through negotiations with the government or organization.

(b) PROPERTY INSTALLED OR CONTROLLED BY MILITARY.—Subject to terms to which the parties agree, the Secretary of a military department may transfer without charge to the Secretary of Transportation airport property and airway property (except meteorological facilities), and to the Secretary of Commerce meteorological facilities, that the Secretary of the military department installed or controls in territory outside the continental United States. The transfer may be made if consistent with the needs of national defense and—

(1) the Secretary of the military department finds that the property or facility is no longer required exclusively for military purposes; and

(2) the Secretary of Transportation or Commerce, as appropriate, decides that the transfer is or may be necessary to carry out this chapter.

(c) REPUBLIC OF PANAMA.—(1) The Secretary of Transportation may provide, operate, and maintain facilities and services for air navigation, airway communications, and air traffic control in the Republic of Panama subject to—

(A) the approval of the Secretary of Defense; and

(B) each obligation assumed by the United States Government under an agreement between the Government and the Republic of Panama.

(2) The Secretary of a military department may transfer without charge to the Secretary of Transportation property located in the Republic of Panama when the Secretary of Transportation decides that the transfer may be useful in carrying out this chapter.

(3) Subsection (b) of this section (related to the Secretary of Transportation) and section 47302(a)

and (b) of this title do not apply in carrying out this subsection.

(d) RETAKING PROPERTY FOR MILITARY REQUIREMENT.—(1) When necessary for a military requirement, the Secretary of a military department immediately may retake property (with any improvements to it) transferred by the Secretary under subsection (b) or (c) of this section. The Secretary shall pay reasonable compensation to each person (or its successor in interest) that made an improvement to the property that was not made at the expense of the Government. The Secretary or a delegate of the Secretary shall decide on the amount of compensation.

(2) On the recommendation of the Secretary of Transportation or Commerce, as appropriate, the Secretary of a military department may decide not to act under paragraph (1) of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47304(a)	49 App.:1155.	June 16, 1948, ch. 473, §§6, 8(a), (b), 62 Stat. 452; Aug. 23, 1958, Pub. L. 85–726, §1403, 72 Stat. 808.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
47304(b)	49 App.:1157(a), (b). 49 App.:1655(c)(1).	
47304(c)(1)	49 App.:1156(a), (b). 49 App.:1655(c)(1).	June 16, 1948, ch. 473, §§7, 9, 62 Stat. 452, 453.
47304(c)(2)	49 App.:1156(c). 49 App.:1655(c)(1).	
47304(c)(3)	49 App.:1156(d).	
47304(d)	49 App.:1158. 49 App.:1655(c)(1).	

In this section, the title "Secretary of Commerce" is substituted for "Chief of the Weather Bureau" in sections 6, 8, and 9 of the International Aviation Facilities Act (ch. 473, 62 Stat. 452) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words "including consideration agreed on" are substituted for "including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon" to eliminate unnecessary words.

In subsections (b) and (c), the words "Secretary of a military department" are substituted for "National Military Establishment" (subsequently changed to "department of the Department of Defense" because of section 12(a) of the National Security Act Amendments of 1949 (ch. 412, 63 Stat. 591)) because of 5:102 and 10:101.

In subsection (b), before clause (1), the words "if any, as may be . . . in specific cases", "at its discretion", and "therefor" are omitted as surplus. The word "except" is substituted for "exclusive of" for consistency in this chapter. The word "controls" is substituted for "in the possession of" for clarity. The word "considered" is omitted as surplus. In clause (2), the words "the purposes of" are omitted as surplus.

In subsection (c), reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977.

In subsection (c)(1), before clause (A), the words "and to do all things necessary in connection with the" are omitted as surplus. The word "airway" is added for consistency in this chapter. In clause (B), the words "treaty, convention, or" are omitted as surplus.

In subsection (c)(2), the words "in its discretion", "therefor", "airport property or airway property or other real or personal", and "the purposes of" are omitted as surplus.

In subsection (d)(1), the words "as determined by the Secretary of the department which made the transfer" are omitted as surplus. The words "(with any improvements to it)" are substituted for "together with any improvements or additions made thereto" to eliminate unnecessary words. The words "or persons" are omitted because of 1:1.

In subsection (d)(2), the words "decide not to act" are substituted for "in any case . . . waive any right or privilege conferred or reserved" to eliminate unnecessary words.

§47305. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall consolidate, operate, protect, maintain, and improve airport property and airway property (except meteorological facilities), and the Secretary of Commerce may consolidate, operate, protect, maintain, and improve meteorological facilities, that the appropriate Secretary has acquired and that are located in territory outside the continental United States. In carrying out this section, the appropriate Secretary may—

(1) adapt the property or facility to the needs of civil aeronautics;
(2) lease the property or facility for not more than 20 years;
(3) make a contract, or provide directly, for facilities and services;
(4) make reasonable charges for aeronautical services; and
(5) acquire an interest in property.

(b) CREDITING APPROPRIATIONS.—Money received from the direct sale or charge that the Secretary of Transportation or Commerce, as appropriate, decides is equivalent to the cost of facilities and services sold or provided under subsection (a)(3) and (4) of this section is credited to the appropriation from which the cost was paid. The balance shall be deposited in the Treasury as miscellaneous receipts.

(c) USING OTHER GOVERNMENT FACILITIES AND SERVICES.—To carry out this chapter and to use personnel and facilities of the United States Government most advantageously and without unnecessary duplication, the Secretary of Transportation or Commerce, as appropriate, shall request, when practicable, to use a facility or service of an appropriate department, agency, or instrumentality of the Government on a reimbursable basis. A department, agency, or instrumentality receiving a request under this section may provide the facility or service.

(d) ADVERTISING NOT REQUIRED.—Section 6101(b) to (d) of title 41 does not apply to a lease or contract made by the Secretary of Transportation or Commerce under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1282; Pub. L. 111–350, §5(o)(9), Jan. 4, 2011, 124 Stat. 3854.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47305(a)	49 App.:1159(a) (1st sentence), (b). 49 App.:1655(c)(1).	June 16, 1948, ch. 473, §10(a) (1st sentence), (b)–(d), 62 Stat. 453, 454. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
47305(b)	49 App.:1159(c). 49 App.:1655(c)(1).	
47305(c)	49 App.:1160. 49 App.:1655(c)(1).	June 16, 1948, ch. 473, §12, 62 Stat. 454; Aug. 23, 1958, Pub. L. 85–726, §1403, 72 Stat. 808; Jan. 3, 1975, Pub. L. 93–623, §3, 88 Stat. 2103.
47305(d)	49 App.:1159(d). 49 App.:1655(c)(1).	

In this section, the title "Secretary of Commerce" is substituted for "Chief of the Weather Bureau" in section 10(b)–(d), and for "Chief of the Weather Bureau" and "Weather Bureau" in section 12, of the

International Aviation Facilities Act (ch. 473, 62 Stat. 454) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), before clause (1), the words "do and perform, by contract or otherwise, all acts and things necessary or incident to" and "pursuant to this chapter or any other provision of law" are omitted as surplus. In clause (1), the words "from time to time" and "by construction, installation, reengineering, relocation, or otherwise" are omitted as surplus. The text of 49 App.:1159(a)(2) is omitted as surplus because of 49:322(a). In clause (2), the words "under such conditions as he may deem proper" and "space or" are omitted as surplus. The words "for not more than 20 years" are substituted for "and for such periods as may be desirable (not to exceed twenty years)" to eliminate unnecessary words. The words "for purposes essential or appropriate to their consolidation, operation, protection, and administration under this chapter" are omitted as surplus. In clause (3), the words "the sale of fuel, oil, equipment, food and supplies, hotel accommodations, and other" and "necessary or desirable for the operation and administration of such properties" are omitted as surplus. In clause (4), the word "reasonable" is substituted for "just and reasonable" for consistency in the revised title and with other titles of the United States Code. The words "(including but not limited to landing fees and fees for the use of communication services)" are omitted as surplus. In clause (5), the words "by purchase or otherwise, real or personal" and "which he may consider necessary for the purposes of this section" are omitted as surplus.

In subsection (b), the words "including handling charges" are omitted as surplus. The words "facilities and services sold or provided" are substituted for "of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished" for consistency and to eliminate unnecessary words. The words "under subsection (a)(3) and (4) of this section" are added for clarity. The words "if any" are omitted as surplus. The words "deposited in the Treasury as" are substituted for "credited to" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c), the words "use personnel and facilities of the United States Government most advantageously and without unnecessary duplication" are substituted for "to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated" to eliminate unnecessary words. The word "request" is substituted for "arrange for" for clarity. The words "department, agency, or instrumentality of the Government" are substituted for "other United States Government agencies" for consistency in the revised title and with other titles of the Code. The words "on a reimbursable basis" are substituted for "and to reimburse any such agency for such service out of funds appropriated to the Department of Transportation or the Department of Commerce, as the case may be" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (d). Pub. L. 111–350 substituted "Section 6101(b) to (d) of title 41" for "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ANNETTE ISLAND AIRPORT, ALASKA; RENEWAL OF LEASE

Act May 9, 1956, ch. 241, 70 Stat. 146, provided: "That the Congress of the United States hereby approves the extension, from year to year, until June 30, 1999, of a lease of certain land comprising part of Annette Island, Alaska, for use by the Civil Aeronautics Administration [now the Federal Aviation Administration] as an airport, entered into by the United States of America and the Council of the Annette Island Reserve on December 13, 1948, section 5 of which lease provides that no renewal thereof shall extend beyond June 30, 1959, unless approved by Congress."

[§47306. Repealed. Pub. L. 118–63, title VII, §727, May 16, 2024, 138 Stat. 1271]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1283, related to criminal penalty for knowingly and willfully violating a regulation prescribed by the Secretary of Transportation to carry out this chapter.

CHAPTER 475—NOISE

SUBCHAPTER I—NOISE ABATEMENT

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EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, div. B, title VII, §743(b), Oct. 5, 2018, 132 Stat. 3413, added item 47511.

2012—Pub. L. 112–95, title V, §506(b)(3), Feb. 14, 2012, 126 Stat. 106, which directed amendment of the analysis for subchapter II of this chapter by substituting "Penalties" for "Penalties for violating sections 47528–47530" in item 47531 and by adding item 47534, was executed to the analysis for this chapter to reflect the probable intent of Congress.

1994—Pub. L. 103–429, §6(72)(B), Oct. 31, 1994, 108 Stat. 4388, added item 47510.

Pub. L. 103–305, title III, §308(b), Aug. 23, 1994, 108 Stat. 1594, added item 47509.

SUBCHAPTER I—NOISE ABATEMENT

§47501. Definitions

In this subchapter—

(1) "airport" means a public-use airport as defined in section 47102 of this title.

(2) "airport operator" means—

(A) for an airport serving air carriers that have certificates from the Secretary of Transportation, any person holding an airport operating certificate issued under section 44706 of this title; and

(B) for any other airport, the person operating the airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47501(1)	49 App.:2101(1).	Feb. 18, 1980, Pub. L. 96–193, §101(1), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, §524(b)(1), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, §103(f), 101 Stat. 1489.
	49 App.:2101(3).	Feb. 18, 1980, Pub. L. 96–193, §101(3), 94 Stat. 50.
47501(2)	49 App.:2101(2).	Feb. 18, 1980, Pub. L. 96–193, §101(2), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, §524(b)(2), 96 Stat. 696.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, the words "the term" are omitted as surplus.

In clause (1), the text of 49 App.:2101(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (2), the word "valid" is omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PART 150 NOISE STANDARDS UPDATE

Pub. L. 118–63, title VII, §786, May 16, 2024, 138 Stat. 1313, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall review and revise, as appropriate, part 150 of title 14, Code of Federal Regulations, to reflect all relevant laws and regulations, including part 161 of title 14, Code of Federal Regulations.

"(b) OUTREACH.—As part of the review conducted under subsection (a), the Administrator shall clarify existing and future noise policies and standards and seek feedback from airports, airport users, and individuals living in the vicinity of airports and in airport adjacent communities before implementing any changes to any noise policies or standards.

"(c) BRIEFING.—Not later than 90 days after the date of enactment of this Act, and every 6 months thereafter, the Administrator shall brief the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] regarding the review conducted under subsection (a).

"(d) SUNSET.—The requirement under subsection (c) shall terminate on the earlier of—

"(1) October 1, 2028; or

"(2) the date on which 1 briefing is provided under subsection (c) after the changes in subsection (a) are implemented."

REDUCING COMMUNITY AIRCRAFT NOISE EXPOSURE

Pub. L. 118–63, title VII, §787, May 16, 2024, 138 Stat. 1313, provided that: "In implementing or substantially revising a flight procedure, the Administrator [of the Federal Aviation Administration] shall consider the following actions (to the extent that such actions do not negatively affect aviation safety or

efficiency) to reduce undesirable aircraft noise:

"(1) Implement flight procedures that can mitigate the impact of aircraft noise, based on a consensus community recommendation.

"(2) Work with airport sponsors and potentially impacted neighboring communities in establishing or modifying aircraft arrival and departure routes.

"(3) In collaboration with local governments, discourage local encroachment of residential or other buildings near airports that could create future aircraft noise complaints or impact airport operations or aviation safety."

INFORMATION SHARING REQUIREMENT

Pub. L. 118–63, title VII, §794, May 16, 2024, 138 Stat. 1319, provided that:

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation], acting through the Administrator [of the Federal Aviation Administration], shall establish a mechanism to make helicopter noise complaint data accessible to the FAA [Federal Aviation Administration], to helicopter operators operating in the Washington, DC area, and to the public on a website of the FAA, based on the recommendation of the Government Accountability Office in the report titled 'Aircraft Noise: Better Information Sharing Could Improve Responses to Washington, D.C. Area Helicopter Noise Concerns', published on January 7, 2021 (GAO–21–200).

"(b) COOPERATION.—Any helicopter operator operating in the Washington, DC area shall, to the extent practicable, provide helicopter noise complaint data to the FAA through the mechanism established under subsection (a).

"(c) DEFINITIONS.—In this section:

"(1) HELICOPTER NOISE COMPLAINT DATA.—The term 'helicopter noise complaint data'—

"(A) means general data relating to a complaint made by an individual about helicopter noise in the Washington, DC area and may include—

"(i) the location and description of the event that is the subject of the complaint;

"(ii) the start and end time of such event;

"(iii) a description of the aircraft that is the subject of the complaint; and

"(iv) the airport name associated with such event; and

"(B) does not include the personally identifiable information of the individual who submitted the complaint.

"(2) WASHINGTON, DC AREA.—The term 'Washington, DC area' means the area inside of a 30-mile radius surrounding Ronald Reagan Washington National Airport."

MITIGATION OF MILITARY HELICOPTER NOISE

Pub. L. 116–283, div. A, title X, §1087, Jan. 1, 2021, 134 Stat. 3877, provided that:

"(a) PROCESS FOR TRACKING COMPLAINTS.—The Secretary of Defense, in coordination with the Metropolitan Washington Airports Authority, shall develop a process to receive, track, and analyze complaints of military rotary wing aircraft noise in the National Capital Region that are registered on the noise inquiry websites of Ronald Reagan Washington National Airport and Dulles International Airport.

"(b) NATIONAL CAPITAL REGION.—In this section, the term 'National Capital Region' has the meaning given such term in section 2674(f)(2) of title 10, United States Code."

ADDRESSING COMMUNITY NOISE CONCERNS

Pub. L. 115–254, div. B, title I, §175, Oct. 5, 2018, 132 Stat. 3228, provided that: "When proposing a new area navigation departure procedure, or amending an existing procedure that would direct aircraft between the surface and 6,000 feet above ground level over noise sensitive areas, the Administrator of the Federal Aviation Administration shall consider the feasibility of dispersal headings or other lateral track variations to address community noise concerns, if—

"(1) the affected airport operator, in consultation with the affected community, submits a request to the Administrator for such a consideration;

"(2) the airport operator's request would not, in the judgment of the Administrator, conflict with the safe and efficient operation of the national airspace system; and

"(3) the effect of a modified departure procedure would not significantly increase noise over noise sensitive areas, as determined by the Administrator."

AVIATION NOISE COMPLAINTS

Pub. L. 112–95, title V, §510, Feb. 14, 2012, 126 Stat. 107, provided that: "Not later than 90 days after the date of enactment of this Act [Feb. 14, 2012], each owner or operator of a large hub airport (as defined in

section 40102(a) of title 49, United States Code) shall publish on an Internet Web site of the airport a telephone number to receive aviation noise complaints related to the airport."

AIRPORT NOISE STUDY

Pub. L. 106–181, title VII, §745, Apr. 5, 2000, 114 Stat. 178, as amended by Pub. L. 106–528, §7(a), Nov. 22, 2000, 114 Stat. 2521, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall enter into an agreement with the National Academy of Sciences to conduct a study on airport noise in the United States.

"(b) CONTENTS OF STUDY.—In conducting the study, the National Academy of Sciences shall examine—

"(1) the threshold of noise at which health begins to be affected;

"(2) the effectiveness of noise abatement programs at airports located in the United States;

"(3) the impacts of aircraft noise on communities, including schools; and

"(4) the noise assessment practices of the Federal Aviation Administration and whether such practices fairly and accurately reflect the burden of noise on communities.

"(c) REPORT.—Not later than 18 months after the date of the agreement entered into under subsection (a), the National Academy of Sciences shall transmit to the Secretary a report on the results of the study. Upon receipt of the report, the Secretary shall transmit a copy of the report to the appropriate committees of Congress.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section."

NONMILITARY HELICOPTER NOISE

Pub. L. 106–181, title VII, §747, Apr. 5, 2000, 114 Stat. 179, required the Secretary of Transportation to conduct a study on the effects of nonmilitary helicopter noise on individuals in densely populated areas in the continental United States and develop recommendations for the reduction of the effects of nonmilitary helicopter noise, focusing on air traffic control procedures to address helicopter noise problems and the needs of law enforcement, considering the views of representatives of the helicopter industry, and report to Congress a report on the study not later than 1 year after Apr. 5, 2000.

§47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure

After consultation with the Administrator of the Environmental Protection Agency and United States Government, State, and interstate agencies that the Secretary of Transportation considers appropriate, the Secretary shall by regulation—

(1) establish a single system of measuring noise that—

(A) has a highly reliable relationship between projected noise exposure and surveyed reactions of individuals to noise; and

(B) is applied uniformly in measuring noise at airports and the surrounding area;

(2) establish a single system for determining the exposure of individuals to noise resulting from airport operations, including noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses normally compatible with various exposures of individuals to noise.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47502	49 App.:2102.	Feb. 18, 1980, Pub. L. 96–193, §102, 94 Stat. 50.

In this section, before clause (1), the words "Not later than the last day of the twelfth month which begins after February 18, 1980" are omitted as obsolete.

§47503. Noise exposure maps

(a) SUBMISSION AND PREPARATION.—An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during a forecast period that is at least 5 years in the future and how those operations will affect the map. The map shall—

(1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and

(2) comply with regulations prescribed under section 47502 of this title.

(b) REVISED MAPS.—

(1) IN GENERAL.—An airport operator that submits a noise exposure map under subsection (a) shall submit a revised map to the Secretary if, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration.

(2) TIMING.—A submission under paragraph (1) shall be required only if the relevant change in the operation of the airport occurs during—

(A) the forecast period of the applicable noise exposure map submitted by an airport operator under subsection (a); or

(B) the implementation period of the airport operator's noise compatibility program.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1284; Pub. L. 108–176, title III, §324, Dec. 12, 2003, 117 Stat. 2542; Pub. L. 115–254, div. B, title I, §174, Oct. 5, 2018, 132 Stat. 3228.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47503(a)	49 App.:2103(a)(1).	Feb. 18, 1980, Pub. L. 96–193, §103(a), 94 Stat. 50.
47503(b)	49 App.:2103(a)(2).	

In subsection (a), before clause (1), the words "After the effective date of the regulations promulgated in accordance with section 2102 of this Appendix" are omitted as executed. The words "of an airport" and "at such airport" are omitted as surplus. The word "how" is substituted for "the ways, if any, in which" to eliminate unnecessary words. In clause (1), the words "planning authorities" are substituted for "planning agencies" for consistency.

In subsection (b), the words "to the Secretary" are added for clarity. The words "after the submission to the Secretary of a noise exposure map under paragraph (1)" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (b). Pub. L. 115–254 amended subsec. (b) generally. Prior to amendment, text read as follows: "If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction."

2003—Subsec. (a). Pub. L. 108–176, §324(1), substituted "a forecast period that is at least 5 years in the future" for "1985," in introductory provisions.

Subsec. (b). Pub. L. 108–176, §324(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "If a change in the operation of an airport will establish a substantial new noncompatible use in an area surrounding the airport, the airport operator shall submit a revised noise

exposure map to the Secretary showing the new noncompatible use."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

NOISE DISCLOSURE

Pub. L. 108–176, title III, §322, Dec. 12, 2003, 117 Stat. 2540, provided that:

"(a) NOISE DISCLOSURE SYSTEM IMPLEMENTATION STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensomeness of any such program, the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

"(b) PUBLIC AVAILABILITY OF NOISE EXPOSURE MAPS.—The Administrator shall make noise exposure and land use information from noise exposure maps available to the public via the Internet on its website in an appropriate format.

"(c) NOISE EXPOSURE MAP.—In this section, the term 'noise exposure map' means a noise exposure map prepared under section 47503 of title 49, United States Code."

§47504. Noise compatibility programs

(a) SUBMISSIONS.—(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after—

(A) consulting with public agencies and planning authorities in the area surrounding the airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under paragraph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map. The measures may include—

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b) APPROVALS.—(1) The Secretary shall approve or disapprove a program submitted under subsection (a) of this section (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) not later than 180 days after receiving it. The Secretary shall approve the program (except as the program is related to flight procedures referred to in subsection (a)(2)(D)) if the program—

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) is deemed to be approved if the Secretary does not act within the 180-day period.

(3) The Secretary shall submit any part of a program related to flight procedures referred to in subsection (a)(2)(D) of this section to the Administrator of the Federal Aviation Administration. The Administrator shall approve or disapprove that part of the program.

(4) The Secretary shall not approve in fiscal years 2004 through 2007 a program submitted under subsection (a) if the program requires the expenditure of funds made available under section 48103 for mitigation of aircraft noise less than 65 DNL.

(c) GRANTS.—(1) The Secretary may incur obligations to make grants from amounts available under section 48103 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program; and

(B) a unit of local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project.

(2) SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title—

(A) for projects to soundproof residential buildings—

(i) if the airport operator received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(B) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof residential buildings located on residential properties, and to acquire residential properties, at which noise levels are not compatible with normal operations of an airport—

(i) if the airport operator amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(C) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program;

(D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof a building in the noise impact area surrounding the airport that is

used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise;

(E) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47175) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations; and

(F) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) to carry out a project to mitigate noise, if the project—

(i) consists of—

(I) replacement windows, doors, and the installation of through-the-wall air conditioning units; or

(II) a contribution of the equivalent costs to be used for reconstruction if reconstruction is the preferred local solution;

(ii) is located at a school near the airport; and

(iii) is included in a memorandum of agreement entered into before September 30, 2002, even if the airport has not met the requirements of part 150 of title 14, Code of Federal Regulations, and only if the financial limitations of the memorandum are applied.

(3) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(4) The Government's share of a project for which a grant is made under this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government's share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(5) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47109(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(6) AIRCRAFT NOISE PRIMARILY CAUSED BY MILITARY AIRCRAFT.—The Secretary may make a grant under this subsection for a project even if the purpose of the project is to mitigate the effect of noise primarily caused by military aircraft at an airport.

(d) GOVERNMENT RELIEF FROM LIABILITY.—The Government is not liable for damages from aviation noise because of action taken under this section.

(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

(1) IN GENERAL.—In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(2) ADDITIONAL STAFF.—The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section—

(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(C) shall remain available until expended.

(f) DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.—In approving a project to acquire residential real property using financial assistance made available under this section or chapter 471, the Secretary shall ensure that the appraisal of the property to be acquired disregards any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1285; Pub. L. 103–305, title I, §119, Aug. 23, 1994, 108 Stat. 1580; Pub. L. 103–429, §6(71), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 106–181, title I, §154, Apr. 5, 2000, 114 Stat. 88; Pub. L. 108–176, title I, §189, title III, §306, Dec. 12, 2003, 117 Stat. 2519, 2539; Pub. L. 112–95, title V, §§504, 505, Feb. 14, 2012, 126 Stat. 104; Pub. L. 115–232, div. A, title X, §1044, Aug. 13, 2018, 132 Stat. 1958.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47504(a)	49 App.:2104(a).	Feb. 18, 1980, Pub. L. 96–193, §104(a), 94 Stat. 51; Dec. 30, 1987, Pub. L. 100–223, §301(a), 101 Stat. 1523.
47504(b)	49 App.:2104(b).	Feb. 18, 1980, Pub. L. 96–193, §104(b), (d), 94 Stat. 52, 53.
47504(c)	49 App.:2104(c).	Feb. 18, 1980, Pub. L. 96–193, §104(c), 94 Stat. 52; Sept. 3, 1982, Pub. L. 97–248, §524(b)(4), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, §301(b), (c), 101 Stat. 1523; Oct. 28, 1991, Pub. L. 102–143, §336, 105 Stat. 947.
47504(d)	49 App.:2104(d).	

In subsection (a)(1)(A), the words "the officials of" are omitted as surplus. The words "planning authorities" are substituted for "planning agencies" for consistency.

In subsection (a)(2)(A), the word "establishing" is substituted for "the implementation of" for consistency.

In subsection (a)(2)(B), the words "the implementation of" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "to him" and "the measures to be undertaken in carrying out" are omitted as surplus. In clause (B), the word "achieving" is substituted for "obtaining" for clarity. The word "existing" is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:2104(b) (3d sentence) to eliminate unnecessary words.

In subsection (c)(1)(B) and (2), the words "for which grant applications are made in accordance with such noise compatibility programs" are omitted as surplus.

In subsection (c)(1), before clause (A), the words "incur obligations to" and "further . . . under this section" are omitted as surplus. In clause (C), the words "to carry out any part of a program" are substituted for "any project to carry out a noise compatibility program", and the words "or before implementing regulations were prescribed" are substituted for "or the promulgation of its implementing regulations", for clarity and consistency. The words "the purposes of" before "reducing" are omitted as surplus. The word "noncompatible" is added after "existing" for clarity and consistency. In clause (D), the words "for any project" and "determined to be" are omitted as surplus.

In subsection (c)(2), the words "in turn" are omitted as surplus.

In subsection (c)(4), before clause (A), the words "All of" and "made under section 505 of that Act" are omitted as surplus. The word "except" is substituted for "unless" for clarity. In clause (1), the words "relating to United States share of project costs" are omitted as surplus. In clause (2), the words "the purposes of" are omitted as surplus.

In subsection (d), the words "by the Secretary or the Administrator of the Federal Aviation Administration" are omitted as surplus.

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This redesignates 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and (D) because the subject matter is similar to that of 49:47504(c)(2)(A) and (B) that was added by section 119(2) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1580).

EDITORIAL NOTES

REFERENCES IN TEXT

Section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987, referred to in subsec. (c)(2)(A)(i), is section 301(d)(4)(B) of Pub. L. 100–223, which was set out as a note under section 2104 of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.

AMENDMENTS

2018—Subsec. (c)(2)(F). Pub. L. 115–232 added subpar. (F).

2012—Subsec. (e). Pub. L. 112–95, §504, added subsec. (e).

Subsec. (f). Pub. L. 112–95, §505, added subsec. (f).

2003—Subsec. (b)(4). Pub. L. 108–176, §189, added par. (4).

Subsec. (c)(2)(C)–(E). Pub. L. 108–176, §306, realigned margins of subpars. (C) and (D) and added subpar. (E).

2000—Subsec. (c)(6). Pub. L. 106–181 added par. (6).

1994—Subsec. (c)(1)(A). Pub. L. 103–429, §6(71)(A), inserted "and" after semicolon at end.

Subsec. (c)(1)(B). Pub. L. 103–429, §6(71)(B), substituted a period for semicolon at end.

Subsec. (c)(1)(C), (D). Pub. L. 103–429, §6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(2). Pub. L. 103–305, §119(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(2)(A)(iii). Pub. L. 103–429, §6(71)(D), struck out "and" after semicolon at end.

Subsec. (c)(2)(B)(iii). Pub. L. 103–429, §6(71)(E), substituted a semicolon for period at end.

Subsec. (c)(2)(C), (D). Pub. L. 103–429, §6(71)(F), substituted "to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection" for "an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph".

Pub. L. 103–429, §6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(3). Pub. L. 103–305, §119(1), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 103–305, §119(3), struck out "paragraph (1) of" before "this subsection" in introductory provisions.

Pub. L. 103–305, §119(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 103–305, §119(1), redesignated par. (4) as (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§47505. Airport noise compatibility planning grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a sponsor of an airport to develop, for planning purposes, information necessary to prepare and submit—

(1) a noise exposure map and related information under section 47503 of this title, including the cost of obtaining the information; or

(2) a noise compatibility program under section 47504 of this title.

(b) AVAILABILITY OF AMOUNTS AND GOVERNMENT'S SHARE OF COSTS.—A grant under subsection (a) of this section may be made from amounts available under section 48103 of this title. The United States Government's share of the grant is the percent for which a project for airport development at an airport would be eligible under section 47109(a) and (b) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47505	49 App.:2103(b).	Feb. 18, 1980, Pub. L. 96–193, §103(b), 94 Stat. 51; restated Sept. 3, 1982, Pub. L. 97–248, §524(b)(3), 96 Stat. 696.

In subsection (a), before clause (1), the words "incur obligations to" are omitted as surplus.

§47506. Limitations on recovering damages for noise

(a) GENERAL LIMITATIONS.—A person acquiring an interest in property after February 18, 1980, in an area surrounding an airport for which a noise exposure map has been submitted under section 47503 of this title and having actual or constructive knowledge of the existence of the map may recover damages for noise attributable to the airport only if, in addition to any other elements for recovery of damages, the person shows that—

(1) after acquiring the interest, there was a significant—

(A) change in the type or frequency of aircraft operations at the airport;

(B) change in the airport layout;

(C) change in flight patterns; or

(D) increase in nighttime operations; and

(2) the damages resulted from the change or increase.

(b) CONSTRUCTIVE KNOWLEDGE.—Constructive knowledge of the existence of a map under subsection (a) of this section shall be imputed, at a minimum, to a person if—

(1) before the person acquired the interest, notice of the existence of the map was published at least 3 times in a newspaper of general circulation in the county in which the property is located; or

(2) the person is given a copy of the map when acquiring the interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47506	49 App.:2107.	Feb. 18, 1980, Pub. L. 96–193, §107, 94 Stat. 53.

In subsection (a)(2), the words "for which recovery is sought have" are omitted as surplus.

§47507. Nonadmissibility of noise exposure map and related information as evidence

No part of a noise exposure map or related information described in section 47503 of this title that is submitted to, or prepared by, the Secretary of Transportation and no part of a list of land uses the Secretary identifies as normally compatible with various exposures of individuals to noise may be admitted into evidence or used for any other purpose in a civil action asking for relief for noise resulting from the operation of an airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47507	49 App.:2106.	Feb. 18, 1980, Pub. L. 96–193, §106, 94 Stat. 53.

The words "land uses which are" are omitted as surplus. The words "civil action" are substituted for "suit or action" for consistency in the revised title and with other titles of the United States Code. The words "damages or other" are omitted as surplus.

§47508. Noise standards for air carriers and foreign air carriers providing foreign air transportation

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall require each air carrier and foreign air carrier providing foreign air transportation to comply with noise standards—

(1) the Secretary prescribed for new subsonic aircraft in regulations of the Secretary in effect on January 1, 1977; or

(2) of the International Civil Aviation Organization that are substantially compatible with standards of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982.

(b) COMPLIANCE AT PHASED RATE.—The Secretary shall require each air carrier and foreign air carrier providing foreign air transportation to comply with the noise standards at a phased rate similar to the rate for aircraft registered in the United States.

(c) NONDISCRIMINATION.—The requirement for air carriers providing foreign air transportation may not be more stringent than the requirement for foreign air carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47508(a)	49 App.:2122(a) (1st sentence words before last comma, last sentence).	Feb. 18, 1980, Pub. L. 96–193, §302(a), 94 Stat. 56.
47508(b)	49 App.:2122(a) (1st sentence words after last comma).	
47508(c)	49 App.:2122(a) (2d sentence).	

In this section, the word "providing" is substituted for "engaging in" for consistency in the revised title.

In subsection (a), the words "acting through the Administrator" and "acting through the Administrator of the Federal Aviation Administration (14 CFR part 36)" are omitted for consistency. Section 6(c)(1) of the Department of Transportation Act (Public Law 89–670, 80 Stat. 938) transferred all duties and powers of the Federal Aviation Agency and the Administrator to the Secretary of Transportation. However, the Secretary was to carry out certain provisions through the Administrator. In addition, various laws enacted since then have vested duties and powers in the Administrator. All provisions of law the Secretary is required to carry out through the Administrator are included in 49:106(g). Before clause (1), the words "If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as 'ICAO') does not reach an agreement" and "commence a rulemaking to" and 49 App.:2122(a) (last sentence) are omitted as executed. In clause (1), the words "as such regulations were" are omitted as surplus. In clause (2), the words "on noise standards and an international schedule" and "(annex 16)" are omitted as surplus. The words "of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982" are substituted for "set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter" for clarity and consistency.

In subsection (b), the words "in effect" are omitted as surplus.

STATUTORY NOTES AND RELATED SUBSIDIARIES

IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS

Pub. L. 108–176, title III, §325, Dec. 12, 2003, 117 Stat. 2542, provided that: "Not later than April 1, 2005, the Secretary of Transportation shall issue final regulations to implement Chapter 4 noise standards, consistent with the recommendations adopted by the International Civil Aviation Organization."

STANDARDS FOR AIRCRAFT AND AIRCRAFT ENGINES TO REDUCE NOISE LEVELS

Pub. L. 106–181, title VII, §726, Apr. 5, 2000, 114 Stat. 167, as amended by Pub. L. 113–188, title XV, §1501(f), Nov. 26, 2014, 128 Stat. 2025, provided that:

"(a) DEVELOPMENT OF NEW STANDARDS.—The Secretary [of Transportation] shall continue to work to develop through the International Civil Aviation Organization new performance standards for aircraft and aircraft engines that will lead to a further reduction in aircraft noise levels.

"(b) GOALS TO BE CONSIDERED IN DEVELOPING NEW STANDARDS.—In negotiating standards under subsection (a), the Secretary shall give high priority to developing standards that—

"(1) are performance based and can be achieved by use of a full range of certifiable noise reduction technologies;

"(2) protect the useful economic value of existing Stage 3 aircraft in the United States fleet;

"(3) ensure that United States air carriers and aircraft engine and hushkit manufacturers are not competitively disadvantaged;

"(4) use dynamic economic modeling capable of determining impacts on all aircraft in service in the United States fleet; and

"(5) continue the use of a balanced approach to address aircraft environmental issues, taking into account aircraft technology, land use planning, economic feasibility, and airspace operational improvements."

AIRCRAFT NOISE RESEARCH PROGRAM

Pub. L. 102–581, title III, §304, Oct. 31, 1992, 106 Stat. 4896, as amended by Pub. L. 109–155, title VII, §706(b), Dec. 30, 2005, 119 Stat. 2937, provided that:

"(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

"(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2010 technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

"(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

"(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an

annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b)."

§47509. Research program on quiet aircraft technology for propeller and rotor driven aircraft

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall conduct a study to identify technologies for noise reduction of propeller driven aircraft and rotorcraft.

(b) GOAL.—The goal of the study conducted under subsection (a) is to determine the status of research and development now underway in the area of quiet technology for propeller driven aircraft and rotorcraft, including technology that is cost beneficial, and to determine whether a research program to supplement existing research activities is necessary.

(c) PARTICIPATION.—In conducting the study required under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of the Department of Defense, the Department of the Interior, the airtour industry, the aviation industry, academia and other appropriate groups.

(d) REPORT.—Not less than 280 days after August 23, 1994, the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall transmit to Congress a report on the results of the study required under subsection (a).

(e) RESEARCH AND DEVELOPMENT PROGRAM.—If the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration determine that additional research and development is necessary and would substantially contribute to the development of quiet aircraft technology, then the agencies shall conduct an appropriate research program in consultation with the entities listed in subsection (c) to develop safe, effective, and economical noise reduction technology (including technology that can be applied to existing propeller driven aircraft and rotorcraft) that would result in aircraft that operate at substantially reduced levels of noise to reduce the impact of such aircraft and rotorcraft on the resources of national parks and other areas.

(Added Pub. L. 103–305, title III, §308(a), Aug. 23, 1994, 108 Stat. 1593; amended Pub. L. 104–287, §5(86), Oct. 11, 1996, 110 Stat. 3398.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted "August 23, 1994" for "the date of the enactment of this section".

§47510. Tradeoff allowance

Notwithstanding another law or a regulation prescribed or order issued under that law, the tradeoff provisions contained in appendix C of part 36 of title 14, Code of Federal Regulations, apply in deciding whether an aircraft complies with subpart I of part 91 of title 14.

(Added Pub. L. 103–429, §6(72)(A), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47510	49 App.:2125.	Feb. 18, 1980, Pub. L. 96–193, §305, 94 Stat. 57.

The word "prescribed" is added for consistency in the revised title and with other titles of the United States Code. The words "subpart I of part 91" are substituted for "subpart E of part 91" because of the restatement of part 91. See 54 Fed. Reg. 34321 (Aug. 18, 1989).

§47511. CLEEN engine and airframe technology partnership

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into a cost-sharing cooperative agreement, using a competitive process, with institutions, entities, or consortiums to carry out a program for the development, maturation, and testing of certifiable CLEEN aircraft, engine technologies, and jet fuels for civil airplanes.

(b) CLEEN ENGINE AND AIRFRAME TECHNOLOGY DEFINED.—In this section, the term "CLEEN aircraft and engine technology" means continuous lower energy, emissions, and noise aircraft and engine technology.

(c) PERFORMANCE OBJECTIVE.—The Administrator shall establish the performance objectives for the program in terms of the specific objectives to reduce fuel burn, emissions and noise.

(d) SELECTION.—In carrying out the program, the Administrator may provide that not less than 2 of the cooperative agreements entered into under this section involve the participation of an entity that is a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), provided that the submitted technology proposal of the entity meets, at a minimum, FAA Acquisition Management System requirements and requisite technology readiness levels for entry into the agreement, as determined by the Administrator.

(Added Pub. L. 115–254, div. B, title VII, §743(a), Oct. 5, 2018, 132 Stat. 3413; amended Pub. L. 118–63, title X, §1008, May 16, 2024, 138 Stat. 1389.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §1008(1), struck out "subsonic" after "fuels for civil".
Subsec. (d). Pub. L. 118–63, §1008(2), added subsec. (d).

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

§47521. Findings

Congress finds that—

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation that could impede the national air transportation system;

(3) a noise policy must be carried out at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the use of new technology aircraft and the use of revenues, including those available from passenger facility charges, for noise management;

(6) revenues controlled by the United States Government can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) revenues derived from a passenger facility charge may be applied to noise management and increased airport capacity; and

(8) a precondition to the establishment and collection of a passenger facility charge is the prescribing by the Secretary of Transportation of a regulation establishing procedures for

reviewing airport noise and access restrictions on operations of stage 2 and stage 3 aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1287; Pub. L. 112–95, title I, §111(c)(2)(A)(vi), (B), Feb. 14, 2012, 126 Stat. 18.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47521	49 App.:2151.	Nov. 5, 1990, Pub. L. 101–508, §9302, 104 Stat. 1388–378.

EDITORIAL NOTES

AMENDMENTS

2012—Par. (5). Pub. L. 112–95, §111(c)(2)(B), substituted "charges" for "fees".
Pars. (7), (8). Pub. L. 112–95, §111(c)(2)(A)(vi), substituted "charge" for "fee".

STATUTORY NOTES AND RELATED SUBSIDIARIES

AUTHORIZATION OF CERTAIN FLIGHTS BY STAGE 2 AIRCRAFT

Pub. L. 115–254, div. B, title I, §172, Oct. 5, 2018, 132 Stat. 3227, provided that:

"(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall initiate a pilot program to permit an operator of a stage 2 aircraft to operate that aircraft in nonrevenue service into not more than 4 medium hub airports or nonhub airports if—

"(1) the airport—

"(A) is certified under part 139 of title 14, Code of Federal Regulations;

"(B) has a runway that—

"(i) is longer than 8,000 feet and not less than 200 feet wide; and

"(ii) is load bearing with a pavement classification number of not less than 38; and

"(C) has a maintenance facility with a maintenance certificate issued under part 145 of such title; and

"(2) the operator of the stage 2 aircraft operates not more than 10 flights per month using that aircraft.

"(b) TERMINATION.—The pilot program shall terminate on the earlier of—

"(1) the date that is 10 years after the date of the enactment of this Act [Oct. 5, 2018]; or

"(2) the date on which the Administrator determines that no stage 2 aircraft remain in service.

"(c) DEFINITIONS.—In this section:

"(1) MEDIUM HUB AIRPORT; NONHUB AIRPORT.—The terms 'medium hub airport' and 'nonhub airport' have the meanings given those terms in section 40102 of title 49, United States Code.

"(2) STAGE 2 AIRCRAFT.—The term 'stage 2 aircraft' has the meaning given the term 'stage 2 airplane' in section 91.851 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act [Oct. 5, 2018])."

§47522. Definitions

In this subchapter—

(1) "air carrier", "air transportation", and "United States" have the same meanings given those terms in section 40102(a) of this title.

(2) "stage 3 noise levels" means the stage 3 noise levels in part 36 of title 14, Code of Federal Regulations, in effect on November 5, 1990.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47522	49 App.:2157(h).	Nov. 5, 1990, Pub. L. 101–508, §9308(h), 104 Stat. 1388–384.

The definitions are made applicable to all of subchapter II, rather than only to those provisions based on 49 App.:2157 as in the source provisions, because the defined terms appear in several sections of subchapter II and it is assumed they are intended to have the same meaning in each of those sections.

§47523. National aviation noise policy

(a) GENERAL REQUIREMENTS.—Not later than July 1, 1991, the Secretary of Transportation shall establish by regulation a national aviation noise policy that considers this subchapter, including the phaseout and nonaddition of stage 2 aircraft as provided in this subchapter and dates for carrying out that policy and reporting requirements consistent with this subchapter and law existing as of November 5, 1990.

(b) DETAILED ECONOMIC ANALYSIS.—The policy shall be based on a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(1) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(2) the impact of competition in the airline and air cargo industries;

(3) the impact on nonhub and small community air service; and

(4) the impact on new entry into the airline industry.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47523	49 App.:2152.	Nov. 5, 1990, Pub. L. 101–508, §9303, 104 Stat. 1388–378.

In this section, the text of 49 App.:2152(c) is omitted as executed.

In subsection (a), the words "(hereinafter in this chapter referred to as the 'Secretary')" are omitted because of the restatement. The words "this subchapter" (the first time they appear) are substituted for "the findings, determinations, and provisions of this chapter" to eliminate unnecessary words.

Subsection (b) is tabulated for clarity.

§47524. Airport noise and access restriction review program

(a) GENERAL REQUIREMENTS.—The national aviation noise policy established under section 47523 of this title shall provide for establishing by regulation a national program for reviewing airport noise and access restrictions on the operation of stage 2 and stage 3 aircraft. The program shall provide for adequate public notice and opportunity for comment on the restrictions.

(b) STAGE 2 AIRCRAFT.—Except as provided in subsection (d) of this section, an airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;

(2) a description of alternative restrictions;

(3) a description of the alternative measures considered that do not involve aircraft restrictions;

and

(4) a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

(c) STAGE 3 AIRCRAFT.—(1) Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator's request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include—

(A) a restriction on noise levels generated on either a single event or cumulative basis;

(B) a restriction on the total number of stage 3 aircraft operations;

(C) a noise budget or noise allocation program that would include stage 3 aircraft;

(D) a restriction on hours of operations; and

(E) any other restriction on stage 3 aircraft.

(2) Not later than 180 days after the Secretary receives an airport or aircraft operator's request for approval of an airport noise or access restriction on the operation of a stage 3 aircraft, the Secretary shall approve or disapprove the restriction. The Secretary may approve the restriction only if the Secretary finds on the basis of substantial evidence that—

(A) the restriction is reasonable, nonarbitrary, and nondiscriminatory;

(B) the restriction does not create an unreasonable burden on interstate or foreign commerce;

(C) the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(D) the restriction does not conflict with a law or regulation of the United States;

(E) an adequate opportunity has been provided for public comment on the restriction; and

(F) the restriction does not create an unreasonable burden on the national aviation system.

(3) Paragraphs (1) and (2) of this subsection do not apply if the Administrator of the Federal Aviation Administration, before November 5, 1990, has formed a working group (outside the process established by part 150 of title 14, Code of Federal Regulations) with a local airport operator to examine the noise impact of air traffic control procedure changes at the airport. However, if an agreement on noise reductions at that airport is made between the airport proprietor and one or more air carriers or foreign air carriers that constitute a majority of the carrier use of the airport, this paragraph applies only to a local action to enforce the agreement.

(4) The Secretary may reevaluate an airport noise or access restriction previously agreed to or approved under this subsection on request of an aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport that justifies a reevaluation. The Secretary shall establish by regulation procedures for conducting a reevaluation. A reevaluation—

(A) shall be based on the criteria in paragraph (2) of this subsection; and

(B) may be conducted only after 2 years after a decision under paragraph (2) of this subsection has been made.

(d) NONAPPLICATION.—Subsections (b) and (c) of this section do not apply to—

(1) a local action to enforce a negotiated or executed airport noise or access agreement between the airport operator and the aircraft operators in effect on November 5, 1990;

(2) a local action to enforce a negotiated or executed airport noise or access restriction agreed to by the airport operator and the aircraft operators before November 5, 1990;

(3) an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990;

(4) a subsequent amendment to an airport noise or access agreement or restriction in effect on November 5, 1990, that does not reduce or limit aircraft operations or affect aircraft safety;

(5)(A) an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect; or

(B) a new restriction imposed by an airport operator to replace any part of a restriction described in subclause (A) of this clause that is disallowed by a court, if the new restriction would not prohibit aircraft operations in effect on November 5, 1990; or

(6) a local action that represents the adoption of the final part of a program of a staged airport noise or access restriction if the initial part of the program was adopted during 1988 and was in effect on November 5, 1990.

(e) GRANT LIMITATIONS.—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility charge under section 40117 of this title only if the restriction has been—

(1) agreed to by the airport proprietor and aircraft operators;

(2) approved by the Secretary as required by subsection (c)(1) of this section; or

(3) rescinded.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1288; Pub. L. 112–95, title I, §111(c)(2)(A)(vii), Feb. 14, 2012, 126 Stat. 18.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47524(a)	49 App.:2153(a)(1).	Nov. 5, 1990, Pub. L. 101–508, §9304(a)(1)– (2)(C), (3)–(g), 104 Stat. 1388–379.
47524(b)	49 App.:2153(a)(2)(A), (c).	
47524(c)(1)	49 App.:2153(a)(2)(B), (b).	
47524(c)(2)	49 App.:2153(d).	
47524(c)(3)	49 App.:2153(a)(2)(D).	Nov. 5, 1990, Pub. L. 101–508, §9304(a)(2)(D), 104 Stat. 1388–380; Oct. 31, 1992, Pub. L. 102–581, §136(a), 106 Stat. 4889.
47524(c)(4)	49 App.:2153(f), (g).	
47524(d)	49 App.:2153(a)(2)(C).	
47524(e)	49 App.:2153(e).	

In subsection (a), the words "shall provide for establishing" are substituted for "shall require the establishment . . . of" as being more appropriate. The words "in accordance with the provisions of this section" are omitted as surplus.

In subsection (b), the words "proposed after October 1, 1990" are substituted for 49 App.:2153(a)(2)(A) to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words "not in effect on October 1, 1990" are substituted for 49 App.:2153(a)(2)(B) to eliminate unnecessary words. In clause (B), the words "direct or indirect" are omitted as surplus.

In subsection (c)(2)(A)–(D) and (F), the word "proposed" is omitted as surplus. In clause (D), the word "existing" is omitted as surplus.

In subsection (c)(4), the words "that justifies a reevaluation" are substituted for "and that a review and reevaluation . . . of the previously approved or agreed to noise restriction is therefore justified" to eliminate unnecessary words.

In subsection (d)(6), the words "calendar year" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (e). Pub. L. 112–95 substituted "charge" for "fee" in introductory provisions.

§47525. Decision about airport noise and access restrictions on certain stage 2 aircraft

The Secretary of Transportation shall conduct a study and decide on the application of section 47524(a)–(d) of this title to airport noise and access restrictions on the operation of stage 2 aircraft with a maximum weight of not more than 75,000 pounds. In making the decision, the Secretary shall consider—

(1) noise levels produced by those aircraft relative to other aircraft;

(2) the benefits to general aviation and the need for efficiency in the national air transportation system;

(3) the differences in the nature of operations at airports and the areas immediately surrounding the airports;

(4) international standards and agreements on aircraft noise; and

(5) other factors the Secretary considers necessary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47525	49 App.:2154.	Nov. 5, 1990, Pub. L. 101–508, §9305, 104 Stat. 1388–382.

In this section, before clause (1), the words "conduct a study and decide on" are substituted for "determine by a study" for clarity. The words "with a maximum weight of not more than" are substituted for "weighing less than" for consistency with sections 47528 and 47529 of the revised title.

§47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

(1) receive money under subchapter I of chapter 471 of this title; or

(2) impose a passenger facility charge under section 40117 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291; Pub. L. 112–95, title I, §111(c)(2)(A)(viii), Feb. 14, 2012, 126 Stat. 18.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47526	49 App.:2156.	Nov. 5, 1990, Pub. L. 101–508, §9307, 104 Stat. 1388–382.

In this section, before clause (1), the words "Under no conditions" are omitted as surplus. In clause (2), the words "or collect" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2012—Par. (2). Pub. L. 112–95 substituted "charge" for "fee".

§47527. Liability of the United States Government for noise damages

When a proposed airport noise or access restriction is disapproved under this subchapter, the United States Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of the disapproval. The United States Court of Federal Claims has exclusive jurisdiction of a civil action under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47527	49 App.:2155.	Nov. 5, 1990, Pub. L. 101–508, §9306, 104 Stat. 1388–382.

The words "under this subchapter" are added for clarity. The words "has exclusive jurisdiction of a civil action under this section" are substituted for "Action for the resolution of such a case shall be brought solely in" for clarity and consistency. The words "Court of Federal Claims" are substituted for "Claims Court" to reflect the change of name of the Court by section 902(b) of the Federal Courts Administration Act of 1992 (Public Law 102–572, 106 Stat. 4516).

§47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels

(a) PROHIBITION.—Except as provided in subsection (b) or (f) of this section and section 47530 of this title, a person may operate after December 31, 1999, a civil subsonic turbojet (for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator) with a maximum weight of more than 75,000 pounds to or from an airport in the United States only if the Secretary of Transportation finds that the aircraft complies with the stage 3 noise levels.

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier or foreign air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, or, in the case of a foreign air carrier, the 15th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

(2) The Secretary may grant a waiver under this subsection if the Secretary finds it would be in the public interest. In making the finding, the Secretary shall consider the effect of granting the waiver on competition in the air carrier industry and on small community air service.

(3) A waiver granted under this subsection may not permit the operation of stage 2 aircraft in the United States after December 31, 2003.

(c) SCHEDULE FOR PHASED-IN COMPLIANCE.—The Secretary shall establish by regulation a schedule for phased-in compliance with subsection (a) of this section. The phase-in period shall begin on November 5, 1990, and end before December 31, 1999. The regulations shall establish interim compliance dates. The schedule for phased-in compliance shall be based on—

(1) a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(A) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(B) the impact of competition in the airline and air cargo industries;

(C) the impact on nonhub and small community air service; and
(D) the impact on new entry into the airline industry; and

(2) an analysis of the impact of aircraft noise on individuals residing near airports.

(d) ANNUAL REPORT.—Beginning with calendar year 1992—
(1) each air carrier shall submit to the Secretary an annual report on the progress the carrier is making toward complying with the requirements of this section and regulations prescribed under this section; and
(2) the Secretary shall submit to Congress an annual report on the progress being made toward that compliance.

(e) HAWAIIAN OPERATIONS.—(1) In this subsection, "turnaround service" means a flight between places only in Hawaii.
(2)(A) An air carrier or foreign air carrier may not operate in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, a greater number of stage 2 aircraft with a maximum weight of more than 75,000 pounds than it operated in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, on November 5, 1990.
(B) An air carrier that provided turnaround service in Hawaii on November 5, 1990, using stage 2 aircraft with a maximum weight of more than 75,000 pounds may include in the number of aircraft authorized under subparagraph (A) of this paragraph all stage 2 aircraft with a maximum weight of more than 75,000 pounds that were owned or leased by that carrier on that date, whether or not the aircraft were operated by the carrier on that date.
(3) An air carrier may provide turnaround service in Hawaii using stage 2 aircraft with a maximum weight of more than 75,000 pounds only if the carrier provided the service on November 5, 1990.
(4) An air carrier operating stage 2 aircraft under this subsection may transport stage 2 aircraft to or from the 48 contiguous States on a nonrevenue basis in order—
(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or
(B) conduct operations within the limitations of paragraph (2)(B).

(f) AIRCRAFT MODIFICATION, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—
(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—
(A) sell, lease, or use the aircraft outside the contiguous 48 States;
(B) scrap the aircraft;
(C) obtain modifications to the aircraft to meet stage 3 noise levels;
(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;
(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;
(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or
(G) divert the aircraft to an alternative airport in the contiguous 48 States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

(2) PROCEDURE TO BE PUBLISHED.—Not later than 30 days after the date of the enactment of this subsection, the Secretary shall establish and publish a procedure to implement paragraph (1) through the use of categorical waivers, ferry permits, or other means.

(g) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on November 1, 1999.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291; Pub. L. 106–113, div. B, §1000(a)(5) [title II, §231(a), (b)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–300, 1501A–301; Pub. L. 106–181, title VII, §721(a)–(c)(1), (d), Apr. 5, 2000, 114 Stat. 164, 165.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47528(a)	49 App.:2157(a).	Nov. 5, 1990, Pub. L. 101–508, §9308(a)–(c), (g), 104 Stat. 1388–382, 1388–383.
47528(b)	49 App.:2157(b).	
47528(c)	49 App.:2157(c).	
47528(d)	49 App.:2157(g).	
47528(e)	49 App.:2157(i).	Nov. 5, 1990, Pub. L. 101–508, 104 Stat. 1388–382, §9308(i); added Oct. 28, 1991, Pub. L. 102–143, §349(b), 105 Stat. 949.

In subsection (e), the words "the State of" are omitted as surplus. The words "place" and "places" are substituted for "point" and "points" for consistency in title the revised title.

In subsection (e)(1), the words "the operation of" are omitted as surplus. The words "places only in Hawaii" are substituted for "two or more points, all of which are within the State of Hawaii" to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of the enactment of this subsection, referred to in subsec. (f)(2), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2000—Pub. L. 106–181, §721(a), repealed Pub. L. 106–113, §1000(a)(5) [title II, §231]. See 1999 Amendment notes and Construction of 2000 Amendment note below.

Subsec. (a). Pub. L. 106–181, §721(b)(1), (c)(1), substituted "subsection (b) or (f)" for "subsection (b)" and inserted "(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)" after "civil subsonic turbojet".

Subsec. (b)(1). Pub. L. 106–181, §721(d), in first sentence, inserted "or foreign air carrier" after "air carrier", and, in last sentence, inserted "or, in the case of a foreign air carrier, the 15th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century" after "January 1, 1999,".

Subsec. (e)(4). Pub. L. 106–181, §721(b)(2), added par. (4).

Subsecs. (f), (g). Pub. L. 106–181, §721(b)(3), added subsecs. (f) and (g).

1999—Pub. L. 106–113, §1000(a)(5) [title II, §231(a)], which directed the amendment of section 47528 by substituting "subsection (b) or (f)" for "subsection (b)" in subsec. (a), adding a par. (4) to subsec. (e), and adding subsec. (f) at the end, without specifying the Code title to be amended, was repealed by Pub. L. 106–181, §721(a). See Construction of 2000 Amendment note below.

Subsec. (a). Pub. L. 106–113, §1000(a)(5) [title II, §231(b)(1)], which inserted "(for which an airworthiness

certificate other than an experimental certificate has been issued by the Administrator)" after "civil subsonic turbojet", was repealed by Pub. L. 106–181, §721(a). See Construction of 2000 Amendment note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

REGULATIONS

Pub. L. 106–181, title VII, §721(c)(2), Apr. 5, 2000, 114 Stat. 165, provided that: "Regulations contained in title 14, Code of Federal Regulations, that implement section 47528 of title 49, United States Code, and related provisions shall be deemed to incorporate the amendment made by paragraph (1) [amending this section] on the date of the enactment of this Act [Apr. 5, 2000]."

CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–181, title VII, §721(a), Apr. 5, 2000, 114 Stat. 164, provided that: "Section 231 of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of Public Law 106–113 [amending this section], is repealed and the provisions of law amended by such section shall be read as if such section had not been enacted into law."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d)(2) of this section relating to the requirement that the Secretary submit an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 7th item on page 132 of House Document No. 103–7.

§47529. Nonaddition rule

(a) GENERAL LIMITATIONS.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate a civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into the United States after November 4, 1990, only if the aircraft—

(1) complies with the stage 3 noise levels; or

(2) was purchased by the person importing the aircraft into the United States under a legally binding contract made before November 5, 1990.

(b) EXEMPTIONS.—The Secretary of Transportation may provide an exemption from subsection (a) of this section to permit a person to obtain modifications to an aircraft to meet the stage 3 noise levels.

(c) AIRCRAFT DEEMED NOT IMPORTED.—In this section, an aircraft is deemed not to have been imported into the United States if the aircraft—

(1) was owned on November 5, 1990, by—

(A) a corporation, trust, or partnership organized under the laws of the United States or a State (including the District of Columbia);

(B) an individual who is a citizen of the United States; or

(C) an entity that is owned or controlled by a corporation, trust, partnership, or individual described in subclause (A) or (B) of this clause; and

(2) enters the United States not later than 6 months after the expiration of a lease agreement (including any extension) between an owner described in clause (1) of this subsection and a foreign carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47529	49 App.:2158.	Nov. 5, 1990, Pub. L. 101–508, §9309, 104 Stat. 1388–384; Oct. 31, 1992, Pub. L. 102–581, §136(b), 106 Stat. 4889.

§47530. Nonapplication of sections 47528(a)–(d) and 47529 to aircraft outside the 48 contiguous States

Sections 47528(a)–(d) and 47529 of this title do not apply to aircraft used only to provide air transportation outside the 48 contiguous States. A civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into a noncontiguous State or a territory or possession of the United States after November 4, 1990, may be used to provide air transportation in the 48 contiguous States only if the aircraft complies with the stage 3 noise levels.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47530	49 App.:2157(d).	Nov. 5, 1990, Pub. L. 101–508, §9308(d), 104 Stat. 1388–383; Oct. 28, 1991, Pub. L. 102–143, §349(a), 105 Stat. 949.

§47531. Penalties

A person violating section 47528, 47529, 47530, or 47534 of this title or a regulation prescribed under any of those sections is subject to the same civil penalties and procedures under chapter 463 of this title as a person violating section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, §6(73), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 112–95, title V, §506(b)(1), Feb. 14, 2012, 126 Stat. 106.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47531	49 App.:2157(e).	Nov. 5, 1990, Pub. L. 101–508, §9308(e), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47531 to correct a grammatical error and erroneous cross-references.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–95 struck out "for violating sections 47528–47530" after "Penalties" in section catchline and substituted "47529, 47530, or 47534" for "47529, or 47530" in text.

1994—Pub. L. 103–429 substituted "section 47528" for "sections 47528" and inserted "any of" before "those" and "any of sections" before "44702–44716".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§47532. Judicial review

An action taken by the Secretary of Transportation under any of sections 47528–47531 or 47534 of this title is subject to judicial review as provided under section 46110 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, §6(74), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 112–95, title V, §506(b)(2), Feb. 14, 2012, 126 Stat. 106.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47532	49 App.:2157(f).	Nov. 5, 1990, Pub. L. 101–508, §9308(f), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47532 to correct an erroneous cross-reference.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–95 inserted "or 47534" after "47528–47531".
1994—Pub. L. 103–429 inserted "any of" before "sections".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§47533. Relationship to other laws

Except as provided by section 47524 of this title, this subchapter does not affect—

(1) law in effect on November 5, 1990, on airport noise or access restrictions by local authorities;

(2) any proposed airport noise or access restriction at a general aviation airport if the airport proprietor has formally initiated a regulatory or legislative process before October 2, 1990; or

(3) the authority of the Secretary of Transportation to seek and obtain legal remedies the Secretary considers appropriate, including injunctive relief.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47533	49 App.:2153(h).	Nov. 5, 1990, Pub. L. 101–508,

		§9304(h), 104 Stat. 1388–382.

§47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels

(a) PROHIBITION.—Except as otherwise provided by this section, after December 31, 2015, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate (other than an experimental certificate) has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

(b) AIRCRAFT OPERATIONS OUTSIDE 48 CONTIGUOUS STATES.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

(c) TEMPORARY OPERATIONS.—The Secretary may allow temporary operation of an aircraft otherwise prohibited from operation under subsection (a) to or from an airport in the contiguous United States by granting a special flight authorization for one or more of the following circumstances:

(1) To sell, lease, or use the aircraft outside the 48 contiguous States.

(2) To scrap the aircraft.

(3) To obtain modifications to the aircraft to meet stage 3 noise levels.

(4) To perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States.

(5) To deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor.

(6) To prepare, park, or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5).

(7) To provide transport of persons and goods in the relief of an emergency situation.

(8) To divert the aircraft to an alternative airport in the 48 contiguous States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (7).

(d) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary for the implementation of this section.

(e) STATUTORY CONSTRUCTION.—

(1) AIP GRANT ASSURANCES.—Noncompliance with subsection (a) shall not be construed as a violation of section 47107 or any regulations prescribed thereunder.

(2) PENDING APPLICATIONS.—Nothing in this section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of this section.

(Added Pub. L. 112–95, title V, §506(a), Feb. 14, 2012, 126 Stat. 105.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(2), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
48101. Air navigation facilities and equipment.
48102. Research and development.
48103. Airport planning and development and noise compatibility planning and programs.
48104. Operations and maintenance.
48105. Weather reporting services.
48106. Airway science curriculum grants.
48107. Civil aviation security research and development.
48108. Availability and uses of amounts.
48109. Submission of budget information and legislative recommendations and comments.
48110. Facilities for advanced training of maintenance technicians for air carrier aircraft.
48111. Funding proposals.
[48112. Repealed.]
48113. Reprogramming notification requirement.
48114. Funding for aviation programs.

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, div. B, title I, §115, Oct. 5, 2018, 132 Stat. 3201, struck out item 48112 "Adjustment to AIP program funding".

2003—Pub. L. 108–176, title I, §104(b), Dec. 12, 2003, 117 Stat. 2497, added item 48114.

2000—Pub. L. 106–181, title I, §§107(b), 108(b), Apr. 5, 2000, 114 Stat. 73, 74, added items 48112 and 48113.

1996—Pub. L. 104–264, title I, §§102(b)(2), 103(d)(2), title II, §275(b), Oct. 9, 1996, 110 Stat. 3216, 3217, 3247, inserted "and equipment" after "facilities" in item 48101, substituted "Operations and maintenance" for "Certain direct costs and joint air navigation services" in item 48104, and added item 48111.

§48101. Air navigation facilities and equipment

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

(1) $3,191,250,000 for fiscal year 2024.
(2) $3,575,000,000 for fiscal year 2025.
(3) $3,625,000,000 for fiscal year 2026.
(4) $3,675,000,000 for fiscal year 2027.
(5) $3,725,000,000 for fiscal year 2028.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(c) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under subsection (a), such sums as may be necessary may be used for the following:

(1) The implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.

(2) The acquisition and construction of remote towers (as defined in section 161 of the FAA Reauthorization Act of 2018).

(3) The remediation and elimination of identified cybersecurity vulnerabilities in the air traffic control system.

(4) The construction of facilities dedicated to improving the cybersecurity of the National

Airspace System.

(5) Systems associated with the Data Communications program.

(6) The infrastructure, sustainment, and the elimination of the deferred maintenance backlog of air navigation facilities and other facilities for which the Federal Aviation Administration is responsible.

(7) The modernization and digitization of the Civil Aviation Registry.

(8) The construction of necessary Priority 1 National Airspace System facilities.

(9) Cost-beneficial construction, rehabilitation, or retrofitting programs designed to reduce Federal Aviation Administration facility operating costs.

(d) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title I, §102(a), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, §102(a), (b)(1), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 106–6, §3, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–181, title I, §102, Apr. 5, 2000, 114 Stat. 65; Pub. L. 108–176, title I, §102, Dec. 12, 2003, 117 Stat. 2494; Pub. L. 110–330, §7, Sept. 30, 2008, 122 Stat. 3719; Pub. L. 111–12, §7, Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §7, Oct. 1, 2009, 123 Stat. 2056; Pub. L. 111–116, §7, Dec. 16, 2009, 123 Stat. 3033; Pub. L. 111–153, §7, Mar. 31, 2010, 124 Stat. 1086; Pub. L. 111–161, §7, Apr. 30, 2010, 124 Stat. 1128; Pub. L. 111–197, §7, July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §106, Aug. 1, 2010, 124 Stat. 2350; Pub. L. 112–30, title II, §207, Sept. 16, 2011, 125 Stat. 359; Pub. L. 112–91, §7, Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §102, Feb. 14, 2012, 126 Stat. 16; Pub. L. 114–55, title I, §104, Sept. 30, 2015, 129 Stat. 524; Pub. L. 114–141, title I, §104, Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1104, July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §105, Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §105, Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title I, §112, Oct. 5, 2018, 132 Stat. 3200; Pub. L. 118–15, div. B, title II, §2204, Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §104, Dec. 26, 2023, 137 Stat. 1114; Pub. L. 118–41, title I, §104, Mar. 8, 2024, 138 Stat. 23; Pub. L. 118–63, title I, §102, May 16, 2024, 138 Stat. 1034.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48101(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2205(a)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §506(a)(1), 96 Stat. 677; restated Dec. 30, 1987, Pub. L. 100–223, §105(a)(2), 101 Stat. 1490; Nov. 5, 1990, Pub. L. 101–508, §9105(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §103(a), 106 Stat. 4877.
48101(b)	49 App.:2202(a)(24).	
	49 App.:2205(a)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §506(a)(2), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, §105(a)(2), 101 Stat. 1490; restated Oct. 31, 1992, Pub. L. 102–581, §103(b), 106 Stat. 4877.

48101(c)	49 App.:2205(a)(1) (last sentence), (2) (last sentence).	

In subsection (a), the words "to the Secretary of Transportation" are added for clarity and consistency in this chapter. The words "for fiscal years beginning after September 30, 1990" and "$2,500,000,000 for fiscal year 1991" are omitted as obsolete.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 161 of the FAA Reauthorization Act of 2018, referred to in subsec. (c)(2), is section 161 of Pub. L. 115–254, which is set out as a note under section 47104 of this title.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 added pars. (1) to (5) and struck out former pars. (1) to (7) which read as follows:

"(1) $3,330,000,000 for fiscal year 2018.

"(2) $3,398,000,000 for fiscal year 2019.

"(3) $3,469,000,000 for fiscal year 2020.

"(4) $3,547,000,000 for fiscal year 2021.

"(5) $3,624,000,000 for fiscal year 2022.

"(6) $3,701,000,000 for fiscal year 2023.

"(7) $1,794,357,923 for the period beginning on October 1, 2023, and ending on May 10, 2024."

Subsec. (a)(7). Pub. L. 118–41 added par. (7) and struck out former par. (7) which read as follows: "$1,287,431,694 for the period beginning on October 1, 2023, and ending on March 8, 2024."

2023—Subsec. (a)(7). Pub. L. 118–34 added par. (7) and struck out former par. (7) which read as follows: "$740,273,224 for the period beginning on October 1, 2023, and ending on December 31, 2023."

Pub. L. 118–15 added par. (7).

2018—Subsec. (a)(1) to (4). Pub. L. 115–254, §112(a), added pars. (1) to (4) and struck out former pars. (1) to (4) which read as follows:

"(1) $2,731,000,000 for fiscal year 2012.

"(2) $2,715,000,000 for fiscal year 2013.

"(3) $2,730,000,000 for fiscal year 2014.

"(4) $2,730,000,000 for fiscal year 2015."

Subsec. (a)(5). Pub. L. 115–254, §112(a), added par. (5) and struck out former par. (5) which read as follows: "$2,855,000,000 for each of fiscal years 2016 through 2018."

Pub. L. 115–141, §105(1), substituted "2016 through 2018" for "2016 and 2017".

Subsec. (a)(6). Pub. L. 115–254, §112(a), added par. (6).

Pub. L. 115–141, §105(2), struck out par. (6) which read as follows: "$1,423,589,041 for the period beginning on October 1, 2017, and ending on March 31, 2018."

Subsec. (c). Pub. L. 115–254, §112(b)(2), substituted "may be used for the following:" and pars. (1) to (9) for "may be necessary may be used for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated."

Pub. L. 115–254, §112(b)(1), substituted "Authorized Expenditures" for "Automated Surface Observation System/Automated Weather Observing System Upgrade" in heading.

2017—Subsec. (a)(6). Pub. L. 115–63 added par. (6).

2016—Subsec. (a)(5). Pub. L. 114–190 amended par. (5) generally. Prior to amendment, par. (5) read as follows: "$2,058,333,333 for the period beginning on October 1, 2015, and ending on July 15, 2016."

Pub. L. 114–141 amended par. (5) generally. Prior to amendment, par. (5) read as follows: "$1,300,000,000 for the period beginning on October 1, 2015, and ending on March 31, 2016."

2015—Subsec. (a)(5). Pub. L. 114–55 added par. (5).

2012—Subsec. (a). Pub. L. 112–95, §102(a), added pars. (1) to (4) and struck out former pars. (1) to (8) which authorized appropriations for fiscal years 2004 through 2011, and for the period beginning Oct. 1, 2011, and ending Feb. 17, 2012.

Subsec. (a)(8). Pub. L. 112–91 amended par. (8) generally. Prior to amendment, par. (8) read as follows: "$917,704,544 for the period beginning on October 1, 2011, and ending on January 31, 2012."

Subsecs. (c) to (i). Pub. L. 112–95, §102(b), redesignated subsecs. (f) and (g) as (c) and (d), respectively, and struck out former subsecs. (c), (d), (e), (h), and (i), which related, respectively, to enhanced safety and

security for aircraft operations in the Gulf of Mexico, operational benefits of wake vortex advisory system, ground-based precision navigational aids, standby power efficiency program, and pilot program to provide incentives for development of new technologies.

2011—Subsec. (a)(7), (8). Pub. L. 112–30 added pars. (7) and (8).

2010—Subsec. (a)(6). Pub. L. 111–216 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "$2,453,539,493 for the period beginning on October 1, 2009, and ending on August 1, 2010."

Pub. L. 111–197 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "$2,220,252,132 for the period beginning on October 1, 2009, and ending on July 3, 2010."

Pub. L. 111–161 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "$1,712,785,083 for the 7-month period beginning on October 1, 2009."

Pub. L. 111–153 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "$1,466,888,500 for the 6-month period beginning on October 1, 2009."

2009—Subsec. (a)(5). Pub. L. 111–12 substituted "$2,742,095,000 for fiscal year 2009" for "$1,360,188,750 for the 6-month period beginning on October 1, 2008".

Subsec. (a)(6). Pub. L. 111–116 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "$733,444,250 for the 3-month period beginning on October 1, 2009."

Pub. L. 111–69 added par. (6).

2008—Subsec. (a)(5). Pub. L. 110–330 added par. (5).

2003—Subsec. (a)(1) to (5). Pub. L. 108–176, §102(1), added pars. (1) to (4) and struck out formers par. (1) to (5) which read as follows:

"(1) $2,131,000,000 for fiscal year 1999.

"(2) $2,689,000,000 for fiscal year 2000.

"(3) $2,656,765,000 for fiscal year 2001.

"(4) $2,914,000,000 for fiscal year 2002.

"(5) $2,981,022,000 for fiscal year 2003."

Subsecs. (b) to (e). Pub. L. 108–176, §102(2), (3), added subsecs. (c) to (e), redesignated former subsec. (c) as (b), and struck out former subsecs. (b), (d) and (e), which related, respectively, to major airway capital investment plan changes, universal access systems, and the Alaska National Air Space Interfacility Communications System.

Subsec. (f). Pub. L. 108–176, §102(4), struck out "for fiscal years beginning after September 30, 2000" after "appropriated under subsection (a)" and inserted "may be used" after "may be necessary".

Subsecs. (h), (i). Pub. L. 108–176, §102(5), added subsecs. (h) and (i).

2000—Subsec. (a). Pub. L. 106–181, §102(a), added pars. (1) to (5) and struck out former pars. (1) to (3) which read as follows:

"(1) $2,068,000,000 for fiscal year 1997.

"(2) $2,129,000,000 for fiscal year 1998.

"(3) $2,131,000,000 for fiscal year 1999."

Subsec. (d). Pub. L. 106–181, §102(b), added subsec. (d).

Subsec. (e). Pub. L. 106–181, §102(c), added subsec. (e).

Subsec. (f). Pub. L. 106–181, §102(d), added subsec. (f).

Subsec. (g). Pub. L. 106–181, §102(e), added subsec. (g).

1999—Subsec. (a)(3). Pub. L. 106–6 added par. (3).

1996—Pub. L. 104–264, §102(b)(1), inserted "and equipment" after "facilities" in section catchline.

Subsec. (a). Pub. L. 104–264, §102(a), added pars. (1) and (2) and struck out former pars. (1) to (4) which read as follows:

"(1) For the fiscal years ending September 30, 1991–1993, $8,200,000,000.

"(2) For the fiscal years ending September 30, 1991–1994, $10,724,000,000.

"(3) For the fiscal years ending September 30, 1991–1995, $13,394,000,000.

"(4) For the fiscal years ending September 30, 1991–1996, $16,129,000,000."

1994—Subsec. (a)(1). Pub. L. 103–305, §102(a)(1), substituted "For" for "for".

Subsec. (a)(2). Pub. L. 103–305, §102(a)(2), substituted "For" for "for" and "$10,724,000,000" for "$11,100,000,000".

Subsec. (a)(3). Pub. L. 103–305, §102(a)(3), substituted "For" for "for" and "$13,394,000,000" for "$14,000,000,000".

Subsec. (a)(4). Pub. L. 103–305, §102(a)(4), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

FACILITIES AND EQUIPMENT REPORTS

Pub. L. 108–176, title I, §184, Dec. 12, 2003, 117 Stat. 2517, directed the Administrator of the Federal Aviation Administration to report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months on the 10 largest programs funded under this section until Dec. 12, 2007.

FUNDING FOR AVIATION PROGRAMS

Pub. L. 106–181, title I, §106(a)–(c), Apr. 5, 2000, 114 Stat. 72, 73, which related to budget resources made available from the Airport and Airway Trust Fund through fiscal year 2003, was repealed by Pub. L. 108–176, title I, §104(c), Dec. 12, 2003, 117 Stat. 2497.

§48102. Research and development

(a) AUTHORIZATION OF APPROPRIATIONS.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) for conducting civil aviation research and development under sections 44504, 44505, 44507, 44509, and 44511–44513 of this title:

(1) for fiscal year 2004, $346,317,000, including—

(A) $65,000,000 for Improving Aviation Safety;

(B) $24,000,000 for Weather Safety Research;

(C) $27,500,000 for Human Factors and Aeromedical Research;

(D) $30,000,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

(E) $7,000,000 for Research Mission Support;

(F) $10,000,000 for the Airport Cooperative Research Program;

(G) $1,500,000 for carrying out subsection (h) of this section;

(H) $42,800,000 for Advanced Technology Development and Prototyping;

(I) $30,300,000 for Safe Flight 21;

(J) $90,800,000 for the Center for Advanced Aviation System Development;

(K) $9,667,000 for Airports Technology-Safety; and

(L) $7,750,000 for Airports Technology-Efficiency;

(2) for fiscal year 2005, $356,192,000, including—

(A) $65,705,000 for Improving Aviation Safety;

(B) $24,260,000 for Weather Safety Research;

(C) $27,800,000 for Human Factors and Aeromedical Research;

(D) $30,109,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

(E) $7,076,000 for Research Mission Support;
(F) $10,000,000 for the Airport Cooperative Research Program;
(G) $1,650,000 for carrying out subsection (h) of this section;
(H) $43,300,000 for Advanced Technology Development and Prototyping;
(I) $31,100,000 for Safe Flight 21;
(J) $95,400,000 for the Center for Advanced Aviation System Development;
(K) $2,200,000 for Free Flight Phase 2;
(L) $9,764,000 for Airports Technology-Safety; and
(M) $7,828,000 for Airports Technology-Efficiency;

(3) for fiscal year 2006, $352,157,000, including—
(A) $66,447,000 for Improving Aviation Safety;
(B) $24,534,000 for Weather Safety Research;
(C) $28,114,000 for Human Factors and Aeromedical Research;
(D) $30,223,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;
(E) $7,156,000 for Research Mission Support;
(F) $10,000,000 for the Airport Cooperation Research Program;
(G) $1,815,000 for carrying out subsection (h) of this section;
(H) $42,200,000 for Advanced Technology Development and Prototyping;
(I) $23,900,000 for Safe Flight 21;
(J) $100,000,000 for the Center for Advanced Aviation System Development;
(K) $9,862,000 for Airports Technology-Safety; and
(L) $7,906,000 for Airports Technology-Efficiency;

(4) for fiscal year 2007, $356,261,000, including—
(A) $67,244,000 for Improving Aviation Safety;
(B) $24,828,000 for Weather Safety Research;
(C) $28,451,000 for Human Factors and Aeromedical Research;
(D) $30,586,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;
(E) $7,242,000 for Research Mission Support;
(F) $10,000,000 for the Airport Cooperation Research Program;
(G) $1,837,000 for carrying out subsection (h) of this section;
(H) $42,706,000 for Advanced Technology Development and Prototyping;
(I) $24,187,000 for Safe Flight 21;
(J) $101,200,000 for the Center for Advanced Aviation System Development;
(K) $9,980,000 for Airports Technology-Safety; and
(L) $8,000,000 for Airports Technology-Efficiency;

(5) $171,000,000 for fiscal year 2009;
(6) $190,500,000 for fiscal year 2010;
(7) $170,000,000 for fiscal year 2011;
(8) $168,000,000 for each of fiscal years 2012 through 2015;
(9) $166,000,000 for each of fiscal years 2016 and 2017;
(10) $189,000,000 for fiscal year 2018;
(11) $194,000,000 for fiscal year 2019;
(12) $199,000,000 for fiscal year 2020;
(13) $204,000,000 for fiscal year 2021;
(14) $209,000,000 for fiscal year 2022;
(15) $214,000,000 for fiscal year 2023;

(16) $280,000,000 for fiscal year 2024;
(17) $311,000,000 for fiscal year 2025;
(18) $323,000,000 for fiscal year 2026;
(19) $334,000,000 for fiscal year 2027; and
(20) $345,000,000 for fiscal year 2028.

(b) RESEARCH PRIORITIES.—(1) The Administrator shall prioritize safety in considering the advice and recommendations of the research advisory committee established by section 44508 of this title in establishing priorities among major categories of research and development activities carried out by the Federal Aviation Administration.

(2) As safety related activities shall be the highest research priority, at least 70 percent of the amount appropriated under subsection (a) of this section shall be for safety research and development projects.

(3) At least 15 percent of the amount appropriated under subsection (a) of this section shall be for long-term research projects.

(c) TRANSFERS BETWEEN CATEGORIES.—(1) Not more than 10 percent of the net amount authorized for a category of projects and activities in a fiscal year under subsection (a) of this section may be transferred to or from that category in that fiscal year.

(2) The Secretary may transfer more than 10 percent of an authorized amount to or from a category only after—

(A) submitting a written explanation of the proposed transfer to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

(B) 30 days have passed after the explanation is submitted or each Committee notifies the Secretary in writing that it does not object to the proposed transfer.

(d) AIRPORT CAPACITY RESEARCH AND DEVELOPMENT.—(1) Of the amounts made available under subsection (a) of this section, at least $25,000,000 may be appropriated each fiscal year for research and development under section 44505(a) and (c) of this title on preserving and enhancing airport capacity, including research and development on improvements to airport design standards, maintenance, safety, operations, and environmental concerns.

(2) The Administrator shall submit to the Committees on Science and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made under paragraph (1) of this subsection for each fiscal year. The report shall be submitted not later than 60 days after the end of the fiscal year.

(e) AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.—Necessary amounts may be appropriated to the Secretary out of amounts in the Fund available for research and development to conduct research under section 44506(a) and (b) of this title.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a) of this section remain available until expended.

(g) ANNUAL SUBMISSION OF THE NATIONAL AVIATION RESEARCH PLAN.—The Administrator shall submit the national aviation research plan to Congress no later than the date that is 30 days after the date of submission of the President's budget request to Congress for that fiscal year, as required under section 44501(c).

(h) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—

(1) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities and Hispanic Serving Institutions, in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

(A) research projects to be carried out at primarily undergraduate institutions and technical colleges;

(B) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration;

(C) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees; or

(D) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, on training requirements for pilots and air traffic controllers.

(2) NOTICE OF CRITERIA.—Within 6 months after the date of the enactment of the FAA Research, Engineering, and Development Authorization Act of 1998, the Administrator of the Federal Aviation Administration shall establish and publish in the Federal Register criteria for the submittal of proposals for a grant under this subsection, and for the awarding of such grants.

(3) PRINCIPAL CRITERIA.—The principal criteria for the awarding of grants under this subsection shall be—

(A) the relevance of the proposed research to technical research needs identified by the Federal Aviation Administration;

(B) the scientific and technical merit of the proposed research; and

(C) the potential for participation by undergraduate students in the proposed research.

(4) COMPETITIVE, MERIT-BASED EVALUATION.—Grants shall be awarded under this subsection on the basis of evaluation of proposals through a competitive, merit-based process.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title III, §302, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104–264, title XI, §§1102, 1103, Oct. 9, 1996, 110 Stat. 3278; Pub. L. 104–287, §5(9), (74), Oct. 11, 1996, 110 Stat. 3389, 3396; Pub. L. 105–155, §§2, 3, Feb. 11, 1998, 112 Stat. 5; Pub. L. 106–181, title IX, §901, Apr. 5, 2000, 114 Stat. 194; Pub. L. 108–176, title VII, §§701, 707, Dec. 12, 2003, 117 Stat. 2574, 2582; Pub. L. 110–330, §8, Sept. 30, 2008, 122 Stat. 3719; Pub. L. 111–12, §8, Mar. 30, 2009, 123 Stat. 1459; Pub. L. 111–69, §8, Oct. 1, 2009, 123 Stat. 2056; Pub. L. 111–116, §8, Dec. 16, 2009, 123 Stat. 3033; Pub. L. 111–153, §8, Mar. 31, 2010, 124 Stat. 1086; Pub. L. 111–161, §8, Apr. 30, 2010, 124 Stat. 1128; Pub. L. 111–197, §8, July 2, 2010, 124 Stat. 1355; Pub. L. 111–216, title I, §107, Aug. 1, 2010, 124 Stat. 2350; Pub. L. 112–30, title II, §208, Sept. 16, 2011, 125 Stat. 359; Pub. L. 112–91, §8, Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title IX, §901(a), (b), Feb. 14, 2012, 126 Stat. 137; Pub. L. 114–55, title I, §105, Sept. 30, 2015, 129 Stat. 524; Pub. L. 114–141, title I, §105, Mar. 30, 2016, 130 Stat. 324; Pub. L. 114–190, title I, §1105, July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §106, Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §106, Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title VII, §703, Oct. 5, 2018, 132 Stat. 3409; Pub. L. 118–15, div. B, title II, §2205, Sept. 30, 2023, 137 Stat. 84; Pub. L. 118–34, title I, §105, Dec. 26, 2023, 137 Stat. 1115; Pub. L. 118–41, title I, §105, Mar. 8, 2024, 138 Stat. 23; Pub. L. 118–63, title X, §§1002, 1004(b), May 16, 2024, 138 Stat. 1386.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48102(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2205(b)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §506(b)(2), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, §105(b)(1), 101 Stat. 1490; Nov. 3, 1988, Pub. L. 100–591, §7, 102 Stat. 3014; Nov. 5, 1990, Pub. L.

		101–508, §9202, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, §302, 106 Stat. 4895.
48102(b)	49 App.:2205(b)(2) (last sentence).	
48102(c)	49 App.:2205(b)(3).	Sept. 3, 1982, Pub. L. 97–248, §506(b)(3), (5), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, §105(b)(1), 101 Stat. 1491.
48102(d)	49 App.:2205(b)(4).	Sept. 30, 1982, Pub. L. 97–248, §506(b)(4), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, §105(b)(1), 101 Stat. 1491; Nov. 5, 1990, Pub. L. 101–508, §9203, 104 Stat. 1388–373.
48102(e)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, §8(d), 102 Stat. 3016; Nov. 17, 1988, Pub. L. 100–685, §604, 102 Stat. 4103.
48102(f)	49 App.:2205(b)(5).	

In subsections (a) and (b), as to applicability of section 305(b) of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (Pub. L. 102–581, 106 Stat. 4896), see section 6(b) of the bill.

In subsection (a)(1), the word "solely" is omitted as surplus. Before clause (1), the words "to the Secretary of Transportation" are added for clarity and consistency in this chapter.

In subsection (d)(1), the words "Notwithstanding any other provision of this subsection" and "in each of fiscal years 1988, 1989, 1990, 1991, and 1992" are omitted as surplus.

In subsection (d)(2), the reference to fiscal years 1988–1992 and the words "by the Administrator for research and development" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the FAA Research, Engineering, and Development Authorization Act of 1998, referred to in subsec. (h)(2), is the date of enactment of Pub. L. 105–155, which was approved Feb. 11, 1998.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §1002, added pars. (16) to (20) and struck out former par. (16) which read as follows: "$155,368,852 for the period beginning on October 1, 2023, and ending on May 10, 2024."

Subsec. (a)(16). Pub. L. 118–41 added par. (16) and struck out former par. (16) which read as follows: "$111,475,410 for the period beginning on October 1, 2023, and ending on March 8, 2024."

Subsec. (g). Pub. L. 118–63, §1004(b), substituted "the date that is 30 days after the date of submission" for "the date of submission".

2023—Subsec. (a)(16). Pub. L. 118–34 added par. (16) and struck out former par. (16) which read as follows: "$64,098,360 for the period beginning on October 1, 2023, and ending on December 31, 2023."

Pub. L. 118–15 added par. (16).

2018—Subsec. (a). Pub. L. 115–254, §703(a)(1), struck out "and, for each of fiscal years 2012 through 2015, under subsection (g)" after "this title" in introductory provisions.

Subsec. (a)(10). Pub. L. 115–254, §703(a)(2), (3), added par. (10) and struck out former par. (10) which read as follows: "$176,500,000 for fiscal year 2018."

Pub. L. 115–141 amended par. (10) generally. Prior to amendment, par. (10) read as follows: "$88,008,219 for the period beginning on October 1, 2017 and ending on March 31, 2018."

Subsec. (a)(11) to (15). Pub. L. 115–254, §703(a)(2), (3), added pars. (11) to (15).

Subsec. (b)(1). Pub. L. 115–254, §703(b)(1), substituted "prioritize safety in considering" for "consider".

Subsec. (b)(2), (3). Pub. L. 115–254, §703(b)(2)–(4), added par. (2), redesignated former par. (2) as (3), and struck out former par. (3) which read as follows: "At least 3 percent of the amount appropriated under

subsection (a) of this section shall be available to the Administrator of the Federal Aviation Administration to make grants under section 44511 of this title."

Subsec. (g). Pub. L. 115–254, §703(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) authorized certain programs described in the research, engineering, and development account of the national aviation research plan required under section 44501(c).

2017—Subsec. (a)(10). Pub. L. 115–63 added par. (10).

2016—Subsec. (a)(9). Pub. L. 114–190 amended par. (9) generally. Prior to amendment, par. (9) read as follows: "$124,093,750 for the period beginning on October 1, 2015, and ending on July 15, 2016."

Pub. L. 114–141 amended par. (9) generally. Prior to amendment, par. (9) read as follows: "$78,375,000 for the period beginning on October 1, 2015, and ending on March 31, 2016."

2015—Subsec. (a)(9). Pub. L. 114–55 added par. (9).

2012—Subsec. (a). Pub. L. 112–95, §901(a)(1), substituted "of this title and, for each of fiscal years 2012 through 2015, under subsection (g)" for "of this title" in introductory provisions.

Subsec. (a)(1) to (15). Pub. L. 112–95, §901(a)(2)–(5), redesignated pars. (9) to (15) as (1) to (7), respectively, inserted "and" at end of par. (3)(K), struck out "and" at end of par. (3)(L), added par. (8), and struck out former pars. (1) to (8) which related to appropriations for fiscal years 1995 to 2002.

Subsec. (a)(16). Pub. L. 112–95, §901(a)(5), struck out par. (16) which read as follows: "$64,092,459 for the period beginning on October 1, 2011, and ending on February 17, 2012."

Pub. L. 112–91 amended par. (16) generally. Prior to amendment, par. (16) read as follows: "$57,016,885 for the period beginning on October 1, 2011, and ending on January 31, 2012."

Subsec. (g). Pub. L. 112–95, §901(b), added subsec. (g).

2011—Subsec. (a)(15), (16). Pub. L. 112–30 added pars. (15) and (16).

2010—Subsec. (a)(14). Pub. L. 111–216 amended par. (14) generally. Prior to amendment, par. (14) read as follows: "$159,184,932 for the period beginning on October 1, 2009, and ending on August 1, 2010."

Pub. L. 111–197 amended par. (14) generally. Prior to amendment, par. (14) read as follows: "$144,049,315 for the period beginning on October 1, 2009, and ending on July 3, 2010."

Pub. L. 111–161 amended par. (14) generally. Prior to amendment, par. (14) read as follows: "$111,125,000 for the 7-month period beginning on October 1, 2009."

Pub. L. 111–153 amended par. (14) generally. Prior to amendment, par. (14) read as follows: "$92,500,000 for the 6-month period beginning on October 1, 2009."

2009—Subsec. (a)(13). Pub. L. 111–12 substituted "$171,000,000 for fiscal year 2009" for "$85,507,500 for the 6-month period beginning on October 1, 2008".

Subsec. (a)(14). Pub. L. 111–116 amended par. (14) generally. Prior to amendment, par. (14) read as follows: "$46,250,000 for the 3-month period beginning on October 1, 2009."

Pub. L. 111–69 added par. (14).

2008—Subsec. (a)(11) to (13). Pub. L. 110–330 struck out "and" at end of subpar. (K) of par. (11), substituted "; and" for period at end of subpar. (L) of par. (12), and added par. (13).

2003—Subsec. (a). Pub. L. 108–176, §701(1), substituted "for conducting civil aviation research and development under sections 44504" for "to carry out sections 44504" in introductory provisions.

Subsec. (a)(9) to (12). Pub. L. 108–176, §701(2)–(4), added pars. (9) to (12).

Subsec. (h)(1)(D). Pub. L. 108–176, §707, added subpar. (D).

2000—Subsec. (a)(6) to (8). Pub. L. 106–181 added pars. (6) to (8).

1998—Subsec. (a)(4). Pub. L. 105–155, §2, added par. (4).

Subsec. (a)(4)(J). Pub. L. 105–155, §3(b), inserted ", of which $750,000 shall be for carrying out the grant program established under subsection (h)" after "projects and activities".

Subsec. (a)(5). Pub. L. 105–155, §2, added par. (5).

Subsec. (h). Pub. L. 105–155, §3(a), added subsec. (h).

1996—Subsec. (a)(3). Pub. L. 104–264, §1102, added par. (3).

Subsec. (b). Pub. L. 104–264, §1103, substituted "RESEARCH PRIORITIES" for "AVAILABILITY FOR RESEARCH" in heading, added par. (1), and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (c)(2)(A). Pub. L. 104–287, §5(74), substituted "Committees on Science" for "Committees on Science, Space, and Technology".

Subsec. (d)(2). Pub. L. 104–287, §5(74), substituted "Committees on Science" for "Committees on Science, Space, and Technology".

Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

1994—Subsec. (a)(1), (2). Pub. L. 103–305 inserted pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) for the fiscal year ending September 30, 1993—
"(A) $14,700,000 only for management and analysis projects and activities.
"(B) $87,000,000 only for capacity and air traffic management technology projects and activities.
"(C) $28,000,000 only for communications, navigation, and surveillance projects and activities.
"(D) $7,700,000 only for weather projects and activities.
"(E) $6,800,000 only for airport technology projects and activities.
"(F) $44,000,000 only for aircraft safety technology projects and activities.
"(G) $41,100,000 only for system security technology projects and activities.
"(H) $31,000,000 only for human factors and aviation medicine projects and activities.
"(I) $4,500,000 for environment and energy projects and activities.
"(J) $5,200,000 for innovative and cooperative research projects and activities.
"(2) for the fiscal year ending September 30, 1994, $297,000,000."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

NOTICES

Pub. L. 105–155, §4, Feb. 11, 1998, 112 Stat. 6, provided that:

"(a) REPROGRAMMING.—If any funds authorized by the amendments made by this Act [amending this section] are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science [now Science, Space, and Technology] and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(b) NOTICE OF REORGANIZATION.—The Administrator of the Federal Aviation Administration shall provide notice to the Committees on Science [now Science, Space, and Technology], Transportation and Infrastructure, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 30 days before any major reorganization (as determined by the Administrator) of any program of the Federal Aviation Administration for which funds are authorized by this Act."

§48103. Airport planning and development and noise compatibility planning and programs

(a) IN GENERAL.—There shall be available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 to make grants for airport planning and airport development under section 47104, airport noise

compatibility planning under section 47505(a)(2), and carrying out noise compatibility programs under section 47504(c)—

(1) $3,350,000,000 for fiscal year 2018;
(2) $3,350,000,000 for fiscal year 2019;
(3) $3,350,000,000 for fiscal year 2020;
(4) $3,350,000,000 for fiscal year 2021;
(5) $3,350,000,000 for fiscal year 2022;
(6) $3,350,000,000 for fiscal year 2023;
(7) $3,350,000,000 for fiscal year 2024;
(8) $4,000,000,000 for fiscal year 2025;
(9) $4,000,000,000 for fiscal year 2026;
(10) $4,000,000,000 for fiscal year 2027; and
(11) $4,000,000,000 for fiscal year 2028.

(b) AVAILABILITY OF AMOUNTS.—Amounts made available under subsection (a) shall remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, §101(a), Aug. 23, 1994, 108 Stat. 1570; Pub. L. 104–264, title I, §101(a), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 105–277, div. C, title I, §110(b)(1), Oct. 21, 1998, 112 Stat. 2681–587; Pub. L. 106–6, §2(a), Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, §6002(a), May 21, 1999, 113 Stat. 113; Pub. L. 106–59, §1(a), Sept. 29, 1999, 113 Stat. 482; Pub. L. 106–181, title I, §101(a), Apr. 5, 2000, 114 Stat. 65; Pub. L. 108–176, title I, §101(a), Dec. 12, 2003, 117 Stat. 2494; Pub. L. 110–190, §4(a)(1), Feb. 28, 2008, 122 Stat. 643; Pub. L. 110–253, §4(a), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §4(a)(1), Sept. 30, 2008, 122 Stat. 3717; Pub. L. 111–12, §4(a), Mar. 30, 2009, 123 Stat. 1457; Pub. L. 111–69, §4(a)(1), Oct. 1, 2009, 123 Stat. 2054; Pub. L. 111–116, §4(a)(1), Dec. 16, 2009, 123 Stat. 3031; Pub. L. 111–153, §4(a)(1), Mar. 31, 2010, 124 Stat. 1084; Pub. L. 111–161, §4(a)(1), Apr. 30, 2010, 124 Stat. 1126; Pub. L. 111–197, §4(a)(1), July 2, 2010, 124 Stat. 1353; Pub. L. 111–249, §4(a)(1), Sept. 30, 2010, 124 Stat. 2627; Pub. L. 111–329, §4(a)(1), Dec. 22, 2010, 124 Stat. 3566; Pub. L. 112–7, §4(a)(1), Mar. 31, 2011, 125 Stat. 31; Pub. L. 112–16, §4(a)(1), May 31, 2011, 125 Stat. 218; Pub. L. 112–21, §4(a)(1), June 29, 2011, 125 Stat. 233; Pub. L. 112–27, §4(a)(1), Aug. 5, 2011, 125 Stat. 270; Pub. L. 112–30, title II, §204(a)(1), Sept. 16, 2011, 125 Stat. 357; Pub. L. 112–91, §4(a)(1), Jan. 31, 2012, 126 Stat. 3; Pub. L. 112–95, title I, §101(a), Feb. 14, 2012, 126 Stat. 15; Pub. L. 114–55, title I, §101(a)(1), Sept. 30, 2015, 129 Stat. 522; Pub. L. 114–141, title I, §101(a)(1), Mar. 30, 2016, 130 Stat. 322; Pub. L. 114–190, title I, §1101(a), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §101(a)(1), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §101(a), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §111(a), Oct. 5, 2018, 132 Stat. 3199; Pub. L. 118–15, div. B, title II, §2201(a), Sept. 30, 2023, 137 Stat. 82; Pub. L. 118–34, title I, §101(a), Dec. 26, 2023, 137 Stat. 1112; Pub. L. 118–41, title I, §101(a), Mar. 8, 2024, 138 Stat. 20; Pub. L. 118–63, title I, §101(a), May 16, 2024, 138 Stat. 1033.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48103	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (2d sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(a) (2d sentence), 96 Stat. 676; Jan. 6, 1983, Pub. L. 97–424, §426(b)(1)–(5), 96 Stat. 2167; restated Dec. 30, 1987, Pub. L.

		100–223, §105(e), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, §9104(1), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §102(a), 106 Stat. 4876.

In this section, references to the aggregate amounts for fiscal years ending before October 1, 1987–1992, are omitted as obsolete. The words "of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 2206(a)(3)(B)" are omitted as executed. In restating section 505(a) (2d sentence) of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 676), the cross-reference to the discretionary fund was retained but is incorrect because of the restatement of section 507 of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 679) by section 426(a) of the Highway Improvement Act of 1982 (Public Law 97–424, 96 Stat. 2167). See section 47115 of the revised title.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 9502 of Title 26, Internal Revenue Code.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63 added pars. (7) to (11) and struck out former par. (7) which read as follows: "$2,041,120,218 for the period beginning October 1, 2023, and ending on May 10, 2024."

Subsec. (a)(7). Pub. L. 118–41 added par. (7) and struck out former par. (7) which read as follows: "$1,464,480,874 for the period beginning October 1, 2023, and ending on March 8, 2024."

2023—Subsec. (a)(7). Pub. L. 118–34 added par. (7) and struck out former par. (7) which read as follows: "$842,076,502 for the period beginning on October 1, 2023, and ending on December 31, 2023."

Pub. L. 118–15 added par. (7).

2018—Subsec. (a). Pub. L. 115–254 substituted "section 47504(c)—" and pars. (1) to (6) for "section 47504(c) $3,350,000,000 for each of fiscal years 2012 through 2018."

Pub. L. 115–141 substituted "2012 through 2018." for "2012 through 2017 and $1,670,410,959 for the period beginning on October 1, 2017, and ending on March 31, 2018."

2017—Subsec. (a). Pub. L. 115–63 inserted before period at end "and $1,670,410,959 for the period beginning on October 1, 2017, and ending on March 31, 2018".

2016—Subsec. (a). Pub. L. 114–190 substituted "fiscal years 2012 through 2017." for "fiscal years 2012 through 2015 and $2,652,083,333 for the period beginning on October 1, 2015, and ending on July 15, 2016.."

Pub. L. 114–141 substituted "$2,652,083,333 for the period beginning on October 1, 2015, and ending on July 15, 2016." for "$1,675,000,000 for the period beginning on October 1, 2015, and ending on March 31, 2016".

2015—Subsec. (a). Pub. L. 114–55 inserted "and $1,675,000,000 for the period beginning on October 1, 2015, and ending on March 31, 2016" before period at end.

2012—Pub. L. 112–95 amended section generally. Prior to amendment, section listed amounts available out of the Airport and Airway Trust Fund for fiscal years 2004 through 2011 and for the period beginning on Oct. 1, 2011, and ending on Feb. 17, 2012.

Par. (9). Pub. L. 112–91 amended par. (9) generally. Prior to amendment, par. (9) read as follows: "$1,181,270,492 for the period beginning on October 1, 2011, and ending on January 31, 2012."

2011—Par. (8). Pub. L. 112–30 added par. (8) and struck out former par. (8) which read as follows: "$3,380,178,082 for the period beginning on October 1, 2010, and ending on September 16, 2011."

Pub. L. 112–27 added par. (8) and struck out former par. (8) which read as follows: "$2,840,890,411 for the period beginning on October 1, 2010, and ending on July 22, 2011."

Pub. L. 112–21 added par. (8) and struck out former par. (8) which read as follows: "$2,636,250,000 for the 9-month period beginning on October 1, 2010."

Pub. L. 112–16 added par. (8) and struck out former par. (8) which read as follows: "$2,466,666,667 for the 8-month period beginning on October 1, 2010."

Par. (8). Pub. L. 112–7 added par. (8) and struck out two former pars. (8) which read as follows:

"(8) $925,000,000 for the 3-month period beginning on October 1, 2010.

"(8) $1,850,000,000 for the 6-month period beginning on October 1, 2010."

Par. (9). Pub. L. 112–30, §204(a)(1)(B), added par. (9).

2010—Par. (6). Pub. L. 111–329, §4(a)(1)(A), which directed striking out "and" at the end, could not be executed because the word "and" did not appear subsequent to amendment by Pub. L. 111–249.

Pub. L. 111–249, §4(a)(1)(A), struck out "and" at the end.

Par. (7). Pub. L. 111–329, §4(a)(1)(B), which directed substitution of "; and" for the period at the end, could not be executed because no period appeared subsequent to amendment by Pub. L. 111–249.

Pub. L. 111–249, §4(a)(1)(B), substituted "; and" for the period at the end.

Pub. L. 111–197 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$3,024,657,534 for the period beginning on October 1, 2009, and ending on July 3, 2010."

Pub. L. 111–161 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$2,333,333,333 for the 7-month period beginning on October 1, 2009."

Pub. L. 111–153 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$2,000,000,000 for the 6-month period beginning on October 1, 2009."

Par. (8). Pub. L. 111–329, §4(a)(1)(C), added par. (8) relating to the 6-month period beginning on October 1, 2010.

Pub. L. 111–249, §4(a)(1)(C), added par. (8) relating to the 3-month period beginning on October 1, 2010.

2009—Par. (6). Pub. L. 111–12 substituted "$3,900,000,000 for fiscal year 2009" for "$1,950,000,000 for the 6-month period beginning on October 1, 2008".

Par. (7). Pub. L. 111–116 amended par. (7) generally. Prior to amendment, par. (7) read as follows: "$1,000,000,000 for the 3-month period beginning on October 1, 2009."

Par. (7). Pub. L. 111–69 added par. (7).

2008—Par. (5). Pub. L. 110–253 amended par. (5) generally. Prior to amendment, par. (5) read as follows: "$2,756,250,000 for the 9-month period beginning October 1, 2007."

Pub. L. 110–190 added par. (5).

Par. (6). Pub. L. 110–330 added par. (6).

2003—Pub. L. 108–176, §101(a)(1), substituted "September 30, 2003" for "September 30, 1998" in introductory provisions.

Pars. (1) to (5). Pub. L. 108–176, §101(a)(2), added pars. (1) to (4) and struck out former pars. (1) to (5) which read as follows:

"(1) $2,410,000,000 for fiscal year 1999;

"(2) $2,475,000,000 for fiscal year 2000;

"(3) $3,200,000,000 for fiscal year 2001;

"(4) $3,300,000,000 for fiscal year 2002; and

"(5) $3,400,000,000 for fiscal year 2003."

2000—Pub. L. 106–181 substituted "shall be—" along with pars. (1) to (5) and concluding provisions for "shall be $2,410,000,000 for the fiscal year ending September 30, 1999."

1999—Pub. L. 106–59 substituted "$2,410,000,000 for the fiscal year ending September 30, 1999." for "$2,050,000,000 for the period beginning October 1, 1998 and ending August 6, 1999."

Pub. L. 106–31 substituted "$2,050,000,000 for the period beginning October 1, 1998 and ending August 6, 1999." for "$1,607,000,000 for the 8-month period beginning October 1, 1998.".

Pub. L. 106–6 substituted "$1,607,000,000 for the 8-month period beginning October 1, 1998." for "$1,205,000,000 for the six-month period beginning October 1, 1998".

1998—Pub. L. 105–277 substituted "September 30, 1998" for "September 30, 1996" and "$1,205,000,000 for the six-month period beginning October 1, 1998" for "$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998."

1996—Pub. L. 104–264 substituted "September 30, 1996" for "September 30, 1981" and "$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998." for "$17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996."

1994—Pub. L. 103–305 substituted "The total amounts which shall be available after September 30, 1981, to the Secretary of Transportation" for "Not more than a total of $15,966,700,000 is available to the Secretary of Transportation for the fiscal years ending September 30, 1982–1993," and inserted before period at end "shall be $17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–253 effective July 1, 2008, see section 4(c) of Pub. L. 110–253, set out as a note under section 47104 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

NOTICE OF GRANTS

Pub. L. 106–181, title I, §159, Apr. 5, 2000, 114 Stat. 90, provided that:

"(a) TIMELY ANNOUNCEMENT.—The Secretary [of Transportation] shall announce a grant to be made with funds made available under section 48103 of title 49, United States Code, in a timely fashion after receiving necessary documentation concerning the grant from the Administrator [of the Federal Aviation Administration].

"(b) NOTICE TO COMMITTEES.—If the Secretary provides any committee of Congress advance notice of a grant to be made with funds made available under section 48103 of title 49, United States Code, the Secretary shall provide, on the same date, such notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate."

§48104. Operations and maintenance

The balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated to the Secretary of Transportation out of the Fund for—

(1) direct costs the Secretary incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, §102(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, §103(b), (d)(1), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 104–287, §5(87), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 106–181, title I, §106(d), Apr. 5, 2000, 114 Stat. 73; Pub. L. 115–254, div. B, title V, §539(r), Oct. 5, 2018, 132 Stat. 3371.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2205(c)(1).	Sept. 3, 1982, Pub. L. 97–248, §506(c)(1), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223,

		§105(g)(2)(A), (C), 101 Stat. 1494.
48104(b)	49 App.:2205(c)(2).	Sept. 3, 1982, Pub. L. 97–248, §506(c)(2), 96 Stat. 678; Jan. 6, 1983, Pub. L. 97–424, §426(c), 96 Stat. 2168; Dec. 30, 1987, Pub. L. 100–223, §105(g)(2)(B), (C), 101 Stat. 1494.
	49 App.:2205(c)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §506(c)(3); added Dec. 30, 1987, Pub. L. 100–223, §105(c)(1), 101 Stat. 1492; Nov. 5, 1990, Pub. L. 101–508, §9107(a), 104 Stat. 1388–355.
	49 App.:2205(c)(4).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §506(c)(4); added Nov. 5, 1990, Pub. L. 101–508, §9107(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §103(c)(1), 106 Stat. 4877.

In subsection (a), before clause (1), the words "Except as provided in this section" are added for clarity. The words "to the Secretary of Transportation" are added for clarity and consistency in this chapter.

In subsection (b), the text of 49 App.:2205(c)(2) and (3) and the reference to fiscal years 1991 and 1992 in 49 App:2205(c)(4) are omitted as obsolete.

PUB. L. 104–287

This makes a clarifying amendment to the catchline for 49:48104(b).

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, which directed substitution of "The" for "(a) AUTHORIZATION OF APPROPRIATIONS.—the" in section 48104, without specifying the Code title to be amended, was executed by making the substitution in this section, to reflect the probable intent of Congress.

2000—Subsec. (a). Pub. L. 106–181, §106(d)(1), struck out "Except as provided in this section," before "the balance of the money" in introductory provisions.

Subsecs. (b), (c). Pub. L. 106–181, §106(d)(2), struck out heading and text of subsecs. (b) and (c), which set out funding limitations for fiscal year 1993 and fiscal years 1994 to 1998, respectively.

1996—Pub. L. 104–264, §103(d)(1), substituted "Operations and maintenance" for "Certain direct costs and joint air navigation services" in section catchline.

Subsec. (b). Pub. L. 104–287 substituted "YEAR" for "YEARS" in heading.

Subsec. (c). Pub. L. 104–264, §103(b)(1), (2), substituted "1998" for "1996" in heading and "1994 through 1998" for "1994, 1995, and 1996" in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 104–264, §103(b)(3), substituted "72.5 percent" for "70 percent".

1994—Subsec. (b). Pub. L. 103–305, §102(b)(1), (2), inserted "FOR FISCAL YEARS 1993" in heading and substituted "fiscal year 1993" for "each of the fiscal years ending September 30, 1993–1995," in introductory provisions.

Subsec. (c). Pub. L. 103–305, §102(b)(3), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years

beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§48105. Weather reporting services

To sustain the aviation weather reporting programs of the Federal Aviation Administration, the Secretary of Transportation may expend from amounts available under section 48104 of this title not more than the following amounts:

(1) for the fiscal year ending September 30, 1993, $35,596,000.
(2) for the fiscal year ending September 30, 1994, $37,800,000.
(3) for the fiscal year ending September 30, 1995, $39,000,000.
(4) $39,000,000 for each of fiscal years 2019 through 2023.
(5) $60,000,000 for each of fiscal years 2024 through 2028.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 115–254, div. B, title I, §114, Oct. 5, 2018, 132 Stat. 3201; Pub. L. 118–15, div. B, title II, §2202(j), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(j), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(j), Mar. 8, 2024, 138 Stat. 22; Pub. L. 118–63, title I, §104(c), May 16, 2024, 138 Stat. 1035.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48105	49 App.:2205(d).	Sept. 3, 1982, Pub. L. 97–248, §506(d), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223, §105(c)(2), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, §§9108, 9204, 104 Stat. 1388–355, 1388–373; Oct. 31, 1992, Pub. L. 102–581, §103(d), 106 Stat. 4877.

The words "for fiscal years beginning after September 30, 1982" are omitted as obsolete. The words "Secretary of Commerce" are substituted for "National Oceanic and Atmospheric Administration" because of 15:1501. The words "The Federal Aviation Administration with" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2024—Par. (5). Pub. L. 118–63 added par. (5) and struck out former par. (5) which read as follows: "$23,762,295 for the period beginning on October 1, 2023, and ending on May 10, 2024."

Pub. L. 118–41 added par. (5) and struck out former par. (5) which read as follows: "$17,049,180 for the period beginning on October 1, 2023, and ending on March 8, 2024."

2023—Par. (5). Pub. L. 118–34 added par. (5) and struck out former par. (5) which read as follows: "$9,803,278 for the period beginning on October 1, 2023, and ending on December 31, 2023."

Pub. L. 118–15 added par. (5).

2018—Pub. L. 115–254, §114(1), substituted "To sustain the aviation weather reporting programs of the Federal Aviation Administration, the Secretary of Transportation" for "To reimburse the Secretary of Commerce for the cost incurred by the National Oceanic and Atmospheric Administration of providing weather reporting services to the Federal Aviation Administration, the Secretary of Transportation" in introductory provisions.

Par. (4). Pub. L. 115–254, §114(2), added par. (4).

§48106. Airway science curriculum grants

Amounts are available from the Airport and Airway Trust Fund established under section 9502 of

the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out section 44510 [1] of this title. The amounts remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48106	49 App.:1354a (2d sentence).	Nov. 5, 1990, Pub. L. 101–516, (2d sentence in par. under heading "Facilities and Equipment"), 104 Stat. 2160. Oct. 28, 1991, Pub. L. 102–143, (2d sentence in par. under heading "Facilities and Equipment"), 105 Stat. 922. Oct. 6, 1992, Pub. L. 102–388, (2d sentence in par. under heading "Facilities and Equipment"), 106 Stat. 1526.

This section is substituted for the source provisions for clarity and because of the restatement.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 44510 of this title, referred to in text, was repealed by Pub. L. 118–63, title IV, §401(a), May 16, 2024, 138 Stat. 1148.

[1] *See References in Text note below.*

§48107. Civil aviation security research and development

After the review under section 44912(b) of this title is completed, necessary amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants under section 44912(a)(4)(A).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48107	49 App.:1357(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(d)(9); added Nov. 16, 1990, Pub. L. 101–604, §107, 104 Stat. 3077.

The words "to the Secretary of Transportation" are added for clarity and consistency in this chapter.

§48108. Availability and uses of amounts

(a) AVAILABILITY OF AMOUNTS.—Amounts equal to the amounts authorized under sections

48101–48105 of this title remain in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) until appropriated for the purposes of sections 48101–48105.

(b) LIMITATIONS ON USES.—(1) Amounts in the Fund may be appropriated only to carry out a program or activity referred to in this chapter.

(2) Amounts in the Fund may be appropriated for administrative expenses of the Department of Transportation or a component of the Department only to the extent authorized by section 48104 of this title.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, 1998, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1297; Pub. L. 103–305, title I, §102(c), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, §103(c), Oct. 9, 1996, 110 Stat. 3216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48108(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2205(e)(2).	Sept. 3, 1982, Pub. L. 97–248, §506(e)(2), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, §105(g)(3), 101 Stat. 1494.
48108(b)(1)	49 App.:2205(e)(1).	Sept. 3, 1982, Pub. L. 97–248, §506(e)(1), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, §105(d)(1), 101 Stat. 1493.
48108(b)(2)	49 App.:2205(e)(3).	Sept. 3, 1982, Pub. L. 97–248, §506(e)(3), 96 Stat. 679.
48108(c)	49 App.:2205(e)(5).	Sept. 3, 1982, Pub. L. 97–248, §506(e)(5), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, §105(d)(2), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, §103(c)(2), 106 Stat. 4877.

In subsection (a), the words "for each fiscal year" are omitted as surplus.

In subsection (b)(1), the words "Notwithstanding any other provision of law to the contrary" are omitted as surplus. The reference to "this chapter" is intended to include sections 48106 and 48107 of the revised title for accuracy because the source provisions for those sections were enacted after the source provisions being restated in this section.

In subsection (b)(2), the words "for any fiscal year" are omitted as surplus.

In subsection (c), the words "be construed as" and "the purposes described in" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–264 substituted "1998" for "1996".

1994—Subsec. (c). Pub. L. 103–305 substituted "1996" for "1995".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§48109. Submission of budget information and legislative recommendations and comments

When the Administrator of the Federal Aviation Administration submits to the Secretary of Transportation, the President, or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 48101 or 48102 of this title, the Administrator concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Transportation and Infrastructure and Appropriations of the House, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1297; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48109	49 App.:2205(f).	Sept. 3, 1982, Pub. L. 97–248, §506(f), 96 Stat. 679.

The words "Director of the Office of Management and Budget" are substituted for "Office of Management and Budget" because of 31:502(a). The words "or transmits . . . budget estimate, budget request, supplemental budget estimate, or other" and "thereof" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

§48110. Facilities for advanced training of maintenance technicians for air carrier aircraft

For the fiscal years ending September 30, 1993–1995, amounts necessary to carry out section 44515 [1] of this title may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502). The amounts remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48110	49 App.:1354 (note).	Oct. 31, 1992, Pub. L. 102–581, §119(d), 106 Stat. 4884.

The words "to the Secretary of Transportation" are added for clarity and consistency in this chapter.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 44515 of this title, referred to in text, was repealed by Pub. L. 118–63, title IV, §401(a), May 16, 2024, 138 Stat. 1148.

[1] *See References in Text note below.*

§48111. Funding proposals

(a) INTRODUCTION IN THE SENATE.—Within 15 days (not counting any day on which the Senate is not in session) after a funding proposal is submitted to the Senate by the Secretary of Transportation under section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposal shall be introduced in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

(b) CONSIDERATION IN THE SENATE.—An implementing bill introduced in the Senate under subsection (a) shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of the bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) IMPLEMENTING BILL.—The term "implementing bill" means only a bill of the Senate which is introduced as provided in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

(2) FUNDING PROPOSAL.—The term "funding proposal" means a proposal to provide interim or permanent funding for operations of the Federal Aviation Administration.

(d) RULES OF THE SENATE.—The provisions of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(Added Pub. L. 104–264, title II, §275(a), Oct. 9, 1996, 110 Stat. 3246.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (a), is section 274(c) of Pub. L. 104–264, which is set out as a note under section 40101 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an

Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

[§48112. Repealed. Pub. L. 115–254, div. B, title I, §115, Oct. 5, 2018, 132 Stat. 3201]

Section, added Pub. L. 106–181, title I, §107(a), Apr. 5, 2000, 114 Stat. 73, related to adjustment to AIP program funding.

§48113. Reprogramming notification requirement

Before reprogramming any amounts appropriated under section 106(k), 48101(a), or 48103, for which notification of the Committees on Appropriations of the Senate and the House of Representatives is required, the Secretary of Transportation shall transmit a written explanation of the proposed reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 106–181, title I, §108(a), Apr. 5, 2000, 114 Stat. 73.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§48114. Funding for aviation programs

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year pursuant to sections 48101, 48102, 48103, and 106(k) shall—

(i) in fiscal year 2013, be equal to 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

(ii) in fiscal years 2014 through 2018, be equal to the sum of—

(I) 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

(II) the actual level of receipts plus interest credited to the Airport and Airway Trust Fund for the second preceding fiscal year minus the total amount made available for obligation from the Airport and Airway Trust Fund for the second preceding fiscal year.

Such amounts may be used only for the aviation investment programs listed in subsection (b)(1).

(B) GUARANTEE.—No funds may be appropriated or limited for aviation investment programs listed in subsection (b)(1) unless the amount described in subparagraph (A) has been provided.

(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year 2018, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TOTAL BUDGET RESOURCES.—The term "total budget resources" means the total amount made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this title and for which appropriations are provided pursuant to authorizations contained in this title:

(A) 69–8106–0–7–402 (Grants in Aid for Airports).

(B) 69–8107–0–7–402 (Facilities and Equipment).

(C) 69–8108–0–7–402 (Research and Development).

(D) 69–8104–0–7–402 (Trust Fund Share of Operations).

(2) ESTIMATED LEVEL OF RECEIPTS PLUS INTEREST.—The term "estimated level of receipts plus interest" means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) (Treasury identification code 20–8103–0–7–402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

(c) ENFORCEMENT OF GUARANTEES.—

(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year 2018 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.

(Added Pub. L. 108–176, title I, §104(a), Dec. 12, 2003, 117 Stat. 2496; amended Pub. L. 112–95, title I, §104, Feb. 14, 2012, 126 Stat. 16; Pub. L. 114–55, title I, §106(a), Sept. 30, 2015, 129 Stat. 524; Pub. L. 114–190, title I, §1106(a), July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §107(a), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–254, div. B, title I, §116, Oct. 5, 2018, 132 Stat. 3201.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (b)(2), is classified to section 9502 of Title 26, Internal Revenue Code.

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (b)(2), is classified to section 907 of Title 2, The Congress.

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a)(1)(A)(ii). Pub. L. 115–254 substituted "in fiscal years 2014 through 2018" for "in fiscal year 2014 and each fiscal year thereafter" in introductory provisions.

2017—Subsec. (a)(2). Pub. L. 115–63, §107(a)(1), substituted "2018" for "2017".

Subsec. (c)(2). Pub. L. 115–63, §107(a)(2), substituted "2018" for "2017".

2016—Subsec. (a)(2). Pub. L. 114–190, §1106(a)(1), substituted "fiscal year 2017," for "fiscal year 2016,".
Subsec. (c)(2). Pub. L. 114–190, §1106(a)(2), substituted "fiscal year 2017" for "fiscal year 2016".
2015—Subsec. (a)(2). Pub. L. 114–55, §106(a)(1), substituted "2016' for "2015".
Subsec. (c)(2). Pub. L. 114–55, §106(a)(2), substituted "2016" for "2015".
2012—Subsec. (a)(1)(A). Pub. L. 112–95, §104(a), amended subpar. (A) generally. Prior to amendment, text read as follows: "The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b)."
Subsec. (a)(1)(B). Pub. L. 112–95, §104(b), substituted "subsection (b)(1)" for "subsection (b)".
Subsec. (a)(2). Pub. L. 112–95, §104(c), substituted "2015" for "2007".
Subsec. (b)(2). Pub. L. 112–95, §104(d), substituted "Estimated level" for "Level" in heading and "estimated level of receipts plus interest" for "level of receipts plus interest" in text.
Subsec. (c)(2). Pub. L. 112–95, §104(e), substituted "2015" for "2007".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

Sec.
48201. Advance appropriations.

§48201. Advance appropriations

(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1999, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1999, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.

(Added Pub. L. 104–264, title II, §277(a), Oct. 9, 1996, 110 Stat. 3248.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 9502 of Title 26, Internal Revenue Code.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

[CHAPTER 483—REPEALED]

[§48301. Repealed. Pub. L. 115–254, div. K, title I, §1991(i)(1), Oct. 5, 2018, 132 Stat. 3645]

Section, added Pub. L. 107–71, title I, §118(c)(1), Nov. 19, 2001, 115 Stat. 627; amended Pub. L. 108–458, title IV, §4029, Dec. 17, 2004, 118 Stat. 3727; Pub. L. 110–53, title XVI, §1618, Aug. 3, 2007, 121 Stat. 489, related to aviation security funding.

PART D—PUBLIC AIRPORTS

CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

Sec.

49101. Findings.
49102. Purpose.
49103. Definitions.
49104. Lease of Metropolitan Washington Airports.
49105. Capital improvements, construction, and rehabilitation.
49106. Metropolitan Washington Airports Authority.
49107. Federal employees at Metropolitan Washington Airports.
[49108. Repealed.]
49109. Nonstop flights.
49110. Use of Dulles Airport Access Highway.
49111. Relationship to and effect of other laws.
49112. Separability and effect of judicial order.

EDITORIAL NOTES

AMENDMENTS

2012—Pub. L. 112–95, title I, §150, Feb. 14, 2012, 126 Stat. 32, struck out item 49108 "Limitations".

§49101. Findings

Congress finds that—

(1) the 2 federally owned airports in the metropolitan area of the District of Columbia constitute an important and growing part of the commerce, transportation, and economic patterns of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the 2 federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the United States Government has a continuing but limited interest in the operation of the 2

federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local authority will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95–504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the 2 airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the United States Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary of Transportation has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the United States;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2206.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49101	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6002, 100 Stat. 1783–373. Oct. 30, 1986, Pub. L. 99–591, title VI, §6002, 100 Stat. 3341–376.

In clause (4), the word "authority" is substituted for "agency" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

REFERENCES IN TEXT

The Airline Deregulation Act of 1978, referred to in par. (4), is Pub. L. 95–504, Oct. 24, 1978, 92 Stat. 1705, which was classified principally to sections of former Title 49, Transportation. The Act was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

PRIOR PROVISIONS

A prior section 49101 was renumbered section 50101 of this title.

§49102. Purpose

(a) GENERAL.—The purpose of this chapter is to authorize the transfer of operating responsibility under long-term lease of the 2 Metropolitan Washington Airport properties as a unit,

including access highways and other related facilities, to a properly constituted independent airport authority created by Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BALTIMORE/WASHINGTON INTERNATIONAL AIRPORT NOT PRECLUDED.—This chapter does not prohibit the Airports Authority and Maryland from making an agreement to make Baltimore/Washington International Airport part of a regional airports authority, subject to terms agreed to by the Airports Authority, the Secretary of Transportation, Virginia, the District of Columbia, and Maryland.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49102(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6003(a), 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, §6003(a), 100 Stat. 3341–377.
49102(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6003(b), 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, §6003(b), 100 Stat. 3341–377.

In subsection (b), the words "and conditions" are omitted as being included in "terms".

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 49102 was renumbered section 50102 of this title.

§49103. Definitions

In this chapter—

(1) "Airports Authority" means the Metropolitan Washington Airports Authority, a public authority created by Virginia and the District of Columbia consistent with the requirements of section 49106 of this title.

(2) "employee" means any permanent Federal Aviation Administration personnel employed by the Metropolitan Washington Airports on June 7, 1987.

(3) "Metropolitan Washington Airports" means Ronald Reagan Washington National Airport and Washington Dulles International Airport.

(4) "Washington Dulles International Airport" means the airport constructed under the Act of September 7, 1950 (ch. 905, 64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between Interstate Routes I–495 and I–66.

(5) "Ronald Reagan Washington National Airport" means the airport described in the Act of June 29, 1940 (ch. 444, 54 Stat. 686).

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2207; amended Pub. L. 105–154, §2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49103	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI,

		§6004, 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, §6004, 100 Stat. 3341–377.

In this section, the text of section 6004(1) and (5) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–374, 1783–375, Public Law 99–591, 100 Stat. 3341–378) is omitted as surplus because the complete names of the Administrator of the Federal Aviation Administration and the Secretary of Transportation are used the first time those terms appear in a section.

In clause (1), the words "an organization within the Federal Aviation Administration" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Act of September 7, 1950, ch. 905, 64 Stat. 770, referred to in par. (4), was classified to subchapter II (§2421 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

Act of June 29, 1940, ch. 444, 54 Stat. 686, referred to in par. (5), was classified to subchapter I (§2401 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

PRIOR PROVISIONS

A prior section 49103 was renumbered section 50103 of this title.

AMENDMENTS

1998—Pars. (3), (5). Pub. L. 105–154 substituted "Ronald Reagan Washington National Airport" for "Washington National Airport".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Pub. L. 105–154, §1, Feb. 6, 1998, 112 Stat. 3, provided that: "The airport described in the Act entitled 'An Act to provide for the administration of the Washington National Airport, and for other purposes', approved June 29, 1940 (54 Stat. 686) [section 2401 et seq. of former Title 49, Transportation, see References in Text note above], and known as the Washington National Airport, shall be known and designated as the 'Ronald Reagan Washington National Airport'."

Pub. L. 105–154, §2(b), Feb. 6, 1998, 112 Stat. 4, provided that: "Any reference in a law, map, regulation, document, paper, or other record of the United States to the Washington National Airport shall be deemed to be a reference to the 'Ronald Reagan Washington National Airport'."

§49104. Lease of Metropolitan Washington Airports

(a) GENERAL.—The lease between the Secretary of Transportation and the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–375; Public Law 99–591; 100 Stat. 3341–378), for the Metropolitan Washington Airports must provide during its 50-year term at least the following:

(1) The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2)(A) In this paragraph, "airport purposes" means a use of property interests (except a sale) for—

(i) aviation business or activities;

(ii) activities necessary or appropriate to serve passengers or cargo in air commerce;

(iii) nonprofit, public use facilities that are not inconsistent with the needs of aviation; or

(iv) a business or activity not inconsistent with the needs of aviation that has been approved by the Secretary.

(B) During the period of the lease, the real property constituting the Metropolitan Washington Airports shall be used only for airport purposes.

(C) If the Secretary decides that any part of the real property leased to the Airports Authority under this chapter is used for other than airport purposes, the Secretary shall—

(i) direct that the Airports Authority take appropriate measures to have that part of the property be used for airport purposes; and

(ii) retake possession of the property if the Airports Authority fails to have that part of the property be used for airport purposes within a reasonable period of time, as the Secretary decides.

(3) The Airports Authority is subject to section 47107(a)–(c) and (e) of this title and to the assurances and conditions required of grant recipients under the Airport and Airway Improvement Act of 1982 (Public Law 97–248; 96 Stat. 671) as in effect on June 7, 1987. Notwithstanding section 47107(b) of this title, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of the Metropolitan Washington Airports.

(4) In acquiring by contract supplies or services for an amount estimated to be more than $200,000, or awarding concession contracts, the Airports Authority to the maximum extent practicable shall obtain complete and open competition through the use of published competitive procedures. By a vote of 7 members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5)(A) Except as provided in subparagraph (B) of this paragraph, all regulations of the Metropolitan Washington Airports (14 CFR part 159) [1] become regulations of the Airports Authority as of June 7, 1987, and remain in effect until modified or revoked by the Airports Authority under procedures of the Airports Authority.

(B) Sections 159.59(a) and 159.191 of title 14, Code of Federal Regulations,[1] do not become regulations of the Airports Authority.

(C) The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 CFR 93.121 et seq.) at Ronald Reagan Washington National Airport on October 18, 1986, and may not impose a limitation on the number of passengers taking off or landing at Ronald Reagan Washington National Airport.

(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41718.

(6)(A) Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations of the Metropolitan Washington Airports on June 7, 1987, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation related to those rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. The Airports Authority must cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of duties and powers related to the period before June 7, 1987. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) The procedure for disputes resolution contained in any contract entered into on behalf of the United States Government before June 7, 1987, continues to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the Government as the owner and operator of the Metropolitan Washington Airports, arising before June 7, 1987, shall be adjudicated as if the lease had not been entered into.

(C) The Administration is responsible for reimbursing the Employees' Compensation Fund, as provided in section 8147 of title 5, for compensation paid or payable after June 7, 1987, in

accordance with chapter 81 of title 5 for any injury, disability, or death due to events arising before June 7, 1987, whether or not a claim was filed or was final on that date.

(D) The Airports Authority shall continue all collective bargaining rights enjoyed by employees of the Metropolitan Washington Airports before June 7, 1987.

(7) The Comptroller General may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under regulations the Comptroller General may prescribe. An audit shall be conducted where the Comptroller General considers it appropriate. All records and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) The Airports Authority shall develop a code of ethics and financial disclosure to ensure the integrity of all decisions made by its board of directors and employees. The code shall include standards by which members of the board will decide, for purposes of section 49106(d) of this title, what constitutes a substantial financial interest and the circumstances under which an exception to the conflict of interest prohibition may be granted.

(9) A landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may not be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Ronald Reagan Washington National Airport; and

(B) at Ronald Reagan Washington National Airport may not be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee that is not more than the landing fee for aircraft weighing 12,500 pounds.

(11) The Secretary shall include other terms applicable to the parties to the lease that are consistent with, and carry out, this chapter.

(b) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), under the lease, the Airports Authority must pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator—

(A) during the period from 1987 to 2026, equal to $3,000,000 in 1987 dollars; and

(B) for 2027 and subsequent years, equal to $15,000,000 in 2027 dollars.

(2) RENEGOTIATION.—The Secretary and the Airports Authority shall renegotiate the level of lease payments at least once every 10 years to ensure that in no year the amount specified in paragraph (1)(B) is less than $15,000,000 in 2027 dollars.

(c) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. The Attorney General or an aggrieved party may bring an action on behalf of the Government.

(d) EXTENSION OF LEASE.—The Secretary and the Airports Authority may at any time negotiate an extension of the lease.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2207; amended Pub. L. 105–154, §2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3; Pub. L. 106–181, title II, §231(e)(2), Apr. 5, 2000, 114 Stat. 113; Pub. L. 112–95, title IV, §414(e), Feb. 14, 2012, 126 Stat. 92; Pub. L. 119–21, title IV, §40007, July 4, 2025, 139 Stat. 136.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*

49104(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §§6005(a), (d), 6007(d) (last sentence), 100 Stat. 1783–375, 1783–376, 1783–380. Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(c), 100 Stat. 1783–376; Oct. 9, 1996, Pub. L. 104–264, title IX, §902, 110 Stat. 3274. Oct. 30, 1986, Pub. L. 99–591, title VI, §§6005(a), (d), 6007(d) (last sentence), 100 Stat. 3341–378, 3341–379, 3341–383. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(c), 100 Stat. 3341–379; Oct. 9, 1996, Pub. L. 104–264, title IX, §902, 110 Stat. 3274.
49104(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(b), 100 Stat. 1783–375. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(b), 100 Stat. 3341–378.
49104(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(e), 100 Stat. 1783–378. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(e), 100 Stat. 3341–381.
49104(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6010, 100 Stat. 1783–385. Oct. 30, 1986, Pub. L. 99–591, title VI, §6010, 100 Stat. 3341–388.

In subsection (a), before clause (1), the text of section 6005(a) and (d) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–375, 1783–378, Public Law 99–591, 100 Stat. 3341–378, 3341–381) is omitted as executed. The words "conditions and requirements" are omitted as surplus. In clause (5)(B), the words "(relating to new-technology aircraft)" and "(relating to violations of Federal Aviation Administration regulations as Federal misdemeanors)" are omitted as surplus. In clause (5)(C), the words "after the date the lease takes effect" are omitted as obsolete. In clause (6)(A), the words "(tangible and incorporeal, present and executory)" are omitted as surplus. The words "The Airports Authority must" are substituted for "Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to" to eliminate obsolete words. The words "duties and powers" are substituted for "functions" for consistency in the revised title and with other titles of the United States Code. In clause (7), the words "or places" are omitted because of 1:1. The words "books, accounts . . . reports, files, papers" are omitted as being included in "reports". In clause (8), the words "for purposes of section 49106(d) of this title" are added for clarity. In clause (9), before subclause (A), the words "Notwithstanding any other provision of law" are omitted as surplus. In clause (11), the words "and conditions" are omitted as being included in "terms".

In subsection (b), the text of section 6005(b)(2) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–375, Public Law 99–591, 100 Stat. 3341–378) is omitted as executed.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6005(a) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (a), is section 6005(a) of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–375, and Pub. L. 99–591, title VI, Oct. 30,

1986, 100 Stat. 3341–378, which was classified to section 2454(a) of former Title 49, Transportation, and was repealed and reenacted as subsec. (a) of this section by Pub. L. 105–102, §§2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

The Airport and Airway Improvement Act of 1982, referred to in subsec. (a)(3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as subchapter I of chapter 471 of Title 49, Transportation.

Part 159 of title 14 of the Code of Federal Regulations, including sections 159.59 and 159.191, referred to in subsec. (a)(5)(A), (B), was removed from the Code of Federal Regulations by the Federal Aviation Administration by final rule, effective May 2, 1996. See 61 F.R. 19784.

PRIOR PROVISIONS

A prior section 49104 was renumbered section 50104 of this title.

AMENDMENTS

2025—Subsec. (b). Pub. L. 119–21 amended subsec. (b) generally. Prior to amendment, text read as follows: "Under the lease, the Airports Authority must pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, equal to $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every 10 years."

2012—Subsec. (a)(2)(A)(iv). Pub. L. 112–95 added cl. (iv).

2000—Subsec. (a)(5)(D). Pub. L. 106–181 added subpar. (D).

1998—Subsec. (a)(5)(C), (9)(A), (B). Pub. L. 105–154 substituted "Ronald Reagan Washington National Airport" for "Washington National Airport" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

[1] *See References in Text note below.*

§49105. Capital improvements, construction, and rehabilitation

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Metropolitan Washington Airports Authority—

(1) should pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Ronald Reagan Washington National Airport simultaneously; and

(2) to the extent practicable, should cause the improvement, construction, and rehabilitation proposed by the Secretary of Transportation to be completed at Washington Dulles International Airport and Ronald Reagan Washington National Airport within 5 years after March 30, 1988.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the 3 airports serving the District of Columbia metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for United States Government financial assistance by whichever of the 3 airports is most in need of increasing airside capacity.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2210; amended Pub. L. 105–154, §2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49105(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI,

		§6006(a), 100 Stat. 1783–378. Oct. 30, 1986, Pub. L. 99–591, title VI, §6006(a), 100 Stat. 3341–381.
49105(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6006(b), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, §6006(b), 100 Stat. 3341–382.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 49105 was renumbered section 50105 of this title.

AMENDMENTS

1998—Subsec. (a)(1), (2). Pub. L. 105–154 substituted "Ronald Reagan Washington National Airport" for "Washington National Airport".

§49106. Metropolitan Washington Airports Authority

(a) STATUS.—The Metropolitan Washington Airports Authority shall be—

(1) a public body corporate and politic with the powers and jurisdiction—

(A) conferred upon it jointly by the legislative authority of Virginia and the District of Columbia or by either of them and concurred in by the legislative authority of the other jurisdiction; and

(B) that at least meet the specifications of this section;

(2) independent of Virginia and its local governments, the District of Columbia, and the United States Government; and

(3) a political subdivision constituted only to operate and improve the Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(b) GENERAL AUTHORITY.—(1) The Airports Authority shall be authorized—

(A) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(B) to issue bonds from time to time in its discretion for public purposes, including paying any part of the cost of airport improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment for the airports;

(C) to acquire real and personal property by purchase, lease, transfer, or exchange;

(D) to exercise the powers of eminent domain in Virginia that are conferred on it by Virginia;

(E) to levy fees or other charges; and

(F) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration was authorized to do so on October 18, 1986.

(2) Bonds issued under paragraph (1)(B) of this subsection—

(A) are not a debt of Virginia, the District of Columbia, or a political subdivision of Virginia or the District of Columbia; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not any part of the projects are financed from the proceeds of the bonds.

(c) BOARD OF DIRECTORS.—(1) The Airports Authority shall be governed by a board of directors composed of the following 17 members:

(A) 7 members appointed by the Governor of Virginia;
(B) 4 members appointed by the Mayor of the District of Columbia;
(C) 3 members appointed by the Governor of Maryland; and
(D) 3 members appointed by the President with the advice and consent of the Senate.

(2) The chairman of the board shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(3) Members of the board shall be appointed to the board for 6 years, except that of the members first appointed by the President after October 9, 1996, one shall be appointed for 4 years. Any member of the board shall be eligible for reappointment for 1 additional term. A member shall not serve after the expiration of the member's term(s).

(4) A member of the board—

(A) may not hold elective or appointive political office;

(B) serves without compensation except for reasonable expenses incident to board functions; and

(C) must reside within the Washington Standard Metropolitan Statistical Area, except that a member of the board appointed by the President must be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

(5) A vacancy in the board shall be filled in the manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(6)(A) Not more than 2 of the members of the board appointed by the President may be of the same political party.

(B) In carrying out their duties on the board, members appointed by the President shall ensure that adequate consideration is given to the national interest.

(C) A member appointed by the President may be removed by the President for cause. A member appointed by the Mayor of the District of Columbia, the Governor of Maryland or the Governor of Virginia may be removed or suspended from office only for cause and in accordance with the laws of the jurisdiction from which the member is appointed.

(7) Ten votes are required to approve bond issues and the annual budget.

(d) CONFLICTS OF INTEREST.—Members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. The official appointing a member may make an exception if the financial interest is completely disclosed when the member is appointed and the member does not participate in board decisions that directly affect the interest.

(e) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—An action of the Airports Authority changing, or having the effect of changing, the hours of operation of, or the type of aircraft serving, either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(f) ADMINISTRATIVE.—To assist the Secretary in carrying out this chapter, the Secretary may hire 2 staff individuals to be paid by the Airports Authority. The Airports Authority shall provide clerical and support staff that the Secretary may require.

(g) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to decide whether the contracts were awarded by procedures that follow sound Government contracting principles and comply with section 49104(a)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of the review to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2210; amended Pub. L. 105–225, §7(c)(1)(A), (B), Aug. 12, 1998, 112 Stat. 1511; Pub. L. 106–181, title II, §231(i), Apr. 5, 2000, 114

Stat. 115; Pub. L. 112–55, div. C, title I, §191, Nov. 18, 2011, 125 Stat. 671; Pub. L. 118–63, title XI, §1101(x), May 16, 2024, 138 Stat. 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49106(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6007(a), (b), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, §6007(a), (b), 100 Stat. 3341–382.
49106(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6007(c), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, §6007(c), 100 Stat. 3341–382.
49106(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6007(e), 100 Stat. 1783–380; Oct. 9, 1996, Pub. L. 104–264, title IX, §903, 110 Stat. 3275. Oct. 30, 1986, Pub. L. 99–591, title VI, §6007(e), 100 Stat. 3341–383; Oct. 9, 1996, Pub. L. 104–264, title IX, §903, 110 Stat. 3275.
49106(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6007(d) (1st, 2d sentences), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, §6007(d) (1st, 2d sentences), 100 Stat. 3341–382.
49106(e)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6007(f), 100 Stat. 1783–382; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(a), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, §6007(f), 100 Stat. 3341–385; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(a), 110 Stat. 3276.
49106(f)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6007(h), 100 Stat. 1783–382; Dec. 18, 1991, Pub. L. 102–240, title VII, §7002(e), 105 Stat. 2200; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(b), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, §6007(h), 100 Stat. 3341–385; Dec. 18, 1991, Pub. L. 102–240, title VII, §7002(e), 105 Stat. 2200; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(b), 110 Stat. 3276.
49106(g)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6007(g), as added Dec. 18, 1991, Pub. L. 102–240, title VII, §7002(h),

		105 Stat. 2202; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(a), 110 Stat. 3276.
		Oct. 30, 1986, Pub. L. 99–591, title VI, §6007(g), as added Dec. 18, 1991, Pub. L. 102–240, title VII, §7002(h), 105 Stat. 2202; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(a), 110 Stat. 3276.

In subsection (b)(2)(A), the words "Virginia, the District of Columbia" are substituted for "either jurisdiction" for clarity.

In subsection (c)(6)(C), the words "the limitations described in" are omitted as unnecessary. The word "until" is substituted for "for the period beginning on October 1, 1997, and ending on the first day on which" to eliminate unnecessary words.

In subsection (d), the words "The Airports Authority shall be subject to a conflict-of-interest provision providing that" are omitted as surplus.

In subsection (g), the words "Committee on Transportation and Infrastructure" are substituted for "Committee on Public Works and Transportation" because of the amendment of clause 1(q) of Rule X of the Rules of the House of Representatives by section 202(a) of H. Res. 6, approved January 4, 1995.

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(1)(B). Pub. L. 118–63, §1101(x)(1), struck out "and section 49108 of this title" before semicolon at end.

Subsec. (c)(6)(C). Pub. L. 118–63, §1101(x)(2), inserted "the" before "jurisdiction".

2011—Subsec. (c)(1). Pub. L. 112–55, §191(a)(1), substituted "17 members" for "13 members" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 112–55, §191(a)(2), substituted "7 members" for "5 members".

Subsec. (c)(1)(B). Pub. L. 112–55, §191(a)(3), substituted "4 members" for "3 members".

Subsec. (c)(1)(C). Pub. L. 112–55, §191(a)(4), substituted "3 members" for "2 members".

Subsec. (c)(3). Pub. L. 112–55, §191(b), substituted "Any member of the board shall be eligible for reappointment for 1 additional term. A member shall not serve after the expiration of the member's term(s)." for "A member may serve after the expiration of that member's term until a successor has taken office."

Subsec. (c)(6)(C). Pub. L. 112–55, §191(c), inserted at end "A member appointed by the Mayor of the District of Columbia, the Governor of Maryland or the Governor of Virginia may be removed or suspended from office only for cause and in accordance with the laws of jurisdiction from which the member is appointed."

Subsec. (c)(7). Pub. L. 112–55, §191(d), substituted "Ten votes" for "Eight votes".

2000—Subsec. (c)(6)(C), (D). Pub. L. 106–181 redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: "The members to be appointed under paragraph (1)(D) of this subsection must be appointed before October 1, 1997. If the deadline is not met, the Secretary of Transportation and the Airports Authority are subject to the limitations of section 49108 of this title until all members referred to in paragraph (1)(D) are appointed."

1998—Subsec. (b)(1)(F). Pub. L. 105–225, §7(c)(1)(A), substituted "1986" for "1996".

Subsec. (c)(3). Pub. L. 105–225, §7(c)(1)(B), substituted "to the board" for "by the board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–225, §7(c)(3), Aug. 12, 1998, 112 Stat. 1512, provided that: "The amendments made by this

subsection [amending this section and sections 49107 and 49111 of this title and provisions set out as a note preceding section 101 of this title] are effective as of November 20, 1997."

§49107. Federal employees at Metropolitan Washington Airports

(a) LABOR AGREEMENTS.—(1) The Metropolitan Washington Airports Authority shall adopt all labor agreements that were in effect on June 7, 1987. Unless the parties otherwise agree, the agreements must be renegotiated before June 7, 1992.

(2) Employee protection arrangements made under this section shall ensure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(b) CIVIL SERVICE RETIREMENT.—Any Federal employee who transferred to the Airports Authority and who on June 6, 1987, was subject to subchapter III of chapter 83 or chapter 84 of title 5, is subject to subchapter III of chapter 83 or chapter 84 for so long as continually employed by the Airports Authority without a break in service. For purposes of subchapter III of chapter 83 and chapter 84, employment by the Airports Authority without a break in continuity of service is deemed to be employment by the United States Government. The Airports Authority is the employing agency for purposes of subchapter III of chapter 83 and chapter 84 and shall contribute to the Civil Service Retirement and Disability Fund amounts required by subchapter III of chapter 83 and chapter 84.

(c) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary of Transportation adequate access to employees and employee records of the Airports Authority when needed to carry out a duty or power related to the period before June 7, 1987. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2212; amended Pub. L. 105–225, §7(c)(1)(C), Aug. 12, 1998, 112 Stat. 1511.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49107(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6008(a)–(d), (f), 100 Stat. 1783–382, 1783–383. Oct. 30, 1986, Pub. L. 99–591, title VI, §6008(a)–(d), (f), 100 Stat. 3341–385, 3341–387.
49107(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6008(e), 100 Stat. 1783–383. Oct. 30, 1986, Pub. L. 99–591, title VI, §6008(e), 100 Stat. 3341–386.
49107(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6008(g), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, §6008(g), 100 Stat. 3341–387.

In subsection (a)(1), the text of section 6008(a), (b)(2d and last sentences), (c), (d), and (f) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat, 1783–382, 1783–383, Public Law 99–591, 100 Stat. 3341–385, 3341–386, 3341–387) is omitted as obsolete.

In subsection (c), the words "duty or power" are substituted for "functions" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–225 substituted "is subject to subchapter III" for "is subject to subchapter II".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–225 effective Nov. 20, 1997, see section 7(c)(3) of Pub. L. 105–225, set out as a note under section 49106 of this title.

RETIREMENT PROVISIONS RELATING TO CERTAIN MEMBERS OF POLICE FORCE OF METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

Pub. L. 106–554, §1(a)(3) [title VI, §636], Dec. 21, 2000, 114 Stat. 2763, 2763A–164, provided that:

"(a) QUALIFIED MWAA POLICE OFFICER DEFINED.—For purposes of this section, the term 'qualified MWAA police officer' means any individual who, as of the date of the enactment of this Act [Dec. 21, 2000]—

"(1) is employed as a member of the police force of the Metropolitan Washington Airports Authority (hereafter in this section referred to as an 'MWAA police officer'); and

"(2) is subject to the Civil Service Retirement System or the Federal Employees' Retirement System by virtue of section 49107(b) of title 49, United States Code.

"(b) ELIGIBILITY TO BE TREATED AS A LAW ENFORCEMENT OFFICER FOR RETIREMENT PURPOSES.—

"(1) IN GENERAL.—Any qualified MWAA police officer may, by written election submitted in accordance with applicable requirements under subsection (c), elect to be treated as a law enforcement officer (within the meaning of section 8331 or 8401 of title 5, United States Code, as applicable), and to have all prior service described in paragraph (2) similarly treated.

"(2) PRIOR SERVICE DESCRIBED.—The service described in this paragraph is all service which an individual performed, prior to the effective date of such individual's election under this section, as—

"(A) an MWAA police officer; or

"(B) a member of the police force of the Federal Aviation Administration (hereafter in this section referred to as an 'FAA police officer').

"(c) REGULATIONS.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this section, including provisions relating to the time, form, and manner in which any election under this section shall be made. Such an election shall not be effective unless—

"(1) it is made before the employee separates from service with the Metropolitan Washington Airports Authority, but in no event later than 1 year after the regulations under this subsection take effect; and

"(2) it is accompanied by payment of an amount equal to, with respect to all prior service of such employee which is described in subsection (b)(2)—

"(A) the employee deductions that would have been required for such service under chapter 83 or 84 of title 5, U.S.C. (as the case may be) if such election had then been in effect, minus

"(B) the total employee deductions and contributions under such chapter 83 and 84 (as applicable) that were actually made for such service,

taking into account only amounts required to be credited to the Civil Service Retirement and Disability Fund. Any amount under paragraph (2) shall be computed with interest, in accordance with section 8334(e) of such title 5.

"(d) GOVERNMENT CONTRIBUTIONS.—Whenever a payment under subsection (c)(2) is made by an individual with respect to such individual's prior service (as described in subsection (b)(2)), the Metropolitan Washington Airports Authority shall pay into the Civil Service Retirement and Disability Fund any additional contributions for which it would have been liable, with respect to such service, if such individual's election under this section had then been in effect (and, to the extent of any prior FAA police officer service, as if it had then been the employing agency). Any amount under this subsection shall be computed with interest, in accordance with section 8334(e) of title 5, United States Code.

"(e) CERTIFICATIONS.—The Office of Personnel Management shall accept, for the purpose of this section, the certification of—

"(1) the Metropolitan Washington Airports Authority (or its designee) concerning any service performed by an individual as an MWAA police officer; and

"(2) the Federal Aviation Administration (or its designee) concerning any service performed by an

individual as an FAA police officer.

"(f) REIMBURSEMENT TO COMPENSATE FOR UNFUNDED LIABILITY.—

"(1) IN GENERAL.—The Metropolitan Washington Airports Authority shall pay into the Civil Service Retirement and Disability Fund an amount (as determined by the Director of the Office of Personnel Management) equal to the amount necessary to reimburse the Fund for any estimated increase in the unfunded liability of the Fund (to the extent the Civil Service Retirement System is involved), and for any estimated increase in the supplemental liability of the Fund (to the extent the Federal Employees' Retirement System is involved), resulting from the enactment of this section.

"(2) PAYMENT METHOD.—The Metropolitan Washington Airports Authority shall pay the amount so determined in five equal annual installments, with interest (which shall be computed at the rate used in the most recent valuation of the Federal Employees' Retirement System)."

[§49108. Repealed. Pub. L. 112–95, title I, §150, Feb. 14, 2012, 126 Stat. 32]

Section, added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2213; amended Pub. L. 106–181, title II, §231(h), Apr. 5, 2000, 114 Stat. 115; Pub. L. 108–176, title VIII, §804, Dec. 12, 2003, 117 Stat. 2587; Pub. L. 110–330, §5(h), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(g), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(h), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(g), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(g), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(g), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(g), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(g), Aug. 1, 2010, 124 Stat. 2350; Pub. L. 111–249, §5(h), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(g), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(g), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(g), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(g), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(g), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(h), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(h), Jan. 31, 2012, 126 Stat. 4, related to limitations on Secretary of Transportation's authority to approve an application of the Metropolitan Washington Airports Authority.

§49109. Nonstop flights

An air carrier may not operate an aircraft nonstop in air transportation between Ronald Reagan Washington National Airport and another airport that is more than 1,250 statute miles away from Ronald Reagan Washington National Airport.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2213; amended Pub. L. 105–154, §2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49109	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6012, 100 Stat. 1783–385. Oct. 30, 1986, Pub. L. 99–591, title VI, §6012, 100 Stat. 3341–388.

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–154 substituted "Ronald Reagan Washington National Airport" for "Washington National Airport" in two places.

§49110. Use of Dulles Airport Access Highway

The Metropolitan Washington Airports Authority shall continue in effect and enforce section

4.2(1) and (2) of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995. The district courts of the United States have jurisdiction to compel the Airports Authority and its officers and employees to comply with this section. The Attorney General or an aggrieved party may bring an action on behalf of the United States Government.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49110	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6013, as added Oct. 9, 1996, Pub. L. 104–264, title IX, §906, 110 Stat. 3277. Oct. 30, 1986, Pub. L. 99–591, title VI, §6013, as added Oct. 9, 1996, Pub. L. 104–264, title IX, §906, 110 Stat. 3277.

The words "Except as provided by subsection (b)" and "the requirements of" are omitted as unnecessary.

§49111. Relationship to and effect of other laws

(a) SAME POWERS AND RESTRICTIONS UNDER OTHER LAWS.—To ensure that the Metropolitan Washington Airports Authority has the same proprietary powers and is subject to the same restrictions under United States law as any other airport except as otherwise provided in this chapter, during the period that the lease authorized by section 6005 of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–375; Public Law 99–591; 100 Stat. 3341–378) is in effect—

(1) the Metropolitan Washington Airports are deemed to be public airports for purposes of chapter 471 of this title; and

(2) the Act of June 29, 1940 (ch. 444, 54 Stat. 686), the First Supplemental Civil Functions Appropriations Act, 1941 (ch. 780, 54 Stat. 1030), and the Act of September 7, 1950 (ch. 905, 64 Stat. 770), do not apply to the operation of the Metropolitan Washington Airports, and the Secretary of Transportation is relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority are not subject to the requirements of any law solely by reason of the retention by the United States Government of the fee simple title to those airports.

(c) POLICE POWER.—Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of Virginia may exercise jurisdiction over Ronald Reagan Washington National Airport.

(d) PLANNING.—(1) The authority of the National Capital Planning Commission under section 8722 of title 40 does not apply to the Airports Authority.

(2) The Airports Authority shall consult with—

(A) the Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport; and

(B) the Commission before undertaking development that would alter the skyline of Ronald Reagan Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2213; amended Pub. L. 105–154, §2(a)(1)(D), Feb. 6, 1998, 112 Stat. 3; Pub. L. 105–225, §7(c)(1)(D), Aug. 12, 1998, 112 Stat. 1511;

Pub. L. 106–181, title II, §231(j)(1), Apr. 5, 2000, 114 Stat. 115; Pub. L. 107–217, §3(n)(9), Aug. 21, 2002, 116 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49111(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6009(a), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, §6009(a), 100 Stat. 3341–387.
49111(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6009(b), 100 Stat. 1783–384; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(c)(1), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, §6009(b), 100 Stat. 3341–387; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(c)(1), 110 Stat. 3276.
49111(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6009(c), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, §6009(c), 100 Stat. 3341–387.
49111(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6009(d), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, §6009(d), 100 Stat. 3341–387.
49111(e)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6009(e), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, §6009(e), 100 Stat. 3341–388.

In subsection (a)(1), the word "deemed" is substituted for "considered" for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the text of section 6009(e)(2) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–385, Public Law 99–591, 100 Stat. 3341–388) is omitted as executed.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6005 of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (a), is section 6005 of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–375, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–378, which was classified to section 2454 of former Title 49, Transportation, and was repealed and reenacted as this section by Pub. L. 105–102, §§2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

Act of June 29, 1940, ch. 444, 54 Stat. 686, referred to in subsec. (a)(2), was classified to subchapter I (§2401 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

The First Supplemental Civil Functions Appropriations Act, 1941, referred to in subsec. (a)(2), is act Oct. 9, 1940, ch. 780, 54 Stat. 1030. For complete classification of this Act to the Code, see Tables.

Act of September 7, 1950, ch. 905, 64 Stat. 770, referred to in subsec. (a)(2), was classified to subchapter II (§2421 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

AMENDMENTS

2002—Subsec. (d)(1). Pub. L. 107–217 substituted "section 8722 of title 40" for "section 5 of the Act of June 6, 1924 (40 U.S.C. 71d),".

2000—Subsec. (e). Pub. L. 106–181 struck out heading and text of subsec. (e). Text read as follows: "The Administrator of the Federal Aviation Administration may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 CFR 93.121 et seq.) at Ronald Reagan Washington National Airport on October 18, 1986, and may not decrease the number of those takeoffs and landings except for reasons of safety."

1998—Subsec. (b). Pub. L. 105–225 substituted "retention by" for "retention of".

Subsecs. (c), (d)(2)(B), (e). Pub. L. 105–154 substituted "Ronald Reagan Washington National Airport" for "Washington National Airport".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–225 effective Nov. 20, 1997, see section 7(c)(3) of Pub. L. 105–225, set out as a note under section 49106 of this title.

§49112. Separability and effect of judicial order

(a) SEPARABILITY.—If any provision of this chapter, or the application of a provision of this chapter to a person or circumstance, is held invalid, the remainder of this chapter and the application of the provision to other persons or circumstances is not affected.

(b) EFFECT OF JUDICIAL ORDER.—Any action of the Airports Authority that was required to be submitted to the Board of Review under section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–380; Public Law 99–599; 100 Stat. 3341–383) before October 9, 1996, remains in effect and may not be set aside only because of a judicial order invalidating certain functions of the Board.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2214; amended Pub. L. 118–63, title XI, §1101(y), May 16, 2024, 138 Stat. 1415.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49112(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6011, 100 Stat. 1783–385; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(c)(2), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, §6011, 100 Stat. 3341–388; Oct. 9, 1996, Pub. L. 104–264, title IX, §904(c)(2), 110 Stat. 3276.
49112(b)(1)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6014, as added Oct. 9, 1996, Pub. L. 104–264, title IX, §907, 110 Stat. 3277. Oct. 30, 1986, Pub. L. 99–591, title VI, §6014, as added Oct. 9, 1996, Pub. L. 104–264, title IX, §907, 110 Stat.

49112(b)(2)	(uncodified).	3277. Oct. 9, 1996, Pub. L. 104–264, title IX, §904(d), 110 Stat. 3276.

In subsection (a), the word "thereby" is omitted as surplus.
In subsection (b)(1), the words "the limitations described in" are omitted as unnecessary.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (b), is section 6007(f)(4) of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–379, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–382, which related to a Board of Review and was classified to section 2456(f)(4) of former Title 49, Transportation. Subsec. (f) of section 6007 was repealed and subsec. (g) redesignated (f) by Pub. L. 104–264, title IX, §904(a), Oct. 9, 1996, 110 Stat. 3276. Section 6007 was subsequently repealed and reenacted as section 49106 of Title 49, Transportation, by Pub. L. 105–102, §§2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217, and does not contain provisions relating to a Board of Review.

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63 struck out par. (2) designation before "Any action" and struck out par. (1) which read as follows: "If any provision of the Metropolitan Washington Airports Amendments Act of 1996 (title IX of Public Law 104–264; 110 Stat. 3274) or the amendments made by the Act, or the application of that provision to a person, circumstance, or venue, is held invalid by a judicial order, the Secretary of Transportation and the Metropolitan Washington Airports Authority shall be subject to section 49108 of this title from the day after the day the order is issued."

PART E—MISCELLANEOUS

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(88)(A), Oct. 11, 1996, 110 Stat. 3398, redesignated part D of this subtitle as this part.

CHAPTER 501—BUY-AMERICAN PREFERENCES

Sec.

50101. Buying goods produced in the United States.
50102. Restricting contract awards because of discrimination against United States goods or services.
50103. Contract preference for domestic firms.
50104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities.
50105. Fraudulent use of "Made in America" label.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–287, §5(88)(B), (C), Oct. 11, 1996, 110 Stat. 3398, redesignated chapter 491 of this title as this chapter and items 49101 to 49105 as 50101 to 50105, respectively.

§50101. Buying goods produced in the United States

(a) PREFERENCE.—The Secretary of Transportation may obligate an amount that may be appropriated to carry out section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471, or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title for a project only if steel and manufactured goods used in the project are produced in the United States.

(b) WAIVER.—The Secretary may waive subsection (a) of this section if the Secretary finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) the steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(3) when procuring a facility or equipment under section 44502(a)(2) or 44509, subchapter I of chapter 471, or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title—

(A) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and

(B) final assembly of the facility or equipment has occurred in the United States; or

(4) including domestic material will increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—In this section, labor costs involved in final assembly are not included in calculating the cost of components.

(d) LIMITATION ON CERTAIN ROLLING STOCK PROCUREMENTS.—

(1) IN GENERAL.—Financial assistance made available under the provisions described in subsection (a) shall not be used in awarding a contract or subcontract to an entity on or after the date of enactment of this subsection for the procurement of rolling stock for use in an airport-related project if the manufacturer of the rolling stock—

(A) is incorporated in or has manufacturing facilities in the United States; and

(B) is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that—

(i) is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;

(ii) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and

(iii) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(2) EXCEPTION.—

(A) IN GENERAL.—For purposes of paragraph (1), the term "otherwise related legally or financially" does not include—

(i) a minority relationship or investment; or

(ii) relationship with or investment in a subsidiary, joint venture, or other entity based in a country described in paragraph (1)(B) that does not export rolling stock or components of rolling stock for use in the United States.

(B) CORPORATION BASED IN PEOPLE'S REPUBLIC OF CHINA.—Notwithstanding subparagraph (A)(i), for purposes of paragraph (1), the term "otherwise related legally or financially" includes a minority relationship or investment if the relationship or investment involves a corporation based in the People's Republic of China.

(3) INTERNATIONAL AGREEMENTS.—This subsection shall be applied in a manner consistent with the obligations of the United States under international agreements.

(4) WAIVER.—

(A) IN GENERAL.—The Secretary may waive the limitation described in paragraph (1)

using the criteria described in subsection (b).

(B) NOTIFICATION.—Not later than 10 days after issuing a waiver under subparagraph (A), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1298, §49101; renumbered §50101 and amended Pub. L. 104–287, §5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 118–63, title VII, §768(a), May 16, 2024, 138 Stat. 1293.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49101(a)	49 App.:2226a(a).	Nov. 5, 1990, Pub. L. 101–508, §9129, 104 Stat. 1388–371.
49101(b)	49 App.:2226a(b).	
49101(c)	49 App.:2226a(c).	

In this chapter, the word "goods" is substituted for "product" and "products" for consistency.

In subsection (a), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "after November 5, 1990" are omitted as obsolete.

In subsection (b), before clause (1), the words "The Secretary may waive" are substituted for "shall not apply" for consistency. In clause (2), the words "steel and goods" are substituted for "materials and products" for consistency. In clause (4), the word "contract" is omitted as surplus.

PUB. L. 104–287, §5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (d)(1), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Subsecs. (a), (b)(3). Pub. L. 118–63, §768(a)(1), struck out "(except section 47127)" after "subchapter I of chapter 471".

Subsec. (d). Pub. L. 118–63, §768(a)(2), added subsec. (d).

1996—Pub. L. 104–287, §5(88)(D), renumbered section 49101 of this title as this section.

Subsecs. (a), (b)(3). Pub. L. 104–287, §5(89), substituted "section 47127" for "sections 47106(d) and 47127".

STATUTORY NOTES AND RELATED SUBSIDIARIES

BUY AMERICA REQUIREMENTS

Pub. L. 115–254, div. B, title I, §167, Oct. 5, 2018, 132 Stat. 3227, provided that:

"(a) NOTICE OF WAIVERS.—If the Secretary of Transportation determines that it is necessary to waive the application of section 50101(a) of title 49, United States Code, based on a finding under section 50101(b) of that title, the Secretary, at least 10 days before the date on which the waiver takes effect, shall—

"(1) make publicly available, in an easily identifiable location on the website of the Department of Transportation, a detailed written justification of the waiver determination; and

"(2) provide an informal public notice and comment opportunity on the waiver determination.

"(b) ANNUAL REPORT.—For each fiscal year, the Secretary shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on

Transportation and Infrastructure of the House of Representatives] a report on waivers issued under section 50101 of title 49, United States Code, during the fiscal year."

USE OF DOMESTIC PRODUCTS

Pub. L. 103–305, title III, §305, Aug. 23, 1994, 108 Stat. 1592, provided that:

"(a) PROHIBITION AGAINST FRAUDULENT USE OF 'MADE IN AMERICA' LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of 'Made in America', or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

"(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

"(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each office within the Federal Aviation Administration that conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 ([former] 41 U.S.C. 10a through 10c, popularly known as the 'Buy American Act' [see 41 U.S.C. 8301 et seq.]).

"(2) This subsection shall apply only to procurements made for which—

"(A) amounts are authorized by this title to be made available; and

"(B) solicitations for bids are issued after the date of the enactment of this Act [Aug. 23, 1994].

"(3) The Secretary, before January 1, 1995, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

"(c) DEFINITIONS.—For the purposes of this section, the term 'domestic product' means a product—

"(1) that is manufactured or produced in the United States; and

"(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States."

Similar provisions were contained in the following prior authorization act: Pub. L. 102–581, title III, §305, Oct. 31, 1992, 106 Stat. 4896.

PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS

Pub. L. 103–305, title III, §306, Aug. 23, 1994, 108 Stat. 1593, as amended by Pub. L. 118–63, title II, §218(f), May 16, 2024, 138 Stat. 1056, provided that: "It is the sense of Congress that any recipient of a grant under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], or under any amendment made by this title, should purchase, when available and cost-effective, American made equipment and products when expending grant monies."

§50102. Restricting contract awards because of discrimination against United States goods or services

A person or enterprise domiciled or operating under the laws of a foreign country may not make a contract or subcontract under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471, or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353) if the government of that country unfairly maintains, in government procurement, a significant and persistent pattern of discrimination against United States goods or services that results in identifiable harm to United States businesses, that the President identifies under section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1298, §49102; renumbered §50102 and amended Pub. L. 104–287, §5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 118–63, title VII, §768(b)(1), May 16, 2024, 138 Stat. 1294.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49102	49 App.:2226c.	Nov. 5, 1990, Pub. L. 101–508, §9131, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, §118(b), 106 Stat. 4883.

The words "government of that country" are substituted for "that government" for consistency in the revised title and with other titles of the United States Code.

PUB. L. 104–287, §5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

EDITORIAL NOTES

REFERENCES IN TEXT

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 "Sec. 613(c)", 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

AMENDMENTS

2024—Pub. L. 118–63 struck out "(except section 47127)" after "subchapter I of chapter 471".
1996—Pub. L. 104–287, §5(89), substituted "section 47127" for "sections 47106(d) and 47127".
Pub. L. 104–287, §5(88)(D), renumbered section 49102 of this title as this section.

§50103. Contract preference for domestic firms

(a) DEFINITIONS.—In this section—

(1) "domestic firm" means a business entity incorporated, and conducting business, in the United States.

(2) "foreign firm" means a business entity not described in clause (1) of this subsection.

(b) PREFERENCE.—Subject to subsections (c) and (d) of this section, the Administrator of the Federal Aviation Administration may make, with a domestic firm, a contract related to a grant made under section 44511, 44512, or 44513 of this title that, under competitive procedures, would be made with a foreign firm, if—

(1) the Administrator decides, and the Secretary of Commerce and the United States Trade Representative concur, that the public interest requires making the contract with the domestic firm, considering United States international obligations and trade relations;

(2) the difference between the bids submitted by the foreign firm and the domestic firm is not more than 6 percent;

(3) the final product of the domestic firm will be assembled completely in the United States; and

(4) at least 51 percent of the final product of the domestic firm will be produced in the United States.

(c) NONAPPLICATION.—Subsection (b) of this section does not apply if—

(1) compelling national security considerations require that subsection (b) of this section not apply; or

(2) the Trade Representative decides that making the contract would violate the multilateral trade agreements (as defined in section 3501(4) of title 19) or an international agreement to which the United States is a party.

(d) APPLICATION TO CERTAIN GRANTS.—This section applies only to a contract related to a grant made under section 44511, 44512, or 44513 of this title for which—

(1) an amount is authorized by section 48102(a), (b), or (d) of this title to be made available for the fiscal years ending September 30, 1991, and September 30, 1992; and

(2) a solicitation for bid is issued after November 5, 1990.

(e) REPORT.—The Administrator shall submit a report to Congress on—

(1) contracts to which this section applies that are made with foreign firms in the fiscal years ending September 30, 1991, and September 30, 1992;

(2) the number of contracts that meet the requirements of subsection (b) of this section, but that the Trade Representative decides would violate the multilateral trade agreements (as defined in section 3501(4) of title 19) or an international agreement to which the United States is a party; and

(3) the number of contracts made under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1298, §49103; renumbered §50103, Pub. L. 104–287, §5(88)(D), Oct. 11, 1996, 110 Stat. 3398; amended Pub. L. 106–36, title I, §1002(i), June 25, 1999, 113 Stat. 134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49103(a)	49 App.:2226d(e).	Nov. 5, 1990, Pub. L. 101–508, §9207, 104 Stat. 1388–375.
49103(b)	49 App.:2226d(a).	
49103(c)	49 App.:2226d(b).	
49103(d)	49 App.:2226d(c).	
49103(e)	49 App.:2226d(d).	

In subsection (a), the text of 49 App.:2226d(e)(1) is omitted because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section.

In subsection (b), before clause (1), the words "Subject to subsections (c) and (d) of this section" are added to alert the reader to the limitations in those subsections. In clause (1), the words "requires making the contract with the domestic firm" are substituted for "so requires" for clarity. The words "considering United States international obligations and trade relations" are substituted for "In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations" to eliminate unnecessary words. In clause (4), the words "when completely assembled" are omitted as surplus. The words "produced in the United States" are substituted for "domestically produced" for consistency with clause (3).

In subsection (c), the words "(1) such applicability would not be in the public interest" are omitted as redundant to subsection (b)(1) of the revised section.

In subsection (e)(1), the words "foreign firms" are substituted for "foreign entities" for consistency in the revised section.

Subsection (e)(3) is substituted for "the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

1999—Subsecs. (c)(2), (e)(2). Pub. L. 106–36 substituted "multilateral trade agreements (as defined in section 3501(4) of title 19)" for "General Agreement on Tariffs and Trade".

1996—Pub. L. 104–287 renumbered section 49103 of this title as this section.

§50104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities

(a) DEFINITION AND RULES FOR CONSTRUING SECTION.—In this section—

(1) "project" has the same meaning given that term in section 47102 of this title.

(2) each foreign instrumentality and each territory and possession of a foreign country administered separately for customs purposes is a separate foreign country.

(3) an article substantially produced or manufactured in a foreign country is a product of the country.

(4) a service provided by a person that is a national of a foreign country or that is controlled by a national of a foreign country is a service of the country.

(b) LIMITATION ON USE OF AVAILABLE AMOUNTS.—(1) An amount made available under subchapter I of chapter 471 of this title may not be used for a project that uses a product or service of a foreign country during any period the country is on the list maintained by the United States Trade Representative under subsection (d)(1) of this section.

(2) Paragraph (1) of this subsection does not apply when the Secretary of Transportation decides that—

(A) applying paragraph (1) to the product, service, or project is not in the public interest;

(B) a product or service of the same class or type and of satisfactory quality is not produced or offered in the United States, or in a foreign country not listed under subsection (d)(1) of this section, in a sufficient and reasonably available amount; and

(C) the project cost will increase by more than 20 percent if the product or service is excluded.

(c) DECISIONS ON DENIAL OF FAIR MARKET OPPORTUNITIES.—Not later than 30 days after a report is submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the Trade Representative, for a construction project of more than $500,000 for which the government of a foreign country supplies any part of the amount, shall decide whether the foreign country denies fair market opportunities for products and suppliers of the United States in procurement or for United States bidders. In making the decision, the Trade Representative shall consider information obtained in preparing the report and other information the Trade Representative considers relevant.

(d) LIST OF COUNTRIES DENYING FAIR MARKET OPPORTUNITIES.—(1) The Trade Representative shall maintain a list of each foreign country the Trade Representative finds under subsection (c) of this section is denying fair market opportunities. The country shall remain on the list until the Trade Representative decides the country provides fair market opportunities.

(2) The Trade Representative shall publish in the Federal Register—

(A) annually the list required under paragraph (1) of this subsection; and

(B) any modification of the list made before the next list is published.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1299, §49104; renumbered §50104 and amended Pub. L. 104–287, §5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 118–63, title VII, §768(b)(2), May 16, 2024, 138 Stat. 1294.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49104(a)(1)	(no source).	
49104(a)(2)–(4)	49 App.:2226(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §533; added Dec. 30, 1987,

		Pub. L. 100–223, §115, 101 Stat. 1505.
49104(b)	49 App.:2226(a).	
49104(c)	49 App.:2226(b).	
49104(d)	49 App.:2226(c).	

Subsection (a)(1) is added for clarity.

In subsection (b)(1), the words "subchapter I of chapter 471 of this title (except sections 47106(d) and 47127)" are substituted for "Act" in section 533(a)(1) of the Airport and Airway Development Act of 1982, as added by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1505) to correct a mistake.

In subsection (b)(2), before clause (A), the words "with respect to the use of a product or service in a project" are omitted as surplus. In clause (B), the words "or service" are added for clarity and consistency in this section. In clause (C), the words "overall" and "contract" are omitted as surplus.

In subsection (c), the words "the date which is", "the date on which", "or not", and "and equitable" are omitted as surplus.

In subsection (d)(1), the words "finds under subsection (c) of this section is denying fair market opportunities" are substituted for "with respect to which an affirmative determination is made under subsection (b)" for clarity.

In subsection (d)(2)(A), the word "entire" is omitted as surplus.

PUB. L. 104–287, §5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–63 struck out "(except section 47127)" after "subchapter I of chapter 471 of this title".

1996—Pub. L. 104–287, §5(88)(D), renumbered section 49104 of this title as this section.

Subsec. (b)(1). Pub. L. 104–287, §5(89), substituted "section 47127" for "sections 47106(d) and 47127".

§50105. Fraudulent use of "Made in America" label

If the Secretary of Transportation decides that a person intentionally affixed a "Made in America" label to goods sold in or shipped to the United States that are not made in the United States, the Secretary shall declare the person ineligible, for not less than 3 nor more than 5 years, to receive a contract or grant from the United States Government related to a contract made under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471, or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353). The Secretary may bring a civil action to enforce this section in any district court of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1300, §49105; renumbered §50105 and amended Pub. L. 104–287, §5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 118–63, title VII, §768(b)(3), May 16, 2024, 138 Stat. 1295.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49105	49 App.:2226b.	Nov. 5, 1990, Pub. L. 101–508, §9130, 104 Stat. 1388–372; Oct. 31, 1992,

		Pub. L. 102–581, §118(a), 106 Stat. 4883.

PUB. L. 104–287, §5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

EDITORIAL NOTES

REFERENCES IN TEXT

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 "Sec. 613(c)", 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, Transportation, see table at the beginning of Title 49.

AMENDMENTS

2024—Pub. L. 118–63 struck out "(except section 47127)" after "subchapter I of chapter 471".
1996—Pub. L. 104–287, §5(89), substituted "section 47127" for "sections 47106(d) and 47127".
Pub. L. 104–287, §5(88)(D), renumbered section 49105 of this title as this section.

SUBTITLE VIII—PIPELINES

Chapter		Sec.
601.	**Safety**	**60101**
603.	**User Fees**	**60301**
605.	**Interstate Commerce Regulation**	**60501**

CHAPTER 601—SAFETY

Sec.
60101. Definitions.
60102. Purpose and general authority.
60103. Standards for liquefied natural gas pipeline facilities.
60104. Requirements and limitations.
60105. State pipeline safety program certifications.
60106. State pipeline safety agreements.
60107. State pipeline safety grants.
60108. Inspection and maintenance.
60109. High-density population areas and environmentally sensitive areas.
60110. Excess flow valves.
60111. Financial responsibility for liquefied natural gas facilities.
60112. Pipeline facilities hazardous to life and property.
60113. Customer-owned natural gas service lines.
60114. One-call notification systems.
60115. Technical safety standards committees.
60116. Public education programs.
60117. Administrative.
60118. Compliance and waivers.
60119. Judicial review.
60120. Enforcement.
60121. Actions by private persons.
60122. Civil penalties.
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60124. Biennial reports.
60125. Authorization of appropriations.
60126. Risk management.
60127. Population encroachment and rights-of-way.
60128. Dumping within pipeline rights-of-way.
60129. Protection of employees providing pipeline safety information.
60130. Pipeline safety information grants to communities.
60131. Verification of pipeline qualification programs.
60132. National pipeline mapping system.
60133. Coordination of environmental reviews.
60134. State damage prevention programs.
60135. Enforcement transparency.
60136. Petroleum product transportation capacity study.
60137. Pipeline control room management.
60138. Response plans.
60139. Maximum allowable operating pressure.
60140. Cover over buried pipelines.
60141. Standards for underground natural gas storage facilities.
60142. Pipeline safety enhancement programs.
60143. Idled pipelines.

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260, div. R, title I, §§104(b), 109(b), Dec. 27, 2020, 134 Stat. 2219, 2224, added items 60142 and 60143.

2016—Pub. L. 114–183, §12(d)(1), June 22, 2016, 130 Stat. 524, added item 60141.

2012—Pub. L. 112–90, §§6(c)(2), 23(b), 28(b), Jan. 3, 2012, 125 Stat. 1910, 1919, 1921, added items 60138 to 60140.

2006—Pub. L. 109–468, §§2(b)(3), 6(b), 8(b), 12(b), Dec. 29, 2006, 120 Stat. 3489, 3491, 3492, 3495, added items 60134 to 60137.

2002—Pub. L. 107–355, §§6(c), 9(c), 11(b), 13(a)(2), 15(b), 16(b), 20(a)(2)(B), Dec. 17, 2002, 116 Stat. 2993, 2995, 2997, 3001, 3006, 3008, 3010, substituted "Purpose and general authority" for "General authority" in item 60102 and "Population encroachment and rights-of-way" for "Population encroachment" in item 60127 and added items 60129 to 60133.

1996—Pub. L. 104–304, §§5(f)[(b)], 15(c)[(b)], 16(b), 18(b)(2), 20(e), Oct. 12, 1996, 110 Stat. 3800, 3803, 3804, substituted "State pipeline safety program certifications" for "State certifications" in item 60105, "State pipeline safety agreements" for "State agreements" in item 60106, "State pipeline safety grants" for "State grants" in item 60107, and "Biennial reports" for "Annual reports" in item 60124 and added items 60126, 60127, and 60128.

EXECUTIVE DOCUMENTS

EXPEDITING REVIEW OF PIPELINE PROJECTS FROM CUSHING, OKLAHOMA, TO PORT ARTHUR, TEXAS, AND OTHER DOMESTIC PIPELINE INFRASTRUCTURE PROJECTS

Memorandum of President of the United States, Mar. 22, 2012, 77 F.R. 18891, provided:

Memorandum for the Heads of Executive Departments and Agencies

In an economy that relies on oil, rising prices at the pump affect all of us. With crude oil prices controlling about three-quarters of gasoline prices, the most important driver of the price here at home is the world oil price—making our economy vulnerable to events halfway around the globe. There are no quick fixes to this problem. In the long run we need to reduce America's dependence on oil—which is why my Administration is implementing historic fuel economy standards for cars and trucks, launching new programs to improve energy efficiency in our buildings, and facilitating the safe and responsible development of our natural gas resources.

But for the foreseeable future, we will continue to rely on oil to help fuel our transportation system. As a result, we must safely and responsibly develop our oil resources here at home, as part of an all-of-the-above energy strategy to grow our economy and make us more secure.

Because of rising oil production, more efficient cars and trucks, and a world-class refining sector that last

year was a net exporter of petroleum products for the first time in 60 years, we have cut net imports by a million barrels a day in the last year alone. By reducing our dependence on foreign oil, we will make our Nation more secure and improve our trade balance—creating jobs and supporting domestic industry.

In order to realize these potential benefits, we need an energy infrastructure system that can keep pace with advances in production. To promote American energy sources, we must not only extract oil—we must also be able to transport it to our world-class refineries, and ultimately to consumers.

The need for infrastructure is particularly acute right now. Because of advances in drilling technology that allow us to tap new oil deposits, we are producing more oil from unconventional sources—places like the Eagle Ford Shale in South Texas, where production grew by more than 200 percent last year, or the Bakken formation of North Dakota and Montana, where output has increased tenfold in the last 5 years alone. In States like North Dakota, Montana, and Colorado, rising production is outpacing the capacity of pipelines to deliver the oil to refineries.

Cushing, Oklahoma, is a prime example. There, in part due to rising domestic production, more oil is flowing in than can flow out, creating a bottleneck that is dampening incentives for new production while restricting oil from reaching state-of-the-art refineries on the Gulf Coast. Moving forward on a pipeline from Cushing to Port Arthur, Texas, could create jobs, promote American energy production, and ultimately benefit consumers.

Although expanding and modernizing our Nation's pipeline infrastructure will not lower prices right away, it is a vital part of a sustained strategy to continue to reduce our reliance on foreign oil and enhance our Nation's energy security. Therefore, as part of my Administration's broader efforts to improve the performance of Federal permitting and review processes, we must make pipeline infrastructure a priority, ensuring the health, safety, and security of communities and the environment while supporting projects that can contribute to economic growth and a secure energy future. In doing so, the Federal Government must work in partnership with State, local, and tribal governments, which play a central role in the siting and permitting of pipelines; and, we must protect our natural resources and address the concerns of local communities.

SECTION 1. *Expedited Review of Pipeline Projects from Cushing to Port Arthur and Other Domestic Pipeline Infrastructure Projects*. (a) To address the existing bottleneck in Cushing, as well as other current or anticipated bottlenecks, agencies shall, to the maximum extent practicable and consistent with available resources and applicable laws (including those relating to public safety, public health, and environmental protection), coordinate and expedite their reviews, consultations, and other processes as necessary to expedite decisions related to domestic pipeline infrastructure projects that would contribute to a more efficient domestic pipeline system for the transportation of crude oil, such as a pipeline from Cushing to Port Arthur. This subsection shall be implemented consistent with my Executive Order of March 22, 2012 (Improving Performance of Federal Permitting and Review of Infrastructure Projects), and applicable projects shall have their status tracked on the online Federal Infrastructure Projects Dashboard referenced therein.

(b) In expediting reviews pursuant to subsection (a) of this section, agencies shall, to the maximum extent practicable and consistent with applicable law, utilize and incorporate information from prior environmental reviews and studies conducted in connection with previous applications for similar or overlapping infrastructure projects so as to avoid duplicating effort.

SEC. 2. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget related to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§60101. Definitions

(a) GENERAL.—In this chapter—

(1) "existing liquefied natural gas facility"—

(A) means a liquefied natural gas facility for which an application to approve the site, construction, or operation of the facility was filed before March 1, 1978, with—

(i) the Federal Energy Regulatory Commission (or any predecessor); or

(ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a facility on which construction is begun after November 29, 1979, without the approval;

(2) "gas" means natural gas, flammable gas, or toxic or corrosive gas;

(3) "gas pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation;

(4) "hazardous liquid" means—

(A) petroleum or a petroleum product;

(B) nonpetroleum fuel, including biofuel, that is flammable, toxic, or corrosive or would be harmful to the environment if released in significant quantities; and

(C) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas);

(5) "hazardous liquid pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid;

(6) "interstate gas pipeline facility" means a gas pipeline facility—

(A) used to transport gas; and

(B) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);

(7) "interstate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce;

(8) "interstate or foreign commerce"—

(A) related to gas, means commerce—

(i) between a place in a State and a place outside that State; or

(ii) that affects any commerce described in subclause (A)(i) of this clause; and

(B) related to hazardous liquid, means commerce between—

(i) a place in a State and a place outside that State; or

(ii) places in the same State through a place outside the State;

(9) "intrastate gas pipeline facility" means a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);

(10) "intrastate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility;

(11) "liquefied natural gas" means natural gas in a liquid or semisolid state;

(12) "liquefied natural gas accident" means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment;

(13) "liquefied natural gas conversion" means conversion of natural gas into liquefied natural gas or conversion of liquefied natural gas into natural gas;

(14) "liquefied natural gas pipeline facility"—

(A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but

(B) does not include any part of a structure or equipment located in navigable waters (as

defined in section 3 of the Federal Power Act (16 U.S.C. 796));

(15) "municipality" means a political subdivision of a State;
(16) "new liquefied natural gas pipeline facility" means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline facility;
(17) "person", in addition to its meaning under section 1 of title 1 (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person;
(18) "pipeline facility" means a gas pipeline facility and a hazardous liquid pipeline facility;
(19) "pipeline transportation" means transporting gas and transporting hazardous liquid;
(20) "State" means a State of the United States, the District of Columbia, and Puerto Rico;
(21) "transporting gas"—
(A) means—
(i) the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; and
(ii) the movement of gas through regulated gathering lines; but

(B) does not include gathering gas (except through regulated gathering lines) in a rural area outside a populated area designated by the Secretary as a nonrural area;

(22) "transporting hazardous liquid"—
(A) means—
(i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; and
(ii) the movement of hazardous liquid through regulated gathering lines; but

(B) does not include moving hazardous liquid through—
(i) gathering lines (except regulated gathering lines) in a rural area;
(ii) onshore production, refining, or manufacturing facilities; or
(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities;

(23) "risk management" means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;
(24) "risk management plan" means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management;
(25) "Secretary" means the Secretary of Transportation; and
(26) "underground natural gas storage facility" means a gas pipeline facility that stores natural gas in an underground facility, including—
(A) a depleted hydrocarbon reservoir;
(B) an aquifer reservoir; or
(C) a solution-mined salt cavern reservoir.

(b) GATHERING LINES.—(1)(A) Not later than October 24, 1994, the Secretary shall prescribe standards defining the term "gathering line".
(B) In defining "gathering line" for gas, the Secretary—
(i) shall consider functional and operational characteristics of the lines to be included in the definition; and
(ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.).

(2)(A) Not later than October 24, 1995, the Secretary, if appropriate, shall prescribe standards defining the term "regulated gathering line". In defining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter because of specific physical characteristics.

(B)(i) The Secretary also shall consider diameter when defining "regulated gathering line" for hazardous liquid.

(ii) The definition of "regulated gathering line" for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.

(Pub. L. 103–272, §§1(e), 4(s), July 5, 1994, 108 Stat. 1301, 1371; Pub. L. 104–287, §5(90), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 104–304, §§3, 20(f), Oct. 12, 1996, 110 Stat. 3793, 3805; Pub. L. 109–468, §7, Dec. 29, 2006, 120 Stat. 3491; Pub. L. 112–90, §14, Jan. 3, 2012, 125 Stat. 1914; Pub. L. 114–183, §12(a), June 22, 2016, 130 Stat. 522.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60101(a)(1)	49 App.:1671(10).	Aug. 12, 1968, Pub. L. 90–481, §2(10), 82 Stat. 720; Oct. 11, 1976, Pub. L. 94–477, §3(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §151, 93 Stat. 998.
	49 App.:1671(14).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §2(11)–(17); added Nov. 30, 1979, Pub. L. 96–129, §151, 93 Stat. 998.
	49 App.:2001(11).	Nov. 30, 1979, Pub. L. 96–129, §202(1)–(4) (1st–27th words), (5)–(9), (11), 93 Stat. 1003, 1004.
60101(a)(2)	49 App.:1671(2).	Aug. 12, 1968, Pub. L. 90–481, §2(1), (2), (4) (1st–32d words), (5), (6), 82 Stat. 720.
60101(a)(3)	49 App.:1671(4) (1st–32d words).	
60101(a)(4)	49 App.:2001(2).	
60101(a)(5)	49 App.:2001(4) (1st–27th words).	
60101(a)(6)	49 App.:1671(8).	Aug. 12, 1968, Pub. L. 90–481, §2(8), 82 Stat. 720; Oct. 11, 1976, Pub. L. 94–477, §3(1), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §109(b) (related to §2(8)), 93 Stat. 996.
60101(a)(7)	49 App.:2001(5).	
60101(a) (8)(A)	49 App.:1671(17).	
60101(a) (8)(B)	49 App.:2001(7).	
60101(a)(9)	49 App.:1671(9).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §2(9); added Oct. 11, 1976,

		Pub. L. 94–477, §3(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§109(b) (related to §2(9)), 151, 93 Stat. 996, 998.
60101(a)(10)	49 App.:2001(6).	
60101(a)(11)	49 App.:1671(11).	
60101(a)(12)	49 App.:1671(16).	
60101(a)(13)	49 App.:1671(13).	
60101(a)(14)	49 App.:1671(12).	
60101(a)(15)	49 App.:1671(6).	
	49 App.:2001(9).	
60101(a)(16)	49 App.:1671(15).	
60101(a)(17)	49 App.:1671(1).	
	49 App.:2001(1).	
60101(a)(18), (19)	(no source).	
60101(a)(20)	49 App.:1671(5).	
	49 App.:2001(8).	
60101(a)(21)	49 App.:1671(3).	Aug. 12, 1968, Pub. L. 90–481, §2(3), 82 Stat. 720; Nov. 30, 1979, Pub. L. 96–129, §152(b)(1), 93 Stat. 1001.
60101(a)(22)	49 App.:2001(3).	
60101(b)	49 App.:1688.	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §21; added Oct. 24, 1992, Pub. L. 102–508, §109(b), 106 Stat. 3295.
	49 App.:2016.	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §220; added Oct. 24, 1992, Pub. L. 102–508, §208(b), 106 Stat. 3303.

In this chapter, the words "liquefied natural gas" are substituted for "LNG" for clarity. The word "authority" is substituted for "agency" for consistency in the revised title and with other titles of the United States Code. The words "gas" and "hazardous liquid" are added where applicable because of the restatement.

In subsection (a), before clause (1), the text of 49 App.:1671(10) and 2001(11) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in a section. The words "As used" are omitted as surplus. In clause (1)(A), the words "Federal Energy Regulatory Commission" and "Commission" are substituted for "Department of Energy" because under 42:7171(a) and 7172(a)(1) the Commission is statutorily independent of the Department and has the responsibility for siting, construction, and operating applications. In clauses (3) and (5), the words "without limitation, new and existing" are omitted as surplus. In clause (4)(B), the words "or material" are omitted as surplus. In clause (6), before subclause (A), the word "pipeline" is substituted for "transmission" for clarity and consistency. In clause (8)(A), before subclause (i), the words "trade, traffic, transportation, exchange, or other" are omitted as surplus. In subclause (ii), the words "trade, transportation, exchange, or other" are omitted as surplus. In clause (8)(B), the word "place" is substituted for "point" for clarity and consistency in the revised title. In clause (9), before subclause (A), the word "facility" is substituted for "transportation" for clarity and consistency. In clause (12), the words "resulting from" and the text of 49 App.:1671(16)(A)–(D) are omitted as surplus. In clause (13), the words "(liquefaction or solidification)" and "(vaporization)" are omitted as surplus. In clauses (14) and (16), the word "pipeline" is added for clarity. In clause (15), the words "city, county, or any other" are omitted as surplus. In clause (17), the words "in addition to its meaning under section 1 of title 1 (except as to societies)" are substituted for "any individual, firm, joint venture, partnership, corporation, association . . . cooperative association, or joint stock association" to eliminate unnecessary words, for clarity, and for consistency in the revised title and with other titles of the Code. Clauses (18) and (19) are added because of the restatement. In clause (20), the words "of the United States" are substituted for "of the several" for consistency in the revised title and with other titles of the Code. In clause (21)(B), the words "outside a populated area" are substituted for "which lie outside the limits of any incorporated or unincorporated city, town, village, or any other

designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area" to eliminate unnecessary words. In clause (22)(B)(i), the word "area" is substituted for "locations" for consistency.

PUB. L. 103–272, §4(s)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60101(a)(21), (22)	49 App.:1671 (note).	Oct. 24, 1992, Pub. L. 102–508, §109(a), 106 Stat. 3294.
	49 App.:2001 (note).	Oct. 24, 1992, Pub. L. 102–508, §208(a), 106 Stat. 3303.

Section 4(s) reflects an amendment to the restatement required by sections 109(a) and 208(a) of the Pipeline Safety Act of 1992 (Public Law 102–508, 106 Stat. 3294, 3303).

PUB. L. 104–287

This amends 49:60101 for consistency with the style of title 49.

EDITORIAL NOTES

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsecs. (a)(1)(A)(ii), (6)(B), (9) and (b)(1)(B)(ii), is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified generally to chapter 15B (§717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

CODIFICATION

The amendments by section 4(s) of Pub. L. 103–272 to pars. (21) and (22) of subsec. (a) of this section were executed after the amendments by Pub. L. 104–304 to those pars. pursuant to the effective date provisions of section 4(s). See Effective Date of 1994 Amendment note and 1994 and 1996 Amendment notes below.

AMENDMENTS

2016—Subsec. (a)(21)(B). Pub. L. 114–183, §12(a)(1), substituted "nonrural area;" for "nonrural area."

Subsec. (a)(22)(B)(iii). Pub. L. 114–183, §12(a)(2), substituted "facilities;" for "facilities."

Subsec. (a)(26). Pub. L. 114–183, §12(a)(3)–(5), added par. (26).

2012—Subsec. (a)(4)(B), (C). Pub. L. 112–90 added subpar. (B) and redesignated former subpar. (B) as (C).

2006—Subsec. (a)(6). Pub. L. 109–468, §7(1), added par. (6) and struck out former par. (6) which defined "interstate gas pipeline facility".

Subsec. (a)(9). Pub. L. 109–468, §7(2), added par. (9) and struck out former par. (9) which defined "intrastate gas pipeline facility".

1996—Subsec. (a). Pub. L. 104–287 inserted heading.

Subsec. (a)(1) to (20). Pub. L. 104–304, §3(a)(1), substituted semicolon for period at end of pars. (1) to (20).

Subsec. (a)(21)(B). Pub. L. 104–304, §3(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "does not include gathering gas in a rural area outside a populated area designated by the Secretary as a nonrural area;". See Codification note above.

Pub. L. 104–304, §3(a)(1), substituted semicolon for period at end. See Codification note above.

Subsec. (a)(22). Pub. L. 104–304, §3(a)(1), substituted semicolon for period at end. See Codification note above.

Subsec. (a)(23) to (25). Pub. L. 104–304, §3(a)(3), added pars. (23) to (25).

Subsec. (b)(1)(A). Pub. L. 104–304, §20(f), substituted "prescribe standards defining" for "define by regulation".

Subsec. (b)(2)(A). Pub. L. 104–304, §§3(b), 20(f), inserted ", if appropriate," after "Not later than October 24, 1995, the Secretary" and substituted "prescribe standards defining" for "define by regulation".

1994—Subsec. (a)(21), (22). Pub. L. 103–272, §4(s), amended pars. (21) and (22) generally. Prior to amendment, pars. (21) and (22) defined "transporting gas" and "transporting hazardous liquid".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–272, §4(s), July 5, 1994, 108 Stat. 1371, provided that the amendment made by that section is effective on the date the regulation required under subsec. (b) of this section is effective. See regulations effective Apr. 14, 2006, 71 F.R. 13289, and July 3, 2008, 73 F.R. 31634.

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–260, div. R, §1(a), Dec. 27, 2020, 134 Stat. 2210, provided that: "This division [enacting sections 60142, 60143, and 60303 of this title, amending sections 6107, 60102, 60105, 60108, 60109, 60117, 60118, 60122, 60125, 60129, 60130 and 60134 of this title, enacting provisions set out as notes under this section and sections 60102, 60103, 60105, 60108, and 60109 of this title, and amending provisions set out as notes under this section and section 60109 of this title] may be cited as the 'Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020' or the 'PIPES Act of 2020'."

Pub. L. 116–260, div. R, title II, §201, Dec. 27, 2020, 134 Stat. 2237, provided that: "This title [amending sections 60102, 60105, and 60109 of this title and enacting provisions set out as notes under sections 60103 and 60105 of this title] may be cited as the 'Leonel Rondon Pipeline Safety Act'."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–183, §1(a), June 22, 2016, 130 Stat. 514, provided that: "This Act [enacting sections 60141 and 60302 of this title, amending this section and sections 6107, 60103, 60106 to 60109, 60115, 60117, 60124, 60125, and 60130 of this title, enacting provisions set out as notes under sections 108, 60102, 60103, 60108, 60109, and 60117 of this title, and amending provisions set out as a note under this section] may be cited as the 'Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016' or the 'PIPES Act of 2016'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–90, §1(a), Jan. 3, 2012, 125 Stat. 1904, provided that: "This Act [enacting sections 60138 to 60140 of this title, amending this section, sections 6103, 6107, 60102, 60107 to 60109, 60117 to 60120, 60122, 60125, 60130, 60132, and 60134 of this title, and section 1321 of Title 33, Navigation and Navigable Waters, enacting provisions set out as notes under this section and sections 6103, 60108, 60109, 60117, and 60132 of this title, and amending provisions set out as a note under this section] may be cited as the 'Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–468, §1(a), Dec. 29, 2006, 120 Stat. 3486, provided that: "This Act [enacting sections 6109 and 60134 to 60137 of this title, amending this section and sections 6107, 60102, 60105, 60107, 60109, 60114, 60117, 60118, 60122, 60125, and 60130 of this title, enacting provisions set out as notes under this section and sections 60102 and 60117 of this title, and amending provisions set out as a note under this section] may be cited as the 'Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–355, §1(a), Dec. 17, 2002, 116 Stat. 2985, provided that: "This Act [enacting sections 60129 to 60133 of this title, amending sections 6103 to 6105, 6107, 60102, 60104, 60106, 60109, 60110, 60112, 60114 to 60118, 60120, 60122, 60123, 60125, and 60127 of this title, and enacting provisions set out as notes under sections 1135, 60101, 60102, 60108, 60109, 60114, 60122, and 60131 of this title and section 717m of Title 15, Commerce and Trade] may be cited as the 'Pipeline Safety Improvement Act of 2002'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–304, §1, Oct. 12, 1996, 110 Stat. 3793, provided that: "This Act [enacting sections 60126 to 60128 of this title, amending this section and sections 60102, 60105 to 60110, 60113 to 60118, 60123 to 60125 of this title, and enacting provisions set out as a note under section 60301 of this title] may be cited as the 'Accountable Pipeline Safety and Partnership Act of 1996'."

RULE OF CONSTRUCTION

Pub. L. 116–260, div. R, title I, §123, Dec. 27, 2020, 134 Stat. 2236, provided that: "Nothing in this title [enacting sections 60142, 60143, and 60303 of this title, amending sections 6107, 60102, 60108, 60109, 60117, 60118, 60122, 60125, 60129, 60130 and 60134 of this title, enacting provisions set out as notes under this section and sections 60102, 60103, 60108, and 60109 of this title, and amending provisions set out as

notes under this section and section 60109 of this title] or an amendment made by this title may be construed to affect the authority of the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.), the authority of the Secretary of the Interior under the Mineral Leasing Act (30 U.S.C. 181 et seq.), or the authority of any State, to regulate a release of pollutants or hazardous substances to air, water, or land, including through the establishment and enforcement of requirements relating to such release."

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

PIPELINE WORKFORCE DEVELOPMENT

Pub. L. 116–260, div. R, title I, §102, Dec. 27, 2020, 134 Stat. 2214, provided that:

"(a) INSPECTOR TRAINING.—Not later than 1 year after the date of enactment of this Act [Dec. 27, 2020], the Administrator [of the Pipeline and Hazardous Materials Safety Administration] shall—

"(1) review the inspector training programs provided at the Inspector Training and Qualifications Division of the Administration in Oklahoma City, Oklahoma; and

"(2) determine whether any of the programs referred to in paragraph (1), or any portions of the programs, could be provided online through teletraining or another type of distance learning.

"(b) STAFFING.—

"(1) IN GENERAL.—The Secretary [of Transportation] shall increase the number of full-time equivalent employees (as compared to the number of positions on the date of enactment of this Act) by 8 full-time employees with subject matter expertise in pipeline safety, pipeline facilities, and pipeline systems to finalize outstanding rulemakings and fulfill congressional mandates.

"(2) PIPELINE INSPECTION AND ENFORCEMENT PERSONNEL.—The Secretary shall ensure that the number of full-time positions for pipeline inspection and enforcement personnel in the Office of Pipeline Safety of the Administration does not fall below the following:

"(A) 224 for fiscal year 2021.

"(B) 235 for fiscal year 2022.

"(C) 247 for fiscal year 2023.

"(c) RECRUITMENT AND RETENTION INCENTIVES.—

"(1) IN GENERAL.—The Secretary shall use incentives, as necessary, to recruit and retain a qualified workforce, including inspection and enforcement personnel and attorneys and subject matter experts at the Office of Pipeline Safety of the Administration, including—

"(A) special pay rates permitted under section 5305 of title 5, United States Code;

"(B) repayment of student loans permitted under section 5379 of that title;

"(C) tuition assistance permitted under chapter 41 of that title;

"(D) recruitment incentives permitted under section 5753 of that title; and

"(E) retention incentives permitted under section 5754 of that title.

"(2) CONTINUED SERVICE AGREEMENT.—The Secretary shall ensure that the incentives described in paragraph (1) are accompanied by a continued service agreement.

"(3) APPROVAL.—The Secretary shall request, as necessary, the approval of the Office of Personnel Management to use the incentives described in paragraph (1)."

TECHNICAL ASSISTANCE PROGRAM

Pub. L. 109–468, §24, Dec. 29, 2006, 120 Stat. 3500, provided that:

"(a) IN GENERAL.—The Secretary of Transportation may award, through a competitive process, grants to universities with expertise in pipeline safety and security to establish jointly a collaborative program to conduct pipeline safety and technical assistance programs.

"(b) DUTIES.—In cooperation with the Pipeline and Hazardous Materials Safety Administration and representatives from States and boards of public utilities, the participants in the collaborative program established under subsection (a) shall be responsible for development of workforce training and technical assistance programs through statewide and regional partnerships that provide for—

"(1) communication of national, State, and local safety information to pipeline operators;

"(2) distribution of technical resources and training to support current and future Federal mandates; and

"(3) evaluation of program outcomes.

"(c) TRAINING AND EDUCATIONAL MATERIALS.—The collaborative program established under

subsection (a) may include courses in recent developments, techniques, and procedures related to—

"(1) safety and security of pipeline systems;

"(2) incident and risk management for such systems;

"(3) integrity management for such systems;

"(4) consequence modeling for such systems;

"(5) detection of encroachments and monitoring of rights-of-way for such systems; and

"(6) vulnerability assessment of such systems at both project and national levels.

"(d) REPORTS.—

"(1) UNIVERSITY.—Not later than March 31, 2009, the universities awarded grants under subsection (a) shall submit to the Secretary a report on the results of the collaborative program.

"(2) SECRETARY.—Not later than October 1, 2009, the Secretary shall transmit the reports submitted to the Secretary under paragraph (1), along with any findings, recommendations, or legislative options for Congress to consider, to the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2010."

PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT

Pub. L. 107–355, §12, Dec. 17, 2002, 116 Stat. 2997, as amended by Pub. L. 109–468, §26, Dec. 29, 2006, 120 Stat. 3501; Pub. L. 112–90, §32(f), Jan. 3, 2012, 125 Stat. 1923; Pub. L. 114–183, §§2(e), 22(b)(2), June 22, 2016, 130 Stat. 516, 529; Pub. L. 116–260, div. R, title I, §101(g), Dec. 27, 2020, 134 Stat. 2214, provided that:

"(a) IN GENERAL.—The heads of the participating agencies shall carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipeline facilities.

"(b) MEMORANDUM OF UNDERSTANDING.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [Dec. 17, 2002], the heads of the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities in the program authorized by subsection (a).

"(2) AREAS OF EXPERTISE.—Under the memorandum of understanding, each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program within its expertise are implemented in accordance with this section. The Department of Transportation's responsibilities shall reflect its lead role in pipeline safety and expertise in pipeline inspection, integrity management, and damage prevention. The Department of Energy's responsibilities shall reflect its expertise in system reliability, low-volume gas leak detection, and surveillance technologies. The National Institute of Standards and Technology's responsibilities shall reflect its expertise in materials research and assisting in the development of consensus technical standards, as that term is used in section 12(d)(4) [probably should be "12(d)(5)"] of Public Law 104–13 [Pub. L. 104–113] (15 U.S.C. 272 note).

"(c) PROGRAM ELEMENTS.—The program authorized by subsection (a) shall include research, development, demonstration, and standardization activities related to—

"(1) materials inspection;

"(2) stress and fracture analysis, detection of cracks, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;

"(3) internal inspection and leak detection technologies, including detection of leaks at very low volumes;

"(4) methods of analyzing content of pipeline throughput;

"(5) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;

"(6) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;

"(7) communication, control, and information systems surety;

"(8) fire safety of pipelines;

"(9) improved excavation, construction, and repair technologies;

"(10) corrosion detection and improving methods, best practices, and technologies for identifying, detecting, preventing, and managing internal and external corrosion and other safety risks; and

"(11) other appropriate elements.

The results of activities carried out under paragraph (10) shall be used by the participating agencies to support

development and improvement of national consensus standards.

"(d) PROGRAM PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section [Dec. 17, 2002], the Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review, and the report to Congress shall include the comments of the committees. The 5-year program plan shall be based on the memorandum of understanding under subsection (b) and take into account related activities of other Federal agencies.

"(2) CONSULTATION.—In preparing the program plan and selecting and prioritizing appropriate project proposals, the Secretary of Transportation shall consult with or seek the advice of appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries, utilities, manufacturers, institutions of higher learning, Federal agencies, pipeline research institutions, national laboratories, State pipeline safety officials, labor organizations, environmental organizations, pipeline safety advocates, and professional and technical societies.

"(3) ONGOING PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—After the initial 5-year program plan has been carried out by the participating agencies, the Secretary of Transportation, in coordination with the Director of the National Institute of Standards and Technology, as appropriate, shall prepare a research and development program plan every 5 years thereafter and shall transmit a report to Congress on the status and results-to-date of implementation of the program every 2 years. The biennial report shall include a summary of updated research needs and priorities identified through the consultation requirements of paragraph (2).

"(B) CONSULTATION.—The Secretary shall comply with the consultation requirements of paragraph (2) when preparing the program plan and in the selection and prioritization of research and development projects.

"(C) FUNDING FROM NON-FEDERAL SOURCES.—The Secretary shall ensure that—

"(i) at least 30 percent of the costs of technology research and development activities may be carried out using non-Federal sources;

"(ii) at least 20 percent of the costs of basic research and development with universities may be carried out using non-Federal sources; and

"(iii) up to 100 percent of the costs of research and development for purely governmental purposes may be carried out using Federal funds.

"(e) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2002], and annually thereafter, the heads of the participating agencies shall transmit jointly to Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (d).

"(f) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2021 through 2023.

"(g) PARTICIPATING AGENCIES DEFINED.—In this section, the term 'participating agencies' means the Department of Transportation, the Department of Energy, and the National Institute of Standards and Technology.

"(h) INDEPENDENT EXPERTS.—Not later than 180 days after the date of enactment of the PIPES Act of 2016 [June 22, 2016], the Secretary shall—

"(1) implement processes and procedures to ensure that activities listed under subsection (c), to the greatest extent practicable, produce results that are peer-reviewed by independent experts and not by persons or entities that have a financial interest in the pipeline, petroleum, or natural gas industries, or that would be directly impacted by the results of the projects; and

"(2) submit to the Committee on Transportation and Infrastructure, the Committee on Energy and Commerce, and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the processes and procedures implemented under paragraph (1).

"(i) CONFLICT OF INTEREST.—The Secretary shall take all practical steps to ensure that each recipient of an agreement under this section discloses in writing to the Secretary any conflict of interest on a research and development project carried out under this section, and includes any such disclosure as part of the final deliverable pursuant to such agreement. The Secretary may not make an award under this section directly to a

pipeline owner or operator that is regulated by the Pipeline and Hazardous Materials Safety Administration or a State-certified regulatory authority if there is a conflict of interest relating to such owner or operator."

DEFINITIONS

Pub. L. 116–260, div. R, §2, Dec. 27, 2020, 134 Stat. 2211, provided that: "In this Act [div. R of Pub. L. 116–260, see Short Title of 2020 Amendment note above]:

"(1) ADMINISTRATION.—The term 'Administration' means the Pipeline and Hazardous Materials Safety Administration.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Administration.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation."

Pub. L. 112–90, §1(c), Jan. 3, 2012, 125 Stat. 1904, provided that:

"(1) APPLICABILITY OF CHAPTER 601 DEFINITIONS.—In this Act [see Short Title of 2012 Amendment note above], any term defined in chapter 601 of title 49, United States Code, has the meaning given that term in that chapter.

"(2) HIGH-CONSEQUENCE AREA.—In this Act, the term 'high-consequence area' means an area described in section 60109(a) of title 49, United States Code."

§60102. Purpose and general authority

(a) PURPOSE AND MINIMUM SAFETY STANDARDS.—

(1) PURPOSE.—The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

(2) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(A) apply to any or all of the owners or operators of pipeline facilities;

(B) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.

(3) QUALIFICATIONS OF PIPELINE OPERATORS.—The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

(A) practicable; and

(B) designed to meet the need for—

(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

(ii) protecting the environment.

(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

(A) relevant available—

(i) gas pipeline safety information;

(ii) hazardous liquid pipeline safety information; and

(iii) environmental information;

(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(C) the reasonableness of the standard;

(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

(F) comments and information received from the public; and

(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

(3) RISK ASSESSMENT.—In conducting a risk assessment referred to in subparagraphs (D) and (E) of paragraph (2), the Secretary shall—

(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

(B) identify the costs and benefits associated with the proposed standard;

(C) include—

(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

(4) REVIEW.—

(A) IN GENERAL.—The Secretary shall—

(i) submit any risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

(ii) make that risk assessment information available to the general public.

(B) PEER REVIEW PANELS.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes—

(i) an evaluation of the merit of the data and methods used; and

(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

(C) REVIEW BY SECRETARY.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

(i) shall review the report;

(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

(5) SECRETARIAL DECISIONMAKING.—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this chapter only upon a reasoned determination that the benefits, including safety and environmental benefits, of the intended standard justify its costs.

(6) EXCEPTIONS FROM APPLICATION.—The requirements of subparagraphs (D) and (E) of paragraph (2) do not apply when—

(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;

(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or

(C) the Secretary finds, pursuant to section 553(b)(3)(B) of title 5, United States Code, that notice and public procedure are not required.

(7) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that—

(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have affected regulatory decisionmaking and pipeline safety; and

(B) includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.

(c) PUBLIC SAFETY PROGRAM REQUIREMENTS.—(1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.

(4) PROMOTING PUBLIC AWARENESS.—

(A) Not later than one year after the date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996,[1] and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility.

(B)(i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

(ii) Not later than one year after the survey and assessment are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.

(d) FACILITY OPERATION INFORMATION STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain, to the extent practicable, information related to operating the facility as required by the standards prescribed under this chapter and, when requested, to make the information available to the Secretary and an appropriate State official as determined by the Secretary. The information shall include—

(1) the business name, address, and telephone number, including an operations emergency telephone number, of the operator;

(2) accurate maps and a supplementary geographic description, including an identification of areas described in regulations prescribed under section 60109 of this title, that show the location in the State of—

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of—

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including—

(A) identifying specific action the operator will take on discovering a release;

(B) liaison procedures with State and local authorities for emergency response; and

(C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and

(6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.

(e) PIPE INVENTORY STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transportation of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory—

(1) for a gas pipeline facility, shall include an identification of each facility passing through an area described in regulations prescribed under section 60109 of this title but shall exclude equipment used with the compression of gas; and

(2) for a hazardous liquid pipeline facility, shall include an identification of each facility and gathering line passing through an area described in regulations prescribed under section 60109 of this title, whether the facility or gathering line otherwise is subject to this chapter, but shall exclude equipment associated only with the pipeline pumps or storage facilities.

(f) STANDARDS AS ACCOMMODATING "SMART PIGS".—

(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that—

(A) the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and

(B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices (commonly referred to as "smart pigs"). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.

(2) PERIODIC INSPECTIONS.—Not later than October 24, 1995, the Secretary shall prescribe, if necessary, additional standards requiring the periodic inspection of each pipeline the operator of the pipeline identifies under section 60109 of this title. The standards shall include any circumstances under which an inspection shall be conducted with an instrumented internal inspection device and, if the device is not required, use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.

(g) EFFECTIVE DATES.—A standard prescribed under this section and section 60110 of this title is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(h) SAFETY CONDITION REPORTS.—(1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any—

(A) condition that is a hazard to life, property, or the environment; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) SUBMISSION OF REPORT.—As soon as practicable, but not later than 5 business days, after a representative of a person to whom this section applies first establishes that a condition described in paragraph (1) exists, the operator shall submit the report required under that paragraph to—

(A) the Secretary;

(B) the appropriate State authority or, where no appropriate State authority exists, to the Governor of a State where the subject of the Safety Related Condition report occurred; and

(C) the appropriate Tribe where the subject of the Safety Related Condition report occurred.

(3) SUBMISSION OF REPORT TO OTHER ENTITIES.—Upon request, a State authority or a Governor that receives a report submitted under this subsection may submit the report to any relevant emergency response or planning entity, including any—

(A) State emergency response commission established pursuant to section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001);

(B) Tribal emergency response commission or emergency planning committee (as defined in part 355 of title 40, Code of Federal Regulations (or a successor regulation));

(C) local emergency planning committee established pursuant to section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001); or

(D) other public agency responsible for emergency response.

(i) CARBON DIOXIDE REGULATION.—

(1) TRANSPORTATION IN LIQUID STATE.—The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe standards related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

(2) TRANSPORTATION IN GASEOUS STATE.—

(A) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state.

(B) CONSIDERATIONS.—In establishing the standards, the Secretary shall consider whether applying the minimum safety standards in part 195 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this paragraph, for the transportation of carbon dioxide in a liquid state to the transportation of carbon dioxide in a gaseous state would ensure safety.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection authorizes the Secretary to regulate piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treatment of carbon dioxide or the preparation of carbon dioxide for transportation by pipeline at production, refining, or manufacturing facilities.

(j) EMERGENCY FLOW RESTRICTING DEVICES.—(1) Not later than October 24, 1994, the Secretary shall survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities.

(2) Not later than 2 years after the survey and assessment are completed, the Secretary shall prescribe standards on the circumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device or other procedure, system, or equipment described in paragraph (1) of this subsection on the facility.

(k) LOW-STRESS HAZARDOUS LIQUID PIPELINES.—

(1) MINIMUM STANDARDS.—Not later than December 31, 2007, the Secretary shall issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The implementation of the applicable standards and regulatory requirements may be phased in. The regulations issued under this paragraph shall not apply to gathering lines.

(2) GENERAL PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION .—Except as provided in paragraph (3), the Secretary may not provide an exception to the requirements of this chapter for a hazardous liquid pipeline because the pipeline operates at low internal stress.

(3) LIMITED EXCEPTIONS.—The Secretary shall provide or continue in force exceptions to this subsection for low-stress hazardous liquid pipelines that—

(A) are subject to safety regulations of the United States Coast Guard; or

(B) serve refining, manufacturing, or truck, rail, or vessel terminal facilities if the pipeline is less than 1 mile long (measured outside the facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation,

until regulations issued under paragraph (1) become effective. After such regulations become effective, the Secretary may retain or remove those exceptions as appropriate.

(4) RELATIONSHIP TO OTHER LAWS.—Nothing in this subsection shall be construed to prohibit or otherwise affect the applicability of any other statutory or regulatory exemption to any hazardous liquid pipeline.

(5) DEFINITION.—For purposes of this subsection, the term "low-stress hazardous liquid pipeline" means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

(6) EFFECTIVE DATE.—The requirements of this subsection shall not take effect as to low-stress hazardous liquid pipeline operators before the effective date of the rules promulgated by the Secretary under this subsection.

(l) UPDATING STANDARDS.—The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety

regulatory program under this chapter.

(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.

(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES FOR NEW TRANSMISSION PIPELINES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, and after considering the factors specified in subsection (b)(2), the Secretary, if appropriate, shall require by regulation the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipeline facilities constructed or entirely replaced after the date on which the Secretary issues the final rule containing such requirement.

(2) HIGH-CONSEQUENCE AREA STUDY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on the ability of transmission pipeline facility operators to respond to a hazardous liquid or gas release from a pipeline segment located in a high-consequence area.

(B) CONSIDERATIONS.—In conducting the study, the Comptroller General shall consider the swiftness of leak detection and pipeline shutdown capabilities, the location of the nearest response personnel, and the costs, risks, and benefits of installing automatic and remote-controlled shut-off valves.

(C) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall submit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(o) TRANSPORTATION-RELATED OIL FLOW LINES.—

(1) DATA COLLECTION.—The Secretary may collect geospatial or technical data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines.

(2) TRANSPORTATION-RELATED OIL FLOW LINE DEFINED.—In this subsection, the term "transportation-related oil flow line" means a pipeline transporting oil off of the grounds of the well where it originated and across areas not owned by the producer, regardless of the extent to which the oil has been processed, if at all.

(3) LIMITATION.—Nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities or through oil production flow lines located on the grounds of wells.

(p) LIMITATION ON INCORPORATION OF DOCUMENTS BY REFERENCE.—Beginning 3 years after the date of enactment of this subsection, the Secretary may not issue a regulation pursuant to this chapter that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge.

(q) GAS PIPELINE LEAK DETECTION AND REPAIR.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate final regulations that require operators of regulated gathering lines (as defined pursuant to subsection (b) of section 60101 for purposes of subsection (a)(21) of that section) in a Class 2 location, Class 3 location, or Class 4 location, as determined under section 192.5 of title 49, Code of Federal Regulations, operators of new and existing gas transmission pipeline facilities, and operators of new and existing gas distribution pipeline facilities to conduct leak detection and repair programs—

(A) to meet the need for gas pipeline safety, as determined by the Secretary; and

(B) to protect the environment.

(2) LEAK DETECTION AND REPAIR PROGRAMS.—

(A) MINIMUM PERFORMANCE STANDARDS.—The final regulations promulgated

under paragraph (1) shall include, for the leak detection and repair programs described in that paragraph, minimum performance standards that reflect the capabilities of commercially available advanced technologies that, with respect to each pipeline covered by the programs, are appropriate for—

(i) the type of pipeline;

(ii) the location of the pipeline;

(iii) the material of which the pipeline is constructed; and

(iv) the materials transported by the pipeline.

(B) REQUIREMENT.—The leak detection and repair programs described in paragraph (1) shall be able to identify, locate, and categorize all leaks that—

(i) are hazardous to human safety or the environment; or

(ii) have the potential to become explosive or otherwise hazardous to human safety.

(3) ADVANCED LEAK DETECTION TECHNOLOGIES AND PRACTICES.—

(A) IN GENERAL.—The final regulations promulgated under paragraph (1) shall—

(i) require the use of advanced leak detection technologies and practices described in subparagraph (B);

(ii) identify any scenarios where operators may use leak detection practices that depend on human senses; and

(iii) include a schedule for repairing or replacing each leaking pipe, except a pipe with a leak so small that it poses no potential hazard, with appropriate deadlines.

(B) ADVANCED LEAK DETECTION TECHNOLOGIES AND PRACTICES DESCRIBED.—The advanced leak detection technologies and practices referred to in subparagraph (A)(i) include—

(i) for new and existing gas distribution pipeline facilities, technologies and practices to detect pipeline leaks—

(I) through continuous monitoring on or along the pipeline; or

(II) through periodic surveys with handheld equipment, equipment mounted on mobile platforms, or other means using commercially available technology;

(ii) for new and existing gas transmission pipeline facilities, technologies and practices to detect pipeline leaks through—

(I) equipment that is capable of continuous monitoring; or

(II) periodic surveys with handheld equipment, equipment mounted on mobile platforms, or other means using commercially available technology; and

(iii) for regulated gathering lines in Class 2 locations, Class 3 locations, or Class 4 locations, technologies and practices to detect pipeline leaks through—

(I) equipment that is capable of continuous monitoring; or

(II) periodic surveys with handheld equipment, equipment mounted on mobile platforms, or other means using commercially available technology.

(4) RULES OF CONSTRUCTION.—

(A) SURVEYS AND TIMELINES.—In promulgating regulations under this subsection, the Secretary—

(i) may not reduce the frequency of surveys required under any other provision of this chapter or stipulated by regulation as of the date of enactment of this subsection; and

(ii) may not extend the duration of any timelines for the repair or remediation of leaks that are stipulated by regulation as of the date of enactment of this subsection.

(B) APPLICATION.—The limitations in this paragraph do not restrict the Secretary's ability

to modify any regulations through proceedings separate from or subsequent to the final regulations required under paragraph (1).

(C) EXISTING AUTHORITY.—Nothing in this subsection may be construed to alter the authority of the Secretary to regulate gathering lines as defined pursuant to section 60101.

(r) EMERGENCY RESPONSE PLANS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall update regulations to ensure that each emergency response plan developed by an operator of a distribution system under subsection (d)(5), includes written procedures for—

(1) establishing communication with first responders and other relevant public officials, as soon as practicable, beginning from the time of confirmed discovery, as determined by the Secretary, by the operator of a gas pipeline emergency involving a release of gas from a distribution system of that operator that results in—

(A) a fire related to an unintended release of gas;

(B) an explosion;

(C) 1 or more fatalities; or

(D) the unscheduled release of gas and shutdown of gas service to a significant number of customers, as determined by the Secretary;

(2) establishing general public communication through an appropriate channel—

(A) as soon as practicable, as determined by the Secretary, after a gas pipeline emergency described in paragraph (1); and

(B) that provides information regarding—

(i) the emergency described in subparagraph (A); and

(ii) the status of public safety; and

(3) the development and implementation of a voluntary, opt-in system that would allow operators of distribution systems to rapidly communicate with customers in the event of an emergency.

(s) OPERATIONS AND MAINTENANCE MANUALS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall update regulations to ensure that each procedural manual for operations, maintenance, and emergencies developed by an operator of a distribution pipeline under subsection (d)(4), includes written procedures for—

(1) responding to overpressurization indications, including specific actions and an order of operations for immediately reducing pressure in or shutting down portions of the gas distribution system, if necessary; and

(2) a detailed procedure for the management of the change process, which shall—

(A) be applied to significant technology, equipment, procedural, and organizational changes to the distribution system; and

(B) ensure that relevant qualified personnel, such as an engineer with a professional engineer licensure, subject matter expert, or other employee who possesses the necessary knowledge, experience, and skills regarding natural gas distribution systems, review and certify construction plans for accuracy, completeness, and correctness.

(t) OTHER PIPELINE SAFETY PRACTICES.—

(1) RECORDS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall promulgate regulations to require an operator of a distribution system—

(A) to identify and manage traceable, reliable, and complete records, including maps and other drawings, critical to ensuring proper pressure controls for a gas distribution system, and updating these records as needed, while collecting and identifying other records necessary for risk analysis on an opportunistic basis; and

(B) to ensure that the records required under subparagraph (A) are—

(i) accessible to all personnel responsible for performing or overseeing relevant construction or engineering work; and

(ii) submitted to, or made available for inspection by, the Secretary or the relevant State authority with a certification in effect under section 60105.

(2) PRESENCE OF QUALIFIED EMPLOYEES.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate regulations to require that not less than 1 agent of an operator of a distribution system who is qualified to perform relevant covered tasks, as determined by the Secretary, shall monitor gas pressure at the district regulator station or at an alternative site with equipment capable of ensuring proper pressure controls and have the capability to promptly shut down the flow of gas or control over pressurization at a district regulator station during any construction project that has the potential to cause a hazardous overpressurization at that station, including tie-ins and abandonment of distribution lines and mains, based on an evaluation, conducted by the operator, of threats that could result in unsafe operation.

(B) EXCLUSION.—In promulgating regulations under subparagraph (A), the Secretary shall ensure that those regulations do not apply to a district regulating station that has a monitoring system and the capability for remote or automatic shutoff.

(3) DISTRICT REGULATOR STATIONS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations to require that each operator of a distribution system assesses and upgrades, as appropriate, each district regulator station of the operator to ensure that—

(i) the risk of the gas pressure in the distribution system exceeding, by a common mode of failure, the maximum allowable operating pressure (as described in section 192.623 of title 49, Code of Federal Regulations (or a successor regulation)) allowed under Federal law (including regulations) is minimized;

(ii) the gas pressure of a low-pressure distribution system is monitored, particularly at or near the location of critical pressure-control equipment;

(iii) the regulator station has secondary or backup pressure-relieving or overpressure-protection safety technology, such as a relief valve or automatic shutoff valve, or other pressure-limiting devices appropriate for the configuration and siting of the station and, in the case of a regulator station that employs the primary and monitor regulator design, the operator shall eliminate the common mode of failure or provide backup protection capable of either shutting the flow of gas, relieving gas to the atmosphere to fully protect the distribution system from overpressurization events, or there must be technology in place to eliminate a common mode of failure; and

(iv) if the Secretary determines that it is not operationally possible for an operator to implement the requirements under clause (iii), the Secretary shall require such operator to identify actions in their plan that minimize the risk of an overpressurization event.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1304; Pub. L. 104–304, §§4, 20(g), Oct. 12, 1996, 110 Stat. 3794, 3805; Pub. L. 107–355, §§20(a)(1), (2)(A), 23, Dec. 17, 2002, 116 Stat. 3009, 3011; Pub. L. 109–468, §4, Dec. 29, 2006, 120 Stat. 3490; Pub. L. 112–90, §§4, 12, 15, 18(b), 24, Jan. 3, 2012, 125 Stat. 1906, 1913, 1915, 1916, 1919; Pub. L. 113–30, §1, Aug. 9, 2013, 127 Stat. 510; Pub. L. 116–260, div. R, title I, §§113, 118, 121, title II, §§203, 204, 206, Dec. 27, 2020, 134 Stat. 2228, 2234, 2236, 2239–2241.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60102(a)(1)	49 App.:1672(a)(1) (1st, 2d	Aug. 12, 1968, Pub. L. 90–481,

	sentences).	§3(a)(1) (1st, 2d, 7th, 8th sentences), 82 Stat. 721; Oct. 11, 1976, Pub. L. 94–477, §4(1), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§101(a), 109(c)–(e), 93 Stat. 990, 996; Oct. 24, 1992, Pub. L. 102–508, §101(a)(1), (2), 106 Stat. 3290.
	49 App.:1672(a)(1) (3d sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(1) (3d sentence); added Oct. 31, 1988, Pub. L. 100–561, §101, 102 Stat. 2806; Oct. 24, 1992, Pub. L. 102–508, §106(1), 102 Stat. 3293.
	49 App.:2002(a)(1) (1st, 2d sentences).	Nov. 30, 1979, Pub. L. 96–129, 203(a)(1), 93 Stat. 1004; Oct. 22, 1986, Pub. L. 99–516, §3(b)(1)(A), 100 Stat. 2966; Oct. 24, 1992, Pub. L. 102–508, §201(a)(1), 106 Stat. 3299.
	49 App.:2002(c) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §203(c) (1st sentence), (e), (f), 93 Stat. 1004.
	49 App.:2002(c) (2d sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(c) (2d sentence); added Oct. 31, 1988, Pub. L. 100–561, §201, 102 Stat. 2809; Oct. 24, 1992, Pub. L. 102–508, §205(1), 106 Stat. 3302.
60102(a)(2)	49 App.:1672(a)(1) (4th, 5th sentences).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(1) (4th, 5th sentences); added Oct. 24, 1992, Pub. L. 102–508, §106(2), 102 Stat. 3293.
	49 App.:2002(c) (3d, 4th sentences).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(c) (3d, 4th sentences); added Oct. 24, 1992, Pub. L. 102–508, §205(2), 106 Stat. 3302.
60102(b)	49 App.:1672(a)(1) (7th, 8th sentences).	
	49 App.:2002(a)(1) (last sentence).	
	49 App.:2002(b) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §203(b) (1st sentence), 93 Stat. 1004; Oct. 24, 1992, Pub. L. 102–508, §201(a)(3), 106 Stat. 3300.
60102(c)(1), (2)	49 App.:1672(a)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(2); added Nov. 30, 1979, Pub. L. 96–129, §§101(a), 109(c), 93 Stat. 990, 996.
60102(c)(3)	49 App.:2002(e).	
60102(d)	49 App.:1672(e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(e); added Oct. 31, 1988,

		Pub. L. 100–561, §102, 102 Stat. 2806; Oct. 24, 1992, Pub. L. 102–508, §102(b), 106 Stat. 3291.
	49 App.:2002(i).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(i); added Oct. 31, 1988, Pub. L. 100–561, §202, 102 Stat. 2810; Oct. 24, 1992, Pub. L. 102–508, §202(b), 106 Stat. 3301.
60102(e)	49 App.:1672(f).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(f); added Oct. 31, 1988, Pub. L. 100–561, §102, 102 Stat. 2806; Oct. 24, 1992, Pub. L. 102–508, §102(a)(1), 106 Stat. 3290.
	49 App.:2002(j).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(j); added Oct. 31, 1988, Pub. L. 100–561, §202, 102 Stat. 2810; Oct. 24, 1992, Pub. L. 102–508, §202(a)(1), 106 Stat. 3300.
60102(f)	49 App.:1672(g).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(g); added Oct. 31, 1988, Pub. L. 100–561, §108(b), 102 Stat. 2808; Oct. 24, 1992, Pub. L. 102–508, §103, 106 Stat. 3291.
	49 App.:2002(k).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(k); added Oct. 31, 1988, Pub. L. 100–561, §207(b), 102 Stat. 2812; Oct. 24, 1992, Pub. L. 102–508, §203, 106 Stat. 3301.
60102(g)	49 App.:1672(b).	Aug. 12, 1968, Pub. L. 90–481, §3(b), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §109(c), (f), 93 Stat. 996.
	49 App.:2002(f).	
60102(h)	49 App.:1672(a)(3).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(3); added Oct. 22, 1986, Pub. L. 99–516, §3(a)(1), 100 Stat. 2965; Oct. 24, 1992, Pub. L. 102–508, §101(a)(3), 106 Stat. 3290.
	49 App.:2002(a)(2).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(a)(2); added Oct. 22, 1986, Pub. L. 99–516, §3(b)(1)(B), 100 Stat. 2966; Oct. 24, 1992, Pub. L. 102–508, §201(a)(2), 106 Stat. 3300.
60102(i)	49 App.:2015.	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §219; added Oct. 31, 1988, Pub. L. 100–561, §211(a), 102 Stat. 2813.
	49 App.:2015 (note).	Oct. 31, 1988, Pub. L. 100–561, §211(c), 102 Stat. 2813.
60102(j)	49 App.:2002(n).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(n); added Oct. 24, 1992, Pub. L. 102–508, §212, 106 Stat. 3304.

60102(k)	49 App.:2002(b) (last sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(b) (last sentence); added Oct. 24, 1992, Pub. L. 102–508, §206, 106 Stat. 3302.

In this section, the word "Federal" is omitted as surplus.

In subsection (a)(1), before clause (A), the word "prescribe" is substituted for "by regulation, establish" for consistency in the revised title and with other titles of the United States Code. Standards are made applicable to transporters of gas and to owners and operators of gas pipeline facilities because of 49 App.:1677(a)(1), restated in section 60118 of the revised title.

In subsection (b), before clause (1), the words "Except as provided in section 60103 of this title" are added for clarity. In clause (3), the word "proposed" is omitted as surplus.

In subsection (c)(1), before clause (A), the words "Not later than 12 months after November 30, 1979" are omitted as executed. The word "gas" is added because of the restatement. In clause (B), the word "specific" is omitted as surplus. In clause (C), the words "will protect" are substituted for "is being carried out in a manner . . . to assure protection" to eliminate unnecessary words.

In subsection (c)(2) and (3), the words "to the public with respect to that operator's pipeline facilities which are" are omitted as surplus.

In subsection (c)(2), the word "prescribe" is substituted for "provide" for consistency in the revised title and with other titles of the Code.

In subsection (c)(3), the words "participate in a public safety program meeting the requirements of paragraph (1) of this subsection" are substituted for 49 App.:2002(e)(1) to eliminate unnecessary words.

In subsection (d), before clause (1), the words "Not later than 1 year after October 31, 1988" are omitted as obsolete. The word "prescribe" is substituted for "establish by regulation" for consistency in the revised title and with other titles of the Code. The word "maintain" is substituted for "provide, and revise as necessary" and "completed and maintained" to eliminate unnecessary words. The words "as the case may be" are omitted as surplus. In clause (2), before subclause (A), the words "map or" and "appropriate" are omitted as surplus. In clause (5)(B), the word "government" is omitted as surplus and for consistency in this chapter. In clause (6), the words "and necessary" are omitted as surplus.

In subsections (e) and (f), the word "prescribe" is substituted for "by regulation, establish" for consistency in the revised title and with other titles of the Code.

In subsection (e), before clause (1), the words "not later than 1 year after October 31, 1988" are omitted as obsolete. The words "complete and" and "and to revise as appropriate thereafter" are omitted as surplus.

In subsections (e)(2) and (k), the words "regulation under" are omitted as surplus.

In subsection (g), the words "and amendments thereto" and "recited" are omitted as surplus. The word "different" is substituted for "earlier or later" to eliminate unnecessary words. The words "or amending" are omitted as surplus.

In subsection (h)(1), before clause (A), the words "Not later than 12 months after October 22, 1986" are omitted as obsolete.

In subsection (i), the words "In addition to hazardous liquids", "under this chapter", and "as necessary and appropriate" are omitted as surplus.

In subsection (k), the words "In exercising any discretion under this chapter" are omitted as surplus. The word "because" is substituted for "on the basis of the fact that" to eliminate unnecessary words.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996, referred to in subsec. (c)(4)(A), probably means the date of enactment of the Accountable Pipeline Safety and Partnership Act of 1996, Pub. L. 104–304, which amended this section and was approved Oct. 12, 1996.

The date of enactment of this paragraph, referred to in subsec. (i)(2)(B), and the date of enactment of this subsection, referred to in subsecs. (n) and (p), are the date of enactment of Pub. L. 112–90, which was approved Jan. 3, 2012.

The date of the enactment of this subsection, referred to in subsec. (m), is the date of enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

The date of enactment of this subsection, referred to in subsecs. (q) to (t), is the date of enactment of Pub. L. 116–260, which was approved Dec. 27, 2020.

AMENDMENTS

2020—Subsec. (b)(5). Pub. L. 116–260, §118, substituted "chapter" for "Chapter" and inserted ", including safety and environmental benefits," after "benefits".

Subsec. (h)(2), (3). Pub. L. 116–260, §121, added pars. (2) and (3) and struck out former par. (2) which read as follows: "The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities."

Subsec. (q). Pub. L. 116–260, §113, added subsec. (q).

Subsec. (r). Pub. L. 116–260, §203, added subsec. (r).

Subsec. (s). Pub. L. 116–260, §204, added subsec. (s).

Subsec. (t). Pub. L. 116–260, §206, added subsec. (t).

2013—Subsec. (p). Pub. L. 113–30 substituted "3 years" for "1 year" and struck out "guidance or" before "a regulation" and ", on an Internet Web site" before period at end.

2012—Subsec. (a)(2)(A). Pub. L. 112–90, §18(b), substituted "any or all of the owners or operators" for "owners and operators".

Subsec. (i). Pub. L. 112–90, §15, designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (j)(3). Pub. L. 112–90, §4(1), struck out par. (3). Text read as follows:

"(A) Not later than June 1, 1998, the Secretary shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about whether the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.

"(B) Not later than one year after the survey and assessment are completed, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include, but not be limited to, requirements for high-density population areas."

Subsec. (n). Pub. L. 112–90, §4(2), added subsec. (n).

Subsec. (o). Pub. L. 112–90, §12, added subsec. (o).

Subsec. (p). Pub. L. 112–90, §24, added subsec. (p).

2006—Subsec. (k). Pub. L. 109–468 amended heading and text of subsec. (k) generally. Prior to amendment, text read as follows: "The Secretary may not provide an exception to this chapter for a hazardous liquid pipeline facility only because the facility operates at low internal stress."

2002—Pub. L. 107–355, §20(a)(2)(A), substituted "Purpose and general authority" for "General authority" in section catchline.

Subsec. (a). Pub. L. 107–355, §20(a)(1), inserted subsec. heading, added par. (1), redesignated former par. (1) as (2), realigned margins, and substituted "MINIMUM SAFETY STANDARDS" for "MINIMUM SAFETY STANDARDS" in heading and "The Secretary" for "The Secretary of Transportation" in introductory provisions, and redesignated former par. (2) as (3) and inserted heading.

Subsec. (m). Pub. L. 107–355, §23, added subsec. (m).

1996—Subsec. (a)(1)(A). Pub. L. 104–304, §4(a)(1), struck out "transporters of gas and hazardous liquid and to" after "apply to".

Subsec. (a)(1)(C). Pub. L. 104–304, §4(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: "shall include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities."

Subsec. (a)(2). Pub. L. 104–304, §4(a)(3), added par. (2) and struck out former par. (2) which read as follows: "As the Secretary considers appropriate, the operator of a pipeline facility may make the certification under paragraph (1)(C) of this subsection. Testing and certification under paragraph (1)(C) shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits."

Subsec. (b). Pub. L. 104–304, §4(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "A standard prescribed under subsection (a) of this section shall be practicable and designed to meet the need for gas pipeline safety, for safely transporting hazardous liquid, and for protecting the environment. Except as provided in section 60103 of this title, when prescribing the standard the Secretary shall consider—

"(1) relevant available—

"(A) gas pipeline safety information; or

"(B) hazardous liquid pipeline information;

"(2) the appropriateness of the standard for the particular type of pipeline transportation or facility;

"(3) the reasonableness of the standard; and

"(4) the extent to which the standard will contribute to public safety and the protection of the environment."

Subsec. (c)(4). Pub. L. 104–304, §4(g), added par. (4).

Subsec. (d). Pub. L. 104–304, §4(c), inserted "as required by the standards prescribed under this chapter" after "operating the facility", substituted "to make the information available" for "to provide the information", and inserted "as determined by the Secretary" after "to the Secretary and an appropriate State official".

Subsec. (e). Pub. L. 104–304, §4(d)(2), substituted "transportation" for "transmission" in introductory provisions.

Pub. L. 104–304, §4(d)(1), in introductory provisions, directed striking out "and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gather line (as defined under section 60101(b)(2) of this title)," after "subject to this chapter", which was executed by striking out text which read in part "regulated gathering line" instead of "regulated gather line", to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 104–304, §4(e)(1), added heading and text of par. (1) and struck out former par. (1) which read as follows: "The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a 'smart pig'). The Secretary may apply the standard to an existing gas or hazardous liquid transmission facility and require the facility to be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device."

Subsec. (f)(2). Pub. L. 104–304, §§4(e)(2), 20(g), inserted heading, realigned margins, inserted ", if necessary, additional" after "the Secretary shall prescribe", and substituted "standards" for "regulations" in two places.

Subsecs. (i), (j)(2). Pub. L. 104–304, §20(g), substituted "standards" for "regulations".

Subsec. (j)(3). Pub. L. 104–304, §4(h), added par. (3).

Subsec. (l). Pub. L. 104–304, §4(f), added subsec. (l).

STATUTORY NOTES AND RELATED SUBSIDIARIES

INTERSTATE DRUG AND ALCOHOL OVERSIGHT

Pub. L. 116–260, div. R, title I, §117, Dec. 27, 2020, 134 Stat. 2234, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of Transportation] shall amend the auditing program for the drug and alcohol regulations in part 199 of title 49, Code of Federal Regulations, to improve the efficiency and processes of those regulations as applied to—

"(1) operators; and

"(2) pipeline contractors working for multiple operators in multiple States.

"(b) REQUIREMENT.—In carrying out subsection (a), the Secretary shall minimize duplicative audits of the same operators, and the contractors working for those operators, by the Administration and multiple State agencies.

"(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to require modification of the inspection or enforcement authority of any Federal agency or State."

RULEMAKING ON SHUT-OFF VALVES AND HAZARDOUS LIQUID PIPELINE FACILITIES LEAK DETECTION SYSTEMS

Pub. L. 117–103, div. L, title I, Mar. 15, 2022, 136 Stat. 720, provided in part: "That the Secretary of Transportation shall issue a final rule on automatic and remote-controlled shut-off valves and hazardous liquid pipeline facilities leak detection systems as required under section 4 [amending this section] and section 8 [enacting provisions set out as a note under section 60108 of this title] of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112–90), respectively, not later than 120 days after the date of enactment of this Act [Mar. 15, 2022]".

Pub. L. 116–94, div. H, title I, Dec. 20, 2019, 133 Stat. 2968, provided in part: "That no later than 90 days after enactment of this Act [Dec. 20, 2019], the Secretary of Transportation shall initiate a rulemaking on automatic and remote-controlled shut-off valves and hazardous liquid pipeline facilities leak detection systems

as required under section 4 [amending this section] and section 8 [enacting provisions set out as a note under section 60108 of this title] of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112–90), respectively, and shall issue a final rule no later than one year after enactment of this Act."

RULEMAKING TO EXPAND APPLICABILITY OF COMPREHENSIVE OIL SPILL RESPONSE PLANS

Pub. L. 116–6, div. G, title I, Feb. 15, 2019, 133 Stat. 427, provided in part: "That the Secretary of Transportation shall issue a final rule to expand the applicability of comprehensive oil spill response plans within 90 days of enactment of this Act [Feb. 15, 2019]".

Pub. L. 115–141, div. L, title I, Mar. 23, 2018, 132 Stat. 1001, provided in part: "That the Secretary of Transportation shall issue a final rule to expand the applicability of comprehensive oil spill response plans within 5 days of enactment of this Act [Mar. 23, 2018]."

Pub. L. 115–31, div. K, title I, May 5, 2017, 131 Stat. 752, provided in part: "That the Secretary of Transportation shall issue a final rule to expand the applicability of comprehensive oil spill response plans no later than August 1, 2017".

Pub. L. 114–113, div. L, title I, Dec. 18, 2015, 129 Stat. 2861, provided in part: "That no later than 90 days after the date of enactment of this Act [Dec. 18, 2015], the Secretary of Transportation shall initiate a rulemaking to expand the applicability of comprehensive oil spill response plans, and shall issue a final rule no later than one year after the date of enactment of this Act."

RESPONSE PLANS

Pub. L. 114–183, §18, June 22, 2016, 130 Stat. 527, provided that: "Each owner or operator of a hazardous liquid pipeline facility required to prepare a response plan pursuant to part 194 of title 49, Code of Federal Regulations, shall—

"(1) consider the impact of a discharge into or on navigable waters or adjoining shorelines, including those that may be covered in whole or in part by ice; and

"(2) include procedures and resources for responding to such discharge in the plan."

STANDARDS TO IMPLEMENT NTSB RECOMMENDATIONS

Pub. L. 109–468, §19, Dec. 29, 2006, 120 Stat. 3498, as amended by Pub. L. 110–244, title III, §302(j), June 6, 2008, 122 Stat. 1618, provided that: "Not later than June 1, 2008, the Secretary of Transportation shall issue standards that implement the following recommendations contained in the National Transportation Safety Board's report entitled 'Supervisory Control and Data Acquisition (SCADA) in Liquid Pipelines' and adopted November 29, 2005:

"(1) Implementation of the American Petroleum Institute's Recommended Practice 1165 for the use of graphics on the supervisory control and data acquisition screens.

"(2) Implementation of a standard for pipeline companies to review and audit alarms on monitoring equipment.

"(3) Implementation of standards for pipeline controller training that include simulator or noncomputerized simulations for controller recognition of abnormal pipeline operating conditions, in particular, leak events."

STATE PIPELINE SAFETY ADVISORY COMMITTEES

Pub. L. 107–355, §24, Dec. 17, 2002, 116 Stat. 3011, provided that: "Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations."

[1] *See References in Text note below.*

§60103. Standards for liquefied natural gas pipeline facilities

(a) LOCATION STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

(1) kind and use of the facility;

(2) existing and projected population and demographic characteristics of the location;
(3) existing and proposed land use near the location;
(4) natural physical aspects of the location;
(5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility;
(6) need to encourage remote siting; and
(7) national security.

(b) DESIGN, INSTALLATION, CONSTRUCTION, INSPECTION, AND TESTING STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider—
(1) the characteristics of material to be used in constructing the facility and of alternative material;
(2) design factors;
(3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and
(4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c) NONAPPLICATION.—(1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given—
(A) under this chapter; or
(B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard—
(i) does not make the component or part incompatible with other components or parts; or
(ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.
(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.
(d) OPERATION AND MAINTENANCE STANDARDS.—The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider—
(1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;
(2) the fire prevention and containment equipment at the facility;
(3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;
(4) maintenance procedures and equipment;
(5) the training of personnel in matters specified by this subsection; and
(6) other factors and conditions related to the safe handling of liquefied natural gas.

(e) EFFECTIVE DATES.—A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to

comply with the standard. The different date must be specified in the regulation prescribing the standard.

(f) CONTINGENCY PLANS.—A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.

(g) EFFECT ON OTHER STANDARDS.—This section does not preclude applying a standard prescribed under section 60102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1307; Pub. L. 114–183, §27(a), June 22, 2016, 130 Stat. 531.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60103(a)	49 App.:1674a(a) (1)(A), (d)(1), (e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §6; added Nov. 30, 1979, Pub. L. 96–129, §152(a), 93 Stat. 999.
60103(b)	49 App.:1674a(a) (1)(B), (2), (d)(2), (e).	
60103(c)(1), (2)	49 App.:1674a(c)(1).	
60103(c)(3)	49 App.:1674a(c)(3).	
60103(d)	49 App.:1674a(b), (d)(3), (e).	
60103(e)	49 App.:1674a(f).	
60103(f)	49 App.:1674a(a)(3).	
60103(g)	49 App.:1674a(c)(2).	

In subsections (a), (b), and (d), the words "general safety" are omitted as surplus. The text of 49 App.:1674a(e) is omitted for consistency in the revised title and with other titles of the United States Code.

In subsections (a) and (b), before each clause (1), the words "Not later than 180 days after November 30, 1979" are omitted as executed. The word "prescribe" is substituted for "establish by regulation" for consistency in the revised title and with other titles of the Code.

In subsection (a), before clause (1), the words "with respect to standards relating to the location of any new LNG facility" are omitted because of the restatement. In clause (2), the word "involved" is omitted as surplus. In clause (4), the words "meteorological, geological, topographical, seismic, and other" are omitted as surplus. In clause (5), the word "existing" is omitted as surplus.

In subsection (b), before clause (1), the text of 49 App.:1674a(a)(2) (1st sentence) is omitted as executed. The text of 49 App.:1674a(a)(2) (last sentence) is omitted as surplus. The words "with respect to standards applicable to the design, installation, construction, initial inspection, and initial testing of any new LNG facility" are omitted because of the restatement. In clause (1), the words "thermal resistance and other" are omitted as surplus. In clause (2), the words "(such as multiple diking, insulated concrete, and vapor containment barriers)" are omitted as surplus. In clause (3), the words "(for example, whether it is to be in a liquid or semisolid state)" are omitted as surplus. In clause (4), the words "under such a design" are omitted as surplus.

In subsection (c)(1) and (2), the word "prescribed" is substituted for "issued" for consistency in the revised title and with other titles of the Code.

In subsection (c)(1), before clause (A), the words "if the standard is to be applied" are added for clarity. The word "either" is omitted as surplus. In clause (B), the word "Federal" is omitted as surplus. The words "the authority is applied" are substituted for "such authority was exercised" for clarity.

In subsection (c)(2)(A), before clause (i), the words "design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978" are substituted for "Any such standard (other than one affecting location)" for clarity. In clause (i), the words "of the facility involved" are omitted as surplus. In clause (ii), the word "otherwise" is omitted as surplus.

In subsection (d), before clause (1), the words "Not later than 270 days after November 30, 1979" are

omitted as executed. The words "with respect to standards for the operation and maintance [sic] of any LNG facility" are omitted because of the restatement. In clause (3), the words "to be used with respect to the operation of such facility" and "sabotage or other" are omitted as surplus.

In subsection (e), the text of 49 App.:1674a(f) (related to 49 App.:1672(a)(1) (8th, last sentences), (c), and (d)) is omitted as surplus because those provisions apply to all standards prescribed under the Natural Gas Pipeline Safety Act of 1968 (Public Law 90–481, 82 Stat. 720).

In subsection (f), the words "Secretary of Energy" are substituted for "Department of Energy" because of 42:7131. The words "or local" are added for clarity. The words "in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (a)(7). Pub. L. 114–183 added par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS CLAUSE

Pub. L. 114–183, §27(c), June 22, 2016, 130 Stat. 532, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note below] shall be construed to limit the Secretary's authority under chapter 601 of title 49, United States Code, to regulate liquefied natural gas pipeline facilities."

UPDATES TO STANDARDS FOR LIQUEFIED NATURAL GAS FACILITIES

Pub. L. 116–260, div. R, title I, §110, Dec. 27, 2020, 134 Stat. 2224, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of Transportation] shall—

"(1) review the minimum operating and maintenance standards prescribed under section 60103(d) of title 49, United States Code; and

"(2) based on the review under paragraph (1), update the standards described in that paragraph applicable to large-scale liquefied natural gas facilities (other than peak shaving facilities) to provide for a risk-based regulatory approach for such facilities, consistent with this section.

"(b) SCOPE.—In updating the minimum operating and maintenance standards under subsection (a)(2), the Secretary shall ensure that all regulations, guidance, and internal documents—

"(1) are developed and applied in a manner consistent with this section; and

"(2) achieve a level of safety that is equivalent to, or greater than, the level of safety required by the standards prescribed as of the date of enactment of this Act under—

"(A) section 60103(d) of title 49, United States Code; and

"(B) part 193 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(c) REQUIREMENTS.—The updates to the operating and maintenance standards required under subsection (a)(2) shall, at a minimum, require operators—

"(1) to develop and maintain written safety information identifying hazards associated with—

"(A) the processes of liquefied natural gas conversion, storage, and transport;

"(B) equipment used in the processes; and

"(C) technology used in the processes;

"(2) to conduct a hazard assessment, including the identification of potential sources of accidental releases;

"(3)(A) to consult with employees and representatives of employees on the development and execution of hazard assessments under paragraph (2); and

"(B) to provide employees access to the records of the hazard assessments and any other records required under the updated standards;

"(4) to establish a system to respond to the findings of a hazard assessment conducted under paragraph (2) that addresses prevention, mitigation, and emergency responses;

"(5) to review, when a design change occurs, the most recent hazard assessment conducted under paragraph (2) and the response system established under paragraph (4);

"(6) to develop and implement written operating procedures for the processes of liquefied natural gas

conversion, storage, and transport;

"(7)(A) to provide written safety and operating information to employees; and

"(B) to train employees in operating procedures with an emphasis on addressing hazards and using safe practices;

"(8) to ensure contractors and contract employees are provided appropriate information and training;

"(9) to train and educate employees and contractors in emergency response;

"(10) to establish a quality assurance program to ensure that equipment, maintenance materials, and spare parts relating to the operations and maintenance of liquefied natural gas facilities are fabricated and installed consistent with design specifications;

"(11) to establish maintenance systems for critical process-related equipment, including written procedures, employee training, appropriate inspections, and testing of that equipment to ensure ongoing mechanical integrity;

"(12) to conduct pre-start-up safety reviews of all newly installed or modified equipment;

"(13) to establish and implement written procedures to manage change to processes of liquefied natural gas conversion, storage, and transport, technology, equipment, and facilities; and

"(14)(A) to investigate each incident that results in, or could have resulted in—

"(i) loss of life;

"(ii) destruction of private property; or

"(iii) a major accident; and

"(B) to have operating personnel—

"(i) review any findings of an investigation under subparagraph (A); and

"(ii) if appropriate, take responsive measures.

"(d) SUBMISSION AND APPROVAL.—

"(1) IN GENERAL.—The Secretary shall require that operators that are subject to the regulations under subsection (a)(2) submit to the Secretary for approval a plan for the implementation of the requirements described in subsection (c).

"(2) REQUIREMENT.—The implementation plan described in paragraph (1) shall include—

"(A) an anticipated schedule for the implementation of the requirements described in subsection (c); and

"(B) an overview of the process for implementation.

"(e) INSPECTION AND COMPLIANCE ASSURANCE.—

"(1) DETERMINATION OF INADEQUATE PROGRAMS.—If the Secretary determines during an inspection carried out under chapter 601 of title 49, United States Code, that an operator's implementation of the requirements described in subsection (c) does not comply with the requirements of that chapter (including any regulations promulgated under that chapter), has not been adequately implemented, is inadequate for the safe operation of a large-scale liquefied natural gas facility, or is otherwise inadequate, the Secretary may conduct enforcement proceedings under that chapter.

"(2) SAVINGS CLAUSE.—Nothing in this section shall affect the authority of the Secretary to carry out inspections or conduct enforcement proceedings under chapter 601 of title 49, United States Code.

"(f) EMERGENCIES AND COMPLIANCE.—Nothing in this section may be construed to diminish or modify—

"(1) the authority of the Secretary under this title [enacting sections 60142, 60143, and 60303 of this title, amending sections 6107, 60102, 60108, 60109, 60117, 60118, 60122, 60125, 60129, 60130 and 60134 of this title, enacting provisions set out as notes under this section and sections 60101, 60102, 60108, and 60109 of this title, and amending provisions set out as notes under sections 60101 and section 60109 of this title] to act in the case of an emergency; or

"(2) the authority of the Secretary under sections 60118 through 60123 of title 49, United States Code.

"(g) CIVIL PENALTIES.—A person violating the standards prescribed under this section, including any revisions to the minimum operating and maintenance standards prescribed under 60103 of title 49, United States Code, shall be liable for a civil penalty that may not exceed $200,000 for each violation pursuant to section 60122(a)(1) of that title."

NATIONAL CENTER OF EXCELLENCE FOR LIQUEFIED NATURAL GAS SAFETY

Pub. L. 116–260, div. R, title I, §111, Dec. 27, 2020, 134 Stat. 2226, provided that:

"(a) DEFINITIONS.—In this section:

"(1) CENTER.—The term 'Center' means the National Center of Excellence for Liquefied Natural Gas Safety that may be established under subsection (b).

"(2) LNG.—The term 'LNG' means liquefied natural gas.

"(3) LNG SECTOR STAKEHOLDER.—The term 'LNG sector stakeholder' means a representative of—

"(A) LNG facilities that represent the broad array of LNG facilities operating in the United States;

"(B) States, Indian Tribes, and units of local government;

"(C) postsecondary education;

"(D) labor organizations;

"(E) safety organizations; or

"(F) Federal regulatory agencies of jurisdiction, which may include—

"(i) the [Pipeline and Hazardous Materials Safety] Administration;

"(ii) the Federal Energy Regulatory Commission;

"(iii) the Department of Energy;

"(iv) the Occupational Safety and Health Administration;

"(v) the Coast Guard; and

"(vi) the Maritime Administration.

"(b) ESTABLISHMENT.—Only after submitting the report under subsection (c) to the committees of Congress described in that subsection, and subject to the availability of funds appropriated by Congress for the applicable purpose, the Secretary [of Transportation], in consultation with LNG sector stakeholders, may establish a center, to be known as the 'National Center of Excellence for Liquefied Natural Gas Safety'.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Dec. 27, 2020], the Secretary shall submit to the Committees on Commerce, Science, and Transportation and Appropriations of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Appropriations of the House of Representatives a report on—

"(A) the resources necessary to establish the Center; and

"(B) the manner in which the Center will carry out the functions described in subsection (d).

"(2) REQUIREMENT.—The report under paragraph (1) shall include an estimate of all potential costs and appropriations necessary to carry out the functions described in subsection (d).

"(d) FUNCTIONS.—The Center shall, for activities regulated under section 60103 of title 49, United States Code, enhance the United States as the leader and foremost expert in LNG operations by—

"(1) furthering the expertise of the Federal Government in the operations, management, and regulatory practices of LNG facilities through—

"(A) the use of performance-based principles;

"(B) experience and familiarity with LNG operational facilities; and

"(C) increased communication with LNG experts to learn and support state-of-the-art operational practices;

"(2) acting as a repository of information on best practices for the operation of LNG facilities; and

"(3) facilitating collaboration among LNG sector stakeholders.

"(e) LOCATION.—

"(1) IN GENERAL.—The Center shall be located in close proximity to critical LNG transportation infrastructure on, and connecting to, the Gulf of Mexico, as determined by the Secretary.

"(2) CONSIDERATIONS.—In determining the location of the Center, the Secretary shall—

"(A) take into account the strategic value of locating resources in close proximity to LNG facilities; and

"(B) locate the Center in the State with the largest LNG production capacity, as determined by the total capacity (in billion cubic feet per day) of LNG production authorized by the Federal Energy Regulatory Commission under section 3 of the Natural Gas Act (15 U.S.C. 717b) as of the date of enactment of this Act [Dec. 27, 2020].

"(f) COORDINATION WITH TQ TRAINING CENTER.—In carrying out the functions described in subsection (d), the Center shall coordinate with the Training and Qualifications Training Center of the Administration in Oklahoma City, Oklahoma, to facilitate knowledge sharing among, and enhanced training opportunities for, Federal and State pipeline safety inspectors and investigators.

"(g) JOINT OPERATION WITH EDUCATIONAL INSTITUTION.—The Secretary may enter into an agreement with an appropriate official of an institution of higher education—

"(1) to provide for joint operation of the Center; and

"(2) to provide necessary administrative services for the Center."

BEST AVAILABLE TECHNOLOGIES OR PRACTICES

Pub. L. 116–260, div. R, title I, §114(d), Dec. 27, 2020, 134 Stat. 2232, provided that:

"(1) REPORT OF THE SECRETARY.—Not later than 18 months after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of Transportation] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report—

"(A) discussing—

"(i) the best available technologies or practices to prevent or minimize, without compromising pipeline safety, the release of natural gas when making planned repairs, replacements, or maintenance to a pipeline facility;

"(ii) the best available technologies or practices to prevent or minimize, without compromising pipeline safety, the release of natural gas when the operator intentionally vents or releases natural gas, including blowdowns; and

"(iii) pipeline facility designs that, without compromising pipeline safety, mitigate the need to intentionally vent natural gas; and

"(B) recommending a timeline for updating pipeline safety regulations, as the Secretary determines to be appropriate, to address the matters described in subparagraph (A).

"(2) RULEMAKING.—Not later than 180 days after the date on which the Secretary submits the report under this subsection, the Secretary shall update pipeline safety regulations that the Secretary has determined are necessary to protect the environment without compromising pipeline safety."

PIPELINE SAFETY MANAGEMENT SYSTEMS

Pub. L. 116–260, div. R, title II, §205, Dec. 27, 2020, 134 Stat. 2240, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of Transportation] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report describing—

"(1) the number of operators of natural gas distribution systems who have implemented a pipeline safety management system in accordance with the standard established by the American Petroleum Institute entitled 'Pipeline Safety Management System Requirements' and numbered American Petroleum Institute Recommended Practice 1173;

"(2) the progress made by operators of natural gas distribution systems who have implemented, or are in the process of implementing, a pipeline safety management system described in paragraph (1); and

"(3) the feasibility of an operator of a natural gas distribution system implementing a pipeline safety management system described in paragraph (1) based on the size of the operator as measured by—

"(A) the number of customers the operator has; and

"(B) the amount of natural gas the operator transports.

"(b) REQUIREMENTS.—As part of the report required under subsection (a), the Secretary shall provide guidance or recommendations that would further the adoption of safety management systems in accordance with the standard established by the American Petroleum Institute entitled 'Pipeline Safety Management System Requirements' and numbered American Petroleum Institute Recommended Practice 1173.

"(c) EVALUATION AND PROMOTION OF SAFETY MANAGEMENT SYSTEMS.—The Secretary and the relevant State authority with a certification in effect under section 60105 of title 49, United States Code, as applicable, shall—

"(1) promote and assess pipeline safety management systems frameworks developed by operators of natural gas distribution systems and described in the report under subsection (a), including—

"(A) if necessary, using independent third-party evaluators; and

"(B) through a system that promotes self-disclosure of—

"(i) errors; and

"(ii) deviations from regulatory standards; and

"(2) if a deviation from a regulatory standard is identified during the development and application of a pipeline safety management system, certify that—

"(A) due consideration will be given to factors such as flawed procedures, honest mistakes, or lack of understanding; and

"(B) the operators and regulators use the most appropriate tools to fix the deviation, return to compliance, and prevent the recurrence of the deviation, including—

"(i) root cause analysis; and

"(ii) training, education, or other appropriate improvements to procedures or training programs."

UPDATE TO MINIMUM SAFETY STANDARDS

Pub. L. 114–183, §27(b), June 22, 2016, 130 Stat. 532, provided that: "The Secretary of Transportation shall review and update the minimum safety standards prescribed pursuant to section 60103 of title 49, United States Code, for permanent, small scale liquefied natural gas pipeline facilities."

§60104. Requirements and limitations

(a) OPPORTUNITY TO PRESENT VIEWS.—The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.

(b) NONAPPLICATION.—A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.

(c) PREEMPTION.—A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.

(d) CONSULTATION.—(1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and plans for inspection and maintenance under section 60108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) LOCATION AND ROUTING OF FACILITIES.—This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1308; Pub. L. 107–355, §3(a), Dec. 17, 2002, 116 Stat. 2986.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60104(a)	49 App.:1672(c).	Aug. 12, 1968, Pub. L. 90–481, §3(c), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §§104(a)(2), (c), 109(c), 93 Stat. 992, 994, 996.
	49 App.:2002(g).	Nov. 30, 1979, Pub. L. 96–129, §§202(4) (28th–last words), 203(c) (last sentence), (g), 93 Stat. 1003, 1004, 1005.
60104(b)	49 App.:1672(a)(1) (6th sentence).	Aug. 12, 1968, Pub. L. 90–481, §3(a)(1) (6th, 9th, last sentences), 82

		Stat. 721; Oct. 11, 1976, Pub. L. 94–477, §4(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§101(a), 109(c), (e), 93 Stat. 990, 996; Oct. 24, 1992, Pub. L. 102–508, §116, 106 Stat. 3298.
	49 App.:2002(c) (last sentence).	
60104(c)	49 App.:1672(a)(1) (9th, last sentences).	
	49 App.:2002(d).	Nov. 30, 1979, Pub. L. 96–129, §203(d), 93 Stat. 1004; Oct. 24, 1992, Pub. L. 102–508, §215, 106 Stat. 3305.
60104(d)	49 App.:1676(a).	Aug. 12, 1968, Pub. L. 90–481, §9(a), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §§109(i), 152(a), (b)(3), 93 Stat. 997, 999, 1001; Oct. 30, 1988, Pub. L. 100–561, §105(1), 102 Stat. 2807.
60104(e)	49 App.:1671(4) (33d–last words).	Aug. 12, 1968, Pub. L. 90–481, §2(4) (33d–last words), 82 Stat. 720.
	49 App.:2001(4) (28th–last words).	

Subsection (a) is substituted for 49 App.:1672(c) (last sentence) and 2002(g) (last sentence) to eliminate unnecessary words. The text of 49 App.:1672(c) (1st sentence) and 2002(g) (1st sentence) is omitted as unnecessary because 5:ch. 5, subch. II applies unless otherwise stated.

In subsection (c), the words "prescribed under this chapter" are added for clarity. The words "after the Federal minimum standards become effective" in 49 App.:1672(a) (last sentence) are omitted as obsolete.

In subsection (d)(1), the words "waiving compliance" are substituted for "action upon application for waiver" and "acting on the waiver application" to eliminate unnecessary words. The words "the provisions of" are omitted as surplus. The word "authority" is substituted for "commission" for consistency in the revised title and with other titles of the Code.

In subsection (d)(2), the words "and conclusive" are omitted as being included in "binding". The words "Secretary of Energy" are substituted for "Department of Energy" because of 42:7231.

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–355 inserted at end "Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61."

§60105. State pipeline safety program certifications

(a) GENERAL REQUIREMENTS AND SUBMISSION.—Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) CONTENTS.—Each certification submitted under subsection (a) of this section shall state that

the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;

(4) is encouraging and promoting the establishment of a program designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;

(6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval;

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a)(1) and (b)–(f) of this title;

(8) has the capability to sufficiently review and evaluate the adequacy of the plans and manuals described in section 60109(e)(7)(C)(i); and

(9) has a sufficient number of employees described in paragraph (3) to ensure safe operations of pipeline facilities, updating the State Inspection Calculation Tool to take into account factors including—

(A) the number of miles of natural gas and hazardous liquid pipelines in the State, including the number of miles of cast iron and bare steel pipelines;

(B) the number of services in the State;

(C) the age of the gas distribution system in the State; and

(D) environmental factors that could impact the integrity of the pipeline, including relevant geological issues.

(c) REPORTS.—(1) Each certification submitted under subsection (a) of this section shall include a report that contains—

(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than an amount the Secretary establishes (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) APPLICATION.—A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the

standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) REJECTIONS OF CERTIFICATION.—If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a hearing before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1309; Pub. L. 104–304, §20(a), Oct. 12, 1996, 110 Stat. 3804; Pub. L. 109–468, §2(b)(1), Dec. 29, 2006, 120 Stat. 3487; Pub. L. 116–260, div. R, title II, §202(b)(1), Dec. 27, 2020, 134 Stat. 2239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60105(a)	49 App.:1674(a) (1st sentence words before "that such State agency").	Aug. 12, 1968, Pub. L. 90–481, §5(a), 82 Stat. 722; Aug. 22, 1972, Pub. L. 92–401, §1, 86 Stat. 616; Oct. 11, 1976, Pub. L. 94–477, §5(a), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§101(b), 103(a), (b)(3), 109(g), (h)(1), 93 Stat. 990, 991, 996; Jan. 14, 1983, Pub. L. 97–468, §104, 96 Stat. 2543; Oct. 31, 1988, Pub. L. 100–561, §§103, 303(b)(1), 102 Stat. 2807, 2816; Oct. 24, 1992, Pub. L. 102–508, §§110(a), 111, 106 Stat. 3295.
	49 App.:2004(a) (1st sentence words before "that such State agency").	Nov. 30, 1979, Pub. L. 96–129, §205(a), 93 Stat. 1006; Oct. 31, 1988, Pub. L. 100–561, §203, 102 Stat. 2810; Oct. 24, 1992, Pub. L. 102–508, §§209(a), 210, 106 Stat. 3304.
60105(b)	49 App.:1674(a) (1st sentence words after "an annual certification").	
	49 App.:2004(a) (1st sentence words after "an annual certification").	
60105(c)	49 App.:1674(a) (2d, 3d sentences).	
	49 App.:2004(a) (2d, last sentences).	
60105(d)	49 App.:1674(e).	Aug. 12, 1968, Pub. L. 90–481, §5(e), 82 Stat. 724; Oct. 11, 1976, Pub. L.

		94–477, §5(c), 90 Stat. 2074; Nov. 30, 1979, Pub. L. 96–129, §103(b)(2)(B), 93 Stat. 991.
	49 App.:2004(e).	Nov. 30, 1979, Pub. L. 96–129, §205(c) (related to certification), (e), (f), 93 Stat. 1007, 1008.
60105(e)	49 App.:1674(c) (related to certification).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §5(c) (related to certification); added Nov. 30, 1979, Pub. L. 96–129, §103(b)(2)(C), 93 Stat. 991.
	49 App.:2004(c) (related to certification).	
60105(f)	49 App.:1674(a) (4th, last sentences).	
	49 App.:2004(f).	

In subsection (a), the words "applicable to same" are omitted as surplus. The words "for the facilities and transportation that complies with subsections (b) and (c) of this section" are added for clarity.

In subsections (b) and (c), the words "to which the certification applies" and "to whom the certification applies" are added because of the restatement.

In subsection (b)(2), the words "Federal safety" and "pursuant to State law" are omitted as surplus.

In subsection (b)(7), the words "injunctive relief and civil penalties" are substituted for "injunctive and monetary sanctions" for clarity and consistency.

In subsection (c)(1), before clause (A), the word "annual" is omitted as surplus. The words "in such form as the Secretary may by regulation provide" are omitted as surplus because of 49:322(a). In clause (B), the words "or loss" are added for consistency in the revised title and with other titles of the United States Code. In clause (C), the words "a detail of" are omitted as surplus.

In subsection (d), the words "with respect" and "new or amended Federal" are omitted as surplus.

In subsection (e), the words "conduct whatever . . . may be necessary" and "fully" are omitted as surplus. The words "with the Secretary" are substituted for "in any monitoring of their programs" for clarity.

In subsection (f), the words "prescribed under this chapter" are added for clarity. The word "reasonable" is omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (b)(8), (9). Pub. L. 116–260 added pars. (8) and (9).

2006—Subsec. (b)(4). Pub. L. 109–468 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;".

1996—Pub. L. 104–304 substituted "State pipeline safety program certifications" for "State certifications" in section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 116–260, div. R, title II, §202(b)(2), Dec. 27, 2020, 134 Stat. 2239, provided that: "The Secretary [of Transportation] shall promulgate regulations to require that a State authority with a certification in effect under section 60105 of title 49, United States Code, has a sufficient number of qualified inspectors to ensure safe operations, as determined by the State Inspection Calculation Tool and other factors determined to be appropriate by the Secretary."

Pub. L. 116–260, div. R, title II, §202(b)(3), Dec. 27, 2020, 134 Stat. 2239, provided that: "Not later than 2 years after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of Transportation] shall promulgate regulations to implement the amendments made by this subsection [amending this section]."

§60106. State pipeline safety agreements

(a) AGREEMENTS WITHOUT CERTIFICATION.—If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) AGREEMENTS WITH CERTIFICATION.—

(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

(A) the State authority fails to comply with the terms of the agreement;

(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.

(4) NOTICE UPON DENIAL.—If a State authority requests an interstate agreement under this section and the Secretary denies such request, the Secretary shall provide written notification to the State authority of the denial that includes an explanation of the reasons for such denial.

(c) NOTIFICATION.—

(1) IN GENERAL.—Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.

(d) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(e) ENDING AGREEMENTS.—

(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.

(f) JOINT INSPECTORS.—At the request of a State authority, the Secretary shall allow for a certified State authority under section 60105 to participate in the inspection of an interstate pipeline facility.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1310; Pub. L. 104–304, §20(b), Oct. 12, 1996, 110 Stat. 3804; Pub. L. 107–355, §4, Dec. 17, 2002, 116 Stat. 2986; Pub. L. 114–183, §§13, 24(b), June 22, 2016, 130 Stat. 524, 530.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60106(a)	49 App.:1674(b) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, §5(b), 82 Stat. 723; Oct. 11, 1976, Pub. L. 94–477, §5(b), 90 Stat. 2074; Nov. 30, 1979, Pub. L. 96–129, §§103(b)(1), 109(h)(2), 93 Stat. 991, 996.
	49 App.:2004(b) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129,

		§205(b), (c) (related to agreement), (g), 93 Stat. 1007, 1008.
60106(b)	49 App.:1674(b) (last sentence). 49 App.:2004(b) (last sentence).	
60106(c)	49 App.:1674(c) (related to agreement).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §5(c) (related to agreement); added Nov. 30, 1979, Pub. L. 96–129, §103(b)(2)(C), 93 Stat. 991.
	49 App.:2004(c) (related to agreement).	
60106(d)	49 App.:1674(f).	Aug. 12, 1968, Pub. L. 90–481, §5(f), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96–129, §103(b) (2)(B), 93 Stat. 991.
	49 App.:2004(g).	

In subsection (a), before clause (1), the word "annual" is omitted as surplus. The words "to take necessary action" are substituted for "to assume responsibility for, and carry out" for clarity. The words "on behalf of the Secretary" are omitted as surplus. In clause (1), the words "applicable . . . prescribed under this chapter" are added for clarity. The word "Federal" is omitted as surplus. In clause (2), the word "prescribe" is substituted for "establish" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words "action taken in carrying out an agreement" are substituted for "its program" for clarity.

In subsection (c), the words "conduct whatever . . . may be necessary" and "fully" are omitted as surplus. The words "with the Secretary" are substituted for "in any monitoring of their programs" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

Enactment of the Pipeline Safety Improvement Act of 2002, referred to in subsec. (b)(3), is the enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

AMENDMENTS

2016—Subsec. (b)(4). Pub. L. 114–183, §24(b), added par. (4).

Subsec. (f). Pub. L. 114–183, §13, added subsec. (f).

2002—Subsec. (a). Pub. L. 107–355, §4(a)(1), substituted "AGREEMENTS WITHOUT CERTIFICATION " for "GENERAL AUTHORITY" in heading.

Subsec. (b). Pub. L. 107–355, §4(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–355, §4(a)(2), (c), redesignated subsec. (b) as (c), designated existing provisions as par. (1), inserted par. heading, realigned margins, and added par. (2). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–355, §4(a)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 107–355, §4(a)(2), (b), redesignated subsec. (d) as (e), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a hearing before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication."

1996—Pub. L. 104–304 substituted "State pipeline safety agreements" for "State agreements" in section catchline.

§60107. State pipeline safety grants

(a) GENERAL AUTHORITY.—If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 80 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) to carry out a safety program under a certification under section 60105 of this title or an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or interstate hazardous liquid pipeline facilities.

(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program, except when the Secretary waives this requirement.

(c) APPORTIONMENT AND METHOD OF PAYMENT.—The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d) ADDITIONAL AUTHORITY AND CONSIDERATIONS.—(1) The Secretary may prescribe—

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 60105 or 60106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may—

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

(e) REPURPOSING OF FUNDS.—If a State program's certification is rejected under section 60105(f) or such program is otherwise suspended or interrupted, the Secretary may use any undistributed, deobligated, or recovered funds authorized under this section to carry out pipeline safety activities for that State within the period of availability for such funds.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1311; Pub. L. 104–304, §20(c), Oct. 12, 1996, 110 Stat. 3804; Pub. L. 109–468, §2(c), (d), Dec. 29, 2006, 120 Stat. 3489; Pub. L. 112–90, §19, Jan. 3, 2012, 125 Stat. 1916; Pub. L. 114–183, §17, June 22, 2016, 130 Stat. 526.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60107(a)	49 App.:1674(d)(1) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, §5(d)(1), (3), (4), 82 Stat. 724; Aug. 22, 1972, Pub. L. 92–401, §2, 86 Stat. 616; Aug. 30, 1974, Pub. L. 93–403, §2, 88 Stat. 802; Nov. 30, 1979, Pub. L. 96–129, §103(b)(2)(B), 93 Stat. 991.
	49 App.:2004(d)(1) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §205(d)(1), (3), (4), 93 Stat. 1008.
60107(b)	49 App.:1674(d)(1) (2d, last sentences).	
	49 App.:2004(d)(1) (2d, last sentences).	

60107(c)	49 App.:1674(d)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §5(d)(2); added Aug. 30, 1974, Pub. L. 93–403, §2, 88 Stat. 802; Nov. 30, 1979, Pub. L. 96–129, §§103(b)(2)(B), 109(h)(3), 93 Stat. 991, 996; Apr. 7, 1986, Pub. L. 99–272, §7002(b)(1), 100 Stat. 139.
	49 App.:1674(d)(3).	
	49 App.:2004(d)(2).	Nov. 30, 1979, Pub. L. 96–129, §205(d)(2), 93 Stat. 1008; Apr. 7, 1986, Pub. L. 99–272, §7002(b)(2), 100 Stat. 139.
	49 App.:2004(d)(3).	
60107(d)(1)(A), (B)	49 App.:1674(d)(4).	
	49 App.:2004(d)(4).	
60107(d)(1)(C), (2)	49 App.:1674(d)(5).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §5(d)(5); added Oct. 31, 1988, Pub. L. 100–561, §104, 102 Stat. 2807.
	49 App. 2004(d)(5).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §205(d)(5); added Oct. 31, 1988, Pub. L. 100–561, §204, 102 Stat. 2811.

In subsection (a), before clause (1), the words "Except as otherwise provided in this section" and "out of funds appropriated or otherwise made available" are omitted as surplus.

In subsection (b), before clause (1), the word "payment" is substituted for "funds" for clarity. The words "the total State amount spent" are substituted for "the aggregate expenditures of funds for the State", and the words "at least equal the average amount spent" are substituted for "be maintained at a level which does not fall below the average level of such expenditures", to eliminate unnecessary words. In clause (1), the words "that ended June 30, 1967, and June 30, 1968" are substituted for "last two . . . preceding August 12, 1968" for clarity. In clause (2), the words "that ended September 30, 1978, and September 30, 1979" are substituted for "last two . . . preceding November 30, 1979" for clarity.

In subsection (c), the words "the Federal grants-in-aid provisions of", "for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection", and "with necessary adjustments on account of overpayments and underpayments" are omitted as surplus.

In subsection (d)(1), before clause (A), the word "prescribe" is substituted for "by regulation, provide for" and "establish by regulation" for consistency in the revised title and with other titles of the United States Code. In clause (C), the words "to receive a payment under this section" are substituted for "in order to participate in the pipeline safety grant program under this subsection", and the words "under section 60105 or 60106 of this title" are substituted for "pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary", to eliminate unnecessary words.

In subsection (d)(2), before clause (A), the words "qualifications prescribed" are substituted for "regulations" for clarity and consistency.

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–183, §17(1), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will

at least equal the average amount spent for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement. For each of fiscal years 2012 and 2013, the Secretary shall grant such a waiver to a State if the State can demonstrate an inability to maintain or increase the required funding share of its safety program at or above the level required by this subsection due to economic hardship in that State. For fiscal year 2014, and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence."

Subsec. (e). Pub. L. 114–183, §17(2), added subsec. (e).

2012—Subsec. (b). Pub. L. 112–90 inserted at end "For each of fiscal years 2012 and 2013, the Secretary shall grant such a waiver to a State if the State can demonstrate an inability to maintain or increase the required funding share of its safety program at or above the level required by this subsection due to economic hardship in that State. For fiscal year 2014, and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence."

2006—Subsec. (a). Pub. L. 109–468, §2(c), substituted "not more than 80 percent" for "not more than 50 percent" in introductory provisions.

Subsec. (b). Pub. L. 109–468, §2(d), substituted "spent for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement." for "spent—

"(1) for a gas safety program, for the fiscal years that ended June 30, 1967, and June 30, 1968; and

"(2) for a hazardous liquid safety program, for the fiscal years that ended September 30, 1978, and September 30, 1979."

1996—Pub. L. 104–304 substituted "State pipeline safety grants" for "State grants" in section catchline.

§60108. Inspection and maintenance

(a) PLANS.—(1) Each person owning or operating a gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person owning or operating a pipeline facility subject to this chapter to file a plan for inspection and maintenance for approval.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an opportunity for a hearing. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety, must meet the requirements of any regulations promulgated under section 60102(q), and must include terms designed to enhance the ability to discover safety-related conditions described in section 60102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider—

(A) relevant available pipeline safety information;

(B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;

(C) the reasonableness of the plan;

(D) the extent to which the plan will contribute to—

(i) public safety;

(ii) eliminating hazardous leaks and minimizing releases of natural gas from pipeline facilities; and

(iii) the protection of the environment; and

(E) the extent to which the plan addresses the replacement or remediation of pipelines that are known to leak based on the material (including cast iron, unprotected steel, wrought iron, and historic plastics with known issues), design, or past operating and maintenance history of the pipeline.

(3) REVIEW OF PLANS.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subparagraph,

and not less frequently than once every 5 years thereafter, the Secretary or relevant State authority with a certification in effect under section 60105 shall review each plan described in this subsection.

(B) CONTEXT OF REVIEW.—The Secretary may conduct a review under this paragraph as an element of the inspection of the operator carried out by the Secretary under subsection (b).

(C) INADEQUATE PROGRAMS.—If the Secretary determines that a plan reviewed under this paragraph does not comply with the requirements of this chapter (including any regulations promulgated under this chapter), has not been adequately implemented, is inadequate for the safe operation of a pipeline facility, or is otherwise inadequate, the Secretary may conduct enforcement proceedings under this chapter.

(b) INSPECTION AND TESTING.—(1) The Secretary shall inspect and require appropriate testing of a pipeline facility subject to this chapter that is not covered by a certification under section 60105 of this title or an agreement under section 60106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

(A) the location of the pipeline facility.

(B) the type, size, age, manufacturer, method of construction, construction material, and condition of the pipeline facility.

(C) the nature and volume of material transported through the pipeline facility.

(D) the pressure at which that material is transported.

(E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the pipeline facility is located.

(F) existing and projected population and demographic characteristics of the area in which the pipeline facility is located.

(G) for a hazardous liquid pipeline facility, the proximity of the area in which the facility is located to an area that is unusually sensitive to environmental damage.

(H) the frequency of leaks.

(I) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. The Secretary may reduce the frequency of an inspection of a master meter system.

(3) Testing under this subsection shall use the most appropriate technology practicable.

(c) PIPELINE FACILITIES OFFSHORE AND IN OTHER WATERS.—(1) In this subsection—

(A) "abandoned" means permanently removed from service.

(B) "pipeline facility" includes an underwater abandoned pipeline facility.

(C) if a pipeline facility has no operator, the most recent operator of the facility is deemed to be the operator of the facility.

(2)(A) Not later than May 16, 1993, on the basis of experience with the inspections under section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and, where appropriate, periodic inspection program of—

(i) all offshore pipeline facilities; and

(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.

(B) In prescribing standards to carry out subparagraph (A) of this paragraph—

(i) the Secretary shall identify what is a hazard to navigation with respect to an underwater abandoned pipeline facility; and

(ii) for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(3)(A) The Secretary shall establish by regulation a program requiring an operator of a pipeline facility described in paragraph (2) of this subsection to report a potential or existing navigational hazard involving that pipeline facility to the Secretary through the appropriate Coast Guard office.

(B) The operator of a pipeline facility described in paragraph (2) of this subsection that discovers any part of the pipeline facility that is a hazard to navigation shall mark the location of the hazardous part with a Coast-Guard-approved marine buoy or marker and immediately shall notify the Secretary as provided by the Secretary under subparagraph (A) of this paragraph. A marine buoy or marker used under this subparagraph is deemed a pipeline sign or right-of-way marker under section 60123(c) of this title.

(4)(A) The Secretary shall establish a standard that each pipeline facility described in paragraph (2) of this subsection that is a hazard to navigation is buried not later than 6 months after the date the condition of the facility is reported to the Secretary. The Secretary may extend that 6-month period for a reasonable period to ensure compliance with this paragraph.

(B) In prescribing standards for subparagraph (A) of this paragraph for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(5)(A) Not later than October 24, 1994, the Secretary shall establish standards on what is an exposed offshore pipeline facility and what is a hazard to navigation under this subsection.

(B) Not later than 6 months after the Secretary establishes standards under subparagraph (A) of this paragraph, or October 24, 1995, whichever occurs first, the operator of each offshore pipeline facility not described in section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, shall inspect the facility and report to the Secretary on any part of the facility that is exposed or is a hazard to navigation. This subparagraph applies only to a facility that is between the high water mark and the point at which the subsurface is under 15 feet of water, as measured from mean low water. An inspection that occurred after October 3, 1989, may be used for compliance with this subparagraph if the inspection conforms to the requirements of this subparagraph.

(C) The Secretary may extend the time period specified in subparagraph (B) of this paragraph for not more than 6 months if the operator of a facility satisfies the Secretary that the operator has made a good faith effort, with reasonable diligence, but has been unable to comply by the end of that period.

(6)(A) The operator of a pipeline facility abandoned after October 24, 1992, shall report the abandonment to the Secretary in a way that specifies whether the facility has been abandoned properly according to applicable United States Government and State requirements.

(B) Not later than October 24, 1995, the operator of a pipeline facility abandoned before October 24, 1992, shall report to the Secretary reasonably available information related to the facility, including information that a third party possesses. The information shall include the location, size, date, and method of abandonment, whether the facility has been abandoned properly under applicable law, and other relevant information the Secretary may require. Not later than April 24, 1994, the Secretary shall specify how the information shall be reported. The Secretary shall ensure that the Government maintains the information in a way accessible to appropriate Government agencies and State authorities.

(C) The Secretary shall request that a State authority having information on a collision between a vessel and an underwater pipeline facility report the information to the Secretary in a timely way and make a reasonable effort to specify the location, date, and severity of the collision. Chapter 35 of title 44 does not apply to this subparagraph.

(7) The Secretary may not exempt from this chapter an offshore hazardous liquid pipeline facility

only because the pipeline facility transfers hazardous liquid in an underwater pipeline between a vessel and an onshore facility.

(8) If, after reviewing existing Federal and State regulations for hazardous liquid gathering lines located offshore in the United States, including within the inlets of the Gulf of Mexico, the Secretary determines it is appropriate, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering lines. The regulations issued under this paragraph shall not apply to production pipelines or flow lines.

(d) REPLACING CAST IRON GAS PIPELINES.—(1) The Secretary shall publish a notice on the availability of industry guidelines, developed by the Gas Piping Technology Committee, for replacing cast iron pipelines. Not later than 2 years after the guidelines become available, the Secretary shall conduct a survey of gas pipeline operators with cast iron pipe in their systems to establish—

(A) the extent to which each operator has adopted a plan for the safe management and replacement of cast iron;

(B) the elements of the plan, including the anticipated rate of replacement; and

(C) the progress that has been made.

(2) Chapter 35 of title 44 does not apply to the conduct of the survey.

(3) This subsection does not prevent the Secretary from developing Government guidelines or standards for cast iron gas pipelines as the Secretary considers appropriate.

(4) Not later than December 31, 2012, and every 2 years thereafter, the Secretary shall conduct a follow-up survey to measure the progress that owners and operators of pipeline facilities have made in adopting and implementing their plans for the safe management and replacement of cast iron gas pipelines.

(e) IN GENERAL.—After the completion of a Pipeline and Hazardous Materials Safety Administration pipeline safety inspection, the Administrator of such Administration, or the State authority certified under section 60105 of title 49, United States Code, to conduct such inspection, shall—

(1) within 30 days, conduct a post-inspection briefing with the owner or operator of the gas or hazardous liquid pipeline facility inspected outlining any concerns; and

(2) within 90 days, to the extent practicable, provide the owner or operator with written preliminary findings of the inspection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1312; Pub. L. 104–304, §§6, 20(h), Oct. 12, 1996, 110 Stat. 3800, 3805; Pub. L. 112–90, §§7(a), 18(a), 21(c), Jan. 3, 2012, 125 Stat. 1910, 1916, 1917; Pub. L. 114–183, §7(a), June 22, 2016, 130 Stat. 518; Pub. L. 116–260, div. R, title I, §114(a), Dec. 27, 2020, 134 Stat. 2230.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60108(a)(1)	49 App.:1680(a) (1st, 2d sentences).	Aug. 12, 1968, Pub. L. 90–481, §13(a), 82 Stat. 726; Oct. 11, 1976, Pub. L. 94–477, §6, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, §§104(b), 105(a), 93 Stat. 992, 994; Oct. 22, 1986, Pub. L. 99–516, §3(a)(2), 100 Stat. 2966; Oct. 31, 1988, Pub. L. 100–561, §108(a)(1), 102 Stat. 2808; Oct. 24, 1992, Pub. L. 102–508, §102(c), 106 Stat. 3291.

	49 App.:2009(a) (1st, 2d sentences).	Nov. 30, 1979, Pub. L. 96–129, §210(a), 93 Stat. 1011; Oct. 22, 1986, Pub. L. 99–516, §3(b)(2), 100 Stat. 2966; Oct. 31, 1988, Pub. L. 100–561, §207(c), 102 Stat. 2812.
60108(a)(2)	49 App.:1680(a) (3d–5th, last sentences).	
	49 App.:2009(a) (3d sentence 1st–18th words, last sentence).	
	49 App.:2009(b).	Nov. 30, 1979, Pub. L. 96–129, §210(b), 93 Stat. 1012; Oct. 24, 1992, Pub. L. 102–508, §202(c)(1), 106 Stat. 3301.
60108(a)(3)	49 App.:1680(a) (6th sentence).	
	49 App.:2009(a) (3d sentence 19th–last words).	
60108(b)(1)	49 App.:1680(b)(1) (1st sentence), (2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §13(b); added Oct. 31, 1988, Pub. L. 100–561, §108(a)(2), 102 Stat. 2808.
	49 App.:2009(d)(1) (1st sentence), (2).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §210(d); added Oct. 31, 1988, Pub. L. 100–561, §207(a), 102 Stat. 2811; Oct. 24, 1992, Pub. L. 102–508, §202(c)(2) (related to §210(d)(2)(D)), 106 Stat. 3301.
60108(b)(2)	49 App.:1680(b)(1) (2d, 3d sentences).	
	49 App.:2009(d)(1) (2d, 3d sentences).	
60108(b)(3)	49 App.:1680(b)(1) (last sentence).	
	49 App.:2009(d)(1) (last sentence).	
60108(c)(1)	49 App.:1672(h)(6)(A), (D).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(h)(6); added Oct. 24, 1992, Pub. L. 102–508, §117, 106 Stat. 3298.
	49 App.:2002(*l*)(7)(A), (D).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(*l*)(7); added Oct. 24, 1992, Pub. L. 102–508, §216, 106 Stat. 3306.
60108(c) (2)(A)	49 App.:1672(h)(3).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(h)(1)–(4); added Nov. 16, 1990, Pub. L. 101–599, §1(a), 104 Stat. 3038; Oct. 24, 1992, Pub. L. 102–508, §108(1)–(4), 106 Stat. 3293.
	49 App.:2002(*l*)(3).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(*l*)(1)–(4); added Nov. 16, 1990, Pub. L. 101–599, §1(b), 104 Stat. 3039; Oct. 24, 1992, Pub. L.

		102–508, §207(1)–(4), 106 Stat. 3302.
60108(c) (2)(B)	49 App.:1672(h)(6) (B)(i), (ii) (related to paragraph (3)).	
	49 App.:2002(*l*)(7) (B)(i), (ii) (related to paragraph (3)).	
60108(c)(3)	49 App.:1672(h)(1), (2).	
	49 App.:2002(*l*)(1), (2).	
60108(c) (4)(A)	49 App.:1672(h)(4).	
	49 App.:2002(*l*)(4).	
60108(c) (4)(B)	49 App.:1672(h) (6)(B)(ii) (related to paragraph (4)).	
	49 App.:2002(*l*) (7)(B)(ii) (related to paragraph (4)).	
60108(c)(5)	49 App.:1672(h)(5).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(h)(5); added Oct. 24, 1992, Pub. L. 102–508, §108(5), 106 Stat. 3294.
	49 App.:2002(*l*)(6).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(*l*)(5), (6); added Oct. 24, 1992, Pub. L. 102–508, §207(5), 106 Stat. 3302.
60108(c)(6)	49 App.:1672(h)(6)(C).	
	49 App.:2002(*l*)(7)(C).	
60108(c)(7)	49 App.:2002(*l*)(5).	
60108(d)	49 App.:1680(c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §13(c); added Oct. 24, 1992, Pub. L. 102–508, §107, 106 Stat. 3293.

In subsection (a)(1), the word "prepare" is omitted as surplus. The words "or offices" are omitted because of 1:1. The words "in accordance with regulations prescribed by the Secretary or appropriate State agency" in 49 App.:1680(a) (1st sentence), "in accordance with regulations prescribed by the Secretary or, where a certification or agreement pursuant to section 2004 of this Appendix is in effect, by the appropriate State agency" in 49 App.:2009(a) (1st sentence), and "by regulation" are omitted as surplus because of 49:322(a) and sections 60102–60105 of the revised title.

In subsection (a)(2), before clause (A), the words "the Secretary or" are added for clarity. The words "at any time" in 49 App.:1680(a) (3d sentence) are omitted as surplus.

In subsection (a)(3), the word "appropriate" is omitted as surplus.

In subsection (b)(1), before clause (A), the words "to ensure the safety of such pipeline facilities" and "factors" are omitted as surplus. In clause (G), the words "if any" are omitted as surplus.

In subsection (b)(2), the text of 49 App.:1680(b)(1) (3d sentence) and 2009(d)(1) (3d sentence) is omitted as obsolete.

In subsection (c)(1)(B), the words "except with respect to the initial inspection required under paragraph (1)" are omitted as obsolete.

In subsection (c)(1)(C), the word "current" is omitted as surplus.

In subsection (c)(2)(B), before clause (i), the words "to carry out" are substituted for "under" because the Secretary does not prescribe regulations under 49 App.:1672(h)(3) or 2002(l)(3).

In subsection (c)(3), the text of 49 App.:1672(h)(1) and 2002(l)(1) is omitted as executed.

In subsection (c)(4)(A), the text of 49 App.:1672(h)(4)(A) and 2002(l)(4)(A) is omitted as obsolete.

In subsection (c)(5)(A), the words "for the purposes of this paragraph" are omitted as surplus.

In subsection (c)(5)(C), the words "an additional period of" and "and care" are omitted as surplus.

In subsection (c)(6)(C), the words "relating to coordination of Federal information policies" are omitted as surplus.

In subsection (c)(7), the words "regulation under" are omitted as surplus. The word "because" is substituted for "on the basis of the fact that" to eliminate unnecessary words.

In subsection (d)(2), the words "(relating to coordination of Federal information policy)" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (a)(3)(A), is the date of enactment of Pub. L. 116–260, which was approved Dec. 27, 2020.

Section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968, referred to in subsec. (c)(2)(A), (5)(B), is section 3(h)(1)(A) of Pub. L. 90–481, which was classified to section 1672(h)(1)(A) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379. For further details, see Historical and Revision Notes above.

Section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, referred to in subsec. (c)(2)(A), (5)(B), is section 203(l)(1)(A) of Pub. L. 96–129, which was classified to section 2002(l)(1)(A) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379. For further details, see Historical and Revision Notes above.

AMENDMENTS

2020—Subsec. (a)(2). Pub. L. 116–260, §114(a)(1)(A)(i), in introductory provisions, inserted ", must meet the requirements of any regulations promulgated under section 60102(q)," after "the need for pipeline safety".

Subsec. (a)(2)(D), (E). Pub. L. 116–260, §114(a)(1)(A)(ii), (iii), added subpars. (D) and (E) and struck out former subpar. (D) which read as follows: "the extent to which the plan will contribute to public safety and the protection of the environment."

Subsec. (a)(3). Pub. L. 116–260, §114(a)(1)(B), added par. (3) and struck out former par. (3) which read as follows: "A plan required under this subsection shall be made available to the Secretary or State authority on request under section 60117 of this title."

Subsec. (b)(1)(B). Pub. L. 116–260, §114(a)(2), inserted "construction material," after "method of construction,".

2016—Subsec. (e). Pub. L. 114–183 added subsec. (e).

2012—Subsec. (a)(1). Pub. L. 112–90, §18(a), substituted "a gas pipeline" for "an intrastate gas pipeline".

Subsec. (c)(8). Pub. L. 112–90, §21(c), added par. (8).

Subsec. (d)(4). Pub. L. 112–90, §7(a), added par. (4).

1996—Subsec. (a)(1). Pub. L. 104–304, §6(1), struck out "transporting gas or hazardous liquid or" after "Each person" and "a person".

Subsec. (b)(2). Pub. L. 104–304, §6(2), struck out after first sentence "However, an inspection must occur at least once every 2 years."

Subsec. (c). Pub. L. 104–304, §6(3), substituted "OTHER WATERS" for "NAVIGABLE WATERS" in heading.

Subsec. (c)(2)(A)(ii). Pub. L. 104–304, §6(4), added cl. (ii) and struck out former cl. (ii) which read as follows: "any other pipeline facility crossing under, over, or through navigable waters (as defined by the Secretary) if the Secretary decides that the location of the facility in those navigable waters could pose a hazard to navigation or public safety."

Subsec. (c)(2)(B). Pub. L. 104–304, §20(h)(1), substituted "standards" for "regulations" in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 104–304, §20(h)(2), substituted "establish a standard" for "require by regulation".

Subsecs. (c)(4)(B), (d)(3). Pub. L. 104–304, §20(h)(1), substituted "standards" for "regulations".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for

treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEADLINE

Pub. L. 116–260, div. R, title I, §114(b), Dec. 27, 2020, 134 Stat. 2231, provided that: "Not later than 1 year after the date of enactment of this Act [Dec. 27, 2020], each pipeline operator shall update the inspection and maintenance plan prepared by the operator under section 60108(a) of title 49, United States Code, to address the elements described in the amendments to that section made by subsection (a)."

INFORMATION-SHARING SYSTEM

Pub. L. 114–183, §10, June 22, 2016, 130 Stat. 520, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [June 22, 2016], the Secretary of Transportation shall convene a working group to consider the development of a voluntary information-sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing with the purpose of improving gas transmission and hazardous liquid pipeline facility integrity risk analysis.

"(b) MEMBERSHIP.—The working group convened pursuant to subsection (a) shall include representatives from—

"(1) the Pipeline and Hazardous Materials Safety Administration;

"(2) industry stakeholders, including operators of pipeline facilities, inspection technology, coating, and cathodic protection vendors, and pipeline inspection organizations;

"(3) safety advocacy groups;

"(4) research institutions;

"(5) State public utility commissions or State officials responsible for pipeline safety oversight;

"(6) State pipeline safety inspectors;

"(7) labor representatives; and

"(8) other entities, as determined appropriate by the Secretary.

"(c) CONSIDERATIONS.—The working group convened pursuant to subsection (a) shall consider and provide recommendations to the Secretary on—

"(1) the need for, and the identification of, a system to ensure that dig verification data are shared with in-line inspection operators to the extent consistent with the need to maintain proprietary and security-sensitive data in a confidential manner to improve pipeline safety and inspection technology;

"(2) ways to encourage the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis;

"(3) opportunities to share data, including dig verification data between operators of pipeline facilities and in-line inspector vendors to expand knowledge of the advantages and disadvantages of the different types of in-line inspection technology and methodologies;

"(4) options to create a secure system that protects proprietary data while encouraging the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis;

"(5) means and best practices for the protection of safety- and security-sensitive information and proprietary information; and

"(6) regulatory, funding, and legal barriers to sharing the information described in paragraphs (1) through (4).

"(d) PUBLICATION.—The Secretary shall publish the recommendations provided under subsection (c) on a publicly available Web site of the Department of Transportation."

NATIONWIDE INTEGRATED PIPELINE SAFETY REGULATORY DATABASE

Pub. L. 114–183, §11, June 22, 2016, 130 Stat. 521, provided that:

"(a) REPORT.—Not later than 1 year after the date of enactment of this Act [June 22, 2016], the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the feasibility of establishing a national integrated pipeline safety regulatory inspection database to improve communication and collaboration between the Pipeline and Hazardous Materials Safety Administration and State pipeline regulators.

"(b) CONTENTS.—The report submitted under subsection (a) shall include—

"(1) a description of any efforts underway to test a secure information-sharing system for the purpose described in subsection (a);

"(2) a description of any progress in establishing common standards for maintaining, collecting, and presenting pipeline safety regulatory inspection data, and a methodology for sharing the data;

"(3) a description of any inadequacies or gaps in State and Federal inspection, enforcement, geospatial, or other pipeline safety regulatory inspection data;

"(4) a description of the potential safety benefits of a national integrated pipeline safety regulatory inspection database; and

"(5) recommendations, including those of stakeholders for how to implement a secure information-sharing system that protects proprietary and security sensitive information and data for the purpose described in subsection (a).

"(c) CONSULTATION.—In implementing this section, the Secretary shall consult with stakeholders, including each State authority operating under a certification to regulate intrastate pipelines under section 60105 of title 49, United States Code.

"(d) ESTABLISHMENT OF DATABASE.—The Secretary may establish, if appropriate, a national integrated pipeline safety regulatory database—

"(1) after submission of the report required under subsection (a); or

"(2) upon notification to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the need to establish such database prior to the submission of the report under subsection (a)."

REPORT ON NATURAL GAS LEAK REPORTING

Pub. L. 114–183, §29, June 22, 2016, 130 Stat. 532, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [June 22, 2016], the Administrator of the Pipeline and Hazardous Materials Safety Administration shall submit to Congress a report on the metrics provided to the Pipeline and Hazardous Materials Safety Administration and other Federal and State agencies related to lost and unaccounted for natural gas from distribution pipelines and systems.

"(b) ELEMENTS.—The report required under subsection (a) shall include the following elements:

"(1) An examination of different reporting requirements or standards for lost and unaccounted for natural gas to different agencies, the reasons for any such discrepancies, and recommendations for harmonizing and improving the accuracy of reporting.

"(2) An analysis of whether separate or alternative reporting could better measure the amounts and identify the location of lost and unaccounted for natural gas from natural gas distribution systems.

"(3) A description of potential safety issues associated with natural gas that is lost and unaccounted for from natural gas distribution systems.

"(4) An assessment of whether alternate reporting and measures will resolve any safety issues identified under paragraph (3), including an analysis of the potential impact, including potential savings, on rate payers and end users of natural gas products of such reporting and measures.

"(c) CONSIDERATION OF RECOMMENDATIONS.—If the Administrator determines that alternate reporting structures or recommendations included in the report required under subsection (a) would significantly improve the reporting and measurement of lost and unaccounted for gas and safety of natural gas distribution systems, the Administrator shall, not later than 1 year after making such determination, issue regulations, as the Administrator determines appropriate, to implement the recommendations."

REVIEW OF STATE POLICIES RELATING TO NATURAL GAS LEAKS

Pub. L. 114–183, §30, June 22, 2016, 130 Stat. 533, provided that:

"(a) REVIEW.—The Administrator of the Pipeline and Hazardous Materials Safety Administration shall conduct a State-by-State review of State-level policies that—

"(1) encourage the repair and replacement of leaking natural gas distribution pipelines or systems that pose a safety threat, such as timelines to repair leaks and limits on cost recovery from ratepayers; and

"(2) may create barriers for entities to conduct work to repair and replace leaking natural gas pipelines or distribution systems.

"(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [June 22, 2016], the Administrator shall submit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the findings of the review conducted under subsection (a) and recommendations on Federal or State policies or best practices to improve safety by accelerating the repair

and replacement of natural gas pipelines or systems that are leaking or releasing natural gas. The report shall consider the potential impact, including potential savings, of the implementation of such recommendations on ratepayers or end users of the natural gas pipeline system.

"(c) IMPLEMENTATION OF RECOMMENDATIONS.—If the Administrator determines that the recommendations made under subsection (b) would significantly improve pipeline safety, the Administrator shall, not later than 1 year after making such determination, and in coordination with the heads of other relevant agencies as appropriate, issue regulations, as the Administrator determines appropriate, to implement the recommendations."

LEAK DETECTION

Pub. L. 112–90, §8, Jan. 3, 2012, 125 Stat. 1911, provided that:

"(a) LEAK DETECTION REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives a report on leak detection systems utilized by operators of hazardous liquid pipeline facilities and transportation-related flow lines.

"(2) CONTENTS.—The report shall include—

"(A) an analysis of the technical limitations of current leak detection systems, including the ability of the systems to detect ruptures and small leaks that are ongoing or intermittent, and what can be done to foster development of better technologies; and

"(B) an analysis of the practicability of establishing technically, operationally, and economically feasible standards for the capability of such systems to detect leaks, and the safety benefits and adverse consequences of requiring operators to use leak detection systems.

"(b) RULEMAKING REQUIREMENTS.—

"(1) REVIEW PERIOD DEFINED.—In this subsection, the term 'review period' means the period beginning on the date of enactment of this Act [Jan. 3, 2012] and ending on the earlier of—

"(A) the date that is 1 year after the date of completion of the report under subsection (a); or

"(B) the date that is 2 years after the date of enactment of this Act.

"(2) CONGRESSIONAL AUTHORITY.—In order to provide Congress the necessary time to review the results of the report required by subsection (a) and implement appropriate recommendations, the Secretary, during the review period, shall not issue final regulations described in paragraph (3).

"(3) STANDARDS.—As soon as practicable following the review period, if the report required by subsection (a) finds that it is practicable to establish technically, operationally, and economically feasible standards for the capability of leak detection systems to detect leaks, the Secretary shall issue final regulations that—

"(A) require operators of hazardous liquid pipeline facilities to use leak detection systems where practicable; and

"(B) establish technically, operationally, and economically feasible standards for the capability of such systems to detect leaks.

"(4) SAVINGS CLAUSE.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Secretary, during the review period, may issue final regulations described in paragraph (3) if the Secretary determines that a condition that poses a risk to public safety, property, or the environment is present or an imminent hazard exists and that the regulations will address the risk or hazard.

"(B) IMMINENT HAZARD DEFINED.—In subparagraph (A), the term 'imminent hazard' means the existence of a condition related to pipelines or pipeline operations that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur."

[Terms used in section 8 of Pub. L. 112–90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112–90, set out as a note under section 60101 of this title.]

PIPELINE BRIDGE RISK STUDY

Pub. L. 107–355, §25, Dec. 17, 2002, 116 Stat. 3011, required the Secretary of Transportation to conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges and to transmit a report detailing the results of the completed study within 2 years after Dec. 17, 2002.

STUDY OF UNDERWATER ABANDONED PIPELINE FACILITIES

Pub. L. 102–508, title III, §307, Oct. 24, 1992, 106 Stat. 3309, directed Secretary of Transportation, in consultation with State and other Federal agencies having authority over underwater natural gas and hazardous liquid pipeline facilities and with pipeline owners and operators, fishing and maritime industries, and other affected groups, to submit to Congress, not later than 3 years after Oct. 24, 1992, report and recommendations on abandonment of such pipeline facilities, including analysis of problems caused by such facilities, alternative methods to abandonment, as well as navigational, safety, economic, and environmental impacts associated with abandonment, and further authorized Secretary to require, based on findings of such study, additional appropriate actions to prevent hazards to navigation in connection with such facilities.

§60109. High-density population areas and environmentally sensitive areas

(a) IDENTIFICATION REQUIREMENTS.—Not later than October 24, 1994, the Secretary of Transportation shall prescribe standards that—

(1) establish criteria for identifying—

(A) by operators of gas pipeline facilities, each gas pipeline facility (except a natural gas distribution line) located in a high-density population area; and

(B) by operators of hazardous liquid pipeline facilities and gathering lines—

(i) each hazardous liquid pipeline facility, whether otherwise subject to this chapter, that crosses waters where a substantial likelihood of commercial navigation exists or that is located in an area described in the criteria as a high-density population area; and

(ii) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to this chapter, located in an area that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident; and

(2) provide that the identification be carried out through the inventory required under section 60102(e) of this title.

(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

(1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and

(2) locations near pipeline rights-of-way that are part of the Great Lakes or have been identified as coastal beaches, certain coastal waters, critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.

(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

(1) REQUIREMENT.—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

(2) REGULATIONS.—

(A) IN GENERAL.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of

enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).

(B) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

(B) Subject to paragraph (5), periodic reassessments of the facility, at a minimum of once every 7 calendar years, using methods described in subparagraph (A). The Secretary may extend such deadline for an additional 6 months if the operator submits written notice to the Secretary with sufficient justification of the need for the extension.

(C) Clearly defined criteria for evaluating the results of assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

(4) TREATMENT OF BASELINE INTEGRITY ASSESSMENTS.—In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

(6) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

(A) The minimum requirements described in paragraph (3).

(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

(C) The manner in which the inspections or testing are conducted.

(D) The criteria used in analyzing results of the inspections or testing.

(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

(7) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

(B) the use of emergency flow restricting devices.

(8) LACK OF REGULATIONS.—In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this subsection and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

(9) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

(A) REVIEW OF PROGRAMS.—

(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), has not been adequately implemented, or is inadequate for the safe operation of a pipeline facility, the Secretary may conduct proceedings under this chapter.

(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

(10) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

(11) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.

(12) DISTRIBUTION PIPELINES.—

(A) STUDY.—The Secretary shall conduct a study of methods that may be used under paragraph (3), other than direct assessment, to assess distribution pipelines to determine whether any such method—

(i) would provide a greater level of safety than direct assessment of the pipelines; and

(ii) is feasible.

(B) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Energy and Commerce and Transportation and Infrastructure of the House of Representatives a report describing—

(i) the results of the study under subparagraph (A); and

(ii) recommendations based on that study, if any.

(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).

(e) DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.—

(1) MINIMUM STANDARDS.—Not later than December 31, 2007, the Secretary shall prescribe minimum standards for integrity management programs for distribution pipelines.

(2) ADDITIONAL AUTHORITY OF SECRETARY.—In carrying out this subsection, the Secretary may require operators of distribution pipelines to continually identify and assess risks on their distribution lines, to remediate conditions that present a potential threat to line integrity, and to monitor program effectiveness.

(3) EXCESS FLOW VALVES.—

(A) IN GENERAL.—The minimum standards shall include a requirement for an operator of a natural gas distribution system to install an excess flow valve on each single family residence service line connected to such system if—

(i) the service line is installed or entirely replaced after June 1, 2008;

(ii) the service line operates continuously throughout the year at a pressure not less than 10 pounds per square inch gauge;

(iii) the service line is not connected to a gas stream with respect to which the operator has had prior experience with contaminants the presence of which could interfere with the operation of an excess flow valve;

(iv) the installation of an excess flow valve on the service line is not likely to cause loss of service to the residence or interfere with necessary operation or maintenance activities, such as purging liquids from the service line; and

(v) an excess flow valve meeting performance standards developed under section 60110(e) of title 49, United States Code, is commercially available to the operator, as determined by the Secretary.

(B) DISTRIBUTION BRANCH SERVICES, MULTIFAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.—Not later than 2 years after the date of enactment of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, and after issuing a final report on the evaluation of the National Transportation Safety Board's recommendation on excess flow valves in applications other than service lines serving one single family residence, the Secretary, if appropriate, shall by regulation require the use of excess flow valves, or equivalent technology, where economically, technically, and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial facilities.

(C) REPORTS.—Operators of natural gas distribution systems shall report annually to the Secretary on the number of excess flow valves installed on their systems under subparagraph (A).

(4) APPLICABILITY.—The Secretary shall determine which distribution pipelines will be subject to the minimum standards.

(5) DEVELOPMENT AND IMPLEMENTATION.—Each operator of a distribution pipeline that the Secretary determines is subject to the minimum standards prescribed by the Secretary under this subsection shall develop and implement an integrity management program in accordance with those standards.

(6) SAVINGS CLAUSE.—Subject to section 60104(c), a State authority having a current certification under section 60105 may adopt or continue in force additional integrity management requirements, including additional requirements for installation of excess flow valves, for gas distribution pipelines within the boundaries of that State.

(7) EVALUATION OF RISK.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall promulgate regulations to ensure that each distribution integrity management plan developed by an operator of a distribution system includes an evaluation of—

(i) the risks resulting from the presence of cast iron pipes and mains in the distribution system; and

(ii) the risks that could lead to or result from the operation of a low-pressure distribution system at a pressure that makes the operation of any connected and properly adjusted low-pressure gas burning equipment unsafe, as determined by the Secretary.

(B) CONSIDERATION.—In carrying out subparagraph (A)(ii), the Secretary shall ensure that an operator of a distribution system—

(i) considers factors other than past observed abnormal operating conditions (as defined in section 192.803 of title 49, Code of Federal Regulations (or a successor regulation)) in ranking risks and identifying measures to mitigate those risks; and

(ii) may not determine that there are no potential consequences associated with low probability events unless that determination is otherwise supported by engineering analysis or operational knowledge.

(C) DEADLINES.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, each operator of a distribution system shall make available to the Secretary or the relevant State authority with a certification in effect under section 60105, as applicable, a copy of—

(I) the distribution integrity management plan of the operator;

(II) the emergency response plan under section 60102(d)(5); and

(III) the procedural manual for operations, maintenance, and emergencies under section 60102(d)(4).

(ii) UPDATES.—Each operator of a distribution system shall make available to the Secretary or make available for inspection to the relevant State authority described in clause

(i), if applicable, an updated plan or manual described in that clause by not later than 60 days after the date of a significant update, as determined by the Secretary.

(iii) APPLICABILITY OF FOIA.—Nothing in this subsection shall be construed to authorize the disclosure of any information that is exempt from disclosure under section 552(b) of title 5.

(D) REVIEW OF PLANS AND DOCUMENTS.—

(i) TIMING.—

(I) IN GENERAL.—Not later than 2 years after the date of promulgation of the regulations under subparagraph (A), and not less frequently than once every 5 years thereafter, the Secretary or relevant State authority with a certification in effect under section 60105 shall review the distribution integrity management plan, the emergency response plan, and the procedural manual for operations, maintenance, and emergencies of each operator of a distribution system and record the results of that review for use in the next review of the program of that operator.

(II) GRACE PERIOD.—For the third, fourth, and fifth years after the date of promulgation of the regulations under subparagraph (A), the Secretary—

(aa) shall not use subclause (I) as justification to reduce funding, decertify, or penalize in any way under section 60105, 60106, or 60107 a State authority that has in effect a certification under section 60105 or an agreement under section 60106; and

(bb) shall—

(AA) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a list of States found to be noncompliant with subclause (I) during the annual program evaluation; and

(BB) provide a written notice to each State authority described in item (aa) that is not in compliance with the requirements of subclause (I).

(ii) REVIEW.—Each plan or procedural manual made available under subparagraph (C)(i) shall be reexamined—

(I) on significant change to the plans or procedural manual, as applicable;

(II) on significant change to the gas distribution system of the operator, as applicable; and

(III) not less frequently than once every 5 years.

(iii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) or (ii) as an element of the inspection of the operator carried out by the Secretary.

(iv) INADEQUATE PROGRAMS.—If the Secretary determines that the documents reviewed under clause (i) or (ii) do not comply with the requirements of this chapter (including regulations to implement this chapter), have not been adequately implemented, or are inadequate for the safe operation of a pipeline facility, the Secretary may conduct proceedings under this chapter.

(f) CERTIFICATION OF PIPELINE INTEGRITY MANAGEMENT PROGRAM PERFORMANCE.—The Secretary shall establish procedures requiring certification of annual and semiannual pipeline integrity management program performance reports by a senior executive officer of the company operating a pipeline subject to this chapter. The procedures shall require a signed statement, which may be effected electronically in accordance with the provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.), certifying that—

(1) the signing officer has reviewed the report; and

(2) to the best of such officer's knowledge and belief, the report is true and complete.

(g) HAZARDOUS LIQUID PIPELINE FACILITIES.—

(1) INTEGRITY ASSESSMENTS.—Notwithstanding any pipeline integrity management program or integrity assessment schedule otherwise required by the Secretary, each operator of a pipeline facility to which this subsection applies shall ensure that pipeline integrity assessments—

(A) using internal inspection technology appropriate for the integrity threat are completed not less often than once every 12 months; and

(B) using pipeline route surveys, depth of cover surveys, pressure tests, external corrosion direct assessment, or other technology that the operator demonstrates can further the understanding of the condition of the pipeline facility are completed on a schedule based on the risk that the pipeline facility poses to the high consequence area in which the pipeline facility is located, but not less often than once every 12 months.

(2) APPLICATION.—This subsection shall apply to any underwater hazardous liquid pipeline facility located in a high consequence area—

(A) that is not an offshore pipeline facility; and

(B) any portion of which is located at depths greater than 150 feet under the surface of the water.

(3) HIGH CONSEQUENCE AREA DEFINED.—For purposes of this subsection, the term "high consequence area" has the meaning given that term in section 195.450 of title 49, Code of Federal Regulations.

(4) INSPECTION AND ENFORCEMENT.—The Secretary shall conduct inspections under section 60117(d) to determine whether each operator of a pipeline facility to which this subsection applies is complying with this section.

(5) CONSIDERATIONS.—In carrying out this subsection, each operator shall implement procedures that assess potential impacts by maritime equipment or other vessels, including anchors, anchor chains, or any other attached equipment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1315; Pub. L. 103–429, §6(75), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 104–304, §§7, 20(i), Oct. 12, 1996, 110 Stat. 3800, 3805; Pub. L. 107–355, §14(a), (b), Dec. 17, 2002, 116 Stat. 3002, 3005; Pub. L. 109–468, §§9, 14, 16, Dec. 29, 2006, 120 Stat. 3493, 3496; Pub. L. 112–90, §§5(e), 22, Jan. 3, 2012, 125 Stat. 1908, 1917; Pub. L. 114–183, §§19(a), 25, June 22, 2016, 130 Stat. 527, 530; Pub. L. 116–260, div. R, title I, §§108(b)(1), 120(b), (d), 122, title II, §202(a), Dec. 27, 2020, 134 Stat. 2223, 2235–2237.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60109(a) (1)(A)	49 App.:1672(i)(1) (1st sentence), (2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(i); added Oct. 24, 1992, Pub. L. 102–508, §102(a)(2), 106 Stat. 3291.
60109(a) (1)(B)	49 App.:2002(m)(1) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(m); added Oct. 24, 1992, Pub. L. 102–508, §202(a)(2), 106 Stat. 3300.
60109(a)(2)	49 App.:1672(i)(1) (last sentence). 49 App.:2002(m)(1) (2d sentence).	
60109(b)	49 App.:2002(m)(1) (last sentence).	

In subsection (a)(1)(B)(i) and (ii), the words "regulation under" and "or not" are omitted as surplus.

PUB. L. 103–429

This amends 49:60109(a)(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1315).

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsecs. (c) and (d), is the date of enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

The date of enactment of this paragraph, referred to in subsecs. (c)(12)(B) and (e)(7)(A), (C)(i), is the date of enactment of Pub. L. 116–260, which was approved Dec. 27, 2020.

The date of enactment of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, referred to in subsec. (e)(3)(B), is the date of enactment of Pub. L. 112–90, which was approved Jan. 3, 2012.

The Electronic Signatures in Global and National Commerce Act, referred to in subsec. (f), is Pub. L. 106–229, June 30, 2000, 114 Stat. 464, which is classified principally to chapter 96 (§7001 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 7001 of Title 15 and Tables.

AMENDMENTS

2020—Subsec. (b)(2). Pub. L. 116–260, §120(b), substituted "certain coastal waters" for "marine coastal waters".

Subsec. (c)(12). Pub. L. 116–260, §122, added par. (12).

Subsec. (e)(7). Pub. L. 116–260, §202(a), added par. (7).

Subsec. (g)(1)(B). Pub. L. 116–260, §120(d)(1), inserted ", but not less often than once every 12 months" before period at end.

Subsec. (g)(4). Pub. L. 116–260, §108(b)(1), substituted "section 60117(d)" for "section 60117(c)".

Subsec. (g)(5). Pub. L. 116–260, §120(d)(2), added par. (5).

2016—Subsec. (b)(2). Pub. L. 114–183, §19(a), substituted "are part of the Great Lakes or have been identified as coastal beaches, marine coastal waters," for "have been identified as".

Subsec. (g). Pub. L. 114–183, §25, added subsec. (g).

2012—Subsec. (c)(3)(B). Pub. L. 112–90, §5(e), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A)."

Subsec. (e)(3)(B), (C). Pub. L. 112–90, §22, added subpar. (B) and redesignated former subpar. (B) as (C).

2006—Subsec. (c)(9)(A)(iii). Pub. L. 109–468, §14, reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program."

Subsec. (e). Pub. L. 109–468, §9, added subsec. (e).

Subsec. (f). Pub. L. 109–468, §16, added subsec. (f).

2002—Subsec. (c). Pub. L. 107–355, §14(a), added subsec. (c).

Subsec. (d). Pub. L. 107–355, §14(b), added subsec. (d).

1996—Subsec. (a). Pub. L. 104–304, §20(i), substituted "standards" for "regulations" in introductory provisions.

Subsec. (a)(1)(B)(i). Pub. L. 104–304, §7(a), substituted "waters where a substantial likelihood of commercial navigation exists" for "a navigable waterway (as the Secretary defines by regulation)".

Subsec. (b). Pub. L. 104–304, §7(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "When describing an area that is unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider including—

"(1) earthquake zones and areas subject to landslides and other substantial ground movements;

"(2) areas of likely ground water contamination if a hazardous liquid pipeline facility ruptures;

"(3) freshwater lakes, rivers, and waterways; and

"(4) river deltas and other areas subject to soil erosion or subsidence from flooding or other water action where a hazardous liquid pipeline facility is likely to become exposed or undermined."

1994—Subsec. (a)(2). Pub. L. 103–429 substituted "section 60102(e)" for "section 60102(c)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

CONSIDERATION OF PIPELINE CLASS LOCATION CHANGES

Pub. L. 116–260, div. R, title I, §115, Dec. 27, 2020, 134 Stat. 2232, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 27, 2020], the Administrator of the Pipeline and Hazardous Materials Safety Administration shall—

"(1) review all comments submitted in response to the advance notice of proposed rulemaking entitled 'Pipeline Safety: Class Location Change Requirements' (83 Fed. Reg. 36861 (July 31, 2018));

"(2) complete any other activities or procedures necessary—

"(A) to make a determination whether to publish a notice of proposed rulemaking; and

"(B) if a positive determination is made under subparagraph (A), to advance in the rulemaking process, including by taking any actions required under section 60115 of title 49, United State Code; and

"(3) consider the issues raised in the report to Congress entitled 'Evaluation of Expanding Pipeline Integrity Management Beyond High-Consequence Areas and Whether Such Expansion Would Mitigate the Need for Gas Pipeline Class Location Requirements' prepared by the Pipeline and Hazardous Materials Safety Administration and submitted to Congress on June 8, 2016, including the adequacy of existing integrity management programs.

"(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to require the Administrator of the Pipeline and Hazardous Materials Safety Administration to publish a notice of proposed rulemaking or otherwise continue the rulemaking process with respect to the advance notice of proposed rulemaking described in subsection (a)(1).

"(c) REPORTING.—For purposes of this section, the requirements of section 106 [134 Stat. 2220] shall apply during the period beginning on the date that is 180 days after the date of enactment of this Act and ending on the date on which the requirements of subsection (a) are completed."

UNUSUALLY SENSITIVE AREAS (USA) ECOLOGICAL RESOURCES

Pub. L. 116–260, div. R, title I, §120(c), Dec. 27, 2020, 134 Stat. 2235, provided that: "The Secretary [of Transportation] shall complete the revision to regulations required under section 19(b) of the PIPES Act of 2016 (49 U.S.C. 60109 note; Public Law 114–183) (as amended by subsection (a)) [set out below] by not later than 90 days after the date of enactment of this Act [Dec. 27, 2020]."

Pub. L. 114–183, §19(b), June 22, 2016, 130 Stat. 527, as amended by Pub. L. 116–260, div. R, title I, §120(a), Dec. 27, 2020, 134 Stat. 2235, provided that:

"(1) DEFINITIONS.—In this subsection:

"(A) CERTAIN COASTAL WATERS.—The term 'certain coastal waters' means—

"(i) the territorial sea of the United States;

"(ii) the Great Lakes and their connecting waters; and

"(iii) the marine and estuarine waters of the United States up to the head of tidal influence.

"(B) COASTAL BEACH.—The term 'coastal beach' means any land between the high- and low-water marks of certain coastal waters.

"(2) REVISION.—The Secretary of Transportation shall revise section 195.6(b) of title 49, Code of Federal Regulations, to explicitly state that the Great Lakes, coastal beaches, and certain coastal waters are USA ecological resources for purposes of determining whether a pipeline is in a high consequence area (as defined in section 195.450 of such title)."

INTEGRITY MANAGEMENT

Pub. L. 112–90, §5, Jan. 3, 2012, 125 Stat. 1907, provided that:

"(a) EVALUATION.—Not later than 18 months after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall evaluate—

"(1) whether integrity management system requirements, or elements thereof, should be expanded beyond high-consequence areas; and

"(2) with respect to gas transmission pipeline facilities, whether applying integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location

requirements.

"(b) FACTORS.—In conducting the evaluation under subsection (a), the Secretary shall consider, at a minimum, the following:

"(1) The continuing priority to enhance protections for public safety.

"(2) The continuing importance of reducing risk in high-consequence areas.

"(3) The incremental costs of applying integrity management standards to pipelines outside of high-consequence areas where operators are already conducting assessments beyond what is required under chapter 601 of title 49, United States Code.

"(4) The need to undertake integrity management assessments and repairs in a manner that is achievable and sustainable, and that does not disrupt pipeline service.

"(5) The options for phasing in the extension of integrity management requirements beyond high-consequence areas, including the most effective and efficient options for decreasing risks to an increasing number of people living or working in proximity to pipeline facilities.

"(6) The appropriateness of applying repair criteria, such as pressure reductions and special requirements for scheduling remediation, to areas that are not high-consequence areas.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act [Jan. 3, 2012], the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, based on the evaluation conducted under subsection (a), containing the Secretary's analysis and findings regarding—

"(1) expansion of integrity management requirements, or elements thereof, beyond high-consequence areas; and

"(2) with respect to gas transmission pipeline facilities, whether applying the integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

"(d) DATA REPORTING.—The Secretary shall collect any relevant data necessary to complete the evaluation required by subsection (a).

"(e) TECHNICAL CORRECTION.—[Amended this section.]

"(f) RULEMAKING REQUIREMENTS.—

"(1) REVIEW PERIOD DEFINED.—In this subsection, the term 'review period' means the period beginning on the date of enactment of this Act [Jan. 3, 2012] and ending on the earlier of—

"(A) the date that is 1 year after the date of completion of the report under subsection (c); or

"(B) the date that is 3 years after the date of enactment of this Act.

"(2) CONGRESSIONAL AUTHORITY.—In order to provide Congress the necessary time to review the results of the report required by subsection (c) and implement appropriate recommendations, the Secretary shall not, during the review period, issue final regulations described in paragraph (3)(B).

"(3) STANDARDS.—

"(A) FINDINGS.—As soon as practicable following the review period, the Secretary shall issue final regulations described in subparagraph (B), if the Secretary finds, in the report required under subsection (c), that—

"(i) integrity management system requirements, or elements thereof, should be expanded beyond high-consequence areas; and

"(ii) with respect to gas transmission pipeline facilities, applying integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

"(B) REGULATIONS.—Regulations issued by the Secretary under subparagraph (A), if any, shall—

"(i) expand integrity management system requirements, or elements thereof, beyond high-consequence areas; and

"(ii) remove redundant class location requirements for gas transmission pipeline facilities that are regulated under an integrity management program adopted and implemented under section 60109(c)(2) of title 49, United States Code.

"(4) SAVINGS CLAUSE.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Secretary, during the review period, may issue final regulations described in paragraph (3)(B), if the Secretary determines that a condition that poses a risk to public safety, property, or the environment is present or an imminent hazard exists and that the regulations will address the risk or hazard.

"(B) IMMINENT HAZARD DEFINED.—In subparagraph (A), the term 'imminent hazard'

means the existence of a condition related to pipelines or pipeline operations that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur.

"(g) REPORT TO CONGRESS ON RISK-BASED PIPELINE REASSESSMENT INTERVALS.—Not later than 2 years after the date of enactment of this Act [Jan. 3, 2012], the Comptroller General of the United States shall evaluate—

"(1) whether risk-based reassessment intervals are a more effective alternative for managing risks to pipelines in high-consequence areas once baseline assessments are complete when compared to the reassessment interval specified in section 60109(c)(3)(B) of title 49, United States Code;

"(2) the number of anomalies found in baseline assessments required under section 60109(c)(3)(A) of title 49, United States Code, as compared to the number of anomalies found in reassessments required under section 60109(c)(3)(B) of such title; and

"(3) the progress made in implementing the recommendations in GAO Report 06–945 and the current relevance of those recommendations that have not been implemented."

[Terms used in section 5 of Pub. L. 112–90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112–90, set out as a note under section 60101 of this title. For definition of "high-consequence area" as used in section 5 of Pub. L. 112–90, see section 1(c)(2) of Pub. L. 112–90, set out as a note under section 60101 of this title.]

SEISMICITY

Pub. L. 112–90, §29, Jan. 3, 2012, 125 Stat. 1921, provided that: "In identifying and evaluating all potential threats to each pipeline segment pursuant to parts 192 and 195 of title 49, Code of Federal Regulations, an operator of a pipeline facility shall consider the seismicity of the area."

[Terms used in section 29 of Pub. L. 112–90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112–90, set out as a note under section 60101 of this title.]

STUDY OF REASSESSMENT INTERVALS

Pub. L. 107–355, §14(d), Dec. 17, 2002, 116 Stat. 3005, required the Comptroller General to study the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49 and to transmit to Congress a report on the study not later than 4 years after Dec. 17, 2002.

§60110. Excess flow valves

(a) APPLICATION.—This section applies only to—

(1) a natural gas distribution system installed after the effective date of regulations prescribed under this section; and

(2) any other natural gas distribution system when repair to the system requires replacing a part to accommodate installing excess flow valves.

(b) INSTALLATION REQUIREMENTS AND CONSIDERATIONS.—Not later than April 24, 1994, the Secretary of Transportation shall prescribe standards on the circumstances, if any, under which an operator of a natural gas distribution system must install excess flow valves in the system. The Secretary shall consider—

(1) the system design pressure;

(2) the system operating pressure;

(3) the types of customers to which the distribution system supplies gas, including hospitals, schools, and commercial enterprises;

(4) the technical feasibility and cost of installing, operating, and maintaining the valve;

(5) the public safety benefits of installing the valve;

(6) the location of customer meters; and

(7) other factors the Secretary considers relevant.

(c) NOTIFICATION OF AVAILABILITY.—(1) Not later than October 24, 1994, the Secretary shall prescribe standards requiring an operator of a natural gas distribution system to notify in writing its customers having lines in which excess flow valves are not required by law but can be installed according to the standards prescribed under subsection (e) of this section, of—

(A) the availability of excess flow valves for installation in the system;
(B) safety benefits to be derived from installation; and
(C) costs associated with installation, maintenance, and replacement.

(2) The standards shall provide that, except when installation is required under subsection (b) of this section, excess flow valves shall be installed at the request of the customer if the customer will pay all costs associated with installation.

(d) REPORT.—If the Secretary decides under subsection (b) of this section that there are no circumstances under which an operator must install excess flow valves, the Secretary shall submit to Congress a report on the reasons for the decision not later than 30 days after the decision is made.

(e) PERFORMANCE STANDARDS.—Not later than April 24, 1994, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in a natural gas distribution system. The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence. The standards shall be incorporated into regulations the Secretary prescribes under this section. All excess flow valves shall be installed according to the standards.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1316; Pub. L. 104–304, §§8, 20(j), Oct. 12, 1996, 110 Stat. 3800, 3805; Pub. L. 107–355, §21(1), Dec. 17, 2002, 116 Stat. 3010.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60110(a)	49 App.:1672(j)(5).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(j); added Oct. 24, 1992, Pub. L. 102–508, §104, 106 Stat. 3291.
60110(b)	49 App.:1672(j)(1).	
60110(c)	49 App.:1672(j)(2).	
60110(d)	49 App.:1672(j)(3).	
60110(e)	49 App.:1672(j)(4).	

In subsection (a)(2), the words "in a manner" are omitted as surplus.

In subsection (b), before clause (1), the words "on when" are substituted for "prescribing the circumstances, if any, under which" to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–355 substituted "circumstances, if any, under which an operator" for "circumstances under which an operator" in introductory provisions.

1996—Subsec. (b). Pub. L. 104–304, §20(j), substituted "standards" for "regulations" in introductory provisions.

Subsec. (b)(1). Pub. L. 104–304, §8(1), which directed the insertion of ", if any," after "circumstances" in the first sentence of subsection (b)(1), could not be executed because the word "circumstances" did not appear in subsec. (b)(1).

Subsec. (b)(4). Pub. L. 104–304, §8(2), inserted ", operating, and maintaining" after "cost of installing".

Subsec. (c)(1). Pub. L. 104–304, §20(j), substituted "standards" for "regulations" after "prescribe" in introductory provisions.

Subsec. (c)(1)(C). Pub. L. 104–304, §8(3), inserted ", maintenance, and replacement" after "installation".

Subsec. (c)(2). Pub. L. 104–304, §20(j), substituted "standards" for "regulations".

Subsec. (e). Pub. L. 104–304, §8(4), inserted after first sentence "The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence."

§60111. Financial responsibility for liquefied natural gas facilities

(a) NOTICE.—When the Secretary of Transportation believes that an operator of a liquefied natural gas facility does not have adequate financial responsibility for the facility, the Secretary may issue a notice to the operator about the inadequacy and the amount of financial responsibility the Secretary considers adequate.

(b) HEARINGS.—An operator receiving a notice under subsection (a) of this section may have a hearing on the record not later than 30 days after receiving the notice. The operator may show why the Secretary should not issue an order requiring the operator to demonstrate and maintain financial responsibility in at least the amount the Secretary considers adequate.

(c) ORDERS.—After an opportunity for a hearing on the record, the Secretary may issue the order if the Secretary decides it is justified in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1317.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60111(a)	49 App.:1674b(b)(1), (c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §7(b)(1)–(3), (c); added Nov. 30, 1979, Pub. L. 96–129, §153, 93 Stat. 1002.
60111(b)	49 App.:1674b(b)(2).	
60111(c)	49 App.:1674b(b)(3).	

In subsection (a), the words "is not maintaining adequate insurance or otherwise", the text of 49 App.:1674b(c), and the words "and serve upon" and "a statement of" are omitted as surplus.

In subsection (b), the words "in accordance with section 554 of title 5" are omitted for consistency in the revised title and because 5:554 applies to a hearing on the record unless otherwise stated. The words "to be held" and "cause as to" are omitted as surplus. The words "the Secretary considers adequate" are substituted for "indicated in the notice under paragraph (1)" for clarity and to eliminate unnecessary words.

Subsection (c) is substituted for 49 App.:1674b(b)(3) to eliminate unnecessary words.

§60112. Pipeline facilities hazardous to life and property

(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

(1) operation of the facility is or would be hazardous to life, property, or the environment; or

(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.

(b) CONSIDERATIONS.—In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant—

(1) the characteristics of the pipe and other equipment used in the pipeline facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the material the pipeline facility transports, the corrosive and deteriorative qualities of the material, the sequence in which the material are [1] transported, and the pressure required for transporting the material;

(3) the aspects of the area in which the pipeline facility is located, including climatic and geologic conditions and soil characteristics;

(4) the proximity of the area in which the hazardous liquid pipeline facility is located to environmentally sensitive areas;

(5) the population density and population and growth patterns of the area in which the pipeline facility is located;

(6) any recommendation of the National Transportation Safety Board made under another law; and

(7) other factors the Secretary considers appropriate.

(c) OPPORTUNITY FOR STATE COMMENT.—The Secretary shall provide, to any appropriate official of a State in which a pipeline facility is located and about which a proceeding has begun under this section, notice and an opportunity to comment on an agreement the Secretary proposes to make to resolve the proceeding. State comment shall incorporate comments of affected local officials.

(d) CORRECTIVE ACTION ORDERS.—

(1) IN GENERAL.—If the Secretary decides under subsection (a) of this section that a pipeline facility is or would be hazardous, the Secretary shall order the operator of the facility to take necessary corrective action, including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action.

(2) ACTIONS ATTRIBUTABLE TO AN EMPLOYEE.—If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

(A) the Secretary, after notice and an opportunity for a hearing, determines that the employee's actions did not contribute substantially to the cause of the accident; or

(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 60131 and can safely perform those activities.

(3) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS.—An action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.

(e) WAIVER OF NOTICE AND HEARING IN EMERGENCY.—The Secretary may waive the requirements for notice and an opportunity for a hearing under this section and issue expeditiously an order under this section if the Secretary decides failure to issue the order expeditiously will result in likely serious harm to life, property, or the environment. An order under this subsection shall provide an opportunity for a hearing as soon as practicable after the order is issued.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1317; Pub. L. 103–429, §6(76), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 107–355, §§8(a), 10(b), Dec. 17, 2002, 116 Stat. 2993, 2995.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60112(a)	49 App.:1679b(b)(1) (1st sentence words before 3d comma), (2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §12(b)(1)–(5); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 993; Oct. 24, 1992, Pub. L. 102–508, §101(b), 106 Stat. 3290.
	49 App.:2008(b)(1) (1st sentence words before 3d comma), (2).	Nov. 30, 1979, Pub. L. 96–129, §209(b)(1)–(5), 93 Stat. 1010; Oct. 24, 1992, Pub. L. 102–508, §201(b), 106 Stat. 3300.

60112(b)	49 App.:1679b(b)(3). 49 App.:2008(b)(3).	
60112(c)	49 App.:1679b(b)(6).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §12(b)(6); added Oct. 24, 1992, Pub. L. 102–508, §113(a), 106 Stat. 3296.
	49 App.:2008(b)(6).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §209(b)(6); added Oct. 24, 1992, Pub. L. 102–508, §213(a), 106 Stat. 3305.
60112(d)	49 App.:1679b(b)(1) (1st sentence words after 3d comma, last sentence). 49 App.:2008(b)(1) (1st sentence words after 3d comma, last sentence).	
60112(e)	49 App.:1679b(b)(4), (5). 49 App.:2008(b)(4), (5).	

In subsection (a), before clause (1), the word "reasonable" and the text of 49 App.:1679b(b)(1) (last sentence) and 2008(b)(1) (last sentence) are omitted as surplus. Clauses (1) and (2) are substituted for "that any pipeline facility is hazardous to life or property" and 49 App.:1679b(b)(2) and 2008(b)(2) to eliminate unnecessary words.

In subsection (b)(1), the words "involved" and "(including its resistance to corrosion and deterioration)" are omitted as surplus.

In subsection (b)(5), the words "in connection with any investigation conducted by the Board" are omitted as surplus.

In subsection (c), the words "responsible for pipeline safety" are omitted as surplus.

In subsection (e), the text of 49 App.:1679b(b)(4) and 2008(b)(4) is omitted because of 28:516 and 1331.

PUB. L. 103–429

This amends 49:60112(d) to clarify the restatement of 49 App.:1679b(b)(1) and 2008(b)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1317).

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–355, §8(a)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides the facility is—

"(1) hazardous to life, property, or the environment; or

"(2) constructed or operated, or a component of the facility is constructed or operated, with equipment, material, or a technique the Secretary decides is hazardous to life, property, or the environment."

Subsec. (d). Pub. L. 107–355, §10(b), designated existing provisions as par. (1), inserted heading, realigned margins, and added pars. (2) and (3).

Pub. L. 107–355, §8(a)(2), substituted "is or would be hazardous" for "is hazardous".

1994—Subsec. (d). Pub. L. 103–429 inserted before period at end ", including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

[1] *So in original. Probably should be "is".*

§60113. Customer-owned natural gas service lines

Not later than October 24, 1993, the Secretary of Transportation shall prescribe standards requiring an operator of a natural gas distribution pipeline that does not maintain customer-owned natural gas service lines up to building walls to advise its customers of—

(1) the requirements for maintaining those lines;

(2) any resources known to the operator that could assist customers in carrying out the maintenance;

(3) information the operator has on operating and maintaining its lines that could assist customers; and

(4) the potential hazards of not maintaining the lines.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1318; Pub. L. 104–304, §§9, 20(k), Oct. 12, 1996, 110 Stat. 3801, 3805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60113(a)	49 App.:1685(b).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §18(b); added Oct. 24, 1992, Pub. L. 102–508, §115(a)(2), 106 Stat. 3296.
60113(b)	49 App.:1672(k).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(k); added Oct. 24, 1992, Pub. L. 102–508, §115(c), 106 Stat. 3297.

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–304 struck out subsec. (a) designation and heading, substituted "standards" for "regulations", and struck out subsec. (b), which read as follows:

"(b) ACTIONS TO PROMOTE SAFETY.—Not later than one year after submitting the report required under section 115(b) of the Pipeline Safety Act of 1992 (Public Law 102–508, 106 Stat. 3296), the Secretary, considering the report and in cooperation and coordination with appropriate State and local authorities, shall take appropriate action to promote the adoption of measures to improve the safety of customer-owned natural gas service lines."

STATUTORY NOTES AND RELATED SUBSIDIARIES

MAINTENANCE OF CUSTOMER-OWNED SERVICE LINES

Pub. L. 102–508, title I, §115(b), Oct. 24, 1992, 106 Stat. 3296, provided that:

"(1) DOT SAFETY REVIEW.—Within 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary of Transportation shall conduct a review of Department of Transportation and State rules, policies, procedures, and other measures with respect to the safety of customer-owned natural gas service lines, including the effectiveness of such rules, policies, procedures, and other measures. The Secretary of Transportation shall include in the review an evaluation of the extent to which lack of maintenance of customer-owned natural gas service lines raises safety concerns and shall make recommendations regarding maintenance of such lines, including the need for any legislative changes or regulatory action. In conducting the review and developing the recommendations, the Secretary of Transportation shall consider the following

factors: State and local law, including law governing private property and rights, and including State pipeline safety regulation of distribution operators; the views of State and local regulatory authorities; the extent of operator compliance with the program for advising customers regarding maintenance of such lines required under section 18(b) of the Natural Gas Pipeline Safety Act of 1968 [see subsec. (a) of this section]; available accident information; the recommendations of the National Transportation Safety Board; costs; the civil liability implications of distribution operators taking responsibility for customer-owned service lines; and whether the service line maintenance information program required under such section 18(b) sufficiently addresses safety risks and concerns involving customer-owned service lines.

"(2) OPERATION AND MAINTENANCE RESPONSIBILITY.—Within 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary of Transportation shall conduct, with the participation of the operators of natural gas distribution facilities, a survey of owners of customer-owned service lines to determine the views of such owners regarding whether distribution companies should assume responsibility for the operation and maintenance of customer-owned service lines. In conducting the survey, the Secretary of Transportation shall ensure that such customers are aware of any potential safety benefits, any potential implementation issues (including any property rights or cost issues), the recommendations of the National Transportation Safety Board, and accidents that have occurred, related to customer-owned service lines.

"(3) APPLICABILITY.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to the conduct of the review or survey under this subsection.

"(4) REPORT.—Not later than 2 years after the date of the enactment of this Act [Oct. 24, 1992], the Secretary of Transportation shall transmit to Congress a report on the results of the review and survey conducted under this subsection, together with any recommendations (including legislative recommendations) regarding maintenance of customer-owned natural gas service lines."

§60114. One-call notification systems

(a) MINIMUM REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

(1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.

(2) a requirement that a person, including a government employee or contractor, intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.

(3) a requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

(4) qualifications for an operator of a facility, a private contractor, or a State or local authority to operate a system.

(5) procedures for advertisement and notice of the availability of a system.

(6) a requirement about the information to be provided by a person contacting the system under clause (2) of this subsection.

(7) a requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) a requirement that each State decide whether the system will be toll free.

(9) a requirement for sanctions substantially the same as provided under sections 60120 and 60122 of this title.

(b) MARKING FACILITIES.—On notification by an operator of a damage prevention program or by a person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a pipeline facility, the operator of the facility shall mark accurately, in a reasonable and timely way, the location of the pipeline facilities in the vicinity of the demolition, excavation, tunneling, or construction.

(c) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage

caused by an activity described in subsection (a)(2) of this section.

(d) PROHIBITION APPLICABLE TO EXCAVATORS.—A person who engages in demolition, excavation, tunneling, or construction—

(1) may not engage in a demolition, excavation, tunneling, or construction activity in a State that has adopted a one-call notification system without first using that system to establish the location of underground facilities in the demolition, excavation, tunneling, or construction area;

(2) may not engage in such demolition, excavation, tunneling, or construction activity in disregard of location information or markings established by a pipeline facility operator pursuant to subsection (b); and

(3) and who causes damage to a pipeline facility that may endanger life or cause serious bodily harm or damage to property—

(A) may not fail to promptly report the damage to the owner or operator of the facility; and

(B) if the damage results in the escape of any flammable, toxic, or corrosive gas or liquid, may not fail to promptly report to other appropriate authorities by calling the 911 emergency telephone number.

(e) PROHIBITION APPLICABLE TO UNDERGROUND PIPELINE FACILITY OWNERS AND OPERATORS.—Any owner or operator of a pipeline facility who fails to respond to a location request in order to prevent damage to the pipeline facility or who fails to take reasonable steps, in response to such a request, to ensure accurate marking of the location of the pipeline facility in order to prevent damage to the pipeline facility shall be subject to a civil action under section 60120 or assessment of a civil penalty under section 60122.

(f) LIMITATION.—The Secretary may not conduct an enforcement proceeding under subsection (d) for a violation within the boundaries of a State that has the authority to impose penalties described in section 60134(b)(7) against persons who violate that State's damage prevention laws, unless the Secretary has determined that the State's enforcement is inadequate to protect safety, consistent with this chapter, and until the Secretary issues, through a rulemaking proceeding, the procedures for determining inadequate State enforcement of penalties.

(g) TECHNOLOGY DEVELOPMENT GRANTS.—The Secretary may make grants to any organization or entity (not including for-profit entities) for the development of technologies that will facilitate the prevention of pipeline damage caused by demolition, excavation, tunneling, or construction activities, with emphasis on wireless and global positioning technologies having potential for use in connection with notification systems and underground facility locating and marking services. Funds provided under this subsection may not be used for lobbying or in direct support of litigation. The Secretary may also support such technology development through cooperative agreements with trade associations, academic institutions, and other organizations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1318; Pub. L. 104–287, §5(91), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 104–304, §20(d), Oct. 12, 1996, 110 Stat. 3804; Pub. L. 107–355, §§3(b), 21(2), Dec. 17, 2002, 116 Stat. 2986, 3010; Pub. L. 109–468, §2(a)(1), (e), Dec. 29, 2006, 120 Stat. 3486, 3489.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60114(a)	49 App.:1687(b), (e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §20(a)–(e); added Oct. 31, 1988, Pub. L. 100–561, §303(a), 102 Stat. 2814.
60114(b)	49 App.:1687(c).	
60114(c)	49 App.:1687(h).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §20(h); added Oct. 24, 1992,

		Pub. L. 102–508, §304(a), 106 Stat. 3308.
60114(d)	49 App.:1687(a).	
60114(e)	49 App.:1687(d).	

In subsection (a), before clause (1), the words "Not later than 18 months after October 31, 1988" are omitted as obsolete. The words "as described in subsection (a)" are omitted as surplus. In clause (1), the words "or systems" are omitted because of 1:1. In clause (8), the words "or not" are omitted as surplus.

In subsection (b), the words "all of the requirements established under" are omitted as surplus.

In subsection (c), the words "contractor, excavator, or other" are omitted as surplus.

In subsection (d), before clause (1), the words "When apportioning the amount appropriated to carry out" are substituted for "In making allocations under" for consistency with section 60107 of the revised title. In clause (2), the words "shall withhold part of a payment under section 60107 of this title" are substituted for "such State may not receive the full reimbursement under such sections to which it would otherwise be entitled" for clarity and consistency.

PUB. L. 104–287

This amends 49:60114(a)(9) to clarify the restatement of 49 App.:1687(b) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1319), because the requirement for substantially the same sanctions was not intended to include criminal penalties.

EDITORIAL NOTES

AMENDMENTS

2006—Subsecs. (d) to (g). Pub. L. 109–468 added subsecs. (d) to (g).

2002—Subsec. (a)(2). Pub. L. 107–355, §3(b), inserted ", including a government employee or contractor," after "person".

Subsecs. (c), (d). Pub. L. 107–355, §21(2), redesignated subsec. (d) as (c).

1996—Subsec. (a)(9). Pub. L. 104–287 and Pub. L. 104–304, §20(d)(1), amended par. (9) identically, substituting "60120 and 60122" for "60120, 60122, and 60123".

Subsec. (b). Pub. L. 104–304, §20(d)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

"(b) GRANTS.—The Secretary may make a grant to a State under this section to develop and establish a one-call notification system consistent with subsection (a) of this section."

Subsec. (c). Pub. L. 104–304, §20(d)(3), redesignated subsec. (c) as (b).

Subsecs. (d), (e). Pub. L. 104–304, §20(d)(2), (3), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows:

"(d) APPORTIONMENT.—When apportioning the amount appropriated to carry out section 60107 of this title among the States, the Secretary—

"(1) shall consider whether a State has adopted or is seeking adoption of a one-call notification system under this section; and

"(2) shall withhold part of a payment under section 60107 of this title when the Secretary decides a State has not adopted, or is not seeking adoption of, a one-call notification system."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

NATIONWIDE TOLL-FREE NUMBER SYSTEM

Pub. L. 107–355, §17, Dec. 17, 2002, 116 Stat. 3008, provided that: "Within 1 year after the date of the enactment of this Act [Dec. 17, 2002], the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems."

§60115. Technical safety standards committees

(a) ORGANIZATION.—The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation. The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.

(b) COMPOSITION AND APPOINTMENT.—(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards or risk management principles.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards or risk management principles.

(3) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) 5 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives.

(C) 5 individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be State officials. The Secretary shall consult with national organizations representing State commissioners or utility regulators before making a selection under this subparagraph.

(B) At least 3 of the individuals selected for each committee under paragraph (3)(B) of this subsection must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate. At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B).

(C) Two of the individuals selected for each committee under paragraph (3)(C) of this subsection must have education, background, or experience in environmental protection or public safety. At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis. At least one individual selected for each committee under paragraph (3)(C) may not have a financial interest in the pipeline, petroleum, or natural gas industries.

(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.

(5) Within 90 days of the date of enactment of the PIPES Act of 2016, the Secretary shall fill all vacancies on the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid

Pipeline Safety Standards Committee, and any other committee established pursuant to this section. After that period, the Secretary shall fill a vacancy on any such committee not later than 60 days after the vacancy occurs.

(c) COMMITTEE REPORTS ON PROPOSED STANDARDS.—(1) The Secretary shall give to—

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter for transporting gas and for gas pipeline facilities including the risk assessment information and other analyses supporting each proposed standard; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities including the risk assessment information and other analyses supporting each proposed standard.

(2) Not later than 90 days after receiving the proposed standard and supporting analyses, the appropriate committee shall prepare and submit to the Secretary a report on the technical feasibility, reasonableness, cost-effectiveness, and practicability of the proposed standard and include in the report recommended actions. The Secretary shall publish each report, including any recommended actions and minority views. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(d) PROPOSED COMMITTEE STANDARDS AND POLICY DEVELOPMENT RECOMMENDATIONS.—(1) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) If requested by the Secretary, a committee shall make policy development recommendations to the Secretary.

(e) MEETINGS.—Each committee shall meet with the Secretary at least up to 4 times annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(f) EXPENSES.—A member of a committee under this section is entitled to expenses under section 5703 of title 5. A payment under this subsection does not make a member an officer or employee of the Government. This subsection does not apply to members regularly employed by the Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1319; Pub. L. 104–88, title III, §308(m), Dec. 29, 1995, 109 Stat. 948; Pub. L. 104–304, §10, Oct. 12, 1996, 110 Stat. 3801; Pub. L. 107–355, §20(b), Dec. 17, 2002, 116 Stat. 3010; Pub. L. 114–183, §6, June 22, 2016, 130 Stat. 518.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60115(a)	49 App.:1673(a) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, §4(a), 82 Stat. 722; Nov. 30, 1979, Pub. L. 96–129, §102(a), 93 Stat. 991; Oct. 24, 1992, Pub. L. 102–508, §105(1), 106 Stat. 3293.
	49 App.:2003(a) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §204(a), 93 Stat. 1005; Oct. 24, 1992, Pub. L. 102–508, §204(1), 106 Stat. 3301.
60115(b)(1)	49 App.:1673(a) (last sentence	

	words before colon).	
60115(b)(2)	49 App.:2003(a) (last sentence words before colon).	
60115(b)(3), (4)	49 App.:1671(7).	Aug. 12, 1968, Pub. L. 90–481, §2(7), 82 Stat. 720; Nov. 30, 1979, Pub. L. 96–129, §109(a), 93 Stat. 996.
	49 App.:1673(a) (last sentence words after colon).	
	49 App.:2001(10).	Nov. 30, 1979, Pub. L. 96–129, §§202(10), 204(c), 93 Stat. 1004, 1006.
	49 App.:2003(a) (last sentence words after colon).	
60115(c)	49 App.:1673(b) (1st–5th sentences).	Aug. 12, 1968, Pub. L. 90–481, §4(b), 82 Stat. 722; Nov. 30, 1979, Pub. L. 96–129, §102(b), 93 Stat. 991; Jan. 14, 1983, Pub. L. 97–468, §101 (related to §4(b)), 96 Stat. 2543; Oct. 24, 1992, Pub. L. 102–508, §105(2), 106 Stat. 3293.
	49 App.:2003(b) (1st–5th sentences).	Nov. 30, 1979, Pub. L. 96–129, §204(b), 93 Stat. 1006; Jan. 14, 1983, Pub. L. 97–468, §101 (related to §204(b)), 96 Stat. 2543; Oct. 24, 1992, Pub. L. 102–508, §204(2), 106 Stat. 3302.
60115(d)	49 App.:1673(b) (6th sentence).	
	49 App.:2003(b) (6th sentence).	
60115(e)	49 App.:1673(b) (7th, last sentences).	
	49 App.:2003(b) (7th, last sentences).	
60115(f)	49 App.:1673(c).	Aug. 12, 1968, Pub. L. 90–481, §4(c), 82 Stat. 722; Nov. 30, 1979, Pub. L. 96–129, §102(c), 93 Stat. 991.
	49 App.:2003(c).	

In subsection (a), the words "Not later than 12 months after November 30, 1979" and "and appoint the initial members of the Committee" in 49 App.:2003(a) (1st sentence) are omitted as executed.

In subsection (b)(3)(A)–(C), the word "individuals" is substituted for "members" for consistency.

In subsection (b)(3)(A), the words "departments, agencies, and instrumentalities of the United States Government and of the States" are substituted for "governmental agencies, including State and Federal Governments" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(3)(B), the words "as appropriate" are added because of the restatement.

In subsection (b)(4), the words "representatives of" are omitted as surplus. The words "section 10344(f) of this title" are substituted for "subchapter III of chapter 103 of title 49" for clarity.

In subsection (c)(1)(A) and (B), the words "or any proposed amendment to a standard under this chapter, for its consideration" are omitted as surplus.

In subsection (c)(1)(B), the words "After the Committee has been established and its members appointed" in 49 App.:2003(b) are omitted as executed.

In subsection (c)(2), the words "or amendment", "by the Committee", "of the majority", and "for rejection thereof" are omitted as surplus.

In subsection (c)(3), the words "final . . . or a final amendment to a standard at any time" are omitted as surplus. The words "the end of the 90-day period" are substituted for "the 90th day after its submission to the

Committee, whether or not the Committee has reported on such standard or amendment" to eliminate unnecessary words.

In subsection (d), the words "for his consideration" are omitted as surplus.

In subsection (e), the words "(or his designee)" are omitted as surplus because of 49:322(b). The words "at least" are substituted for "not less frequently than" to eliminate unnecessary words. The word "calendar" is omitted as surplus.

In subsection (f), the words "The Secretary may establish the pay" are substituted for "may be compensated at a rate to be fixed by the Secretary" for consistency and to eliminate unnecessary words. The words "of the Committee" after "Members", "actual", and "then currently" are omitted as surplus. The reference to section 5376 of title 5 is substituted for the reference to section 5332 of title 5 because of section 529 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101–509, 104 Stat. 1442). The words "A member is entitled to expenses under section 5703 of title 5" are substituted for 49 App.:1673(c) (2d sentence) and 2003(c) (2d sentence) to eliminate unnecessary words. The words "for any purpose" are omitted as surplus. The words "This subsection does not apply to members regularly employed by the Government" are substituted for "other than Federal employees" for clarity.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996, referred to in subsec. (a), is the date of enactment of Pub. L. 104–304, which was approved Oct. 12, 1996.

The date of enactment of the PIPES Act of 2016, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 114–183, which was approved June 22, 2016.

AMENDMENTS

2016—Subsec. (b)(4)(A). Pub. L. 114–183, §6(a), substituted "State officials. The Secretary shall consult with national organizations representing State commissioners or utility regulators before making a selection under this subparagraph." for "State commissioners. The Secretary shall consult with the national organization of State commissions before selecting those 2 individuals."

Subsec. (b)(5). Pub. L. 114–183, §6(b), added par. (5).

2002—Subsec. (b)(4)(D). Pub. L. 107–355 added subpar. (D).

1996—Subsec. (a). Pub. L. 104–304, §10(a), inserted at end "The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws."

Subsec. (b)(1), (2). Pub. L. 104–304, §10(b)(1), (2), inserted before period at end "or risk management principles".

Subsec. (b)(3)(B). Pub. L. 104–304, §10(b)(3), substituted "5" for "4".

Subsec. (b)(3)(C). Pub. L. 104–304, §10(b)(4), substituted "5" for "6".

Subsec. (b)(4)(B). Pub. L. 104–304, §10(b)(5), inserted at end "At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B)."

Subsec. (b)(4)(C). Pub. L. 104–304, §10(b)(6), inserted after first sentence "At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis."

Subsec. (c)(1)(A). Pub. L. 104–304, §10(c)(1), inserted before semicolon "including the risk assessment information and other analyses supporting each proposed standard".

Subsec. (c)(1)(B). Pub. L. 104–304, §10(c)(2), inserted before period at end "including the risk assessment information and other analyses supporting each proposed standard".

Subsec. (c)(2). Pub. L. 104–304, §10(c)(3)–(6), inserted "and supporting analyses" after "receiving the proposed standard", "and submit to the Secretary" after "prepare", "cost-effectiveness," after "reasonableness,", "and include in the report recommended actions" after "practicability of the proposed standard", and "any recommended actions and" after "including".

Subsec. (e). Pub. L. 104–304, §10(d), substituted "up to 4 times" for "twice".

Subsec. (f). Pub. L. 104–304, §10(e), substituted "EXPENSES" for "PAY AND EXPENSES" in heading, struck out "The Secretary may establish the pay for each member of a committee for each day (including

travel time) when performing duties of the committee. However, a member may not be paid more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5." after heading, and inserted "of a committee under this section" after "A member".

1995—Subsec. (b)(4)(A). Pub. L. 104–88 struck out "(referred to in section 10344(f) of this title)" after "commissions".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§60116. Public education programs

(a) IN GENERAL.—Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

(b) MODIFICATION OF EXISTING PROGRAMS.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

(c) STANDARDS.—The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1321; Pub. L. 104–304, §11, Oct. 12, 1996, 110 Stat. 3802; Pub. L. 107–355, §5, Dec. 17, 2002, 116 Stat. 2988.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60116	49 App.:1685(a).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §18(a); added Oct. 11, 1976, Pub. L. 94–477, §8, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992; Oct. 24, 1992, Pub. L. 102–508, §115(a)(1), 106 Stat. 3296.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Pipeline Safety Improvement Act of 2002, referred to in subsec. (b), is the date of enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

AMENDMENTS

2002—Pub. L. 107–355 reenacted section catchline without change and amended text generally. Prior to

amendment, text read as follows: "Under regulations the Secretary of Transportation prescribes, each owner or operator of a gas pipeline facility shall carry out a program to educate the public on the use of a one-call notification system prior to excavation, the possible hazards associated with gas leaks, and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop material suitable for use in the program."

1996—Pub. L. 104–304 substituted "owner or operator of a gas pipeline facility" for "person transporting gas", inserted "the use of a one-call notification system prior to excavation," after "educate the public on", and inserted comma after "gas leaks".

§60117. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may conduct investigations, make reports, issue subpenas, conduct hearings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities and promotional activities relating to prevention of damage to pipeline facilities. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter.

(b) ENFORCEMENT PROCEDURES.—

(1) PROCESS.—In implementing enforcement procedures under this chapter and part 190 of title 49, Code of Federal Regulations (or successor regulations), the Secretary shall—

(A) allow the respondent to request the use of a consent agreement and consent order to resolve any matter of fact or law asserted;

(B) allow the respondent and the agency to convene 1 or more meetings—

(i) for settlement or simplification of the issues; or

(ii) to aid in the disposition of issues;

(C) require that the case file in an enforcement proceeding include all agency records pertinent to the matters of fact and law asserted;

(D) allow the respondent to reply to each post-hearing submission of the agency;

(E) allow the respondent to request that a hearing be held, and an order be issued, on an expedited basis;

(F) require that the agency have the burden of proof, presentation, and persuasion in any enforcement matter;

(G) require that any order contain findings of relevant fact and conclusions of law;

(H) require the Office of Pipeline Safety to file a post-hearing recommendation not later than 30 days after the deadline for any post-hearing submission of a respondent;

(I) require an order on a petition for reconsideration to be issued not later than 120 days after the date on which the petition is filed; and

(J) allow an operator to request that an issue of controversy or uncertainty be addressed through a declaratory order in accordance with section 554(e) of title 5.

(2) OPEN TO THE PUBLIC.—A hearing under this section shall be—

(A) noticed to the public on the website of the Pipeline and Hazardous Materials Safety Administration; and

(B) in the case of a formal hearing (as defined in section 190.3 of title 49, Code of Federal Regulations (or a successor regulation)), open to the public.

(3) TRANSPARENCY.—

(A) AGREEMENTS, ORDERS, AND JUDGMENTS OPEN TO THE PUBLIC.—With respect to each enforcement proceeding under this chapter, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall make publicly available on the website of the Administration—

(i) the charging documents;

(ii) the written response of the respondent, if filed; and

(iii) any consent agreement, consent order, order, or judgment resulting from a hearing under this chapter.

(B) GAO REPORT ON PIPELINE SAFETY PROGRAM COLLECTION AND TRANSPARENCY OF ENFORCEMENT PROCEEDINGS.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of the PIPES Act of 2020, the Comptroller General of the United States shall—

(I) review information on pipeline enforcement actions that the Pipeline and Hazardous Materials Safety Administration makes publicly available on the internet; and

(II) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on that review, including any recommendations under clause (iii).

(ii) CONTENTS.—The report under clause (i)(II) shall include—

(I) a description of the process that the Pipeline and Hazardous Materials Safety Administration uses to collect and record enforcement information;

(II) an assessment of whether and, if so, how the Pipeline and Hazardous Materials Safety Administration ensures that enforcement information is made available to the public in an accessible manner; and

(III) an assessment of the information described in clause (i)(I).

(iii) RECOMMENDATIONS.—The report under clause (i)(II) may include recommendations regarding—

(I) any improvements that could be made to the accessibility of the information described in clause (i)(I);

(II) whether and, if so, how the information described in clause (i)(I) could be made more transparent; and

(III) any other recommendations that the Comptroller General of the United States considers appropriate.

(4) SAVINGS CLAUSE.—Nothing in this subsection alters the procedures applicable to—

(A) an emergency order under subsection (p);

(B) a safety order under subsection (m); or

(C) a corrective action order under section 60112.

(c) RECORDS, REPORTS, AND INFORMATION.—To enable the Secretary to decide whether a person owning or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall—

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.

(d) ENTRY AND INSPECTION.—An officer, employee, or agent of the Department of Transportation designated by the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter.

(e) CONFIDENTIALITY OF INFORMATION.—Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or

agent in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(f) USE OF ACCIDENT REPORTS.—(1) Each accident report made by an officer, employee, or agent of the Department may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(g) TESTING FACILITIES INVOLVED IN ACCIDENTS.—The Secretary may require testing of a part of a pipeline facility subject to this chapter that has been involved in or affected by an accident only after—

(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(h) PROVIDING SAFETY INFORMATION.—On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of material, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(i) COOPERATION.—The Secretary may—

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(j) PROMOTING COORDINATION.—(1) After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(2) In consultation with the Occupational Safety and Health Administration, the Secretary shall establish procedures to notify the Administration of any pipeline accident in which an excavator that has caused damage to a pipeline may have violated a regulation of the Administration.

(k) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(l) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.

(m) SAFETY ORDERS.—

(1) IN GENERAL.—Not later than December 31, 2007, the Secretary shall issue regulations providing that, after notice and opportunity for a hearing, if the Secretary determines that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the

environment, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy that condition.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Secretary, if relevant and pursuant to the regulations issued under paragraph (1), shall consider—

(A) the considerations specified in paragraphs (1) through (6) of section 60112(b);

(B) the likelihood that the condition will impair the serviceability of a pipeline;

(C) the likelihood that the condition will worsen over time; and

(D) the likelihood that the condition is present or could develop on other areas of the pipeline.

(n) RESTORATION OF OPERATIONS.—

(1) IN GENERAL.—The Secretary may advise, assist, and cooperate with the heads of other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons to facilitate the restoration of pipeline operations that have been or are anticipated to become disrupted by manmade or natural disasters.

(2) SAVINGS CLAUSE.—Nothing in this section alters or amends the authorities and responsibilities of any department, agency, or instrumentality of the United States Government, other than the Department of Transportation.

(o) COST RECOVERY FOR DESIGN REVIEWS.—

(1) IN GENERAL.—

(A) REVIEW COSTS.—For any project described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this paragraph, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this paragraph. The Secretary may not collect design safety review fees under this paragraph and section 60301 for the same design safety review.

(B) PROJECTS TO WHICH APPLICABLE.—Subparagraph (A) applies to any project that—

(i) has design and construction costs totaling at least $2,500,000,000, as periodically adjusted by the Secretary to take into account increases in the Consumer Price Index for all-urban consumers published by the Department of Labor, based on—

(I) the cost estimate provided to the Federal Energy Regulatory Commission in an application for a certificate of public convenience and necessity for a gas pipeline facility or an application for authorization for a liquefied natural gas pipeline facility; or

(II) a good faith estimate developed by the person proposing a hazardous liquid pipeline facility and submitted to the Secretary; or

(ii) uses new or novel technologies or design, as determined by the Secretary.

(2) NOTIFICATION.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. To the maximum extent practicable, not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, the Secretary shall provide written comments, feedback, and guidance on the project.

(3) PIPELINE SAFETY DESIGN REVIEW FUND.—

(A) ESTABLISHMENT.—There is established a Pipeline Safety Design Review Fund in the

Treasury of the United States.

(B) DEPOSITS.—The Secretary shall deposit funds paid under this subsection into the Fund.

(C) USE.—Amounts in the Fund shall be available to the Secretary, in amounts specified in appropriations Acts, to offset the costs of conducting facility design safety reviews under this subsection.

(4) NO ADDITIONAL PERMITTING AUTHORITY.—Nothing in this subsection may be construed as authorizing the Secretary to require a person to obtain a permit before beginning design and construction in connection with a project described in paragraph (1)(B).

(p) EMERGENCY ORDER AUTHORITY.—

(1) IN GENERAL.—If the Secretary determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, constitutes or is causing an imminent hazard, the Secretary may issue an emergency order described in paragraph (3) imposing emergency restrictions, prohibitions, and safety measures on owners and operators of gas or hazardous liquid pipeline facilities without prior notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

(2) CONSIDERATIONS.—

(A) IN GENERAL.—Before issuing an emergency order under paragraph (1), the Secretary shall consider, as appropriate, the following factors:

(i) The impact of the emergency order on public health and safety.

(ii) The impact, if any, of the emergency order on the national or regional economy or national security.

(iii) The impact of the emergency order on the ability of owners and operators of pipeline facilities to maintain reliability and continuity of service to customers.

(B) CONSULTATION.—In considering the factors under subparagraph (A), the Secretary shall consult, as the Secretary determines appropriate, with appropriate Federal agencies, State agencies, and other entities knowledgeable in pipeline safety or operations.

(3) WRITTEN ORDER.—An emergency order issued by the Secretary pursuant to paragraph (1) with respect to an imminent hazard shall contain a written description of—

(A) the violation, condition, or practice that constitutes or is causing the imminent hazard;

(B) the entities subject to the order;

(C) the restrictions, prohibitions, or safety measures imposed;

(D) the standards and procedures for obtaining relief from the order;

(E) how the order is tailored to abate the imminent hazard and the reasons the authorities under section 60112 and subsection (m) are insufficient to do so; and

(F) how the considerations were taken into account pursuant to paragraph (2).

(4) OPPORTUNITY FOR REVIEW.—Upon receipt of a petition for review from an entity subject to, and aggrieved by, an emergency order issued under this subsection, the Secretary shall provide an opportunity for a review of the order under section 554 of title 5 to determine whether the order should remain in effect, be modified, or be terminated.

(5) EXPIRATION OF EFFECTIVENESS ORDER.—If a petition for review of an emergency order is filed under paragraph (4) and an agency decision with respect to the petition is not issued on or before the last day of the 30-day period beginning on the date on which the petition is filed, the order shall cease to be effective on such day, unless the Secretary determines in writing on or before the last day of such period that the imminent hazard still exists.

(6) JUDICIAL REVIEW OF ORDERS.—

(A) IN GENERAL.—After completion of the review process described in paragraph (4), or the issuance of a written determination by the Secretary pursuant to paragraph (5), an entity subject to, and aggrieved by, an emergency order issued under this subsection may seek judicial

review of the order in a district court of the United States and shall be given expedited consideration.

(B) LIMITATION.—The filing of a petition for review under subparagraph (A) shall not stay or modify the force and effect of the agency's final decision under paragraph (4), or the written determination under paragraph (5), unless stayed or modified by the Secretary.

(7) REGULATIONS.—

(A) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the PIPES Act of 2016, the Secretary shall issue such temporary regulations as are necessary to carry out this subsection. The temporary regulations shall expire on the date of issuance of the final regulations required under subparagraph (B).

(B) FINAL REGULATIONS.—Not later than 270 days after such date of enactment, the Secretary shall issue such regulations as are necessary to carry out this subsection. Such regulations shall ensure that the review process described in paragraph (4) contains the same procedures as subsections (d) and (g) of section 109.19 of title 49, Code of Federal Regulations, and is otherwise consistent with the review process developed under such section, to the greatest extent practicable and not inconsistent with this section.

(8) IMMINENT HAZARD DEFINED.—In this subsection, the term "imminent hazard" means the existence of a condition relating to a gas or hazardous liquid pipeline facility that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of such death, illness, injury, or endangerment.

(9) LIMITATION AND SAVINGS CLAUSE.—An emergency order issued under this subsection may not be construed to—

(A) alter, amend, or limit the Secretary's obligations under, or the applicability of, section 553 of title 5; or

(B) provide the authority to amend the Code of Federal Regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1321; Pub. L. 103–429, §6(77), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 104–304, §§12, 19, Oct. 12, 1996, 110 Stat. 3802, 3804; Pub. L. 107–355, §7, Dec. 17, 2002, 116 Stat. 2993; Pub. L. 109–468, §§11, 13, 17, Dec. 29, 2006, 120 Stat. 3494–3496; Pub. L. 112–90, §13(a), Jan. 3, 2012, 125 Stat. 1913; Pub. L. 114–183, §16, June 22, 2016, 130 Stat. 525; Pub. L. 116–260, div. R, title I, §108(a), (b)(2), Dec. 27, 2020, 134 Stat. 2221, 2223.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60117(a)	49 App.:1681(a) (1st sentence words before semicolon).	Aug. 12, 1968, Pub. L. 90–481, §14(a) (1st sentence), 82 Stat. 727; restated Nov. 30, 1979, Pub. L. 96–129, §§104(b), 106, 93 Stat. 992, 994.
	49 App.:1681(a) (last sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §14(a) (last sentence); added Oct. 11, 1984, Pub. L. 98–464, §7(a), 98 Stat. 1823.
	49 App.:2010(a) (1st sentence words before semicolon).	Nov. 30, 1979, Pub. L. 96–129, §211(a) (1st sentence), 93 Stat. 1012.
	49 App.:2010(a) (last sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §211(a) (last sentence); added Oct. 11, 1984, Pub. L. 98–464,

		§7(b), 98 Stat. 1823.
60117(b)	49 App.:1681(b).	Aug. 12, 1968, Pub. L. 90–481, §14(b)–(e), 82 Stat. 727; restated Nov. 30, 1979, Pub. L. 96–129, §§104(b), 106, 93 Stat. 992, 995.
	49 App.:2010(b).	Nov. 30, 1979, Pub. L. 96–129, §211(b)–(e), 93 Stat. 1012.
60117(c)	49 App.:1681(c).	
	49 App.:2010(c).	
60117(d)	49 App.:1681(e) (1st sentence).	
	49 App.:2010(e) (1st sentence).	
60117(e)	49 App.:1681(d).	
	49 App.:2010(d).	
60117(f)	49 App.:1681(a) (1st sentence words after semicolon).	
	49 App.:1681(a) (2d sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §14(a) (2d sentence); added Oct. 31, 1988, Pub. L. 100–561, §109, 102 Stat. 2809.
	49 App.:2010(a) (1st sentence words after semicolon).	
	49 App.:2010(a) (2d sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §211(a) (2d sentence); added Oct. 31, 1988, Pub. L. 100–561, §208, 102 Stat. 2812.
60117(g)	49 App.:1682(a).	Aug. 12, 1968, Pub. L. 90–481, §15(a), 82 Stat. 727; Nov. 30, 1979, Pub. L. 96–129, §§104(b), 109(j)(2), (k), 155(b), 93 Stat. 992, 997, 1003.
	49 App.:2011(a).	Nov. 30, 1979, Pub. L. 96–129, §212(a)–(c), 93 Stat. 1013.
60117(h)(1)	49 App.:1682(b).	Aug. 12, 1968, Pub. L. 90–481, §15(b), 82 Stat. 727; Nov. 30, 1979, Pub. L. 96–129, §§104(b), 109(j)(2), 93 Stat. 992, 997.
	49 App.:2011(b).	
60117(h)(2)	49 App.:1682(c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §15(c); added Aug. 22, 1972, Pub. L. 92–401, §3, 86 Stat. 616; Nov. 30, 1979, Pub. L. 96–129, §§104(b), 109(j)(2), 93 Stat. 992, 997.
	49 App.:2011(c).	
60117(h)(3)	49 App.:1682(d).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §15(d); added Nov. 30, 1979, Pub. L. 96–129, §155(a), 93 Stat. 1003.
60117(i)	49 App.:1676(b).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §9(b); added Oct. 31, 1988, Pub. L. 100–561, §105(2), 102 Stat. 2807.

	49 App.:2011(d).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §212(d); added Oct. 31, 1988, Pub. L. 100–561, §209, 102 Stat. 2812.
60117(j)	49 App.:1681(e) (last sentence). 49 App.:2010(e) (last sentence).	

In subsection (a), the words "to the extent necessary . . . his responsibilities under" and "relevant" are omitted as surplus. The words "documents and" are omitted as being included in "records". The words "directly or, by contract, or otherwise" are omitted as surplus.

In subsections (b), before clause (1), and (c), the words "has acted or . . . acting" are omitted as surplus. The word "prescribed" is added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the words "establish and" and "reasonably" are omitted as surplus.

In subsection (c), the words "enter premises to" are substituted for "enter upon" for clarity and consistency. The words "and examine" and "to the extent such records and properties are relevant" are omitted as surplus.

In subsection (d), the words "related to a confidential matter" are substituted for "which information contains or relates to a trade secret . . . shall be considered confidential for the purpose of that section" to eliminate unnecessary words. The words "All information reported to or otherwise" are omitted as surplus. The words "an officer, employee, or agent" are substituted for "his representative" for consistency. The word "only" is substituted for "except that such information" to eliminate unnecessary words. The words "when relevant" are omitted as surplus.

In subsection (e)(1), the words "civil, criminal, or other" are omitted as surplus.

In subsection (f), before clause (1), the words "however . . . exercise authority under this section to" are omitted as surplus. In clause (1), the word "affected" is omitted as surplus. In clause (2), the word "attempting" is substituted for "make every effort" to eliminate unnecessary words. The words "for testing" and "the Secretary considers" are added for clarity.

In subsection (g), the words "with respect to matters under their jurisdiction" in 49 App.:2011(a) are omitted as surplus.

In subsection (h)(1) and (2), the word "instrumentalities" is added for consistency in the revised title and with other titles of the Code.

In subsection (h)(1), the word "Federal" before "safety" is omitted as surplus.

In subsection (h)(3), the words "as a matter of right intervene or otherwise" and the text of 49 App.:1682(d) (last sentence) are omitted as surplus.

In subsection (i), the words "Not later than 1 year after October 31, 1988" are omitted as obsolete. The words "departments, agencies, and instrumentalities of the Government and State authorities" are substituted for "agencies of the United States and of the States" for consistency in the revised title and with other titles of the Code.

In subsection (j), the words "by the Secretary or any officer, employee, or agent under his control" are omitted as surplus. The words "to have the information" are substituted for "duly" for clarity.

PUB. L. 103–429

This amends 49:60117(i) by restating section 304(c) of the Pipeline Safety Act of 1992 (Public Law 102–508, 106 Stat. 3308) as 49:60117(i)(2).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60117(i)(2)	49 App.:1682 (note).	Oct. 24, 1992, Pub. L. 102–508, §304(c), 106 Stat. 3308.

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the PIPES Act of 2020, referred to in subsec. (b)(3)(B)(i), is the date of enactment of div. R of Pub. L. 116–260, which was approved Dec. 27, 2020.

The date of enactment of the PIPES Act of 2016 and such date of enactment, referred to in subsec. (p)(7), is the date of enactment of Pub. L. 114–183, which was approved June 22, 2016.

AMENDMENTS

2020—Subsecs. (b) to (p). Pub. L. 116–260, §108(a), added subsec. (b) and redesignated former subsecs. (b) to (o) as (c) to (p), respectively.

Subsec. (p)(3)(E). Pub. L. 116–260, §108(b)(2), substituted "subsection (m)" for "60117(l)".

2016—Subsec. (o). Pub. L. 114–183 added subsec. (o).

2012—Subsec. (n). Pub. L. 112–90 amended subsec. (n) generally. Prior to amendment, text read as follows:

"(1) IN GENERAL.—If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a liquefied natural gas pipeline facility, the Secretary may require the person requesting such reviews to pay the associated staff costs relating to such reviews incurred by the Secretary in section 60301(d). The Secretary may assess such costs in any reasonable manner.

"(2) DEPOSIT.—The Secretary shall deposit all funds paid to the Secretary under this subsection into the Department of Treasury account 69–5172–0–2–407 or its successor account.

"(3) AUTHORIZATION OF APPROPRIATIONS.—Funds deposited pursuant to this subsection are authorized to be appropriated for the purposes set forth in section 60301(d)."

2006—Subsec. (l). Pub. L. 109–468, §13, reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition."

Subsecs. (m), (n). Pub. L. 109–468, §§11, 17, added subsecs. (m) and (n).

2002—Subsec. (l). Pub. L. 107–355 added subsec. (l).

1996—Subsec. (a). Pub. L. 104–304, §19, inserted "and promotional activities relating to prevention of damage to pipeline facilities" after "and training activities".

Subsec. (b). Pub. L. 104–304, §12(1), (3), substituted "owning" for "transporting gas or hazardous liquid" and inserted at end "The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines."

Subsec. (k). Pub. L. 104–304, §12(2), added subsec. (k).

1994—Subsec. (i). Pub. L. 103–429 designated existing provisions as par. (1) and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 112–90, §20(a), Jan. 3, 2012, 125 Stat. 1916, provided that:

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall issue regulations—

"(A) requiring hearings under sections 60112, 60117, 60118, and 60122 of title 49, United States Code, to be convened before a presiding official;

"(B) providing the opportunity for any person requesting a hearing under section 60112, 60117, 60118, or 60122 of such title to arrange for a transcript of the hearing, at the expense of the requesting person;

"(C) ensuring expedited review of any order issued pursuant to section 60112(e) of such title;

"(D) implementing a separation of functions between personnel involved with the investigation and prosecution of an enforcement case and advising the Secretary on findings and determinations; and

"(E) prohibiting ex-parte communication relevant to the question to be decided in such a case by parties to an investigation or hearing.

"(2) PRESIDING OFFICIAL.—The regulations issued under this subsection shall—

"(A) define the term 'presiding official' to mean the person who conducts any hearing relating to civil penalty assessments, compliance orders, safety orders, or corrective action orders; and

"(B) require that the presiding official be an attorney on the staff of the Deputy Chief Counsel of the Pipeline and Hazardous Materials Safety Administration that is not engaged in investigative or prosecutorial functions, including the preparation of notices of probable violations, notices relating to civil penalty assessments, notices relating to compliance, or notices of proposed corrective actions.

"(3) EXPEDITED REVIEW.—The regulations issued under this subsection shall define the term 'expedited review' for the purposes of paragraph (1)(C)."

SAFETY DATA SHEETS

Pub. L. 114–183, §14, June 22, 2016, 130 Stat. 524, provided that:

"(a) IN GENERAL.—Each owner or operator of a hazardous liquid pipeline facility, following an accident involving such pipeline facility that results in a hazardous liquid spill, shall provide safety data sheets on any spilled hazardous liquid to the designated Federal On-Scene Coordinator and appropriate State and local emergency responders within 6 hours of a telephonic or electronic notice of the accident to the National Response Center.

"(b) DEFINITIONS.—In this section:

"(1) FEDERAL ON-SCENE COORDINATOR.—The term 'Federal On-Scene Coordinator' has the meaning given such term in section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)).

"(2) NATIONAL RESPONSE CENTER.—The term 'National Response Center' means the center described under section 300.125(a) of title 40, Code of Federal Regulations.

"(3) SAFETY DATA SHEET.—The term 'safety data sheet' means a safety data sheet required under section 1910.1200 of title 29, Code of Federal Regulations."

ACCIDENT AND INCIDENT NOTIFICATION

Pub. L. 112–90, §9, Jan. 3, 2012, 125 Stat. 1912, provided that:

"(a) REVISION OF REGULATIONS.—Not later than 18 months after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall revise regulations issued under sections 191.5 and 195.52 of title 49, Code of Federal Regulations, to establish specific time limits for telephonic or electronic notice of accidents and incidents involving pipeline facilities to the Secretary and the National Response Center.

"(b) MINIMUM REQUIREMENTS.—In revising the regulations, the Secretary, at a minimum, shall—

"(1) establish time limits for telephonic or electronic notification of an accident or incident to require such notification at the earliest practicable moment following confirmed discovery of an accident or incident and not later than 1 hour following the time of such confirmed discovery;

"(2) review procedures for owners and operators of pipeline facilities and the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials, including 911 emergency call centers, for the jurisdictions in which those pipeline facilities are located in the event of an accident or incident, and revise such procedures as appropriate; and

"(3) require such owners and operators to revise their initial telephonic or electronic notice to the Secretary and the National Response Center with an estimate of the amount of the product released, an estimate of the number of fatalities and injuries, if any, and any other information determined appropriate by the Secretary within 48 hours of the accident or incident, to the extent practicable.

"(c) UPDATING OF REPORTS.—After receiving revisions described in subsection (b)(3), the National Response Center shall update the initial report on an accident or incident instead of generating a new report."

[Terms used in section 9 of Pub. L. 112–90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112–90, set out as a note under section 60101 of this title.]

GUIDANCE

Pub. L. 112–90, §13(b), Jan. 3, 2012, 125 Stat. 1914, provided that: "Not later than 1 year after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall issue guidance to clarify the meaning of the term 'new or novel technologies or design' as used in section 60117(n)(1)(B)(ii) [now 49 U.S.C. 60117(o)(1)(B)(ii)] of title 49, United States Code, as amended by subsection (a) of this section."

PIPELINE SAFETY TRAINING FOR STATE AND LOCAL GOVERNMENT PERSONNEL

Pub. L. 112–90, §25, Jan. 3, 2012, 125 Stat. 1919, provided that:

"(a) IN GENERAL.—To further the objectives of chapter 601 of title 49, United States Code, the Secretary of Transportation may provide the services of personnel from the Pipeline and Hazardous Materials Safety Administration to provide training for State and local government personnel at a pipeline safety training facility that is established and operated by an agency or instrumentality of the United States, a unit of State or local government, or an educational institution.

"(b) REIMBURSEMENTS FOR TRAINING EXPENDITURES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may require reimbursement from sources other than the Federal Government for all expenses incurred by the Secretary in providing training for State and local government personnel under subsection (a), including salaries, expenses, transportation for Pipeline and Hazardous Materials Safety Administration personnel, and the cost of training materials.

"(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts collected as reimbursement under

paragraph (1) are authorized to be appropriated for the purposes set forth in chapter 601 of title 49, United States Code."

[Terms used in section 25 of Pub. L. 112–90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112–90, set out as a note under section 60101 of this title.]

TRIBAL CONSULTATION FOR PIPELINE PROJECTS

Pub. L. 112–90, §30, Jan. 3, 2012, 125 Stat. 1921, provided that: "Not later than 1 year after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall develop and implement a protocol for consulting with Indian tribes to provide technical assistance for the regulation of pipelines that are under the jurisdiction of Indian tribes."

INCIDENT REPORTING

Pub. L. 109–468, §15, Dec. 29, 2006, 120 Stat. 3496, provided that: "Not later than December 31, 2007, the Secretary of Transportation shall review the incident reporting requirements for operators of natural gas pipelines and modify the reporting criteria as appropriate to ensure that the incident data gathered accurately reflects incident trends over time, taking into consideration the recommendations from the Comptroller General in GAO report 06–946."

ACCIDENT REPORTING FORM

Pub. L. 109–468, §20, Dec. 29, 2006, 120 Stat. 3498, provided that: "Not later than December 31, 2007, the Secretary of Transportation shall amend accident reporting forms to require operators of gas and hazardous liquid pipelines to provide data related to controller fatigue."

§60118. Compliance and waivers

(a) GENERAL REQUIREMENTS.—A person owning or operating a pipeline facility shall—

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;

(2) prepare and carry out a plan for inspection and maintenance required under section 60108(a) and (b) of this title;

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under subsections (a) through (e) of section 60117 of this title; and

(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).

(b) COMPLIANCE ORDERS.—The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.

(c) WAIVERS BY SECRETARY.—

(1) NONEMERGENCY WAIVERS.—

(A) IN GENERAL.—On application of an owner or operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to such facility on terms the Secretary considers appropriate if the Secretary determines that the waiver is not inconsistent with pipeline safety.

(B) HEARING.—The Secretary may act on a waiver under this paragraph only after notice and an opportunity for a hearing.

(2) EMERGENCY WAIVERS.—

(A) IN GENERAL.—The Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate without prior notice and comment if the Secretary determines that—

(i) it is in the public interest to grant the waiver;

(ii) the waiver is not inconsistent with pipeline safety; and

(iii) the waiver is necessary to address an actual or impending emergency involving pipeline transportation, including an emergency caused by a natural or manmade disaster.

(B) PERIOD OF WAIVER.—A waiver under this paragraph may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

(3) STATEMENT OF REASONS.—The Secretary shall state in an order issued under this subsection the reasons for granting the waiver.

(d) WAIVERS BY STATE AUTHORITIES.—If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

(1) ASSISTANCE AND ACCESS.—If the Secretary or the National Transportation Safety Board investigates an accident or incident involving a pipeline facility, the operator of the facility shall—

(A) make available to the Secretary or the Board all records and information that in any way pertain to the accident or incident, including integrity management plans and test results; and

(B) afford all reasonable assistance in the investigation of the accident or incident.

(2) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

(A) IN GENERAL.—The Secretary may impose a civil penalty under section 60122 on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.

(B) OBSTRUCTS DEFINED.—

(i) IN GENERAL.—In this paragraph, the term "obstructs" includes actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation without good cause.

(ii) GOOD CAUSE.—In clause (i), the term "good cause" may include actions such as restricting access to facilities that are not secure or safe for nonpipeline personnel or visitors.

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1322; Pub. L. 104–304, §13, Oct. 12, 1996, 110 Stat. 3802; Pub. L. 107–355, §§10(a), (c), 14(c), Dec. 17, 2002, 116 Stat. 2995, 2996, 3005; Pub. L. 109–468, §10, Dec. 29, 2006, 120 Stat. 3494; Pub. L. 112–90, §2(b), Jan. 3, 2012, 125 Stat. 1905; Pub. L. 116–260, div. R, title I, §108(b)(3), Dec. 27, 2020, 134 Stat. 2223.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60118(a)	49 App.:1677(a).	Aug. 12, 1968, Pub. L. 90–481, §10(a), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §[§] 105(b), 109(h)(4), 152(a), 93 Stat. 994, 996, 999.
	49 App.:2006(a).	Nov. 30, 1979, Pub. L. 96–129,

		§§203(h), 207(a), (b)(1), 93 Stat. 1005, 1009.
60118(b)	49 App.:1677(b)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §10(b)(1); added Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:2006(b)(1).	
60118(c)	49 App.:1672(d) (1st, 2d sentences).	Aug. 12, 1968, Pub. L. 90–481, §3(d), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §[§] 104(d), 109(c), 152(b)(2), 93 Stat. 994, 996, 1001.
	49 App.:2002(h) (1st, 2d sentences).	
60118(d)	49 App.:1672(d) (3d–last sentences).	
	49 App.:2002(h) (3d–last sentences).	

In subsection (a)(1), the words "at all times after the date . . . takes effect . . . the requirements of" are omitted as surplus. The words "except as provided in this section" are added for clarity.

In subsection (a)(2), the words "establish and" in 49 App.:2006(a)(2) and "and comply with such plan" are omitted as surplus.

In subsection (b), the word "prescribed" is substituted for "issued" for consistency in the revised title and with other titles of the United States Code. The word "particular" is omitted as surplus. The words "a person must take to comply" are substituted for "required of the person to whom the order is issued" for clarity and to eliminate unnecessary words.

In subsection (c), the words "any part of" are substituted for "in whole or in part" to eliminate unnecessary words. The words "and to such extent" and "he determines that . . . of compliance with such standard" are omitted as surplus.

In subsection (d), the words "to which the certification or agreement applies" are added for clarity. The words "to the granting of the waiver" and "any State agency action granting" are omitted as surplus. The words "shall provide a prompt opportunity for a hearing" are substituted for "shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing" to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a)(3). Pub. L. 116–260 substituted "subsections (a) through (e) of section 60117" for "section 60117(a)–(d)".

2012—Subsec. (e). Pub. L. 112–90 amended subsec. (e) generally. Prior to amendment, text read as follows: "If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident."

2006—Subsec. (c). Pub. L. 109–468 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "On application of a person owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a hearing."

2002—Subsec. (a)(4). Pub. L. 107–355, §14(c), added par. (4).

Subsec. (e). Pub. L. 107–355, §10(a), added subsec. (e).

Subsec. (f). Pub. L. 107–355, §10(c), added subsec. (f).

1996—Subsec. (a). Pub. L. 104–304, §13(a)(1), struck out "transporting gas or hazardous liquid or" after

"person" in introductory provisions.

Subsec. (a)(1). Pub. L. 104–304, §13(a)(2), added par. (1) and struck out former par. (1) which read as follows: "comply with applicable safety standards prescribed under this chapter, except as provided in this section;".

Subsec. (b). Pub. L. 104–304, §13(b), reenacted subsec. heading without change and amended text generally. Prior to amendment, text read as follows: "The Secretary of Transportation may issue orders directing compliance with this chapter or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply."

Subsec. (c). Pub. L. 104–304, §13(c), substituted "owning" for "transporting gas or hazardous liquid".

§60119. Judicial review

(a) REVIEW OF REGULATIONS, ORDERS, AND OTHER FINAL AGENCY ACTIONS.—(1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order issued under this chapter may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under paragraph (1) is in addition to any other remedies provided by law.

(3) A judicial review of agency action under this section shall apply the standards of review established in section 706 of title 5.

(b) REVIEW OF FINANCIAL RESPONSIBILITY ORDERS.—(1) A person adversely affected by an order issued under section 60111 of this title may apply for review of the order by filing a petition for review in the appropriate court of appeals of the United States. The petition must be filed not later than 60 days after the order is issued. Findings of fact the Secretary makes are conclusive if supported by substantial evidence.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254(1) of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1323; Pub. L. 112–90, §§2(d), 20(b), Jan. 3, 2012, 125 Stat. 1905, 1917.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60119(a)(1)	49 App.:1675(a).	Aug. 12, 1968, Pub. L. 90–481, §8(a), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96–129, §§104(e)(2), 152(a), 93 Stat. 994, 999; Jan. 14, 1983, Pub. L. 97–468, §102, 96 Stat. 2543.
	49 App.:2005(a).	Nov. 30, 1979, Pub. L. 96–129, §206(a), 93 Stat. 1009; Jan. 14, 1983, Pub. L. 97–468, §103, 96 Stat. 2543.
60119(a)(2)	49 App.:1675(b), (c).	Aug. 12, 1968, Pub. L. 90–481, §8(b), (c), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96–129, §§104(e)(3), 152(a), 93 Stat. 994, 999.
	49 App.:1675(d), (e).	Aug. 12, 1968, Pub. L. 90–481, §8(d), (e), 82 Stat. 725; Nov. 30, 1979, Pub.

		L. 96–129, §152(a), 93 Stat. 999.
	49 App.:2005(b)–(e).	Nov. 30, 1979, Pub. L. 96–129, §206(b)–(e), 93 Stat. 1009.
60119(b)(1)	49 App.:1674b(b) (4)(A), (B).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §7(b)(4); added Nov. 30, 1979, Pub. L. 96–129, §153, 93 Stat. 1002.
60119(b)(2)	49 App.:1674b(b) (4)(C).	

In this section, the word "judicial" is omitted as surplus.

In subsection (a)(1), the words "Except as provided in subsection (b) of this section" are added for clarity. The words "who is or will be . . . or aggrieved" are omitted as surplus. The word "prescribed" is added for consistency in the revised title and with other titles of the United States Code. The word "Circuit" is added to complete the proper title of the Court. The word "resides" is substituted for "located" for clarity and for consistency in the revised title and with other titles of the Code. The words "or other officer designated by him for that purpose" are omitted as surplus because of 49:322(b).

In subsection (a)(2), the text of 49 App.:1675(b) and 2005(b) is omitted as surplus because of 28:1331 and because 5:ch. 7 applies in the absence of an exception. The text of 49 App.:1675(d) and 2005(d) is omitted as covered by rule 43 of the Federal Rules of Appellate Procedure (28 App. U.S.C.). The words "affirming or setting aside, in whole or in part, any such regulation or order of the Secretary" are omitted as surplus. The words "may be reviewed only" are substituted for "shall be final, subject to review" for consistency. The words "and not in substitution for" are omitted as surplus.

In subsection (b)(1), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title and with other titles of the Code. The word "only" is omitted as surplus. The text of 49 App.:1674b(b)(4)(B) (1st sentence) is omitted as surplus because 28:2112 applies in the absence of an exception. The text of 49 App.:1674b(b)(4)(B) (2d sentence) is omitted as surplus and because of 28:1651.

In subsection (b)(2), the words "and decree" are omitted as surplus. The words "may be reviewed only" are substituted for "shall be final, except that such judgment and decree shall be subject to review" for consistency and to eliminate unnecessary words. The words "upon certiorari" are omitted as surplus because of 28:1254(1).

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–90, §2(d)(1), substituted ", Orders, and Other Final Agency Actions" for "and Waiver Orders" in heading.

Subsec. (a)(1). Pub. L. 112–90, §2(d)(2), substituted "order issued under this chapter" for "order issued about an application for a waiver under section 60118(c) or (d) of this title".

Subsec. (a)(3). Pub. L. 112–90, §20(b), added par. (3).

§60120. Enforcement

(a) CIVIL ACTIONS.—

(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122. The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.

(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—At the request of the Secretary, the Attorney General may bring a civil action in a district court of the United States to require a person to comply immediately with a subpena or to allow an officer, employee, or agent authorized by the Secretary to enter the premises, and inspect the records and property, of the person to decide whether the person is complying with this

chapter. The action may be brought in the judicial district in which the defendant resides, is found, or does business. The court may punish a failure to obey the order as a contempt of court.

(b) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction issued under this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(c) EFFECT ON TORT LIABILITY.—This chapter does not affect the tort liability of any person.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1323; Pub. L. 107–355, §8(b)(3), Dec. 17, 2002, 116 Stat. 2993; Pub. L. 112–90, §2(c), Jan. 3, 2012, 125 Stat. 1905.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60120(a)(1)	49 App.:1677(b)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §10(b)(2); added Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:1679b(a)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §12(a); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 993.
	49 App.:2006(b)(2).	Nov. 30, 1979, Pub. L. 96–129, §§207(b)(2), (c), 209(a), 93 Stat. 1009, 1010.
	49 App.:2008(a)(1).	
60120(a)(2)	49 App.:1681(f).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §14(f); added Oct. 24, 1992, Pub. L. 102–508, §112(b), 106 Stat. 3295.
	49 App.:2010(f).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §211(f); added Oct. 24, 1992, Pub. L. 102–508, §211(b), 106 Stat. 3304.
60120(b)	49 App.:1679b(a)(2).	
	49 App.:2008(a)(2).	
60120(c)	49 App.:1677(c).	Aug. 12, 1968, Pub. L. 90–481, §10(c), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:2006(c).	

In subsection (a)(1), the text of 49 App.:1677(b)(2) and 2006(b)(2) and the words "shall have jurisdiction to determine such actions" in 49 App.:1679b(a)(1) and 2008(a)(1) are omitted as redundant and because of 28:1331 and 1345. The word "civil" is added for consistency in the revised title and with other titles of the United States Code and because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "to enforce this chapter" are substituted for "for equitable relief to redress or restrain a violation by any person of a provision of this chapter" to eliminate unnecessary words. The word "prescribed" is substituted for "issued" for consistency in the revised title and with other titles of the Code. The words "necessary or . . . mandatory or prohibitive injunctive relief, interim equitable relief, and" are omitted as surplus.

In subsection (a)(2), the words "the Attorney General may bring a civil action in a district court of the United States" are substituted for "such district court shall, upon the request of the Attorney General . . . have jurisdiction to issue to such person an order" for clarity and consistency and because of 28:1331 and 1345.

The words "contumacy or" are omitted as surplus. The word "premises" is added for clarity and consistency. The words "or examine" are omitted as being included in "inspect".

In subsection (b), the words "mandatory or prohibitive" are omitted as surplus. The words "the defendant may demand a jury trial" are substituted for "trial shall be by the court or, upon demand of the accused, by a jury" to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

In subsection (c), the words "common law or statutory" are omitted as surplus.

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–90 added at end "The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section."

Subsec. (a). Pub. L. 107–355 reenacted subsec. heading without change, added par. (1) and struck out former par. (1), inserted par. (2) heading and realigned margins. Prior to amendment, par. (1) read as follows: "On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages."

§60121. Actions by private persons

(a) GENERAL AUTHORITY.—(1) A person may bring a civil action in an appropriate district court of the United States for an injunction against another person (including the United States Government and other governmental authorities to the extent permitted under the 11th amendment to the Constitution) for a violation of this chapter or a regulation prescribed or order issued under this chapter. However, the person—

(A) may bring the action only after 60 days after the person has given notice of the violation to the Secretary of Transportation or to the appropriate State authority (when the violation is alleged to have occurred in a State certified under section 60105 of this title) and to the person alleged to have committed the violation;

(B) may not bring the action if the Secretary or authority has begun and diligently is pursuing an administrative proceeding for the violation; and

(C) may not bring the action if the Attorney General of the United States, or the chief law enforcement officer of a State, has begun and diligently is pursuing a judicial proceeding for the violation.

(2) The Secretary shall prescribe the way in which notice is given under this subsection.

(3) The Secretary, with the approval of the Attorney General, or the Attorney General may intervene in an action under paragraph (1) of this subsection.

(b) COSTS AND FEES.—The court may award costs, reasonable expert witness fees, and a reasonable attorney's fee to a prevailing plaintiff in a civil action under this section. The court may award costs to a prevailing defendant when the action is unreasonable, frivolous, or meritless. In this subsection, a reasonable attorney's fee is a fee—

(1) based on the actual time spent and the reasonable expenses of the attorney for legal services provided to a person under this section; and

(2) computed at the rate prevailing for providing similar services for actions brought in the court awarding the fee.

(c) STATE VIOLATIONS AS VIOLATIONS OF THIS CHAPTER.—In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

(d) ADDITIONAL REMEDIES.—A remedy under this section is in addition to any other remedies provided by law. This section does not restrict a right to relief that a person or a class of

persons may have under another law or at common law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1324.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60121(a)(1)	49 App.:1686(a), (b) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §19; added Oct. 11, 1976, Pub. L. 94–477, §8, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992.
	49 App.:2014(a), (b) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §215, 93 Stat. 1014.
60121(a)(2)	49 App.:1686(b) (last sentence).	
	49 App.:2014(b) (last sentence).	
60121(a)(3)	49 App.:1686(c).	
	49 App.:2014(c).	
60121(b)	49 App.:1686(e).	
	49 App.:2014(e).	
60121(c)	49 App.:1686(f).	
	49 App.:2014(f).	
60121(d)	49 App.:1686(d).	
	49 App.:2014(d).	

In subsection (a)(1), before clause (A), the text of 49 App.:1686(a) (last sentence, words after the comma) and 2014(a) (last sentence, words after the comma) is omitted as surplus because the amount in controversy is no longer a criterion. The word "bring" is substituted for "commence" for consistency in the revised title and with other titles of the United States Code. The words "mandatory or prohibitive", "including interim equitable relief", "State, municipality, or", and "alleged to be" are omitted as surplus. The word "prescribed" is added for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), the words "by regulation" are omitted as surplus because of 49:322(a).

In subsection (a)(3), the words "as a matter of right" are omitted as surplus.

In subsection (b), before clause (1), the words "in the interest of justice" and "of suit, including" are omitted as surplus. In clause (1), the words "by an attorney" and "advice and other" are omitted as surplus. The words "provided to a person under this section" are substituted for "providing . . . in connection with representing a person in an action brought under this section" to eliminate unnecessary words.

In subsection (c), the word "Federal" is omitted as surplus. The words "prescribed under this chapter" are added for clarity.

In subsection (d), the words "enforcement of this chapter or any order or regulation under this chapter or to seek any other" are omitted as surplus.

§60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $200,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is $2,000,000.

(2) A person violating a standard or order under section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than $50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.

(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

(1) the Secretary shall consider—

(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

(B) with respect to the violator, the degree of culpability, any history of prior violations, and any effect on ability to continue doing business;

(C) good faith in attempting to comply; and

(D) self-disclosure and correction of violations, or actions to correct a violation, prior to discovery by the Pipeline and Hazardous Materials Safety Administration; and

(2) the Secretary may consider—

(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

(B) other matters that justice requires.

(c) COLLECTION AND COMPROMISE.—(1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(d) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(e) DEPOSIT IN TREASURY.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT.—Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1325; Pub. L. 107–355, §§6(b), 8(b)(1), (2), 21(3), Dec. 17, 2002, 116 Stat. 2992, 2993, 3010; Pub. L. 109–468, §2(a)(2), Dec. 29, 2006, 120 Stat. 3487; Pub. L. 112–90, §2(a), Jan. 3, 2012, 125 Stat. 1905; Pub. L. 116–260, div. R, title I, §107, Dec. 27, 2020, 134 Stat. 2221.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60122(a)(1)	49 App.:1679a(a)(1), (3) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(a); added Nov. 30, 1979, Pub. L. 96–129, §§104(b), 154, 93 Stat. 992, 1002; Oct. 31, 1988, Pub. L. 100–561, §106, 102 Stat. 2807; Oct. 24, 1992, Pub. L. 102–508, §§112(a), 304(b), 106 Stat. 3295, 3308.
	49 App.:2007(a)(1), (2) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §208(a), (b), (d), 93 Stat. 1009, 1010; Oct. 31, 1988, Pub. L. 100–561, §205, 102 Stat. 2811; Oct.

		24, 1992, Pub. L. 102–508, §211(a), 106 Stat. 3304.
60122(a)(2)	49 App.:1679a(a)(2).	
60122(b)	49 App.:1679a(a)(3) (last sentence). 49 App.:2007(a)(2) (last sentence).	
60122(c)	49 App.:1679a(b) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(b), (d); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992, 993.
	49 App.:2007(b) (1st sentence).	
60122(d)	49 App.:1679a(b) (2d sentence). 49 App.:2007(b) (2d sentence).	
60122(e)	49 App.:1679a(b) (last sentence). 49 App.:2007(b) (last sentence).	
60122(f)	49 App.:1679a(d). 49 App.:2007(d).	

In subsection (a)(1), the word "prescribed" is added for consistency in the revised title and with other titles of the United States Code. The words "including any order issued under sections 1677(b) and 1679b(b)" in 49 App.:1679a(a)(1) and "including any order issued under section 2006(b) or 2008(b)" in 49 App.:2007(a)(1) are omitted as surplus. The word "occurs" is added for clarity.

In subsection (a)(2), the words "is determined by the Secretary to have" are omitted as surplus. The words "for each violation" are added for clarity and consistency. The word "imposed" is substituted for "to which such person may be subject" for consistency and to eliminate unnecessary words.

In subsection (b)(2), the word "violator" is substituted for "the person found to have committed the violation" for consistency and to eliminate unnecessary words. The words "the penalty" are omitted as surplus.

In subsection (c)(1), the words "The Secretary may request the Attorney General to bring a civil action" are substituted for "in an action brought by the Attorney General on behalf of the United States" for clarity, to eliminate unnecessary words, and because of 28:2461 and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (d), the words "imposed or compromised under this section" are substituted for "of the penalty, when finally determined (or agreed upon in compromise)" to eliminate unnecessary words and for consistency. The words "liable for the penalty" are substituted for "charged" for clarity.

In subsection (f), the words "Separate penalties . . . prescribed under this chapter . . . may not be imposed under this chapter" are substituted for "Nothing in this title shall be construed to authorize . . . penalties" for clarity.

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (b)(1)(D). Pub. L. 116–260 added subpar. (D).

2012—Subsec. (a)(1). Pub. L. 112–90, §2(a)(1), substituted "$200,000" for "$100,000" and "$2,000,000" for "$1,000,000".

Subsec. (b)(1)(B). Pub. L. 112–90, §2(a)(2), struck out "the ability to pay," after "violations,".

2006—Subsec. (a)(1). Pub. L. 109–468 substituted "60114(b), 60114(d)," for "60114(b)".

2002—Subsec. (a)(1). Pub. L. 107–355, §21(3), substituted "section 60114(b)" for "section 60114(c)".

Pub. L. 107–355, §8(b)(1), substituted "$100,000" for "$25,000" and "$1,000,000" for "$500,000".

Subsec. (a)(3). Pub. L. 107–355, §6(b), added par. (3).

Subsec. (b). Pub. L. 107–355, §8(b)(2), substituted "under this section—" and pars. (1) and (2) for "under this section, the Secretary shall consider—

"(1) the nature, circumstances, and gravity of the violation;

"(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to

pay, and any effect on ability to continue doing business;

"(3) good faith in attempting to comply; and

"(4) other matters that justice requires."

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMPTROLLER GENERAL STUDY

Pub. L. 107–355, §8(d), Dec. 17, 2002, 116 Stat. 2994, required the Comptroller General to study the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties on operators of hazardous liquid and gas transmission pipelines, and to report, not later than 1 year after Dec. 17, 2002, the results of the study to certain committees of Congress.

§60123. Criminal penalties

(a) GENERAL PENALTY.—A person knowingly and willfully violating section 60114(b), 60118(a), or 60128 of this title or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) PENALTY FOR DAMAGING OR DESTROYING FACILITY.—A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(c) PENALTY FOR DAMAGING OR DESTROYING SIGN.—A person knowingly and willfully defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

(d) PENALTY FOR NOT USING ONE-CALL NOTIFICATION SYSTEM OR NOT HEEDING LOCATION INFORMATION OR MARKINGS.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) knowingly and willfully engages in an excavation activity—

(A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or

(B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and

(2) subsequently damages—

(A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than $50,000;

(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or

(C) a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1325; Pub. L. 104–304, §§14, 18(b)(1), Oct. 12, 1996, 110 Stat. 3803, 3804; Pub. L. 107–56, title VIII, §§810(h), 811(k), Oct. 26, 2001, 115 Stat. 381, 382; Pub. L. 107–355, §§3(c), 8(c), 21(4), Dec. 17, 2002, 116 Stat. 2986, 2994, 3010.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60123(a)	49 App.:1679a(c)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(c)(1); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992; Oct. 24, 1992, Pub. L. 102–508, §304(b), 106 Stat. 3308.
	49 App.:2007(c)(1).	Nov. 30, 1979, Pub. L. 96–129, §208(c)(1), (2), 93 Stat. 1010.
60123(b)	49 App.:1679a(c)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(c)(2); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992.
	49 App.:2007(c)(2).	
60123(c)	49 App.:1679a(c)(3).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(c)(3); added Oct. 31, 1988, Pub. L. 100–561, §107, 102 Stat. 2807.
	49 App.:2007(c)(3).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §208(c)(3); added Oct. 31, 1988, Pub. L. 100–561, §206, 102 Stat. 2811.
60123(d)	49 App.:1687(g).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §20(g); added Oct. 24, 1992, Pub. L. 102–508, §304(a), 106 Stat. 3307.

In this section, the words "upon conviction . . . subject, for each offense, to" and "a term" are omitted as surplus.

In subsections (a)–(c), the words "fined under title 18" are substituted for "a fine of not more than $25,000" and "a fine of not more than $5,000" for consistency with title 18.

In subsection (a), the word "prescribed" is added for consistency in the revised title and with other titles of the United States Code. The words "including any order issued under section 1677(b) and 1679b(b) of this Appendix" in 49 App.:1679a(c)(1) and "including any order issued under section 2006(b) or 2008(b) of the Appendix" in 49 App.:2007(c)(1) are omitted as surplus.

In subsection (b), the word "damaging" is substituted for "injures", and the word "damage" is substituted for "injure", for clarity.

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–355, §21(4), substituted "60114(b)" for "60114(c)".

Subsec. (b). Pub. L. 107–355, §8(c), substituted "gas pipeline facility, an" for "gas pipeline facility or" and inserted ", or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce" after "liquid pipeline facility".

Subsec. (d). Pub. L. 107–355, §3(c)(1), (4), struck out "knowingly and willfully" after "if the person" in introductory provisions and inserted concluding provisions.

Subsec. (d)(1). Pub. L. 107–355, §3(c)(2), inserted "knowingly and willfully" before "engages".

Subsec. (d)(2)(B). Pub. L. 107–355, §3(c)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: "a pipeline facility that does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or".

2001—Subsec. (b). Pub. L. 107–56 struck out ", or attempting to damage or destroy," before "an interstate gas pipeline facility", inserted ", or attempting or conspiring to do such an act," before "shall be fined under title 18," and substituted "20 years, or both, and, if death results to any person, shall be imprisoned for any

term of years or for life." for "15 years, or both."

1996—Subsec. (a). Pub. L. 104–304, §18(b)(1), substituted ", 60118(a), or 60128" for "or 60118(a)".

Subsec. (d)(2). Pub. L. 104–304, §14, added subpar. (B) and redesignated former subpar. (B) as (C).

§60124. Biennial reports

(a) SUBMISSION AND CONTENTS.—Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 60118(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter, in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship;

(B) technological progress in safety achieved; and

(C) a summary of each research and development project carried out with Federal and non-Federal entities pursuant to section 12 of the Pipeline Safety Improvement Act of 2002 and a review of how the project affects safety.

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 60105 of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 60106 of this title that were—

(A) in effect; or

(B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.

(12) recommendations for legislation the Secretary considers necessary—

(A) to promote cooperation among the States in improving—

(i) gas pipeline safety; or

(ii) hazardous liquid pipeline safety programs; and

(B) to strengthen the national gas pipeline safety program.

(b) SUBMISSION OF ONE REPORT.—The Secretary may submit one report to carry out

subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1326; Pub. L. 104–66, title I, §1121(l), Dec. 21, 1995, 109 Stat. 724; Pub. L. 104–304, §15(a), Oct. 12, 1996, 110 Stat. 3803; Pub. L. 114–183, §22(b)(1), June 22, 2016, 130 Stat. 529.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60124(a)	49 App.:1683(a).	Aug. 12, 1968, Pub. L. 90–481, §16(a), 82 Stat. 728; Oct. 11, 1976, Pub. L. 94–477, §7, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, §§104(b), 107, 109(*l*), (m), 93 Stat. 992, 995, 997; Oct. 11, 1984, Pub. L. 98–464, §3(a), 98 Stat. 1821; Oct. 24, 1992, Pub. L. 102–508, §110(b), 106 Stat. 3295.
	49 App.:1683(b).	Aug. 12, 1968, Pub. L. 90–481, §16(b), 82 Stat. 728; Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992.
	49 App.:2012(a).	Nov. 30, 1979, Pub. L. 96–129, §213(a), 93 Stat. 1013; Oct. 11, 1984, Pub. L. 98–464, §3(b), 98 Stat. 1821; Oct. 24, 1992, Pub. L. 102–508, §209(b), 106 Stat. 3304.
	49 App.:2012(b).	Nov. 30, 1979, Pub. L. 96–129, §213(b), (c), 93 Stat. 1014.
60124(b)	49 App.:2012(c).	

In subsection (a), before clause (1), the words "prepare and" and "comprehensive" are omitted as surplus. The words "the following information" are added for clarity. The words "about the prior year" are substituted for "occurring in such year", "established or in effect in such year", "during such year", and "during the preceding calendar year" to eliminate unnecessary words. In clause (2), the word "Federal" is omitted as surplus. The word "prescribed" is substituted for "established or in effect" and "established" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The word "newly" is omitted as surplus. In clause (4), the words "for the transportation of gas and pipeline facilities" in 49 App.:1683(a)(4) and "for the transportation of hazardous liquids and pipeline facilities" in 49 App.:2012(a)(4) are omitted because of the restatement. In clause (5), the words "in carrying out" are substituted for "confronting the administration of" for consistency. In clause (9), before subclause (A), the words "by State agencies (including municipalities)" are omitted as surplus. In clauses (9)(B) and (10)(B), the words "in any part" are added for clarity. In clause (10), before subclause (A), the words "with State agencies (including municipalities)" are omitted as surplus. In clause (12), before subclause (A), the word "additional" is omitted as surplus. In subclause (A), the word "several" is omitted as surplus.

In subsection (b), the words "annual" and "the report requirements of" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12 of the Pipeline Safety Improvement Act of 2002, referred to in subsec. (a)(6)(C), is section 12 of Pub. L. 107–355, which is set out as a note under section 60101 of this title.

AMENDMENTS

2016—Subsec. (a)(6)(C). Pub. L. 114–183 added subpar. (C).

1996—Pub. L. 104–304, §15(a)(1), substituted "Biennial" for "Annual" in section catchline.

Subsec. (a). Pub. L. 104–304, §15(a)(2), inserted first sentence and struck out former first sentence which read as follows: "The Secretary of Transportation shall submit to Congress not later than August 15 of each odd-numbered year a report on carrying out this chapter for the prior calendar year for gas and a report on carrying out this chapter for the prior calendar year for hazardous liquid."

1995—Subsec. (a). Pub. L. 104–66 substituted "of each odd-numbered year" for "of each year" in first sentence of introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 7th and 9th items on page 135 identify reporting provisions which, as subsequently amended, are contained in this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§60125. Authorization of appropriations

(a) GAS AND HAZARDOUS LIQUID.—

(1) IN GENERAL.—From fees collected under section 60301, there are authorized to be appropriated to the Secretary to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355) and the provisions of this chapter relating to gas and hazardous liquid—

(A) $156,400,000 for fiscal year 2021, of which—

(i) $9,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355); and

(ii) $63,000,000 shall be used for making grants;

(B) $158,500,000 for fiscal year 2022, of which—

(i) $9,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355); and

(ii) $66,000,000 shall be used for making grants; and

(C) $162,700,000 for fiscal year 2023, of which—

(i) $9,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355); and

(ii) $69,000,000 shall be used for making grants.

(2) TRUST FUND AMOUNTS.—In addition to the amounts authorized to be appropriated under paragraph (1), there are authorized to be appropriated from the Oil Spill Liability Trust Fund established by section 9509(a) of the Internal Revenue Code of 1986 to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355) and the provisions of this chapter relating to hazardous liquid—

(A) $27,000,000 for fiscal year 2021, of which—

(i) $3,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355); and

(ii) $11,000,000 shall be used for making grants;

(B) $27,650,000 for fiscal year 2022, of which—

(i) $3,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355); and

(ii) $12,000,000 shall be used for making grants; and

(C) $28,700,000 for fiscal year 2023, of which—

(i) $3,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355); and

(ii) $13,000,000 shall be used for making grants.

(3) UNDERGROUND NATURAL GAS STORAGE FACILITY SAFETY ACCOUNT.—From fees collected under section 60302, there is authorized to be appropriated to the Secretary to carry out section 60141 $8,000,000 for each of fiscal years 2021 through 2023.

(4) RECRUITMENT AND RETENTION.—From amounts made available to the Secretary under paragraphs (1) and (2), the Secretary shall use—

(A) $1,520,000 to carry out section 102(b)(1) of the PIPES Act of 2020, of which—

(i) $1,292,000 shall be from amounts made available under paragraph (1)(A); and

(ii) $228,000 shall be from amounts made available under paragraph (2)(A);

(B) $2,300,000 to carry out section 102(b)(2)(A) of the PIPES Act of 2020, of which—

(i) $1,955,000 shall be from amounts made available under paragraph (1)(A); and

(ii) $345,000 shall be from amounts made available under paragraph (2)(A);

(C) $1,600,000 to carry out section 102(b)(2)(B) of the PIPES Act of 2020, of which—

(i) $1,360,000 shall be from amounts made available under paragraph (1)(B); and

(ii) $240,000 shall be from amounts made available under paragraph (2)(B);

(D) $1,800,000 to carry out section 102(b)(2)(C) of the PIPES Act of 2020, of which—

(i) $1,530,000 shall be from amounts made available under paragraph (1)(C); and

(ii) $270,000 shall be from amounts made available under paragraph (2)(C);

(E) $2,455,000 to carry out section 102(c) of the PIPES Act of 2020 in fiscal year 2021, of which—

(i) $2,086,750 shall be from amounts made available under paragraph (1)(A); and

(ii) $368,250 shall be from amounts made available under paragraph (2)(A);

(F) $2,455,000 to carry out section 102(c) of the PIPES Act of 2020 in fiscal year 2022, of which—

(i) $2,086,750 shall be from amounts made available under paragraph (1)(B); and

(ii) $368,250 shall be from amounts made available under paragraph (2)(B); and

(G) $2,455,000 to carry out section 102(c) of the PIPES Act of 2020 in fiscal year 2023, of which—

(i) $2,086,750 shall be from amounts made available under paragraph (1)(C); and

(ii) $368,250 shall be from amounts made available under paragraph (2)(C).

(b) EMERGENCY RESPONSE GRANTS.—

(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance. To the extent that such grants are used to train emergency responders, such training shall ensure that emergency responders have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving gas or hazardous liquid pipelines, in accordance with existing regulations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of fiscal years 2021 through 2023 to carry out this subsection.

(c) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) amounts received from sources other

than the Government for reimbursement for expenses incurred by the Secretary in providing training.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1327; Pub. L. 104–304, §21, Oct. 12, 1996, 110 Stat. 3805; Pub. L. 107–355, §22, Dec. 17, 2002, 116 Stat. 3010; Pub. L. 109–468, §18(a)–(c), Dec. 29, 2006, 120 Stat. 3497, 3498; Pub. L. 112–90, §32(a), (b), Jan. 3, 2012, 125 Stat. 1922; Pub. L. 114–183, §2(a), June 22, 2016, 130 Stat. 514; Pub. L. 116–260, div. R, title I, §101(a), (d), Dec. 27, 2020, 134 Stat. 2211, 2213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60125(a)	49 App.:1684(a) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, §17(a), 82 Stat. 729; Aug. 22, 1972, Pub. L. 92–401, §4, 86 Stat. 616; Aug. 30, 1974, Pub. L. 93–403, §3, 88 Stat. 802; Oct. 11, 1976, Pub. L. 94–477, §2(1), 90 Stat. 2073; restated Nov. 30, 1979, Pub. L. 96–129, §§104(b), 108, 93 Stat. 992, 996; Oct. 11, 1984, Pub. L. 98–464, §1(a), 98 Stat. 1821; Apr. 7, 1986, Pub. L. 99–272, §§7001, 7002(b)(4), 100 Stat. 139; Oct. 22, 1986, Pub. L. 99–516, §1(a), 100 Stat. 2965; Oct. 31, 1988, Pub. L. 100–561, §§110, 303(b)(2), 102 Stat. 2809, 2816; Oct. 24, 1992, Pub. L. 102–508, §114, 106 Stat. 3296.
60125(b)	49 App.:2013(a) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §214(a), 93 Stat. 1014; Oct. 11, 1984, Pub. L. 98–464, §2(a), 98 Stat. 1821; Apr. 7, 1986, Pub. L. 99–272, §§7002(b)(3), 7004, 100 Stat. 139, 140; Oct. 22, 1986, Pub. L. 99–516, §2, 100 Stat. 2965; Oct. 31, 1988, Pub. L. 100–561, §210, 102 Stat. 2812; Oct. 24, 1992, Pub. L. 102–508, §214, 106 Stat. 3305.
60125(c)(1)	49 App.:1684(c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §17(c); added Apr. 7, 1986, Pub. L. 99–272, §7002(a), 100 Stat. 139; Oct. 22, 1986, Pub. L. 99–516, §1(b), 100 Stat. 2965; Oct. 31, 1988, Pub. L. 100–561, §301(a), 102 Stat. 2813; Oct. 24, 1992, Pub. L. 102–508, §301, 106 Stat. 3307.
60125(c)(2), (3)	49 App.:1684(d).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §17(d); added Apr. 7, 1986, Pub. L. 99–272, §7002(a), 100 Stat. 139; Oct. 31, 1988, Pub. L. 100–561, §301(b), 102 Stat. 2813.
60125(d)	49 App.:1687(f).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §20(f); added Oct. 31, 1988, Pub. L. 100–561, §303(a), 102 Stat.

		2816.
60125(e)	49 App.:1684(a) (2d, last sentences). 49 App.:2013(a) (last sentence).	
60125(f)	49 App.:1684(e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §17(e); added Oct. 31, 1988, Pub. L. 100–561, §301(c), 102 Stat. 2814.

In this section, references to fiscal years ending September 30, 1980, 1981, and 1985–1992, are omitted as expired.

In subsection (a), the words "(except sections 60107 and 60114(b))" are substituted for "(other than provisions for which funds are authorized to be appropriated under subsection . . . (c) of this section or section 1687 of this Appendix)" to eliminate unnecessary words. The reference to subsection (b) is omitted as obsolete.

In subsection (b), the words "(except sections 60107" are substituted for "(other than provisions for which funds are authorized to be appropriated under . . . section 1684(c) of this Appendix)" to eliminate unnecessary words. The words "subsection (b) of this section or" are omitted as obsolete. The reference to section 60114(b) of the revised title is added for clarity.

In subsection (c)(1) and (2), the words "the Federal grants-in-aid provisions of" are omitted as surplus.

In subsection (c)(3), the words "the amount of" are omitted as surplus. The word "program" is added for consistency in this chapter. The words "made to a State" are omitted as surplus.

In subsection (e), the text of 49 App.:1684(a) (last sentence) is omitted as expired.

In subsection (f)(5), the words "made available" are omitted as surplus.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9509(a) of the Internal Revenue Code of 1986, referred to in subsec. (a)(2), is classified to section 9509(a) of Title 26, Internal Revenue Code.

Section 102 of the PIPES Act of 2020, referred to in subsec. (a)(4), is section 102 of div. R of Pub. L. 116–260, which is set out as a note under section 60101 of this title.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260, §101(a), added subsec. (a) and struck out former subsec. (a) which authorized appropriations for fiscal years 2016 to 2019 to carry out provisions related to gas and hazardous liquid from fees collected under section 60301 in par. (1), from the Oil Spill Liability Trust Fund in par. (2), and from fees collected under section 60302 in par. (3).

Subsec. (b)(2). Pub. L. 116–260, §101(d), substituted "fiscal years 2021 through 2023" for "fiscal years 2012 through 2015".

2016—Subsec. (a)(1). Pub. L. 114–183, §2(a)(1), substituted "there is authorized to be appropriated to the Department of Transportation from fees collected under section 60301—" for "there is authorized to be appropriated to the Department of Transportation for each of fiscal years 2012 through 2015, from fees collected under section 60301, $90,679,000, of which $4,746,000 is for carrying out such section 12 and $36,194,000 is for making grants." and added subpars. (A) to (D).

Subsec. (a)(2). Pub. L. 114–183, §2(a)(2), substituted "there is authorized to be appropriated from the Oil Spill Liability Trust Fund to carry out the provisions of this chapter related to hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355)—" for "there is authorized to be appropriated for each of fiscal years 2012 through 2015 from the Oil Spill Liability Trust Fund to carry out the provisions of this chapter related to hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355), $18,573,000, of which $2,174,000 is for carrying out such section 12 and $4,558,000 is for making grants." and added subpars. (A) to (D).

Subsec. (a)(3). Pub. L. 114–183, §2(a)(3), added par. (3).

2012—Subsec. (a). Pub. L. 112–90, §32(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized appropriations and trust fund amounts for gas and hazardous liquid transportation for fiscal years 2007 through 2010.

Subsec. (b)(2). Pub. L. 112–90, §32(b), substituted "2012 through 2015" for "2007 through 2010".

2006—Subsec. (a). Pub. L. 109–468, §18(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized appropriations for gas and hazardous liquid transportation for fiscal years 2003 through 2006.

Subsec. (b). Pub. L. 109–468, §18(b), redesignated subsec. (d) as (b) and struck out former subsec. (b) which limited appropriation amounts for fiscal years 2003 through 2006 to carry out section 60107 of this title.

Subsec. (b)(1). Pub. L. 109–468, §18(c)(1), inserted at end "To the extent that such grants are used to train emergency responders, such training shall ensure that emergency responders have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving gas or hazardous liquid pipelines, in accordance with existing regulations."

Subsec. (b)(2). Pub. L. 109–468, §18(c)(2), substituted "$10,000,000" for "$6,000,000" and "2007 through 2010" for "2003 through 2006".

Subsec. (c). Pub. L. 109–468, §18(b), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006."

Subsecs. (d), (e). Pub. L. 109–468, §18(b), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

2002—Subsec. (a). Pub. L. 107–355, §22(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "To carry out this chapter (except for sections 60107 and 60114(b)) related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

"(1) $19,448,000 for fiscal year 1996;

"(2) $20,028,000 for fiscal year 1997, of which $14,600,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title;

"(3) $20,729,000 for fiscal year 1998, of which $15,100,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title;

"(4) $21,442,000 for fiscal year 1999, of which $15,700,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title; and

"(5) $22,194,000 for fiscal year 2000, of which $16,300,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title."

Subsec. (b). Pub. L. 107–355, §22(b)(1), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

"(b) HAZARDOUS LIQUID.—Not more than the following amounts may be appropriated to the Secretary to carry out this chapter (except sections 60107 and 60114(b)) related to hazardous liquid:

"(1) $1,728,500 for the fiscal year ending September 30, 1993.

"(2) $1,866,800 for the fiscal year ending September 30, 1994.

"(3) $2,000,000 for the fiscal year ending September 30, 1995."

Subsec. (b)(1). Pub. L. 107–355, §22(b)(2), added subpars. (A) to (D) and struck out former subpars. (A) to (H) which read as follows:

"(A) $7,750,000 for the fiscal year ending September 30, 1993.

"(B) $9,000,000 for the fiscal year ending September 30, 1994.

"(C) $10,000,000 for the fiscal year ending September 30, 1995.

"(D) $12,000,000 for fiscal year 1996.

"(E) $14,000,000 for fiscal year 1997, of which $12,500,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title.

"(F) $14,490,000 for fiscal year 1998, of which $12,900,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title.

"(G) $15,000,000 for fiscal year 1999, of which $13,300,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title.

"(H) $15,524,000 for fiscal year 2000, of which $13,700,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title."

Subsec. (c). Pub. L. 107–355, §22(c), added subsec. (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 107–355, §22(b)(1), (c), added subsec. (d) and struck out former subsec. (d) which read as follows:

"(d) GRANTS FOR ONE-CALL NOTIFICATION SYSTEMS.—Not more than $_____ may be appropriated to the Secretary for the fiscal year ending September 30, 19__, to carry out section 60114(b) of this title. Amounts under this subsection remain available until expended."

Subsec. (e). Pub. L. 107–355, §22(d), struck out "or (b) of this section" after "under subsection (a)".

Subsec. (f). Pub. L. 107–355, §22(b)(1), struck out subsec. (f) which read as follows:

"(f) AVAILABILITY OF UNUSED AMOUNTS FOR GRANTS.—(1) The Secretary shall make available for grants to States amounts appropriated for each of the fiscal years that ended September 30, 1986, and 1987, that have not been expended in making grants under section 60107 of this title.

"(2) A grant under this subsection is available to a State that after December 31, 1987—

"(A) undertakes a new responsibility under section 60105 of this title; or

"(B) implements a one-call damage prevention program established under State law.

"(3) This subsection does not authorize a State to receive more than 50 percent of its allowable pipeline safety costs from a grant under this chapter.

"(4) A State may receive not more than $75,000 under this subsection.

"(5) Amounts under this subsection remain available until expended."

1996—Subsec. (a). Pub. L. 104–304, §21(a)(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

"(a) GAS.—Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter (except sections 60107 and 60114(b)) related to gas:

"(1) $6,857,000 for the fiscal year ending September 30, 1993.

"(2) $7,000,000 for the fiscal year ending September 30, 1994.

"(3) $7,500,000 for the fiscal year ending September 30, 1995."

Subsec. (c)(1). Pub. L. 104–304, §21(b), added subpars. (D) to (H).

§60126. Risk management

(a) RISK MANAGEMENT PROGRAM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall establish risk management demonstration projects—

(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management; and

(B) to evaluate the safety and cost-effectiveness of the program.

(2) EXEMPTIONS.—In carrying out a demonstration project under this subsection, the Secretary, by order—

(A) may exempt an owner or operator of the pipeline facility covered under the project (referred to in this subsection as a "covered pipeline facility"), from the applicability of all or a portion of the requirements under this chapter that would otherwise apply to the covered pipeline facility; and

(B) shall exempt, for the period of the project, an owner or operator of the covered pipeline facility, from the applicability of any new standard that the Secretary promulgates under this chapter during the period of that participation, with respect to the covered facility.

(b) REQUIREMENTS.—In carrying out a demonstration project under this section, the Secretary shall—

(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

(3) provide for—

(A) collaborative government and industry training;

(B) methods to measure the safety performance of risk management plans;

(C) the development and application of new technologies;

(D) the promotion of community awareness concerning how the overall level of safety will be maintained or enhanced by the demonstration project;

(E) the development of models that categorize the risks inherent to each covered pipeline

facility, taking into consideration the location, volume, pressure, and material transported or stored by that pipeline facility;

(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of models developed under subparagraph (E);

(G) the development of project elements that are necessary to ensure that—

(i) the owners and operators that participate in the demonstration project demonstrate that they are effectively managing the risks referred to in subparagraph (E); and

(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

(H) a process whereby an owner or operator of a pipeline facility is able to terminate a risk management plan or, with the approval of the Secretary, to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to—

(i) changed circumstances; or

(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

(J) an opportunity for public comment in the approval process; and

(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory performance of each applicant who submits a risk management plan pursuant to paragraph (1).

(c) EMERGENCIES AND REVOCATIONS.—Nothing in this section diminishes or modifies the Secretary's authority under this title to act in case of an emergency. The Secretary may revoke any exemption granted under this section for substantial noncompliance with the terms and conditions of an approved risk management plan.

(d) PARTICIPATION BY STATE AUTHORITY.—In carrying out this section, the Secretary may provide for consultation by a State that has in effect a certification under section 60105. To the extent that a demonstration project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, the Secretary may make an agreement with the State agency to carry out the duties of the Secretary for approval and administration of the project.

(e) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes—

(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be incorporated into the Federal pipeline safety program under this chapter on a permanent basis.

(Added Pub. L. 104–304, §5(a), Oct. 12, 1996, 110 Stat. 3798.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and

Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

§60127. Population encroachment and rights-of-way

(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices, zoning ordinances, and preservation of environmental resources with regard to pipeline rights-of-way and their maintenance.

(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices, zoning ordinances, and preservation of environmental resources—

(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

(2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way;

(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way; and

(4) to address how to best preserve environmental resources in conjunction with maintaining pipeline rights-of-way, recognizing pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

(d) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment and maintenance on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

(A) Congress and appropriate Federal agencies; and

(B) States for further distribution to appropriate local authorities.

(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way and to address the potential methods of preserving environmental resources while maintaining pipeline rights-of-way, consistent with pipeline safety.

(Added Pub. L. 104–304, §16(a), Oct. 12, 1996, 110 Stat. 3803; amended Pub. L. 107–355, §11(a), Dec. 17, 2002, 116 Stat. 2996.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (d)(1), is the date of enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

AMENDMENTS

2002—Pub. L. 107–355 substituted "Population encroachment and rights-of-way" for "Population encroachment" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the special report numbered 219 of the Transportation Research Board, entitled 'Pipelines and Public Safety'.

"(b) EVALUATION.—The Secretary shall—

"(1) evaluate the recommendations in the report referred to in subsection (a);

"(2) determine to what extent the recommendations are being implemented;

"(3) consider ways to improve the implementation of the recommendations; and

"(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility."

§60128. Dumping within pipeline rights-of-way

(a) PROHIBITION.—No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

(b) DEFINITION.—For purposes of this section, the term "solid waste" has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(Added Pub. L. 104–304, §18(a), Oct. 12, 1996, 110 Stat. 3804.)

§60129. Protection of employees providing pipeline safety information

(a) DISCRIMINATION AGAINST EMPLOYEE.—

(1) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any current or former employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

(2) EMPLOYER DEFINED.—In this section, the term "employer" means—

(A) a person owning or operating a pipeline facility; or

(B) a contractor or subcontractor of such a person.

(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated

on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

(D) DE NOVO REVIEW.—

(i) IN GENERAL.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision by the date that is 210 days after the date on which the complaint was filed, and if the delay is not due to the bad faith of the employee who filed the complaint, that employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury.

(ii) BURDENS OF PROOF.—An original action described in clause (i) shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such

order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award of costs is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

(e) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—The rights and remedies provided under this section may not be waived by any agreement, policy, form, or condition of employment, including by a predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—No provision of a predispute arbitration agreement shall be valid or enforceable if the provision requires arbitration of a dispute arising under subsection (a)(1).

(Added Pub. L. 107–355, §6(a), Dec. 17, 2002, 116 Stat. 2989; amended Pub. L. 116–260, div. R, title I, §116, Dec. 27, 2020, 134 Stat. 2233.)

AMENDMENTS

2020—Subsec. (a)(1). Pub. L. 116–260, §116(1), substituted "current or former employee with" for "employee with" in introductory provisions.

Subsec. (b)(3)(D). Pub. L. 116–260, §116(2), added subpar. (D).

Subsec. (e). Pub. L. 116–260, §116(3), added subsec. (e).

§60130. Pipeline safety information grants to communities

(a) GRANT AUTHORITY.—

(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities, Indian Tribes, and groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93–153 (43 U.S.C. 1651 et seq.). No grants may be awarded under section 60114(g) until the Secretary has established competitive procedures for awarding grants under this section and criteria for selecting grant recipients. Except as provided in subsection (c)(2), the amount of any grant under this section may not exceed $100,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

(2) DEMONSTRATION GRANTS.—At least the first 3 grants awarded under this section shall be demonstration grants for the purpose of demonstrating and evaluating the utility of grants under this section. Each such demonstration grant shall not exceed $25,000.

(3) DISSEMINATION OF TECHNICAL FINDINGS.—Each recipient of a grant under this section shall ensure that—

(A) the technical findings made possible by the grants are made available to the relevant operators; and

(B) open communication between the grant recipients, local operators, local communities, and other interested parties is encouraged.

(b) PROHIBITED USES.—Funds provided under this section to grant recipients and their

contractors may not be used for lobbying, for direct advocacy for or against a pipeline construction or expansion project, or in direct support of litigation.

(c) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), out of amounts made available under section 2(b) of the PIPES Act of 2016 (Public Law 114–183; 130 Stat. 515), the Secretary shall use $2,000,000 for each of fiscal years 2021 through 2023 to carry out this section.

(2) IMPROVING TECHNICAL ASSISTANCE.—From the amounts used to carry out this section under paragraph (1) each fiscal year, the Secretary shall award $1,000,000 to an eligible applicant through a competitive selection process for the purpose of improving the quality of technical assistance provided to communities or individuals under this section.

(3) LIMITATION.—Any amounts used to carry out this section shall not be derived from user fees collected under section 60301.

(d) DEFINITIONS.—In this section:

(1) TECHNICAL ASSISTANCE.—The term "technical assistance" means engineering, research, and other scientific analysis of pipeline safety issues, including the promotion of public participation on technical pipeline safety issues in proceedings related to this chapter.

(2) ELIGIBLE APPLICANT.—The term "eligible applicant" means a nonprofit entity that—

(A) is a public safety advocate;

(B) has pipeline safety expertise;

(C) is able to provide individuals and communities with technical assistance; and

(D) was established with funds designated for the purpose of community service through the implementation of section 3553 of title 18 relating to violations of this chapter.

(Added Pub. L. 107–355, §9(a), Dec. 17, 2002, 116 Stat. 2994; amended Pub. L. 109–468, §5, Dec. 29, 2006, 120 Stat. 3490; Pub. L. 112–90, §32(e), Jan. 3, 2012, 125 Stat. 1923; Pub. L. 113–188, title XV, §1501(c), Nov. 26, 2014, 128 Stat. 2024; Pub. L. 114–183, §§2(d), 20(a), June 22, 2016, 130 Stat. 516, 527; Pub. L. 116–260, div. R, title I, §101(e), Dec. 27, 2020, 134 Stat. 2213.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 93–153, referred to in subsec. (a)(1), is Pub. L. 93–153, Nov. 16, 1973, 87 Stat. 576. Title II of the Act, known as the Trans-Alaska Pipeline Authorization Act, is classified generally to chapter 34 (§1651 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 43 and Tables.

Section 2(b) of the PIPES Act of 2016, referred to in subsec. (c)(1), is section 2(b) of Pub. L. 114–183, June 22, 2016, 130 Stat. 515, which is not classified to the Code.

AMENDMENTS

2020—Subsec. (a)(1). Pub. L. 116–260, §101(e)(1)(A), substituted "to local communities, Indian Tribes, and groups of individuals (not including for-profit entities)" for "to local communities and groups of individuals (not including for-profit entities)" in first sentence and "Except as provided in subsection (c)(2), the amount" for "The amount" in third sentence.

Subsec. (a)(4). Pub. L. 116–260, §101(e)(1)(B), struck out par. (4). Text read as follows: "In this subsection, the term 'technical assistance' means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation on technical pipeline safety issues in official proceedings conducted under this chapter."

Subsec. (c). Pub. L. 116–260, §101(e)(2), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "Of the amounts made available under section 2(b) of the PIPES Act of 2016, the Secretary shall expend $1,500,000 for each of fiscal years 2016 through 2019 to carry out this section. Such amounts shall not be derived from user fees collected under section 60301."

Subsec. (d). Pub. L. 116–260, §101(e)(3), added subsec. (d).

2016—Subsec. (a)(4). Pub. L. 114–183, §20(a), inserted "on technical pipeline safety issues" after "public participation".

Subsec. (c). Pub. L. 114–183, §2(d), substituted "Of the amounts made available under section 2(b) of the

PIPES Act of 2016, the Secretary shall expend $1,500,000 for each of fiscal years 2016 through 2019 to carry out this section." for "There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $1,500,000 for each of fiscal years 2012 through 2015."

2014—Subsecs. (c), (d). Pub. L. 113–188 redesignated subsec. (d) as (c) and struck out former subsec. (c) which required annual reports on grants made under this section.

2012—Subsec. (a)(1). Pub. L. 112–90, §32(e)(1), substituted "$100,000" for "$50,000".

Subsec. (b). Pub. L. 112–90, §32(e)(2), inserted "to grant recipients and their contractors" after "this section" and ", for direct advocacy for or against a pipeline construction or expansion project," after "for lobbying".

Subsec. (d). Pub. L. 112–90, §32(e)(3), substituted "$1,500,000 for each of fiscal years 2012 through 2015" for "$1,000,000 for each of the fiscal years 2003 through 2010".

2006—Subsec. (a)(1). Pub. L. 109–468, §5(1), substituted "No grants may be awarded under section 60114(g) until the Secretary has established competitive" for "The Secretary shall establish competitive".

Subsec. (a)(2) to (4). Pub. L. 109–468, §5(2), (3), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (d). Pub. L. 109–468, §5(4), substituted "2010" for "2006".

§60131. Verification of pipeline qualification programs

(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

(b) STANDARDS AND CRITERIA.—

(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

(2) CONTENTS.—The standards and criteria shall include the following:

(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in subsection (a).

(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and evaluate the abilities of individuals described in subsection (a) according to such methods.

(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—The Secretary shall require each pipeline operator to develop and adopt, not later than 2 years after the date of enactment of this section, a qualification program that complies with the standards and criteria described in subsection (b).

(d) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

(1) A method for examining or testing the qualifications of individuals described in subsection (a). The method may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

(4) A program to provide training, as appropriate, to ensure that individuals performing covered

tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

(e) REVIEW AND VERIFICATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and that it includes the elements described in subsection (d). The Secretary shall record the results of that review for use in the next review of an operator's program.

(2) DEADLINE FOR COMPLETION.—Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

(3) INADEQUATE PROGRAMS.—If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

(4) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility significantly modifies a program that has been verified under this subsection, the operator shall notify the Secretary of the modifications. The Secretary shall review and verify such modifications in accordance with paragraph (1).

(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section if the waiver or modification is not inconsistent with pipeline safety.

(6) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section.

(f) INTRASTATE PIPELINE FACILITIES.—In the case of an intrastate pipeline facility operator, the duties and powers of the Secretary under this section with respect to the qualification program of the operator shall be vested in the appropriate State regulatory agency, consistent with this chapter.

(g) COVERED TASK DEFINED.—In this section, the term "covered task"—

(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, including any subsequent modifications; and

(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, including any subsequent modifications.

(h) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.

(Added Pub. L. 107–355, §13(a)(1), Dec. 17, 2002, 116 Stat. 2999.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (b)(1), (c), (e)(2), (6), and (h), is the date of enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PILOT PROGRAM FOR CERTIFICATION OF CERTAIN PIPELINE WORKERS

Pub. L. 107–355, §13(b), Dec. 17, 2002, 116 Stat. 3001, provided that:

"(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act [Dec. 17, 2002], the Secretary of Transportation shall—

"(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines; and

"(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

"(2) REPORT.—The Secretary shall include in the report required under section 60131(h) [of title 49], as added by subsection (a) of this section, the results of the pilot program. The report shall include—

"(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

"(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate computer-based systems for controlling the operations of pipelines;

"(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-based systems for controlling the operations of pipelines; and

"(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

"(3) COMPUTER-BASED SYSTEMS DEFINED.—In this subsection, the term 'computer-based systems' means supervisory control and data acquisition systems."

§60132. National pipeline mapping system

(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

(4) Any other geospatial or technical data, including design and material specifications, that the Secretary determines are necessary to carry out the purposes of this section. The Secretary shall give reasonable notice to operators that the data are being requested.

(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.

(d) MAP OF HIGH-CONSEQUENCE AREAS.—The Secretary shall—

(1) maintain, as part of the National Pipeline Mapping System, a map of designated high-consequence areas (as described in section 60109(a)) in which pipelines are required to meet integrity management program regulations, excluding any proprietary or sensitive security information; and

(2) update the map biennially.

(e) PROGRAM TO PROMOTE AWARENESS OF NATIONAL PIPELINE MAPPING SYSTEM.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop and implement a program promoting greater awareness of the existence of the National Pipeline Mapping System to State and local emergency responders and other interested parties. The program shall include guidance on how to use the National Pipeline Mapping System to locate pipelines in communities and local jurisdictions.

(f) PUBLIC DISCLOSURE LIMITED.—The Secretary may not disclose information collected pursuant to subsection (a) except to the extent permitted by section 552 of title 5.

(Added Pub. L. 107–355, §15(a), Dec. 17, 2002, 116 Stat. 3005; amended Pub. L. 112–90, §§6(a), 11, Jan. 3, 2012, 125 Stat. 1909, 1913.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

The date of enactment of this subsection, referred to in subsec. (e), is the date of enactment of Pub. L. 112–90, which was approved Jan. 3, 2012.

AMENDMENTS

2012—Subsec. (a)(4). Pub. L. 112–90, §11(a), added par. (4).

Subsecs. (d), (e). Pub. L. 112–90, §6(a), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 112–90, §11(b), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

INFORMATION TO EMERGENCY RESPONSE AGENCIES

Pub. L. 112–90, §6(b), Jan. 3, 2012, 125 Stat. 1910, provided that:

"(1) GUIDANCE.—Not later than 18 months after the date of enactment of this Act [Jan. 3, 2012], the Secretary shall issue guidance to owners and operators of pipeline facilities on the importance of providing system-specific information about their pipeline facilities to emergency response agencies of the communities and jurisdictions in which those facilities are located.

"(2) CONSULTATION.—Before issuing guidance under paragraph (1), the Secretary shall consult with owners and operators of pipeline facilities to determine the extent to which the owners and operators are already providing system-specific information about their pipeline facilities to emergency response agencies."

[Terms used in section 6(b) of Pub. L. 112–90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112–90, set out as a note under section 60101 of this title.]

§60133. Coordination of environmental reviews

(a) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

(A) The Secretary of Transportation.

(B) The Administrator of the Environmental Protection Agency.

(C) The Director of the United States Fish and Wildlife Service.

(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(E) The Director of the Bureau of Land Management.

(F) The Director of the Minerals Management Service.

(G) The Assistant Secretary of the Army for Civil Works.

(H) The Chairman of the Federal Energy Regulatory Commission.

(3) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

(5) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

(2) to preempt applicable Federal, State, or local environmental law.

(d) INTERIM OPERATIONAL ALTERNATIVES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

(f) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.

(Added Pub. L. 107–355, §16(a), Dec. 17, 2002, 116 Stat. 3006.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a)(1), (4) and (d)(1), is the date of enactment of Pub. L. 107–355, which was approved Dec. 17, 2002.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

The Minerals Management Service was abolished and functions divided among the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. See Secretary of the Interior Orders No. 3299 of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

§60134. State damage prevention programs

(a) IN GENERAL.—The Secretary may make a grant to a State authority (including a municipality with respect to intrastate gas pipeline transportation) to assist in improving the overall quality and effectiveness of a damage prevention program of the State authority under subsection (e) if the State authority—

(1) has in effect an annual certification under section 60105 or an agreement under section 60106;

(2)(A) has in effect an effective damage prevention program that meets the requirements of subsection (b); or

(B) demonstrates that it has made substantial progress toward establishing such a program, and that such program will meet the requirements of subsection (b); and

(3) does not provide any exemptions to municipalities, State agencies, or their contractors from the one-call notification system requirements of the program.

(b) DAMAGE PREVENTION PROGRAM ELEMENTS.—An effective damage prevention program includes the following elements:

(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate.

(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program.

(3) A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs.

(4) Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one-call

center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators.

(5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.

(6) A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.

(7) Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

(9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

(c) FACTORS TO CONSIDER.—In making grants under this section, the Secretary shall take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the State.

(d) APPLICATION.—If a State authority files an application for a grant under this section not later than September 30 of a calendar year and demonstrates that the Governor (or chief executive) of the State has designated it as the appropriate State authority to receive the grant, the Secretary shall review the State's damage prevention program to determine its effectiveness.

(e) USE OF FUNDS.—A grant under this section to a State authority may only be used to pay the cost of the personnel, equipment, and activities that the State authority reasonably requires for the calendar year covered by the grant to develop or carry out its damage prevention program in accordance with subsection (b).

(f) NONAPPLICABILITY OF LIMITATION.—A grant made under this section is not subject to the section 60107(a) limitation on the maximum percentage of funds to be paid by the Secretary.

(g) LIMITATION ON USE OF FUNDS.—Funds provided to carry out this section may not be used for lobbying or in direct support of litigation.

(h) DAMAGE PREVENTION PROCESS DEFINED.—In this section, the term "damage prevention process" means a process that incorporates the principles described in sections 60114(b), 60114(d), and 60114(e).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to provide grants under this section $1,500,000 for each of fiscal years 2021 through 2023. Such funds shall remain available until expended.

(Added Pub. L. 109–468, §2(b)(2), Dec. 29, 2006, 120 Stat. 3487; amended Pub. L. 112–90, §§3(b), 32(d), Jan. 3, 2012, 125 Stat. 1906, 1923; Pub. L. 116–260, div. R, title I, §101(f), Dec. 27, 2020, 134 Stat. 2214.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (i). Pub. L. 116–260 substituted "fiscal years 2021 through 2023" for "fiscal years 2012 through 2015".

2012—Subsec. (a)(3). Pub. L. 112–90, §3(b), added par. (3).

Subsec. (i). Pub. L. 112–90, §32(d), added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 3(b) of Pub. L. 112–90 effective 2 years after Jan. 3, 2012, see section 3(c) of Pub. L. 112–90, set out as a note under section 6103 of this title.

§60135. Enforcement transparency

(a) IN GENERAL.—Not later than December 31, 2007, the Secretary shall—

(1) provide a monthly updated summary to the public of all gas and hazardous liquid pipeline enforcement actions taken by the Secretary or the Pipeline and Hazardous Materials Safety Administration, from the time a notice commencing an enforcement action is issued until the enforcement action is final;

(2) include in each such summary identification of the operator involved in the enforcement activity, the type of alleged violation, the penalty or penalties proposed, any changes in case status since the previous summary, the final assessment amount of each penalty, and the reasons for a reduction in the proposed penalty, if appropriate; and

(3) provide a mechanism by which a pipeline operator named in an enforcement action may make information, explanations, or documents it believes are responsive to the enforcement action available to the public.

(b) ELECTRONIC AVAILABILITY.—Each summary under this section shall be made available to the public by electronic means.

(c) RELATIONSHIP TO FOIA.—Nothing in this section shall be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.

(Added Pub. L. 109–468, §6(a), Dec. 29, 2006, 120 Stat. 3491.)

§60136. Petroleum product transportation capacity study

(a) IN GENERAL.—The Secretaries of Transportation and Energy shall conduct periodic analyses of the domestic transport of petroleum products by pipeline. Such analyses should identify areas of the United States where unplanned loss of individual pipeline facilities may cause shortages of petroleum products or price disruptions and where shortages of pipeline capacity and reliability concerns may have or are anticipated to contribute to shortages of petroleum products or price disruptions. Upon identifying such areas, the Secretaries may determine if the current level of regulation is sufficient to minimize the potential for unplanned losses of pipeline capacity.

(b) CONSULTATION.—In preparing any analysis under this section, the Secretaries may consult with the heads of other government agencies and public- and private-sector experts in pipeline and other forms of petroleum product transportation, energy consumption, pipeline capacity, population, and economic development.

(c) REPORT TO CONGRESS.—Not later than June 1, 2008, the Secretaries shall submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources of the Senate a report setting forth their recommendations to reduce the likelihood of the shortages and price disruptions referred to in subsection (a).

(d) ADDITIONAL REPORTS.—The Secretaries shall submit additional reports to the congressional committees referred to in subsection (c) containing the results of any subsequent analyses performed under subsection (a) and any additional recommendations, as appropriate.

(e) PETROLEUM PRODUCT DEFINED.—In this section, the term "petroleum product" means oil of any kind or in any form, gasoline, diesel fuel, aviation fuel, fuel oil, kerosene, any product obtained from refining or processing of crude oil, liquefied petroleum gases, natural gas liquids, petrochemical feedstocks, condensate, waste or refuse mixtures containing any of such oil products, and any other liquid hydrocarbon compounds.

(Added Pub. L. 109–468, §8(a), Dec. 29, 2006, 120 Stat. 3492.)

§60137. Pipeline control room management

(a) IN GENERAL.—Not later than June 1, 2008, the Secretary shall issue regulations requiring each operator of a gas or hazardous liquid pipeline to develop, implement, and submit to the Secretary or, in the case of an operator of an intrastate pipeline located within the boundaries of a State that has in effect an annual certification under section 60105, to the head of the appropriate State authority, a human factors management plan designed to reduce risks associated with human factors, including fatigue, in each control center for the pipeline. Each plan must include, among the measures to reduce such risks, a maximum limit on the hours of service established by the operator for individuals employed as controllers in a control center for the pipeline.

(b) REVIEW AND APPROVAL OF THE PLAN.—The Secretary or, in the case of an operator of an intrastate pipeline located within the boundaries of a State that has in effect an annual certification under section 60105, the head of the appropriate State authority, shall review and approve each plan submitted to the Secretary or the head of such authority under subsection (a). The Secretary and the head of such authority may not approve a plan that does not include a maximum limit on the hours of service established by the operator of the pipeline for individuals employed as controllers in a control center for the pipeline.

(c) ENFORCEMENT OF THE PLAN.—If the Secretary or the head of the appropriate State authority determines that an operator's plan submitted to the Secretary or the head of such authority under subsection (a), or implementation of such a plan, does not comply with the regulations issued under this section or is inadequate for the safe operation of a pipeline, the Secretary or the head of such authority may take action consistent with this chapter and enforce the requirements of such regulations.

(d) COMPLIANCE WITH THE PLAN.—Each operator of a gas or hazardous liquid pipeline shall document compliance with the plan submitted by the operator under subsection (a) and the reasons for any deviation from compliance with such plan. The Secretary or the head of the appropriate State authority, as the case may be, shall review the reasonableness of any such deviation in considering whether to take enforcement action or discontinue approval of the operator's plan under subsection (b).

(e) DEVIATION REPORTING REQUIREMENTS.—In issuing regulations under subsection (a), the Secretary shall develop and include in such regulations requirements for an operator of a gas or hazardous liquid pipeline to report deviations from compliance with the plan submitted by the operator under subsection (a).

(Added Pub. L. 109–468, §12(a), Dec. 29, 2006, 120 Stat. 3494.)

§60138. Response plans

(a) IN GENERAL.—The Secretary of Transportation shall—

(1) maintain on file a copy of the most recent response plan (as defined in part 194 of title 49, Code of Federal Regulations) prepared by an owner or operator of a pipeline facility; and

(2) provide upon written request to a person a copy of the plan, which may exclude, as the Secretary determines appropriate—

(A) proprietary information;

(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations;

(C) specific response resources and tactical resource deployment plans; and

(D) the specific amount and location of worst case discharges (as defined in part 194 of title 49, Code of Federal Regulations), including the process by which an owner or operator determines the worst case discharge.

(b) RELATIONSHIP TO FOIA.—Nothing in this section may be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.

(Added Pub. L. 112–90, §6(c)(1), Jan. 3, 2012, 125 Stat. 1910.)

§60139. Maximum allowable operating pressure

(a) VERIFICATION OF RECORDS.—

(1) IN GENERAL.—The Secretary of Transportation shall require each owner or operator of a pipeline facility to conduct, not later than 6 months after the date of enactment of this section, a verification of the records of the owner or operator relating to the interstate and intrastate gas transmission pipelines of the owner or operator in class 3 and class 4 locations and class 1 and class 2 high-consequence areas.

(2) PURPOSE.—The purpose of the verification shall be to ensure that the records accurately reflect the physical and operational characteristics of the pipelines described in paragraph (1) and confirm the established maximum allowable operating pressure of the pipelines.

(3) ELEMENTS.—The verification process under this subsection shall include such elements as the Secretary considers appropriate.

(b) REPORTING.—

(1) DOCUMENTATION OF CERTAIN PIPELINES.—Not later than 18 months after the date of enactment of this section, each owner or operator of a pipeline facility shall identify and submit to the Secretary documentation relating to each pipeline segment of the owner or operator described in subsection (a)(1) for which the records of the owner or operator are insufficient to confirm the established maximum allowable operating pressure of the segment.

(2) EXCEEDANCES OF MAXIMUM ALLOWABLE OPERATING PRESSURE.—If there is an exceedance of the maximum allowable operating pressure with respect to a gas transmission pipeline of an owner or operator of a pipeline facility that exceeds the build-up allowed for operation of pressure-limiting or control devices, the owner or operator shall report the exceedance to the Secretary and appropriate State authorities on or before the 5th day following the date on which the exceedance occurs.

(c) DETERMINATION OF MAXIMUM ALLOWABLE OPERATING PRESSURE.—

(1) IN GENERAL.—In the case of a transmission line of an owner or operator of a pipeline facility identified under subsection (b)(1), the Secretary shall—

(A) require the owner or operator to reconfirm a maximum allowable operating pressure as expeditiously as economically feasible; and

(B) determine what actions are appropriate for the pipeline owner or operator to take to maintain safety until a maximum allowable operating pressure is confirmed.

(2) INTERIM ACTIONS.—In determining the actions for an owner or operator of a pipeline facility to take under paragraph (1)(B), the Secretary shall take into account potential consequences to public safety and the environment, potential impacts on pipeline system reliability and deliverability, and other factors, as appropriate.

(d) TESTING REGULATIONS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall issue regulations for conducting tests to confirm the material strength of previously untested natural gas transmission pipelines located in high-consequence areas and operating at a pressure greater than 30 percent of specified minimum yield strength.

(2) CONSIDERATIONS.—In developing the regulations, the Secretary shall consider safety testing methodologies, including, at a minimum—

(A) pressure testing; and

(B) other alternative methods, including in-line inspections, determined by the Secretary to be of equal or greater effectiveness.

(3) COMPLETION OF TESTING.—The Secretary, in consultation with the Chairman of the

Federal Energy Regulatory Commission and State regulators, as appropriate, shall establish timeframes for the completion of such testing that take into account potential consequences to public safety and the environment and that minimize costs and service disruptions.

(e) HIGH-CONSEQUENCE AREA DEFINED.—In this section, the term "high-consequence area" means an area described in section 60109(a).

(Added Pub. L. 112–90, §23(a), Jan. 3, 2012, 125 Stat. 1918.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a)(1), (b)(1), and (d)(1), is the date of enactment of Pub. L. 112–90, which was approved Jan. 3, 2012.

§60140. Cover over buried pipelines

(a) HAZARDOUS LIQUID PIPELINE INCIDENTS INVOLVING BURIED PIPELINES.—

(1) STUDY.—The Secretary of Transportation shall conduct a study of hazardous liquid pipeline incidents at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark to determine if the depth of cover over the buried pipeline was a factor in any accidental release of hazardous liquids.

(2) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) ASSESSMENT OF CURRENT REQUIREMENTS FOR DEPTH OF COVER OVER BURIED PIPELINES.—

(1) IN GENERAL.—If, following completion of the study under subsection (a), the Secretary finds that the depth of cover over buried pipelines is a contributing factor in the accidental release of hazardous liquids from the pipelines, the Secretary, not later than 1 year after the date of completion of the study, shall review and determine the sufficiency of current requirements for the depth of cover over buried pipelines.

(2) LEGISLATIVE RECOMMENDATIONS.—

(A) DEVELOPMENT.—If the Secretary determines under paragraph (1) that the current requirements for the depth of cover over buried pipelines are insufficient, the Secretary shall develop legislative recommendations for improving the safety of buried pipelines at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark.

(B) CONSIDERATION OF FACTORS.—In developing legislative recommendations under subparagraph (A), the Secretary shall consider the factors specified in section 60102(b)(2).

(C) REPORT TO CONGRESS.—If the Secretary develops legislative recommendations under subparagraph (A), the Secretary shall submit to the committees referred to in subsection (a)(2) a report containing the legislative recommendations.

(Added Pub. L. 112–90, §28(a), Jan. 3, 2012, 125 Stat. 1920.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 112–90, which was approved Jan. 3, 2012.

§60141. Standards for underground natural gas storage facilities

(a) MINIMUM SAFETY STANDARDS.—Not later than 2 years after the date of enactment of the PIPES Act of 2016, the Secretary, in consultation with the heads of other relevant Federal agencies, shall issue minimum safety standards for underground natural gas storage facilities.

(b) CONSIDERATIONS.—In developing the safety standards required under subsection (a), the Secretary shall, to the extent practicable—

(1) consider consensus standards for the operation, environmental protection, and integrity management of underground natural gas storage facilities;

(2) consider the economic impacts of the regulations on individual gas customers;

(3) ensure that the regulations do not have a significant economic impact on end users; and

(4) consider the recommendations of the Aliso Canyon natural gas leak task force established under section 31 of the PIPES Act of 2016.

(c) FEDERAL-STATE COOPERATION.—The Secretary may authorize a State authority (including a municipality) to participate in the oversight of underground natural gas storage facilities in the same manner as provided in sections 60105 and 60106.

(d) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section may be construed to affect any Federal regulation relating to gas pipeline facilities that is in effect on the day before the date of enactment of the PIPES Act of 2016.

(2) LIMITATIONS.—Nothing in this section may be construed to authorize the Secretary—

(A) to prescribe the location of an underground natural gas storage facility; or

(B) to require the Secretary's permission to construct a facility referred to in subparagraph (A).

(e) PREEMPTION.—A State authority may adopt additional or more stringent safety standards for intrastate underground natural gas storage facilities if such standards are compatible with the minimum standards prescribed under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the Secretary's authority under this title to regulate the underground storage of gas that is not natural gas.

(Added Pub. L. 114–183, §12(b), June 22, 2016, 130 Stat. 522.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the PIPES Act of 2016, referred to in subsecs. (a) and (d)(1), is the date of enactment of Pub. L. 114–183, which was approved June 22, 2016.

Section 31 of the PIPES Act of 2016, referred to in subsec. (b)(4), is section 31 of Pub. L. 114–183, June 22, 2016, 130 Stat. 533, which is not classified to the Code.

§60142. Pipeline safety enhancement programs

(a) IN GENERAL.—The Secretary may establish and carry out limited safety-enhancing testing programs to evaluate innovative technologies and operational practices testing the safe operation of—

(1) a natural gas pipeline facility; or

(2) a hazardous liquid pipeline facility.

(b) LIMITATIONS.—

(1) IN GENERAL.—Testing programs established under subsection (a) may not exceed—

(A) 5 percent of the total miles of hazardous liquid pipelines in the United States that are regulated by—

(i) the Pipeline and Hazardous Materials Safety Administration; or
(ii) a State authority under section 60105 or 60106; and

(B) 5 percent of the total miles of natural gas pipelines in the United States that are regulated by—
(i) the Pipeline and Hazardous Materials Safety Administration; or
(ii) a State authority under section 60105 or 60106.

(2) OPERATOR MILEAGE LIMITATION.—The Secretary shall limit the miles of pipelines that each operator can test under each program established under subsection (a) to the lesser of—
(A) 38 percent of the total miles of pipelines in the system of the operator that are regulated by—
(i) the Pipeline and Hazardous Materials Safety Administration; or
(ii) a State authority under section 60105 or 60106; or

(B) 1,000 miles.

(3) PROHIBITED AREAS.—Any program established under subsection (a) shall not be located in—
(A) a high population area (as defined in section 195.450 of title 49, Code of Federal Regulations (or a successor regulation));
(B) a high consequence area (as defined in section 192.903 of title 49, Code of Federal Regulations (or a successor regulation)); or
(C) an unusually sensitive area (as described under subsection (a)(1)(B)(ii) of section 60109 in accordance with subsection (b) of that section).

(4) HIGH CONSEQUENCE AREAS FOR HAZARDOUS LIQUID PIPELINES.—
(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress a report examining the benefits and costs of prohibiting the testing of hazardous liquid pipelines in high consequence areas (as defined in section 195.450 of title 49, Code of Federal Regulations (or a successor regulation)).
(B) CONTENTS OF REPORT.—The report described in subparagraph (A) shall examine—
(i) the safety benefits of allowing the testing of hazardous liquid pipelines in high consequence areas (as defined in section 195.450 of title 49, Code of Federal Regulations (or a successor regulation)); and
(ii) whether additional testing conditions are required to protect those areas while conducting a testing program established under subsection (a) in those areas.

(c) DURATION.—
(1) IN GENERAL.—The term of a testing program established under subsection (a) shall be not more than a period of 3 years beginning on the date of approval of the program.
(2) REQUIREMENT.—The Secretary shall not establish any additional safety-enhancing testing programs under subsection (a) after the date that is 3 years after the date of enactment of this section.

(d) SAFETY STANDARDS.—
(1) IN GENERAL.—The Secretary shall require, as a condition of approval of a testing program under subsection (a), that the safety measures in the testing program are designed to achieve a level of safety that is greater than the level of safety required by this chapter.
(2) DETERMINATION.—
(A) IN GENERAL.—The Secretary may issue an order under subparagraph (A) of section 60118(c)(1) to accomplish the purpose of a testing program for a term not to exceed the time period described in subsection (c) if the condition described in paragraph (1) is met, as determined by the Secretary.

(B) LIMITATION.—An order under subparagraph (A) shall pertain only to those regulations that would otherwise prevent the use of the safety technology to be tested under the testing program.

(3) INCREASED SAFETY CAPABILITIES.—For purposes of paragraph (1), improvement in the reliability, accuracy, durability, or certainty of pipeline safety technologies, techniques, or methods shall constitute an appropriate means of meeting the safety measure requirement described in that paragraph.

(e) CONSIDERATIONS.—In establishing a testing program under subsection (a), the Secretary shall consider—

(1) the accident and incident record of the owners or operators participating in the program;

(2)(A) whether the owners or operators participating in the program have a safety management system in place; and

(B) how the application of that system proposes to eliminate or mitigate potential safety and environmental risks throughout the duration of the program; and

(3) whether the proposed safety technology has been tested through a research and development program carried out by—

(A) the Secretary;

(B) collaborative research development organizations; or

(C) other institutions.

(f) DATA AND FINDINGS.—

(1) IN GENERAL.—As a participant in a testing program established under subsection (a), an owner or operator shall submit to the Secretary detailed findings and a summary of data collected as a result of participation in the testing program.

(2) PUBLIC REPORT.—The Secretary shall make publicly available on the website of the Department of Transportation an annual report for any ongoing testing program established under subsection (a) summarizing the progress of the program.

(g) AUTHORITY TO REVOKE PARTICIPATION.—The Secretary shall immediately revoke participation in a testing program under subsection (a) if—

(1)(A) the participant has an accident or incident involving death or personal injury necessitating in-patient hospitalization; and

(B) the testing program is determined to be the cause of, or a contributing factor to, that accident or incident;

(2) the participant fails to comply with the terms and conditions of the testing program; or

(3) in the determination of the Secretary, continued participation in the testing program by the participant would be unsafe or would not be consistent with the goals and objectives of this chapter.

(h) AUTHORITY TO TERMINATE PROGRAM.—The Secretary shall immediately terminate a testing program under subsection (a) if continuation of the testing program would not be consistent with the goals and objectives of this chapter.

(i) STATE RIGHTS.—

(1) EXEMPTION.—Except as provided in paragraph (2), if a State submits to the Secretary notice that the State requests an exemption from any testing program considered for establishment under this section, the State shall be exempt.

(2) LIMITATIONS.—

(A) IN GENERAL.—The Secretary shall not grant a requested exemption under paragraph (1) after a testing program is established.

(B) LATE NOTICE.—The Secretary shall not grant a requested exemption under paragraph (1) if the notice submitted under that paragraph is submitted to the Secretary more than 30 days

after the date on which the Secretary issues an order providing an effective date for the testing program in accordance with subsection (j).

(3) EFFECT.—If a State has not submitted a notice requesting an exemption under paragraph (1), the State shall not enforce any law (including regulations) that is inconsistent with a testing program in effect in the State under this section.

(j) PROGRAM REVIEW PROCESS AND PUBLIC NOTICE.—

(1) IN GENERAL.—The Secretary shall publish in the Federal Register and send directly to each relevant State and each appropriate State authority with a certification in effect under section 60105 a notice of each proposed testing program under subsection (a), including the order to be considered, and provide an opportunity for public comment for not less than 90 days.

(2) RESPONSE FROM SECRETARY.—Not later than the date on which the Secretary issues an order providing an effective date of a testing program noticed under paragraph (1), the Secretary shall—

(A) publish the order in the Federal Register; and

(B) respond to each comment submitted under paragraph (1).

(k) REPORT TO CONGRESS.—At the conclusion of each testing program, the Secretary shall make publicly available on the website of the Department of Transportation a report containing—

(1) the findings and conclusions of the Secretary with respect to the testing program; and

(2) any recommendations of the Secretary with respect to the testing program, including any recommendations for amendments to laws (including regulations) and the establishment of standards, that—

(A) would enhance the safe operation of interstate gas or hazardous liquid pipeline facilities; and

(B) are technically, operationally, and economically feasible.

(l) STANDARDS.—If a report under subsection (k) indicates that it is practicable to establish technically, operationally, and economically feasible standards for the use of a safety-enhancing technology and any corresponding operational practices tested by the testing program described in the report, the Secretary, as soon as practicable after submission of the report, may promulgate regulations consistent with chapter 5 of title 5 (commonly known as the "Administrative Procedure Act") that—

(1) allow operators of interstate gas or hazardous liquid pipeline facilities to use the relevant technology or practice to the extent practicable; and

(2) establish technically, operationally, and economically feasible standards for the capability and deployment of the technology or practice.

(Added Pub. L. 116–260, div. R, title I, §104(a), Dec. 27, 2020, 134 Stat. 2216.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (b)(4)(A) and (c)(2), is the date of enactment of Pub. L. 116–260, which was approved Dec. 27, 2020.

§60143. Idled pipelines

(a) DEFINITION OF IDLED.—In this section, the term "idled", with respect to a pipeline, means that the pipeline—

(1)(A) has ceased normal operations; and

(B) will not resume service for a period of not less than 180 days;

(2) has been isolated from all sources of hazardous liquid, natural gas, or other gas; and

(3)(A) has been purged of combustibles and hazardous materials and maintains a blanket of inert, nonflammable gas at low pressure; or

(B) has not been purged as described in subparagraph (A), but the volume of gas is so small that there is no potential hazard, as determined by the Secretary pursuant to a rule.

(b) RULEMAKING.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of the PIPES Act of 2020, the Secretary shall promulgate regulations prescribing the applicability of the pipeline safety requirements to idled natural or other gas transmission and hazardous liquid pipelines.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The applicability of the regulations under paragraph (1) shall be based on the risk that idled natural or other gas transmission and hazardous liquid pipelines pose to the public, property, and the environment, and shall include requirements to resume operation.

(B) INSPECTION.—The Secretary or an appropriate State agency shall inspect each idled pipeline and verify that the pipeline has been purged of combustibles and hazardous materials, if required under subsection (a).

(C) REQUIREMENTS FOR REINSPECTION.—The Secretary shall determine the requirements for periodic reinspection of idled natural or other gas transmission and hazardous liquid pipelines.

(D) RESUMPTION OF OPERATIONS.—As a condition to allowing an idled pipeline to resume operations, the Secretary shall require that, prior to resuming operations, the pipeline shall be—

(i) inspected with—

(I) hydrostatic pressure testing;

(II) an internal inspection device; or

(III) if the use of hydrostatic pressure testing or an internal inspection device is not technologically feasible, another comparable technology or practice; and

(ii) in compliance with regulations promulgated under this chapter, including any regulations that became effective while the pipeline was idled.

(Added Pub. L. 116–260, div. R, title I, §109(a), Dec. 27, 2020, 134 Stat. 2223.)

REFERENCES IN TEXT

The date of enactment of the PIPES Act of 2020, referred to in subsec. (b)(1), is the date of enactment of div. R of Pub. L. 116–260, which was approved Dec. 27, 2020.

CHAPTER 603—USER FEES

Sec.

60301. User fees.
60302. User fees for underground natural gas storage facilities.
60303. Fees for compliance reviews of liquefied natural gas facilities.

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260, div. R, title I, §103(b), Dec. 27, 2020, 134 Stat. 2215, added item 60303.

2016—Pub. L. 114–183, §12(d)(2), June 22, 2016, 130 Stat. 524, added item 60302.

§60301. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe a schedule of fees for all natural gas and hazardous liquids transported by pipelines subject to chapter 601 of this title.

The fees shall be based on usage (in reasonable relationship to volume-miles, miles, revenues, or a combination of volume-miles, miles, and revenues) of the pipelines. The Secretary shall consider the allocation of resources of the Department of Transportation when establishing the schedule.

(b) IMPOSITION AND TIME OF COLLECTION.—A fee shall be imposed on each person operating a gas pipeline transmission facility, a liquefied natural gas pipeline facility, or a hazardous liquid pipeline facility to which chapter 601 of this title applies. The fee shall be collected before the end of the fiscal year to which it applies.

(c) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(d) USE OF FEES.—A fee collected under this section—

(1)(A) related to a gas pipeline facility may be used only for an activity related to gas under chapter 601 of this title; and

(B) related to a hazardous liquid pipeline facility may be used only for an activity related to hazardous liquid under chapter 601 of this title; and

(2) may be used only to the extent provided in advance in an appropriation law.

(e) LIMITATIONS.—Fees prescribed under subsection (a) of this section shall be sufficient to pay for the costs of activities described in subsection (d) of this section. However, the total amount collected for a fiscal year may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1328.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60301(a)	49 App.:1682a(a)(1), (d) (words after "subsection (a) of this section" and before "shall be sufficient").	Apr. 7, 1986, Pub. L. 99–272, §7005, 100 Stat. 140.
60301(b)	49 App.:1682a(a)(3), (b).	
60301(c)	49 App.:1682a(a)(2).	
60301(d)	49 App.:1682a(c).	
60301(e)	49 App.:1682a(d) (less words after "subsection (a) of this section" and before "shall be sufficient").	

In this section, the word "prescribe" is substituted for "establish" for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words "(hereafter in this section referred to as the 'Secretary')" and "appropriate" are omitted as surplus.

In subsection (b), the words "after September 30, 1985" are omitted as obsolete. The words "imposed on each person" are substituted for "assessed to the persons" for consistency in the revised title and with other titles of the Code. The words "the jurisdiction of" and "assess and" are omitted as surplus.

In subsection (c), the words "the services of" are omitted as surplus. The words "department, agency, or instrumentality of the United States Government" are substituted for "Federal . . . agency or instrumentality" for consistency in the revised title and with other titles of the Code.

In subsection (e), the words "by the Secretary" are omitted as surplus. The words "beginning on October 1, 1985" are omitted as executed.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

STUDY AND REPORT ON USER FEE ASSESSMENT FACTORS

Pub. L. 104–304, §17, Oct. 12, 1996, 110 Stat. 3803, provided that, not later than 1 year after Oct. 12, 1996, the Secretary of Transportation, after considering a wide range of assessment factors and suggestions and comments from the public, would transmit to Congress a report assessing pipeline safety user fees solely on the basis of mileage to determine whether that measure of the resources of the Department of Transportation was the most appropriate measure of the resources used by the Department or another basis of assessment would be more appropriate.

§60302. User fees for underground natural gas storage facilities

(a) IN GENERAL.—A fee shall be imposed on an entity operating an underground natural gas storage facility subject to section 60141. Any such fee imposed shall be collected before the end of the fiscal year to which it applies.

(b) MEANS OF COLLECTION.—The Secretary of Transportation shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(c) USE OF FEES.—

(1) ACCOUNT.—There is established an Underground Natural Gas Storage Facility Safety Account in the Pipeline Safety Fund established in the Treasury of the United States under section 60301.

(2) USE OF FEES.—A fee collected under this section—

(A) shall be deposited in the Underground Natural Gas Storage Facility Safety Account; and

(B) if the fee is related to an underground natural gas storage facility subject to section 60141, the amount of the fee may be used only for an activity related to underground natural gas storage facility safety.

(3) LIMITATION.—No fee may be collected under this section, except to the extent that the expenditure of such fee to pay the costs of an activity related to underground natural gas storage facility safety for which such fee is imposed is provided in advance in an appropriations Act.

(Added Pub. L. 114–183, §12(c), June 22, 2016, 130 Stat. 523.)

§60303. Fees for compliance reviews of liquefied natural gas facilities

(a) IMPOSITION OF FEE.—

(1) IN GENERAL.—The Secretary of Transportation (referred to in this section as the "Secretary") shall impose on a person who files with the Federal Energy Regulatory Commission an application for a liquefied natural gas facility that has design and construction costs totaling not less than $2,500,000,000 a fee for the necessary expenses of a review, if any, that the Secretary conducts, in connection with that application, to determine compliance with subpart B of part 193 of title 49, Code of Federal Regulations (or successor regulations).

(2) RELATION TO OTHER REVIEW.—The Secretary may not impose fees under paragraph (1) and section 60117(o) or 60301(b) for the same compliance review described in paragraph (1).

(b) MEANS OF COLLECTION.—

(1) IN GENERAL.—The Secretary shall prescribe procedures to collect fees under this section.

(2) USE OF GOVERNMENT ENTITIES.—The Secretary may—

(A) use a department, agency, or instrumentality of the Federal Government or of a State or

local government to collect fees under this section; and

(B) reimburse that department, agency, or instrumentality a reasonable amount for the services provided.

(c) ACCOUNT.—There is established an account, to be known as the "Liquefied Natural Gas Siting Account", in the Pipeline Safety Fund established in the Treasury of the United States under section 60301.

(Added Pub. L. 116–260, div. R, title I, §103(a), Dec. 27, 2020, 134 Stat. 2215.)

CHAPTER 605—INTERSTATE COMMERCE REGULATION

Sec.

60501. Secretary of Energy.
60502. Federal Energy Regulatory Commission.
60503. Effect of enactment.

§60501. Secretary of Energy

Except as provided in section 60502 of this title, the Secretary of Energy has the duties and powers related to the transportation of oil by pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or the chairman or a member of the Commission.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1329.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60501	42:7155.	Aug. 4, 1977, Pub. L. 95–91, §306, 91 Stat. 581.
	49:101 (note prec.).	Oct. 17, 1978, Pub. L. 95–473, §4(c)(1)(A), (2) (related to §306 of Department of Energy Organization Act), 92 Stat. 1470.

The words "duties and powers . . . that were vested . . . in" are coextensive with, and substituted for, "transferred . . . such functions set forth in the Interstate Commerce Act and vested by law in" for clarity and to eliminate unnecessary words. The words "on October 1, 1977" are added to reflect the effective date of the transfer of the duties and powers to the Secretary of Energy.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title, and section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§60502. Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission has the duties and powers related to the establishment of a rate or charge for the transportation of oil by pipeline or the valuation of that

pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or an officer or component of the Interstate Commerce Commission.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1329.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60502	42:7172(b). 49:101 (note prec.).	Aug. 4, 1977, Pub. L. 95–91, §402(b), 91 Stat. 584. Oct. 17, 1978, Pub. L. 95–473, §4(c)(1)(B), (2) (related to §402(b) of Department of Energy Organization Act), 92 Stat. 1470.

The words "duties and powers . . . that were vested . . . in" are coextensive with, and substituted for, "transferred to, and vested in . . . all functions and authority of" for clarity and to eliminate unnecessary words. The word "regulatory" is omitted as surplus. The words "on October 1, 1977" are added to reflect the effective date of the transfer of the duties and powers to the Federal Energy Regulatory Commission.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title, and section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§60503. Effect of enactment

The enactment of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1337), the Act of January 12, 1983 (Public Law 97–449, 96 Stat. 2413), and the Act enacting this section does not repeal, and has no substantive effect on, any right, obligation, liability, or remedy of an oil pipeline, including a right, obligation, liability, or remedy arising under the Interstate Commerce Act or the Act of August 29, 1916 (known as the Pomerene Bills of Lading Act), before any department, agency, or instrumentality of the United States Government, an officer or employee of the Government, or a court of competent jurisdiction.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1329.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60503	49:101 (note prec.).	Oct. 31, 1988, Pub. L. 100–561, §308, 102 Stat. 2817.

The words "the Act of January 12, 1983 (Public Law 97–449, 96 Stat. 2413), and the Act enacting this section" are added for clarity. The words "department, agency, or instrumentality of the United States Government" are substituted for "Federal department or agency", and the words "officer or employee" are substituted for "official", for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

REFERENCES IN TEXT

Act of October 17, 1978, referred to in text, is Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1337, the first section of which enacted subtitle IV of this title. For complete classification of this Act to the Code, see Tables.

Act of January 12, 1983, referred to in text, is Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2413, the first section of which enacted subtitles I and II of this title. For complete classification of this Act to the Code, see Tables.

The Act enacting this section, referred to in text, is Pub. L. 103–272, July 5, 1994, 108 Stat. 745, the first section of which enacted subtitles II, III, and V to X of this title. For complete classification of this Act to the Code, see Tables.

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, which was classified to chapters 1 (§1 et seq.), 8 (§301 et seq.), 12 (§901 et seq.), 13 (§1001 et seq.), and 19 (1231 et seq.) of former Title 49, Transportation. The Act was repealed by Pub. L. 95–473, §4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49, Transportation. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

Act of August 29, 1916, referred to in text, is act Aug. 29, 1916, ch. 415, 39 Stat. 538, known as the Pomerene Bills of Lading Act, which was classified generally to chapter 4 (§81 et seq.) of former Title 49, and was repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as chapter 801 of this title.

SUBTITLE IX—MULTIMODAL FREIGHT TRANSPORTATION

Chapter		Sec.
701.	**Multimodal freight policy**	**70101**
702.	**Multimodal freight transportation planning and information**	**70201**

EDITORIAL NOTES

PRIOR PROVISIONS

A prior subtitle IX, consisting of chapters 701 and 703, related to commercial space transportation, prior to being transferred and renumbered as chapters 509 and 511 of Title 51, National and Commercial Space Programs.

CHAPTER 701—MULTIMODAL FREIGHT POLICY

Sec.
70101. National multimodal freight policy.
70102. National freight strategic plan.
70103. National Multimodal Freight Network.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior chapter 701, consisting of sections 70101 to 70121, related to commercial space launch activities, prior to being transferred and renumbered as chapter 509 of Title 51, National and Commercial Space Programs.

§70101. National multimodal freight policy

(a) IN GENERAL.—It is the policy of the United States to maintain and improve the condition and performance of the National Multimodal Freight Network established under section 70103 to ensure that the Network provides a foundation for the United States to compete in the global economy and achieve the goals described in subsection (b).

(b) GOALS.—The goals of the national multimodal freight policy are—

(1) to identify infrastructure improvements, policies, and operational innovations that—

(A) strengthen the contribution of the National Multimodal Freight Network to the economic competitiveness of the United States;

(B) reduce congestion and eliminate bottlenecks on the National Multimodal Freight Network; and

(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

(2) to improve the safety, security, efficiency, and resiliency of multimodal freight transportation;

(3) to achieve and maintain a state of good repair on the National Multimodal Freight Network;

(4) to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Multimodal Freight Network;

(5) to improve the economic efficiency and productivity of the National Multimodal Freight Network;

(6) to improve the reliability of freight transportation;

(7) to improve the short- and long-distance movement of goods that—

(A) travel across rural areas between population centers;

(B) travel between rural areas and population centers; and

(C) travel from the Nation's ports, airports, and gateways to the National Multimodal Freight Network;

(8) to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address multimodal freight connectivity;

(9) to reduce the adverse environmental impacts of freight movement on the National Multimodal Freight Network; and

(10) to pursue the goals described in this subsection in a manner that is not burdensome to State and local governments.

(c) IMPLEMENTATION.—The Assistant Secretary for Multimodal Freight, who shall be responsible for the oversight and implementation of the national multimodal freight policy, shall—

(1) carry out sections 70102 and 70103;

(2) assist with the coordination of modal freight planning; and

(3) identify interagency data sharing opportunities to promote freight planning and coordination.

(Added Pub. L. 114–94, div. A, title VIII, §8001(a), Dec. 4, 2015, 129 Stat. 1605; amended Pub. L. 117–58, div. B, title I, §21101(d)(1), Nov. 15, 2021, 135 Stat. 656.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 70101 was transferred and renumbered as section 50901 of Title 51, National and Commercial Space Programs.

AMENDMENTS

2021—Subsec. (c). Pub. L. 117–58 substituted "Assistant Secretary for Multimodal Freight" for "Under Secretary of Transportation for Policy" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§70102. National freight strategic plan

(a) IN GENERAL.—The Assistant Secretary for Multimodal Freight (referred to in this section as the "Assistant Secretary") shall—

(1) develop a national freight strategic plan in accordance with this section; and

(2) publish the plan on the public Internet Web site of the Department of Transportation.

(b) CONTENTS.—The national freight strategic plan shall include—

(1) an assessment of the condition and performance of the National Multimodal Freight Network established under section 70103;

(2) forecasts of freight volumes for the succeeding 5-, 10-, and 20-year periods;

(3) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators;

(4) an identification of bottlenecks on the National Multimodal Freight Network that create significant freight congestion, based on a quantitative methodology developed by the Assistant Secretary, which shall include, at a minimum—

(A) information from the Freight Analysis Framework of the Federal Highway Administration; and

(B) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

(5) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance, and a description of opportunities for overcoming the barriers;

(6) a process for addressing multistate projects and encouraging jurisdictions to collaborate;

(7) strategies to improve freight intermodal connectivity;

(8) an identification of corridors providing access to energy exploration, development, installation, or production areas;

(9) an identification of corridors providing access to major areas for manufacturing, agriculture, or natural resources;

(10) an identification of best practices for improving the performance of the National Multimodal Freight Network, including critical commerce corridors and rural and urban access to critical freight corridors;

(11) an identification of best practices to mitigate the impacts of freight movement on communities;

(12) best practices for reducing environmental impacts of freight movement (including reducing local air pollution from freight movement, stormwater runoff, and wildlife habitat loss resulting from freight facilities, freight vehicles, or freight activity);

(13) possible strategies to increase the resilience of the freight system, including the ability to anticipate, prepare for, or adapt to conditions, or withstand, respond to, or recover rapidly from disruptions, including extreme weather and natural disasters;

(14) strategies to promote United States economic growth and international competitiveness;

(15) consideration of any potential unique impacts of the national freight system on rural and other underserved and historically disadvantaged communities;

(16) strategies for decarbonizing freight movement, as appropriate; and

(17) consideration of the impacts of e-commerce on the national multimodal freight system.

(c) UPDATES.—Not later than 5 years after the date of completion of the national freight strategic plan under subsection (a), and every 5 years thereafter, the Assistant Secretary shall update the plan and publish the updated plan on the public Internet Web site of the Department of Transportation.

(d) CONSULTATION.—The Assistant Secretary shall develop and update the national freight strategic plan—

(1) after providing notice and an opportunity for public comment; and

(2) in consultation with State departments of transportation, metropolitan planning

organizations, and other appropriate public and private transportation stakeholders.

(Added Pub. L. 114–94, div. A, title VIII, §8001(a), Dec. 4, 2015, 129 Stat. 1606; amended Pub. L. 117–58, div. B, title I, §§21101(d)(2), 21102, Nov. 15, 2021, 135 Stat. 656, 657.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 70102 was transferred and renumbered as section 50902 of Title 51, National and Commercial Space Programs.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §21101(d)(2)(A), substituted "The Assistant Secretary for Multimodal Freight (referred to in this section as the 'Assistant Secretary')" for "Not later than 2 years after the date of enactment of this section, the Under Secretary of Transportation for Policy" in introductory provisions.

Subsec. (b)(4). Pub. L. 117–58, §21101(d)(2)(B), substituted "Assistant Secretary" for "Under Secretary" in introductory provisions.

Subsec. (b)(12) to (17). Pub. L. 117–58, §21102, added pars. (12) to (17).

Subsec. (c). Pub. L. 117–58, §21101(d)(2)(C), substituted "Assistant Secretary" for "Under Secretary".

Subsec. (d). Pub. L. 117–58, §21101(d)(2)(D), substituted "Assistant Secretary" for "Under Secretary" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§70103. National Multimodal Freight Network

(a) IN GENERAL.—The Assistant Secretary for Multimodal Freight (referred to in this section as the "Assistant Secretary") shall establish a National Multimodal Freight Network in accordance with this section—

(1) to assist States in strategically directing resources toward improved system performance for the efficient movement of freight on the Network;

(2) to inform freight transportation planning;

(3) to assist in the prioritization of Federal investment; and

(4) to assess and support Federal investments to achieve the national multimodal freight policy goals described in section 70101(b) of this title and the national highway freight program goals described in section 167 of title 23.

(b) DESIGNATION OF NATIONAL MULTIMODAL FREIGHT NETWORK.—

(1) IN GENERAL.—The Assistant Secretary, after soliciting input from stakeholders, including multimodal freight system users, transportation providers, metropolitan planning organizations, local governments, ports, airports, railroads, and States, through a public process to identify critical freight facilities and corridors, including critical commerce corridors, that are vital to achieve the national multimodal freight policy goals described in section 70101(b) of this title and the national highway freight program goals described in section 167 of title 23, and after providing notice and an opportunity for comment on a draft system, shall designate a National Multimodal Freight Network with the goal of—

(A) improving network and intermodal connectivity; and

(B) using measurable data as part of the assessment of the significance of freight movement, including the consideration of points of origin, destinations, and linking components of domestic and international supply chains.

(2) FACTORS.—In designating or redesignating the National Multimodal Freight Network, the Assistant Secretary shall consider—

(A) origins and destinations of freight movement within, to, and from the United States;

(B) volume, value, tonnage, and the strategic importance of freight;

(C) access to border crossings, airports, seaports, and pipelines;

(D) economic factors, including balance of trade;

(E) access to major areas for manufacturing, agriculture, or natural resources;

(F) access to energy exploration, development, installation, and production areas;

(G) intermodal links and intersections that promote connectivity;

(H) freight choke points and other impediments contributing to significant measurable congestion, delay in freight movement, or inefficient modal connections;

(I) impacts on all freight transportation modes and modes that share significant freight infrastructure;

(J) facilities and transportation corridors identified by a multi-State coalition, a State, a State freight advisory committee, or a metropolitan planning organization, using national or local data, as having critical freight importance to the region;

(K) major distribution centers, inland intermodal facilities, and first- and last-mile facilities; and

(L) the significance of goods movement, including consideration of global and domestic supply chains.

(3) CONSIDERATIONS.—In designating or redesignating the National Multimodal Freight Network, the Assistant Secretary shall—

(A) use, to the extent practicable, measurable data to assess the significance of goods movement, including the consideration of points of origin, destinations, and linking components of the United States global and domestic supply chains;

(B) consider—

(i) the factors described in paragraph (2); and

(ii) any changes in the economy that affect freight transportation network demand; and

(C) provide to the States an opportunity to submit proposed designations from the States in accordance with paragraph (4).

(4) STATE INPUT.—

(A) IN GENERAL.—Each State that proposes additional designations for the National Multimodal Freight Network shall—

(i) consider nominations for additional designations from metropolitan planning organizations and State freight advisory committees, as applicable, within the State;

(ii) consider nominations for additional designations from owners and operators of port, rail, pipeline, and airport facilities; and

(iii) ensure that additional designations are consistent with the State transportation improvement program or freight plan.

(B) CRITICAL RURAL FREIGHT FACILITIES AND CORRIDORS.—As part of the designations under subparagraph (A), a State may designate a freight facility or corridor within the borders of the State as a critical rural freight facility or corridor if the facility or corridor—

(i) is a rural principal arterial;

(ii) provides access or service to energy exploration, development, installation, or production areas;

(iii) provides access or service to—

(I) a grain elevator;

(II) an agricultural facility;

(III) a mining facility;

(IV) a forestry facility; or
(V) an intermodal facility;

(iv) connects to an international port of entry;
(v) provides access to a significant air, rail, water, or other freight facility in the State; or
(vi) has been determined by the State to be vital to improving the efficient movement of freight of importance to the economy of the State.

(C) LIMITATION.—
(i) IN GENERAL.—A State may propose additional designations to the National Multimodal Freight Network in the State in an amount that is not more than 30 percent of the total mileage designated by the Under Secretary in the State.
(ii) DETERMINATION BY UNDER SECRETARY.—The Under Secretary shall determine how to apply the limitation under clause (i) to the components of the National Multimodal Freight Network.

(D) SUBMISSION AND CERTIFICATION.—A State shall submit to the Under Secretary—
(i) a list of any additional designations proposed to be added under this paragraph; and
(ii) a certification that—
(I) the State has satisfied the requirements of subparagraph (A); and
(II) the designations referred to in clause (i) address the factors for designation described in this subsection.

(E) CONDITION FOR ACCEPTANCE.—The Secretary shall accept from a State a designation under subparagraph (D) only if the Secretary determines that the designation meets the applicable requirements of subparagraph (A).

(c) REDESIGNATION OF NATIONAL MULTIMODAL FREIGHT NETWORK.—Not later than 5 years after the initial designation under subsection (b), and every 5 years thereafter, the Assistant Secretary, using the designation factors described in subsection (b), shall redesignate the National Multimodal Freight Network.

(Added Pub. L. 114–94, div. A, title VIII, §8001(a), Dec. 4, 2015, 129 Stat. 1607; amended Pub. L. 117–58, div. B, title I, §§21101(d)(3), 21103, Nov. 15, 2021, 135 Stat. 656, 657.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 70103 was transferred and renumbered as section 50903 of Title 51, National and Commercial Space Programs.

Prior sections 70104 to 70121 were transferred and renumbered as sections 50904 to 50923 of Title 51, National and Commercial Space Programs.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §21101(d)(3)(A), substituted "Assistant Secretary for Multimodal Freight (referred to in this section as the 'Assistant Secretary')" for "Under Secretary of Transportation for Policy" in introductory provisions.

Subsec. (b). Pub. L. 117–58, §21101(d)(3)(D)(i), substituted "Designation of National Multimodal Freight Network" for "Final Network" in heading.

Pub. L. 117–58, §21101(d)(3)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which required the establishment of an interim National Multimodal Freight Network no later than 180 days after Dec. 4, 2015.

Subsec. (b)(1). Pub. L. 117–58, §21101(d)(3)(D)(ii), substituted "The Assistant Secretary" for "Not later than 1 year after the date of enactment of this section, the Under Secretary" in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 117–58, §21101(d)(3)(D)(iii), (iv), substituted "Assistant Secretary" for "Under

Secretary" in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 117–58, §21103(1), added subpar. (C) and struck out former subpar. (C) which read as follows: "provide the States with an opportunity to submit proposed designations in accordance with paragraph (4)."

Subsec. (b)(4)(C)(i). Pub. L. 117–58, §21103(2)(A), substituted "30 percent" for "20 percent".

Subsec. (b)(4)(E). Pub. L. 117–58, §21103(2)(B), added subpar. (E).

Subsecs. (c), (d). Pub. L. 117–58, §21101(d)(3)(C), (E), redesignated subsec. (d) as (c), substituted "subsection (b)" for "subsection (c)" in two places, and substituted "Assistant Secretary" for "Under Secretary". Former subsec. (c) redesignated (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 702—MULTIMODAL FREIGHT TRANSPORTATION PLANNING AND INFORMATION

Sec.

70201. State freight advisory committees.
70202. State freight plans.
70203. Transportation investment data and planning tools.
70204. Multi-State freight corridor planning.
70205. National multimodal cooperative freight research program.
70206. Savings provision.

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, div. B, title I, §§21106(b), 21204(b), Nov. 15, 2021, 135 Stat. 662, 679, added items 70204 to 70206 and struck out former item 70204 "Savings provision".

§70201. State freight advisory committees

(a) IN GENERAL.—The Secretary of Transportation shall encourage each State to establish a freight advisory committee consisting of a representative cross-section of public and private sector freight stakeholders, including representatives of—

(1) ports, if applicable;
(2) freight railroads, if applicable;
(3) shippers;
(4) carriers;
(5) freight-related associations;
(6) third-party logistics providers;
(7) the freight industry workforce;
(8) the transportation department of the State;
(9) metropolitan planning organizations;
(10) local governments;
(11) the environmental protection department of the State, if applicable;
(12) the air resources board of the State, if applicable;
(13) economic development agencies of the State; and
(14) not-for-profit organizations or community organizations.

(b) QUALIFICATIONS.—Each member of a freight advisory committee established under

subsection (a) shall have qualifications sufficient to serve on a freight advisory committee, including, as applicable—

(1) general business and financial experience;

(2) experience or qualifications in the areas of freight transportation and logistics;

(3) experience in transportation planning;

(4) experience representing employees of the freight industry;

(5) experience representing a State, local government, or metropolitan planning organization; or

(6) experience representing the views of a community group or not-for-profit organization.

(c) ROLE OF COMMITTEE.—A freight advisory committee of a State described in subsection (a) shall—

(1) advise the State on freight-related priorities, issues, projects, and funding needs;

(2) serve as a forum for discussion for State transportation decisions affecting freight mobility;

(3) communicate and coordinate regional priorities with other organizations;

(4) promote the sharing of information between the private and public sectors on freight issues; and

(5) participate in the development of the freight plan of the State described in section 70202, including by providing advice regarding the development of the freight investment plan.

(Added Pub. L. 114–94, div. A, title VIII, §8001(a), Dec. 4, 2015, 129 Stat. 1610; amended Pub. L. 117–58, div. B, title I, §21107, Nov. 15, 2021, 135 Stat. 662.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §21107(1), substituted "representatives of—" and pars. (1) to (14) for "representatives of ports, freight railroads, shippers, carriers, freight-related associations, third-party logistics providers, the freight industry workforce, the transportation department of the State, and local governments."

Subsec. (b). Pub. L. 117–58, §21107(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(5). Pub. L. 117–58, §21107(2), substituted "70202, including by providing advice regarding the development of the freight investment plan." for "70202."

Subsec. (c). Pub. L. 117–58, §21107(3), redesignated subsec. (b) as (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§70202. State freight plans

(a) IN GENERAL.—Each State that receives funding under section 167 of title 23 shall develop a freight plan that provides a comprehensive plan for the immediate and long-range planning activities and investments of the State with respect to freight.

(b) PLAN CONTENTS.—A State freight plan described in subsection (a) shall include, at a minimum—

(1) an identification of significant freight system trends, needs, and issues with respect to the State;

(2) a description of the freight policies, strategies, and performance measures that will guide the freight-related transportation investment decisions of the State;

(3) when applicable, a listing of—

(A) multimodal critical rural freight facilities and corridors designated within the State under section 70103 of this title; and

(B) critical rural and urban freight corridors designated within the State under section 167 of

title 23;

(4) a description of how the plan will improve the ability of the State to meet the national multimodal freight policy goals described in section 70101(b) of this title and the national highway freight program goals described in section 167 of title 23;

(5) a description of how innovative technologies and operational strategies, including freight intelligent transportation systems, that improve the safety and efficiency of freight movement, were considered;

(6) in the case of roadways on which travel by heavy vehicles (including mining, agricultural, energy cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of the roadways, a description of improvements that may be required to reduce or impede the deterioration;

(7) an inventory of facilities with freight mobility issues, such as bottlenecks, within the State, and for those facilities that are State owned or operated, a description of the strategies the State is employing to address the freight mobility issues;

(8) consideration of any significant congestion or delay caused by freight movements and any strategies to mitigate that congestion or delay;

(9) a freight investment plan that, subject to subsection (c)(2), includes a list of priority projects and describes how funds made available to carry out section 167 of title 23 would be invested and matched;

(10) the most recent commercial motor vehicle parking facilities assessment conducted by the State under subsection (f);

(11) the most recent supply chain cargo flows in the State, expressed by mode of transportation;

(12) an inventory of commercial ports in the State;

(13) if applicable, consideration of the findings or recommendations made by any multi-State freight compact to which the State is a party under section 70204;

(14) the impacts of e-commerce on freight infrastructure in the State;

(15) considerations of military freight;

(16) strategies and goals to decrease—

(A) the severity of impacts of extreme weather and natural disasters on freight mobility;

(B) the impacts of freight movement on local air pollution;

(C) the impacts of freight movement on flooding and stormwater runoff; and

(D) the impacts of freight movement on wildlife habitat loss; and

(17) consultation with the State freight advisory committee, if applicable.

(c) RELATIONSHIP TO LONG-RANGE PLAN.—

(1) INCORPORATION.—A State freight plan described in subsection (a) may be developed separately from or incorporated into the statewide strategic long-range transportation plan required by section 135 of title 23.

(2) FISCAL CONSTRAINT.—The freight investment plan component of a freight plan shall include a project, or an identified phase of a project, only if funding for completion of the project can reasonably be anticipated to be available for the project within the time period identified in the freight investment plan.

(d) PLANNING PERIOD.—A State freight plan described in subsection (a) shall address a 8-year forecast period.

(e) UPDATES.—

(1) IN GENERAL.—A State shall update a State freight plan described in subsection (a) not less frequently than once every 4 years.

(2) FREIGHT INVESTMENT PLAN.—A State may update a freight investment plan described in subsection (b)(9) more frequently than is required under paragraph (1).

(f) COMMERCIAL MOTOR VEHICLE PARKING FACILITIES ASSESSMENTS.—As part of the development or updating, as applicable, of a State freight plan under this section, each State that receives funding under section 167 of title 23, in consultation with relevant State motor carrier safety personnel, shall conduct an assessment of—

(1) the capability of the State, together with the private sector in the State, to provide adequate parking facilities and rest facilities for commercial motor vehicles engaged in interstate transportation;

(2) the volume of commercial motor vehicle traffic in the State; and

(3) whether there exist any areas within the State with a shortage of adequate commercial motor vehicle parking facilities, including an analysis (economic or otherwise, as the State determines to be appropriate) of the underlying causes of such a shortage.

(g) PRIORITY.—Each State freight plan under this section shall include a requirement that the State, in carrying out activities under the State freight plan—

(1) enhance reliability or redundancy of freight transportation; or

(2) incorporate the ability to rapidly restore access and reliability with respect to freight transportation.

(h) APPROVAL.—

(1) IN GENERAL.—The Secretary of Transportation shall approve a State freight plan described in subsection (a) if the plan achieves compliance with the requirements of this section.

(2) SAVINGS PROVISION.—Nothing in this subsection establishes new procedural requirements for the approval of a State freight plan described in subsection (a).

(Added Pub. L. 114–94, div. A, title VIII, §8001(a), Dec. 4, 2015, 129 Stat. 1610; amended Pub. L. 117–58, div. B, title I, §21104(a), (c), Nov. 15, 2021, 135 Stat. 658, 659.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(10) to (17). Pub. L. 117–58, §21104(a)(1), added pars. (10) to (16) and redesignated former par. (10) as (17).

Subsec. (d). Pub. L. 117–58, §21104(c)(1), substituted "8-year" for "5-year".

Subsec. (e)(1). Pub. L. 117–58, §21104(c)(2), substituted "4 years" for "5 years".

Subsecs. (f) to (h). Pub. L. 117–58, §21104(a)(2), added subsecs. (f) to (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§70203. Transportation investment data and planning tools

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation shall—

(1) begin development of new tools and improvement of existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

(A) methodologies for systematic analysis of benefits and costs on a national or regional basis;

(B) tools for ensuring that the evaluation of freight-related and other transportation projects could consider safety, economic competitiveness, urban and rural access, environmental sustainability, and system condition in the project selection process;

(C) improved methods for data collection and trend analysis;

(D) encouragement of public-private collaboration to carry out data sharing activities while maintaining the confidentiality of all proprietary data; and

(E) other tools to assist in effective transportation planning;

(2) identify transportation-related model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

(3) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

(b) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data described in subsection (a).

(Added Pub. L. 114–94, div. A, title VIII, §8001(a), Dec. 4, 2015, 129 Stat. 1611.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 114–94, which was approved Dec. 4, 2015.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§70204. Multi-State freight corridor planning

(a) CONSENT TO MULTI-STATE FREIGHT MOBILITY COMPACTS.—Congress recognizes the right of States, cities, regional planning organizations, federally recognized Indian Tribes, and local public authorities (including public port authorities) that are regionally linked with an interest in a specific nationally or regionally significant multi-State freight corridor to enter into multi-State compacts to promote the improved mobility of goods, including—

(1) identifying projects along the corridor that benefit multiple States;

(2) assembling rights-of-way; and

(3) performing capital improvements.

(b) FINANCING.—A multi-State freight compact established by entities under subsection (a) may provide that, in order to carry out the compact, the relevant States or other entities may—

(1) accept contributions from a unit of State or local government;

(2) use any Federal or State funds made available for freight mobility infrastructure planning or construction, including applying for grants;

(3) subject to such terms and conditions as the States consider to be advisable—

(A) borrow money on a short-term basis; and

(B) issue—

(i) notes for borrowing under subparagraph (A); and

(ii) bonds; and

(4) obtain financing by other means permitted under applicable Federal or State law.

(c) ADVISORY COMMITTEES.—

(1) IN GENERAL.—A multi-State freight compact under this section may establish a multi-State freight corridor advisory committee, which shall include representatives of State departments of transportation and other public and private sector entities with an interest in freight mobility, such as—

(A) ports;
(B) freight railroads;
(C) shippers;
(D) carriers;
(E) freight-related associations;
(F) third-party logistics providers;
(G) the freight industry workforce;
(H) environmental organizations;
(I) community organizations; and
(J) units of local government.

(2) ACTIVITIES.—An advisory committee established under paragraph (1) may—

(A) advise the parties to the applicable multi-State freight compact with respect to freight-related priorities, issues, projects, and funding needs that impact multi-State—

(i) freight mobility; and
(ii) supply chains;

(B) serve as a forum for States, Indian Tribes, and other public entities to discuss decisions affecting freight mobility;

(C) communicate and coordinate multi-State freight priorities with other organizations;

(D) promote the sharing of information between the private and public sectors with respect to freight issues; and

(E) provide information for consideration in the development of State freight plans under section 70202.

(d) GRANTS.—

(1) ESTABLISHMENT.—The Secretary of Transportation (referred to in this section as the "Secretary") shall establish a program under which the Secretary shall provide grants to multi-State freight compacts, or States seeking to form a multi-State freight compact, that seek to improve a route or corridor that is a part of the National Multimodal Freight Network established under section 70103.

(2) NEW COMPACTS.—

(A) IN GENERAL.—To incentivize the establishment of multi-State freight compacts, the Secretary may award a grant for operations costs in an amount of not more than $2,000,000 to—

(i) a multi-State freight compact established under subsection (a) during the 2-year period beginning on the date of establishment of the multi-State freight compact; or
(ii) States seeking to form a multi-State freight compact described in that subsection.

(B) ELIGIBILITY.—

(i) NEW MULTI-STATE FREIGHT COMPACTS.—A multi-State freight compact shall be eligible for a grant under this paragraph only during the initial 2 years of operation of the compact.

(ii) STATES SEEKING TO FORM A COMPACT.—States seeking to form a multi-State freight compact shall be eligible for a grant under this paragraph during—

(I) the 2-year period beginning on the date on which an application for a grant under this paragraph with respect to the proposed compact is submitted to the Secretary; or

(II) if the compact is formed before the date on which a grant under this paragraph is awarded in accordance with subclause (I), the initial 2 years of operation of the compact.

(C) REQUIREMENTS.—To be eligible to receive a grant under this paragraph, a multi-State freight compact or the applicable States seeking to form a multi-State freight compact shall—

(i) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(ii) provide a non-Federal match equal to not less than 25 percent of the operating costs of the multi-State freight compact; and

(iii) commit to establishing a multi-State freight corridor advisory committee under subsection (c)(1) during the initial 2-year period of operation of the compact.

(3) EXISTING COMPACTS.—

(A) IN GENERAL.—The Secretary may award a grant to multi-State freight compacts that are not eligible to receive a grant under paragraph (2) for operations costs in an amount of not more than $1,000,000.

(B) REQUIREMENTS.—To be eligible to receive a grant under this paragraph, a multi-State freight compact shall—

(i) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(ii) provide a non-Federal match of not less than 50 percent of the operating costs of the compact; and

(iii) demonstrate that the compact has established a multi-State freight corridor advisory committee under subsection (c)(1).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $5,000,000 for each fiscal year to carry out this subsection.

(Added Pub. L. 117–58, div. B, title I, §21106(a)(2), Nov. 15, 2021, 135 Stat. 659.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 70204 was renumbered section 70206 of this title.

§70205. National multimodal cooperative freight research program

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the "Secretary") shall establish and support a national cooperative freight transportation research program.

(b) ADMINISTRATION BY NATIONAL ACADEMY OF SCIENCES.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities under the program established under subsection (a).

(2) ADVISORY COMMITTEE.—To assist the National Academy of Sciences in carrying out this subsection, the National Academy shall establish an advisory committee, the members of which represent a cross-section of multimodal freight stakeholders, including—

(A) the Department of Transportation and other relevant Federal departments and agencies;

(B) State (including the District of Columbia) departments of transportation;

(C) units of local government, including public port authorities;

(D) nonprofit entities;

(E) institutions of higher education;

(F) labor organizations representing employees in freight industries; and

(G) private sector entities representing various transportation modes.

(c) ACTIVITIES.—

(1) NATIONAL RESEARCH AGENDA.—

(A) IN GENERAL.—The advisory committee established under subsection (b)(2), in consultation with interested parties, shall recommend a national research agenda for the program in accordance with subsection (d), which shall include a multiyear strategic plan.

(B) ACTION BY INTERESTED PARTIES.—For purposes of subparagraph (A), an interested party may—

(i) submit to the advisory committee research proposals;

(ii) participate in merit reviews of research proposals and peer reviews of research products; and

(iii) receive research results.

(2) RESEARCH CONTRACTS AND GRANTS.—

(A) IN GENERAL.—The National Academy of Sciences may award research contracts and grants under the program established under subsection (a) through—

(i) open competition; and

(ii) merit review, conducted on a regular basis.

(B) EVALUATION.—

(i) PEER REVIEW.—A contract or grant for research under subparagraph (A) may allow peer review of the research results.

(ii) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of a contract or grant for research under subparagraph (A).

(C) DISSEMINATION OF FINDINGS.—The National Academy of Sciences shall disseminate the findings of any research conducted under this paragraph to relevant researchers, practitioners, and decisionmakers through—

(i) conferences and seminars;

(ii) field demonstrations;

(iii) workshops;

(iv) training programs;

(v) presentations;

(vi) testimony to government officials;

(vii) publicly accessible websites;

(viii) publications for the general public; and

(ix) other appropriate means.

(3) REPORT.—Not later than 1 year after the date of establishment of the program under subsection (a), and annually thereafter, the Secretary shall make available on a public website a report that describes the ongoing research and findings under the program.

(d) AREAS FOR RESEARCH.—The national research agenda under subsection (c)(1) shall consider research in the following areas:

(1) Improving the efficiency and resiliency of freight movement, including—

(A) improving the connections between rural areas and domestic and foreign markets;

(B) maximizing infrastructure utility, including improving urban curb-use efficiency;

(C) quantifying the national impact of blocked railroad crossings;

(D) improved techniques for estimating and quantifying public benefits derived from freight transportation projects; and

(E) low-cost methods to reduce congestion at bottlenecks.

(2) Adapting to future trends in freight, including—

(A) considering the impacts of e-commerce;
(B) automation; and
(C) zero-emissions transportation.

(3) Workforce considerations in freight, including—
(A) diversifying the freight transportation industry workforce; and
(B) creating and transitioning a workforce capable of designing, deploying, and operating emerging technologies.

(e) FEDERAL SHARE.—
(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent.
(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds made available to carry out this section, the National Academy of Sciences may seek and accept additional funding from public and private entities capable of accepting funding from the Department of Transportation, States, units of local government, nonprofit entities, and the private sector.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $3,750,000 for each fiscal year to carry out the program established under subsection (a), to remain available until expended.
(g) SUNSET.—The program established under subsection (a) shall terminate 5 years after the date of enactment of this section.

(Added Pub. L. 117–58, div. B, title I, §21204(a), Nov. 15, 2021, 135 Stat. 677.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a) and (g), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

§70206. Savings provision

Nothing in this subtitle provides additional authority to regulate or direct private activity on freight networks designated under this subtitle.

(Added Pub. L. 114–94, div. A, title VIII, §8001(a), Dec. 4, 2015, 129 Stat. 1612, §70204; renumbered §70206, Pub. L. 117–58, div. B, title I, §21106(a)(1), Nov. 15, 2021, 135 Stat. 659.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58 renumbered section 70204 of this title as this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

[CHAPTER 703—TRANSFERRED]

EDITORIAL NOTES

CODIFICATION

Former chapter 703 was renumbered chapter 511 of Title 51, National and Commercial Space Programs. Former sections 70301 to 70305 were renumbered sections 51101 to 51105, respectively, of Title 51.

SUBTITLE X—MISCELLANEOUS

Chapter		Sec.
801.	**Bills of Lading**	**80101**
803.	**Contraband**	**80301**
805.	**Miscellaneous**	**80501**

CHAPTER 801—BILLS OF LADING

Sec.
80101. Definitions.
80102. Application.
80103. Negotiable and nonnegotiable bills.
80104. Form and requirements for negotiation.
80105. Title and rights affected by negotiation.
80106. Transfer without negotiation.
80107. Warranties and liability.
80108. Alterations and additions.
80109. Liens under negotiable bills.
80110. Duty to deliver goods.
80111. Liability for delivery of goods.
80112. Liability under negotiable bills issued in parts, sets, or duplicates.
80113. Liability for nonreceipt, misdescription, and improper loading.
80114. Lost, stolen, and destroyed negotiable bills.
80115. Limitation on use of judicial process to obtain possession of goods from common carriers.
80116. Criminal penalty.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–429, §6(79), Oct. 31, 1994, 108 Stat. 4388, made technical amendment to chapter heading.

§80101. Definitions

In this chapter—

(1) "consignee" means the person named in a bill of lading as the person to whom the goods are to be delivered.

(2) "consignor" means the person named in a bill of lading as the person from whom the goods have been received for shipment.

(3) "goods" means merchandise or personal property that has been, is being, or will be transported.

(4) "holder" means a person having possession of, and a property right in, a bill of lading.

(5) "order" means an order by indorsement on a bill of lading.

(6) "purchase" includes taking by mortgage or pledge.

(7) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80101	49 App.:122.	Aug. 29, 1916, ch. 415, §42, 39 Stat. 545.

In this chapter, the words "negotiable bill of lading" are substituted for "order bill", and the words "nonnegotiable bill of lading" are substituted for "straight bill", for clarity and consistency in the revised title and with other titles of the United States Code.

In this section, before clause (1), the words "unless the context of subject matter otherwise requires" are omitted as unnecessary because of the restatement. The words " 'Action' includes counterclaim, set-off, and suit in equity" are omitted as unnecessary. The words " 'Bill' means bill of lading, governed by this chapter" are omitted because of section 80102 of the revised title. In clauses (1), (2), and (4), the words " 'Person' includes a corporation or partnership, or two or more persons having a joint or common interest" are omitted because of 1:1. In clause (3), the words "personal property" are substituted for "chattels" for clarity and consistency. The words "is being" are substituted for "in course of" for clarity. In clause (7), the words " 'State' means a State of the United States" are substituted for " 'State' includes" for clarity and consistency in the revised title and with other titles of the Code. The word "possession" is substituted for "insular possession, or isthmian possession" for consistency in the revised title.

§80102. Application

This chapter applies to a bill of lading when the bill is issued by a common carrier for the transportation of goods—

(1) between a place in the District of Columbia and another place in the District of Columbia;

(2) between a place in a territory or possession of the United States and another place in the same territory or possession;

(3) between a place in a State and a place in another State;

(4) between a place in a State and a place in the same State through another State or a foreign country; or

(5) from a place in a State to a place in a foreign country.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80102	49 App.:81.	Aug. 29, 1916, ch. 415, §1, 39 Stat. 538.

In this chapter, the words "common carrier" are substituted for "carrier" because the source provisions restated in this section provide that this chapter applies to bills of lading issued by common carriers.

In clause (2), the words "territory or possession" are substituted for "Territory" for consistency in the revised title and with other titles of the United States Code.

§80103. Negotiable and nonnegotiable bills

(a) NEGOTIABLE BILLS.—(1) A bill of lading is negotiable if the bill—

(A) states that the goods are to be delivered to the order of a consignee; and

(B) does not contain on its face an agreement with the shipper that the bill is not negotiable.

(2) Inserting in a negotiable bill of lading the name of a person to be notified of the arrival of the goods—

(A) does not limit its negotiability; and

(B) is not notice to the purchaser of the goods of a right the named person has to the goods.

(b) NONNEGOTIABLE BILLS.—(1) A bill of lading is nonnegotiable if the bill states that the goods are to be delivered to a consignee. The indorsement of a nonnegotiable bill does not—

(A) make the bill negotiable; or

(B) give the transferee any additional right.

(2) A common carrier issuing a nonnegotiable bill of lading must put "nonnegotiable" or "not negotiable" on the bill. This paragraph does not apply to an informal memorandum or acknowledgment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80103(a)(1)	49 App.:83.	Aug. 29, 1916, ch. 415, §§2, 3, 6, 7, 29 (last sentence), 39 Stat. 539, 543.
80103(a)(2)	49 App.:87.	
80103(b)(1)	49 App.:82. 49 App.:109 (last sentence).	
80103(b)(2)	49 App.:86.	

In subsection (a)(1), the words "A bill of lading is negotiable if . . . states that the goods are to be delivered to the order of a consignee" are substituted for "A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill" for clarity and consistency in the revised title and with other titles of the United States Code. The words "does not contain on its face an agreement with the shipper that the bill is not negotiable" are substituted for 49 App.:83 (last sentence) for clarity and to eliminate unnecessary words.

In subsection (a)(2)(B), the words "right the named person has" are substituted for "rights or equities of such person" for clarity.

In subsection (b)(1), before clause (A), the words "A bill of lading is nonnegotiable if" are substituted for "A bill in which . . . is a straight bill" in 49 App.:82 for consistency in the revised title and with other titles of the Code. The words "free from existing equities" in 49 App.:109 (last sentence) are omitted as surplus.

§80104. Form and requirements for negotiation

(a) GENERAL RULES.—(1) A negotiable bill of lading may be negotiated by indorsement. An indorsement may be made in blank or to a specified person. If the goods are deliverable to the order of a specified person, then the bill must be indorsed by that person.

(2) A negotiable bill of lading may be negotiated by delivery when the common carrier, under the terms of the bill, undertakes to deliver the goods to the order of a specified person and that person or a subsequent indorsee has indorsed the bill in blank.

(3) A negotiable bill of lading may be negotiated by a person possessing the bill, regardless of the way in which the person got possession, if—

(A) a common carrier, under the terms of the bill, undertakes to deliver the goods to that person; or

(B) when the bill is negotiated, it is in a form that allows it to be negotiated by delivery.

(b) VALIDITY NOT AFFECTED.—The validity of a negotiation of a bill of lading is not affected by the negotiation having been a breach of duty by the person making the negotiation, or by the owner of the bill having been deprived of possession by fraud, accident, mistake, duress, loss, theft, or conversion, if the person to whom the bill is negotiated, or a person to whom the bill is subsequently negotiated, gives value for the bill in good faith and without notice of the breach of duty, fraud, accident, mistake, duress, loss, theft, or conversion.

(c) NEGOTIATION BY SELLER, MORTGAGOR, OR PLEDGOR TO PERSON WITHOUT NOTICE.—When goods for which a negotiable bill of lading has been issued are in a common carrier's possession, and the person to whom the bill has been issued retains possession of the bill after selling, mortgaging, or pledging the goods or bill, the subsequent negotiation of the bill by that person to another person receiving the bill for value, in good faith, and without notice of the prior sale, mortgage, or pledge has the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1347.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80104(a)(1)	49 App.:108.	Aug. 29, 1916, ch. 415, §§27, 28, 30, 37, 38, 39 Stat. 542, 543, 544.
80104(a)(2)	49 App.:107.	
80104(a)(3)	49 App.:110.	
80104(b)	49 App.:117.	
80104(c)	49 App.:118.	

In subsection (a)(1), the words "If the goods are deliverable to the order of a specified person" are substituted for "the person to whose order the goods are deliverable by the tenor of the bill" for clarity. The text of 49 App.:108 (last sentence) is omitted as unnecessary because of the restatement.

§80105. Title and rights affected by negotiation

(a) TITLE.—When a negotiable bill of lading is negotiated—

(1) the person to whom it is negotiated acquires the title to the goods that—

(A) the person negotiating the bill had the ability to convey to a purchaser in good faith for value; and

(B) the consignor and consignee had the ability to convey to such a purchaser; and

(2) the common carrier issuing the bill becomes obligated directly to the person to whom the bill is negotiated to hold possession of the goods under the terms of the bill the same as if the carrier had issued the bill to that person.

(b) SUPERIORITY OF RIGHTS.—When a negotiable bill of lading is negotiated to a person for value in good faith, that person's right to the goods for which the bill was issued is superior to a seller's lien or to a right to stop the transportation of the goods. This subsection applies whether the negotiation is made before or after the common carrier issuing the bill receives notice of the seller's claim. The carrier may deliver the goods to an unpaid seller only if the bill first is surrendered for cancellation.

(c) MORTGAGEE AND LIEN HOLDER RIGHTS NOT AFFECTED.—Except as provided in subsection (b) of this section, this chapter does not limit a right of a mortgagee or lien holder having a mortgage or lien on goods against a person that purchased for value in good faith from the owner, and got possession of the goods immediately before delivery to the common carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1347.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80105(a)	49 App.:111.	Aug. 29, 1916, ch. 415, §§31, 39, 40,

		39 Stat. 543, 544.
80105(b)	49 App.:119.	
80105(c)	49 App.:120.	

In subsection (a)(1), before subclause (A), the word "duly" is omitted as surplus.

In subsection (b), the words "right . . . is superior" are substituted for "no . . . shall defeat the rights of" for clarity. The words "right to stop the transportation" are substituted for "right of stoppage in transitu" for clarity.

In subsection (c), the word "remedies" is omitted as being included in "right". The words "whose mortgage or lien on goods would be valid, apart from this chapter" are omitted as unnecessary because of the restatement. The words "which are subject to the mortgage or lien" are omitted as unnecessary.

§80106. Transfer without negotiation

(a) DELIVERY AND AGREEMENT.—The holder of a bill of lading may transfer the bill without negotiating it by delivery and agreement to transfer title to the bill or to the goods represented by it. Subject to the agreement, the person to whom the bill is transferred has title to the goods against the transferor.

(b) COMPELLING INDORSEMENT.—When a negotiable bill of lading is transferred for value by delivery without being negotiated and indorsement of the transferor is essential for negotiation, the transferee may compel the transferor to indorse the bill unless a contrary intention appears. The negotiation is effective when the indorsement is made.

(c) EFFECT OF NOTIFICATION.—(1) When a transferee notifies the common carrier that a nonnegotiable bill of lading has been transferred under subsection (a) of this section, the carrier is obligated directly to the transferee for any obligations the carrier owed to the transferor immediately before the notification. However, before the carrier is notified, the transferee's title to the goods and right to acquire the obligations of the carrier may be defeated by—

(A) garnishment, attachment, or execution on the goods by a creditor of the transferor; or

(B) notice to the carrier by the transferor or a purchaser from the transferor of a later purchase of the goods from the transferor.

(2) A common carrier has been notified under this subsection only if—

(A) an officer or agent of the carrier, whose actual or apparent authority includes acting on the notification, has been notified; and

(B) the officer or agent has had time, exercising reasonable diligence, to communicate with the agent having possession or control of the goods.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1348.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80106(a)	49 App.:109 (1st sentence). 49 App.:112 (1st sentence).	Aug. 29, 1916, ch. 415, §§29 (1st sentence), 32, 33, 39 Stat. 543.
80106(b)	49 App.:113.	
80106(c)	49 App.:112 (2d–last sentences).	

In subsection (a), the words "without negotiating it" are added for clarity.

In subsection (b), the text of 49 App.:113 (last sentence) is omitted as unnecessary because of the words "the transferee may compel the transferor".

In subsection (c)(1), before clause (A), the words "also acquires the right to notify" and "by the transferor or transferee of a straight bill" are omitted as unnecessary because of the restatement.

§80107. Warranties and liability

(a) GENERAL RULE.—Unless a contrary intention appears, a person negotiating or transferring a bill of lading for value warrants that—

(1) the bill is genuine;

(2) the person has the right to transfer the bill and the title to the goods described in the bill;

(3) the person does not know of a fact that would affect the validity or worth of the bill; and

(4) the goods are merchantable or fit for a particular purpose when merchantability or fitness would have been implied if the agreement of the parties had been to transfer the goods without a bill of lading.

(b) SECURITY FOR DEBT.—A person holding a bill of lading as security for a debt and in good faith demanding or receiving payment of the debt from another person does not warrant by the demand or receipt—

(1) the genuineness of the bill; or

(2) the quantity or quality of the goods described in the bill.

(c) DUPLICATES.—A common carrier issuing a bill of lading, on the face of which is the word "duplicate" or another word indicating that the bill is not an original bill, is liable the same as a person that represents and warrants that the bill is an accurate copy of an original bill properly issued. The carrier is not otherwise liable under the bill.

(d) INDORSER LIABILITY.—Indorsement of a bill of lading does not make the indorser liable for failure of the common carrier or a previous indorser to fulfill its obligations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80107(a)	49 App.:114.	Aug. 29, 1916, ch. 415, §§15, 34–36, 39 Stat. 541, 543.
80107(b)	49 App.:116.	
80107(c)	49 App.:95.	
80107(d)	49 App.:115.	

In subsection (a), before clause (1), the words "by indorsement or delivery" are omitted as surplus. In clause (4), the words "merchantability or fitness" are substituted for "such warranties", and the words "the goods without a bill of lading" are substituted for "without a bill the goods represented thereby", for clarity.

In subsection (b), before clause (1), the words "person holding" are substituted for "mortgagee or pledgee or other holder" because they are inclusive. The words "from another person" are substituted for "whether from a party to a draft drawn for such debt or from any other person" to eliminate unnecessary words. The words "does not warrant by the demand or receipt" are substituted for "shall not be deemed by so doing to represent or warrant" for clarity.

In subsection (c), the words "A common carrier issuing . . . is liable" are substituted for "plainly shall impose upon the carrier issuing the same the liability" for clarity and to eliminate unnecessary words. The words "The carrier is not otherwise liable under the bill" are substituted for "but no other liability" for clarity.

In subsection (d), the word "respective" is omitted as unnecessary.

§80108. Alterations and additions

An alteration or addition to a bill of lading after its issuance by a common carrier, without authorization from the carrier in writing or noted on the bill, is void. However, the original terms of the bill are enforceable.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80108	49 App.:93.	Aug. 29, 1916, ch. 415, §13, 39 Stat. 540.

The word "erasure" is omitted as being included in "alteration". The words "whatever be the nature and purpose of the change" are omitted as surplus. The word "terms" is substituted for "tenor" for clarity.

§80109. Liens under negotiable bills

A common carrier issuing a negotiable bill of lading has a lien on the goods covered by the bill for—

(1) charges for storage, transportation, and delivery (including demurrage and terminal charges), and expenses necessary to preserve the goods or incidental to transporting the goods after the date of the bill; and

(2) other charges for which the bill expressly specifies a lien is claimed to the extent the charges are allowed by law and the agreement between the consignor and carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80109	49 App.:105.	Aug. 29, 1916, ch. 415, §25, 39 Stat. 542.

In this section, before clause (1), the word "If" is omitted as surplus. The words "covered by the bill" are substituted for "therein mentioned" for clarity. In clause (1), the words "charges for storage, transportation, and delivery (including demurrage and terminal charges)" are substituted for "all charges on those goods for freight, storage, demurrage and terminal charges . . . and all other charges incurred in transportation and delivery" as being inclusive and to conform to section 7–307 of the Uniform Commercial Code. In clause (2), the words "other charges for which the bill expressly specifies a lien" are substituted for "unless the bill expressly enumerates other charges for which a lien . . . In such case there shall also be a lien for the charges enumerated" for clarity.

§80110. Duty to deliver goods

(a) GENERAL RULES.—Except to the extent a common carrier establishes an excuse provided by law, the carrier must deliver goods covered by a bill of lading on demand of the consignee named in a nonnegotiable bill or the holder of a negotiable bill for the goods when the consignee or holder—

(1) offers in good faith to satisfy the lien of the carrier on the goods;

(2) has possession of the bill and, if a negotiable bill, offers to indorse and give the bill to the carrier; and

(3) agrees to sign, on delivery of the goods, a receipt for delivery if requested by the carrier.

(b) PERSONS TO WHOM GOODS MAY BE DELIVERED.—Subject to section 80111 of this title, a common carrier may deliver the goods covered by a bill of lading to—

(1) a person entitled to their possession;

(2) the consignee named in a nonnegotiable bill; or

(3) a person in possession of a negotiable bill if—

(A) the goods are deliverable to the order of that person; or

(B) the bill has been indorsed to that person or in blank by the consignee or another indorsee.

(c) COMMON CARRIER CLAIMS OF TITLE AND POSSESSION.—A claim by a common carrier that the carrier has title to goods or right to their possession is an excuse for nondelivery of the goods only if the title or right is derived from—

(1) a transfer made by the consignor or consignee after the shipment; or

(2) the carrier's lien.

(d) ADVERSE CLAIMS.—If a person other than the consignee or the person in possession of a bill of lading claims title to or possession of goods and the common carrier knows of the claim, the carrier is not required to deliver the goods to any claimant until the carrier has had a reasonable time to decide the validity of the adverse claim or to bring a civil action to require all claimants to interplead.

(e) INTERPLEADER.—If at least 2 persons claim title to or possession of the goods, the common carrier may—

(1) bring a civil action to interplead all known claimants to the goods; or

(2) require those claimants to interplead as a defense in an action brought against the carrier for nondelivery.

(f) THIRD PERSON CLAIMS NOT A DEFENSE.—Except as provided in subsections (b), (d), and (e) of this section, title or a right of a third person is not a defense to an action brought by the consignee of a nonnegotiable bill of lading or by the holder of a negotiable bill against the common carrier for failure to deliver the goods on demand unless enforced by legal process.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80110(a)	49 App.:88.	Aug. 29, 1916, ch. 415, §§8, 9, 16–19, 39 Stat. 539, 541.
80110(b)	49 App.:89.	
80110(c)	49 App.:96.	
80110(d)	49 App.:98.	
80110(e)	49 App.:97.	
80110(f)	49 App.:99.	

In subsection (a), before clause (1), the words "Except to the extent a common carrier establishes an excuse provided by law" are substituted for "in the absence of some lawful excuse" and "In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure" for clarity and to eliminate unnecessary words. The word "must" is substituted for "is bound to" for clarity. The words "if such a demand is accompanied by" are omitted as unnecessary because of the restatement. In clause (1), the word "lawful" is omitted as unnecessary because of the restatement. In clause (2), the word "properly" is omitted as surplus. In clause (3), the word "agrees" is substituted for "A readiness and willingness" for clarity. The word "receipt" is substituted for "acknowledgment" for consistency. The words "if such signature" are omitted as unnecessary.

In subsection (b), before clause (1), the word "may" is substituted for "is justified . . . in" because it is more accurate. In clause (1), the word "entitled" is substituted for "lawfully entitled" to eliminate an unnecessary word. In clause (3), before subclause (A), the word "if" is substituted for "by the terms of which" for clarity. In subclause (B), the words "another indorsee" are substituted for "by the mediate or immediate indorsee of the consignee" as being inclusive.

In subsection (c), before clause (1), the words "for his own benefit" are omitted as surplus. The words "nondelivery of" are substituted for "refusing to deliver" because they are more accurate. The words "according to the terms of a bill issued for them" are omitted as unnecessary. In clause (1), the words "directly

or indirectly" are omitted as unnecessary.

In subsection (d), the word "person" is substituted for "someone" for consistency in this chapter. The words "claims title" are substituted for "has a claim to the title" for consistency. The words "is not required to" are substituted for "shall be excused from liability for refusing to" for clarity. The words "any claimant" are substituted for "either to the consignee or person in possession of the bill or to the adverse claimant" to eliminate unnecessary words. The words "civil action" are substituted for "legal proceedings" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (e), before clause (1), the words "at least 2" are substituted for "more than one" for consistency in the revised title and with other titles of the United States Code. In clause (1), the words "civil action" are substituted for "an original suit" for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words "whichever is appropriate" are omitted as unnecessary.

§80111. Liability for delivery of goods

(a) GENERAL RULES.—A common carrier is liable for damages to a person having title to, or right to possession of, goods when—

(1) the carrier delivers the goods to a person not entitled to their possession unless the delivery is authorized under section 80110(b)(2) or (3) of this title;

(2) the carrier makes a delivery under section 80110(b)(2) or (3) of this title after being requested by or for a person having title to, or right to possession of, the goods not to make the delivery; or

(3) at the time of delivery under section 80110(b)(2) or (3) of this title, the carrier has information it is delivering the goods to a person not entitled to their possession.

(b) EFFECTIVENESS OF REQUEST OR INFORMATION.—A request or information is effective under subsection (a)(2) or (3) of this section only if—

(1) an officer or agent of the carrier, whose actual or apparent authority includes acting on the request or information, has been given the request or information; and

(2) the officer or agent has had time, exercising reasonable diligence, to stop delivery of the goods.

(c) FAILURE TO TAKE AND CANCEL BILLS.—Except as provided in subsection (d) of this section, if a common carrier delivers goods for which a negotiable bill of lading has been issued without taking and canceling the bill, the carrier is liable for damages for failure to deliver the goods to a person purchasing the bill for value in good faith whether the purchase was before or after delivery and even when delivery was made to the person entitled to the goods. The carrier also is liable under this paragraph if part of the goods are delivered without taking and canceling the bill or plainly noting on the bill that a partial delivery was made and generally describing the goods or the remaining goods kept by the carrier.

(d) EXCEPTIONS TO LIABILITY.—A common carrier is not liable for failure to deliver goods to the consignee or owner of the goods or a holder of the bill if—

(1) a delivery described in subsection (c) of this section was compelled by legal process;

(2) the goods have been sold lawfully to satisfy the carrier's lien;

(3) the goods have not been claimed; or

(4) the goods are perishable or hazardous.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1350.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80111(a)	49 App.:90 (less last par.).	Aug. 29, 1916, ch. 415, §§10–12, 26, 39 Stat. 540, 542.
80111(b)	49 App.:90 (last par.).	

80111(c)	49 App.:91 (words after 2d comma). 49 App.:92 (words after 2d comma).	
80111(d)	49 App.:91 (words before 2d comma). 49 App.:92 (words before 2d comma). 49 App.:106.	

In subsection (a), before clause (1), the word "title" is substituted for "right of property" for consistency in this chapter.

In subsection (c), the words "negotiable bill of lading" are substituted for "order bill . . . the negotiation of which would transfer the right to the possession of the goods" in 49 App.:91 for consistency in this chapter.

§80112. Liability under negotiable bills issued in parts, sets, or duplicates

(a) PARTS AND SETS.—A negotiable bill of lading issued in a State for the transportation of goods to a place in the 48 contiguous States or the District of Columbia may not be issued in parts or sets. A common carrier issuing a bill in violation of this subsection is liable for damages for failure to deliver the goods to a purchaser of one part for value in good faith even though the purchase occurred after the carrier delivered the goods to a holder of one of the other parts.

(b) DUPLICATES.—When at least 2 negotiable bills of lading are issued in a State for the same goods to be transported to a place in the 48 contiguous States or the District of Columbia, the word "duplicate" or another word indicating that the bill is not an original must be put plainly on the face of each bill except the original. A common carrier violating this subsection is liable for damages caused by the violation to a purchaser of the bill for value in good faith as an original bill even though the purchase occurred after the carrier delivered the goods to the holder of the original bill.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1351.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80112(a)	49 App.:84.	Aug. 29, 1916, ch. 415, §§4, 5, 39 Stat. 539.
80112(b)	49 App.:85.	

In this section, the words "48 contiguous States or the District of Columbia" are substituted for "United States on the Continent of North America, except Alaska and Panama" and the text of 49 App.:84 (proviso) and 85 (proviso) for clarity.

In subsection (a), the words "If so issued" and "described therein" are omitted as surplus. The word "occurred" is added for clarity.

§80113. Liability for nonreceipt, misdescription, and improper loading

(a) LIABILITY FOR NONRECEIPT AND MISDESCRIPTION.—Except as provided in this section, a common carrier issuing a bill of lading is liable for damages caused by nonreceipt by the carrier of any part of the goods by the date shown in the bill or by failure of the goods to correspond with the description contained in the bill. The carrier is liable to the owner of goods transported under a nonnegotiable bill (subject to the right of stoppage in transit) or to the holder of a negotiable bill if the owner or holder gave value in good faith relying on the description of the goods in the bill or on the shipment being made on the date shown in the bill.

(b) NONLIABILITY OF CARRIERS.—A common carrier issuing a bill of lading is not liable under subsection (a) of this section—

(1) when the goods are loaded by the shipper;

(2) when the bill—

(A) describes the goods in terms of marks or labels, or in a statement about kind, quantity, or condition; or

(B) is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count", or words of the same meaning; and

(3) to the extent the carrier does not know whether any part of the goods were received or conform to the description.

(c) LIABILITY FOR IMPROPER LOADING.—A common carrier issuing a bill of lading is not liable for damages caused by improper loading if—

(1) the shipper loads the goods; and

(2) the bill contains the words "shipper's weight, load, and count", or words of the same meaning indicating the shipper loaded the goods.

(d) CARRIER'S DUTY TO DETERMINE KIND, QUANTITY, AND NUMBER.—(1) When bulk freight is loaded by a shipper that makes available to the common carrier adequate facilities for weighing the freight, the carrier must determine the kind and quantity of the freight within a reasonable time after receiving the written request of the shipper to make the determination. In that situation, inserting the words "shipper's weight" or words of the same meaning in the bill of lading has no effect.

(2) When goods are loaded by a common carrier, the carrier must count the packages of goods, if package freight, and determine the kind and quantity, if bulk freight. In that situation, inserting in the bill of lading or in a notice, receipt, contract, rule, or tariff, the words "shipper's weight, load, and count" or words indicating that the shipper described and loaded the goods, has no effect except for freight concealed by packages.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1351.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80113(a)	49 App.:102.	Aug. 29, 1916, ch. 415, §22, 39 Stat. 542; restated Mar. 4, 1927, ch. 510, §6, 44 Stat. 1450.
80113(b)	49 App.:101 (1st sentence).	Aug. 29, 1916, ch. 415, §§20, 21, 39 Stat. 541.
80113(c)	49 App.:101 (last sentence words before proviso).	
80113(d)(1)	49 App.:101 (last sentence proviso).	
80113(d)(2)	49 App.:100.	

In subsection (a), the words "a common carrier issuing a bill of lading" are substituted for "If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations" to eliminate unnecessary words and for consistency with section 80102 of the revised title. The words "at the time of its issue" are omitted as surplus.

In subsection (b), before clause (1), the words "A common carrier issuing a bill of lading is not liable under subsection (a) of this section" are substituted for "such statements, if true, shall not make liable the carrier issuing the bill of lading" for clarity. In clause (1), the word "goods" is substituted for "package freight or bulk

freight" for consistency in this chapter. In clause (2)(B), the quoted words are placed in quotation marks for consistency and to conform to section 7–301 of the Uniform Commercial Code. The words " 'shipper's weight, load, and count' " are added for consistency in this section.

In subsection (d)(1), the words "makes available to the common carrier adequate facilities for weighing the freight" are substituted for "installs and maintains adequate facilities for weighing such freight, and the same are available to the carrier . . . when given a reasonable opportunity so to do" to eliminate unnecessary words. The words "In that situation, inserting the words 'shipper's weight' or other words of the same meaning in the bill of lading has no effect" are substituted for "and the carriers shall not in such cases insert in the bill of lading the words 'Shipper's weight', or other words of like purport, and if so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein" for clarity and to eliminate unnecessary words.

In subsection (d)(2), the words "and such carrier shall not, in such cases" are omitted as surplus. The words "In that situation . . . has no effect" are substituted for 49 App.:100 (last sentence) for clarity and to eliminate unnecessary words. The words "except for freight concealed by packages" are substituted for "or in case of bulk freight and freight not concealed by packages the description made by him" for clarity and to eliminate unnecessary words.

§80114. Lost, stolen, and destroyed negotiable bills

(a) DELIVERY ON COURT ORDER AND SURETY BOND.—If a negotiable bill of lading is lost, stolen, or destroyed, a court of competent jurisdiction may order the common carrier to deliver the goods if the person claiming the goods gives a surety bond, in an amount approved by the court, to indemnify the carrier or a person injured by delivery against liability under the outstanding original bill. The court also may order payment of reasonable costs and attorney's fees to the carrier. A voluntary surety bond, without court order, is binding on the parties to the bond.

(b) LIABILITY TO HOLDER.—Delivery of goods under a court order under subsection (a) of this section does not relieve a common carrier from liability to a person to whom the negotiable bill has been or is negotiated for value without notice of the court proceeding or of the delivery of the goods.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1352.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80114(a)	49 App.:94 (1st par.).	Aug. 29, 1916, ch. 415, §14, 39 Stat. 540.
80114(b)	49 App.:94 (last par.).	

In subsection (a), the word "If" is substituted for "Where" for clarity. The words "upon satisfactory proof of such loss, theft, or destruction" are omitted as unnecessary. The words "if the person claiming the goods gives a surety bond" are substituted for "and upon the giving of a bond, with sufficient surety" to clarify the condition precedent to court approval of delivery. The words "in an amount" are added for clarity. The word "indemnify" is substituted for "protect" because it is more accurate. The words "against liability under the outstanding original bill" are substituted for "from any liability or loss incurred by reason of the original bill remaining outstanding" for clarity. The words "surety bond" are substituted for "indemnifying bond" for consistency in this section.

§80115. Limitation on use of judicial process to obtain possession of goods from common carriers

(a) ATTACHMENT AND LEVY.—Except when a negotiable bill of lading was issued originally on delivery of goods by a person that did not have the power to dispose of the goods, goods in the possession of a common carrier for which a negotiable bill has been issued may be attached through

judicial process or levied on in execution of a judgment only if the bill is surrendered to the carrier or its negotiation is enjoined.

(b) DELIVERY.—A common carrier may be compelled by judicial process to deliver goods under subsection (a) of this section only when the bill is surrendered to the carrier or impounded by the court.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80115(a)	49 App.:103 (1st sentence).	Aug. 29, 1916, ch. 415, §23, 39 Stat. 542.
80115(b)	49 App.:103 (last sentence).	

In subsection (a), the words "Except when a negotiable bill of lading was issued originally on delivery of goods by a person that did not have the power to dispose of the goods, goods . . . may be attached . . . only if" are substituted for "If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner . . . they can not thereafter . . . be attached . . . unless" to restate the source provision as an exception to conform to section 7–602 of the Uniform Commercial Code. The words "through judicial process" are substituted for "by garnishment or otherwise", and the words "levied on in execution of a judgment" are substituted for "levied upon under an execution", for clarity.

§80116. Criminal penalty

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) violates this chapter with intent to defraud; or

(2) knowingly or with intent to defraud—

(A) falsely makes, alters, or copies a bill of lading subject to this chapter;

(B) utters, publishes, or issues a falsely made, altered, or copied bill subject to this chapter; or

(C) negotiates or transfers for value a bill containing a false statement.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80116	49 App.:121.	Aug. 29, 1916, ch. 415, §41, 39 Stat. 544.

In this section, before clause (1), the words "fined under title 18" are substituted for "a fine not exceeding $5,000", and the words "shall be guilty of a misdemeanor" are omitted, for consistency with title 18. The words "upon conviction . . . punished for each offense" are omitted as unnecessary because of the restatement. Clause (1) is substituted for "or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this chapter" for clarity and because of 18:2. In clause (2)(A), the words "forges, counterfeits" are omitted as being included in "makes". The word "copies" is substituted for "prints or photographs" for clarity. The words "bill of lading subject to this chapter" are substituted for "bill of lading purporting to represent goods received for shipment among the several States or with foreign nations" for clarity and for consistency with section 80102 of the revised title. Clause (2)(B) is substituted for "utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading . . . or issues" to eliminate unnecessary words and for consistency in this section. The words "knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed" are omitted as unnecessary because of the restatement of the intent required to commit the crime. The words "or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the

same . . . or aids in issuing or procuring the issue of" are omitted as surplus because of 18:2. The words "as to the receipt of the goods, or as to any other matter" are omitted as unnecessary.

CHAPTER 803—CONTRABAND

Sec.
80301. Definitions.
80302. Prohibitions.
80303. Seizure and forfeiture.
80304. Administrative.
80305. Availability of certain appropriations.
80306. Relationship to other laws.

§80301. Definitions

In this chapter—

(1) "aircraft" means a contrivance used, or capable of being used, for transportation in the air.

(2) "vehicle" means a contrivance used, or capable of being used, for transportation on, below, or above land, but does not include aircraft.

(3) "vessel" means a contrivance used, or capable of being used, for transportation in water, but does not include aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80301(1)	49 App.:787(c).	Aug. 9, 1939, ch. 618, §7(a)–(c), 53 Stat. 1292.
80301(2)	49 App.:787(b).	
80301(3)	49 App.:787(a).	

In this section, the word "means" is substituted for "includes" as being more precise.

In clause (1), the word "contrivance" is substituted for "every description of craft or carriage or other contrivance" to eliminate unnecessary words.

In clause (2), the word "contrivance" is substituted for "every description of carriage or other contrivance" to eliminate unnecessary words.

In clause (3), the word "contrivance" is substituted for "every description of watercraft or other contrivance" to eliminate unnecessary words.

§80302. Prohibitions

(a) DEFINITION.—In this section, "contraband" means—

(1) a narcotic drug (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)), including marihuana (as defined in section 102 of that Act (21 U.S.C. 802)), that—

(A) is possessed with intent to sell or offer for sale in violation of the laws and regulations of the United States;

(B) is acquired, possessed, sold, transferred, or offered for sale in violation of those laws;

(C) is acquired by theft, robbery, or burglary and transported—

(i) in the District of Columbia or a territory or possession of the United States; or

(ii) from a place in a State, the District of Columbia, or a territory or possession of the United States, to a place in another State, the District of Columbia, or a territory or

possession; or

(D) does not bear tax-paid internal revenue stamps required by those laws or regulations;

(2) a firearm involved in a violation of chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.);

(3) a forged, altered, or counterfeit—

(A) coin or an obligation or other security of the United States Government (as defined in section 8 of title 18); or

(B) coin, obligation, or other security of the government of a foreign country;

(4) material or equipment used, or intended to be used, in making a coin, obligation, or other security referred to in clause (3) of this subsection;

(5) a cigarette involved in a violation of chapter 114 of title 18 or a regulation prescribed under chapter 114; or

(6)(A) a counterfeit label for a phonorecord, copy of a computer program or computer program documentation or packaging, or copy of a motion picture or other audiovisual work (as defined in section 2318 of title 18);

(B) a phonorecord or copy in violation of section 2319 of title 18;

(C) a fixation of a sound recording or music video of a live musical performance in violation of section 2319A of title 18; or

(D) any good bearing a counterfeit mark (as defined in section 2320 of title 18).

(b) PROHIBITIONS.—A person may not—

(1) transport contraband in an aircraft, vehicle, or vessel;

(2) conceal or possess contraband on an aircraft, vehicle, or vessel; or

(3) use an aircraft, vehicle, or vessel to facilitate the transportation, concealment, receipt, possession, purchase, sale, exchange, or giving away of contraband.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353; Pub. L. 104–153, §13, July 2, 1996, 110 Stat. 1389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80302(a)(1)	49 App.:781(b)(1).	Aug. 9, 1939, ch. 618, §1(b)(1), 53 Stat. 1291; restated Aug. 9, 1950, ch. 655, 64 Stat. 427.
	49 App.:787(d).	Aug. 9, 1939, ch. 618, §7(d), 53 Stat. 1293; restated Oct. 27, 1970, Pub. L. 91–513, §1102(r), 84 Stat. 1294.
80302(a)(2)	49 App.:781(b)(2).	Aug. 9, 1939, ch. 618, §1(b)(2), (3), 53 Stat. 1291; Nov. 2, 1978, Pub. L. 95–575, §3(a)(1), (2), 92 Stat. 2465.
	49 App.:787(e).	Aug. 9, 1939, ch. 618, §7(e), 53 Stat. 1293; Nov. 2, 1978, Pub. L. 95–575, §3(b)(1), 92 Stat. 2465.
80302(a)(3)	49 App.:781(b)(3) (words before 1st semicolon).	
	49 App.:787(f).	Aug. 9, 1939, ch. 618, §7(f), 53 Stat. 1293; restated Oct. 31, 1951, ch.

		655, §55(b), 65 Stat. 729; Nov. 2, 1978, Pub. L. 95–575, §3(b)(2), 92 Stat. 2465.
80302(a)(4)	49 App.:781(b)(3) (words after 1st semicolon).	
80302(a)(5)	49 App.:781(b)(4).	Aug. 9, 1939, ch. 618, 53 Stat. 1291, §§1(b)(4), 7(g); added Nov. 2, 1978, Pub. L. 95–575, §3(a)(3), (b)(3), 92 Stat. 2465.
	49 App.:787(g).	
80302(b)	49 App.:781(a).	Aug. 9, 1939, ch. 618, §1(a), 53 Stat. 1291.

In subsection (a)(1)(A) and (B), the words "dealing therewith" are omitted as surplus.

In subsection (a)(1)(A), the words "has been or" are omitted as surplus.

In subsection (a)(1)(C), before subclause (i), the word "transported" is substituted for "carried or transported" to eliminate unnecessary words. In subclause (ii), the words "the Canal Zone" are omitted because of the Panama Canal Treaty of 1977. The words "a place in" are added for consistency in the revised title.

In subsection (a)(2), the words "involved in a violation" are substituted for "with respect to which there has been committed any violation" to eliminate unnecessary words. The text of 49 App.:787(e) is omitted as unnecessary because of the restatement. The National Firearms Act referred to in the source provisions has been repealed and replaced by chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.).

In subsection (a)(3), before subclause (A), the words "falsely made" are omitted as being included in "counterfeit". In subclause (B), the words "coin, obligation, or other security" are added for clarity.

In subsection (a)(4), the words "equipment used" are substituted for "apparatus, or paraphernalia fitted . . . which shall have been used" to eliminate unnecessary words. The words "coin, obligation, or other security referred to in clause (3) of this subsection" are substituted for "such falsely made, forged, altered, or counterfeit coin or obligation or other security" because of the restatement.

In subsection (a)(5), the text of 49 App.:787(g) is omitted as unnecessary because the term "cigarettes" does not appear in 49 App.: ch. 11 and because the definition of "contraband cigarettes" referred to is part of 18:ch. 114.

In subsection (b), before clause (1), the words "A person may not" are substituted for "It shall be unlawful" for consistency in the revised title. In clause (1), the word "transport" is substituted for "transport, carry, or convey" because it is inclusive. In clause (2), the words "or upon the person of anyone in or upon any vessel, vehicle, or aircraft" are omitted as unnecessary. In clause (3), the word "transportation" is substituted for "transportation, carriage, conveyance" for consistency in this section. The word "barter" is omitted as being included in "exchange".

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(6). Pub. L. 104–153 added par. (6).

§80303. Seizure and forfeiture

The Secretary of the Treasury or the Governor of Guam or of the Northern Mariana Islands as provided in section 80304 of this title, or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General or a person authorized by another law to enforce section 80302 of this title, shall seize an aircraft, vehicle, or vessel involved in a violation of section 80302 and place it in the custody of a person designated by the Secretary, the Attorney General, or appropriate Governor, as the case may be. The seized aircraft, vehicle, or vessel shall be forfeited, except when the owner establishes that a person except the owner committed the

violation when the aircraft, vehicle, or vessel was in the possession of a person who got possession by violating a criminal law of the United States or a State. However, an aircraft, vehicle, or vessel used by a common carrier to provide transportation for compensation may be forfeited only when—

(1) the owner, conductor, driver, pilot, or other individual in charge of the aircraft or vehicle (except a rail car or engine) consents to, or knows of, the alleged violation when the violation occurs;

(2) the owner of the rail car or engine consents to, or knows of, the alleged violation when the violation occurs; or

(3) the master or owner of the vessel consents to, or knows of, the alleged violation when the violation occurs.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1354; Pub. L. 107–296, title XI, §1112(q), Nov. 25, 2002, 116 Stat. 2278.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80303	49 App.:782.	Aug. 9, 1939, ch. 618, §2, 53 Stat. 1291; Nov. 18, 1988, Pub. L. 100–690, §6076(a), 102 Stat. 4324.
	49 App.:783 (last sentence).	Aug. 9, 1939, ch. 318, §3 (last sentence), 53 Stat. 1292.

In this section, before clause (1), the words "The Secretary of the Treasury . . . shall seize" are substituted for "shall be seized" in 49 App.:782 and "It shall be the duty of any officer, agent, or other person so authorized or designated . . . whenever he shall discover any vessel, vehicle, or aircraft" in 49 App.:783 (last sentence) to eliminate unnecessary words and for consistency in the revised title. The words "the Governor of Guam or of the Northern Mariana Islands as provided in section 80304 of this title" are added because under 49 App.:789 the Governor of Guam enforces 49 App.:ch. 11 in Guam and because, under section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 263), and proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593, 48 U.S.C. 1681 (note)), the Commonwealth was given the same authority as Guam when a law applies to Guam and the States of the United States generally. The words "or a person authorized by another law to enforce section 80302 of this title" are substituted for "or authorized by law" for clarity. The words "involved in a violation of section 80302" are substituted for "which has been or is being used in violation of any provision of section 781 of this Appendix, or in, upon, or by means of which any violation of said section has taken or is taking place" in 49 App.:782 and "which has been or is being used in violation of any of the provisions of this chapter, or in, upon, or by means of which any violation of this chapter has taken or is taking place" in 49 App.:783 (last sentence) to eliminate unnecessary words. The word "designated" is substituted for "authorized or designated" in 49 App.:783 (last sentence) to eliminate unnecessary words. The words "or appropriate Governor, as the case may be" are added for clarity and for consistency in this section. The words "to await disposition pursuant to the provisions of this chapter and any regulations issued hereunder" are omitted as unnecessary. The words "except when . . . committed the violation" are substituted for "*Provided further*, That no vessel, vehicle, or aircraft shall be forfeited under the provisions of this chapter by reason of any act or omission . . . committed or omitted" in 49 App.:782 for clarity. The words "However . . . used by a common carrier to provide transportation for compensation may be forfeited only when" are substituted for "*Provided*, That no . . . used by any person as a common carrier in the transaction of business as such common carrier shall be forfeited under the provisions of this chapter unless it shall appear that" for clarity and consistency in the revised title. In clauses (1)–(3), the words "knows of" are substituted for "privy thereto" for clarity. The word "violation" is substituted for "illegal act" for consistency in the revised title and with other titles of the United States Code.

EDITORIAL NOTES

REFERENCES IN TEXT

The criminal laws of the United States, referred to in text, are classified generally to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2002—Pub. L. 107–296, §1112(q)(2), inserted ", the Attorney General," after "by the Secretary" in introductory provisions.

Pub. L. 107–296, §1112(q)(1), which directed amendment of this section by inserting "or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General" after "section 80304 of this title.", was executed by making the insertion after "section 80304 of this title," to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§80304. Administrative

(a) GENERAL.—Except as provided in subsections (b), (c), and (d) of this section, the Secretary of the Treasury—

(1) may designate officers, employees, agents, or other persons to carry out this chapter; and

(2) shall prescribe regulations to carry out this chapter.

(b) IN GUAM.—The Governor of Guam—

(1) or officers of the government of Guam designated by the Governor shall carry out this chapter in Guam;

(2) may carry out laws referred to in section 80306(b) of this title with modifications the Governor decides are necessary to meet conditions in Guam; and

(3) may prescribe regulations to carry out this chapter in Guam.

(c) IN NORTHERN MARIANA ISLANDS.—The Governor of the Northern Mariana Islands—

(1) or officers of the government of the Northern Mariana Islands designated by the Governor shall carry out this chapter in the Northern Mariana Islands;

(2) may carry out laws referred to in section 80306(b) of this title with modifications the Governor decides are necessary to meet conditions in the Northern Mariana Islands; and

(3) may prescribe regulations to carry out this chapter in the Northern Mariana Islands.

(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice [1] designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302(a)(2) or (a)(5).

(e) CUSTOMS LAWS ON SEIZURE AND FORFEITURE.—The Secretary, or the Governor of Guam or of the Northern Mariana Islands as provided in subsections (b) and (c) of this section, shall carry out the customs laws on the seizure and forfeiture of aircraft, vehicles, and vessels under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1354; Pub. L. 107–296, title XI, §1112(r), Nov. 25, 2002, 116 Stat. 2278.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80304(a)	49 App.:783 (1st sentence).	Aug. 9, 1939, ch. 618, §§3 (1st

		sentence), 4 (proviso), 8, 53 Stat. 1292, 1293.
	49 App.:788.	
80304(b)	49 App.:789.	Aug. 3, 1939, ch. 618, 53 Stat. 1291, §9; added Aug. 1, 1956, ch. 852, §22, 70 Stat. 911.
80304(c)	(no source).	
80304(d)	49 App.:784 (proviso).	

In subsection (a)(1), the words "may designate" are substituted for "is empowered to authorize, or designate" in 49 App.:783 (1st sentence) to eliminate unnecessary words. The word "employees" is added for clarity and consistency in the revised title and with other titles of the United States Code.

In subsections (a)(2) and (b)(3), the word "regulations" is substituted for "such rules and regulations as may be necessary" in 49 App.:788 and 789 for consistency in the revised title and with other titles of the Code and because "rules" and "regulations" are synonymous.

In subsection (b)(1), the words "shall carry out this chapter in Guam" are substituted for "In Guam the enforcement and administration of this chapter shall be performed" for consistency in the revised title.

Subsection (c) is added because, under section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 263), and proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593, 48 U.S.C. 1681 (note)), the Commonwealth was given the same authority as Guam when a law applies to Guam and the States of the United States generally.

In subsection (d), the word "Secretary" is substituted for "by such officers, agents, or other persons as may be authorized or designated for that purpose by the Secretary of the Treasury" because of subsection (a)(1) of this section. The words "or the Governor of Guam or of the Northern Mariana Islands as provided in subsections (b) and (c) of this section" are added because under 49 App.:789 the Governor of Guam enforces 49 App.:ch. 11 in Guam and because of section 502(a)(2) of the Covenant referred to in the revision note for subsection (c) of this section. The words "the customs laws" are substituted for "That such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels and vehicles under the customs laws" because of the restatement and to eliminate unnecessary words.

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, §1112(r)(1), substituted "(b), (c), and (d)" for "(b) and (c)" in introductory provisions.

Subsecs. (d), (e). Pub. L. 107–296, §1112(r)(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

[1] So in original. Probably should be followed by a comma.

§80305. Availability of certain appropriations

Appropriations for enforcing customs, narcotics, counterfeiting, or internal revenue laws are available to carry out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1355.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80305	49 App.:785.	Aug. 9, 1939, ch. 618, §5, 53 Stat. 1292.

The words "which has been or shall hereafter be made" and "for the defraying of expenses of" are omitted as surplus. The National Firearms Act referred to in the source provision has been repealed and replaced by chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.). A specific reference to chapter 53 is unnecessary because of the reference to the internal revenue laws.

§80306. Relationship to other laws

(a) CHAPTER AS ADDITIONAL LAW.—This chapter is in addition to another law—

(1) imposing, or authorizing the compromise of, fines, penalties, or forfeitures; or

(2) providing for seizure, condemnation, or disposition of forfeited property, or the proceeds from the property.

(b) LAWS APPLICABLE TO SEIZURES AND FORFEITURES.—To the extent applicable and consistent with this chapter, the following apply to a seizure or forfeiture under this chapter:

(1) provisions of law related to the seizure, forfeiture, and condemnation of vehicles and vessels violating the customs laws.

(2) provisions of law related to the disposition of those vehicles or vessels or the proceeds from the sale of those vehicles or vessels.

(3) provisions of law related to the compromise of those forfeitures or claims related to those forfeitures.

(4) provisions of law related to the award of compensation to an informer about those forfeitures.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1355.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80306(a)	49 App.:786.	Aug. 9, 1939, ch. 618, §§4 (less proviso), 6, 53 Stat. 1292.
80306(b)	49 App.:784 (less proviso).	

In subsections (a)(1) and (b)(3), the word "compromise" is substituted for "remission or mitigation" for consistency in the revised title.

In subsection (a), before clause (1), the words "in addition to another law" are substituted for "shall be construed to be supplemental to, and not to impair in any way, existing provisions of law" to eliminate unnecessary words.

In subsection (b), before clause (1), the words "under this chapter" are substituted for "incurred, or alleged to have been incurred, under the provisions of this chapter" to eliminate unnecessary words. In clause (1), the word "forfeiture" is substituted for "summary and judicial forfeiture" to eliminate unnecessary words.

CHAPTER 805—MISCELLANEOUS

Sec.

80501. Damage to transported property.
80502. Transportation of animals.
80503. Payments for inspection and quarantine services.
80504. Medals of honor.

§80501. Damage to transported property

(a) CRIMINAL PENALTY.—A person willfully damaging, or attempting to damage, property in the possession of an air carrier, motor carrier, or rail carrier and being transported in interstate or foreign commerce, shall be fined under title 18, imprisoned for not more than 10 years, or both. In a criminal proceeding under this section, a shipping document for the property is prima facie evidence of the places to which and from which the property was being transported.

(b) PROHIBITION AGAINST MULTIPLE PROSECUTIONS FOR SAME ACT.—A person may not be prosecuted for an act under this section when the person has been convicted or acquitted on the merits for the same act under the laws of a State, the District of Columbia, or a territory or possession of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1356.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80501(a)	15:1281.	Sept. 13, 1961, Pub. L. 87–221, 75 Stat. 494.
80501(b)	15:1282.	

In subsection (a), the words "A person . . . shall be fined under title 18" are substituted for "It shall be unlawful for any person" and "Whoever violates any provision of subsection (a) of this section shall be fined not more than $5,000" to eliminate unnecessary words and for consistency with title 18. The word "damaging" is substituted for "destroy or injure" because it is inclusive. The words "air carrier, motor carrier, or rail carrier" are substituted for "common or contract carrier by railroad, motor vehicle, or aircraft", and the words "being transported" are substituted for "moving", for consistency in the revised title. The words "In a criminal proceeding under this section" are substituted for "To establish the interstate or foreign commerce character of any property involved in any prosecution under this section" to eliminate unnecessary words. The words "shipping document" are substituted for "waybill or similar shipping document" because they are inclusive.

In subsection (b), the words "A person may not be prosecuted for an act under this section when the person has been convicted or acquitted on the merits for the same act" are substituted for "A judgment of conviction or acquittal on the merits . . . shall be a bar to any prosecution under this chapter for the same act or acts" for clarity. The word "territory" is added for consistency in the revised title and with other titles of the United States Code. The words "or the Commonwealth of Puerto Rico" are omitted as unnecessary because of 48:734.

§80502. Transportation of animals

(a) CONFINEMENT.—(1) Except as provided in this section, a rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel transporting animals from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession, may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.

(2) Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night. Animals may be confined for—

(A) more than 28 hours when the animals cannot be unloaded because of accidental or unavoidable causes that could not have been anticipated or avoided when being careful; and

(B) 36 consecutive hours when the owner or person having custody of animals being transported requests, in writing and separate from a bill of lading or other rail form, that the 28-hour period be extended to 36 hours.

(3) Time spent in loading and unloading animals is not included as part of a period of confinement

under this subsection.

(b) UNLOADING, FEEDING, WATERING, AND REST.—Animals being transported shall be unloaded in a humane way into pens equipped for feeding, water, and rest for at least 5 consecutive hours. The owner or person having custody of the animals shall feed and water the animals. When the animals are not fed and watered by the owner or person having custody, the rail carrier, express carrier, or common carrier (except by air or water), the receiver, trustee, or lessee of one of those carriers, or the owner or master of a vessel transporting the animals—

(1) shall feed and water the animals at the reasonable expense of the owner or person having custody, except that the owner or shipper may provide food;

(2) has a lien on the animals for providing food, care, and custody that may be collected at the destination in the same way that a transportation charge is collected; and

(3) is not liable for detaining the animals for a reasonable period to comply with subsection (a) of this section.

(c) NONAPPLICATION.—This section does not apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

(d) CIVIL PENALTY.—A rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel that knowingly and willfully violates this section is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or the defendant resides or does business.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1356.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80502(a)	45:71 (less 1st sentence 132d–153d words).	June 29, 1906, ch. 3594, §§1–4, 34 Stat. 607.
80502(b)	45:71 (1st sentence 132d–153d words). 45:72.	
80502(c)	45:73 (proviso).	
80502(d)	45:73 (less proviso). 45:74.	

In this section, the words "rail carrier, express carrier" are substituted for "railroad, express company, car company" for consistency in the revised title. The word "air" is included in the exception because when the source provision was enacted air carriers did not exist. The words "a vehicle or vessel" are substituted for "cars, boats, or vessels of any description", and the word "vessel" is substituted for "steam, sailing, or other vessels", for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the words "transporting animals" are substituted for "whose road forms any part of a line of road over which cattle, sheep, swine, or other animals shall be conveyed" and "carrying or transporting cattle, sheep, swine, or other animals" to eliminate unnecessary words. The word "possession" is added for consistency in the revised title and with other titles of the Code. The words "for feeding, water, and rest" are added because of the restatement.

In subsection (a)(2), before clause (A), the words "Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night" are substituted for 45:71 (last proviso) for clarity. The words "Animals may be confined for" are added because of the restatement. In clause (A), the words "more than 28 hours when the animals cannot be unloaded because of" are substituted for "unless prevented by" because of the restatement. The word "storm" is omitted as being included in "accidental or unavoidable causes". The words "when being careful" are substituted for "by the exercise of due

diligence and foresight" to eliminate unnecessary words. In clause (B), the words "36 consecutive hours when" are substituted for "*Provided*, That . . . the time of confinement may be extended to thirty-six hours" because of the restatement. The word "printed" is omitted as surplus.

In subsection (a)(3), the words "but the time during which the animals have been confined without such rest or food or water on connecting roads shall be included, it being the intent of this chapter to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon the contingencies hereinbefore stated" are omitted as unnecessary because of the restatement.

In subsection (b), before clause (1), the word "properly" is omitted as surplus. The words "Animals being transported shall be unloaded" are added because of the restatement. In clause (1), the words "except that the owner or shipper may provide food" are substituted for "but nothing in this section shall be construed to prevent the owner or shipper of animals from furnishing food therefor, if he so desires" for clarity.

In subsection (c), the word "proper" is omitted as surplus.

In subsection (d), the words "liable to the United States Government for a civil penalty" are substituted for "liable for and forfeit and pay a penalty" in 45:73 for consistency in the revised title and with other titles of the Code. The words "On learning of a violation, the Attorney General shall bring a civil action to collect the penalty" are substituted for "The penalty created by section 73 of this title shall be recovered by civil action in the name of the United States" in 45:74 and "and it shall be the duty of United States attorneys to prosecute all violations of this chapter reported by the Secretary of Agriculture, or which come to their notice or knowledge by other means" to eliminate unnecessary words and because of 28:509. The words "in the district court of the United States for the judicial district" are substituted for "in the circuit or district court holden within the district" in section 4 of the Act of June 29, 1906 (ch. 3594, 34 Stat. 608), because of section 291 of the Act of March 3, 1911 (ch. 231, 36 Stat. 1167), and for consistency in the revised title and with other titles of the Code.

§80503. Payments for inspection and quarantine services

(a) GENERAL.—(1) In this subsection—

(A) "private aircraft" means a civilian aircraft not being used to transport passengers or property for compensation.

(B) "private vessel" means a civilian vessel not being used—

(i) to transport passengers or property for compensation; or

(ii) in fishing or fish processing operations.

(2) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the owner, operator, or agent of a private aircraft or private vessel may pay not more than $25 for the services of an officer or employee of the Department of Agriculture, the Customs Service, the Immigration and Naturalization Service, or the Public Health Service (including an independent contractor performing an inspection service for the Public Health Service) when the services are performed on a Sunday, holiday, or from 5 p.m. through 8 a.m. on a weekday, and are related to the aircraft's or vessel's arrival in, or departure from, the United States. However, the owner, operator, or agent does not have to pay for the services from 5 p.m. through 8 a.m. on a weekday when an officer or employee on regular duty is available at the place of arrival or departure to perform services.

(3) The head of a department, agency, or instrumentality of the United States Government providing services under paragraph (2) of this subsection shall collect the amount paid for the services and deposit the amount in the Treasury. The amount shall be credited to the appropriation of the department, agency, or instrumentality against which the expense of those services was charged.

(b) LIMITATIONS ON REIMBURSEMENT.—(1) An owner or operator of an aircraft is required to reimburse the head of a department, agency, or instrumentality of the Government for the expenses of performing an inspection or quarantine service related to the aircraft at a place of inspection during regular service hours on a Sunday or holiday only to the same extent that an owner or operator makes reimbursement for the service during regular service hours on a weekday. The head of the department, agency, or instrumentality may not assess an owner or operator of an aircraft for administrative overhead expenses for inspection or quarantine service provided by the department, agency, or instrumentality at an entry airport.

(2) This subsection does not require reimbursement for costs incurred by the Secretary of the

Treasury in providing customs services described in section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1357.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80503(a)(1)	49 App.:1741(d).	May 21, 1970, Pub. L. 91–258, §53(a)–(d), 84 Stat. 236.
80503(a)(2)	49 App.:1741(a), (b).	
80503(a)(3)	49 App.:1741(c).	
80503(b)	49 App.:1741(e).	May 21, 1970, Pub. L. 91–258, 84 Stat. 219, §53(e); added Oct. 22, 1986, Pub. L. 99–514, §1893(f), 100 Stat. 2930.

In subsection (a)(1), the word "passengers" is substituted for "persons" for consistency in the revised title and with other titles of the United States Code. The word "hire" is omitted as being included in "compensation". In clause (B)(ii), the words "fishing or fish processing operations" are substituted for "fishing operations or in processing of fish or fish products" to eliminate unnecessary words.

In subsection (a)(2), the words "or any other provisions of law" are omitted as unnecessary. The words "on or after July 1, 1970" are omitted as executed. The words "upon the request of such owner, operator, or agent" are omitted as unnecessary. The words "from 5 p.m. through 8 a.m." are substituted for "at any time after 5 o'clock postmeridian or before 8 o'clock antemeridian" to eliminate unnecessary words. The words "Notwithstanding any other provision of law" are omitted as unnecessary because of the restatement. The words "the owner, operator, or agent does not have to pay" are substituted for "no payment shall be required" for clarity. The words "from 5 p.m. through 8 a.m." after "the services" are added for clarity. The words "an officer or employee on regular duty" are substituted for "an officer or employee stationed on his regular tour of duty" to eliminate unnecessary words.

In subsection (b)(1), the words "related to the aircraft" are substituted for "as a consequence of the operation of aircraft", and the words "a place of inspection" are substituted for "at airports of entry or other places of inspection", to eliminate unnecessary words. The words "The head of the department, agency, or instrumentality may not assess" are substituted for "shall not be assessed against" because of the restatement. The word "expenses" is substituted for "costs" for consistency in this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§80504. Medals of honor

(a) MEDALS.—The President may prepare and give a bronze medal of honor with emblematic devices to an individual who by extreme daring endangers that individual's life in trying to prevent, or save the life of another in, a grave accident in the United States involving a rail carrier providing transportation in interstate commerce or involving a motor vehicle on the public streets, roads, or highways. The President may give a medal only when sufficient evidence that the individual deserves the medal has been filed under regulations prescribed by the President.

(b) RIBBONS, KNOTS, AND ROSETTES.—The President may give an individual who receives a medal a ribbon to be worn with the medal and a knot or rosette to be worn in place of the medal. The President shall prescribe the design for the ribbon, knot, and rosette. If the ribbon is lost, destroyed, or made unfit for use and the individual receiving the medal is not negligent, the President shall issue a new ribbon without charge to the individual.

(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations made to the Secretary of Transportation are available to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1358.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80504(a)	49 App.:1201.	Feb. 23, 1905, ch. 744, §1, 33 Stat. 743; June 13, 1957, Pub. L. 85–50, §1(1), 71 Stat. 69.
80504(b)	49 App.:1202.	Feb. 23, 1905, ch. 744, §2, 33 Stat. 743.
80504(c)	49 App.:1203.	Feb. 23, 1905, ch. 744, §3, 33 Stat. 743; restated June 13, 1957, Pub. L. 85–50, §1(2), 71 Stat. 69.
	49 App.:1655(e)(3).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(3), 80 Stat. 939.

In subsection (a), the words "may prepare and give" are substituted for "is authorized to cause to be prepared . . . which shall be bestowed" for clarity. The word "suitable" is omitted as surplus. The word "individual" is substituted for "persons" because it is more precise. The words "trying to prevent, or save the life of another in" are substituted for "in saving, or endeavoring to save, lives . . . or in preventing or endeavoring to prevent" to eliminate unnecessary words. The words "grave accident" are substituted for "wreck, disaster, or grave accident" because they are inclusive. The words "rail carrier providing transportation in interstate commerce" are substituted for "railroad . . . engaged in interstate commerce" for consistency in the revised title. The words "The President may give a medal only when" are substituted for "*Provided*, That no award of said medal shall be made to any person until" for clarity. The word "filed" is substituted for "furnished and placed on file" to eliminate unnecessary words.

In subsection (b), the words "and the individual receiving the medal is not negligent" are substituted for "without fault or neglect on the part of the person to whom it was issued" to eliminate unnecessary words. The words "the President shall issue" are substituted for "shall be issued" for clarity.

In subsection (c), the words "to the Secretary of Transportation" are substituted for "for the Department of Transportation" because of 49:102(b).